

**S. 1262, THE NATIVE CULTURE, LANGUAGE, AND  
ACCESS FOR SUCCESS IN SCHOOLS ACT—  
NATIVE CLASS**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

**ONE HUNDRED TWELFTH CONGRESS**

**FIRST SESSION**

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**JUNE 30, 2011**  
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ACT—NATIVE CLASS**

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THURSDAY, JUNE 30, 2011

U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:40 p.m. in room 628, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA,  
U.S. SENATOR FROM HAWAII**

The CHAIRMAN. The Committee will come to order.

Thank you very much for being patient. We are expecting a second vote but I thought I would come back and start this hearing.

Aloha and welcome to the Committee's legislative hearing on the Native Culture, Language, and Access for Success in Schools Act. We call it the Native CLASS Act.

As a former educator, this issue is very dear to my heart. The decisions we make today to improve the education system for our young Native people are decisions about how we envision the future of our communities. That vision of our future must be grounded in our language, tradition and culture. These three, language, tradition and culture, form our roots and to cut those roots is to harm the Native peoples.

Education is what keeps our roots alive and it is the way that we honor the knowledge and wisdom of our ancestors. Native young people face steep challenges in attaining a quality education.

Three major reports by the Federal Government on Native education since 1928 have demonstrated little, if any, improvement in the education people in the past 80 years. In the States with the highest Native populations, the graduation rates are below 50 percent and are the lowest of any other racial or ethnic group. This is unacceptable, especially because our Federal Government has a unique trust obligation to provide a quality education to its Native people.

The Native CLASS bill presents a new comprehensive vision of Native education, one that is grounded in culture, language and local community control. The bill provides opportunities for tribes to be partners in their own education systems. It paves the way for innovative language and culture-based instruction programs. It

also provides much stronger accountability of State and local agencies to Native communities for the administration of their children's education.

The provisions of the Native CLASS Act are the result of consultation and input with a wide range of American Indian, Alaska Native and Native Hawaiian stakeholders. We will continue to work with those Native stakeholders to improve this bill to ensure that it meets the unique needs of all our Native students.

We anticipate that we will have amendments to improve this bill as we move along in the process. We encourage you to continue to submit your ideas. In fact, Senator Inouye and I are working on an amendment to the bill that will address improvements in Native Hawaiian education.

It is so timely and I am glad we have been working well together with my colleague, Senator Barrasso, the Vice Chairman, and we look forward to an opening statement.

**STATEMENT OF HON. JOHN BARRASSO,  
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Thank you very much, Mr. Chairman.

It is indeed a privilege to work with you and to learn from your leadership on this important Committee. I am so grateful for the hearing we are holding today and you starting this dialogue with this hearing on the extremely important subject of Indian education.

This Committee has held several oversight hearings on education and education-related topics. These hearings confirm that the education and future of Indian children are among the highest priorities for tribal leaders, for the parents of the children, as well as for educators. We know that many Indian children are leaders in their schools and will be future leaders in their communities. Children who succeed and achieve despite many challenges and many disadvantages.

These hearings have also shown that despite many gains in education over the years, Mr. Chairman, as you and I know and have discussed, there is still much work to be done. The dropout rates, low academic scores and teacher retention are some of the areas that need to be addressed. Parents, schools, Indian communities, Congress and the Administration need to work together to reach these children before they dropout, before they fail. We need innovative approaches that will prepare these children to be tomorrow's leaders.

I look forward to hearing from our witnesses and how this legislation, Mr. Chairman, the bill before us, will begin that work.

Thank you so much for your leadership.

The CHAIRMAN. Thank you very much, Senator Barrasso.  
Senator Tester.

**STATEMENT OF HON. JON TESTER,  
U.S. SENATOR FROM MONTANA**

Senator TESTER. Thank you, Mr. Chairman. I appreciate the opportunity to say a few things and thank you for holding this hearing.

I want to recognize someone who is going to be on the second panel, a good friend of mine, a fellow by the name of Scott Russell who is here with the National Congress of American Indians.

Scott is Secretary of Montana's Crow Tribe and an incredible leader. With his service to that Tribe and southern Montana, we thank you for being here. You understand how important education is to a prosperous future in Indian country and we look forward to hearing your perspective.

This is a critical hearing, Mr. Chairman. Education is the key to improving life in Indian country. Education represents hope in a place where we need more hope.

The purpose of this hearing is to talk about how we are doing, to communicate and to collaborate to make sure that Indian kids don't get left behind the next time we reauthorize this Nation's education laws. I think we can all agree that except for pointing out the achievement gap, NCLB hasn't worked all that well in Indian country and we can do better.

Indian students will be successful when they get three things—good schools, good motivated teachers and families who support their students. My personal experience and past committee hearings have pointed out that they are lucky if they get one of those three, let alone all three.

We have had testimony about a lot of barriers from crumbling schools that pose physical danger to lack of preventive and emergency safety procedures to excessive violence to overcrowded classrooms to chronic under funding, lack of teachers, poor attendance, hungry students, the list goes on and on.

Of course the biggest problem is the vicious, I say the vicious, cycle of poverty that plagues Indian country. Education and economic development are the only things that are going to break that cycle. We need one to get the other. Without good education, economic development projects will not happen; they are simply not sustainable. We need a steady supply of Indian country's best and brightest people, young people, to run businesses that are successful.

Government can't do it all, but we need to do our part. Our part is to provide good schools, do our best to recruit, train and retain good teachers, but the community also has a responsibility to provide good teachers and good families. In Montana, 98 percent of the Indian kids attend public schools, so my chief concern is to make sure that our public schools work for our Native American students.

In Montana, we are lucky our Superintendent of Public Instruction happens to come from the Black Feet Tribe. Denise Juneau truly understands the challenges out there and she has a lot of great ideas and has done a lot of great work.

She had three priorities she expressed to me and they are as follows: close relationship between the Tribes and the public schools; we need to make education a community, not just a government responsibility; and wrap around services in schools—counselors, social workers, mental health providers. Oftentimes these services are overlooked but they are critical. Lastly is parental involvement. Kids won't take education seriously until or unless their parents

do. We need to provide incentives and motivation to get parents involved.

In Montana, we have cases where we are doing pretty good. We have other cases where we can do a heck of a lot better. I look forward to hearing from you about the opportunities to provide success to our Native American youth because quite frankly, if we are going to break the cycle of poverty, it is critically important.

I want to thank you all for being here and look forward to the first panel.

With that, thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Tester from Montana.

I welcome the witnesses. I appreciate that you have traveled to be here with us today and look forward to hearing your testimony on this very important matter.

We have on our panel Mr. William Mendoza, Acting Director, White House Initiative on Tribal Colleges and Universities, U.S. Department of Education. Also we have Mr. Keith Moore, Director, Bureau of Indian Education, U.S. Department of the Interior.

I ask that you limit your oral testimony to five minutes. Your full written testimony will be included in the record.

Mr. Mendoza, please proceed with your statement.

**STATEMENT OF WILLIAM MENDOZA, ACTING DIRECTOR,  
WHITE HOUSE INITIATIVE ON TRIBAL COLLEGES AND  
UNIVERSITIES, U.S. DEPARTMENT OF EDUCATION**

Mr. MENDOZA. [greeting in native language]. I greet you all as relatives and extend my hand to you with a good heart. My name is William Mendoza, the Acting Director of WHITCU.

I am also a father and an educator so I am very proud to be serving in such a capacity. I was born and raised on the Pine Ridge and Rosebud Sioux Reservations and I have attended our BIE public schools and tribal universities. I will spare you the details because it is a humble story in learning the importance of education but I want to acknowledge the complexity of these issues because on the one hand, I wouldn't be here today without these institutions, but I also know that we have great concerns regarding our American Indian and Alaska Native students. This is important work and I am thankful and honored to be a part of us all convening here today.

On behalf of Secretary Duncan, I would like to thank Chairman Akaka, Ranking Member Barrasso and the entire Committee for the opportunity to testify today.

Chairman Akaka, I also want to thank you, Senator Inouye, Senator Johnson from my home State of South Dakota, for introducing the Native CLASS Act, also known as S. 1262. We are in the process of reviewing the bill and look forward to discussing it with you to achieve the shared goals for Indian students.

This Administration has taken great strides in implementing a policy of Indian self determination and honoring the government-to-government relationship with tribal nations. President Obama has worked hard to reaffirm the Federal Government's commitment to ensuring that tribal nations are full partners in the Federal family.



The Federal Government has an important role to play in improving the education of Indian students. Congress last reauthorized the ESEA through the No Child Left Behind Act in 2002. Although flawed, NCLB deserves recognition for highlighting the achievement gap between poor and minority students and their middle class, white counterparts.

American Indian students are not only performing at levels below their peers, they are also not graduating from high school. In States with large Native populations, the graduation rates of American Indian students falls behind all other racial and ethnic groups. Under President Obama and Secretary Duncan's leadership, the Department's focus on Indian country has increased dramatically.

Secretary Duncan and senior officials have held unprecedented amounts of listening sessions and regional consultations with leaders across the country. In our meetings, we heard specific ideas from tribal officials about the needs of Indian country. Some common themes emerged including collaboration with States in how Indian students are educated. Many tribal leaders said the best way to promote Tribal-State collaboration would be to elevate and fund tribal education agencies.

Number two was the need for increased coordination and collaboration between Tribes, States, and the Federal Government to address the needs of Indian students. Number three was preservation of Native languages, histories and cultures.

We also heard several pressing concerns including the following: one, many schools located on reservations are in dilapidated condition and do not meet safety codes; two, teacher recruitment and retention is a tremendous challenge for reservation schools, highlighting the importance of grow your own teacher programs and ESEA reauthorization; three, Indian students face additional challenges such as violence, substance abuse and high unemployment rates in their communities, which hinder educational achievement.

We look forward to working with this Committee and the House committee in a bipartisan manner to address these issues. Our five goals for ESEA reauthorization include: preparing college and career ready students by raising standards, improving assessments and helping States and districts provide a well rounded education; two, strengthen teacher and leader preparation and recruitment; three, ensuring the needs of diverse learners are met; four, raising the bar and rewarding excellence through incentives such as Race to the Top; and five, promoting innovative programs which support, recognize and reward local innovation.

As ESEA reauthorization moves forward, we will continue our dialogue with tribal leaders and look forward to working, in a bipartisan way, with this Committee and the House committee to achieve our goals for Indian students.

Thank you and I would be happy to respond to any questions you may have.

[The prepared statement of Mr. Mendoza follows:]

PREPARED STATEMENT OF WILLIAM MENDOZA, ACTING DIRECTOR, WHITE HOUSE INITIATIVE ON TRIBAL COLLEGES AND UNIVERSITIES, U.S. DEPARTMENT OF EDUCATION

**Framework: Increasing Partnerships with Tribes to Improve Student Achievement**

My name is William Mendoza, and I am the Acting Director of the White House Initiative on Tribal Colleges and Universities at the U.S. Department of Education. On behalf of Secretary Duncan, I'd like to thank Chairman Akaka, Ranking Member Barrasso and the Full Committee for the opportunity to testify today regarding one of our Nation's most underserved student populations.

Chairman Akaka, I also want to thank you, Senator Johnson of South Dakota, and Senator Inouye, for introducing the Native Culture, Language and Access for Success in Schools Act. We are in the process of reviewing the bill, and look forward to discussing it with you, to achieve our shared goals for Indian students.

This Administration has taken great strides to implement a policy of Indian self-determination and strengthen and honor the government-to-government relationships with Tribal Nations. In December 2010, President Obama invited tribal leaders, Cabinet Secretaries, senior officials and Members of Congress to attend the White House Tribal Nations Conference. Similar to the first White House Tribal Nations Conference, held in November 2009, President Obama reaffirmed the Federal Government's commitment to ensure that Tribal Nations are full partners in the Federal family.

**Educational Performance of Indian Students**

It's important to note that only about eight percent of Indian students attend schools funded by the Department of the Interior's Bureau of Indian Education (BIE). The vast majority of Indian students, more than 90 percent, attend public schools operated by their local school districts. In these schools, there are few venues for collaboration between Tribes and States, even in the case of school district-operated public schools located on Tribal lands.

The Federal Government has an important role to play in improving the education of Indian students. Congress last reauthorized the Elementary and Secondary Education Act of 1965 (ESEA) through the No Child Left Behind Act (NCLB), in 2002. Although flawed, NCLB deserves credit for highlighting the achievement gap between poor and minority students and their middle-class, white counterparts. It has provided us with statistically reliable evidence that Indian students perform at levels far below their peers on academic assessments in grades 3–8 and high school.

In addition, the National Assessment of Educational Progress (NAEP), the largest nationally representative and continuing assessment of math and reading, includes statistically reliable data on American Indian students' progress. Using data from the NAEP, the Department's National Center for Education Statistics produced *The National Indian Education Study 2009*<sup>1</sup>, finding that American Indian/Alaska Native student scores in both reading and mathematics at both fourth- and eighth-grade levels have not improved since the study was first conducted in 2005. Specifically, in the 2009 assessment in reading, fourth-grade American Indian students lagged behind the general population by 18 points and eighth-grade students by 13 points. As for math, American Indian fourth-grade students scored 15 points lower than the general population and 18 points lower by eighth-grade.

American Indian students attending BIE-funded schools fared even worse than the general American Indian student population. Fourth-grade BIE students scored 25 points lower in reading than the general population and 23 points lower in eighth-grade. In math, fourth-grade BIE students score 20 points lower than the general population and eighth-grade students lagged behind the general population by 19 points.

American Indian students are not only performing at levels below their peers, they are also not graduating from high school. Estimates from the U.S. Department of Education show that more than one third of American Indian students from the Pacific and Northwest regions of the U.S. fail to graduate high school on time. In States such as Alaska, Arizona, California, Idaho, Montana, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, and Washington, American Indian students' 62.5 percent graduation rate was behind all other racial/ethnic groups, including whites (79.1 percent), Asians (91.7 percent), African Americans (60.9 percent) and Hispanics (62.8 percent).

These statistics make one thing clear—in the area of education, we must do more to help Indian students.

<sup>1</sup><http://nces.ed.gov/nationsreportcard/nies>

### **What the Department Heard on Its Regional Consultations**

During this Administration, the Department has engaged Indian Country in a meaningful way. I am pleased to report that, under President Obama and Secretary Duncan's leadership, the Department's focus on Indian Country has increased dramatically. In 2009, Secretary Duncan and senior staff held several listening sessions at Tribal schools in Montana, New Mexico and North Dakota. On January 11, 2010, Secretary Duncan, along with other senior officials, participated in a meeting with Interior Secretary Ken Salazar, Senior Policy Advisor for Native American Affairs at the Domestic Policy Council, Kimberly Teehee, and Indian education experts regarding ways to improve education for Indian students. In March 2010, Secretary Duncan held a teleconference with Tribal leaders from across the country, specifically to get their ideas and input on reauthorization of the ESEA.

Furthermore, senior Department staff, including Under Secretary Martha Kanter, General Counsel Charlie Rose and Assistant Secretary Thelma Melendez, held several regional consultations with Tribal leaders across the country. Consultations were held on the following dates and locations: April 16, 2010 at the Cook Inlet Tribal Council in Anchorage, Alaska; April 19, 2010, in Shawnee, Oklahoma; April 28 2010, on the Pine Ridge Reservation in South Dakota; on May 3, 2010, Santa Clara, New Mexico; on June 30, 2010 at the Navajo Reservation in Window Rock, Arizona; July 15, 2010 in Puyallup, Washington. In 2011, the Department held listening sessions in cities where there are a large number of Indian students, such as Denver, Los Angeles, and Green Bay.

I am also pleased to report that the Department of Education and the Department of the Interior have continued to collaborate since Secretary Duncan and Secretary Salazar had their first meeting regarding Indian education on January 11, 2010. Since then, the two Departments have worked to combine and coordinate resources to maximize the benefits for Indian education. This is how we can improve student achievement for American Indian students—by breaking down the silos that stifle progress.

All of these efforts are part of the Department's commitment to maintaining our engagement with Indian Country.

During our meetings with Tribal leaders on their lands, we heard specific ideas from Tribal officials about what works for Indian Country. Several common themes emerged during these meetings, including that Tribes:

- Want to collaborate with States about how Indian students are educated. Many Tribal leaders testified that the best way to promote Tribal-State collaboration would be to elevate and fund Tribal Education Agencies (TEAs).
- Want increased coordination and collaboration between Tribes, States, and the Federal Government—to fully address the needs of Indian students. In particular, we heard about the importance of close collaboration between the Department of Education and the Department of the Interior—to which we are fully committed.
- Want to preserve their Native languages, histories and cultures.
- Believe that language immersion programs are the best way to increase fluency in Native languages and that we should increase support for these programs.
- Generally lack the capacity to compete with States or school districts for competitive Federal grants and funding.

We also heard several pressing concerns, including that:

- Due to high mobility, small numbers, and the fragmentation of the education system for Indian students among school district-operated, BIE-operated, and Tribal schools, there is a lack of accountability for Indian education in the U.S.
- Many schools located on reservations are in dilapidated condition and do not meet safety codes.
- Due to violence, alcohol and drug abuse, and high unemployment rates on reservations, Indian students face additional educational challenges, which ultimately hinder their achievement.
- Teacher recruitment and retention is a tremendous challenge for reservation schools. Teacher and staff morale continues to be extraordinarily low, which is why Tribal leaders recommend that ESEA reauthorization should increase support for “grow your own” teacher programs that train Tribal citizens to teach in their own schools.

Finally, at every consultation, Tribal leaders emphasized the importance of follow-up. One Tribal leader even said “consultation” had become a “bad word” in Indian Country because to “consult” only meant to “confer,” and did not require true col-

laboration or partnership. Several Tribal members stated that the current state of Indian education was, in many ways, the same as it was in the Meriam Report of 1928, the 1969 Kennedy report on Indian education, and the 1991 “Indian Nations at Risk” report. The facts have been clear for generations—the time for reform is now.

Through regular consultation, maintaining a meaningful partnership between the Department and Tribal leaders, and following through on policy recommendations, we can help improve American Indian student achievement.

#### **Goals for ESEA Reauthorization**

We look forward to working with this Committee as well as the Health, Education, Labor and Pensions Committee, in a bipartisan way, to address these issues in ESEA reauthorization. We have five broad goals for this reauthorization:

- (1) preparing college and career-ready students, through raising standards, improving assessments, and helping States and districts provide a complete, well-rounded education;
- (2) great teachers and leaders in every school, through improving teacher and leader effectiveness, ensuring that our best teachers and leaders are in the schools where they are most needed, including schools that serve Indian students, and strengthening teacher and leader preparation and recruitment;
- (3) equity and opportunity for all students, through rigorous and fair accountability at all levels, meeting the needs of diverse learners, and greater resource equity;
- (4) raising the bar and rewarding excellence, through incentives such as Race to the Top, supporting effective public school choice, and promoting a culture of college readiness and success; and
- (5) promoting innovation and continuous improvement, through programs such as the Investing in Innovation Fund (which supports, recognizes, and rewards local innovations) and supporting student success by providing comprehensive services.

These 5 goals are critically important to improving education for all students, and especially for Indian students. Our reauthorization proposal also addresses the needs of schools that serve Indian students. We know that Federal funding is crucial for these schools, especially since they are generally small and remote. Our proposal would continue foundational formula funding in Title I and Title II–A, along with formula funding in the Rural Education, Indian Education, and English Learner Education programs, among others.

For most schools serving Indian students, we want to promote Tribal sovereignty by allowing these schools to implement locally designed strategies, such as culturally based education and Native language instruction, to improve student achievement. We want to give grantees more flexibility under the Indian Education Program to carry out Native language restoration and immersion programs, and we want to make it easier for Tribes to apply and successfully compete for grants under this program when districts choose not to.

But we also know that many schools with high percentages of Indian students are among the lowest-performing. For example, a majority of Montana’s schools in “restructuring” status under ESEA are Indian schools, and many BIE schools are in restructuring status, having failed to make adequate yearly progress for five or more consecutive years.

Our reauthorization proposal and fiscal year 2012 budget proposal focus significant attention and support on persistently low-performing schools, with \$600 million in the School Turnaround Grants program to support the implementation of one of four school turnaround models in these schools—with the choice of which model left to the school district. The BIE would receive its share of these funds to turn around its lowest-performing schools.

Our proposal also addresses teacher and leader recruitment and retention, especially for schools, like those in Indian communities, where they are needed most. The Administration’s budget proposal includes \$250 million for programs that create or expand high-quality pathways into teaching, along with programs that recruit, prepare, and retain effective teachers, principals, and other school leaders. These programs will be focused on preparing teachers and leaders to work in high-need areas.

We believe that we can best improve student achievement by involving those who best understand the students’ needs. Thus, in order to further the Administration’s policy of self-determination for Tribes, and to further Tribal-State collaboration, the Department wants to strengthen Tribal education agencies (TEAs) through a TEA

Pilot program that would create opportunities for Tribes to partner with States and local educational agencies. TEAs are executive branch agencies of sovereign Tribal governments that are responsible for education-related matters (TEAs are not schools, and generally don't deliver educational services directly to students.) Several Tribal officials have testified that strengthening TEAs may provide a mechanism for the Federal Government, TEAs, and State Education Agencies to combine and coordinate Federal, Tribal, and State resources, and develop partnerships that would promote Tribal sovereignty, increase capacity, and improve accountability in schools with high percentages of Indian students. Part of strengthening TEAs must include the provision of targeted technical assistance, as well as providing TEAs with data about Indian students—as we heard during our consultations, there currently is a lack of such data.

#### **Conclusion**

As ESEA reauthorization moves forward, we will continue our dialogue with Tribal leaders and look forward to working in a bipartisan way with this Committee to achieve our goals for all Indian students. Thank you, and I would be happy to respond to any questions that you may have.

The CHAIRMAN. Thank you very much, Mr. Mendoza.  
Mr. Moore, please proceed with your statement.

#### **STATEMENT OF KEITH MOORE, DIRECTOR, BUREAU OF INDIAN EDUCATION, U.S. DEPARTMENT OF THE INTERIOR**

Mr. MOORE. Thank you, Mr. Chairman.

Good afternoon, Chairman Akaka, Vice Chairman Barrasso, Senator Murkowski and Senator Tester.

My name is Keith Moore. I am a Rosebud Sioux tribal member from South Dakota. I am the Director of the Bureau of Indian Education.

I want to thank you for the opportunity to provide the Department of Interior's views on the Native Culture, Language and Access for Success in Schools Act.

The Administration is committed to providing high quality educational opportunities for students who are educated in BIE-funded schools throughout the country. The BIE is only one of two agencies operating a federal school system. The other entity is the Department of Defense.

The BIE funds 183 facilities on 64 reservations in 23 States consisting of 123 grant schools, 3 contract schools controlled by Tribes and 57 schools directly operated by the BIE. In addition, the BIE operates two post secondary institutions, Haskell Indian Nations University and Southwestern Indian Polytechnic Institute, with student populations for the fall this past year of 4,200 students in those two universities. The BIE also provides funds for 26 tribal colleges and universities and two tribal technical colleges.

Federal funding for the education of American Indian students comes from two entities, the U.S. Department of Education and the Department of Interior. In 2006, the Assistant Secretary of Indian Affairs established the BIE, formerly known as the Office of Indian Education Programs. The BIE was renamed and reorganized on August 29, 2006 to reflect its importance in the organizational structure of the Office of the Assistant Secretary, Indian Affairs.

Over the years, there has been a transformation in how education is delivered on tribal lands throughout the country. From the Snyder Act of 1921 to the current No Child Left Behind Act of 2001. When delivering education, the BIE takes into consideration the whole person, taking into account the spiritual, mental, phys-

ical and cultural aspects of the individual within his or her family, and the tribal or village context.

The BIE school system employs approximately 4,224 teachers, administrators and support personnel in 57 BIE operated schools, while many thousands more work in 126 tribal grant and contract school systems.

The Bureau of Indian Education faces a complicated system of accountability. The BIE uses 23 different definitions of AYP crafted for each State's public schools and aligned to each State's academic standards, not specifically to BIE schools. As a result, there is not a consistent Bureau-wide measure of academic progress.

BIE's current initiatives address this issue of accountability system fragmentation by developing a single accountability system that emphasizes common standards and a single assessment to measure them. BIE's proposed system concept mirrors the Department of Education's Blueprint for Reform, which emphasizes measurement of and support for growth in student achievement, reduced time and testing through the use of sophisticated assessments, and increased transparency through the improved use of data to guide school improvement.

Currently, the BIE has to maintain multiple MOUs where States or schools are located. Each State has cut scores that bring conflict to BIE schools because of differing AYP, adequate yearly progress standards. Schools in State A can make AYP while schools in State B cannot make AYP, but schools in State B may be outperforming schools located in State A. This is due to low cut scores, easier standards and possibly easier assessments in State A.

A single accountability system alone is not sufficient to address the capacity needs of the BIE. Many schools are not merely rural but geographically isolated from population centers and, as all of us know, are in some of the most impoverished communities across this country. Consequently, identifying, hiring and retaining high quality teachers and administrators are common barriers to improving instruction in rural BIE schools.

To help address this need, the BIE is partnering with organizations across the country to recruit teachers and administrators, it has been a priority for the BIE over the last year and a half and will continue to be as we move forward.

Some of our other continuing initiatives include Safe and Secure Schools, High School Excellence, Strengthening and Sustaining the Post Secondary Program, Family and Child Education, the McKinney-Vento Homeless Assistance in Education, the Statewide System of Support and engaging in partnerships with other federal programs as well as private entities.

The BIE has partnered with Clemson University to participate in a dropout reduction program through the National Center for Dropout Prevention and is starting work with the Center for Disease Control and Prevention on a Healthy Schools initiative.

Additionally, consistent with President Obama's initiative to identify areas for improvements in government efficiency, the BIE has commissioned a BIE-wide evaluation of processes and regulations limited to a review of BIE's organization, health, achievement, leadership and faculty.

In the meantime, the BIE has sought to bring distinct and typically separate officials, offices and stakeholders to the table to facilitate better communication. The results are already being seen as the BIE's coordination and delivery of services to schools has been greatly enhanced.

This last year and a half has seen a marked increase in collaboration with the Department of Education. As we move forward, we look forward to continued collaboration and strong partnership in order to improve Indian education.

S. 1262 was introduced a week ago today. The BIE is still in the process of reviewing the bill and cannot make specific comments at this time. The BIE is committed to working with the committee on S. 1262 in addressing the educational needs of American Indians and Alaska Native students, especially in BIE schools.

In conclusion, education in the United States is primarily a State and local responsibility. However, tribal communities have not been afforded appropriate control over education in their own communities in the past. Outside interests have historically imposed their will on tribal communities and defined the futures of Indian communities through their children.

Reauthorization of ESEA represents a unique opportunity for all of us to ensure that the Act works for American Indian and Alaska Native communities. The reauthorized ESEA can support the self-determination of Indian Tribes and create an educational system that values tribal cultures and languages and also ensures accountability for student performance and achievement.

Thank you for providing the BIE this opportunity to testify. We are committed to working with this committee, with tribes, with the Department of Education and other partners as the reauthorization of ESEA moves forward through Congress.

I am happy to answer any questions the Committee may have. Thanks again.

[The prepared statement of Mr. Moore follows:]

PREPARED STATEMENT OF KEITH MOORE, DIRECTOR, BUREAU OF INDIAN EDUCATION,  
U.S. DEPARTMENT OF THE INTERIOR

Good afternoon Mr. Chairman, Mr. Vice Chairman, and members of the Committee. My name is Keith Moore and I am the Director of the Bureau of Indian Education (BIE). Thank you for the opportunity to provide the Department of the Interior's views on the Native Culture, Language and Access for Success in Schools Act. The Administration is committed to providing high-quality educational opportunities for approximately 42,000 students who are educated in BIE-funded elementary and secondary schools throughout the country.

#### **Background**

The BIE is only one of two agencies operating a Federal school system. The other entity is the Department of Defense. The BIE funds 183 facilities on 64 reservations in 23 States, consisting of 123 grant schools and 3 contract schools controlled by tribes, and 57 schools directly operated by the BIE. In addition, the BIE operates two postsecondary institutions, Haskell Indian Nations University and Southwestern Indian Polytechnic Institute, with student populations for the fall through the summer semesters for 2009/2010 of 2,405 and 1,818, respectively. The BIE also provides funds for 26 Tribal Colleges and Universities (TCUs) and two tribal technical colleges.

Federal funding for the education of American Indian students comes from both the Department of the Interior and the Department of Education. The 183 elementary and secondary schools funded by BIE educate approximately 42,000 students, or approximately 7 percent of the total American Indian and Alaska Native student population in the United States. The great majority (over 90 percent) of American

Indian and Alaska Native children are educated in non-BIE public schools under the supervision of their local education agencies.

In 2006, the Assistant Secretary-Indian Affairs established the BIE. Formerly known as the Office of Indian Education Programs, the BIE was renamed and reorganized on August 29, 2006, to reflect its importance in the organizational structure of the Office of the Assistant Secretary-Indian Affairs. The BIE is headed by a Director, who is responsible for the line direction and management of education functions, including the formulation of policies and procedures, the supervision of program activities and the expenditure of funds appropriated for education functions.

There have been several major legislative actions that affected the education of American Indians since the Snyder Act of 1921. First, the Indian Reorganization Act of 1934 supported the teaching of Indian history and culture in Bureau-funded schools (prior to 1934 it had been Federal policy to acculturate and assimilate Indian people through a boarding school system). Second, the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638) provided authority for federally recognized tribes to contract with the Secretary of the Interior to operate Bureau-funded schools. The Education Amendments Act of 1978 (P.L. 95-561) and further technical amendments (P.L. 98-511, 99-99, and 100-297) provided funds directly to tribally-operated schools, empowered Indian school boards, encouraged local hiring of teachers and staff, and established a direct line of authority between the Education Director and the Assistant Secretary for Indian Affairs. The No Child Left Behind Act of 2001 (NCLB) (P.L. 107-110) brought additional requirements to the schools by establishing accountability metrics and goals for improving their students' academic performance.

As stated in 25 C.F.R. § 32.3, BIE's mission is to provide quality education opportunities from early childhood through life in accordance with a tribe's needs for cultural and economic well-being, in keeping with the wide diversity of Indian tribes and Alaska Native villages as distinct cultural and governmental entities. Further, the BIE takes into consideration the whole person by taking into account the spiritual, mental, physical, and cultural aspects of the individual within his or her family and tribal or village context. The BIE school system employs approximately 4,224 teachers, administrators, and support personnel in the 57 BIE-operated schools, while many thousands more work in the 126 tribal grant and contract school systems.

#### **Bureau of Indian Education Student Achievement Initiatives**

The Bureau of Indian Education (BIE) faces a complicated system of accountability. The negotiated rulemaking process resulted in a joint decision with the Department of Education that the BIE would implement NCLB using State definitions of Adequate Yearly Progress (AYP) for BIE-funded schools based on the State in which the school is located. The BIE uses 23 different definitions of AYP that are crafted for each State's public schools and aligned to each State's academic standards, not specifically to BIE schools. As a result, there is no consistent, Bureau-wide measure of academic progress.

BIE's current initiatives address this issue of accountability system fragmentation by developing a single accountability system that emphasizes common standards and a single assessment to measure them. BIE's proposed system concept mirrors the Department of Education's Blueprint for Reform, which emphasizes, measurement of and support for growth in student achievement, reduced time spent in testing through the use of sophisticated assessments, and increased transparency through the improved use of data to guide school improvement. Such a system of accountability would enable better and faster responses to weaknesses in school performance to improve student achievement. For example, BIE has to enter and maintain 23 separate MOUs with each state where schools are located. Each state has cut scores that bring conflict to BIE schools because of differing AYP standards. Schools in State A can make AYP and schools in State B may not make AYP, but may be out performing schools located in State A. This maybe is due to low cut scores and easier standards and assessments in State A.

#### **Bureau of Indian Education Initiatives**

A unitary accountability system alone is not sufficient to address the capacity needs of the BIE. A unitary accountability system must be enhanced through other focused efforts to improve staffing, and to address other recognized issues facing the BIE. Many BIE schools are not merely rural, but geographically isolated from population centers. Consequently, identifying, hiring, and retaining high quality teachers are common barriers to improving instruction at rural BIE schools.

To help address this need, the BIE has partnered with organizations such as Teach for America to recruit teachers to work at rural schools and this has been



a priority for the BIE over the last year and a half. Professional capacity, however, is not the only capacity that requires development in the BIE schools.

Some of our continuing initiatives include Safe and Secure Schools, High School Excellence, Strengthening and Sustaining the Postsecondary Program, Family And Child Education, McKinney-Vento Homeless Assistance in Education, the Statewide System of Support, and engaging in partnerships with other federal programs as well as private entities. The BIE has partnered with Clemson University to participate in a drop-out reduction program through the National Center for Drop-Out Prevention and is starting work with the Center for Disease Control and Prevention on the Healthy Schools initiative.

Additionally, consistent with President Obama's initiative to identify areas for improvements in government efficiency, the BIE has commissioned a BIE-wide evaluation of processes and regulations limited to a review of BIE's organization, health, achievement, leadership and faculty. In the meantime, the BIE has sought to bring distinct and typically separate officials, offices and stakeholders to the table to facilitate better communication. The results are already being seen, as the BIE's coordination in the delivery of services to schools has been greatly enhanced.

The last year and a half has seen a marked increase in the collaboration between the Department of Education and the Department of the Interior. With the BIE's increased responsiveness to the advice offered by the Department of Education on program implementation issues, and the BIE's increased capability and improved compliance with the Department of Education's reporting requirements, the BIE has taken considerable strides to increase its accountability for program implementation. This collaboration between Interior and Education is expected to continue into the foreseeable future as relationships forged between the departments continue to strengthen.

S. 1262 was introduced a week ago today. The BIE is still in the process of reviewing the bill and cannot make specific comments at this time. The BIE is committed to working with the Committee on S. 1262 in addressing the educational needs of American Indian and Alaska Native students, especially in BIE schools.

#### **Conclusion**

Education in the United States is primarily a State and local responsibility. However, tribal communities have not been afforded appropriate control over education in their own communities in the past. Outside interests have historically imposed their will on tribal communities and defined the futures of Indian communities through their children.

Reauthorization of the ESEA represents a unique opportunity to ensure that the Act works for American Indian and Alaska Native communities. The reauthorized ESEA can support the self-determination of Indian tribes and create an educational system that values tribal cultures and languages.

Thank you for providing the BIE this opportunity to testify. We are committed to working with this Committee, with the tribes and with the Department of Education as the reauthorization of ESEA moves forward through Congress.

I am happy to answer any questions the Committee may have.

The CHAIRMAN. Thank you very much for your statement, Mr. Moore.

I would like to defer my questions and ask Senator Tester for his and Senator Murkowski for hers.

Mr. TESTER. Thank you, Mr. Chairman. Thank you for the privilege.

Mr. Mendoza, you talked about language, history and culture being important to be a part of the curriculum for Native American students. Can you give me any sort of idea on how many schools actually incorporate language, history and culture?

Mr. MENDOZA. Unfortunately, I don't have that information available right now, but we do know that throughout the country, and Indian country especially, there is a concerted effort through Department of Education funding, namely Title VII, where we have both professional development and demonstration grants that support efforts in this area, both in terms of implementing culturally responsive pedagogy and also from our language areas, we are focusing on looking at the effectiveness of those programs as well in

the schools. I can certainly provide you with more detailed information.

Mr. TESTER. I am sure it is a pretty small amount. I think the language, culture and history is pretty important. Are you able to monitor your grants you are putting out for that purpose? That is where I think I heard you say there were grants available for this purpose to see if it is making any difference as far as testing goes and overall success.

Mr. MENDOZA. As you know, the research is limited in this area. One of the direct results of the consultations was looking at how the Department of Education utilizes its ability to conduct research on a national level pertaining to this. This is an area that the Department of Education is looking at to examine.

There are areas where we evaluate our programs of course. We are looking at how we can contribute to the body of best practices.

Mr. TESTER. The other thing you mentioned, Mr. Mendoza, is teacher recruitment and that retention is critically important. I agree. You talked about home grown teachers. I couldn't agree with you more. Are there any efforts in the Department to encourage this and how are you doing it if there is?

Mr. MENDOZA. Of course it is a key area for us. Again, I mentioned within Title VII we have professional development that goes towards institutions conducting this kind of work. I think of Montana and the rich tribal college and university system that is thriving there, this is an example of that and partnerships with schools like Montana State and the University of Montana are key to that and also tapping into the community colleges to make sure our teachers are coming from those communities and understand those communities best but are addressing the level of teaching we want to generate the outcomes.

Mr. TESTER. Let me ask more specifically. Poverty reigns pretty high, on Montana reservations anyway, and if you have a student who wants to go to school and become a teacher, and they have the skills, the desire, the drive, but don't have the money. Are there any programs out there that might help and encourage them to go into education?

Mr. MENDOZA. If this is an Indian student, yes, there are monies available. I can provide you with that program information.

Mr. TESTER. Hopefully it is obtainable without too much red tape but enough to make sure that we are spending it wisely.

Mr. Moore, you talked about working on the ESEA and making sure that it works for Indian schools when the final product comes out. Are you working with the Department of Education and are you giving them input on ESEA from a Native American student standpoint? What are some of the things you are advocating for in ESEA, if you are doing that?

Mr. MOORE. We have and continue to work closely with the U.S. Department of Education on ESEA and Indian education as we move forward. I don't want to sound standoffish, Senator, but the specifics are obviously being discussed and vetted and trying to become clear in terms of what it is that we would like to see from the BIE standpoint in terms of what would specifically be in ESEA.

We think we are close to having some of our stances in place, but I would like to be cautious in terms of talking specifics at this point.

Mr. TESTER. It is no problem.

The Secretary of Education was in northern Cheyenne about a year and a half or two years ago and one of the things a student said to him while he was there, and you don't need to respond, this is more of a comment, was that people need to demand more of us. If we are going to achieve excellence, we need more demanded of us.

I do not want our Native American kids to get a second class education. It is a worldwide economy that we live in. I want to build the economy in each one of the States and Indian country but by the same token, when they come out of school, they have to be able to compete. I would just ask you to keep that in mind. We don't want second class education, we want the very best. If we are going to break the cycle of poverty, that is what has to happen.

Thank you both for being here.

The CHAIRMAN. Thank you very much, Senator Tester.  
Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. Thank you for this hearing today and for getting out front on the issue of education and how we provide educational opportunities for American Indians, Alaska Natives and Native Hawaiians.

I also serve on the Health Committee, so I am going to be looking forward to working with you all as we try to deal with some of the challenges. I don't like the statistics that are out there. I am sure that you don't and many of the people in this room.

Mr. Mendoza, you mentioned that the National Indian Education Study of 2009 and the findings based on the NAEP data that American Indian students lag behind their non-Indian peers on these NAEP standards. It is my understanding, and I would like confirmation of this if it is not correct, but it is my understanding that the study was unable to provide reliable statistics on Alaska Native students because of the small sample size. Is that, in fact, correct?

Mr. MENDOZA. I can certainly provide you with more detailed information. I don't have full understanding of the research model that goes into the National Indian Education Study but I do know that the sample size is taking into consideration both high and low density population schools. It is broken up by region.

This augmented sample they used for the National Indian Education has naturally occurring data pools that are derived from NCLB directly. In some cases, and I don't know if this is particular to Alaskans—I apologize—but we may be able to look at Alaska by itself and see how that relates to this bigger pool of fourth and eighth grade data which is about 9,000 fourth graders and 8,000 eighth graders respectively.

Senator MURKOWSKI. I would appreciate it if you could look into it because if we are going to be relying on data, we need to know that the data that has been collected is sufficient upon which to

base some decision. If, in fact, the sample size was not sufficient, hopefully we can remedy that through an opportunity to look at a larger sample of our Alaska Native students.

I had a rural constituent, a superintendent of a rural school district in northwest Alaska, who was being critical of the NAEP data. He says it doesn't provide him with the reliable information because, in his opinion, there was cultural bias that was inherent in that test. He conveyed to me a story, a situation where the students were asked to circle pictures of food. One of the pictures included in the grouping was a picture of a whale. For Alaska Native students and many parts of the State, yes, whale is not only a food, it is a staple of their diet. When it comes back corrected, the whale is not a food according to those people who are sitting wherever they are correcting the tests in the lower 48 where whale is not considered a food. He pointed that out as a clear example of where you may see cultural bias within the testing itself.

I guess the question I would ask you is whether you also believe that there is some inherent cultural bias in the testing that could lead to inaccuracies in these test results. We look at the results, we see there is a lag. Is it possible that there may be some issues within the testing itself?

Mr. MENDOZA. I certainly appreciate your concern. I think you point out very well the difficulties in meeting the diverse needs of our learners, especially from the tribal perspective, as we look across the complexities of our 565 tribal nations. In terms of the assessment, I can't speak directly to that specific test, but it is always a challenge just as an educator myself looking at if the assessments are really measuring what you are planning to do.

I think that would be a question to direct to our National Center for Education Statistics. I would certainly have them follow up on that as to what that means.

Senator MURKOWSKI. I would agree we can certainly do that but I think it is important for those within the Department of Education to be looking to see if perhaps we are not getting fully accurate data because you have cultural issues that present themselves, a child reading a simple story problem that has a story about a sidewalk and the child has no clue what a sidewalk is because we don't have sidewalks in most of the villages in Alaska, doesn't even know what the terminology means. It is little things, it is anecdotal, but it does cause me to wonder.

Mr. Moore, let me ask you as you are more than aware, in Alaska we do not receive BIE funding for our schools. Can you tell the Committee whether or not the legislation we are considering—and I appreciate the fact you are just now looking at it—might have any impact on Alaska Tribes?

Mr. MOORE. It would be very difficult to do that right now, Senator, to comment specifically on it. I would like to hold that until I return my thoughts to you but at this time, I would like to reserve those.

Senator MURKOWSKI. As you do your review and make an assessment to the committee, I would be curious to know whether or not you think it would have an impact and if so, how it might impact Alaska Tribes.

Mr. MOORE. Certainly.

Senator MURKOWSKI. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Murkowski.

Mr. Mendoza, throughout the consultations process, and in committee records, Native leaders have asked for a senior level position at the Department of Education to oversee Native education. Is the Department taking steps to fulfill that request?

Mr. MENDOZA. Thank you, Senator, for that question.

We also heard from tribal leaders how important it is to have a senior level position for Indian education. Secretary Duncan has already made a commitment to create a senior level advisor who would be able to drive the Department's Indian education agenda on a daily basis. Our challenge is making sure that position is sustainable and that it is institutionalized.

The CHAIRMAN. Mr. Moore, the Native CLASS Act has a large focus on bringing language and culture into the classroom. We have also heard that this is a priority for this Administration. How can the Bureau of Indian Education bring language and culture into the classroom in its 184 schools?

Mr. MOORE. Thank you for the question, Mr. Chairman.

We believe that we have been one of the biggest supporters over the years of language and culture when we look at budget figures. If you look at our Indian Student Equalization Program, affectionately called the ISEP Program, within that is a weighted figure that we fund a different number of line items and one of them is language. In our last fiscal year, we appropriated \$25,380,100 to our 183 schools specifically for language and culture development. We will continue to have that line item and our line item goes out to schools on a per school basis.

One of the things we would like to do going forward is to continue to support funding for that and also begin to have a nice dialogue about the curricula and assessments that are in place through those dollars that are really impacting students with language development.

The CHAIRMAN. Thank you very much for that. I have other questions that I will submit to you for the record.

Senator Tester, do you have any further questions. Ms. Murkowski?

Let me say thank you so much to this panel for being here today and providing this valuable information. I just want you to know that we want to improve Indian education in our country and look forward to working with you on this issue. Thank you very much.

If you have any further comments, Mr. Mendoza?

Mr. MENDOZA. Thank you, Mr. Chairman.

I wanted to also let the Committee know that the National Advisory Council on Indian Education is releasing their report today and we will provide you with that report. We would love to discuss that with you further at a later time.

The CHAIRMAN. Very good.

Mr. Moore?

Mr. MOORE. I have one last comment for Senator Murkowski. One thing that came to mind was Elizabeth Hensley, a person in the Assistant Secretary's office who is working specifically on Alas-

ka Native issues. It just came to my head that may be a good place for us to go to talk about the specifics of your question.

I would also like to say to Senator Tester, you do have a great leader in Montana, Denise Juneau was the Indian Education Director when I was the Indian Education Director in South Dakota. A few weeks ago, we had the chance at a Rural Chief State Schools Officers meeting to sit down with her for a couple days. She is a very impressive, very strong leader, a good woman and leader in terms of what is going on in Montana.

Mr. TESTER. Thank you.

The CHAIRMAN. Let me just give you another opportunity if you have any other comments to make about Indian education, please do that.

Thank you very much. We really appreciate you being here.

Let me call the second panel. I would like to invite the second panel to the witness table. First is the Honorable Cedric Cromwell, Chairman of the Mashpee Wampanoag Tribe from Mashpee, Massachusetts. Mr. Cromwell also serves on the Board of Directors of the United South and Eastern Tribes.

Next is Mr. Scott Russell, Rocky Mountain Region Area Vice President for the National Congress of American Indians. Mr. Russell also serves as the Secretary for the Crow Tribe located in Crow Agency Montana.

Ms. Amy Bowers is a staff attorney for the Native American Rights Fund located in Boulder, Colorado.

I want to welcome you all to this hearing.

Chairman Cromwell, will you please proceed with your testimony?

**STATEMENT OF HON. CEDRIC CROMWELL, CHAIRMAN,  
MASHPEE WAMPANOAG TRIBE; BOARD OF DIRECTORS,  
UNITED SOUTH AND EASTERN TRIBES**

Mr. CROMWELL. Good afternoon, Mr. Chairman, Senator Akaka and the Committee.

I want to thank you from the Mashpee Wampanoag Tribe and the USET Board of Directors, for holding this hearing and the diligent work that you do for Indian country. It is a very important issue so we appreciate it and thank the Committee. S. 1262 is very important. The revisions that are going to happen towards federal education laws that support the experience of Native American children are very important to us, so we appreciate what you are doing.

Representing USET, there are 26 Tribes that comprise USET, located in 12 States from Maine to Florida and west into eastern Texas. In comparison to our sister Tribes west of the Mississippi River, USET Tribes have smaller populations and smaller reservations. In the case of the Mashpee Wampanoag Tribe, we are a Tribe without a federal land base, we are a landless Tribe, so we have no reservation to conduct governmental activities including economic development, housing, health care and education. We are under funded in many ways by the Federal Government not in comparison with Tribes throughout the United States but also compared to other USET Tribes.

Our people suffer from high rates of poverty, related illnesses and issues including a high school graduation rate of only 48 percent. It is our belief that education is the best way to not only provide our children with the tools they need to be successful, productive adults, but also to lift our Tribe out of poverty for generations to come.

While our Tribe has taken great steps to offer support to and advocate for our children in the public school system, we simply do not have the resources to fully address the problem. Currently, we have five service delivery areas in Massachusetts with three major concentrations of 300-plus enrolled tribal members in Barnstable, Bristol and Suffolk Counties. Presently, we receive very little in the way of Title VII money, \$40,000 to be exact, which is used to fund tutoring, Native American teachers, educational advocacy and development of curricula designed to meet the learning style of our tribal students in public schools. The funding is clearly deficient and fails to provide our Tribe with the minimum resources we need to confront the very real challenges of Mashpee Wampanoag students in the public school system.

Too many of our children are desperate to be treated with respect and dignity in the education system. Too often, children with learning challenges or different needs are over medicated and they say given them Ritalin, that is the answer, and their individual and culturally specific needs are ignored. The results are clear when fewer than half of our tribal citizens are receiving a high school diploma.

We need funding and authority to do more for our children. That is why I am here today to express my support for the Native CLASS Act. We applaud the bill language that would give public schools greater flexibility in designing programs to meet the needs of their Indian students, the requirement for a local educational agency, LEA, to enter into a cooperative agreement with the Tribe to assist with the planning and operation of the program, and the requirement for the LEA to develop programs in consultation with committees comprised of Indian parents and teachers.

USET is disappointed that S. 1262 does not include a key recommendation of the tribal organization team that called for the creation of centers for innovation and tribally directed education. The purpose of this proposal is to assist Tribes with capacity building to enable them to effectively exercise their rights and authority to direct delivery of educational services to Indian children. We urge the Committee to amend S. 1262 to include this proposal.

Finally, we are strongly in support of the initiative within the bill to assist the Tribes in recruiting high quality teachers and principals. We are especially interested in implementing the Troops As Teachers Program, given the high percentage of Native American citizens who volunteer to serve in the U.S. armed forces.

In addition, in Indian country, we talk a lot about self determination and one of our core beliefs is that as tribal nations, we must be able to provide for our people. This bill not only works toward the goal of improving the ability of Tribes to educate our young people, but it also increases the ability of individual tribal children to achieve self determination by giving them the opportunities and tools they need to become healthy and productive adults.

Thank you my friends.  
 [The prepared statement of Mr. Cromwell follows:]

PREPARED STATEMENT OF HON. CEDRIC CROMWELL, CHAIRMAN, MASHPEE  
 WAMPANOAG TRIBE; BOARD OF DIRECTORS, UNITED SOUTH AND EASTERN TRIBES

Good afternoon Mr. Chairman and members of the Committee. My name is Cedric Cromwell. I am Chairman of the Mashpee Wampanoag Tribe in Massachusetts. I appear here today to present testimony on behalf of the United South and Eastern Tribes on S. 1262, the Native CLASS Act which makes valuable and needed revisions to Federal education laws to improve the educational experience of Indian children.

The 26 Tribes that comprise USET are located in 12 states—from Maine to Florida and west into eastern Texas. In comparison to our sister tribes west of the Mississippi River, the USET tribes have smaller populations and smaller reservations. Nonetheless, through the strength that comes from unity of purpose and the shared objectives of improving the quality of life of Indian people and full recognition of the sovereign rights of tribal governments, USET has become a highly regarded Indian Country advocate over the past 42 years.

In the case of the Mashpee Wampanoag Tribe, we are a Tribe without a federal land base, so we have no reservation on which to conduct our governmental activities, including economic development, housing, health care, and education. Our people suffer disproportionately from poverty-related illnesses and issues, including a high school graduation rate of only 48 percent. It is our belief that education is the surest way to not only provide our children with the tools they need to be successful, productive adults, but also to lift our Tribe out of poverty for generations to come.

While our Tribe has taken great steps to offer support to and advocate for our children in the public school system, we simply do not have the resources to fully address the problem. Too many of our children are desperate to be treated with respect and dignity in the education system. Too often, children with learning challenges or different needs are overmedicated, and their individual and culturally-specific needs are ignored.

We need the tools to do more for our children. We need the funding and the authority to partner with the public schools to make sure our children are receiving the services they may need, to help combat health-related issues, provide culturally-appropriate curriculum, give Native parents a voice of boards and committees, and to train Native teachers.

That is why I am here today to express my support for the Native CLASS Act.

S. 1262 has two core and inter-related themes: First, requiring schools to take seriously their responsibility to meet the unique educational needs of Indian children in order to help them achieve academically; and second, recognizing that Indian tribes possess governmental authority in the performance of elementary and secondary education programs for their children.

USET is particularly equipped to address S. 1262 issues because the children of our member tribes are educated in both public schools and in tribally-operated schools funded by the Bureau of Indian Education. S. 1262 contains important provisions for Indian children enrolled in both types of schools. Working with our sister organizations, the National Congress of American Indians (NCAI) and the National Indian Education Association (NIEA), USET helped develop legislative recommendations for the Committee's consideration. We are very pleased that a large percentage of our recommendations were included in S. 1262.

#### **USET Children in Public Schools**

Where our USET tribal children are educated in public schools, they constitute a small percentage of the overall student population, a circumstance that often means our Indian children are overlooked by school authorities. Since some 90 percent of Indian children in the nation are educated in public schools, tribes must have a meaningful role in the delivery of services to these students. Thus, we are particularly supportive of the S.1262 provisions intended to require States and local public schools that educate Indian children to take into account the educational and cultural needs of those children in designing their educational plans. We also heartily support requiring these public schools to provide training for teachers in the Indian cultures of the Indian children, and to develop culturally responsive teaching and learning strategies to better serve our children. Contracts with Indian tribes would be the most effective way to carry out these obligations.

USET applauds the insertion of requirements throughout the ESEA titles for States and local educational agencies to consult with tribes on a continuing basis



in the development of school plans and programs, and the establishment of meaningful mechanisms through which Indian tribes can elect to exercise hand-on control over educational programs.

Since the public school student populations of USET tribes is comparatively small in the communities in which they are located, our tribes will not qualify for the bill's innovative programs for tribes whose children constitute high percentages of public school populations—particularly on-reservation public schools. Thus, I want to focus on the bill's provisions that have the potential to affirmatively impact the public schools in which USET tribal children are enrolled.

*Safe and Healthy Schools for Native American Students.* USET supports bill Sec. 141 which requires the Secretary of Education to create unique programs to target social and nutritional issues prevalent in Indian communities, such as alcohol/drug abuse; suicide; violence; teen pregnancy; obesity; and school dropout. One affirmative effort expressly mentioned is establishment of tribal-specific school gardens to aid Indian students in pursuing sound nutrition goals.

- Recommendations:

(1) Sec. 141 does not identify the schools that should offer the programs the Secretary develops under this authority. The provision should be amended to require the Secretary to supply these programs to all public schools that are eligible for the Formula Grant Programs under Title VII (schools with 10 or more Indian students are eligible), and to strongly encourage them to provide appropriate programs for their Indian student population, perhaps as part of the program carried out under the Formula Grant.

(2) It seems to us that Indian tribes are well-equipped to work with the Secretary in designing the programs called for by Sec. 141. Thus, we suggest the provision be amended to direct the Secretary to work in cooperation with tribes, to the extent practicable, in developing the programs.

(3) We recommend that Sec. 141 be amended to require the Secretary to establish these programs within one year after enactment of S. 1262.

*Title VI, Part A—Formula Grant Program [Bill Secs. 152–159].* This is a significant program for USET tribes that operate BIE-funded schools, but it is even more significant for the tribes whose children attend public schools where Indian components in the curriculum are not customary. Its purpose is to infuse into the educational program an Indian component for these students who might otherwise have no opportunity for culturally relevant curriculum. Since tribes are already involved in development of the Title VII programs offered at the *BIE-funded schools*, I will focus my comments on the revisions that strengthen this program for Indian children in *public schools*. I express gratitude to the bill's sponsors for accepting these recommendations offered by our tribal organization workgroup (NCAI, NIEA and USET).

- *Indian-specific programs.* We applaud the bill language that would give public schools greater flexibility in designing programs to meet the needs of their Indian students. The current law ties the Title VII program too closely to Title I requirements, leaving little opportunity for schools to offer programs that address the specific educational and cultural needs of the Indian student population. Similarly, we support the requirement that a school proposing to combine Title VII grant funds into a schoolwide program (serving all students in the school, both Indian and non-Indian) must first demonstrate that a schoolwide program would provide benefits to the Indian students that would not be achieved if the funds were used for a program serving Indian students, only. The “Indian” character of these funds should be preserved.
- *Tribe-School cooperative agreements.* We also strongly support the requirement for a Local Educational Agency, at the request of a tribe with a plurality of Indian children enrolled with the LEA, to enter into a cooperative agreement with the tribe to assist with the planning and operation of the program. Not only will this provision advance the concept that Indian tribes have the right and responsibility to be meaningfully involved in educational matters, a partnership between the LEA and the tribe will result in more focused and effective programs.
- *Tribal representation on Parent Committee.* A core component of the Formula Grant Program is the requirement for the LEA to develop programs in consultation with a committee comprised of Indian parents and teachers. As recommended by USET, S. 1262 expands that committee to include representatives of *Indian tribes* located within 50 miles of the school if such tribes have children enrolled in the school. This provision recognizes that often Indian people prefer to act through their tribes in relationships with non-tribal entities such as pub-

lic school districts. Plus, tribal representation on these committees can provide valuable program experience and continuity that individual parents alone cannot provide, as when their children age out of school, parental participation is likely to end.

- *Provisions that facilitate establishment of a program.* It is unfortunate that some eligible LEAs do not bother to apply for a Title VII grant. S. 1262 seeks to change this outcome by making it easier for an Indian entity to apply for a grant when the LEA does not do so. It authorizes a tribe representing a plurality of the students to apply for the grant and operate a program. Or if neither the LEA nor a tribe applies, a committee comprised of Indian people in the community may apply to be the grantee. That latter option can help provide a program for Indian children in schools that are far distant from any tribe. We also support the provision requiring the Secretary of Education to perform outreach to eligible LEAs who have not applied for a grant and supply technical assistance to help them do so.

*Recommended revision:* On page 103, lines 6–7 should refer to “schools funded by the Bureau of Indian Education” rather than only to schools operated by the BIE, as the Secretary’s outreach and assistance efforts should extend to all BIE-funded schools, both those operated by BIE and those operated by tribes.

- *Student Eligibility Forms.* We thank the bill sponsors for including the USET recommendation that would require an LEA to maintain in its records a determination that a child is an eligible Indian and thus prohibit a practice at some schools that a student’s Indian eligibility be re-proved year after year.

*Coordination of Indian Student Information.* USET supports the proposed new Sec. 7137 for creation of a mechanism to facilitate the orderly exchange of Indian student educational and health records between schools. The mobility of Indian children between public schools, between BIE-funded schools, and between public and BIE funded requires a system for schools to easily access and supply student records so that the educational progress of the student is not interrupted by the failure of his/her records to follow the student to a new school.

*Tribal Education Agencies Pilot Project.* This innovative provision would create a new Sec. 7124 to authorize tribes (or tribal consortia) to administer State educational agency functions through grants from the Secretary of Education. The ultimate objective is to give tribes a meaningful opportunity to exercise their governmental authority over elementary and secondary education affecting their children.

- *Recommendation:* USET is disappointed that S. 1262 does not include a key recommendation of the tribal organization team that called for creation of Centers for Innovation in Tribally-Directed Education in ESEA Title V [Innovative Programs]. The purpose of this proposal is to assist tribes with capacity-building to enable them to effectively exercise their rights and authority to direct delivery of educational services to Indian children. We urge the Committee to amend S. 1262 to include this proposal.

*Authorization of Appropriations for Title VII, Part A.* Our tribal organization team recommended new funding levels for the programs authorized by Title VII, Part A to properly fund both existing programs and the new ones recommended by the team. Those recommendations are included in S. 1262 as revisions to Sec. 7152. We must point out, however, that since the Akaka bill adds three additional new programs to Part A, the authorization of appropriations must be increased to appropriately fund all programs. The three additional programs added to Part A by S. 1262 are laudable and should not have to compete with other existing and new programs for funding. The three programs added by S. 1262 are:

- Bill Sec. 162 creating a new Sec. 7125—Teacher and Administrator Pipeline for Native American Students
- Bill Sec. 163 creating a new Sec. 7126—National Board Certification Incentive Demonstration Program
- Bill Sec. 164 creating a new Sec. 7127—Tribal Language Immersion Schools. We note that this provision carries its own authorization of appropriations; thus, notice of this separate authorization should appear in Sec. 7152 to avoid any confusion.

### **USET Children in Bureau of Indian Education-Funded Schools**

Seven USET tribes operate a total of 16 schools on their reservations that are funded by the Bureau of Indian Education in the Interior Department. These schools are operated under Indian Self-Determination Act contracts or Tribally Controlled Schools Act grants. USET has a keen interest in assuring that these schools

are adequately funded and that the tribes have the authority to operate these schools efficiently and effectively. For these reasons, USET worked with the tribal organization team to recommend provision to help achieve these goals.

We identify below provisions in S. 1262 that directly benefit tribally-operated BIE schools and urge the Committee to retain them:

- *ESEA Title I—Improving the Academic Achievement of Disadvantaged Students.* These revisions to NCLBA Sec. 1116(g) are intended to facilitate approval of a tribally-proposed alternative definition of Adequate Yearly Progress by placing a deadline on the Secretary of the Interior for action on a tribal proposal. Current law imposes no deadline for agency action, a circumstance that has prevented any tribal proposal from being approved.
- *ESEA Title II—Recruiting High Quality Teachers and Principals.*
  - S. 1262 accepts our recommendation to include BIE-funded schools in the definition of “high needs LEA” to make these schools eligible for funding to aid in the recruitment and retention of high quality education professionals.
  - We also support the proposal to increase to 5 percent the set-aside for distribution to BIE-funded schools for teacher/principal recruitment and retention activities.
  - The bill would also make information from State teacher recruitment clearinghouses available to BIE schools in the State.
  - Amendments to the Math and Science Teacher program and the Troops to Teachers program to provide for BIE schools eligibility.
  - USET also strongly supports the proposed new Sec. 2161 which creates an Indian Educator Scholarship Program intended to encourage more Indian people to enter the teaching profession and to serve in schools with significant Indian enrollment (both public schools and BIE schools).
- *ARRA “Race to the Top” elementary and secondary school reform program.* BIE-funded schools were inadvertently omitted from this multi-billion dollar competitive grant program. Sec. 201 of S. 1262 would cure this omission.
- *ARRA funding for Early Childhood Education.* Sec. 201 of S. 1262 would also cure the omission of any mention of a tribal role in the development of early childhood programs for which \$500 million is now available. The bill’s provision would require States to collaborate with tribes to assure that services are provided to Indian children, and authorizes States to make subgrants to tribes. In fact, it would be a good idea to amend the provision to give competitive preference points to States that demonstrate they will award subgrants to tribes.
- *Tribal Education Policy Advisory Group.* Bill Sec. 203 would require the Secretary of the Interior to establish an advisory group comprised of elected tribal leaders to advise the Secretary on budget and policy issues affecting the BIE school system. It is intended to give elected officials of tribes which host BIE schools a greater role in policymaking.
- *BIE school budget requests.* Bill Sec. 204 requires the Secretary of the Interior to reveal in annual budget submissions the amount necessary to sustain BIE school academic and residential programs pursuant to the regulations at 25 CFR Part 39, subpt. H. This regulation has been in effect for several years, but the Secretary’s budget requests have not provided the information required by the regulation.
- *Amendments to the Tribally Controlled Schools Act.* Most of the USET tribes with BIE schools operate those schools through grants authorized by the TCSA. We support the technical amendments to that law, including creation of a mechanism for tribes to amend their TCSA grants.

*Puzzling Omission: Proposed amendment to Administrative Cost Grant provision for Tribally-operated BIE Schools.* We are disappointed that S. 1262 does not contain an important amendment proposed by the tribal organization team that is intended to improve the funding of administrative costs provided to tribes that operate BIE schools. (Administrative cost grants have been renamed “tribal grant support costs” by the BIA budget.) Administrative cost grants have been so chronically under-funded that BIE is now providing only 61 percent of the amount required by law (25 USC §2008) to adequately cover the indirect/administrative costs of tribes and tribal school boards.

The tribal organization team recommended that when submitting AC Grant budget requests, the Secretary of the Interior be required to request a separate budget to fund the first year AC Grant for schools that newly convert to tribal operation, and to include that amount in the subsequent year’s budget for AC Grants. The ob-

jective of this recommendation is to prevent further reduction in funding for tribes that operate BIE schools. Under the current practice, when a new school converts to tribal operation, funding to tribes who already operate such schools is reduced to provide funding for the new conversions. The United States has an obligation to properly fund the administrative/indirect costs of tribes who operate BIA and BIE programs. That obligation is being flagrantly violated with regard to tribes who operate BIE schools.

Thus, we urge the Committee to amend S. 1262 to include the amendment to this provision recommended by the tribal organization team.

**Conclusion**

On behalf of the United South and Eastern Tribes, I express gratitude to this Committee for the attention it has given to the need to amend Federal education laws for the benefit of Indian students and to enhance the authority of Indian tribes to have a meaningful role in the education of their children.

The CHAIRMAN. Thank you very much, Chairman Cromwell.  
Mr. Russell, will you please proceed with your testimony?

**STATEMENT OF SCOTT RUSSELL, ROCKY MOUNTAIN AREA  
VICE PRESIDENT, NATIONAL CONGRESS OF AMERICAN  
INDIANS; SECRETARY, CROW NATION**

Mr. RUSSELL. [greeting in native language]. Aloha to you, Mr. Chairman. Thank you for having us here today, Senators Murkowski and Barrasso, and a good friend, John Tester, a special hello to you and thank you for being here.

The CHAIRMAN. Aloha.

Mr. RUSSELL. Thank you for giving me the opportunity to testify today.

My name is Scott Russell. I serve as the Rocky Mountain Area Vice President of the National Congress of American Indians. I am also the Secretary of the Great Crow Nation of Montana.

NCAI strongly supports the work of the committee in setting the pace for the reauthorization of the Elementary and Secondary Education Act. We applaud the committee for its leadership and swift movement. I would like to outline for you today two overarching goals and briefly discuss strategies that we believe can be used to accomplish them.

The first goal is tribal governments must be able to exercise local control over our educational system. Indian nations have the largest stake in improving the education of their citizens. There is no more vital resource to the continued existence and integrity of Indian Tribes than their children. They are our most precious resource. We believe the following recommendations will accomplish this goal.

Number one is strengthening the tribal government role in education. Tribes are overwhelmingly supportive of local control over education and they are well-positioned to address the educational needs of our children. To do so, however, our Tribes and our educational departments must be afforded the same status as state education agencies within our lands.

Number two is consultation with Tribes. The Department of Education must begin consulting directly with tribal governments prior to making changes that may affect the education of Indian children or adults. This would be best accomplished by adjusting the current National Advisory Council on Indian Education from being an advisory committee to becoming a tribal leader committee.

The third goal we have is that all of our students, regardless of where they attend school, should be eligible for the same programs and services as the general population. The federal trust responsibility for Indian education must be recognized in all education policies. We must have priorities equal to those of other citizens and to participate in all programs and services offered within ESEA. We believe the following recommendations will accomplish this goal.

First is funding for Bureau of Indian Education schools. You need to express statutory language that must be included to make funding available for the BIE schools. Without this express language, our BIE school system will be unable to participate or receive much needed funding. A recent example lies in the ineligibility of the BIE to apply for or receive Race to the Top grants.

Second is collaboration between the Department of Interior and the Department of Education. The Secretaries of Education and Interior should collaborate to provide training and technical assistance to the BIE Tribes and schools operated under grants and contracts. We suggest that the collaboration include assistance in curriculum selection, use of alternative assessments for tribal schools and instructional practices.

Last, I would like to discuss the importance of investing in cultural language and revitalization programs. While this issue is woven into both those goals, we believe its urgency and importance should be singled out. The survival of Native language and culture is critical to the success of our communities and our ways of life.

The existing Native language programs in schools have demonstrated that our schools are more engaged and successful when offered the opportunity to study their traditional ways. We believe the following recommendations will accomplish this goal.

Number one is formula grant programs for immersion schools. It is largely recognized that the best way to learn a language is to fully immerse oneself. However, the key for these programs to work is sustainability. It is critically important that our Native language programs are provided long term, sustainable funding.

Second is long term investment in culture-based education. Culture-based education is a teaching model that encourages quality instructional practices, rooted in culture and linguistically relevant contexts. For Native communities, this includes teaching our language, but also means incorporating traditional cultural characteristics and teaching strategies that are harmonious with Native cultural and contemporary ways of knowing.

Next is the Path Act. In addition to the ESEA language programs proposed in the bill, I urge this committee to work with our Senator, John Tester, from Montana to include the important tribal college focus, Native language research and education programs which he included in legislation which was introduced in the 111th Congress as part of the Path legislation.

To revitalize our languages, we must work at all levels and it takes a community. We have to start from pre-K all the way through the college level.

In conclusion, I would like to offer my comments as well as additional language recommendations for the Native CLASS Act from the National Congress of American Indians for the record. Thank

you for inviting me to speak with you today and for making Indian children a priority. We look forward to working with this committee in the future in finalizing a bill.

I would be happy to answer any questions.

[The prepared statement of Mr. Russell follows:]

PREPARED STATEMENT OF SCOTT RUSSELL, ROCKY MOUNTAIN AREA VICE PRESIDENT,  
NATIONAL CONGRESS OF AMERICAN INDIANS; SECRETARY, CROW NATION

Good morning, Chairman Akaka, Vice Chairman Barrasso, and members of the Committee. Thank you for giving me the opportunity to testify today. My name is Scott Russell. I serve as the Rocky Mountain Area Vice President of the National Congress of American Indians (NCAI) and as the Secretary of Crow Nation.

NCAI is the oldest and largest American Indian organization in the United States. As the most representative national Indian organization, we serve the broad interests of tribal governments across the nation. NCAI was founded in 1944 in response to termination and assimilation policies. Since then, we have fought to preserve the treaty rights and sovereign status of Indian tribes and to ensure that Indian people may fully participate in the political system. As such, we strongly support the work of the Committee in setting the pace for the reauthorization of the Elementary and Secondary Education Act (ESEA) with the introduction of Senate bill 1262, the "Native Culture, Language, and Access for Success in Schools Act". We applaud the Committee for its leadership and swift movement.

#### **Framework for Tribal Sovereignty in ESEA**

I would like to set the tone of our testimony by quoting Wilma Mankiller, former Principle Chief of the Cherokee Nation, and life-time advocate for Indian Country:

"I don't think anybody anywhere can talk about the future of their people without talking about education. Whoever controls the education of our children controls our future."

This statement is the central premise for the recommendations that NCAI, and our partners, the United South Eastern Tribes and the National Indian Education Association, offered to the Committee for the reauthorization of the ESEA. I would like to outline for you today our two overarching goals, and briefly discuss strategies that we believe can be used to accomplish them.

*Goal 1: Tribal Governments must be able to exercise local control over our educational system.*

Indian nations have the largest stake in improving the education of their citizens. We must prepare them for active and equal participation in the global market. We must prepare them to be citizens in the 21st century. We must prepare them to be positive, involved members of our communities. And, most importantly, we must prepare them to be the future leaders of our governments. There is no more vital resource to the continued existence and integrity of Indian tribes than their children. We believe the following recommendations will accomplish this goal:

1. *Strengthening Tribal Governments Role in Education.* Tribes are overwhelmingly supportive of local control over education, and they are well-positioned to address the educational needs of our children. To do so however, our tribes and our tribal education departments must be afforded the same status as State Education Agencies within our lands.

2. *Consultation with Tribes.* The government-to-government relationship that exists between Indian tribes and the Federal Government is derived from the legal status of tribal governments and only occurs between the Federal Government and elected tribal leaders. As such, the Department of Education must begin consulting directly with tribal governments, prior to proposing regulation, establishing or changing policy, or submitting any budget proposal that may affect the education of Indian children or adults. This would be best accomplished by adjusting the current National Advisory Council on Indian Education from being an advisory committee to being a tribal leader committee.

*Goal 2: All of our students, regardless of where they attend school, should be eligible for the same programs and services as the general population.*

Providing education to American Indians and Alaska Natives is a federal obligation because of the unique legal status of Indian people. When Indian tribes ceded certain lands—lands which now constitute the United States—agreements were

made between tribes and the United States government that established a “trust” responsibility for the safety and well-being of Indian peoples in perpetuity. In addition, a number of treaties specifically outlined the provision of education, nutrition, and health care. Therefore, the federal trust responsibility for American Indian and Alaska Native education *must* be recognized in all education policies.

At the same time, as United States citizens, American Indians and Alaska Natives should have opportunities equal to those of other citizens to participate in the benefits of all programs and services offered within the reauthorization. We believe the following recommendations will accomplish this goal:

1. *Funding for Bureau of Indian Education Schools.* Express statutory language must be included to make funding available for the Bureau of Indian Education (BIE) schools (either overarching the Act or within each ESEA program). Without express statutory language, our BIE school system will be unable to participate or receive much-needed funding. The most recent example of this lies in the ineligibility of BIE to apply for or receive “Race to the Top” grants.
2. *Collaboration between the Department of the Interior and the Department of Education.* The Secretary of Education should collaborate with the Secretary of Interior to provide training and technical assistance to the BIE, tribes, and schools operated under grants and contracts from the BIE. We suggest that the collaboration include assistance in curriculum selection, use of alternative assessments for tribal schools, and instructional practices.

#### **Investment in Cultural and Language Revitalization**

Lastly, I would like to discuss the importance of investing in cultural and language revitalization programs. While this issue could easily be, and is, woven into our two goals above, we believe its urgency and importance should be singled out.

The survival of Native language and culture is critical to the success of our communities and ways of life. Existing Native language programs and schools have demonstrated that our students are more engaged and successful when offered the opportunity to study their traditional ways. Additionally, these programs are proven to be a protective factor for youth exposed to violence. To that end, tribes believe that the ESEA reauthorization should support an investment in Native cultural and language revitalization. We believe the following recommendations will accomplish this goal:

1. *Formula Grant Programs for Immersion Schools.* It is largely recognized that the best way to learn a language is to fully immerse oneself. While we have limited statistical data showing that Native language instruction directly improves academic success, there is a large body of qualitative data that shows correlation of Native language instruction to factors that do improve academic success. Therefore it is critically important to have sustainable funding for research that will demonstrate this statistical correlation.
2. *Long Term Investment in Cultural Based Education.* By definition, Cultural Based Education (CBE) is a teaching model that encourages quality instructional practices rooted in cultural and linguistically relevant context. For Native communities, this includes teaching our Native language, but it also means incorporating traditional cultural characteristics and teaching strategies that are harmonious with Native cultural and contemporary ways of knowing. We know that our students perform better academically when they have a sense of pride and self-esteem, and CBE provides this vital foundation.

#### **Conclusion**

I would like to offer my comments, as well additional language recommendations for the Native CLASS Act from NCAI for the record.\*

Thank you for inviting me to speak with you today; and thank you for making Indian children a priority. We look forward to working with the Committee in the following weeks to finalize a bill. I will be happy to answer any questions that you may have.

The CHAIRMAN. Thank you very much, Mr. Russell, for your testimony.

Ms. Bowers, will you please proceed with your testimony?

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\*The additional language recommendations for the Native CLASS Act have been retained in Committee files.

**STATEMENT OF AMY BOWERS, STAFF ATTORNEY, NATIVE  
AMERICAN RIGHTS FUND**

Ms. BOWERS. [greeting in native language].

Good afternoon, Chairman and Members of the Committee. Thank you for inviting me to testify on S. 1262, the Native CLASS Act.

My name is Amy Bowers and I am staff attorney at the Native American Rights Fund. I am also a member of the Yurok Tribe and I represent the Tribal Education Departments National Assembly.

First, I would like to unequivocally thank the Committee for this bill. NARF and TEDNA are greatly appreciative of it and we support it. Its excellence reflects that the committee has really listened to Indian country. It incorporates very well so many of the key recommendations that TEDNA, other Indian organizations and major reports have urged. The bill's provisions regarding tribal access, tribal education agencies, TEAs, and cooperative agreements, all of which my testimony will address, are indeed unprecedented.

Currently, over 93 percent of K-12 Native American students attend public schools on and off Indian lands. There are 740 elementary and secondary public schools in this country located on Indian lands. Many of these schools have a student population that is predominantly Native American and in a high number of these schools, the population is overwhelmingly Native American.

As you mentioned earlier, Mr. Chairman, our students aren't performing well in these schools and they are dropping out at a higher rate than any other student group. The high drop out rate is linked to unemployment, drug and alcohol issues, teen pregnancies and other major social issues. Previous reauthorizations of the Elementary and Secondary Education Act have tried to address these problems, but they have nonetheless, persisted.

The many stakeholders who collaborated on this bill knew this and they knew that a new approach was called for, one that firmly recognizes and supports the role of tribal governments as sovereigns in addressing these problems. Are Tribes ready for this? Yes, they are ready and they have the capacity to be leading education agencies.

Tribes with TEAs and education programs have improved schools, they have improved student performance and community relations. To continue this success, TEAs and Tribes need federal law support like the Native CLASS Act. Otherwise, Federal law will continue to exclude tribal governments in education, leaving TEA efforts unsupported and Tribes with little to no real control over the systems that teach the majority of their members.

Notably, even with little true support in federal law, many Tribes have created TEAs and developed their capacities. Some Tribes are already performing local education agency, LEA and state education agency, SEA, functions without federal funding or authorizations. Some TEAs already do voluntarily what federal law requires and funds SEAs to do.

In recognition of tribal government contributions, several States have already enacted specific laws acknowledging roles and responsibilities for tribal governments and public schools. The Federal Government provides billions of dollars annually to LEAs and



SEAs but hardly any funding to TEDs and tribal governments for education.

The enormous missed opportunity to invest in TEAs and Tribes for the sake of Native students must be seized. S. 1262 does this. It aligns federal law with what is already happening and with what needs to happen. It carefully allocates new funding and authorizations between high capacity TEAs and developing capacity TEAs. This sound structure supports TEAs of all abilities and Tribes of all sizes in their efforts to contribute at appropriate levels to Native American student success.

S. 1262 has new funding authorizations for Native American students. The new money will increase local control of education by bringing tribal governments, tribal communities and Indian parents into the schools. It will increase communication and collaboration amongst Tribes, LEAs and SEAs. It will empower TEAs to take the lead in developing culturally relevant curricula, teacher training and implementing tribal education goals and policies. The results will be an education system supported and directed by the community with rigorous academic standards based in tribal language and culture.

A final note regarding S. 1262's important and innovative TEA Pilot Project. This project allows up to five Tribes to apply to the Department of Education to perform SEA functions and receive funding to support those activities in public schools on their lands. The Tribes are very excited about this project because it is a monumental step in achieving tribal sovereignty in education. It enables them to direct and control education on their reservation by performing high level SEA functions. These are core components of education of which tribal assumption has never before been expressly supported by federal law.

In conclusion, NARF and TEDNA support this bill and we look forward to continuing to work closely with our partners to refine the bill. For example, we recommend ensuring that both authorizations for funding for tribal education agencies are at the level of \$25 million and clarifying that all Tribes have equal access to much needed tribal member student data.

Thank you.

[The prepared statement of Ms. Bowers follows:]

PREPARED STATEMENT OF AMY BOWERS, STAFF ATTORNEY, NATIVE AMERICAN RIGHTS FUND

Good afternoon, Chairman, Vice Chairman, and members of the Committee. Thank you for inviting me to testify on S. 1262, the Native CLASS Act. My name is Amy Bowers. I am a staff attorney at the Native American Rights Fund (NARF). I am also a member of the Yurok Tribe of Northern California. I represent the Tribal Education Departments National Assembly (TEDNA), a non-profit organization for tribal education departments and agencies nationwide.

I'd first like to unequivocally thank the Committee for this bill. NARF and TEDNA are greatly appreciative of it and we support it. Its excellence reflects that the Committee has really listened to Indian country. It incorporates very well many of the key recommendations that TEDNA, other Indian organizations and major reports have urged—elevation of the role of tribal governments in education, meaningful support of tribal education agencies (TEAs), and clear provisions for partnerships among other education entities and tribes. The bill's provisions regarding tribal access, TEAs, and cooperative agreements, all of which my testimony will address, are indeed unprecedented.

Currently over 93 percent of K–12 Native American students attend public schools on and off Indian lands. There are 740 elementary and secondary public schools in this country located on Indian lands. Many of these schools have student populations that are predominately Native American, and in a high number of these schools the population is overwhelmingly (80–90 percent +) Native American.

But, nationwide, Native American students perform lower on standardized tests than any other student group. The national Native American student high school dropout rate is over 65 percent, which is higher than any other group. The high dropout rate is linked to unemployment, drug and alcohol abuse, teen pregnancies, and other social issues. Previous reauthorizations of the Elementary and Secondary Education Act have tried to address these matters, but the problems have persisted. The many stakeholders who collaborated on S. 1262 knew this, and knew that a new approach was called for—one that firmly recognizes and supports the role of tribal governments as sovereigns in addressing these problems.

Many of us have been immersed in this bill but for those who haven't, they may be unfamiliar with the need for this innovation in federal education law. Simply put, tribal governments and TEAs must be empowered to become true partners with the states and schools in education. This bill is major first step in accomplishing this goal.

Are tribes ready for this? Yes. They are ready and have the capacity to be leading agencies in education. TEAs can operate federal education programs. They can perform roles and activities of local education agencies (LEAs) and state education agencies (SEAs). Tribes with TEAs and education programs have improved schools, student performance, and community relations. To continue this success, TEAs need federal law support like S. 1262. Otherwise, federal law will continue to exclude tribes as governments in education; leaving TEA efforts unsupported and tribes with little to no real control over the systems that teach the majority of their members. This discourages tribal-state-school partnerships or even communication in education and ultimately, hurts Native American students.

Notably, even with little to no true support in federal law, many tribes to date have created TEAs and developed their capacities. Some tribes are performing LEA and SEA functions—without federal funding or authorization. In short, some TEAs already voluntarily do what federal law requires and funds SEAs to do. Other tribes have fostered cooperative agreements with LEAs and SEAs in education. Moreover, in recognition of tribal government contributions several states recently have enacted laws specifically acknowledging roles and responsibilities for tribal governments in public schools.

Through the now well-established federal policies of Indian self-determination, tribal self-governance, and economic development tribes have vastly increased their governance, managerial and technical capacities and resources. Tribes operate their own health clinics, provide social services, and manage a variety of natural resources. In these areas tribes typically receive federal funding and must comply with applicable reporting and accountability requirements. It is time to include education among the vital services provided and resources managed by tribes.

The Federal Government provides billions of dollars annually to SEAs and LEAs, but hardly any funding to TEAs and tribal governments for education. The enormous missed opportunity to invest in TEAs and tribes, for the sake of Native American students must be seized. S. 1262 does this. It aligns federal law with what is already happening and with what needs to happen. S. 1262 carefully allocates new funding and authorizations between already high capacity TEAs and developing capacity TEAs. This sound structure supports TEAs of all abilities and tribes of all sizes in their efforts to contribute at appropriate levels to Native American student success.

Will SEAs and LEAs see “reduced” funding under S. 1262? The bill allows for some shifts at the Secretary of Education's discretion, to tribes and TEAs in limited instances. Such shifts of course do not divert any funding from students served. In this sense, S. 1262 puts education funding on a par with many other pots of federal money that tribes and states share such as Temporary Assistance to Needy Families or environmental resources management funding. As in these areas, adding tribes as eligible grantees will improve programs and service delivery at the local level. Conversely, continuing to leave out tribes will likely maintain the status quo, including Native American students' persistent high dropout rates and low academic performance.

Additionally, S. 1262 has new funding authorizations for Native American students. The new money will increase local control of education by bringing tribal governments, tribal communities, and Indian parents into the schools. It will increase communication and collaboration among tribes, LEAs, and SEAs. It will empower TEAs to take the lead in developing culturally relevant curriculum, teacher training,

and tribal education goals and policies. The result will be education systems with rigorous academic standards and tribal language and culture supported and directed by the community. To date none of this has been adequately or coherently addressed in federal law or authorized appropriations.

Does S. 1262 increase "bureaucracy"? Not really; in fact, proper recognition of the role of tribal governments and TEAs in education could result in decreased bureaucracy. Indian education is already fragmented among states, LEAs, federal, and tribal entities administering different systems and a host of federal programs. As Congress has recognized since the 1988 and 1994 TEA appropriation authorizations, TEAs are uniquely best situated to coordinate all of these various systems and programs and track Native American students through the myriad of services and providers. Ideally, in the long-term TEAs will serve as the primary education agency for many Native American students. This will reduce state and federal bureaucracy and maximize the amount of money and services to Native American students.

A final comment regarding S. 1262's important and innovative TEA pilot project. The project allows up to five tribes to apply to the Department of Education to perform SEA functions and receive funding to support the activities in a public school located on the tribe's land that has a majority of Native American students. Tribes are very excited about this project because it represents a monumental step for tribal sovereignty. It enables them to direct and control education on their reservation by performing high-level SEA functions including training teachers, setting accreditation and assessment standards, assisting low performing schools, tracking student data, and setting policies. These are core components of education, of which tribal assumption has never before been supported expressly by federal law.

In conclusion, NARF and TEDNA support S. 1262. We have come this far in partnership with the Committee and we look forward to continuing to work closely with our partners to refine the bill. For example, we recommend ensuring that both TEA authorizations appropriations amounts are at the level of \$25 million and clarifying that all tribes have equal access to much needed tribal member student data. We are happy to help address any concerns or questions regarding S. 1262, and to ultimately see it through the legislative process and become law. Thank you for the opportunity to address the Committee today.

The CHAIRMAN. Thank you very much, Ms. Bowers, for your testimony.

Again, I want to defer to Senator Tester for his questions at this time.

Senator TESTER. Again, I thank you, Mr. Chairman.

Welcome to all three of the witnesses. I notice each one of you addressed us in your Native tongue. All three languages were unique because I think Tribes are unique.

This question is for Scott Russell and if either of the others would like to jump in, you sure may.

Since every language is a bit different and the fact that I think we all realize the importance of language and the revitalization of languages, is there a standard curriculum out there that the public schools or the BIE schools could use to implement language classes?

Mr. RUSSELL. Thank you for the question, Senator.

The answer is yes and no. There are laws in place in Montana. Indian education for all was established in Montana in 1972. There was a law but there was no enforcement or funding for over 33 years until you became part of the picture when you were in the Senate in the State of Montana. Only then was this law funded, but to this date, we still do not see more enforcement.

A lot of these things turned into law and lacking support for 33 years, this generation is feeling the effect of that. I use myself as an example. My first language was Crow. In Head Start, 100 percent of the students spoke the Crow language. We just did a recent study and there are only three students that spoke the Crow language coming into Head Start now.

If you look at the harsh reality of that situation and now you think about what is working. We have a Senator sitting here that the State has led in immersion school, Senator Akaka from the State of Hawaii has an immersion school. There is no one way to fix this, but I don't see it as a problem. I see it as a great opportunity for all of us to come together. One solution is not going to work for everyone, but we have to keep trying and we have to have long term, sustainable funding for all these projects.

Senator TESTER. Thank you. Go ahead if you want to address that.

Mr. CROMWELL. When we look at the Mashpee Tribe's first encounter with the European settlers, 400 plus years, and almost decimation of my people's culture and language. We still are on our original land standing strong.

Within our service delivery areas, there are no programs in the public schools that teach immersion camps. You might have heard of the Genius Award. Our Tribe was awarded that Genius Award for \$500,000 through Jessie Little Doe Baird who is a tribal member. She is a MIT graduate.

We have immersion camps in three of our service delivery areas that we fund. Our language is stronger than ever. People are speaking it, talking it. It is a very ancient language. The first Bible was written in our language at Harvard through John Printer who is a Wampanoag.

Our language is revived. We have done it ourselves. It would be great to have funding through this new Senate bill, S. 1262, to ensure that within our service delivery areas where we have these huge populations of Mashpee Wampanoags to be able to provide that support. Currently, today, we fund it. It is stronger than ever. We have camps and programs and we do it ourselves.

Senator TESTER. Teacher recruitment, training, retention was talked about in the previous panel. I know it is important to you. How do we do it? How do we improve recruitment, retention and training?

Ms. BOWERS. Thank you for the question.

I think the best model out there right now is the "Grow Your Own" model. The thing that is important to understand is several Native communities are incredibly rural and they come with their own unique set of issues and opportunities but a lot of those communities aren't going to have a Starbucks, they are not going to have a Macy's, so some teachers don't want to be in that kind of rural community and they don't understand the way the community functions and works. Each tribal community, in addition to that, has its own way of creating consensus and government that is based in the tribal process.

In the "Grow Your Own" model, that supports tribal communities developing their own teachers, growing their own teachers. That teacher may have to leave the reservation in order to obtain the education knowing there is a place for them when they come back and having those people come from that community will make them want to come back.

Another point I wanted to add is several state laws are authorizing tribal and state partnerships to develop teacher credentials and that kind of thing in Native languages. I think that is a really

good model to support because that allows people who have the expertise in the tribal community to be recognized by making sure the credential process acknowledges those unique cultural skills that particular person has.

Senator TESTER. I want to thank you all. The time has run out but I want to thank you all for being here as with the previous panel and the next panel. I think if we are going to get our arms around this, we all need to work together.

Thank you all for being here.

The CHAIRMAN. Thank you, very much, Senator Tester, for your questions.

Chairman Cromwell, you mentioned in your testimony some eligible local education agencies do not apply for Title VII grant funds to support Native education. Why do you think they aren't applying for these funds? How can we encourage them to do so?

Mr. CROMWELL. That is a great question, Mr. Chairman.

I went to one of our service delivery areas. I was doing educational advocacy for about 10 years and recently one of my nephews was having a problem, so we did an education evaluation on the executive skills, the kinesthetic skills, auditory skills, all the different components of assessing what a child's learning problems are. As you know, with Native children, it is kinesthetic object oriented.

I had to push that school for an IEP to specifically focus on these skills. I have been at this for 10 years, it is not my claim to fame. I am a technologist and a finance person, but I really got deep into education.

Then I looked at the school system and said you have a fiduciary responsibility for our Native children to provide the best in educational services. I said, it is Title VII, Indian education. Over the Mashpee school system, it is \$40K which is egregious in a sense where the ability to provide those specific services needed to move our children through the system.

They looked at me and said, what are you talking about? Right then I understood immediately that they are completely unaware of that being the school systems around these Title VII monies that should follow our children in the school system and provide the services that are rightfully needed.

They began to ask me a lot of questions about what does it mean, how do we get it. I was supposed to meet with the superintendent and they keep canceling and changing the meeting, but it is foreign to them, especially in the northeast. It is very foreign to them, they don't understand, they don't get it, so it is like you almost have to run a campaign around these needs that are important to Indian children, the fact that they should be hiring Native teachers and building that experience for our children.

So that is one of my points I am really pushing and stressing in Massachusetts, making my way around the school systems. They are excited to talk about it but they just don't know and understand and it hasn't been promoted to them. I think as a federally-recognized Tribe within the State, there is a trust responsibility not only on the Tribe but also on the Federal Government to communicate with the school systems and say, here is funding, it is available.

In many cases, the funding is not available by the time these schools try to go after it because that pot is empty. We have challenges. I think it is a marketing and communications opportunity for the Federal Government to speak to these schools where federally-recognized Tribes are located that depend on the public school systems. We submit our statistics and work with them. The Department of Education should be involved in this.

For us in Massachusetts, while we have been there forever, fought in the Revolutionary War and helped build the State, the first Indian governing town in America, they just still don't get it. They don't understand.

The CHAIRMAN. Thank you for that.

Mr. Russell, the majority of students on the Crow Reservation attend public schools located at the reservation. Can you tell us about the relationship between the Tribe and the State and whether the Tribe has significant input into the education of its students?

Mr. RUSSELL. As Senator Tester and my colleague alluded to, we have a Native American, a Blackfeet tribal member who is the Superintendent of Public Instruction for the State of Montana, Denise Juneau who has been very helpful because she has actually been through all this and actually known a lot of the hardships that we face as Native communities in Montana.

One of the border towns on my reservation has 75 percent Crow Indian. Just recently, my nephew was able to speak before his graduating class and he spoke in the Crow language, and offered praise and thanks to all those who were there. During a school board meeting, one of the school board members, who is non-Indian, saw this as rude. Things like that, you think about some of those things that maybe they are resisting us, maybe they are part of the problem. I don't know.

When you think about the relationships we have, we contribute to the society. We think about how we can help our children gain prominence in contemporary society. We still think about who we are. I am proud of who I am and we perpetuate our way of life, our language, our culture in a way that promotes pride.

For our children, that is how all our work is going to be evident. Quite frankly, Mr. Chairman, it scares me right now when most of our children do not speak our language.

The CHAIRMAN. Thank you for your responses.

Ms. Bowers, in your testimony, you focused on being able to make sure Tribes have access to help their students who are in public schools either on or off the reservations. What tools for Tribes are most important in dealing with their local and state agencies?

Ms. BOWERS. Thank you for that question.

It is appropriate for federal law to create a venue for Tribes and States to communicate about how to improve Indian education performance, so for example, the cooperative agreements authorizations in the Native CLASS Act, just having a federal authorization or a cooperative agreement between a Tribe and a State, that cooperative agreement can regard anything, which is the beauty of that particular provision in that bill because no matter what the community needs to do to help their Native kids, that cooperative

agreement will help facilitate the Tribe getting involved in that process.

It is like Chairman Cromwell mentioned. The school that is serving the Mashpee kids don't even know about Title VII. What they could do is use that cooperative agreement process to inform the local education agency about Title VII, inform the LEA about other tribal education programs they can offer and they can enter into that agreement that can outline how the federal services, the tribal services, as well as the state services, can be co-mingled together to better improve the programs that serve our kids.

A lot of times what we hear from both the Tribes and the States is that they want to get together but just don't have a vehicle to do it. Beyond, the vehicle, the other thing is funding. You can have the best idea and I think a lot of our tribal leaders have these awesome ideas for education but they don't have any funding to actually implement those ideas.

Even if, for example, you had a state partner who was ready to implement a particular tribal program in a public school, if there is no funding, the idea goes no where. That is also why we like this bill because it authorizes new funding for language and culture, teacher training, so on and so forth. That will help the Tribes and States create these partnerships and empower them to develop new programs that will better meet the needs of our children.

The CHAIRMAN. Thank you so much for that response.

What we see happening and what we hope will continue to happen is that you find new and better ways to try to assist the way you want to structure your education. Again, we want it to be as local as possible so they are more aware of their culture and the traditions. That part of education, I think, is so important.

I have other questions here for you that I will submit to the record and you can respond to them. I want to thank you so much for coming because your responses have been valuable to us. Hopefully what we are trying to do will be a fruit and will blossom into beautiful flowers, trees and fruits for our young people.

As was mentioned, we do this for our young people. I would like to see in the future that our young people can still speak the language and know with pride what their culture is. That is our goal. That is all of our goals, so let us continue to work together on this.

Thank you very much.

I would like to call on Panel Three to come forward. I would like to invite you to the witness table. Serving on our third panel is Ms. Dana Brave Eagle from the Oglala Sioux Tribal Education Department located in Kyle, South Dakota, and Ms. Jessica Imotichey, Senior Policy Analyst with the Chickasaw Nation from Washington, D.C. Welcome to you.

Ms. Brave Eagle, will you please proceed with your testimony?

**STATEMENT OF DANA BRAVE EAGLE, DIRECTOR, OGLALA SIOUX TRIBAL EDUCATION DEPARTMENT, PINE RIDGE INDIAN RESERVATION**

Ms. BRAVE EAGLE. [greeting in native language]. My name is Dana Brave Eagle and I am the Oglala Sioux Tribal Education Director representing the Pine Ridge Indian Reservation today.

I want to thank Senator Johnson's office for the invitation to be here to share testimony with the committee on Indian education.

I represent a reservation with over 5,000 school age children from K-12. We also have a local tribal college, Oglala Lakota College servicing our reservation with 13 centers on our reservation.

On our reservation, we also have four State elementary schools within our boundaries. We are a large reservation, land-based. Of the 13 schools, we have 6 tribal schools, 1 BIA school, 2 parochial schools and 4 State Shannon County schools.

This provides a challenge for us because we are not able to provide clear data on all our children because of the different entities. We want to come to the table and work together with the State, with the Bureau as tribal schools working together, providing a true picture of our students on our reservation.

I think one of our struggles has been data driven. We don't have the data to represent our children. We don't have research-based curricula—no one does—of our children, the Oglalas. There hasn't been research to prove which curriculum is best suited for our children. We have people who make those decisions that are not on our reservation or who have worked with our children. We need to be at the table now. It is time for the Tribes to be at the table to help make these decisions because at the end of the day, these are our children, this is our future and we do now have the resources. We have the individuals who are educated and able to make these decisions.

When we talk about the Lakota language, our language and culture, we need to work on preserving it. This bill moves this forward. I truly believe and I am very passionate about education. I have spent 23 years in Indian country in Indian education. How do our children know where they are going if they don't know where they have been? If we don't build our culture and our language, then where will we be? It is very important that we maintain our culture and our language but with self-determination. It is very important that we involve the Tribes and that Tribes are involved in making decisions on their education.

I want to say thank you again and applaud this committee for addressing Native issues and the future of Native children. I want to continue work together and believe this Act will not only benefit Native American students, but will also have a positive influence on their environment. I want you to know that I will continue to work with this Committee, with other partners and our State to continue these efforts.

Again, [greeting in native language] to you, Chairman Akaka and to Senator Johnson for the invitation allowing me to be here.

[The prepared statement of Ms. Brave Eagle follows:]



PREPARED STATEMENT OF DANA BRAVE EAGLE, DIRECTOR, OGLALA SIOUX TRIBAL  
EDUCATION DEPARTMENT, PINE RIDGE INDIAN RESERVATION

Introduction

Le Apépi waste uhan. Wambíí Ohíika Wiyan – Dayna Brave Eagle emachyaol. I am the Director for the Oglala Sioux Tribe – Tribal Education Department. On behalf of the schools and over 6,600 students on the Pine Ridge Indian Reservation, I welcome you to the great Oglala Lakota Nation. Thank you to the Department of Education for hosting this tribal consultation. We're here today because a major federal law that applies to our tribal students – the Elementary and Secondary Education Act (ESEA) – is again up for Reauthorization by Congress. In this Reauthorization we have a chance to help many or all of the 700,000 tribal elementary and secondary students nationwide in some remarkable new ways.

But first, a bit of history. The ESEA had just recently turned 45 years old. It was enacted April 11, 1965, to help close the reported achievement gap between poorer and more affluent students. The Johnson Administration succeeded in getting Congress to authorize federal funding to states and public school districts for remedial reading and math programs for economically disadvantaged students. These are known today as the Title I programs.

Originally, the federal government's role in Title I was limited to funding. Even this was controversial, and the federal government certainly wasn't supposed to get involved in public school curricula, programs, or teaching methods. But over time and especially in the 2 most recent ESEA Reauthorizations in the last 15 years, that has changed. Today, to get Title I funds, states and public school districts have to comply with many federal directives and requirements, especially in the area of education standards.

And the ESEA has grown beyond just Title I. There are now 10 Titles with multiple programs, some of which are specific to Native Americans, like Title VII, which includes the Indian Education Act of 1972's Formula and Demonstration Grants; Impact Aid, which is in Title VIII; and, Title X, which covers the Bureau of Indian Education (BIE) funded schools. These and other ESEA and non-ESEA federal education programs like Johnson O'Malley are extremely important to tribal students, and I know that a great deal of attention to them will be paid in this Reauthorization.

Tribal Students, States, and Public Schools Need Tribal Governments in Title I

I'm going to focus on Title I and you may wonder why. It's because Title I is and always has been the biggest ESEA program. All states receive Title I funding, and well over half of the public school districts in this country receive Title I funds. Title I is administered through the U.S. Department of Education and in FY 2009, the appropriation for Title I grants was about \$15 billion. This is compared to, for example, the FY 2009 appropriation for Title VII Indian Education Formula Grants – a supplemental program – which was only \$99.3 million. Because Title I funds go to improve basic core education programs, it's easy to forget that Title I is the largest federal education program serving tribal students in both the BIE-funded schools (through set-asides from the U.S. Department of Education to the U.S. Department of the Interior) and in the state public schools, which is where 92% of our tribal elementary and secondary students are.

With this level of funding, the ESEA Reauthorization will require accountability for Title I funding. So, Congress needs to know how well these massive amounts of Title I funds are serving tribal students, especially in the public schools. And the ones in the best position to make that assessment are the sovereign Tribal Governments. Over 200 tribes in 32 states have Tribal Education Departments (TEDs) or Tribal Education Agencies (TEAs). These TEDs and TEAs are available to help tribal students, and public schools, and states with the education of tribal students under the Title I standards. Right now the ESEA doesn't make those connections in Title I, but in the Reauthorization it can.

Let's talk about specifics. In the current version of Title I, states can get Title I funds if they have submitted proper plans that address academic standards, assessments, and accountability; teaching and learning support; parental involvement; and reporting. In the development of these state education plans, which are a prerequisite for Title I funds;

there is no specified role for Tribes. The Tribal Education Departments National Assembly has 2 recommendations for the Reauthorization on this point:

1) Where a Tribe has a significant geographic territory and where that territory includes a high percentage of tribal students served by Title I, instead of being part of a state's Title I education plan, the TED or TEA should be allowed to develop a reservation-wide or a tribal-wide plan for Title I funds, which the Tribe should submit directly to the U.S. Department of Education. If the U.S. Education Department approves the Tribe's plan, the Tribe should get Title I funds. The Tribes should then be authorized to enter into compacts with the local education agency or public schools directly to administer the Title I funds in the local schools or administer the programs themselves.

2) In other instances where there are TEDs or TEAs located within states, the ESEA should, at a minimum, require those states to identify the TEDs and TEAs, meet with them on a quarterly basis, develop joint strategies for improving education in schools with tribal students served by Title I, and jointly report on the results of such meetings to the U.S. Education and the Interior Departments as a condition of receiving Title I funds.

These changes will connect Title I funds and programs with states and tribes. Additionally, where Tribes do get Title I funds under an approved reservation-wide or tribal-wide plan, Tribes should have the option of sub-granting the Title I funds to the public schools that serve tribal students, or, with the public schools' agreement, co-administering the Title I funds with the public schools, or even administering the Title I funds themselves. This last recommendation may sound radical, but the fact is that the BIE-funded schools have long been able to administer Title I grants directly. And the most recent ESEA Reauthorization – that's the No Child Left Behind Act – went even further to allow TEDs and TEAs to set standards in BIE-funded schools and even accredit BIE-funded schools. It's the public schools that now need these kinds of options.

Again, 92% of tribal elementary and secondary students attend state public schools, even on Indian reservations or in other tribal geographic territories. This is because historic federal laws and policies located these public schools on Indian lands. Modern federal laws like the ESEA need to reconnect these schools to tribal governments. Tribes can help with the most fundamental education improvement and accountability functions like data collection, reporting, and analysis. In particular, Tribes are in a unique position to coordinate data on tribal students that is generated by various and sometimes multiple sources, including supplemental federal education programs, public school systems, states, and BIE-funded schools. This would be something that has never happened before; right now we can only imagine accurate and current tribe-wide or state-wide or nationwide data-based reports on tribal students. But if we really had these reports, it would help agencies and Congress make data-driven decisions regarding tribal students consistent with Title I standards.

Tribes can help in other areas as well, from teacher training to research to specific local initiatives like truancy intervention, drop-out prevention, and tutoring programs. There is a wide range of possibilities.

#### Conclusion

This Reauthorization undoubtedly will keep major roles for states and public schools in Title I. This Reauthorization also can ensure roles, or options for roles, for tribal governments in Title I. This would be a new approach that would help tribal students in this country. This isn't about Tribes taking Title I money away from the states and public schools. It's about Tribes helping to determine how Title I funds can best help tribal students meet whatever standards the reauthorized Title I sets for them. If the reports and statistics are correct, states and public schools need help from Tribes in this area. And significantly, a growing number of states are taking this direction on their own, without any federal mandate to do so, because it helps tribal students and it makes sense. Recent state education laws show that Tribes and states have found ways for Tribes as governments to have a role in public school education. They're working together on tribal language curricula and teacher certification. They're working together on public school curricula on tribal history, culture, and sovereignty. In the ESEA Reauthorization the U.S. Department of Education needs to support these efforts and facilitate more such efforts.

The CHAIRMAN. Thank you very much for your testimony.  
Ms. Imotichey, your testimony, please.

#### **STATEMENT OF JESSICA IMOTICHEY, SENIOR POLICY ANALYST, CHICKASAW NATION**

Ms. IMOTICHEY. [greeting in native language]. My name is Jessica Imotichey, I am Chickasaw, and I am the Senior Policy Analyst for the Chickasaw Nation. Thank you for the opportunity to comment today.

I will be providing testimony on behalf of the Lisa John, our Education Administrator, who regrettably was unable to attend.

The Chickasaw Nation is located in south central Oklahoma and encompasses all or part of 13 counties. The majority of our students attend public schools. Currently, there are an estimated 60,000 students enrolled in public schools within our tribal jurisdiction and approximately 15,000 of those are Native American. The goal of the Chickasaw Nation is to develop programs and services that enhance the overall quality of life for Chickasaw people and this very much includes education.

We realize that education provides the stepping stones to success for our people and for that reason, we embrace the idea of becoming a partner with our local schools. The Tribe operates the Johnson-O'Malley Program for 52 schools within our tribal boundaries. This program provides for approximately 8,000 Native students, assisting in things like school supplies, education materials, tutoring and cultural education. In 1994, the Johnson-O'Malley student count was frozen and funding has not increased since 1995, resulting in fewer services for our students.

There has been continued movement by the Bureau of Indian Education to eliminate the JOM Program. The BIE's core priorities are students located within BIE-funded schools. However, Native students in public schools do not have a voice. The best advocates for these students are the Tribes themselves.

Tribal interaction with schools could be improved by allowing the tribal education agencies direct access to our students and their educational data. Connecting students and families to tribal programs gives much needed access to family counseling, behavioral health, mentoring and cultural and language programs. These programs are particularly vital for our at risk students.

Schools could also be held more accountable for the education of our students if funding for Indian education programs was administered by these tribal education agencies. Funds for these programs are often spent on educational services for the entire school population and not the Native students for which the funds are allocated. With TEA oversight, we could ensure proper expenditures.

Finally, culture, history and language make us who we are; it permeates everything that we do. Native students look at their history and culture to validate who they are as people. Tribes can be a resource for developing culturally appropriate curricula and it can be designed so that it will abide by the States' common core standards.

The No Child Left Behind Act requires a teacher to be considered highly qualified in order to teach a language for school credit. Most of our fluent speakers are elders and do not have a degree or certification to become highly qualified. Tribes are the best judges to say who is an expert speaker of their language. Therefore, it is critical to allow Tribes to certify our own language speakers according to our own standards.

We applaud the efforts of this committee to address issues related to Native education. As I complete my testimony today, I would like to pay respect in honoring my Auntie Yvonne Imotichey Albertson who received a Masters Degree in Education from South-eastern Oklahoma State University.

At the time of her passing in 2004, she was the only Chickasaw language certified teacher in the State of Oklahoma. She began

teaching Chickasaw at the elementary school in Tishomingo in 1966. As I testify today, I would like to thank my Auntie and others who have paved the road for what this bill means in recognizing the importance of tribal language and culture in our children's education.

Thank you.

[The prepared statement of Ms. Imotichey follows:]

PREPARED STATEMENT OF JESSICA IMOTICHEY, SENIOR POLICY ANALYST, CHICKASAW NATION

Good afternoon, I am Jessica Imotichey, Senior Policy Analyst, representing the Chickasaw Nation from Oklahoma. Thank you Senator Akaka and the Committee for allowing me this opportunity to provide the Chickasaw Nation's conceptual comments as it pertains to portions of the Native CLASS Act. We are at this time continuing our review of the Act and look forward to more dialogue in the future.

The Chickasaw Nation is a federally recognized tribe located in south-central Oklahoma and encompasses all or parts of 13 counties. The Chickasaw Nation division of education serves approximately 14,200 students per year from across the United States. The majority of our Chickasaw students in Oklahoma attend public schools. Currently there are an estimated 59,474 students enrolled in the public school districts within the tribe's jurisdiction; 14,801 are Native American.

The Chickasaw Nation constitution provides the Governor with broad discretion to develop and guide the division of education. The division of education is comprised of 210 employees and 5 departments: childcare, head start/early childhood; education services; supportive programs and vocational rehabilitation. Our goal at the Chickasaw Nation is to develop programs and service that enhance the overall quality of life of Chickasaw people. Our services and programs are not limited to Chickasaw citizens. We have a wide range of services that benefit other Native American's and non-Natives as well. Many of our programs rely heavily on outside partners in order to address the needs of our people and local communities. We realize that education provides a stepping stone for people to become productive citizens. For that reason, we embrace the idea of becoming better partners with our local schools to improve the education for all students.

**Johnson O'Malley**

The Chickasaw Nation acts as a contractor for the Johnson O'Malley (JOM) program for 52 public schools within the Chickasaw Nation boundaries. This funding provides supplemental educational opportunities for approximately 8,200 Native American students in our area assisting with school supplies, educational materials, tutoring and cultural education. Each school has a JOM coordinator and parent committee that oversees the use of the funds.

In 1994 the Johnson O'Malley student count was frozen and the funding has not increased since 1995. Currently over 90 percent of Native American students are in public schools yet the funding has remained the same, resulting in fewer services for the students. Additionally when the student count was frozen, the JOM funds were placed under the Tribal Priority Allocation (TPA) category of funding and the JOM office at the Bureau of Indian Affairs (BIA) was closed. There is no contact person for the JOM program to maintain and administer the program. There has also been a move by the Bureau of Indian Education (BIE) to eliminate the JOM program so they can use the funds for other uses. The BIE's priority is students located within BIE funded schools. As I mentioned earlier, most Native American students attend public schools. The Native students in public schools do not have a voice in the BIE or BIA to advocate for their academic success. The best advocate for Native students is the tribes.

**Tribal Interaction with Schools**

Tribal interaction with schools could be improved by allowing Tribal Education Agencies (TEA) access to students, and educational data of students enrolled in public schools within the tribal boundaries. These TEAs could assign representatives to the schools to have direct contact with the students and could assist them with tutoring and help address attendance issues with an emphasis on access to tribal programs. Connecting students and families to tribal programs gives much needed access to family counseling, behavioral health professionals, mentoring programs, cultural and language programs to name a few. There are too many issues in public schools to expect the teachers or administrative staff to be aware of tribal programs,

which results in tribal students being disconnected to services that could help them perform better academically and socially. Tribal representatives should have access to student records (attendance, grades, etc.) so that tribes can become partners with the schools to improve the tribal student's education, or prevent at-risk students from failing or dropping out of school.

The curricula for public schools are determined by committees appointed at the district and state level. Unfortunately, in states with populations of Native American students, there are times when schools include offensive material into curricula without being aware of the nature of the offense. For example, in Oklahoma, public schools often conduct activities portraying the "Oklahoma Land Run" without realizing the negative connotation of the act to Native American students. Most teachers and administrators are not aware of the negative impact they have on the students and their families. There are better ways to study historical periods of statehood or other events, and with a tribal representative on the curricula committee, it could be accomplished in a manner that is not offensive.

#### **Accountability**

Schools could be held more accountable for the education of Native American students if funding for Indian Education programs such Title VII and Impact Aid were administered by the Tribal Education Agencies in the area. This could be done in a manner similar to the JOM contracts. Currently, schools are only required to have public hearings or oversight committees appointed by the school administration. Tribes are often not given adequate notification for the hearings and may not be asked to participate at all. As a result the funds are often spent for educational services for the entire school population, not the Native American students for which the funds are allocated. If the TEA had oversight, it could ensure proper expenditures. For years tribes have been asking local schools how the Title VII and Impact Aid funds are spent. Schools are reluctant to share the information with the tribes but when they do answer their typical response is "the funds go into one pool and cannot be tracked;" they cannot tell us specifically if the funds were spent on Native students. Realistically we know the funds are federal dollars and must be reported to the funding agency so there is some type of reporting mechanism involved.

#### **Culture and Native Language**

Over the past decades, tribes have made great advances in capturing and preserving their culture, history and languages. Culture, history and language make us who we are and help us to understand our struggles and accomplishments. It is unfortunate that the public school textbooks have not preserved this information or portrayed accurate Native American history to students. History and culture validates people's existence. Native students look to their history and culture to validate who they are and why they are here. Working with public schools, tribes can provide accurate and relevant history and culture so all students can benefit from the information and presentation. Tribes can be a resource for language, cultural or history curricula, and it can be designed so that it will abide by State's Common CORE Standards.

The No Child Left Behind Act requires a teacher be considered "highly qualified" in order to teach a language for school credit. Most fluent tribal speakers are elders and do not have the degree or certification to become "highly qualified." Those same speakers are being lost at an alarming rate due to their age. Native languages are highly endangered and action needs to be taken before they are lost. The tribes are the best judge to say who is an expert speaker of their language. NCLB should include language which allows tribes to certify their language speakers according to standards the tribe determines. Additionally, Native language should be certified as a world language credit so that it is accredited for purposes of graduation. Currently, Native language is counted as electives due to the challenges of teacher certification.

In conclusion, we applaud the efforts of this Committee to address issues related to Native students and education. Working together, we believe the impact of this Act will not only benefit Native American students but will also positively impact their families, communities, and all students in public schools!

The CHAIRMAN. Thank you very much for your testimony.

Ms. Brave Eagle, I want to thank you so much for taking the time to come and appear at our hearing. I understand you left your family on vacation to come and testify on this bill.

Ms. BRAVE EAGLE. Yes, I did.

The CHAIRMAN. As you mentioned, and it shows, that you are very passionate about this area we are discussing. Let me ask you, the Oglala Sioux Tribe has a variety of schools on its reservation, public, BIE operated schools, private and tribally-controlled BIE schools as well. My question is, how do you coordinate language and cultural education among these different schools on the reservations?

Ms. BRAVE EAGLE. Our tribal schools all have implemented a curriculum of Lakota language. Our high schools require our students who are graduating to have Lakota language as a credit and requirement to graduate high school. Our BIE school also implements Lakota language. Our parochial schools have some of the history and culture and also the language but we don't have one uniform curriculum that is served in all four different types of schools.

In our state schools, Shannon County schools, they do implement Lakota language. It is not as prevalent in some of the schools as it is in the tribal schools because as the tribal education director, we have influence directly to our tribal schools. With the other schools, we have to partner with the other entities of the state education agency or the Bureau of Indian Affairs and with the parochial schools. That is a big challenge for us on our reservation.

The CHAIRMAN. Ms. Imotichey, the Native CLASS Act seeks to improve coordination for federal Native education programs including Johnson-O'Malley and Title VII. What are the coordination challenges with federally-funded Native education programs and how can we improve that coordination?

Ms. IMOTICHEY. That is one of the things we are very excited about with this bill, improving coordination. One of the biggest challenges is what I and some of the others have said in our testimony and that is access to data and being able to really see what is going on with our children and what their needs are to better be able to serve them. I think by allowing us access to that data, we will be able to improve the coordination.

The CHAIRMAN. Ms. Brave Eagle, one issue many Tribes deal with is the high drop out rate for Native students. A success or failure in school depends on community and parental involvement at home and in the schools. We, in Congress, struggle with how to legislate on these issues. Is this an issue in the schools on the Oglala Sioux Reservation and how do you think the Tribe and Congress can address these issues?

Ms. BRAVE EAGLE. Yes, this is a major problem for us, our high drop out rate. It correlates with our unemployment rate also, so there is a correlation there that needs to be addressed. We need to openly see the correlation between high dropout and unemployment. There is a connection there. We need to work together in all entities to make sure that we can help support our students in the success of graduation.

The social issues our reservation faces are no different than other social issues inner cities may face or any other reservation but because we are on a reservation, its magnitude is more. We need to continue to support the success of our students and encourage them to continue to value education and complete their high school graduation.

The CHAIRMAN. Ms. Imotichey, the drop out rate for Native students is the highest in the Nation, especially in States like yours with high Native populations. In your work, what are the most promising strategies for preventing dropouts?

Ms. IMOTICHEY. I am the senior policy analyst so I can get back with our education administrator to find out what are some of the more technical things our Tribe is doing in terms of programs to be able to decrease dropout rates, but I know that we have several programs we really try and encourage.

We have a robotics program, we have some language programs. We recently opened the Chickasaw Cultural Center and we are increasing our programs through that. We are giving our students positive things to want to keep them involved in school and in culture. Hopefully, that will reduce some of the dropout rate.

The CHAIRMAN. I really appreciate you coming because we are hearing directly from you, from the Tribes themselves and those of you who work in the system. In a sense, we are desperately trying to find ways of trying to improve the system.

Legislatively, for me, would be the last resort. If we can do it administratively, that would be even better as we work out these things. There are so many things about education that continuously challenge our people. As you know, one of the things I think we have not done too well is to use our language, tradition and culture as a way of trying to educate our young people.

Also, education is a process that requires as much partnership as possible. By that, I mean involving the parents as well as the school, the teachers, as well as the community, so it can get larger. There are so many areas you can begin to work on in setting up a curriculum that can help the young people.

One other important thing, I feel, is for them to be able to really do all of this with pride, pride for their language, culture and traditions.

We have lots of work to do and as I keep saying, we need to work together to bring about all of this. Of course our hope is that the bill we are talking about, the Native CLASS bill, does help us in this. We are also looking to you to tell us whether it really does or doesn't and to suggest any changes that can help.

It is important and exciting and we look forward to continuing to work with you. I have some other questions for you but I am going to submit them and have you respond to them in that way.

Before I let you go, I just want to give you an opportunity to make any statements, suggestions or recommendations as to what else we can do. My questions have been probing you to give us those kinds of answers. Again, I will give you a chance to make any remarks you would like at this point.

Ms. BRAVE EAGLE. Again, I just want to thank you for inviting us and for bringing us to the table to give our comments. I want to also say we want to continue to work together as you stated, that we need to come together and work together to provide the best we can for our children because that is our future.

The CHAIRMAN. Thank you very much.

Ms. IMOTICHEY. I would also like to thank you for the work that has been done on this bill. In looking through it, we are very excited about some of the provisions, specifically the language and

culture provisions and the provisions modeled after self governance. I think self governance has really proven to work in other ways and we think it can also work in education, so we are very excited about that.

Thank you.

The CHAIRMAN. Well, again, thank you, and to all of our witnesses today. This has been a very informative discussion.

As I said earlier, the introduction of this important legislation and our hearing today are only the beginning of our dialogue about improving Native education. We encourage you to continue sending us your recommendations so that we may further improve the bill.

Strong roots and a successful future for Native communities depend on the success of our young people and our schools. Again, thank you to all of you who participated today and I want to remind you that the committee record will remain open for two weeks from today for any additions for the record and also for members to submit any questions they may have.

With that, thank you very much and a safe trip home. Aloha and we look forward to working with you.

This Committee is adjourned.

[Whereupon, at 4:18 p.m., the Committee was adjourned.]



# A P P E N D I X

PREPARED STATEMENT OF COLIN KIPPEN, EXECUTIVE DIRECTOR, NATIONAL INDIAN EDUCATION ASSOCIATION

## **About NIEA**

The National Indian Education Association is the oldest and largest association representing American Indians, Alaska Natives, and Native Hawaiians. The mission of the National Indian Education Association is to support traditional Native cultures and values, to enable Native learners to become contributing members of their communities, to promote Native control of educational institutions, and to improve educational opportunities and resources for American Indians, Alaska Natives, and Native Hawaiians throughout the United States.

NIEA would like to express its appreciation to Chairman Akaka, Vice Chairman Barrasso, and members of the Senate Committee on Indian Affairs for holding a hearing on the Native CLASS Act. We are also thankful to Senator Akaka for incorporating many of the NIEA's suggestions into this bill. It is our hope that this will address many of the needs for Native education stakeholders across the country. A rigorous curriculum and relevant instruction are keys to engaging students in research-driven education models that are rooted in the culture, language, histories, and traditions of Native students. This benefits not only the individual, but it creates social and economic capital for families, tribes, and communities. We believe that S. 1262 is a step in the right direction to improve the status of Native education.

## **Areas of S. 1262 Requiring Additional Amendments**

- *Restore Assistant Secretary for Indian Education.* The current position for the Director is underutilized and functions almost exclusively as a grant manager. This AS for Indian Education position must be restored so there is authority to engage in and advise the Secretary of Education on all titles of the Elementary and Secondary Education Act (ESEA) that impact Indian student education from cradle to career. The Assistant Secretary for Indian Education should also facilitate interagency collaboration, implement the role of the tribal education agencies in various titles, and serve the needs of higher education and the tribal colleges. The AS for Indian Education would preferably be one person with the skill and expertise to collaborate and advise the Secretary across the department and to assist in assuring that collaboration and communication increase to benefit Indian students and the programs affecting Indians located within the Department of Education.
- *The Family Education Rights and Privacy Act (FERPA) needs to be clarified to make tribes eligible to access student data.* This should be accomplished through an amendment that includes tribes (and/or their Tribal Education Departments/ Tribal Education Agencies) as being among the education agencies, authorities, and officials to whom protected student records and information can be released without the advance consent of parents or students. Such an amendment to FERPA would be consistent with the tribal education programs authorized by Congress since the ESEA Reauthorizations.

## **Conclusion**

NIEA believes that in tough financial times, the investment that yields the greatest return comes from educating our youth. A holistic education that fosters resiliency and a sense of identity are important components of Native education. So, too, is a rigorous and relevant curriculum, effective instructors and leaders, and the ability for parents and communities to shape the direction of education their children. NIEA looks forward to continuing to work with the Senate Committee on Indian Affairs to improve the education status of our Native students. NIEA also will continue to poll our members and to garner comments and suggestions from Native teachers, Native administrators, and Native individuals, Native families, and Native

communities across the United States on this seminal legislation known as the Native CLASS Act.

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PREPARED STATEMENT OF CHARLES R. CALICA, SECRETARY-TREASURER/CEO,  
CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

On the behalf of the Confederated Tribes of the Warm Springs Reservation of Oregon, I hereby submit this letter as testimony for the Committee's June 30, 2011 hearing on S. 1262, the Native CLASS Act, and ask that it be made a part of the formal hearing record.

The Confederated Tribes of the Warm Springs Reservation of Oregon asks that S. 1262 be amended to include legislation to place the BIA/BIE Chemawa Indian School, located in Salem, Oregon, into trust for Oregon's nine federally recognized Tribes. Proposed legislative language to accomplish this goal is attached for your consideration.

Founded in the 1880's, Chemawa is the BIA's oldest continuously operated school, and is, and has long been, revered by its students, including those among its earliest students who contributed their own wages to the purchase of property that remains with the School today. But Chemawa's title is held by the BIA and the property is administered by the General Services Administration, which has steadily diminished the property over the years, especially since the 1950s. Just within the past few years, a parcel was conveyed away to facilitate road access to a developer's adjoining land. As the Salem area grows, Chemawa remains under continuous and increasing pressure for future GSA disposition.

To preserve Chemawa for the future of Oregon tribes and the Indian people around the country, eight of Oregon's nine Tribes support placing the property and improvements into trust. Our legislative proposal, developed over five years of open discussion among Oregon tribes, has the trust overseen by a Board of Trustees comprised of Oregon's nine beneficiary Tribes and two non-voting representatives for the balance of the U.S. The BIA/BIE would continue to operate the School, as it has for more than a century, and the Chemawa School Board would continue its role overseeing the School's activities. The proposed legislation's intent is to preserve the property for the benefit of Native American students.

The trust transfer of BIA/BIE school property to a number of tribes collectively has occurred in the past without difficulty, and we believe that would be the case with Chemawa. While one Oregon Tribe has objected, that is likely based on that Tribe's own desires for the Chemawa property, and is not supported by any of the other eight Oregon Tribes that hope to have Chemawa placed into a collective trust.

We understand the Committee is already in possession of the resolutions and other documents from Oregon's eight supportive Tribes, and we ask that they be incorporated into this testimony.

For the sake of future Native American education serving the Northwest and, in fact, Native people nationwide, for Chemawa and its long and storied history, and for Chemawa's past and future students, Warm Springs urges that provisions transferring the Chemawa Indian School into trust for Oregon's nine Tribes be made a part of S. 1262.

Attachment

[DISCUSSION DRAFT May 27, 2011 Chemawa in trust for 9 Oregon tribes]

112TH CONGRESS

1st SESSION H.R. \_\_\_\_\_ (S. \_\_\_\_\_)

To transfer the Chemawa Indian School to the United States of America in trust  
ownership to be held for the benefit of the nine federally recognized Indian tribes in  
Oregon, and for other purposes.

IN THE SENATE

Mr. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America  
in Congress assembled,

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITIONS.**

(a) **SHORT TITLE.** - This Act may be cited as the 'Chemawa Indian School Trust  
Transfer and Self-Determination Act of 2011'.

(b) **TABLE OF CONTENTS.** - The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

**TITLE I-CHEMAWA SCHOOL PROPERTY INTO TRUST**

Sec. 101. Land taken into trust for educational and related purposes.

Sec. 102. Board of Trustees.

Sec. 103. Relationship with the Bureau of Indian Affairs.

**TITLE II-CHEMAWA CEMETERY PROPERTY INTO TRUST**

Sec. 201. Chemawa cemetery property taken into trust.

**SECTION 2. FINDINGS.** Congress finds that:

(a) The Chemawa Indian School, originally opened in Forest Grove, Oregon in  
1880, is the longest continuously operating off-reservation boarding school  
for Indian children in the United States.

- (b) Chemawa Indian School students and staff around 1885 donated significant resources toward the purchase of the Salem, Oregon school property, and expressed a desire that the school "land, buildings, and every thing...belong to the Indians."
- (c) All the land purchased for the Chemawa Indian School was deeded directly to the federal government, has never been converted to trust status, and is not considered "Indian Country" as defined in U.S. Code.
- (d) The land that comprises the Chemawa Indian School is now managed by the General Services Administration.
- (e) As much as one-third of the Chemawa campus property has been sold or transferred by the federal government for various purposes, without direct benefit to the school's students and without input from Oregon tribes as to whether such sales or transfers would affect the mission of the Chemawa school or whether the property could be used for other Indian purposes.
- (f) Consistent with principles of tribal self determination, decisions about the operation and future of the Chemawa Indian School, its land and its purposes should be under the control and authority of the federally recognized tribes headquartered within the boundaries of the State of Oregon.
- (g) Resolutions supporting transfer of the Chemawa Indian School to the United States of America into trust status for the benefit of the nine federally recognized Indian tribes headquartered in Oregon have been passed by the Confederated Tribes of the Warm Springs Reservation of Oregon, Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Coquille Indian Tribe, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Klamath Tribes, the Cow Creek Band of Umpqua Indians, the Burns Paiute Tribe, the Chemawa Indian School Board, the Affiliated Tribes of Northwest Indians, and the National Congress of American Indians.

**SECTION 3. DEFINITIONS.** In this Act,

(a) **Nine Oregon Tribes.** – The term "nine Oregon Tribes" means the nine federally recognized Indian tribes headquartered within the boundaries of the State of Oregon as of the date of enactment of this Act, to wit:

- (1) Burns Paiute Tribe,
- (2) Coquille Indian Tribe,
- (3) Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians,
- (4) Confederated Tribes of the Grand Ronde Community of Oregon,
- (5) Confederated Tribes of Siletz Indians of Oregon
- (6) Confederated Tribes of the Warm Springs Reservation of Oregon,
- (7) Confederated Tribes of the Umatilla Indian Reservation,
- (8) Cow Creek Band of Umpqua Tribe of Indians,
- (9) Klamath Tribes;

(b) **Secretary.** – The term "Secretary" means the Secretary of the Interior.

**TITLE I-CHEMAWA SCHOOL PROPERTY INTO TRUST**

**SECTION 101. LAND TAKEN INTO TRUST FOR EDUCATIONAL AND RELATED PURPOSES.**

**(a) LAND INTO TRUST.—**

(1) **IN GENERAL.**—The Secretary shall take all right, title, and interest of the United States in and to the land and improvements described in subsection (b) into trust jointly for the benefit of the nine Oregon Tribes.

(2) **CONDITION.**—The land and improvements taken into trust pursuant to paragraph (1) may be used only for Indian educational purposes, in support of Indian education at the Chemawa Indian School or on the land described herein, for the cultural benefit of federally recognized Indian Tribes, or for any other purpose authorized by the Board of Trustees and approved by the Secretary. If the land and improvements are not used for aforementioned purposes, the Secretary of the Interior may initiate appropriate action, including but not limited to seeking injunctive relief, to require use of the Chemawa school property to the purposes set out in this subsection.

(3) **LIMITATION.**— The land and improvements taken into trust pursuant to paragraph (1) shall remain subject to any existing encumbrances, rights of way, restrictions, easements of record, or utility service agreements in effect on the date of enactment of this Act, *provided*, that nothing in this subsection shall prevent the future removal of such encumbrances.

(4) **SUPPORT OF INDIAN EDUCATION.**— For purposes of this Section, Support of Indian Education shall include activities directly in support of educational programs and services taking place on the land, as well as activities that directly or indirectly support Indian education on the land and improvements.

**(b) LAND DESCRIPTION.—**

(1) **IN GENERAL.**— The land and improvements to be taken into trust under subsection (a) are the land and improvements owned by the United States of America related to the Chemawa Indian School located at Salem, Oregon and located within sections 06S-03W-36, 06S-02W-31, 07S-03W-01, and 07S-02W-06, excluding any and all cemeteries and the approximately 1.4 acres comprising the former Indian Health Service School Clinic in Salem, Oregon.

**(2) SURVEY.—**

(A) Within 90 days after the enactment of this Act, the Secretary shall conduct a survey of the Chemawa Indian School property taken into trust pursuant to Section 101 of this Act and the Chemawa Cemetery Property taken into trust pursuant to Section 301 of this Act.

(B) Upon completion of the survey, the Secretary shall provide an opportunity for public notice and comment on the survey, with any appropriate survey revision or adjustment. After any revision or adjustment of the survey, the Secretary shall provide notice of the survey conclusion to the Chemawa Indian School Board of Trustees, and place a copy of the survey on file for public inspection at the appropriate office of the Secretary. The survey placed on file shall thereafter be the official survey and legal description of the Chemawa Indian School Property and the Chemawa Cemetery Property.

**SECTION 102. BOARD OF TRUSTEES.**

(a) Establishment- Within 180 days of enactment of this Act, the Secretary shall establish a Chemawa Indian School Board of Trustees. The Secretary may adopt regulations as appropriate and necessary to carry out the purposes of this Section. The Board shall be comprised of nine trustees with voting rights and two adjunct trustee advisors without voting rights, as follows:

(1) Nine Trustees shall be comprised of one trustee appointed by the each of the nine Oregon Tribes,

(2) One non-voting Adjunct Trustee Advisor shall be appointed by the Secretary to jointly represent Tribes from each of the following Bureau of Indian Affairs Regions: Alaska Region, Northwest Region, Pacific Region, Rocky Mountain Region, Great Plains Region, and Midwest Region.

(3) One non-voting Adjunct Trustee Advisor shall be appointed by the Secretary to jointly represent Tribes from the following Bureau of Indian Affairs Regions: Western Region, Navajo Region, Southwest Region, Eastern Oklahoma Region, Southern Plains Region, and Eastern Region.

**(b) Term of Office.**

(1) Trustees. As designated by procedure adopted by the Secretary, after initial terms of two years for one Trustee, three years for two additional Trustees, four years for two additional Trustees, five years for two additional Trustees, and six years for two additional Trustees, each Trustee appointed pursuant to paragraph (a) shall be appointed for a term of 6 years.

(2) Adjunct Trustee Advisors: After initial terms of three years for one Adjunct Trustee Advisor and six years for the additional Adjunct Trustee Advisor, each Adjunct Trustee Advisor shall be appointed for a term of six years.

**(c) Quorums and voting.**

(1) A quorum of five Trustees with voting rights is required for the conduct of Board of Trustees business.

(2) Adoption of any Board action involving a material change or decision to the use, protection, or development of any Chemawa Indian School trust land or improvements, or a material change in the status of the educational institution operating on or activities taking place on Chemawa Indian School trust property, shall require the affirmative votes of at least seven Trustees voting in the majority.

**(d) Duties and Responsibilities.**

(1) The Trustees on the Board of Trustees shall, subject to any regulations that may be adopted by the Secretary for the Chemawa school property -

(A) Establish protocols and procedures for its organization and operation;

(B) During such time as the Bureau of Indian Affairs directly operates a school on the Chemawa Indian School property; coordinate with the Chemawa School Board as that Board is organized and operates pursuant to federal and school authority;

(C) Serve as the beneficiary of the Chemawa Indian School trust property with regard to decisions made by the United States of America with respect to the management, use, protection and development of Chemawa Indian School lands and improvements,

(D) Provide guidance and leadership relating to the long-term welfare of the Chemawa Indian School trust property and the Indian educational and cultural functions conducted thereon.

(2) Adjunct Trustee Advisors shall advise the Board of Trustees with regard to the use, operation, protection, or development of the Chemawa Indian School trust property as it bears upon Chemawa Indian School students from their respective BIA Regions.

#### **SECTION 103. RELATIONSHIP WITH THE SECRETARY.**

(a) The Secretary is to continue to directly operate the Chemawa Indian School until such time as the Trustees on the Board of Trustees determine, pursuant to authority in subsection (b), pursuant to a super-majority vote as set out in Section 102, to assume operation of the school pursuant to P.L. 93-638, as amended, and such assumption has been properly authorized.

(b) The Board of Trustees shall be eligible, pursuant to a super-majority vote as set out in Section 102 voting in the affirmative, to enter into a self-determination contract or self-governance compact with the United States, authorized by the Indian Self-Determination and Education Assistance Act (P.L. 93-638), as amended, for the operation of the Chemawa Indian School or for the conduct of appropriate related activities pursuant to Section 101(a)(2) of this Act.

(c) The Board of Trustees may undertake or authorize other educational activities on the Chemawa Indian School land if such activities do not interfere with operation of the Chemawa Indian School by the Secretary or, after assumption of the School under an Indian Self-Determination contract, as the Board of Trustees deems appropriate.

#### **SECTION 104. DISPOSITION AND USE OF THE CHEMAWA INDIAN SCHOOL LAND IF NO LONGER NEEDED FOR EDUCATION PURPOSES.**

If the Secretary determines that the Chemawa Indian School land and improvements are no longer needed for Indian education purposes, the Secretary shall so certify, at which time the land and improvements shall be used jointly for the benefit of the nine Oregon tribes, by and through the Board of Trustees.

### **TITLE II-CHEMAWA CEMETERY PROPERTY INTO TRUST**

#### **SECTION 201. CHEMAWA CEMETERY PROPERTY TAKEN INTO TRUST.**

(a) **IN GENERAL.** The Secretary of the Interior shall take all right, title and interest of the United States in and to the cemetery property within Chemawa Indian School property boundaries as described in Section 101(b) as such cemetery boundary is determined by the survey conducted by the Secretary pursuant to Section 101(b)(2) of this Act, into trust jointly for the nine Oregon Tribes. Such property shall be used for cemetery purposes, and shall be managed and controlled by and through the Board of Trustees.

PREPARED STATEMENT OF HON. DELORES PIGSLEY, TRIBAL CHAIRMAN, CONFEDERATED  
TRIBES OF SILETZ INDIANS

On the behalf of the Siletz Tribal Council, I submit this testimony to request that the Committee, when it marks-up S. 1262, include in the bill the attached proposed legislation to have the property of the Bureau of Indian Affairs (BIA)/Bureau of Indian Education (BIE) Chemawa Indian School in Salem, Oregon, taken into trust for Oregon's nine Tribes.

Attached as a part of this submission are resolutions and letters from eight Oregon Tribes, the Chemawa School Board, the Affiliated Tribes of Northwest Indians, and the National Congress of American Indians supporting taking the Chemawa property into trust.

Chemawa Indian School is the oldest continually operating BIA/BIE off-reservation boarding school in the United States, and has a long history with Oregon tribes, as well as tribes from around the U.S. In 1885, Indian students helped fund the acquisition of Chemawa's Salem property, and expressed a desire that the school, "land, buildings, and everything ... belong to the Indians." Once a large property with classrooms, dormitories, barns, and fields, over the years – and particularly in contemporary times, more than one third of Chemawa's land has been whittled away for various purposes, without benefit to Chemawa's students or input from Oregon's Tribes. The remaining property, totaling 390 acres with title held by the BIA/BIE and managed by the General Services Administration, is under increasing pressure, and eight of Oregon's nine Tribes, the Chemawa School Board, and two intertribal organizations support preservation of the property by having it legislatively taken into trust. In a visit to Chemawa early this year, Assistant Secretary for Indian Affairs Larry Echo Hawk and BIA Northwest Regional Director Stanley Speaks expressed their own support for taking Chemawa into trust.

In discussions over more than five years among Oregon tribes, all but one tribe have agreed the property should be placed in trust. Efforts to refine that agreement have taken shape in the attached draft legislation. Its basic parameters are 1) the Chemawa property will be legislatively taken into trust collectively for Oregon's nine tribes, 2) BIA/BIE is to continue to operate its Chemawa Indian School on the property, under the continued supervision of the existing Chemawa School Board, 3) the trust property will be overseen by a separate Board of Trustees comprised of a voting member from each Oregon tribe, and two non-voting Adjunct Trustee Advisors, appointed by the Interior Secretary, to represent the interests of tribes elsewhere in the U.S., 4) a general requirement the Chemawa property is to be used for educational and cultural purposes, 5) Oregon tribes, via an affirmative vote of seven of the Board of Trustees, may seek to assume operation of the school pursuant to the Indian Self-Determination and Education Assistance Act, and 6) similarly, any material change in the trust land or improvements needs seven affirmative Board of Trustee votes.

Having Chemawa placed in trust will safeguard it for Oregon's nine tribes, assuring their ability to preserve and expand their educational opportunities at Chemawa into the future. BIA/BIE, shifting from owner to trustee, will remain responsible for maintaining the property. BIE will also continue to operate Chemawa Indian School as one of its seven off-reservation boarding schools in the Bureau of Indian Education's elementary and secondary school program. While the Confederated Tribes of Grand Ronde unveiled in a May 11, 2011 meeting at Grand Ronde their alternative proposal to simply forestall any declaration of Chemawa property as "surplus or excess," no other Oregon tribe has endorsed that proposal.

Siletz urges you to add the attached proposed legislation to S. 1262. The proposed Chemawa-into-trust language represents the most recent and refined effort to legislatively place Chemawa into trust. It is expressly supported by six of Oregon's nine tribes and would serve as an appropriate bill upon which to commence consideration of placing Chemawa into trust.



The following attachments have been retained in Committee files:

- May 27, 2011 Discussion Draft Chemawa-into-trust legislation (5 pages)
- February 5, 2011 Siletz Resolution 2011-037 supporting Chemawa into trust (2 pages)
- March 13, 2011 Conf. Coos Resolution 11-023 supporting Chemawa into trust (2 pages)
- February 10, 2011 Coquille Resolution CY 1117 supporting Chemawa into trust (2 pages)
- February 13, 2011 Cow Creek Resolution 2011-16 supporting Chemawa into trust (3 pages)
- January 12, 2011 Klamath Resolution 2011-01 supporting Chemawa into trust (2 pages)
- March 18, 2011 Warm Springs letter supporting Chemawa into trust, w. attachment (3 pages)
- March 29, 2011 Umatilla letter supporting Chemawa into trust, w. attachment (3 pages)
- June 3, 2008 Burns Paiute Resolution 2008-07 supporting Chemawa into trust (2 pages)
- May 2, 2006 Chemawa School Board Resolution 2006-002 supporting Chemawa into trust (1 page)
- May 18, 2006 ATNI Resolution 06-37 supporting Chemawa into trust (3 pages)
- October 1-6, 2006 NCAI Resolution SAC-06-049 supporting Chemawa into trust (2 pages)

Confederated Tribes of the  
Umsilla Indian Reservation  
Board of Trustees & General Council



46411 Timline Way • Pendleton, OR 97801

June 29, 2011

The Honorable Daniel Akaka, Chairman  
Senate Committee on Indian Affairs  
United States Senate  
Washington, DC 20510

The Honorable John Barrasso, Vice Chairman  
Senate Committee on Indian Affairs  
United States Senate  
Washington, DC 20510

Re: S. 1262, Native Culture, Language and Access for Success in Schools Act

Dear Chairman Akaka, Vice Chairman Barrasso and Members of the Committee:

On behalf of the Confederated Tribes of the Umsilla Indian Reservation (CTUIR), we are writing to support the intent of S. 1262, the Native Culture, Language and Access for Success in Schools Act, specifically as it puts forward a new and needed vision for Native education – one that is grounded in culture, language and local community control.

We note in Chairman Akaka's Senate floor statement, "The introduction of this bill is only the beginning of a dialogue about this new vision of Native education." Admittedly, we have not yet had the opportunity to make a comprehensive review of provisions of the bill but respectfully urge your inclusion in the bill, the placement of Chemawa Indian School into trust for the nine tribes in Oregon.

Chemawa Indian School is located on over 300 acres of GSA land in north Salem, Oregon. It is the oldest continuously operating off-reservation Indian boarding school in the United States. Many Oregon tribal leaders and members have attended and graduated from Chemawa, which holds a revered and historic place among tribes both across our State and throughout the United States.

The school's property was acquired with the financial assistance of its earliest students, who also helped construct its initial structures. Today, as development continues in the Willamette Valley, we share the increasing concern among Oregon's tribes that Chemawa's remaining property will be disposed of by the GSA. To avoid that fate, we ask that legislation be introduced and passed that will place Chemawa in trust for the nine tribes in Oregon.

Draft legislation is attached for your consideration. (See hearing pg. 47)

Sincerely,

Leo Stewart, Interim Chairman  
Board of Trustees

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO  
AMY BOWERS

*Question 1.* What kind of access and local control would help Native communities track and coordinate data about their students, especially as they change schools?

Answer. Increased and unimpeded access by Tribal Education Departments/Agencies (TEAs) to Native American (NA) student data would help Native communities track and coordinate their K-12 students. Express recognition in federal law that TEAs can receive NA student data, and sufficient federal funding to support the development and maintenance by TEAs of NA student data systems, would help establish the needed tribal access to and local control of NA student data.

There are approximately 700,000 K-12 NA students that attend federal, state, and tribal schools throughout urban, suburban, and rural areas nationwide. For a number of reasons, accurate, comprehensive, and meaningful data for these students is lacking. Federal education reporting requirements often omit NA students due to their small numbers. State and local education agencies that do track NA students in public schools are nevertheless unable to track the almost 10 percent

of NA students who attend federal and tribal schools. During their K–12 years, many NA students transfer among federal, state, and tribal school systems but the systems are not required to transfer student data. Likewise, multiple federal education programs serving NA students, like ESEA Titles I, III, and VII, Impact Aid, and JOM are not required to report to each other.

Given these factors, Tribes uniquely are in the best position to track and coordinate NA student data regardless of the education provider and student location. However, an outdated oversight precludes tribes from doing so. The Family Educational Rights and Privacy Act (FERPA) of 1974, Title V, Sec. 513 of Pub. L. No. 93–380 (1974), currently codified at 20 U.S.C. Sec. 1232g, generally allows federal, state, and local education agencies, authorities, and officials access to student records and other personally identifiable information kept by educational institutions without the advance consent of parents or students. 20 U.S.C. Sec. 1232g(b). These records typically include attendance records, grades, and test scores. FERPA simply does not include tribes or TEAs as entities eligible to obtain such data without advance parental consent. In all but a very few instances, this has thwarted tribal access to NA student data. FERPA should be amended expressly on this point as follows by adding to Section 1232(g)(b)(1)(C) a new subsection (iii) that reads,

“(1)(C)(i)(iii) authorized representatives of Indian tribes.”

Once TEAs have regular access to data on NA students in public schools, which are where the majority of NA students attend, TEAs can extend their data collection to other schools and programs. With a comprehensive database TEAs can synthesize and analyze data, which can then be shared with other educational providers and entities.

In addition, the Educational Technical Assistance Act of 2002, Pub. L. 107–279, Title II, Sec. 208, currently codified at 20 U.S.C. Sec. 9607, should be amended to make tribes expressly eligible for federal funding to develop longitudinal student data systems. Currently such funding (\$150 million in FY 2009; \$100 million projected for FY 2012) is available only to states. Without such federal funding, tribes, like states, are unable to develop such systems on their own. With such federal funding, tribes can develop student data systems that are compatible with and linked to those of states.

*Question 2.* In your experience in looking at programs where tribes and states have worked together to better educate Native students, what were the keys to their success?

*Answer.* Many of the best examples of tribes and states working together to better educate Native students are reflected in the recent K–12 Indian education laws of 18 states with high NA student populations (Arizona, California, Hawaii, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Washington, Wisconsin, and Wyoming). These state laws, which were developed with direct and significant input from tribes and Native communities, include various provisions for K–12 public school curricula in NA tribal history, culture, language, and government. The state law developments are remarkable because no federal law requires them. They can be attributed to leadership, partnerships, and commitment. They often begin with dialog among tribal, state, and local leaders, and parents, teachers, and administrators. A vetting of problems leads to an acknowledgment of the need for improvement being in the best interests of all involved. Collaborative work begins headed by talent and wisdom, supported by resources, and united by common goals. Effective solutions and strategies eventually emerge. After much give and take, buyin, and consensus, a final product is produced, typically a state law, policy, or entity (such as a task force or an advisory council) that can be institutionalized and implemented. (See the Tribal Education Departments National Assembly 2011 Report on Tribal Education Departments for specific examples of tribes and public schools working together at the local level available at [www.tedna.org](http://www.tedna.org)).

In the Native CLASS Act, Congress can foster and support more such partnerships to help NA students. Indeed the Native CLASS Act does this by its landmark federal law confirmation of a role for tribal governments and TEAs in state public school education, authorizing tribal-state cooperative agreements, and providing funding for such roles and partnerships. In particular, the authorization of tribal-state cooperative agreements provides a proven framework for tribal-state resolution of problems generally while allowing specifically for local solutions. Federal funding authorized in the Act will further these efforts and allow and encourage tribes and states to review, revise, and sustain their education improvements at the local level.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN BARRASSO TO  
AMY BOWERS

*Question 1.* What, in your opinion, should be done in the context of Indian education reform to reverse these problems?

Answer. Increasing NA student high school graduation rates will help to reverse these problems. Research and reports have long recommended better links between schools and NA communities, and at some level this means formal recognition of a role for tribal governments in education, including public school education. Federal law and policy can help direct these results, according to an excellent recent study co-conducted by Dr. John W. Tippeconnic III, Professor of Education at Pennsylvania State University (attached hereto). Significantly, Dr. Tippeconnic was appointed the Director of the Office of Indian Education Programs (now known as the Bureau of Indian Education) in the Department of the Interior under President Clinton, and the Director of the Office of Indian Education in the Department of Education under President George H. W. Bush.

*The Dropout/Graduation Rate Crisis Among American Indian and Alaska Native Students: Failure to Respond Places the Future Of Native Peoples at Risk* (2010), Los Angeles, CA: The Civil Rights Project/Proyecto Derechos Civiles at UCLA; [www.civilrightsproject.ucla.edu](http://www.civilrightsproject.ucla.edu), co-authored by Dr. Tippeconnic, confirms that NA students have the lowest high school graduation rate of any ethnic group. The lack of education progresses into economic hardship, which can develop into social problems such as drug abuse and domestic violence. NA males over the age of 16 are particularly vulnerable—in fact only 67 percent of them are part of the labor force. *Id.* at 21. On average, a NA man makes almost \$10,000 less annually than all other men in the United States. *Id.* at 22. The NA population typically works in serviceoriented jobs which lack benefits and pay less than enough to support a family. *Id.* Inability to earn wages sufficient to support a family results in NA families being twice as likely to live in poverty as non-Natives. *Id.*

In this report, the authors attribute high NA secondary student dropout rates to both institutional and individual factors. *Id.* at 27. Institutional factors include lack of teacher empathy, passive teaching methods, irrelevant curriculum, inappropriate testing, tracking, and lack of parental involvement. *Id.* Individual factors include students being “pushed out of school,” poor teacher-student relationships, student mobility, substance and alcohol abuse, lack of interest in school, discipline problems, and boredom, among other issues. *Id.* at 28. Factors that can increase graduation rates are culturally relevant curriculum, proficiency in students’ native language, learning English early, parental encouragement, and small class sizes. *Id.* at 29.

Currently, too few schools serving NA students have addressed these factors sufficiently. Despite some positive changes in some states at the state law and policy level, at the local level NA parents, communities and tribal governments still play a limited role in many schools, even those on Indian reservations. This is largely due to lack of resources and expertise, and entrenched attitudes and practices. When NAs continue to be excluded from a system, they continue not to trust it. Continued negative perceptions perpetuate poor academic performance and high dropout rates.

Congress can help reverse these problems by playing a leadership role in linking schools and NA communities, and by recognizing roles and opportunities for tribal governments and TEAs in public school education. Every ESEA title serves NA students, and every title should have an appropriate role for tribal governments, TEAs, NA parents, and communities in the administration, implementation, and reporting of each program. (See the Tribal Education Departments National Assembly ESEA Reauthorization Recommendations, attached hereto, for specific proposed amendments). The Native CLASS Act begins this process by artfully providing in selected Titles an appropriate role for all levels of NA communities to participate in the education of their children.

*Question 2.* What kind of outreach to state school systems has been undertaken to incorporate some of these ideas?

Answer. For decades, the Federal Government, tribal governments, NA parents, teachers, administrators, and states have been discussing the role of tribal governments in public school systems operating on Indian reservations. In some cases, states have enacted laws specifically recognizing a substantive or advisory role for tribes in public school education. These state laws reflect the Native and non-Native leadership, common goals, and collaboration needed to improve Indian education. And they lay the foundation for more tribal governments playing an even larger role in state public school education. The Native CLASS Act is consistent with and supportive of these state laws and other efforts at the state, tribal, and local levels.

Even in states where such laws have not yet come to fruition, tribal leaders, Indian educators, and parents, as well as national Indian organizations continue to meet with states and public school officials to discuss how to improve Indian education. Frequently, progress is hindered by the lack of a defined role for tribal governments in education. This makes collaboration difficult because parties and stakeholders may not know where or how to start working together. Meaningful roles for tribal governments defined in federal law, such as those in the Native CLASS Act, will facilitate these discussions and result in positive policy reform.

Generally, national Indian organizations, tribal governments, and NA parents continue to work with states and public school systems across the country to educate and generate support for the policy themes in the Native CLASS Act. National meetings such as the National Indian Education Association's Annual Conference, Tribal Education Departments National Assembly (TEDNA) Annual Meetings, and local meetings between tribes and states frequently discuss these types of policy initiatives. Importantly, for some years TEDNA and NARF have worked directly with the Council of Chief State School Officers (CCSSO) on such matters. Together we developed two publications: *Major Elementary and Secondary Federal Education Programs Serving Tribal Students: What are they and What are the Roles of SEAs, LEAs, and Indian Tribes* (2005) and *A Manual for Chief State School Officers and State Education Agencies on Tribal Sovereignty, Federal Education Programs for Tribal Students, and Tribal Education Departments* (2006). We continue to engage the CCSSO with respect to our legislative priorities, including the Native CLASS Act. Finally, TEDNA's membership works with local school districts as frequently as day-to-day to find innovative ways to incorporate tribal education resources into state public schools to help meet the needs of NA students. (See TEDNA's 2011 Report on Tribal Education Departments available at [www.tedna.org](http://www.tedna.org) for specific examples of the use of tribal education resources in public schools). To be sure, the policy themes in the Native CLASS Act are not new and have been vetted with states across the country.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO  
WILLIAM MENDOZA

*Title VII is a very important program for Native students in our schools. The Department of Education held consultations and urban Native listening sessions recently.*

*1. What recommendations to improve Title VII programs came from these meetings with Native Communities?*

From our consultations with Native communities, the Department of Education learned that tribes: (1) want to collaborate with States on how Indian students are educated; (2) support further efforts to restore and preserve tribal language and culture; (3) believe that they currently lack capacity to compete with States for discretionary funding; (4) seek to modernize dilapidated schools; (5) believe that they lack access to high-quality student data systems that they can use to inform decision making; (6) recognize that the challenges faced by many reservations have an impact on student educational outcomes; and (7) want to follow up with the Department on the consultations. The feedback we received during these meetings will inform Department action moving forward.

*2. Given your experience as both an educator and student in different parts of the Native education system, how would local control of public institutions by the Native communities they serve improve the system?*

In my experience as both an educator and a student, I have found that local involvement and student support networks are both critical to academic achievement. For example, I have collaborated with parents, tribal leaders, and American Indian community members in identifying and determining appropriate resources, interventions, and strategies to address the needs of underserved and underrepresented students in classrooms and schools. From these collaborations and conversations, I have found that local stakeholders are well equipped to work with school officials to recognize individual students' needs based on factors unique to their specific communities. I believe that the best way to improve student achievement is by involving families and community members in the education of students.

The Department also supports the involvement of local communities in the daily functioning of their school systems. Secretary Duncan has said that the best ideas in education are never going to come from Washington, D.C., but from people on the ground who best understand the needs of their local communities. Our reauthorization proposal for the Elementary and Secondary Education Act of 1965 (ESEA) would give grantees greater flexibility to use funds to carry out programs that meet the needs of Indian students, including Native language immersion and Native language restoration programs. Through increased flexibility, we would be able to keep

the same high expectations for students while allowing Native communities to tackle the unique challenges their students face.

*The Department of Education has been engaged in extensive consultations with tribes across the country. The results from these consultations with tribal leaders will be important for not only the Department of Education, but also for Congress as we continue to advocate for new education legislation.*

3. *When does the Department of Education expect to release a report about last year's consultations?*

The Department expects to release a report summarizing the tribal consultations by early 2012.

*A number of tribal education stakeholders have expressed concerns over the process for applying for Title VII funds, which are critical to the success of many Native students in public schools across the country. Specifically, they have referenced school administrators who are unwilling to publicize the Title VII program to parents of potential Title VII applicants. Many Title VII coordinators have also expressed concerns about confusion about the process in filling out the Title VII form and the need for stronger involvement of school administrators to assist parents and students with this process.*

4. *How is the Department working to strengthen the accountability of school administrators to Title VII coordinators, Native parents and students who rely on this vital program?*

The Department's Office of Indian Education (OIE) has implemented a new grants management system: the Formula Grant Electronic Application System for Indian Education (EASIE) system. The EASIE system enables a small staff in Washington, D.C. to accept formula applications from over 1,200 eligible applicants. In addition, the Department provides technical assistance to potential applicants, including the following:

1. Ongoing EASIE webinars – The Department typically holds up to six EASIE webinars for both EASIE Part I and Part II applications. The webinars guide users in a step-by-step process to complete the applications and assist applicants that have found the application process burdensome or confusing.
2. Help desk and direct technical assistance is provided to both new and returning applicants with questions or concerns. The Department has also worked to include local educational agency (LEA)-specific data in EASIE, which enables the Department to provide technical assistance even in those instances where applicants do not have all the necessary information.
3. EASIE tools, including frequently asked questions and an introductory user guide, are downloadable for all EASIE users and provide additional guidance on the application process.
4. The Department held one-on-one meetings with grantees, potential applicants, and other stakeholders for the Department's Federal Technical Assistance Workshop Day on October 26, 2011. One of these meetings was with school superintendents to ensure LEA involvement in the development plans for, and implementation of, Title VII projects.
5. The Department just completed a series of workshops for grantees and potential applicants in the Alaska Native Education Program (ANEP). These sessions provided an overview of ANEP as well as information on how to successfully achieve the educational goals of the program.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN BARRASSO TO  
WILLIAM MENDOZA

*The Committee has received testimony in prior hearings regarding the growing prevalence of gangs, violence and crime among Indian youth. Although some Indian children may end up in juvenile detention facilities or in foster care, they still require an education.*

- 1. Please describe the types of services that have been provided by your agencies to these children while in detention or foster care.*

The Department administers Title I, Part D of the ESEA, the State Agency Neglected and Delinquent program. This program provides formula grants to State educational agencies (SEAs) to help provide education continuity for children, including American Indian children and youth, in State-run institutions for juveniles. The ultimate goal of this program is to help children make successful transitions to school or employment upon release.

The Department does not administer programs specifically targeting American Indian children in foster care. However, the Department, in conjunction with the Department of Health and Human Services, is co-hosting a foster care and education national meeting to encourage participation in enhancing existing cross-system efforts to address educational stability and continuity issues, showcase collaborative projects at the State and local levels, and facilitate development of action plans by each State that set forth strategies for improving educational outcomes. The two Departments will hold this meeting November 3rd and 4th in Arlington, VA.

Improving educational outcomes for every student, including children in foster care, is a priority for the Department. That is why on August 25, 2011, the Department, along with the Department of Health and Human Services, sent a joint letter to each State chief informing them of the provisions of the Fostering Connections Act and encouraging them to share this information with their school districts. It also encourages State and local educational agencies to review, develop or revise their policies on serving children in foster care.

The Department has also taken a step to help prevent American Indian students from ending up in juvenile detention centers in the first place, by establishing a competitive preference priority that we may use in competitions for discretionary grants. It would give a preference to applications that would help address school violence, mental health, and substance abuse issues for American Indian students. The Department has taken this action to align its programs with identified needs of American Indian youth who are members of federally recognized tribes. The Department intends this competitive preference priority to enhance the ability of applicants serving tribal communities to address the school violence, substance abuse, and mental health crises that affect American Indian students.



2. *Have these services made a difference in these children's lives?*

For the Title I Neglected and Delinquent program, 68 percent of students have improved reading skills and 71 percent have improved math skills, as measured through State-approved assessments. This information is available online at <http://www2.ed.gov/programs/titlepartd/performance.html>.

3. *In your opinion, do these challenges – reservation gangs and violence – affect the academic achievement of the Indian children in your community? If so, please explain how.*

Secretary Duncan has said that no child can get a quality education if he or she doesn't feel safe at school. Particularly at Native schools, statistical data from a number of reports show a high incidence of gang participation and youth violence. For example, studies have found that Indian country communities suffer from a violent crime rate that is two to three times greater than the national average (Wakeling et al., 2001). Where gangs exist in Native communities, they are highly likely to exist in Native schools: the Youth Gangs in Indian Country Survey (2004) found that "86 percent of the Indian country communities with gang problems indicated gang activity in one or more community high schools." Finally, research has also found that youth gangs are linked with serious crime problems in schools across the country. Those schools in which gang activity was reported were also more likely to have higher levels of violent victimization, availability of drugs, and students who carry guns than schools reported not to have gang activity (Howell and Lynch, 2000). It is unsurprising too, that studies have demonstrated that such conditions are associated with negative learning outcomes, and impaired achievement, because of reduced learning time, threats of physical violence, and avoidance of school activities (Dinkes, Cataldi, & Lin-Kelly, 2007).

In an effort to mitigate the incidence of school violence, the Department administers the Safe Schools-Healthy Students initiative. There are currently at least 10 grantees either located on Indian reservations or serving large numbers of Native American students. In each of those grant applications, gang violence was cited as a major focus of planned programming.

*According to testimony received by the Committee, there are many elementary and secondary public schools located on Indian lands in this country. Tribes have advocated for more involvement and input into state and local education plans for the administration of these schools.*

4. *How do you think tribal involvement and input in the administration or activities of these schools could be accomplished?*

I firmly believe that the stronger the connection between parents, students, and schools, the better students achieve. The complex history of education in tribal communities can only be

understood by bringing all parties together. The Department can encourage tribal involvement and input in the local administration of public schools, and indeed is doing so. The Department's Indian Education Formula Grants program, in particular, explicitly provides for consultation with parents to encourage collaboration at the local level. The Department is also providing technical assistance to grantees on how to use the 1 percent parent involvement set-aside in Title I of ESEA for more meaningful parent and family engagement. We believe these efforts will have a strong impact in areas with Native communities.

The Department will also continue to address the needs of Indian students by promoting tribal sovereignty in the context of education, allowing locally designed school-improvement strategies and helping to strengthen tribal education agencies (TEAs). In order to further the Administration's policy of self-determination for tribes and to further tribal-State collaboration, the Department has proposed strengthening TEAs through a TEA Pilot authority that would create opportunities for tribes to partner with States and local educational agencies. TEAs can play a meaningful role in schools serving Indian students, for example in the development and implementation of locally designed strategies designed to improve student achievement, such as culturally based education and Native language instruction.

As the reauthorization of the ESEA moves forward, the Department will continue the important work of discussing how best to improve schools with tribal leaders. This fall, the Department will conduct two more listening and learning sessions in urban Indian communities.

*Recruitment and retention of professionals in Indian Country seem to be problems in all fields—including education, health care, or public safety. But there are various consequences if schools do not have highly qualified teachers by the No Child Left Behind Act.*

5. *What are some of the best practices—either in other school systems or other professions—that your agencies have considered that might increase the number of highly qualified teachers in schools serving Indian children?*

Secretary Duncan has said that every student deserves a great teacher. For Native American students in particular, a great Native American teacher can serve not only as an effective instructor, but as a positive role model. In order to help determine best practices to increase the number of highly qualified teachers, the Department hosted a conference during the week of October 24 to discuss the OIE Indian Education Professional Development program and provided a forum for participants to talk about the successes and challenges of meeting the objectives of their projects. In addition, to support institutions that prepare high-quality teachers from diverse backgrounds, the Administration has proposed, in the FY 2012 budget, \$40 million to support the Hawkins Centers of Excellence, which would expand and reform teacher education programs at minority-serving institutions. The Administration has also requested funds in the FY 2012 budget for the Teacher Pathways programs, which would strengthen traditional and alternative pathways to teaching, by providing competitive grant funds for the recruitment, preparation, placement, and induction of promising teacher candidates for high-need schools, subjects, areas, and fields.

For Native populations specifically, OIE administers the Indian Education Professional Development program. The program is designed to increase the number of qualified individuals in professions that serve Native Americans as teachers and administrators in schools that enroll high concentrations of Native American students. Professional development grants are awarded to provide training to qualified Native Americans to become teachers and administrators and improve the skills of those who already serve in these capacities. Through these programs, the Department is encouraging highly qualified and diverse instructors to teach in Native communities.

The Department is also working with Tribal Colleges and Universities (TCUs) to improve the quality of teaching and create a pipeline of high-quality teachers. As a part of these efforts, the Department is coordinating with the Department of the Interior's Bureau of Indian Education (BIE) to gather proposals to improve the educational systems for American Indians.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO  
WILLIAM MENDOZA

*Several sections of the Native CLASS Act reference "core academic indicators" as measures of student progress.*

- 1. In your opinion, who decides what constitutes core academic indicators and standards at an Indian school?*

The vast majority of Indian students, more than 90 percent, attend public schools operated in their local school districts. For these students, core academic indicators are based on the content standards adopted at the State level. Forty-four States and the District of Columbia have adopted rigorous, State-developed, college- and career-ready standards in English Language Arts and Mathematics.

About 8 percent of Indian students attend schools funded by the BIE. In these schools, core academic standards are locally developed to reflect the unique academic and cultural needs of Indian students. Because these schools are subject to the accountability systems of the State in which they are located, and because they fall under the jurisdiction of the BIE, specific questions regarding core academic indicators should be addressed to the BIE.

- 2. Could Tribes have the opportunity to compete for Impact Aid funds if they have an agreement with a State Education Agency?*

By statute, LEAs are the only entities to who can receive Impact Aid funds. If an SEA were to designate a tribe as an LEA, then that LEA would be eligible if it met the other eligibility criteria and its designation was for legitimate educational purposes. Note also that Impact Aid (except for a portion of the construction authority) is not a competitive program.

- 3. With little or no research on Indian students, how can we assume research will provide us with strategies and practices which will benefit Indian students?*

The Department is committed to helping ensure that programs that serve Indian children are of the highest quality and address not only the basic elementary and secondary educational needs but also the unique educational and culturally related academic needs, of these children.

The Department has a special interest in supporting the educational needs of historically underserved student populations that are at risk for low academic performance, including Indian students. While the comparative dearth of research on Indian students complicates efforts to determine best practices for serving this population, well-designed studies and program evaluations provide information on what works and what does not. For example, the National Indian Education Study of 2009 provided a substantial information base that has informed our collective understanding of the academic performance of Indian students, as well as some of the characteristics associated with different achievement levels. We are currently planning a study to assess the effectiveness of Native American language immersion programs in achieving academic and developmental outcomes for Native American students. The Department expects the final version of this study to be completed in early 2015.

*Our experience shows us that more time in school does not positively impact student performance; indeed, it may have a negative impact.*

4. *Do you believe there is a basis for recommending extended learning time in tribal legislation?*

The research on expanded learning time generally shows a positive relationship between increased learning time and opportunities and improvements in student performance. Preliminary research indicates that expanded learning time can increase student achievement. More than 650 schools serving approximately 300,000 students have an expanded day or year. While most of these schools have only recently implemented expanded learning time, initial evidence suggests a positive relationship between extended time and academic performance (Farbman, 2009). A recent evaluation of New York City's charter schools found that an extended school year greater number of minutes devoted to English each school day were associated with increased student achievement (Hoxby, Murarka, and Kang, 2009). Research has also found that summer learning loss is a key factor in the achievement gap between socioeconomically disadvantaged students and their classmates). For example, a study of students in Baltimore public schools found that the achievement gap at the beginning of ninth grade between students from high and low socioeconomic status families was primarily due to differences in summer learning during the elementary years (Alexander, Entwistle, and Olson, 2007). A recent review of 35 evaluations of after-school and summer programs found that at-risk youths who enrolled in the programs, on average, showed improved performance in reading and mathematics (Lauer et al., 2006).

The Department's Indian Education Demonstration Grants for Indian Children program is a vehicle for supporting expanded learning time. This program is designed to improve the education opportunities and achievement of preschool, elementary, and secondary school Indian children by developing, testing, and demonstrating effective services and programs.

It is important that Federal education policy promote the models and strategies that are most likely to improve student outcomes. In general, effective approaches share a few common features, such as encouraging regular student participation and aligning academic activities with instruction during the regular school day. For these reasons, the Department will continue to support expanded learning time efforts in general and with respect to Native education specifically.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KENT CONRAD TO  
WILLIAM MENDOZA

*President Clinton established the first White House Initiative on Tribal Colleges and Universities by Executive Order in 1996. In 2002, President Bush signed a new Executive Order on Tribal Colleges and maintained it throughout his presidency.*

1. *Will President Obama sign a new Executive Order on Tribal Colleges and Universities in the near future?*

The White House, in conjunction with the Department, has been working on a new Executive Order that would continue to address the challenges facing our Nation's Tribal Colleges and Universities (TCUs) and American Indian and Alaska Native education. We are working to have this Executive Order completed in the near future.

2. *How can tribal colleges play a larger role in helping advance K-12 education in Indian Country?*

TCUs serve primarily geographically isolated populations that have limited means of accessing education beyond the high school level. Mainly public institutions, TCUs are critical to protecting and preserving the cultures of their communities and transmitting the histories, languages, and arts of tribes to younger generations. By combining personal attention with cultural relevance, TCUs have become increasingly important in ensuring educational access and achievement for American Indian and Alaska Native students, especially for those living on or near reservations. By conducting research and developing resources and strategies that integrate Native knowledge and values throughout their curricula, TCUs are able to teach courses from a Native perspective with Native knowledge. Additionally, TCUs train students to enter the workforce while simultaneously preparing them to meet the unique needs of their communities, particularly in providing evidence-based and sustained professional development of teachers and educational leaders.

The collaboration between TCUs and K-12 schools allows them to share best practices, can greatly inform the development and impact of standards, assessments, content, resources, and strategies at all levels of American Indian and Alaska Native education. TCUs can also be integral in the development, implementation, and dissemination of successful tribally designed strategies, especially with regard to culturally-based education and Native language instruction that can improve outcomes for Native students. Such practices are critically important to the educational experiences and achievement of American Indian and Alaska Native students attending not only tribally controlled colleges and universities but also non-tribally controlled schools, colleges, and universities.