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Testimony of Robin Butterfield, Vice-President  
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before the  
Senate Committee on Indian Affairs  
Oversight Hearing to Examine Proposals to Create Jobs and Stimulate Indian  
Country Economies  
628 Dirksen Senate Office Building  
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Chairman Dorgan, and Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association on the staggering unmet needs of Bureau of Indian Education (BIE) school construction and the importance of including funding for BIE and other educational projects in the economic stimulus plan, known as the Economic Recovery and Reinvestment Plan. NIEA commends Chairman Dorgan in particular for his tremendous efforts to ensure that Indian Country is included in the stimulus package and is deeply appreciative of his commitment to Native education.

Founded in 1970, the National Indian Education Association is the largest organization in the nation dedicated to Native education advocacy issues and embraces a membership of nearly 4,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents, and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students. NIEA works to ensure that the federal government upholds its responsibility for the education of Native students through the provision of direct educational services and facilities that are safe and structurally sound. This is incumbent upon the trust relationship of the United States government and includes the responsibility of ensuring educational quality and access. The environment in which instruction and educational services are provided is critical to the achievement of our students to attain the same academic standards as students nation-wide.

Accordingly, NIEA strongly supports Senator Dorgan's request, signed and supported by 14 other Senators, for funding for BIE school construction and maintenance in the economic stimulus package. Senator Dorgan's request of \$344 million for new construction of K-12 school facilities and \$150 million for maintenance and repair of K-12 school facilities is similar to NIEA's request submitted to President Elect Obama and to the Senate and House

appropriations and authorizing committees for inclusion of BIE school construction in the stimulus package.<sup>1</sup>

In its own request, NIEA seeks a total of \$500 million in the economic stimulus package for the following: (1) school facilities new construction (\$300 million); (2) school facilities improvement and repair (\$150 million); and (3) school facilities employee housing repair and maintenance (\$50 million) at K-12 schools administered or operated by BIE within the Bureau of Indian Affairs, Department of the Interior. Based upon our discussions with BIE officials and with tribes with BIE schools on BIE's list of facilities in need or repair or replacement, \$500 million would allow for the construction of at least 4 schools, repairs and improvements at no less than 25 schools, and repair and maintenance of employee housing at no less than 14 schools.

These projects can be completed within a 24-month time frame and would help to jumpstart the reservation economies in which these school facilities are located by providing significant numbers of jobs in economically depressed areas where unemployment rates have, over decades, been consistently much higher than the national average. These projects are typically the biggest construction projects in these communities and provide often times the only base for economic stimulation and revitalization in these areas. This funding would be a wise investment in not only the infrastructure on many reservations but also in the education provided to our Native students. Further, this funding would assist in replacing condemned facilities and in repairing dangerous conditions present at many of these schools.

There are only two educational systems for which the federal government has direct responsibility: the Department of Defense Schools and federally and tribally operated schools that serve American Indian students. The federally supported Indian education system includes 48,000 students, 29 tribal colleges, universities and post-secondary schools. NIEA is committed to accountability, high standards, and the rigorous education of our children and will continue to hold the BIE accountable for ensuring that BIE students meet their academic potential with educational programs that consider their cultures, languages, backgrounds, and identities. We believe with good faith collaboration that we can provide our children with an education that honors their Native identities while simultaneously preparing them for successful futures by providing them with a safe environment conducive to learning.

NIEA scheduled five field hearings in 2008 throughout Indian Country: Rapid City, South Dakota; Seattle, Washington; Tulsa, Oklahoma; Albuquerque, New Mexico; and Window Rock, Arizona. The purpose of these NIEA-facilitated sessions was to gather information on the challenges faced by BIE schools, including how the No Child Left Behind Act (NCLB) is being implemented and additional concerns of BIE schools as they relate to the achievement of their students. Testimony from the witnesses focused on the following topics: 1) NCLB and Adequate Yearly Progress standards; 2) Indian school construction and facilities maintenance; and 3) student transportation. These sessions served as a focused follow up discussion to the eleven field hearings NIEA held in 2005 on the implementation of NCLB in Indian Country and served as the basis for the legislative language NIEA has proposed for inclusion in reauthorization of NCLB. Today our testimony focuses on the construction needs of schools funded by the BIE.

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<sup>1</sup> NIEA also strongly supports the plan set forth by Senator Dorgan in his request for funding for infrastructure projects at tribal colleges and universities.

## *Indian School Construction*

In 1997, GAO issued a report, “Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian Affairs,” that documented an inventory of repair needs for education facilities totaling \$754 million. In 2004 the backlog for construction and repair was reported to have grown to \$942 million.

More recently, in March of 2008, the Consensus Building Institute (CBI) with the U.S. Institute for Environmental Conflict Resolution issued a *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs- Funded Schools Facilities Construction*. CBI reported in their findings of the conditions of the schools that “many schools are ill equipped for the information age,” “security needs and related funding are major sources of concern for many schools,” “aging or poor design may lead to a substandard educational environment,” “operation and maintenance needs are not matched by operation and maintenance annual funding,” and “overcrowding is a major concern and a source of accelerating physical decline.”<sup>2</sup> Additionally, the report stated in the findings that the Facility Management Information System (FMIS) doesn’t sufficiently allow for educational programming needs, including libraries, adequately sized classrooms and gymnasiums, wiring to allow for technological needs and partitions and noise reducing walls.<sup>3</sup>

In May of 2007, the Office of the Inspector General, Department of Interior, issued *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, a flash report that describes the conditions at BIE schools that require “immediate action to protect the health and safety of students and faculty.” Although the Inspector General visited thirteen schools as part of their investigation, four schools were highlighted in the flash report -- Chinle Boarding School, Shonto Preparatory School, Keams Canyon School, and the Kayenta Boarding School. In the report, the Inspector General cites deterioration ranging from “minor deficiencies such as leaking roofs to severe deficiencies such as classroom walls buckling and separating from their foundation.” In his conclusion, the Inspector General states that the “failure to mitigate these conditions **will likely cause injury or death to children** and school employees.” This flash report describes the alarming and life threatening situation at BIE schools that the federal government has created in its failure to properly maintain these schools. Native children should not have to risk their lives on a daily basis to access their fundamental right to an education.

Testifying at the NIEA-sponsored BIA/BIE regional hearing in Navajo Nation/Window Rock, AZ, Hopi Tribal Chairman, Benjamin Nuvamsa stated, “our students are at extremely high risk because of exposure to hazardous materials in our school facilities...[recently]severe reductions in annual appropriations for the building Operations, Maintenance and Repairs (OM&R) program results in the ever-increasing number of projects placed in the Facilities Maintenance Inventory System (FMIS). While waiting for funding, our students and staff are subjected to

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<sup>2</sup> The Consensus Building Institute with the U.S. Institute for Environmental Conflict Resolution (March 5, 2008). *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs – Funded School Facilities Construction*, pp. 16-18.

<sup>3</sup> *Ibid.*, p. 19.

exposure to hazardous materials...almost all schools have asbestos and radon issues which puts the students and staff at risk.”<sup>4</sup>

In North Dakota, the Mandaree Day School has taken out a loan in the amount of \$3 million to cover the costs of building a new BIE education facility even though the federal government has the obligation to provide funding for a new school. The Mandaree Day School could not wait any longer for the funding from BIE to build their school. The loan only covers the facility structure and the 210 children attending this school have no playground and the teachers do not have a paved parking lot. These are just a few examples of the construction needs of BIE schools that are not being met under current funding.

The purpose of education construction is to permit BIE to provide structurally sound buildings in which Native American children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically when we fail to provide them with a proper environment to achieve success. The amount of funding over the past few years has failed to fund tribes at the rate of inflation, once again exacerbating the hardships faced by Native American students. Further, the funding that has been allocated over the past few years will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair.

#### *Indian Education Facilities Improvement and Repair Funding*

The continued deterioration of facilities on Indian land is not only a federal responsibility but has also become a liability of the federal government. Old and exceeding their life expectancy by decades, BIE schools require consistent increases in facilities maintenance without offsetting decreases in other programs if 48,000 Indian students are to be educated in structurally sound schools.

Of the 4,495 education buildings in the BIE inventory, half are more than 30 years old and more than 20% are older than fifty years. On average, BIE education buildings are 60 years old; while, 40 years is the average age for public schools serving the general population. 65% of BIE school administrators report the physical condition of one or more school buildings as inadequate. Although education construction has improved a bit over the last few years, the deferred maintenance backlog is still estimated to be over \$500 million and increases annually by \$56.5 million. As noted by the House Interior Appropriations Subcommittee in its Committee Report accompanying the FY 2006 Interior appropriations bill, "much remains to be done." Of the 184 BIE schools, 1/3 of the schools are in poor condition and in need of either replacement or substantial repair.

#### *Public and Other School Construction Needs*

NIEA would be remiss if we did not mention the tremendous backlog of construction needs for public schools on Indian lands that receive Impact Aid funding from the Department of Education. The Impact Aid program directly provides resources to state public school districts

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<sup>4</sup> Bureau of Indian Affairs and Bureau of Indian Education: Hearings before the National Indian Education Association, Widow Rock, AZ (August 21, 2008) (testimony of Benjamin Nuvamsa, Hopi Tribal Chairman).

with trust status lands within the boundaries of a school district for operational support. Many public schools on reservations are crumbling, unsafe and should be replaced.

In Idaho, several reservation public schools have attempted bond levies in their communities to repair or replace dilapidated facilities to no avail, as community members struggle with increasing taxes while enduring economic stagnation. The Nez Perce Reservation school in Lapwai, Idaho has over 82% American Indian/Alaska Native enrollment and has had four failed bond levies and has not received an Impact Aid construction grant allocation to assist with replacing facilities. The Coeur d'Alene Reservation public schools, located in northern Idaho, which have nearly 65% American Indian/Alaska Native enrollment has also had several failed bond levies for the K-12 public school, and no allocation of Impact Aid construction grants to assist with repairing or replacing the facilities.

Impact Aid schools received a total of \$1.302 billion for fiscal year 2008 but an amount of \$70 million over last year's funding would allow for some progress to be made to meet the continually increasing public school construction needs on reservations. We strongly urge the Committee to consider requesting funding for Impact Aid school construction needs. These projects also could be completed in a 24-month time frame and would create a significant number of jobs in their communities.

Additionally, NIEA encourages funding for renovation projects for Native language immersion K-12 schools, many of which are public and public charter schools. There is a need for numerous renovation projects for schools that support Native language instruction, many of which are housed in abandoned and neglected buildings and are in dire need of repair and maintenance.

#### *New Authorizations for School Construction in the Stimulus Package*

Further, we understand that provisions are being considered in the stimulus package that may create new authorizations for school construction. While we support new programs for general school construction, especially new public schools and charter schools in Native communities, we urge you to consider that the BIE school system is a federal responsibility that has unique needs and circumstances. We hope that the new Administration and the Congress will consult with NIEA and Indian Country on any new school construction authorization provisions to ensure that new authorizations do not create unintended adverse impacts on BIE schools. Further, NIEA urges the inclusion of funding for BIE school construction, maintenance, and repair as a separate provision in the economic stimulus package distinct from funding for public schools, territorial schools, or other types of schools given that BIE schools are uniquely situated due to treaty rights and the federal trust obligation for the education of Indian children.

#### *Conclusion*

We must do all that we can to ensure that our children do not have to risk their lives in deteriorating buildings while aspiring to achieve academic success. NIEA thanks the Committee for its hard work and diligence on behalf of Native communities. With your support, we are

hopeful that Indian Country will have the resources it needs to build the educational facilities that it deserves.