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Testimony of David Beaulieu, Ph.D., President
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before the
Senate Committee on Indian Affairs
on Indian Education
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Chairman McCain and Vice 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 with regard to Indian education.

Founded in 1969, the National Indian Education Association is the largest organization in the nation dedicated to Indian education advocacy issues and embraces a membership of over 3,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, parents, and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students, and to ensure the Federal government upholds its immense responsibility for the education of American Indians and Alaska Natives through the provision of direct educational services. This is incumbent upon the trust relationship of the United States government and includes the responsibility of ensuring access to quality, effective and meaningful educational opportunities. Recognition and validation of the cultural, social and linguistic experiences of American Indian Tribes and Native communities within the schools Native students attend is critical to providing effective instructional approaches for our students to attain the same standards of students nationwide. They are also vital for providing meaningful programs enriching the educational experiences of Native students by providing purposeful connections of education to the future of Native communities that ensure the social and culturally continuity of Native communities.

NIEA encourages the Committee to focus comprehensively on the needs of Native Children in light of the long and growing health and overall needs of Native children. Mental health issues including high levels of substance abuse, suicide rates, poor housing and health conditions all impact the capacity of Native children to learn and schools to be responsive to their principal education purposes. The future of Indian tribes and Native communities is not only dependant upon effective and meaningful educational programs but also upon healthy self confident and reliant young people growing and developing in strengthening families and communities. We must comprehensively develop strategies that engage families, communities, and tribes in every aspect of the care and education of Native children and young people.

No Child Left Behind

Although the National Indian Education Association supports the broad based principles of No Child Left Behind, there is widespread concern about the many obstacles that the NCLB present to Indian communities, who often live in remote, isolated, and economically disadvantaged communities. There is no one more concerned about the accountability and documenting results than the membership of our organization, but the challenges many of our students and educators face on a daily basis make it difficult to show adequate yearly progress or to ensure teachers are the most highly qualified.

NIEA has been holding our own field hearings in Indian Country on NCLB. We have heard from administrators, superintendents, teachers, parents, and students with regards to the legislation and what is working and what is not working. NIEA will publish a report in October that outlines the information gathered at these hearings and provides recommendations for legislative amendments to the existing law. NIEA encourages the Senate Committee on Indian Affairs to conduct field hearings on NCLB and Indian education and suggest that the Committee consider holding their own field hearings in Indian Country, including a hearing at the NIEA Convention that will be held October 6-9, 2005 in Denver, Colorado. We find that a field hearing during the NIEA convention will be the best venue to collect testimony from those who are charged with the daily implementation of NCLB.

Notwithstanding the laudable goals and objectives of the NCLB, its implementation needs to be tailored to assure that its goals are achieved. Tribal governments and Native educators have long supported the broad based principles of No Child Left behind. In particular, we laud the intentions of sections 7101 and 7102 within Title VII, which provide for the unique educational and culturally related academic needs of Native students. These provisions formally recognize the Federal government's support for culturally based education approaches as a strategy for positively impacting the achievement of Native students.

Despite our general support, NIEA has serious concerns about several obstacles this Act presents to Indian communities. Specifically, key factors that inhibit the successful implementation of NCLB in Indian communities include:

- **Financial Resources.** Schools serving Native students receive inadequate levels of funding. Not only are many schools educating large percentages of Native students faced with factors likely to increase cost, but long term investment in the development of approaches that work requires support. The financial resource needs of school educating Native Students is a question of adequacy. The current level of support is not adequate. As was noted in a September 2003 GAO report on BIA schools, the BIA student population "is characterized by factors that are generally associated with higher costs in education. Almost all students live in poverty, and more than half are limited in English proficiency. A substantial number have disabilities." See GAO Report GAO-03-955, p. 5. Similar factors would increase costs to non-BIA schools with large Native populations. Title VII of NCLB which provides support for the development of culturally oriented academic and instruction programs is not fully funded. Title VII of NCLB states a purpose that indicates that meeting the unique educational and culturally related needs

of American Indian and Alaska Native is intended to result in improved achievement as well as enriching the quality of education programs for Native students.

- **Time Frames for Results.** The time frames for results do not adequately account for the investment in time and resources required to develop effective culturally based education approaches or to develop curricula that reflect the cultural and linguistic heritage of the community. Also the method of determining progress does not show or indicate the cumulative effective of the individual progress made by specific students. There is nothing more important to the improvement of schools serving Indian Students than continuity in the development and improvement of schools. A system which identifies strengths and specific areas needing attention and invests in development and improvement is needed. The time frame for results does not allow for such a system. In Indian Country, there is no “one size fits all” when it comes to developing effective and meaningful education approaches. A strong accountability system that makes sense and which allows for the identification of needs and provides long term support of appropriate development is an approach that needs to be developed and adequately supported.
- **Testing Validity and Reliability.** The testing requirements mandated by NCLB do not recognize the achievements made Native students. School-based testing requirements fail to recognize the implication of the high student mobility and drop-out rates that are characteristic of Native communities. Therefore, year-to-year measures and comparisons of the effectiveness of school-based improvements are meaningless. Also, tests measuring academic performance and achievement are generally culturally inappropriate for Native students. As a result, cultural and native language programs are often subsumed as schools shift the curriculum to meet the stringent academic standards measured by these tests. One anecdote from the Navajo Nation illustrates this issue. On a national test, students were asked to identify where corn should be planted. Many Navajo students identified a moonscape which, indeed, looks like the Navajo Nation, including areas where the Navajos have successfully engaged in dry farming of corn, a sacred plant to the Navajos. Of course, the testers did not accept this as the correct answer.
- **Definition of “Highly Qualified.”** According to NCLB, the definition of a highly qualified teacher refers to subject matter competence as defined by certification and college majors. The statute does not add to this definition the concept of capacity and knowledge of local traditions, beliefs and values in order to be an effective teacher of Native students. The implementation of the statute does not include within the definition of “highly qualified teacher” the idea that teachers educating Native students actually have the training and demonstrated experience in order to be effective teachers of Native students. It is not uncommon for a “highly qualified” teacher to consult with Native teachers who may not be deemed “highly qualified” on how to best work with Native students.

The requirement of “highly qualified” does not take into account the rural and isolated areas where teachers of Native students work and reside. It is difficult to recruit and

retain “highly qualified” teachers in all core subject areas and often times one teacher is expected to be “highly qualified” in a number of subject matters.

- **Available Knowledge of “What Works.”** Knowledge of “what works” for Native education programs may exist but often are not locally available. High quality information that is both available and accessible is needed in order to develop effective strategies to improve school programs.
- **Available Strategic Partnership.** Accomplishment of the broad based goals of the statute requires strategic partnerships. The availability of these partnerships in small, rural and isolated communities is limited and often very difficult to coordinate. The opportunities for intergovernmental partnerships or higher education school cooperative arrangements for example are areas to focus support.
- **Accountability.** NIEA believes in the principle of accountability. However, many schools that serve Native populations simply do not have the resources to meet the NCLB standards. Will they be shut-down? Where would parents send their children? Alternatives are not readily available. Instead, accountability must be guided by practicality and a real focus on supporting disadvantaged school systems in their efforts to improve educational outcomes.
- **Adequate Yearly Progress**
Of the 122 tribally operated schools that receive funding from the Bureau of Indian Affairs, only 55 made Adequate Yearly Progress for the 03-04 school year.¹ Less than half of tribal schools have been able to meet the standards set forth in No Child Left Behind for Language Arts, Reading and Math proficiency. While these subjects are important, students may be excelling in other areas such as music, art, history, vocational subjects, or language and culture and receive no recognition from NCLB. These areas may also in the long term provide an incentive for coming and staying in school and improving education performance.

From NIEA’s point of view, No Child Left Behind has done very little to improve the overall proficiency of Native students in “core” subject areas and the impact has not been positive in terms of motivation or achievement for American Indian and Alaska Native students. Even though exceptional progress has been made, it is often not enough to avoid being labeled as failing. There is a great danger in labeling students as failing when they are trying hard, doing reasonably well, and making individual progress.

- **Other Issues.** NCLB also provides inadequate assessment examples for limited English proficient students, weakened protections to prevent high dropout rates to occur, a lack of focus on parental involvement, and a lack of recognition of paraprofessional’s qualifications.

¹ Bureau of Indian Affairs, Office of Indian Education School Report Cards, 2003-2004.

The NCLB Act was written in response to certain hard truths: first, that the American school system is failing; second, that despite years of reform efforts, without accountability success was unlikely; and third that we owed it to our children to seek to change the philosophy of how our schools are administered in order to achieve real results. Of particular importance to Native students are Titles I and VII. Title I of NCLB provides funding for low income area schools to meet State standards and Title VII specifically addresses programs for Indian, Native Hawaiian and Alaska Native Education.

Additionally, there is a concern that education funds for Native students do not always fund programs or reach the Native students they are intended to serve. While the set aside for BIA schools presumably is spent on Native students, it is not clear that this is the case with grants to local education agencies. Most Native students (90%) are educated in state public schools, not schools funded by the BIA and a large share of funding does not flow directly to Native students. Often times Title VII funds, whose purpose are related to language and culture, are being used for before school, after school and tutorial programs, essentially Title I programs. In other words, Title VII monies are being used to fund program approaches that clearly should be supported by Title I.

The formula grant program of Title VII has increasingly been used to support non-culturally based efforts to add instruction time for Indian students. Fully 60 percent of grants supported by Title VII were related to tutorial homework assistance, after school, and before school programs. (This survey was done associated with the IES funded feasibility study on culturally based education research.) Given the existence of Title I and the low funding levels available for Indian Students through Title VII (approximately \$230 per student), the unique character of the formula grant program appears to be waning because of NCLB and under-utilization of Title I service supported by a growing number of Title VII programs. According to testimony gathered by NIEA in Washington, DC, Window Rock, AZ, and Tacoma, WA, increasing numbers of Title VII grantees are being informed they can not offer culturally based programs by program staff of the Office of Indian Education. There is significant and growing concern in the field, as represented by our members, that the unique quality and special character of the Indian Education Act is being eroded out from under them.

There appears to be a growing incongruence between the purposes of Title VII and the general operating principles and consequently the implementation of NCLB by states and the BIA for schools with Native students. Title VII which expresses a purpose of meeting the unique education and culturally related needs so that Native students can achieve at the same high standard as other students is not sustained or supported in the general operating provisions of NCLB in a way that would allow for the development of congruent educational program and services consistent with the purpose of Title VII. Instead the approach appears to be increasingly focused on providing extra time for practice and “teaching to the test.”

The trust relationship of the federal government in Indian education, the meeting of the unique and academically related cultural needs of American Indian and Alaska Native students finds no voice in the statute except in Title VII, and despite the fact that Title VII programs are in nearly every single school both State public and BIA funded federal and tribally operated schools with Native students, both state public and BIA funded schools rely on the operating principals of

NCLB to increasingly disregard or ignore the principles and purposes of Title VII. True success in Native education will come only when Native students are receiving a high quality education that not only prepares them for the demands of contemporary society through the implementation of instructional approaches that are socially and linguistically appropriate to accomplishing the educational purposes of the schools they attend but also by enhancing the purposes of the school to include a recognition and opportunity to thoroughly ground them in their own history, culture and language.

Among the purposes within Title VII is a purpose related to support for intergovernmental cooperation between Federal, State, and Tribal Governments in Indian education. This purpose has been included in the first Executive Order on Indian Education and is supported in the most recent Executive Order on Indian Education (E.O. 13336) by stating a forum shall be conducted that includes Federal, state, and tribal partners. NIEA is partnering with the Council of Chief State School Officers (CCSSO) to explore better intergovernmental cooperation and partnership with regard to Indian education. Since the purpose of promoting intergovernmental partnerships is one of the provisions of Title VII of NCLB and in the Executive Order on Indian Education, NIEA requests that Congress and this Committee consider the development of funding to support partnership planning and development between Federal, state, and tribal governments in Indian Education. NIEA also asks that the Committee requests report language requesting the Departments of Interior and Education to describe activities that promote intergovernmental cooperation in Indian education.

Funding

The Department of Education funds the education of Native American students by operating Native American targeted programs and setting aside funds within programs open to all students and transferring funds to BIA for tribal and federally operated schools. Department of Education Native American Programs are often funded at the minimum level established by Congress, never the maximum. Schools educating Native students are being required to meet the challenges in NCLB without the resources required or authorized by Congress. Schools, as a consequence of focusing every effort and dollar on meeting the benchmarks in reading and math, are eliminating support and time for other educational goals and purposes incumbent in a quality educational experience. The federal government has not upheld its legal and moral obligation to provide sufficient funding for the education of Native American students.

As we have expressed in previous statements, NIEA is concerned that funding for Title I and VII programs are inadequate. The appropriation available under Title VII of the No Child Left Behind Act provides only a few hundred dollars per student to meet the unique education and culturally related needs of our students. NIEA recommends at least \$250 per student for programs to motivate students, support improved academic performance, promote a positive sense of identity and self, and stimulate favorable attitudes about school and others. Native students are more likely to thrive in environments that support their cultural identities while introducing different ideas. The importance of such environments cannot be overstated.

BIA's budget has historically been inadequate to meet the needs of Native Americans and, consequently, our needs have multiplied. The budget consistently fails to fund tribes at the rate of inflation, thus exacerbating the hardships faced by Native American students.

There are only two education systems for which 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 elementary and secondary students, 29 tribal colleges, universities and post-secondary schools. The federal government's responsibility for the education of Native peoples is in response to specific treaty rights; however to us, the FY 2006 budget signifies an increased negligence of its trust responsibility.

Perhaps the clearest example of unmet needs among Native Americans is the disparity between the amounts spent per student at BIA schools compared with public schools. BIA schools will spend about \$3,000 per student, less than half the amount that public schools nationally will spend. The amount currently spent per student at BIA schools is equivalent to public school per student expenditures during the 1983-1984 school year. In 2006, BIA schools will spend an amount per student that public schools were spending over 20 years ago, while expecting our students to perform at levels of 2006.

Indian School Construction Funding

The inadequacy of Indian education facilities is well documented and well known. Education construction funds the construction of new buildings, replacement of structurally unsound ones, and repair and maintenance of existing ones. 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.

During President Bush's first term, he promised to remove the backlog for new Indian school construction. Between 2001 and 2005, funding was appropriated for 34 replacement schools and since that time, nine of the schools are completed and operating with 25 in design and construction. The FY 2006 Budget proposes to cut Indian school construction by \$90 million with the rationale that the focus must remain on schools already funded for construction and school construction has fallen behind. We understand and support the Committee's views that money for programs and construction must be managed appropriately and efficiently, however our children are forced to shoulder the burden of contracting delays at the BIA and tribal levels. Completing the construction of 9 schools since 2001, while progress, is not enough. The Bush Administration officials emphasize that it does not make sense to allocate more funding to this program when there is such a large backlog of unspent funds. NIEA strongly believes that the need for additional school construction dollars is so great that there should be no slow down in appropriations. Instead, there should be an increased effort to get Tribes and the BIA to work more efficiently on completing school construction projects while recognizing that schools take time to plan and build.

Indian Education Facilities Improvement and Repair Funding

The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the federal government. The FY 2006 Budget Request cuts facilities improvement and repair to \$128.4 million. Old and exceeding their life expectancy by decades,

BIA 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 BIA inventory, half are more than 30 years old and more than 20% are older than 50 years. On average, BIA education buildings are 60 years old while 40 years old is the average age for public schools serving the general population. Sixty five percent of BIA school administrators report one or more school buildings in inadequate physical condition. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to over \$500 million and increases annually by \$56.5 million.

There is a known backlog of hundreds of millions of dollars in critical repair needs. The purpose of education construction is to permit BIA funded schools to provide structurally sound buildings in which Native American children can learn without leaking roofs and peeling paint. We urge not only restoration of funds to the FY 2005 level, but an increase that will realistically address the needs of Indian children who must try to learn in buildings that are not conducive to learning. It is unjust to expect our students to succeed academically if we don't provide them with a proper environment to achieve success.

School Transportation

Student transportation continues to be an area that is not fully funded within education programs, and for American Indian and Alaska Native students, the lack of funding for transportation is often made worse due to rural and sometimes remote locations of tribal communities. Related to the isolation of many tribal communities is the lack of a local tax base that many urban areas are able to take advantage of to supplement transportation funding.

Within the Window Rock Unified School district located on the Navajo reservation in Arizona, the average transportation budget is \$1million and the district average roundtrip is 80 miles per route, totaling over 3,000 miles a day. The 45 buses of the Window Rock Unified School District serve 1,900 students and are replaced on an average of every 15 years while the recommended life of a school bus is 5 to 7 years.

In Chinle, Arizona, the Chinle Unified School District also located on the Navajo Reservation transports 4,100 students to school on 72 buses that log a total of 1million miles a year. Over 60% of the roads that Chinle students must travel on a daily basis are considered "unimproved roads" meaning dirt roads or "unengineered roads that do not have adequate gravel or other aggregate surface materials applied and do not have drainage ditches or shoulders."² School districts most affected by unimproved roads are located on the Navajo Reservation and the Northern Plains.

In addition to the extra mileage these school districts must bear, the school buses must also drive on roads that require maintenance at levels that urban areas do not even consider. It is not uncommon for buses transporting students on the Navajo reservation to require four wheel drive, additional repairs due to twisted bus frames caused by poor roads, and frequent replacement of shock absorbers and ball joints. The difficult driving conditions associated with rural Native

² Federal Register, Vol 69, No. 37, February 25, 2004, Proposed Rules, P. 8784

communities means more maintenance and more money. As a result of the extra transportation burden, funds have not been adequate to cover all of the costs for maintenance, repairs, replacement, and mileage.

While 60 % of the transportation budget for the Chinle and Window Rock school districts comes from state funding, the balance of the budget is supplemented by Impact Aid resources. Most districts can use the local tax base to make up the difference, however, Impact Aid provides financial resources to school districts like Window Rock that do not have a local revenue base to draw funds to support educational activities. For students attending public school in Chinle, Arizona, the transportation budget totals \$3.1 million and the state contributes \$2.5 million to transportation. Chinle Unified School District must use \$600 thousand to make up for the deficit in transportation funding. Over half a million dollars that could potentially be used for instructional purposes are instead used to insure the students are able to arrive to school and back home safely. If the cost of transportation was not so high for students living in rural areas like Window Rock and Chinle, then the Impact Aid dollars would be used to support other educational and instructional programs. Therefore, in these instances, the high cost of transporting students in rural areas is offset by dollars that otherwise would be used for classroom budgets.

For BIA schools, almost 40 percent of the BIA operated day and boarding schools spent more on transportation than they received through their transportation budgets in school year 2001-2002.³ For tribally operated schools, the shortfall in funding is often made up through administrative funds and interest income. For BIA operated schools, which have no investment funds or administrative funds, instructional funds are used to make up the shortfall.

Insa Wica Owayawa, a BIA school in Oglala, South Dakota often budgets for transportation out of each program to cover the cost that the Indian School Equalization Formula does not cover. Programs such as BabyFACE and Gifted and Talented are used to offset transportation costs through a line item in each program budget. Even with funds earmarked for transportation out of program budgets, the Insa Wica Owayawa school still has difficulty covering transportation costs for extra curricular and after school transportation costs. As with many schools located in rural communities, the nearest town that can handle bus repairs is two hours away and the school has to find a way to account for gas to get the busses repaired.

Within the Indian School Equalization Program formula, transportation funding is calculated based on the funding available and does not take into account the actual transportation need. "The formula does not attempt to assess the actual cost of the school operations either at the local level or at the aggregate national level."⁴ ISEP formula provides a method of distribution of funds appropriated by Congress for all BIA schools.

³ GAO Report, Bureau of Indian Affairs Schools, Expenditures in Selected Schools are Comparable to Similar Public Schools, but Data are Insufficient to Judge Adequacy of Funding and Formulas, p. 19.

⁴ Federal Register, pg. 8777.

While there is not an established national per mile rate, the national total route mileage is 4.2 billion miles and the national total expenditures per pupil is \$13.2 billion.⁵ Even if a national per mile rate was established and was equivalent to the ISEP per mile rate, dollar for dollar, the high maintenance and repair of the buses would not be reflected in the ISEP per mile rate resulting in unequal transportation funding for BIA students. BIA buses travel greater distances (an average of 465 miles a day) than the public school buses (an average of 379 miles a day) putting more wear and tear on the buses.⁶ Unlike public schools, which generally own their buses and share them throughout the district, BIA buses usually lease their buses and shoulder transportation costs individually.

The Havasupai School located in the bottom of the Grand Canyon in Arizona transportation needs include a weekly helicopter ride and daily travel by donkey. While the Havasupai school does receive supplementary funding for the extraordinary cost related to the school's geographic isolation, the additional funding does not cover the actual transportation cost for this school, nor is there a way to develop a weighted unit within the existing formula that accounts for the actual cost to the Havasupai students.

The data has not been collected to accurately assess what the true needs based funding is to adequately cover the costs associated with student transportation in tribal communities. One recommendation is to fully fund the Bureau of Indian Affairs for road improvement and maintenance to decrease the maintenance and repair on the school buses. NIEA is willing to work with the Senate Committee to collect the information and prepare a report that will assess the transportation needs and determine the funding necessary to meet the needs of American Indian, Alaska Native, and Native Hawaiian students.

School Nutrition

School nutrition is a national issue of special significance to Native communities. U.S. children and adolescents are consuming more than the recommended amount of fat and saturated fat while their intake of fruits and vegetables falls well below recommended levels. The increasing prevalence of obesity in these age groups adds to the concern about the quality of their diets. While nutritious food and more exercise are important for all youth, they are absolutely critical to Native American youth, who are especially at risk for serious nutrition related health problems. Schools can be a venue for promoting healthy eating habits among youth because of the schools' ongoing influence in children's daily lives. Federal investment in USDA child nutrition programs such as the National School Lunch Program and the School Breakfast Program are central to promoting healthy habits among school-age children.

Recent data confirms that childhood obesity is on the rise, an alarming trend because obesity is considered a risk factor for a host of chronic diseases and increased mortality. Childhood obesity easily translates into adult obesity, especially among children with a familial history of weight

⁵ According to the National School Transportation Association, there is not an established national per mile rate. States vary on how they calculate transportation and may use per mile rates, per pupil rates, or develop another mechanism to report transportation funding. 43 states reported the total route mileage per rates and 41 states reported the total expenditures per pupil for the state. The non-reporting states are different for each total and does not include any activity routes.

⁶ GAO Report, BIA School Funding, pg. 19.

problems. Among Native American children, the trend is especially dire. Currently, 10% to 15% of American children are overweight, but in Native American children the percentages are much higher. Among Native American girls, 30.5% are overweight and among Native American boys, 26.8% are overweight. In addition, another 21% of Native American girls are at risk of being overweight, while another 19.6% of Native American boys are similarly at risk. Overall, Native Americans suffer from one of the highest rates of obesity and diabetes in the world.

Schools serving Native youth have the opportunity to play a critical role in battling these startling statistics, but only if they can create sustainable, flexible programs sensitive to the unique circumstances of Native populations.

The risk of nutrition related health problems is greatest among low-income populations. In order to make good nutrition a priority, schools serving Native students need more funding to ensure better access to healthier foods. Specifically, these schools would benefit greatly from the improved availability of affordable and quality produce. For example, currently four tribes (Zuni, Oglala Sioux Tribe, Pima, and Tohono O'odham) in three states (New Mexico, South Dakota, and Arizona) participate in the Fresh Fruit and Vegetable Program (P.L. 108-265). The program provides fresh and dried fruits and fresh vegetables free to children in select schools in a limited number of states. Successful and popular among students, parents, and schools alike, programs like this one serve as a model for future programs and should be expanded to include more tribes.

While expansion of existing federal programs is one crucial step to improving the health of Native youth, standing alone it is insufficient. Schools serving Native students also need funding to develop and implement community based programs to teach children the basics of good nutrition and exercise, as well as the risks and complications of nutrition related health problems. The importance of cultural sensitivity and relevance in health programs is axiomatic. Programs in schools serving Native youth will only be successful if each community is allowed the flexibility to establish their its own implementation plan, work out problems, have broad involvement among various community members, and reach its own solutions. Realizing the gravity of the situation, some tribes have already started implementing their own programs. However, to affect real change, such programs need to be modeled and duplicated, and this cannot be done without adequate funding.

Childhood obesity and other nutrition related health problems can be extremely difficult to manage and treat, so prevention techniques offer the best solutions to a widespread problem. Focus on education to change unhealthy behaviors before they become a way of life is integral in preventing these problems and is crucial to the long-term health and well being of Native students.

Johnson O'Malley Funding

In 1995 a freeze was imposed on Johnson O'Malley funding through the Department of Interior, limiting funds to a tribe based upon its population count in 1995. The freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. In the FY06 proposal, JOM funds are decreased by 50%. Prior to the 50% decrease, funding for JOM was calculated to equal \$85 per student based on criteria established by the tribal priority allocations system and a decade old count of the number

of Native American students per state. JOM funding per student is currently 65.4 percent less than it was during the early 1970's when per student funding was \$246.

NIEA urges that the Johnson O'Malley funding freeze be lifted, and other formula drive and head count based grants be analyzed to ensure tribes are receiving funding for their student populations at a level that will provide access to a high quality education for Indian students.

Tribal Colleges and Universities

Under the Bureau of Indian Affairs Budget, Tribally Controlled Community Colleges a decrease of \$9.76 million is proposed with zero funding for United Tribes Technical College in Bismarck, North Dakota and Crownpoint Institute of Technology in Crownpoint, NM. NIEA requests an increase of 10% of amounts appropriated in FY05 for programs affecting higher education of native students in both the DOE and BIA budgets.

The average funding level per full time students for non tribal community colleges was \$7,000.00 in 1996. By comparison, the 26 tribally controlled colleges under BIA are receiving \$4,447.00 per full time enrolled Indian student. Although this is the highest per student level to date, it is still only about 75% of the authorized level. The conditions under which tribal institutions must educate Native students are constrained by the lack of tax base to support them. To make up for the lack of money caused by inadequate funding, tribal college tuitions are typically so high that many Native American students cannot afford them.

Head Start/Early Head Start

Over the last 40 years, Indian Head Start has played a major role in the education of Indian children and in the well-being of many tribal communities. Of the approximately 575 federally recognized Tribes, 28% participate in Head Start/Early Head Start Programs, with a funded enrollment of 23,374 children. These programs employ approximately 6,449 individuals, of whom 3,263 are either former or current Head Start/Early Head Start parents. There are another 35,395 volunteers, 22,095 of whom are parents.

The President's budget calls for "flat funding" of Head Start. According to the National Head Start Association, "flat funding" could result in cuts in enrollment next year of at least 25,000 kids (calculated at 23,700 for Head Start and 1,700 for Early Head Start). The Indian Head Start program would experience a cut of approximately 725 kids. The only way to save these slots for kids under the Administration's proposal would be to take critical funding from the Head Start training and technical assistance budget. The President's budget will require programs to cut the number of children served, reduce services, lay off teachers and decrease the length of the school year or turn full day programs into half day programs. NIEA urges this Committee to recommend a 5% increase in the overall Head Start budget.

The Head Start Act is currently the subject of reauthorization legislation in both the Senate (S. 1107) and the House (H.R. 2123). NIEA, following the lead of the National Indian Head Start Directors Association, has advocated for a number of pro-Indian provisions in these two pieces of legislation. Both bills contain numerous such provisions and NIEA will be working to see the best provisions of both bills adopted in the conference.

With regard to funding, however, the Senate and House have taken very different approaches to Indian Head Start. Currently, Indian Head Start receives approximately 2.9% of Head Start funds. This number is set administratively by the Department of Health and Human Service and is inadequate. NIEA and NIHSDA have argued that the appropriate set-aside for Indian Head Start should be around 4%. The Senate has agreed and provided in S. 1107 a set-aside be 4%. However, S. 1107 also provides that any increase from the current level of 2.9% must come from new funding and not at the expense of existing Head Start programs (Since there is no increase proposed for FY 2006 there is no new funding available.)

The House has set the Indian Head Start set aside at 3.5% “until such time as the Secretary can make funding decisions to ensure access to funding for eligible Indian children is comparable to access to funding for other eligible children.” There is no restriction on when the Secretary can make this determination so he or she literally could make that decision the day after the provision becomes law and could immediately put the funding for Indian Head Start back down at 2.8% or even lower! NIEA does not trust HHS to act fairly in this regard. HHS has for several years been funding regular Head Start programs inappropriately out of the 13% set aside for priority programs such as Indian Head Start, costing Indian Head Start hundreds of millions of dollars!

NIEA asks this Committee to support a funding level of 4% for Indian Head Start, with real increases, not increases contingent on circumstances that may never come to pass. The potential total number of Indian children served by Indian Head Start would increase by approximately 10,711 to a new total of approximately 34,448 if a 4% increase were enacted. Only 16% of the age eligible Indian child population is enrolled in Indian Head Start. Of the approximately 555 Federally recognized tribes, only 222 have Head Start programs. Needless to say, for the 333 that do not, 0% of the eligible children are served by Indian Head Start. Overall, NIEA, based on census and other data believes that about 16% of the age-eligible Indian children are served by Indian Head Start programs. According to the Indian Health Service, based on the 2000 census, there are 144,972 Indian children under age five living on Indian reservations (age eligibility for pre-school Head Start and Early Head Start is birth to five). As pre-school Head Start and Early Head Start have a current enrollment of 23,837, this means that approximately 16% of the age eligible Indian child population is enrolled in Indian Head Start. When you consider that 32% of Indian families are in poverty, and that such an extremely high level of poverty breeds additional problems not seen elsewhere, and that most reservations are remotely located meaning that few other resources are available, and that many Natives live just over the poverty line (there is not a large Native middle class) further adding to the need for Head Start to address chronic community social issues, Indian Head Start is not getting its fair share, as HHS has somewhat self-servedly argued.

Tribal Head Start grantees have experienced difficulty over the years in acquiring adequate and environmentally safe facilities. There is a great need for the renovation of existing facilities, as well as a need for the construction of new facilities, in order to meet model Health Service/Head Start Bureau Environmental Standards. During FY 2001, the Indian Health Service Head Start Project was charged with assessing Tribal Head Start facilities. It is our understanding the findings of this assessment only provided information regarding the need for renovation. A more comprehensive evaluation of the condition of existing facilities needs to be conducted which includes the need for new construction and major renovations. The assessment should take into

consideration current enrollment and facilities needed for program expansion. Consideration should be given to having the assessment conducted by an external evaluator rather than a Federal agency that has oversight for environmental health and safety guidance to grantees. We estimate that the facilities assessment would cost approximately \$800,000 and provide DHHS with valid information to report to Congress.

Impact Aid

Approximately 90% of the over 500,000 tribal elementary and secondary students attend public schools, while around 10% attend BIA supported schools. These public schools, often serving a very low-income population and heavily impacted in their funding by the presence of Indian trust lands in their areas, rely on Federal support in the form of Impact Aid, and other programs. There are two main issues that NIEA would like the Committee to consider with regard to Impact Aid. First, the impact of the President's proposed budget for Impact Aid for FY 2006 and second the problem of "equalization" whereby certain states, including notably New Mexico, effectively are able to keep Impact Aid dollars from flowing to impacted schools including those that serve large Indian populations.

Under President Bush's FY 2006 budget, according to an analysis done by the National Association of Federally Impacted Schools (NAFIS), more than 1200 school districts (both military and Indian) would have seen a drop in funding. To address this drop, NAFIS proposed and the House Appropriations Subcommittee for Labor, HHS and Education accepted in its markup on June 9, 2005, a shift of funding from the school construction discretionary program and the Department of Education facilities account line items to the Basic Support and Federal Property line items. The effect of this transfer would be to ensure that the 1200 districts (including Indian districts) that otherwise would have lost money would, instead, see their funding levels hold steady or, in some cases, have modest increases. Of course, there is a loser in this, which is the facilities budget. As it happens, the overwhelming majority of the funding accessed through the facility budget is for Indian impacted areas. Essentially, Indian districts will lose a key source of facilities funding in order to ensure that all districts have their basic funding held level for this coming year. Instead of this, there should be an increase in Impact Aid funding that guarantees that all districts maintain their funding levels and continues to fully fund the facilities program which is so key to Indian districts.

Federal "Impact Aid" funds are provided to school systems located on or near federal lands to make up for the loss of property taxes due to the tax-exempt status of those lands. For Indian tribes, whose lands are held in trust by the United States, such funds are critical to the success of the local public school systems. In New Mexico, however, the State has reduced state funding to such schools, through 1998, by an amount equal to 95% of the Impact Aid funds. In 1999, the state reduced the funding by 75%. The funding that the State withholds is then redistributed to all schools in the state. New Mexico has taken advantage of a loophole in the law which allows a State to reduce state funding to federally impacted school districts if the majority of the school districts in the state are funded within 25% of each other on a per student basis (20 U.S.C. 7709). This formula does not include the top 5% or the bottom 5% of schools by per student funding, which further skews the outcome. In New Mexico's case, equality under this formula is achieved by effectively taking money from school systems which serve Indians and other federally impacted communities and redistributing the funds to all school systems. Under this redistribution system, Albuquerque public schools receive \$13 million in Impact Aid funds that they

would otherwise be ineligible to receive. Meanwhile, school systems which serve Indian populations are deprived of critically needed funds, especially for school construction and renovation where the Indian schools greatly lag behind the non-Indian schools. For example, the Grants/Cibola County Schools, as well as Zuni and Gallup/McKinley County Schools, have used all their bonding capacity and are unable to generate enough property taxes to build any new schools. Meanwhile, the Albuquerque Public Schools have an unused bonding capacity of hundreds of millions of dollars.

In 1976, when New Mexico invoked the equalization provision, the loss of Impact Aid funds to Indian tribes and other federally impacted communities was offset by state-wide redistribution of property taxes to all school systems. However, since then, the state property tax has been cut by 94%, giving wealthier districts a substantial tax break at the expense of the school districts which serve Indian communities.

Congress provided for Impact Aid to assure quality educational opportunities for children residing on or near Federal property. NIEA urges the Congress to eliminate the “equalization” loophole and allow the Impact Aid funds to be used as Congress originally intended.

Tribal Education Departments

True success can only be attained only when tribes can assume control of their children’s educational future. As mandated in many treaties and as authorized in several federal statutes, the education of Indian children is an important role of Indian tribes. The authorization for TED funding was retained in Title VII, Section 7135 of the No Child Left Behind Act. Despite this authorization and several other prior statutes, federal funds have never been appropriated for Tribal Education Departments. Achieving control of education through TEDs will increase tribal accountability and responsibility for their students, and will ensure that tribes exercise their commitment to improve the education of their youngest members.

The key partners responsible for educating AI/AN students are the federal, state, tribal, and local governments. Past reports, including the Kennedy Report (1969) and the more recent Indian Nations At Risk Report (1991), have found that public and BIA supported schools have failed too many AI/AN students. These and other reports call for more tribal involvement and control in the education of tribal students as a way to improve Indian education. Yet, the least active and recognized sovereign government at the elementary and secondary levels has been at the tribal level.

A strategy that has not been fully implemented, but which has tremendous potential to improve AI/AN student success in schools, is to support tribal governments in their efforts to improve the education of their tribal members. Based on the governance, control, and responsibility of education at the state and federal levels, it is logical to acknowledge and increase the role of Tribal Education Departments at tribal levels. Tribal Education Departments must be actively supported to realize their potential.

Tribal Education Departments are examples of local control of education and have the potential to bring different school types and programs together using a collaborative approach to improve the education for tribal students. Tribal Education Departments can give direction, advice, and assistance to local schools through the development of education codes, analysis of educational

data and research. They can also offer development-training programs to prepare teachers, administrators, and other school personnel.

Tribal Education Departments can help tribal communities help themselves. Achieving more tribal control of education through Tribal Education Departments furthers the federal policy of Tribal Self-Determination and will increase tribal accountability and responsibility for education all our students. We view our children as a precious resource that will help sustain the future of our tribes. As an official component of tribal governments, Tribal Education Departments have a vested interest and commitment to improving the education of our people. Tribal Education Departments can help hold local schools and programs accountable to parents and the communities they serve, in addition to operating schools that are alternatives to BIA and public schools offering parental choice in where to educate their children.

If Tribal Education Departments are fully developed and supported the anticipated overall result is that American Indian and Alaska Native (AI/AN) students will be more successful in the schools they attend. Immediate results expected are improved and collaborative relationship between the tribes and schools, better coordination of education programs in tribal communities, increased and meaningful parental and community involvement, increased tribal student attendance with less truancy, decrease in tribal student drop-out rates, and the development and implementation of tribal codes of education.

Federal support for Tribal Education Departments has been authorized in several federal statutes including: the No Child Left Behind Act (20 USC §7455), the Indian Self-Determination and Education Assistance Act (25 USC §2010), the Improving America's Schools Act of 1994 (20 USC §7835) and the Stafford Elementary and Secondary School Improvements Amendments of 1988 (25 USC §2024). Despite these authorizations, however, the federal government has never appropriated federal funds for these programs. For fiscal year 2005, NIEA seeks a total of \$250,000 per Tribal Education Department for twelve tribes (for a total of \$3,000,000) as an initial investment to improve Indian education.

Native American Languages Act

The preservation of indigenous languages is of paramount importance to Native communities. It is estimated that only 20 indigenous languages will remain viable by the year 2050. In addition to insuring that Title VII purposes are being fulfilled, we must begin the legislative process to ensure there is some substance in the Native American Languages Act for projects that address the crisis of our language losses.

There is incongruence between the intent and purposes of the Native American Languages Act focusing a federal protective purpose with regard to Native languages and our federal education statues. The ability to preserve and protect Native Languages and to develop effect strategies for their continuation must involve broadly the education lives of Native children. Certainly greater congruence of the educational statutes and language and cultural protective roles of the federal government with regard to the education of American Indians involves the federal governments trustee relationship to Indian tribes now includes education as a trustee responsibility of the federal in statute in the purposes section of Title VII.

NIEA urges support for additional funding that will address language needs of communities with less than a handful of elderly fluent speakers. NIEA, in partnership with other organizations, is willing to assist in the identification of needs and funding required for this process to begin.

IDEA

The recent reauthorization of IDEA was amended in such a way that it has eliminated the administrative set-aside for Office of Indian Programs within BIA. Without the set aside, NIEA does not know if OIEP will continue to administer the program as the cut back appears to decrease the number of employees in the Center for School Improvement (CSI) by 2/3 and will eliminate about 50% of the employees at the Education Line Offices throughout the BIA educational system. The loss of technical assistance and compliance monitoring from CSI might result in widespread non-compliance with special education rules. NIEA urges the Committee to offer a technical amendment to the reauthorized IDEA to restore administrative funding for OIEP, as this cut back appears to be an oversight.

National Activities

The National Activities budget of appropriation contains a request for \$4 million down from \$5 million. This budget has traditionally been used for covering the cost of research efforts related to Indian Education which in the past has been almost exclusively used to cover the cost of over sampling of Native students because of their very small population size so that they can be included in larger nation studies. For example the cost for over sampling so as to include American Indians in the National Longitudinal study on Early Child education cost approximately \$9 million dollars over a multi year commitment of funds from the National Activities budget. Other efforts such as this are also tapping this source so as to include Indians in other National data gathering activities. Since President Clinton's Executive order on American Indian Education and now President Bushes Executive Order on American Indian and Alaska Native Education, there has been a greater focus on the development and implementation of a research agenda that would expand our knowledge and understanding of effective strategies in Indian Education. For example there has been a multi year effort endorsed by NIEA, The National Indian School Boards Association and the National Congress of American Indians to study the feasibility of doing experimental and/or quasi experimental research to determine the impact of culturally based education upon the achievement of Native learners.

Indeed this is the central purpose of the Indian Education Act Title VII of NCLB. The work of the feasibility study is coming to a close and a determination to do such research is now waiting a decision of the Department of Education Office of Indian Education and Institute of Education Sciences.

The OIE has begun to utilize the National Activities budget for many non research related activities. The lower level of proposed funding the development of priorities other than research and the commitment of large sums of money for national studies simply because the Indian population is so small drains a rather small budget that is very significant to supporting quality research efforts of vital importance to the improvement of Indian education.

We ask that support for research consistent with the goals of the Executive Orders be supported at a level sufficient to the purpose that the expenditures from the National Activities budget be reported to Congress.

Reorganization and Realignment of BIA

NIEA strongly opposes the realignment and restructuring of the Office of Indian Education Programs (OIEP) in within the Bureau of Indian Affairs. Title X of NCLB requires that all education support personnel come under the supervision of the Director of OIEP. Instead of implementing this provision, DOI included education in the restructuring of the Federal trust functions and removed all support services from OIEP's control. We believe that the support services should be restored to OIEP. In addition, NIEA urges the Committee to probe DOI as to why the office of the Director of OIEP has remained vacant for almost a full year.

In addition go the restructuring, there is a proposed realignment of the OIEP education line offices that will cut the total number of offices from 23 to 11 and cut the funding of these offices by 18%. Since the function of these offices has significantly increased due to the passage of NCLB, NIEA believes that the offices should be expanded rather than reduced to ensure timely service to BIA schools. NIEA opposes the proposal by DOI to decrease the education line offices.

Conclusion

NIEA respectfully urges this Committee to truly make Indian education a priority and to work with the Congressional appropriators and the Administration to ensure that Indian education programs are fully funded. Every year Indian educators and students are expected to achieve greater results with fewer dollars. Indian education struggles to maintain current funding levels after proposed cuts and diminishing proposals year after year. As a result no gains have been made in Indian education funding and restoration of already under funded levels are shallow victories. We encourage an open dialogue and are willing to work with you to build a more reasonable and less punitive approach that takes into account our experience in Indian education since the passage of the Indian Education Act of 1972. NIEA was instrumental at that time in assisting the Congress in conceiving ideas and recognizing the need for improvement in the effectiveness and quality of education programs from Native students.

Please join with NIEA and other organizations established to address the needs of Native students to put our children at the forefront of all priorities. We must acknowledge our children, who are our future, our triumph, and our link to the past, and their educational achievement, while working with the Bureau of Indian Affairs, the Department of Education, and tribal leaders to ensure that our children are not left behind.