

**Statement  
of  
Lawrence S. Roberts  
Acting Assistant Secretary – Indian Affairs  
Department of the Interior  
Before the  
Committee on Indian Affairs  
United States Senate  
On  
S. 2468, the Safe Academic Facilities and Environments for Tribal Youth Act**

**April 6, 2016**

Good afternoon, Chairman Barrasso, Vice Chairman Tester, and members of the Committee. My name is Larry Roberts, and I am the Acting Assistant Secretary for Indian Affairs at the Department of the Interior (Department). I appreciate the opportunity to testify on behalf of the Department before this Committee on S. 2468, the Safe Academic Facilities and Environments for Tribal Youth Act, a bill to require the Secretary for the Department to carry out a five-year demonstration program to provide grants to eligible Indian tribes for the construction of tribal schools, and for other purposes. The Department supports S. 2468.

The Bureau of Indian Affairs provides funds for facility programs for 183 academic and resident-only facilities on 63 reservations in 23 states for approximately 48,000 students and two post-secondary institutions, the Haskell Indian Nations University, and the Southwest Indian Polytechnic Institute. Since 2001, the condition of BIA-funded schools has improved. In the last 10 years, Congress provided over \$2.5 billion for construction, repair, and maintenance to reduce the number of schools in “poor condition” by nearly 50 percent. The number of schools in poor condition went down from more than 120 in 2001 to 63 today. We were pleased to receive funding in FY 2016 to complete work on the last two schools on the 2004 replacement school priority list. While significant progress has been made in the correction of education facility deficiencies, the fact that 63 schools remain in poor condition is unacceptable.

S. 2468 proposes a demonstration program that would allow for tribal contributions to accelerate the construction of education facilities in the BIE system. While such facilities are a Federal responsibility, some tribes have chosen to use their own funds. Therefore, the Department supports S. 2468 as an option for tribes if they choose to contribute their own funds.

**S. 2468**

S. 2468 aims to improve Indian Country education-related facilities by directing the Secretary to establish a five-year demonstration program that would allow for tribal contributions to accelerate the construction of education facilities in the Bureau of Indian

Education system. S. 2468 also would amend the Tribally Controlled Colleges and Universities Assistance Act of 1978 to improve and expand federal grants for the construction of new postsecondary facilities. Additionally, S. 2468 would authorize the BIE to provide housing assistance to Native communities with BIE schools and public schools with large American Indian/Alaska Native populations. Finally, S. 2468 would require the BIE and the Office of Management and Budget to develop a 10-year plan to bring all BIE schools into “good condition” within the Facilities Condition Index, and would require the Government Accountability Office to conduct a study on the Impact Aid school-construction program administered by the Department of Education.

The Department understands that S. 2468 would establish a separate, and potentially duplicative, program from our current BIE construction program. This new program would be outside the BIA's current process for new school construction and outside the Indian Affairs' improvement and repairs program.

The Department supports the goal of improving the management of the education construction portfolio by developing a 10-year plan for school construction and repair. Implementation of that plan would be contingent upon future appropriations.

The Department understands that it may be difficult for any tribe to commit up to 25 percent of its own resources toward a BIE school, especially considering that the Federal Government would retain ownership. The Department further understands that many of those tribes that currently have BIE schools and BIE dormitories on their lands believe it is the Federal Government's sole responsibility to construct, replace, repair, and maintain all BIE schools.

The Department supports grants to Tribal Colleges and Universities (TCUs) but suggests that the bill also consider how Operation and Maintenance funding will be addressed after the buildings are constructed under the five-year demonstration program, and whether those buildings would become part of the BIE inventory that the Federal Government would be required, in the future, to replace. The Department recommends clarifying whether the new education facilities and teacher housing constructed under the demonstration program would be owned by the Tribe or the Federal Government so that it is clear which entity would be responsible for managing, maintaining, and eventually replacing the facilities.

Again, the Department supports S. 2468. The Department would like to work with the Committee to address our concerns. I am prepared to respond to any questions the Committee may have.

**Statement  
of  
Lawrence S. Roberts  
Acting Assistant Secretary – Indian Affairs  
Department of the Interior  
Before the  
Committee on Indian Affairs  
United States Senate  
On  
S. 2580, Reforming American Indian Standards of Education Act of 2016**

**April 6, 2016**

Good afternoon, Chairman Barrasso, Vice Chairman Tester, and members of the Committee. My name is Larry Roberts, and I am the Acting Assistant Secretary for Indian Affairs at the Department of the Interior (Department). I appreciate the opportunity to testify on behalf of the Department on S. 2580.

The Department recognizes the challenges we face in providing high-quality education to American Indian students in schools that are operated by tribes or directly operated by the Bureau of Indian Education (BIE). S. 2580 would replace the BIE with the Indian Education Agency (IEA) and elevate the current career Director position to a Presidentially appointed political position. S. 2580 would transfer all the current employment positions and functions of BIE to the IEA. The Department appreciates the Chairman's commitment to improving the education of Native students; however, the Department does not support S. 2580 for the reasons outlined below.

**The Bureau of Indian Education**

The BIE supports education programs and residential facilities for Indian students from federally recognized tribes at 183 elementary and secondary schools and dormitories. Currently, 51 tribes operate 129 schools and dormitories through grants or contracts with the BIE and the BIE directly operates 54 residential and non-residential schools. During the 2015-2016 school-year, BIE-funded schools served approximately 48,000 American Indian students and residential boarders in grades K-12. Approximately 3,800 teachers, professional staff, principals, and school administrators work within the 54 BIE-operated schools. In addition, approximately twice that number work within the 129 tribally operated schools.

161 BIE schools are located in communities with a population of 10,000 or less. The average distance of BIE schools to the closest urban center is 164 miles. Only five of our schools are located in an urban center. BIE schools are typically located in the heart of rural America. The rural and remote locations of the schools are most often in areas of concentrated poverty with insufficient housing and services. The geographical dispersion of the schools makes it difficult to achieve economies of scale in terms of staffing for both instructional and school operational support. Federal funding addresses infrastructure needs such as water, roads, fire departments,

housing, and high-speed broadband access. When taken together, these factors and the unique educational and instructional-support requirements have contributed to the higher than average U.S. public school per-pupil costs.

The Department of the Interior and the Department of Education worked together to form the BIE Study Group (Study Group) to diagnose the educational conditions that contribute to academic challenges in BIE-funded schools, and to recommend strategies for tackling these complex issues. The Study Group combined management, legal, education, and tribal expertise to ground its recommendations in a comprehensive manner to improve how schools work in Indian country, including effective teaching practices and student learning.

The Study Group visited schools and met with tribal leaders, school boards, educators, parents, and other stakeholders from numerous tribes across the country. The impact of not having an education system tailored to the needs of 21<sup>st</sup> century learning is seen first-hand in the lack of technology, aging school structures, difficulties in attracting and retaining teachers, inadequate socio-emotional support networks, and out-of-sync curricula. Yet, amidst these challenges, many promising signs of change were seen, growing from grassroots solutions and best practices that can be scaled up to other schools.

Recommendations, published in the Blueprint, are focused on five pillars of reform: Comprehensive Supports through Partnerships, Self-Determination for Tribal Nations, Highly Effective Teachers and Principals, Agile Organization Environment, and Budget that Supports Capacity Building. These five pillars bring together the evidence and expertise from the reviews, analysis, tribal consultations, tribal listening sessions, visits, and research. Our course is one in which the BIE moves away from a “command and control” regime and instead partners with tribes to provide the services, resources, and technical assistance that tribes need to directly operate high-achieving schools.

With an organizational structure better suited to the fact that tribes operate the majority of BIE schools, the restructured BIE will result in schools that can better prepare their students for college and the workforce. Further, the restructured BIE will be able to strengthen and support the efforts of tribal nations to exercise self-determination. The BIE will fully maintain its trust and treaty responsibilities by supporting schools in not only meeting the demands of 21st century teaching and learning, but also building the capacity of tribal education departments to manage their own BIE-funded school systems.

### **S. 2580, Reforming American Indian Standards of Education (RAISE) Act**

A year ago, this Committee held a hearing on the BIE Blueprint recommendations for reform. I am pleased to report that BIE’s reform implementation is under way. As we work together with our tribes, teachers, administrators, students, and families, we remain inspired by the dignity, strength, pride, and resolve in the tribal communities to do whatever it takes to give their children the education system they need and deserve.

The BIE reforms embody the ideas contained in S. 2580, focusing on improved student performance and accountability. The BIE reforms will address major components of S. 2580. Like S. 2580, BIE’s redesign locates decision-making authority for the educational and operational support functions, including school facilities management, with the Director of BIE.

The restructure reduces the current bureaucracy so schools can leverage resources and talent to raise student academic performance, and enables principals to focus on their primary mission of instructional leadership. The BIE's goal is to be a more responsive organization that provides resources, guidance, and services to tribes so that they can help their students attain high levels of achievement.

S. 2580 and the Department's ongoing reform seek to bring not only the education functions under the Director of BIE, but all the school support functions as well. The BIE reform does this without creating an agency-level organization, as BIE will leverage investments from the BIA and other Departmental resources such as data systems and databases, consolidated administrative or "back-room" functions; reporting processes, and overall Department-wide policy and oversight functions.

During the reform effort, the Department considered creating a BIE agency. Based on tribal consultations and review, we concluded that a full BIE agency is not the best-fit organizational improvement model. Much of this conclusion is based on the fact that the higher percentage of BIE schools are Tribally operated and that percentage is likely to increase.. Tribes will continue to run their schools, with BIE providing technical assistance, services, support, and required compliance and accountability responsibilities.

The Department has the following concerns with S. 2580.

- The current Departmental reorganization right-sizes BIE and incorporates construction and maintenance functions while avoiding the creation of a full agency and the additional FTEs which would be required under that model. Under the Assistant Secretary for Indian Affairs, education will remain a critical component of tribal community development and support, with a coordinated and collaborative approach to the delivery of programs and services. Similar to the Department of Defense schools, which are a field activity under the Assistant Secretary for Personnel and Readiness, BIE students and families benefit from the broader community portfolio of the Assistant Secretary for Indian Affairs.
- Creation of a new agency could take years to fully implement. BIE is currently implementing the reform and is on track to transition much of the reform this year. If S. 2580 were to become law, undoubtedly, Indian Affairs or the Department will need to engage in tribal consultation in accordance with Executive Order 13175.. Consultation has been a longstanding foundation to provide the dialogue between the Federal Government and tribal nations. The strategy, plan, resources, and impact on schools will be areas on which tribes will likely and rightly want to provide input.
- The bill does not appear to include the Education Resource Centers (ERCs) and the School Improvement Teams, which are already in the process of being implemented. The ERCs and School Improvement Teams provide resources directly to teachers, principals, and students, which is critical. School systems that have achieved significant improvement in student outcomes have organized their school improvement specialists to be closer to schools. These experts can work frequently and consistently with the school

community to identify and apply the interventions that will work best for their population.

- The bill could increase costs significantly. S. 2580 is unclear as to what functions would remain with the Department as a whole versus the IEA. There is also the potential of adding more costs by establishing an IEA with its own parallel institutions.

For too long, tribes did not have a voice in the direction of the BIE schools on their reservations. A foundational principle of the Blueprint is that the Federal Government is fostering tribes to run their BIE schools with the resources and support that are necessary to have successful students in those schools. This reform implementation accomplishes many of the goals of S. 2580 without the increased expense or implementation time that establishing an independent agency would entail. I am happy to answer any questions the Committee may have.

**Statement  
of  
Lawrence S. Roberts  
Acting Assistant Secretary – Indian Affairs  
Department of the Interior  
Before the  
Committee on Indian Affairs  
United States Senate  
On  
S. 2711, the Native American Education Opportunity Act**

**April 6, 2016**

Good afternoon, Chairman Barrasso, Vice Chairman Tester, and members of the Committee. My name is Larry Roberts, and I am the Acting Assistant Secretary for Indian Affairs at the Department of the Interior (Department). I appreciate the opportunity to testify on behalf of the Department on S. 2711, the Native American Education Opportunity Act.

The United States' trust and treaty obligations include the education of Native youth. The Nation's history in this respect has often fallen short. Beginning in the 19<sup>th</sup> century, the United States government implemented a policy of placing Native youth in boarding schools, which had devastating impacts on Native children and tribal communities. During the 20<sup>th</sup> Century, Native children and communities endured Federal policies of relocation and termination. Since the 1970s, the United States has repudiated those failed policies of earlier eras and replaced them with policies promoting tribal self-determination and self-governance.

Through legislation, Congress has enabled the Department to contract with Tribes to deliver Federal services relating to education. Today, Tribes run nearly 70% of the BIE funded schools. Whether tribally or BIE-operated, over 80% of the schools are in rural areas. The rural setting presents additional challenges in providing high-quality education to American Indian students in BIE schools.

S. 2711 would expand opportunities for Native children by providing funding for an Education Spending Account (ESA), "an account controlled by a parent from which the parent may purchase goods and services needed for the education of the student." These ESAs could include spending for private school tuition, or church-operated schools, for example. 90% of federal funding for each student could be transferred to the non-BIE school. Although S. 2711 may provide options for the parents of BIE students, S. 2711 impacts Tribes and those students who remain in BIE schools. S. 2711 would essentially transfer Federal funds from tribally and BIE-operated schools to non BIE schools. For these reasons, the Department cannot support S. 2711.

**The Bureau of Indian Education**

The BIE supports education programs and residential facilities for Indian students from federally recognized tribes at 183 elementary and secondary schools and dormitories. The BIE serves approximately 8% of Native youth, while public schools serve 90%. Currently, the BIE directly

operates 54 schools and dormitories, while 51 tribes operate the remaining 129 schools and dormitories through grants or contracts with BIE. During the 2015-2016 school year, BIE-funded schools served approximately 48,000 individual American Indian students and residential boarders in grades K-12. Approximately 3,800 teachers, professional staff, principals, and school administrators work within the 54 BIE-operated schools. In addition, approximately twice that number work within the 129 tribally-operated schools.

The BIE and tribes are confronted with unique and urgent challenges in providing high-quality education to Indian students. Based on a recent BIE rural school analysis, 161 BIE schools are located in communities with a population of 10,000 or less. The average distance of BIE schools to the closest urban center is 164 miles, and only five BIE schools are located within an urban center. The rural and remote locations of the schools are most often in areas of concentrated poverty with insufficient housing and services. The geographical dispersion of the schools makes it difficult to achieve economies of scale in terms of staffing for both instructional and school operational support. Federal funding addresses infrastructure needs such as water, roads, fire departments, housing, and high-speed broadband access. When taken together, these factors and the unique educational and instructional-support requirements have contributed to the higher than average U.S. public school per-pupil costs.

### **S. 2711 Native American Education Opportunity Act**

Along with the sponsors of S. 2711, the Department shares the concerns and goals of improving the lives of Indian students by providing a high-quality education. The Department, however, cannot support S. 2711. The vast majority of BIE schools are operated by Tribes and the students served are located in some of the most rural areas in the United States. While transfer to an urban private school may be an option for a few students, doing so would result in further financial strain on the BIE system, including tribally operated schools. S. 2711 would directly impact the 51 tribes that have opted to run the 129 tribally controlled schools. ESA funding provided to an eligible student would decrease by 90 percent the funding available to the BIE school on behalf of that student.

Additionally, we are concerned with how S. 2711 would impact tribal languages, culture, and history. Many tribal and BIE-operated schools incorporate Native language, culture, and history into their curricula. Federal funding currently supports these efforts, and if funding is reduced for tribally and BIE-operated schools, tribes will need to make difficult decisions on how to address those budget challenges. Additionally, the Department is unaware of similar efforts by private schools to promote Native language, culture, and history; this could mean that many private schools may lack the capacity to address this crucial area of Indian student wellness and achievement. Further, tribes have advocated funding for tribal support costs, facilities operations and maintenance, and school construction to implement their vision for tribal education. It is unclear how S. 2711 would impact this funding.

Finally, while S. 2711 provides parents with a choice, it may be a difficult one for many families. As a practical matter, private schools are primarily located outside of Indian reservations. As I mentioned, the average distance of BIE schools to the closest urban center is 164 miles. In evaluating this legislation, the Department conducted a preliminary review of private school



locations in Arizona, and found that there are 291 private schools in Arizona but only six<sup>1</sup> are located on Indian reservations. S. 2711 would create an incentive for families of BIE students to move to urban centers or separate the BIE student from the family to attend an off-reservation private school.

The Department agrees with expanding opportunity for Native American children through additional options in education, but those options should promote tribal schools, not private schools. Thank you for the opportunity to testify today. I am happy to answer any questions the Committee may have.

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<sup>1</sup> Arizona's Six Indian Reservation-based Private Schools: 1) Hopi Mission School (Kykotsmovi), 2) Living Word Academy (Sells – Tohono O'odham), 3) Navajo Christian Preparatory Academy (Rock Point), 4) St. Michael Indian School (St. Michael – Navajo), 5) St. Michaels Association for Special Education (St. Michaels – Navajo Nation), 6) Immanuel Mission School (Teec Nos Pos – Navajo Nation). (National Center for Educational Statistic's Private School Universe Survey data (PSUS) for 2013-2014.)