

S. HRG. 111-826

**PREPARING OUR STUDENTS FOR TOMORROW IN
YESTERDAYS SCHOOLS: CONSTRUCTION AND
FACILITY NEEDS AT BUREAU OF INDIAN
EDUCATION SCHOOLS**

FIELD HEARING

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

SEPTEMBER 11, 2010

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SATURDAY, SEPTEMBER 11, 2010

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
White Earth, MN.

The Committee met, pursuant to notice, at 12:30 p.m. in the White Earth Reservation Tribal Administration Building, Hon. Byron L. Dorgan, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

The CHAIRMAN. We're going to call the hearing to order in a moment. My understanding is that the color guard will be here to post the colors. Can we have your attention?

Mr. DURANT. I just want to introduce myself. I'm Robert Durant, Secretary/Treasurer for the Tribe, and I belong with the group of the White Earth Veterans Association. I'm a very proud member of that, and what we have today is members from the Korean War, Vietnam, Iraq, and they serve us proudly all the time.

And today's a special day in our nation of memory, memory of what happened on 9/11, and when they come together like this to show our patronage to all of our people in this here country, and they'll be coming in here, so you know what's happening, is when they come in, during the drum they'll come through, face over here, and we just need to make sure we leave enough room for them. So there's a lot of pride here, so feel proud, and feel that pride.

Thank you.

Senator FRANKEN. Thank you.

The CHAIRMAN. Thank you.

[Presentation of colors.]

[Prayer by Tribal leader.]

The CHAIRMAN. We're going to call the hearing to order. It's a hearing of the U.S. Senate Indian Affairs Committee. As I do so, let me say a special thank you to the Color Guard, Secretary/Treasurer, the Tribe, and to others who have arranged for the Color Guard to be with us today. It is a very important day, and their posting of the colors and representing that to us was very special for me, and I know for Senator Franken as well. I also want to

thank the drum for what they've provided as we begin this hearing, so the color guard and drum, thank you very much.

As I indicated, this is a very special day in our country. I'm pleased to be here at the invitation of Senator Al Franken, a member of the Indian Affairs Committee, and because it's a very special memorial day in our country, memorializing 9/11, I want to call on Senator Franken at the start of this hearing for the purpose of discussing that.

Senator Franken?

**STATEMENT OF HON. AL FRANKEN,
U.S. SENATOR FROM MINNESOTA**

Senator FRANKEN. Thank you, Mr. Chairman, for holding this field hearing. I, too, want to thank the Color Guard for posting the colors, and the drums, and this is the anniversary of the attacks on 9/11 on the Twin Towers and on the Pentagon. In recognition of 9/11, and I left out the plane and the heroes on that plane that crashed in rural Pennsylvania, and the Color Guard reminds me and reminds us all that American Indians serve and volunteer in greater numbers as a percentage than any other people in the United States, and that just is underscored by that beautiful ceremony, and I'd like to take just a moment of silence to remember not only those who died that day, and their families, but also all of our troops who have paid the ultimate sacrifice since that time, so many of whom are Native Americans, so just a moment.

[Moment of silence.]

Senator FRANKEN. Thank you. Mr. Chairman?

The CHAIRMAN. Senator Franken, thank you very much.

This is a remarkable and a wonderful country, and we who are privileged to live here celebrate that every day, and one of the ways we celebrate it is through our process of self-governing, and in that process Senator Franken and I have an opportunity to serve in the United States Senate, and serve especially on the Indian Affairs Committee.

And we know, too, those who were in this country first, the first Americans, who greeted everyone else who arrived here, the first Americans, the American Indians, have had agreements with the Federal Government through treaties, through trust responsibilities, with respect to housing, education, law enforcement and health care, among other things.

We also know our Federal Government has not done as good a job as it should have been doing in meeting those obligations and the promises that have been made.

We're here today to talk about education, and we know that the Department of the Interior operates 183 schools throughout Indian Country in America. About 44,000 students, as well as thousands of teachers and staff, who work and who live at those schools, they're the responsibility of the United States through the Department of the Interior. It's the Department's obligation to ensure that these students and the faculty have a safe place in which to learn and to teach and to live. Nearly one half of the BIA schools, however, are in substandard condition. It's not a new issue.

In 2007 the Inspector General of the United States, in the Interior, issued a report indicating the seriousness of the physical con-

dition and the issues that reflect the deteriorating physical condition of some of these schools.

In the past several years we have held hearings on the construction and the facility needs of the schools. In May of this year we held a hearing on student safety issues at schools that are run by the BIA. Unfortunately, there's too little progress being made. There is now a construction backlog of \$1.3 billion. The Administration's budget actually recommended a nearly nine million dollar decrease in the BIA school construction funding. We're taking steps to make sure that doesn't happen. We've requested, Senator Franken and I, an increase that would bring the funding up to the 2003 level, think of that, the 2003 level, of \$243 million. But at the current level of \$52 million, it would take about 25 years to build the schools that are needed in Indian Country, and the average age of the school is now 33 years old.

And I want to mention that we had an opportunity to look at the high school here this morning. This high school was built under the WPA Program in the late 1930s. Bricks are deteriorating, falling down, the school is not a satisfactory school. Fortunately, there's some help on the way for those students, but this school is pretty typical of the problems; a 1938 school that is in horrible disrepair and is not built to facilitate commons where students can congregate, and it just is inadequate.

And so we're here today at the request of Senator Franken. I really appreciate very much his leadership, not just for Minnesota tribes, but his national leadership on Indian issues. I've been so pleased to have someone join the Senate that has decided that this is a priority.

So, Senator Franken, thank you for inviting me. I'm really pleased to be here.

Senator FRANKEN. Thank you for calling this hearing, and thank you for your leadership as a Chair. We're going to miss you when you leave in January, and your dedication to Indian issues has been very inspiring to me and to every member of the Committee.

This hearing is on the topic of Indian school construction and repair. By the way, I'd like to welcome you to Minnesota. I think you're familiar with it, we're next door to you, you know, and to White Earth. And again, thank you for your leadership.

Chairwoman Vizenor and members of the White Earth Nation, thank you for hosting this important hearing in your community. And I'd also like to extend my welcome to our other witnesses, and everyone in the audience. Your participation in this important discussion is very much appreciated.

I've served in the United States Senate for a little over a year now, since the beginning of my time addressing the deteriorating conditions of the schools that many of our Indian children attend everyday. It's been a top priority for me. The dangerous, and they are dangerous, building conditions at the Circle of Life School here at White Earth or the Bug-O-Nay-Ge-Shig School at Leech Lake present a major threat to health, safety, and the ability to learn of our Indian children. These conditions are an injustice. There's just no other way to put it. An injustice.

Ms. White from Leech Lake, I appreciate you joining us here today, and I look forward to hearing from you and your experience as a student at Bug-O-Nay-Ge-Shig School.

While there are people in the Federal Government who understand and honor the trust relationship between Indian tribes and the United States Government, let's face it, Indian affairs has unfortunately never been a federal priority. The budget for Indian school construction has been consistently cut since 2004, and this year's no exception. The President's proposed budget for fiscal year 2011 cuts Indian school construction, as the Chairman said, by nine million dollars, even after accounting for internal transfers between BIA accounts. It's true that we're in tough fiscal times, and every federal agency must tighten its belt, but even in good fiscal times, Indian programs have not been a priority.

Indian school construction is a prime example of this. Since 2004, the BIA hasn't had funding to replace even the initial list, even the initial list of 14 Bureau of Indian Education (BIE) schools in the worst condition in this country. The Circle of Life School here at White Earth, which I'm happy to say has finally broken ground for construction, was on that list. This year's proposed budget includes funding for the replacement of only one school, in Apache County in Arizona. How are we ever going to get through the \$1.3 billion backlog to repair or replace the 64 other Indian schools waiting in line, including the Bug-O-Nay-Ge-Shig School at Leech Lake?

We need to figure out another way to fund and build BIE schools. This means thinking both about funding and about innovative ways to build schools faster and cheaper without sacrificing quality. This year Chairman Dorgan and I worked together to call for a return to the level of \$293 million that Congress appropriated for Indian school construction back in 2003, as the Chairman mentioned. That funding increase would be a good start in addressing the \$1.3 billion backlog.

But the problem with BIE school construction and repair doesn't only lie with funding shortages. We know there are serious inefficiencies in the bureaucratic processes at the Bureau of Indian Affairs. Chairwoman Vizenor and Secretary/Treasurer Bongo will discuss their experiences with the BIA.

We also have to look into why it is so expensive to replace schools on Indian reservations, and what we can do to bring down that cost. Mr. Mullaney and Mr. Rever, I look forward to hearing from both of you on that topic.

Ultimately, doing justice to the children in BIE schools is going to take the efforts of all of us working together. Tribes and the Federal Government need to come to the table with an open mind and a true willingness to collaborate and to address this problem. I'm committed to being a partner in the Senate on this issue, and I hope to work with many of you young folk. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Franken, thank you very much. We're going to hear from five witnesses. We would ask that each witness summarize what they have to say. Generally we have five minutes of testimony. We do include the entire testimony as apart of the permanent record, so we will ask the witnesses to summarize.

First we have Jack Rever, who is the Director of Facilities, Environmental and Cultural Resources at the Department of the Interior in Washington, DC.

Then we will hear from the Honorable Erma Vizenor, the Chairwoman of the White Earth Tribal Nation here in White Earth, Minnesota.

Next we will hear from the Honorable Michael Bongo, Secretary/Treasurer of the Leech Lake Band of Ojibwe in Cass Lake, Minnesota. And then a student, Lindsey White, a student at Bug-O-Nay-Ge-Shig School.

And then finally Mr. Marty Mullaney, a board member of the Modular Building Institute in Charlottesville, Virginia.

Mr. Rever, thank you for being with us, and why don't you proceed.

STATEMENT OF JACK REVER, DIRECTOR, OFFICE OF FACILITIES, ENVIRONMENTAL AND CULTURAL RESOURCES, U.S. DEPARTMENT OF THE INTERIOR

Mr. REVER. Good afternoon, Mr. Chairman, Senator Franken. Thank you very much for inviting me to participate in this testimony today. I'm Jack Rever, Director of the Facilities, Cultural and Environmental Programs within Indian Affairs.

Mr. Chairman, you've already mentioned the number of schools and students for which we have responsibility for providing funding, and I want to mention that since 2001, about \$2.5 billion was put into the improvement of the Indian Education Program, but we still have a long way to go.

And here in the State of Minnesota, we, too, are pleased to note the start of the new Circle of Life School, but we also point out that we've put in, over the last three years, \$1.2 million for improvements at schools on the other three reservations here in Minnesota, and we think that we continue to do that to respond to the need for safety and like improvements for those schools.

We also are pleased to note that the American Recovery and Reinvestment Act provides \$278 million in Indian education construction. I'm here to report that we have signed all contracts obligating those funds, and we have also involved the hiring of unemployed workers on the Indian reservations, 26 reservations around the United States, and put over 380 individuals to work, providing them construction skill training as well as improving our federal facilities.

I want to point out that the most critical situations are addressed immediately within our Indian Education Program. We believe that worst first is the goal of our construction and repair program, and that all of our efforts are going to provide that safe environment for the education of our children.

We have made significant progress, which you've mentioned, but there are 63 schools remaining in poor condition, and a lot of work yet to be done. And you've already mentioned, Mr. Chairman, that the Assistant Secretary of Indian Affairs, Larry Echo Hawk, testified before your Committee on February 25th that the true need for correction of all deficiencies is \$1.3 billion, and that's just to bring those 63 schools that remain in poor condition into acceptable condition.

The 2004 list of replacement schools, as you have also said, Mr. Chairman, there remains four projects not yet started in that program.

I also want to point out that the No Child Left Behind Act, Public Law 107-110 required the Secretary of Interior to appoint a negotiated rulemaking committee, which is meeting currently in and across the United States, in consultation with Indian tribes, to help establish the methodology to establish the priorities of construction in our communities, in our school communities.

The fourth meeting will be held in Minneapolis on October 11th, and we want to invite all interested parties, particularly parents, to provide their comments on how the priorities should be established.

Mr. Chairman, that's a synopsis of my statement, and I will provide the balance for the record, and I'm prepared to answer any questions that the Committee may pose.

[The prepared statement of Mr. Rever follows:]

PREPARED STATEMENT OF JACK REVER, DIRECTOR, OFFICE OF FACILITIES,
ENVIRONMENTAL AND CULTURAL RESOURCES, U.S. DEPARTMENT OF THE INTERIOR

Good afternoon Mr. Chairman, Mr. Vice Chairman, and Members of the Committee. I am Jack Rever, Director, Facilities, Environmental and Cultural Resources Management in the Bureau of Indian Affairs in the Department of the Interior. The Bureau owns or provides funding for a broad variety of buildings and other facilities across the nation. I am here today to discuss the status of education facilities in Indian Country. Currently, Indian Affairs provides funds for facility programs for 183 academic and resident-only facilities on 63 reservations in 23 states for approximately 41,000 students and two post-secondary institutions.

Since 2001, the condition of Indian Affairs funded schools has improved dramatically. To track and report the status of a facility, Indian Affairs has established the Facilities Condition Index (FCI) which is the ratio of the cost of repairing a building to the cost of replacing a building. A school is defined as being in "poor condition" if it has an FCI of over 0.10. Being in "poor condition" may, but does not necessarily, imply that critical health and safety issues are present. In the last 10 years, over \$2.5 billion has been provided for construction, repair and maintenance to reduce the number of schools in "poor condition" by 50 percent. The number of schools in poor condition has been reduced from more than 120 of the 183 schools funded by Indian Affairs ten years ago to 63 today. In fact, we are pleased to note that there are 9 new or completely refurbished schools that were opened in time for this school year, and another 15 are expected to open in time for the next school year.

Here in the State of Minnesota, Indian Affairs is pleased to note the recent start of construction on the new Circle of Life School on the White Earth Reservation at a cost of \$15.4 million. Also, over the last three years, more than \$1.2 million dollars for improvements and repairs has been provided to the three other Indian Affairs funded schools in the state, which are the Bug-O-Nay-Ge-Shig School, the Fond Du Lac Ojibway School and the Nay-Ah-Shing School.

Indian Affairs is also pleased to note that the American Recovery and Reinvestment Act (ARRA) (Public Law 111-5) provided approximately \$278 million for construction of Indian education facilities. Of these funds, \$134.6 million was allocated to replace deteriorating Bureau-funded schools in a pre-established priority order and \$143.1 million was allocated for the repair of buildings and education related facilities such as communications towers that are necessary to sustain and prolong the useful life of Bureau-funded education buildings. Construction awards for these projects began in May of 2009 and all contracts and education grants for project accomplishment have been signed. In all, 141 separate projects at 58 Indian Affairs funded schools have been undertaken using ARRA funds. The work includes 3 new schools as well as 14 major improvements and repairs projects. This investment will result in better school facilities sooner than thought possible before passage of the ARRA.

To ensure that the most critical situations are addressed immediately, the Indian Affairs facilities program addresses life safety deficiencies first and foremost. These deficiencies are work that need to be completed in response to safety and facility

inspection reports and daily facility deficiency assessments by on site personnel. Indian Affairs has ensured that these inspections continue by hiring contractors to conduct the workplace safety inspections annually and facility assessment inspections on every building every three years or as facility conditions require due to special events such as winter storms, seismic events or similar incidents. In addition, our facilities program is managed by on-site facility managers who have immediate access to emergency funds and procedures to correct imminent danger situations. More routine work is prioritized through a risk assessment code process which is directly related to safety. Funds from the Bureau's Minor Improvement and Repair Program, commonly referred to as MI&R, are used for the abatement of those identified critical deficiencies costing less than \$2,500. The Education MI&R program for FY 2010 is funded at \$7.6 million, and other relevant line items such as Condition Assessment, Emergency Repair, and Environmental Projects provide an additional \$8.1 million for similar work costing more than \$2,500. As is true for most public school systems, there exists a backlog of maintenance and repair work for education facilities at Indian Affairs schools.

While significant progress has been made in the correction of education facility deficiencies, 63 schools remain in poor condition and there is still work to be done to bring these remaining education facilities into acceptable condition. As Assistant Secretary—Indian Affairs, Larry Echo Hawk, testified before this Committee on February 25, 2010, when asked about our estimated school construction backlog, we have an estimated school construction need of \$1.3 billion.

This \$1.3 billion estimate is the cost to bring the 63 schools remaining in poor condition to an acceptable facility condition. This figure includes more than simply fixing the deferred maintenance items. For example, if a school has a number of leaks in the roof, in the long run it would be more economical to replace the entire roof rather than continue to fix leaks year after year. Therefore, the cost to replace the entire roof is included in the figure above, rather than the cost to repair all the separate leaks. Likewise, it might also be more economical to replace an entire building or school rather than to repair a number of deferred maintenance work items. If this is the case, the cost to replace the building is included above. That is why it is important to note that the cost to simply repair the deferred maintenance at each of these schools on a project by project basis is much less than this \$1.3 billion.

The No Child Left Behind Act (NCLB) (Public Law 107–110, §1042) (25 U.S.C. §2005) requires the Secretary of the Interior, in consultation with Indian Tribes, to develop recommended methodology to determine priority of need for replacement schools and improvement and repair projects. Currently the priorities are largely based on the physical conditions of each facility. Indian Affairs recognizes that one of the major additional factors that should be included in the decision process is how well the school meets education facility standards established by Indian Affairs or individual state school facility criteria.

In accordance with the NCLB, the Secretary of the Interior established a Facilities and Construction Negotiated Rule Making Committee to formulate the methodology and factors to be considered in establishing the priority of schools in need of replacement, improvements and repairs. We have held three Committee meetings, and an additional three are planned. The next meeting will be held in Minneapolis, Minnesota, the week of October 11, 2010. Indian Affairs encourages all interested parties, especially tribal members, to attend and offer suggestions or comments to the Committee regarding this important issue.

Through the Facilities and Construction Negotiated Rule Making Committee, Indian Affairs is committed to improving Indian Education facilities across Indian Country by prioritizing the most critical needs and is working in consultation with Indian communities to ensure that schools in poor condition continue to be corrected in that order. Indian Affairs does not subscribe to a competitive grant or other process to determine the order of correction of facility deficiencies.

Studies have shown that while the physical condition of a school is certainly not the only factor, or even the most important factor, in student success, it plays an important role. Indian Affairs is committed to ensuring that students are in a safe and secure environment.

This concludes my prepared statement. Thank you for the opportunity to address the Committee and I am prepared to respond to any questions the Members may have.

The CHAIRMAN. Mr. Rever, thank you very much. We appreciate your testimony.

Next we'll hear from the Honorable Chairwoman of this tribe, Erma Vizenor.

STATEMENT OF HON. ERMA J. VIZENOR, CHAIRWOMAN, WHITE EARTH TRIBAL NATION

Ms. VIZENOR. Mr. Chairman, Senator Franken, your staff, our relative, the Leech Lake Tribe, thank you for honoring us today with this very significant hearing.

I'm going to abbreviate my comments. I want to also say that—for everyone here, this is the first Senate Indian Affairs hearing held on an Indian reservation in Minnesota as far as any of us can remember, and so we are truly honored that this hearing is at White Earth.

I want to go right to my second page here, and I'll submit what I have as record. The two issues that are at the very heart of the matter, the projected student population at the new school that is now under construction at White Earth, that's one issue, and the second issue is the list of schools needing construction of the BIA. There is a problem with the list. The current template for the school population by the BIA for a new facility needs to be updated. It simply doesn't account for the desire of students who want to attend a facility closer to their home that is in good condition.

The Circle of Life School could be overflowing with our tribal students, but due to the condition of the school, our students opt to go to other schools. This was an issue with the Bureau of Indian Affairs, who wanted to build a school for a population of 95 students, not considering any growth, and not considering those students who have left, and parents who wanted their students, their children, to go to good facilities.

The school, the education of our people, is a trust responsibility of the Federal Government. We have prepaid all of our education for generations to come.

In the year 2000 I was Secretary/Treasurer here at White Earth, and Mitch Volk, the Principal, and I, went to Aberdeen, South Dakota, to a BIE hearing, and requested a new school. That was 10 years ago.

And so we deal with a list. Yes, you're on the list. No, you're not on the list. We don't have funding this year. In 2006 we were told we were on the list. That's before any construction on this reservation ever happened. Education was a priority, and it still is.

In 2008 we were uncertain because of budget cuts. We finally got word this past spring that we had funding, and of that funding, \$14 million came from the Bureau of Indian Affairs, and the Tribe put in \$2 million, to increase the number of classrooms for that new school. The Bureau of Indian Education wanted to double up high school students, grades, and we said no.

So those are the issues that we have had: The uncertainty, the juggling around, the fact of turnover within the Department itself, where every time I went to talk to someone, I was talking to someone new and educating someone new.

During my few minutes I have here, we have our money now for our new school, and it's under construction, and our students will be moving into a new school in a year, and I can predict our school is going to be full.

I want to say that another issue is our tribal colleges; BIE obligation, BIE responsibility. In 1997 we established a tribal college at White Earth, and the first place that college was housed was in an old grocery store, and today it's scattered all over the city of Mahanomen, and we're looking for money to build a campus. It will cost \$20 million to build a new campus. That's the responsibility of the Bureau of Indian Affairs and the Federal Government.

And so education is our ticket out of poverty here. I can attest to that myself. It's very important. It's a priority for us.

And with that, Mr. Chairman, I close my comments, and I submit my record.

[The prepared statement of Ms. Vizenor follows:]

PREPARED STATEMENT OF HON. ERMA J. VIZENOR, CHAIRWOMAN, WHITE EARTH TRIBAL NATION

Chairman Dorgan and Senator Franken:

My thanks to both of you for coming to the White Earth Tribal Nation today. Chairman Dorgan, we welcome you to your neighboring State of Minnesota for this important hearing and our thanks for allowing this hearing by the Committee today.

Senator Franken, we want to especially thank you for asking to serve on this committee. Indian Country in Minnesota has needed a voice on this important committee for many years, and we are so pleased you requested this seat even before you were officially a member of the United States Senate. I want to thank you on behalf of our entire population in the State of Minnesota.

As you know we are the largest Tribe in Minnesota and most proud of our progress and people. I believe there is not another reservation in the nation where you can learn more about the problems of school construction than here on the White Earth Indian Reservation.

Prior to being Chairwoman of White Earth, I was an educator. I know how important education is to the progress of any people, not just in Indian Country. Facilities are a major factor for successful education. Indian Country has lacked proper facilities in almost all areas of the nation and we certainly have not had proper facilities in this region in many locations for many years.

In 1999, the Circle of Life School was condemned. As you know, this facility was built in 1939 and was the main school for our reservation for many years. The Tribal leadership began immediately to work with the BIA to provide for a new school. Road block after road block was put in our path, while our children continued to try to be educated in a facility that was not safe or healthy.

I became Chair of the White Earth Nation in 2004. On my first trip to Washington, D.C. as the Chairwoman I requested a meeting with the person designated at the Department of Interior to work on this issue. We were told from the very beginning this was a long process. I told him we needed to move faster. Children were getting sick and even worse—quitting school because the facility was in such poor condition.

Two issues were at the very heart of the matter: projected student population at the new school and the "list" of schools needing new construction at the BIA. I pleaded with anyone I could speak with about this issue that our school was condemned!! We were unlike other schools on the list that simply wanted to expand or upgrade their facilities. As the Circle of Life School continued to deteriorate, students continued to enroll in neighboring local schools or even worse—dropping out. I considered this issue an emergency and spent many hours and days on the phone or in meetings with Washington, D.C. officials and BIA officials in Albuquerque. Eventually we were able to move up on the list but continued to not receive funding due to budget cutbacks.

A major problem with the BIA was the projected school population. The Circle of Life School had deteriorated so badly, the student population dropped to the lowest levels I had seen at this school. We knew once a new facility was available, these students would return. The BIA told us their projection for the school was about 95 students—we believed the number was actually double that amount.

As the Committee looks at the problems of school construction in Indian Country, I would advise you to consider the following:

- 1) The current template for school population by BIA for a new facility needs to be updated – it simply does not account for the desire of students to want to attend a facility closer to their home that is in good condition.
- 2) A better system by BIA needs to be employed when a school is in an emergency status as was the Circle of Life school—by being condemned. It should not have to compete with schools that simply need expansion or updating—a new category needs to be developed for these types of situations.
- 3) The nation needs to realize the best means to keep Indian students in school and becoming successful members of the community is to have good schools on the reservations with up to date facilities. Research has shown drop out rates are lower if students can attend schools near their home on the reservation that provide education equal to the schools in the surrounding locales.
- 4) The BIA should consider providing unused federal property on reservations for Charter schools. The White Earth Nation bought a building, at one time a BIA school, to begin a Charter School which we believe will improve student performance and graduation rates in the future.
- 5) Education on the White Earth Reservation does not stop at high school. Beyond high school we educate many people, a majority non-traditional students at our White Earth Tribal and Community College (WETCC) which was established in 1997. Our tribal college is in dire need of campus construction, a cost of \$20 million to adequately meet the needs of our growing post secondary student population. The 2010 enrollment for fall semester is 114 of which 98 are Native students and 16 are non-native students. WETCC is a fully accredited institution.

Again, me-qwitch (thank you) for coming to the White Earth Reservation and giving us the opportunity to address the concerns and barriers to BIA school construction.

The CHAIRMAN. Madam Chairwoman, thank you very much for your testimony. We appreciate your hosting us today as well.

Next we'll hear from the Honorable Michael Bongo, the Secretary/Treasurer of the Leech Lake Band of Ojibwe in Cass Lake, Minnesota.

**STATEMENT OF HON. MICHAEL BONGO, SECRETARY/
TREASURER, LEECH LAKE BAND OF OJIBWE**

Mr. BONGO. Welcome Senator Dorgan, Senator Franken, distinguished guests, to beautiful northern Minnesota. We're very honored and pleased to have you here today to join us, especially in such a lovely new facility as this, and I commend Chairwoman Vizenor and the Tribal Council here at White Earth for their efforts. They've done a remarkable job.

I'm privileged to be here today to share with you a lifelong frustration in dealing with the Bureau of Indian Affairs and its lack of accountability and holding trust responsibility to American Indian people.

I would also like to thank the Committee and especially Senator Franken in your new efforts to bring greater accountability to the Bureau. It's greatly appreciated.

Chairman Dorgan, I want to thank you for being a lifelong friend of American Indian people. It's truly an honor and a privilege to be here with you today. Your record certainly speaks for itself, and I have many American Indian friends in the state of North Dakota who have nothing but honorable and respectful things to say about you. Thank you.

I should not have to remind the people of our great nation that our great country was built predominantly on the backs and at the great expense of American Indian people. Please don't misunderstand me. I am not here today to ask for a handout, but rather a hand up, and a renewed investment in our most precious resource, our children, who are the future of our people.

I'm here today in part to discuss the replacement and additional funding for not only the Bug-O-Nay-Ge-Shig High School, and my colleague has explained some of the conditions that our children are going to school in, basically a pole barn building, but equally as well to address the inadequate funding of all BIA/BIE schools nationwide. The situation has become critical and deplorable. We are a great nation, with great resources, and our children should not have to suffer by going to school in inadequate facilities that are less than conducive for learning. Sadly, a quick review of the funding history of the BIA schools will show a great disparity and signifies a complete lack of investment on our nation's part in the education of American Indian children. This should not and cannot be condoned any longer.

Presently our children attending the Bug-O-Nay-Ge-Shig School are subject to what I can only characterize as a learning environment that is far, far from being conducive as a proper and adequate learning facility. The current high school facility is a basically metal, flat, pole barn building, as you can see. One third of the facility was completely destroyed in 1992 by a gas explosion. The solution was to add more modular pole barn constructed-type facilities. It's inadequate. It's deplorable and shameful.

The current facility has serious structural and mechanical deficiencies, lack of proper insulation, does not come close to meeting the very basic safety, fire and security standards due to very poor construction from the very beginning.

The facility jeopardizes the health and safety of students due to poor indoor air quality from mold, funguses, and faulty HVAC systems. The facility also suffers from rodent infestation, which frequently disrupts class. The roof leaks, is sagging, we have holes in the roof from ice buildups over the years, uneven floors, poor lighting, sewer problems, lack of handicap accessibility, and the inadequacy and the safety issues continue to go on and on and on.

While we greatly appreciate Mr. Rever's visit to the school a few years ago, to see the current conditions firsthand, we're greatly concerned about the BIA and BIE's growing list of excuses. The

BIA blames OMB. The OMB blames the BIA. Year after fiscal year, as a result, there is no positive forward movement, the problems continue to grow and grow, and our children continue to pay the price.

We've got to the point that it's become laughable in Indian Country, to the point where a few months back I shared a story with Senator Franken about a friend of mine who started off 35 years ago working for the BIA. After five years, he transferred to the Indian Health Service. He recently retired, and I ran into him one day, and I asked him, I said, "Ed, how's retired life treating you?" And he started laughing. He said, "Oh, Mike, he said, "It's great," he said, "it's just like working for the BIA all over again." That's how the situation has become, laughable.

Chairwoman Vizenor, shared the shelving that we've experienced with the BIA. You're on this list. No, you're on that list. No, you're not on any list. Okay, is there even a list? Why does that target keep moving and changing? Clearly someone's not doing the job they are paid to do, and the situation has reached an unacceptable level that cannot be tolerated any longer, and the BIA must be held accountable. There's no ifs, ands or buts.

The current state of affairs, I cannot help but wonder if any of the BIA senior officials would send their children to school in such an environment that we are forced to send our children to school in. I think not.

In conclusion, the United States Government has asked American Indian people to overcome poverty, dependency and addiction through education, and while we wholeheartedly agree, all we are asking for is the schools to do just that. What we are simply asking for is the meager resources to provide our children with a safe, healthy and adequate facility that is conducive to learning in a healthy learning environment. I do not think that that's asking for too much.

As I stated previously, what we're asking for is a hand up, not a handout, and given the vast resources of this great nation of ours, I do not believe that requesting \$15 million for replacement of a facility that should have been replaced 20 years ago, is asking for too much. We can spend billions and billions of dollars on war, but not one dime on education of Indian children? As I indicated, this is no longer acceptable, and it is no longer tolerable. And as I've told other colleagues in Washington, DC, and other public officials, I will not let this issue go until our words are heard and action's taken.

Again, I want to thank you for your time today, gentlemen. Thank you for coming to Minnesota. Mr. Dorgan, you will be an asset who is deeply missed to our people when you retire. Thank you, gentlemen.

[The prepared statement of Mr. Bongo follows:]

PREPARED STATEMENT OF HON. MICHAEL BONGO, SECRETARY/TREASURER, LEECH LAKE BAND OF OJIBWE

Good afternoon Chairman Dorgan, Senator Franken, and Members of the Committee. My name is Mike Bongo, and I am the Secretary/Treasurer for the Leech Lake Band of Ojibwe. Thank you for inviting me to testify today to discuss the Band's long struggle with the Bureau of Indian Affairs (BIA) to replace our high

school facility at the Bug-O-Nay-Ge-Shig (High School), which is administered and funded by the Bureau of Indian Education (BIE).

First, I would like to take a moment to thank Senator Franken for his tremendous efforts to assist us in addressing our High School's construction need, including requesting this hearing, and for pushing the BIA to step up to the plate. We share Senator Franken's deep frustration with the Office of Management and Budget (OMB) and with the Department of the Interior (DOI) over their lack of responsiveness to address this problem as well as the difficulties we have experienced in obtaining information about the situation from the BIA.

History of Indian Education

Before discussing the specific needs of the High School, I would like to briefly discuss the history of Indian education in America. As this Committee is well aware, federal laws, treaties, and policies acknowledge the Federal Government's obligation to provide for the education of American Indian children.

After formation of the United States, Indian tribes ceded hundreds of millions of acres of our homelands to the Federal Government to help build this nation. In return, the U.S. made promises to make the resulting reservations permanent livable homes, including providing for the education, health, and general welfare of reservation residents. These treaty promises were made in perpetuity, remain the supreme law of the land, and do not have an expiration date. However, as you will see and hear today, these promises have not been kept, and our children suffer because of it.

Pressing Need to Replace High School Facility at Bug-O-Nay-Ge-Shig

The Bug-O-Nay-Ge-Shig is located in Bena, Minnesota, operated by the Leech Lake Band of Ojibwe and governed by the Bug-O-Nay-Ge-Shig Board. The School serves nearly 300 Native American children in grades K–12 who commute from 14 communities located within five counties within a 70-mile radius of the School. The School was founded in 1975 with 35 Ojibwe students from the Leech Lake Reservation in response to parental concerns that public schools were not meeting the academic and cultural needs of Ojibwe students. Since that time, the School has transformed itself into a magnet school, teaching state-approved curricula with Ojibwe cultural components. Given the educational opportunities the School provides to Native American students, enrollment in the School overall has steadily increased over the years.

The elementary and middle school facilities are in satisfactory condition, but the High School is in dire need of replacement. The current High School facility is a metal-clad pole barn, formerly used as an agricultural building. One-third of the high school facility was destroyed in a gas explosion in 1992. The facility has serious structural and mechanical deficiencies and lacks proper insulation. The facility does not meet safety, fire, and security standards due to the flimsiness of the construction materials, electrical problems, and lack of alarm systems. Further, the building lacks a communication intercom system, telecommunication technology, and safe zones, which puts students, teachers, and staff at great risk in emergency situations.

Also, the facility jeopardizes the health of the students and faculty due to poor indoor air quality from mold, fungus, and a faulty HVAC system. The facility also suffers from rodent infestation, roof leaks and sagging roofs, holes in the roofs from ice, uneven floors, poor lighting, sewer problems, lack of handicap access, and lack of classroom and other space. These are just a few of the facility's numerous deficiencies. Due to the unsafe and undesirable condition of the High School, many students leave after middle school to attend the public high school. Students are embarrassed about the condition of the High School, resulting in a negative image of the School in the community and a lower matriculation rate.

The High School is on the BIA's list of schools in need of replacement and has exceeded its life expectancy by decades. The BIA categorizes the high school facility as being in "poor" condition. The BIA Midwest Regional Office for the Office of Indian Education Programs compiled a report in 2007, expressing strong concerns about the electrical problems, potential fire issues, and student safety. The BIA Office of Facilities, Environmental, Safety, and Cultural Management had documented the deficiencies of the High School; and the Director of that office, Jack Rever, who we understand is testifying today, toured the high school facility last year. We appreciate Mr. Rever's efforts to tour and to see first-hand the deficiencies and deplorable condition of the High School. We have prepared design plans for a replacement high school facility and estimate the cost to be approximately \$15 million.

While we appreciate Mr. Rever's efforts, in an August 26, 2009 letter in response to a letter from the Minnesota delegation, Secretary Salazar stated that DOI is still

working to replace 5 of 14 other schools on a list generated over 6 years ago and must engage in a negotiated rule-making process that will take at least a year before it can determine DOI's future budget requests for BIE facilities construction as well as the priority of replacement of the High School. The letter also states, "As you point out in the letter, the condition of the Bug-O-Nay-Ge-Shig High School does not meet current education or construction code requirements and is among the more than 70 schools funded by the Bureau of Indian Education that are in poor condition." This letter alarms us because it shows that DOI does not have a comprehensive plan of action to address these dire needs even though these schools have been in this condition for a long time. There is an urgent need to replace the High School, and we ask that DOI and the Congress treat it as such, especially considering that the lives of children are at stake.

Urgent Need for Action to address BIE Construction Backlog

The discussion of the construction needs of Indian schools has been ongoing for more than a decade. This Committee has held numerous hearings where the issue of Indian school construction was discussed. Federal officials testify, point fingers, and yet nothing has been resolved.

When we have met with the BIA and OMB over the past couple of years, they each tell us that it is not their agency's fault but the other agency's fault that there is no funding to replace the High School. BIA tells us that they have no money for school construction and to talk to OMB, and OMB tells us that they provide funding to BIA for construction and that BIA is not utilizing the funding effectively. At the end of the day, DOI and OMB are quick to blame each other but provide no solutions, forcing our children to shoulder the burden. Further, it is extremely difficult navigating the byzantine BIA bureaucracy and its layers to obtain school construction information.

This run-around is unacceptable. Section 7101 of Title VII of the No Child Left Behind Act (NCLB) states:

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with . . . Indian tribes . . . toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

In accordance with its obligation to Indian children, the United States must work with us to seek a solution to this problem instead of ignoring the issue and finger pointing.

We recognize that previous Administrations had a hand in creating the BIE construction backlog, which is at least \$1.3 billion; however, looking at the current Administration's funding requests since it has been in office, it seems that—despite statements to the contrary—the need to improve BIE school facilities is not a priority.

Assistant Secretary Larry Echo Hawk testified at this Committee's May 13, 2010, hearing on Indian school safety stating, "The Administration is committed to providing high-quality educational opportunities for the students who are educated in the 183 BIE-funded elementary and secondary schools, consistent with the Government's trust responsibility for Indian education. In order to fulfill this responsibility, it is imperative that the Department provide these students with safe and healthy environments in which to learn." Unfortunately, DOI's budget requests do not match the Assistant Secretary's statements.

The FY11 budget request for Indian school construction funding is \$53 million, a \$60 million cut from the FY10 enacted level of \$113 million. The Administration justifies this proposed budget cut by pointing to Recovery Act funding for BIE school construction needs. However, we all know that one-time funding under the Recovery Act of \$277.7 million for BIE construction will not address the tremendous backlog and that there needs to be sustained increased funding over multiple years to truly address this need.¹ Looking at the Administration's FY11 request of \$53 million,

¹The Recovery Act authorized the issuance of \$400 million in qualified Indian school construction bonds (\$200 million for each calendar year in 2009 and 2010). The bonds provide tax credits to investors in lieu of interest. However, to date, zero dollars have been allocated. DOI indicates that it lacks the authority to establish an escrow account to provide tribes with funding to pay bondholders. We urge Congress to provide this authority to ensure that this opportunity is not lost.

it only proposes implementing a partial replacement of one school campus and a partial of replacement of one school facility.

These cuts for Indian school construction represent a disturbing trend that spans both the Bush and Obama Administrations and both parties' control of Congress. The enacted levels for Indian school construction over the past 7 fiscal years have steadily and rapidly declined. The FY05 enacted level for Indian school construction was \$263.3 million, the FY06 enacted level was \$208.9 million, the FY07 level was \$204.9 million, the FY08 level was \$142.9 million, the FY09 level was \$128.8 million, the FY10 level was \$113 million, and as noted above, the proposed level for FY11 is an appalling \$53 million.

The Administration's failure to request and Congress' failure to appropriate sufficient funding for BIE school construction is unconscionable in light of recent DOI Office of Inspector General reports finding "severe deficiencies" at BIE schools that "have the potential to *seriously injure or kill students and faculty* and require immediate attention to mitigate the problems."² One-third of the 183 BIE schools are in poor condition and in significant need of repair or replacement. Of the 4,495 education buildings in the BIA inventory, half are more than 30 years old and more than 20 percent are older than 50 years. On average, BIA education buildings are 60 years old, while the national average for public schools is 40 years.

While we understand budgetary constraints, the Administration's and the Congress's strategy to counter the recession has been to stimulate economic growth through construction projects that create jobs and that provide skills for workers. The replacement of our High School—and other BIE schools for that matter—fit perfectly within the economic recovery strategy; however, the funding requested by the Administration and provided by the Congress for BIE school construction does not even make a dent in the construction backlog. Instead, it seems that we are going backwards not forwards in meeting the educational needs of Indian students, which includes providing adequate facilities that foster learning.

As noted above, the United States owes our students the opportunity to attend school in a safe environment that maximizes their educational opportunities. Instead, our students attend high school in a sub-standard, dangerous environment that is not conducive to learning. This affects their self-worth, creates feelings of inferiority, and sends a message to them that their education and even their lives are unimportant. Our hope is that this hearing will shine a spotlight on this problem and that, as a result, the Administration and the Congress will work together to quickly develop a comprehensive plan of action to address the construction needs not only at the Bug O Nay Ge Shig High School but also at all other BIE schools. The Federal Government's responsibility for the education of Indian people is in response to specific treaty rights; and anything less than full funding of Native education programs signifies increased negligence of its trust responsibility.

Recommendations

Due to the serious health and safety concerns at the Bug O Nay Ge Shig High School, the BIA should ensure that the replacement of the High School is one of its highest priorities.

Further, the United States should address the tremendous backlog in BIE construction. The only way that this backlog can be addressed is if the Administration and the Congress work together aggressively to not only develop a comprehensive multi-year plan but also to adequately fund its implementation. An example of a comprehensive plan is the Indian Health Service's 5-year priority construction list, which it updates once a year. Even though there is a construction backlog at IHS, at least there is transparency. In addition, IHS works cooperatively with tribes so that they know the status of their health care facilities projects at IHS, which is not the case with the BIA. However, a plan is only as good as its execution, and the Administration and the Congress must commit to implementing it.

Conclusion

As you know, Indian tribes ceded millions of acres in exchange for adequate education, health care, and other basic services. The failure to meet these obligations is jeopardizing an entire generation of Indian children. We thank you for your efforts to ensure that the United States lives up to this solemn responsibility, and look forward to working with you and the Administration to rebuild BIE schools and provide a safe learning environment for our children.

²Department of the Interior Office of Inspector General Flash Report, *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, C-IN-BIA-0008-2007 (May 2007) (emphasis added).

The CHAIRMAN. Mr. Bongo, thank you very much. I appreciate your kind words, and certainly appreciate your testimony.

Next we're going to hear from Lindsey White. Lindsey is a student at the Bug-O-Nay-Ge-Shig School. I hope I have that right. You can say it better than I can, Lindsey, I'm sure. But we appreciate your being here to give us the perspective coming from a student, so you may proceed.

**STATEMENT OF LINDSEY WHITE, STUDENT,
BUG-O-NAY-GE-SHIG SCHOOL**

Ms. WHITE. I'm currently a senior at the Bug-O-Nay-Ge-Shig School, and I've been there 12 years, kindergarten through 12th grade, and quite frankly, I'm pretty amazed at how long we've had that school there. To me it doesn't look like a high school, it's like what Mr. Bongo said, a barn, a garage.

Inside, like you've seen in these pictures here, the one to the left is our science room. All you see, all the wires, there's nothing really covering the floor, there's just metal there, and there's ground, and that's about it.

Over on the right is our English class. Nothing really there either. A lot of our classrooms are like this. And like also what Mr. Bongo stated earlier, that currently, as we speak, our ceilings in our rooms are leaking, and this is causing water damage on our floors and our ceilings. And a lot of our rooms, too, in our classrooms, it's hot in one room, and then when we change classes it's cold in the next. There's no stable temperatures.

And it's kind of hard to go to class, because we have to go walk from the high school and all the way to our main building. That's pretty faraway. We have to do that in our drills. We have to run from the high school all the way down to the main building just for a tornado warning, like when we have to do drills. It's pretty hard. For me it's a distraction.

A lot of things we have in our school, our high school, give me headaches. A lot of our classmates can agree. There's not windows in our classrooms. It's not comfortable.

What else? I don't know, but I've been in school for a long time, as I've said, and it's just, like Mr. Bongo said, it's kind of laughable, because many times I've heard throughout my school, my education, I've heard, yes, we're going get a new school here, yes, we're going to get a new school, but never happened. I don't know.

And one thing, though, I like about my school, even though it's the way it is, the teachers are nice. I love my teachers. But it's kind of hard to work with all these distractions and conditions. It's distracting.

I just wish that we get a new school, especially for the younger kids, so they don't have to go to school in these conditions where it's hard to concentrate, hard to learn.

And in the winter sometimes it's really hard, because it's like really cold in our building. We have to wear our winter coats in our room.

And whatever questions you may have for me, I would like to answer them.

[The prepared statement of Ms. White follows:]

PREPARED STATEMENT OF LINDSEY WHITE, STUDENT, BUG-O-NAY-GE-SHIG SCHOOL

Hello, everyone. My name is Lindsey White. I'm a member of the wolf clan and I live in Cass Lake. I am currently a senior at the Bug-O-Nay-Ge-Shig School. Thank you for the invitation and opportunity today to represent my school.

I've been attending the Bug-O-Nay-Ge-Shig School for the past thirteen years. All thirteen years I've been told that education is very important, but it's hard for me to believe this when I see how my school looks compared to the other local schools.

The Bug-O-Nay-Ge-Shig School was formed in 1975. My school was not constructed with the intention of being a long-term structure for a high school. It is a metal-clad temporary structure that was built over twenty years ago. Today we have almost three-hundred Native American students from across the many reservations around Minnesota.

Currently, the carpet in our high school is soaked with water because leaks from the ceiling and the windows. Our building fails to meet safety and security standards because this. We have air quality issues that include mold and fungus. This cannot be safe for our students and staff. Also, our heating and cooling system is insufficient. Another safety concern is the lack of security during emergencies. There are no "safe" areas in our building to use during an emergency or disaster; we often have to run to the elementary building during severe weather. Students and staff have also seen evidence of rodents in our building. Our school also lacks up-to-date communication technology and basic integrated alarm systems. Large group school and community meeting areas are insufficient as well; we have to meet in the gym, which is located almost a quarter mile away, or crowd into a small room in our high school building.

All of these problems have effected my education in a negative way. Many of the classrooms I'm in lack windows, which makes the air stuffy. With an insufficient heating and cooling system, I have some classrooms that are very cold and others that are very warm. This is distracting when trying to do my work. The many fluorescent lights give me a headache when I'm trying to concentrate in class. Our hallway has uneven floors. This creates safety issues for students and staff walking through our hallways. Overall, the quality of our high school building is in poor condition. When students are expected to attend and work in a school like ours, it's very difficult to work and take school seriously when our building is in the shape that it is.

For me, as a student going to school in these conditions, it is frustrating because these things are distractions and take away from our academics. It's disappointing that our classrooms are small and inadequate. I am embarrassed that our school is this way, when many other schools look more like a high school should. Despite these serious concerns, our school provides a quality education when we don't have to worry about safety issues. The Bug School focuses on integrating culture into academics. Students have the opportunity to participate in classes such as seasonal activities, Ojibwe Language, drum and dance, cultural arts, and Ojibwe History. We also have a language immersion program.

In closing, I want to say we deserve a building that is secure and safe. Our education is just as important as anyone else's. Because we choose culture as a part of our education, we should not suffer a second or third rate building. If education is a priority, why has nothing improved in our high school building after so many years?

Again, thank you for this opportunity to represent my school and for listening.
Miigwech Biizendawieg

The CHAIRMAN. Lindsey, thank you very much. We appreciate you taking the time on a Saturday to come as a student and participate in a hearing to talk about education.

Next, and finally, we'll hear from Marty Mullaney, who is a board member of the Modular Building Institute in Charlottesville, Virginia, and I might mention one of the reasons that we've asked Mr. Mullaney, and we appreciate him traveling to be here, is our Committee has been very interested in this question of what are the costs, how are you able to provide good facilities at a lower cost, and modular construction is something we'd be very interested in the areas of law enforcement and schools and so on, so Mr. Mullaney, thank you for being here. And you're very close to North Dakota, and I'm sure you're pleased about that.

Mr. MULLANEY. Yes.

The CHAIRMAN. Wonderful state. And pleased to be here in Minnesota as well, I should say. Mr. Mullaney, you may proceed.

**STATEMENT OF HON. MARTY MULLANEY, PRESIDENT,
SATELLITE SHELTERS; BOARD MEMBER, MODULAR
BUILDING INSTITUTE**

Mr. MULLANEY. Thank you. Thank you, Chairman Dorgan and Senator Franken. As you mentioned, I'm representing the Modular Building Institute today. My real job is president of Satellite Shelters based in Plymouth, Minnesota, so I'm actually not too far from home, and unfamiliar with the territory.

I just want to step back for a second, and having heard the testimony of the three people beside me here, I had to think that for myself, and I can't speak for Mr. Rever, it would be unlikely that I would be sitting here today had I had the challenges that these folks have had in attaining a good education, and it's been enlightening testimony for myself.

Commercial buildings, commercial modular buildings, are basically nonresidential structures, 60 to 90 percent developed in a factory, delivered onsite and installed; thus, the ability to get some serious costs out of school construction and other applications as well.

About two years ago I actually met Mr. Rever in Albuquerque at the Bureau of Indian Affairs, and we had a good discussion on how we could possibly participate in helping the Indian reservations in achieving their goals of more—better quality buildings, more cost efficient, and timely. I couldn't help but remember the comment you made, I think you mentioned 23-year backlog or something like that, and the current processes, and it's a frightening situation.

As a result of the meeting a couple years ago, the BIA did put out two requests for proposals for permanent modular campuses. I noticed down the road here you've got a couple of the modular classrooms that Michael was referring to, and they're not the highest, best quality, I can tell you by looking from the outside, but it's a start. It's like asking the cost of a house. We can build this building or those two classrooms down the road in modular.

I'd like to discuss the two main advantages of modular schools. Time advantages, which addresses one of the issues brought up earlier. Ability to deliver to a remote location appears to be an issue as well, getting a workforce that you need.

Unique to modular construction is the ability to simultaneously construct the floors, walls, ceilings, rafters, at the same time. During site-built construction, walls can't be set until the floors are set and so on. On the other hand, with modular construction, walls, floors, ceilings, rafters, go up at the same time, brought together in one piece and installed on site. This, in time perspective, 30 to 40 percent less time for a standard school building from start to finish. And because we build this in a controlled environment, and certainly the folks in this territory can appreciate this, we don't slow down much in the harsh winter months. As a result, again, a major cost savings.

One of the issues that always comes up with modular construction, is it as good as original construction? And I can tell you that there was recently a request from the National Institute of Stand-

ards and Technology, and that report came out very favorable in recommending modular as one of the innovative processes that Senator Franken mentioned earlier.

Some of the advantages that they, an independent third party, came up with: More controlled conditions for weather, quality control, improved supervision of labor, and easier access to tools.

Fewer job site environmental impacts because of reductions in material waste, air and water pollution, dust and noise, and overall energy cost. There was an offsetting point to that that they pointed out, and that's the energy related for transportation, as well as energy expended at the factory.

Compressed project schedules. Fewer conflicts in work crew scheduling and better sequencing of crafts and other persons. And I will make a comment there, that we talked about with Mr. Rever, the ability to hire local skilled tradesmen as well as unskilled tradesmen to help with the installation of the building.

And increased worker safety, reduced exposure to inclement weather, temperature extremes, and so on. We've included in attachment one in the handout you've got that goes through that.

Another key advantage to modular construction is our industry's ability to deliver in remote locations. Because a majority of the structure is built offsite, finding a skilled laborforce again is a difficult process in many areas. The modular building industry can hire locally.

Our industry successfully placed buildings in all areas of the globe, from the driest deserts in South America to the most severe winter climates in northern Canada and Russia. It is because of this ability to deliver to remote locations, and our shorter construction schedule, that many are looking to our industry for a big role in building in Haiti and Chile as well.

The industry group that I represent represents about 300 private commercial companies around the United States. We've also provided a map to member locations as well.

In just concluding my remarks, we're well positioned to help deliver quality schools to remote locations in a much shorter time frame than conventional construction projects. I won't sit here and tell you today that modular is the answer in every application, but it's certainly an opportunity to consider when you're considering any application.

We believe our record of performance on past projects with the BIA and others should give you some level of confidence that modular should be one of the innovative solutions to be considered as we move forward.

Again, I want to thank you for your time, and once again, if we all had an advocate like Lindsey representing our topic, we would be much better off. Thank you.

[The prepared statement of Mr. Mullaney follows:]

PREPARED STATEMENT OF HON. MARTY MULLANEY, PRESIDENT, SATELLITE SHELTERS; BOARD MEMBER, MODULAR BUILDING INSTITUTE

Chairman Dorgan, Vice Chairman Barrasso, and Members of the Committee, I am Marty Mullaney, President of Satellite Shelters, Inc. a national provider of commercial modular buildings headquartered in Plymouth, Minnesota. I am testifying today as the past president and on behalf of the Modular Building Institute—a national

non-profit trade association established in 1983 representing commercial modular construction companies.

MBI appreciates the opportunity to speak to the Committee on ways to help provide high quality schools to remote locations in an efficient and timely manner.

Commercial modular buildings are non-residential structures, 60 percent to 90 percent completed off-site in a controlled environment, and transported and assembled at the final building site.

About two years ago, our industry began conversations with the Bureau of Indian Affairs on how we could help the agency better achieve its goals. A large part of that conversation was educating key staff on the fact that the modular construction industry provides both temporary facilities as well as permanent structures.

As a result, the BIA recently issued two RFPs specifically for permanent modular campuses in Kaibato and Wide Ruins Arizona. In fact, our industry has successfully delivered on many permanent school construction projects across the country including several in remote locations.

I'd like to discuss two main advantages of modular schools with you today:

- 1) Time advantages of the modular construction process.
- 2) Ability to deliver facilities in remote locations in an efficient manner.

Unique to modular construction is the ability to simultaneously construct a building's floors, walls, ceilings, rafters, and roofs. During site-built construction, walls cannot be set until floors are in position, and ceilings and rafters cannot be added until walls are erected. On the other hand, with modular methods of construction, walls, floors, ceilings, and rafters are all built at the same time, and then brought together in the same factory to form a building. This process often allows modular construction times of half that of conventional, stick-built construction.

And because construction occurs in a controlled environment, weather delays are minimized and the construction season is extended, even into harsh winter months. As a result, the typical modular construction schedule is about 30 percent shorter than a comparable stick-built project.

Recently, the National Institute of Standards and Technology (NIST) requested that the National Research Council (NRC) appoint a committee of experts to provide advice for advancing the competitiveness and productivity of the U.S. construction industry. The committee identified five breakthroughs to improve the efficiency and productivity of the construction industry, including "Greater use of prefabrication, preassembly, modularization, and off-site fabrication techniques and processes."

Advantages of modular construction cited in the NIST report include:

- More controlled conditions for weather, quality control, improved supervision of labor, easier access to tools, and fewer material deliveries (CII, 2002);
- Fewer job-site environmental impacts because of reductions in material waste, air and water pollution, dust and noise, and overall energy costs, although prefabrication and related technologies may also entail higher transportation costs and energy costs at off-site locations;
- Compressed project schedules that result from changing the sequencing of work flow (e.g., allowing for the assembly of components off-site while foundations are being poured on-site; allowing for the assembly of components off-site while permits are being processed);
- Fewer conflicts in work crew scheduling and better sequencing of crafts persons;
- Reduced requirements for on-site materials storage, and fewer losses or misplacements of materials; and
- Increased workers safety through reduced exposures to inclement weather, temperature extremes, and ongoing or hazardous operations; better working conditions (e.g., components traditionally constructed on-site at heights or in confined spaces can be fabricated off-site and then hoisted into place using cranes) (CURT, 2007).

The summary to this report is included as *Attachment One*.

Another key advantage to modular construction is our industry's ability to deliver facilities in remote locations. Because a majority of the structure is built off site, finding a skilled labor force in remote regions is less of a concern. However, the modular industry can work with local general contractors for portions of the site work, foundations, and set-up of the building to ensure local labor benefits from the project.

Our industry has successfully placed buildings in all areas of the globe, from the driest deserts in South America to the most severe winter climates in northern Canada and Russia. It is because of our ability to deliver to remote locations and our

shorter construction schedule that many are looking at our industry to play a big role in rebuilding efforts in places like Haiti and Chile.

The MBI represents about 300 companies all across North America and is well positioned to help on any school project. *Attachment Two* shows a map of MBI member locations.

Conclusion

The modular construction industry is well positioned to help deliver quality school projects to remote locations in a much shorter time frame than conventional construction projects. The industry can deliver both temporary facilities and permanent campuses built to meet all local, state, or tribal requirements. We believe our record of performance on past projects should instill a level of confidence in the Committee as well as the BIA that considerations for future education buildings and other applications will include a modular solution. On behalf of the MBI, as well as Satellite Shelters, I thank you for your time and attention.

Attachment 1

Summary

In 2008, the National Institute of Standards and Technology (NIST) requested that the National Research Council (NRC) appoint an ad hoc committee of experts to provide advice for advancing the competitiveness and productivity of the U.S. construction industry. The committee's specific task was to plan and conduct a workshop to identify and prioritize technologies, processes, and deployment activities that have the greatest potential to advance significantly the productivity and competitiveness of the capital facilities sector of the U.S. construction industry in the next 20 years.¹

Because the concept of *productivity* can be difficult to define, measure, and communicate, the committee determined that it would focus on ways to improve the *efficiency* of the capital facilities sector of the construction industry. It defines *efficiency improvements* as ways to cut waste in time, costs, materials, energy, skills, and labor. The committee believes that improving efficiency will also improve overall productivity and help individual construction firms produce more environmentally sustainable projects and become more competitive.

To gather data for this task, the Committee on Advancing the Competitiveness and Productivity of the U.S. Construction Industry Workshop commissioned three white papers by industry analysts and held a 2-day workshop in November 2008 to which 50 additional experts were invited. A range of activities that could improve construction productivity were identified in the papers, at the workshop, and by the committee itself. From among these, the committee identified five interrelated activities that could lead to breakthrough improvements in construction efficiency and productivity in 2 to 10 years, in contrast to 20 years. If implemented throughout the capital facilities sector, these activities could significantly advance construction efficiency and improve the quality, timeliness, cost-effectiveness, and sustainability of construction projects. Following are the five activities, which are discussed in the section below entitled "Opportunities for Breakthrough Improvements."

1. Widespread deployment and use of interoperable technology applications,² also called Building Information Modeling (BIM);
2. Improved job-site efficiency through more effective interfacing of people, processes, materials, equipment, and information;
3. Greater use of prefabrication, preassembly, modularization, and off-site fabrication techniques and processes;
4. Innovative, widespread use of demonstration installations; and
5. Effective performance measurement to drive efficiency and support innovation.

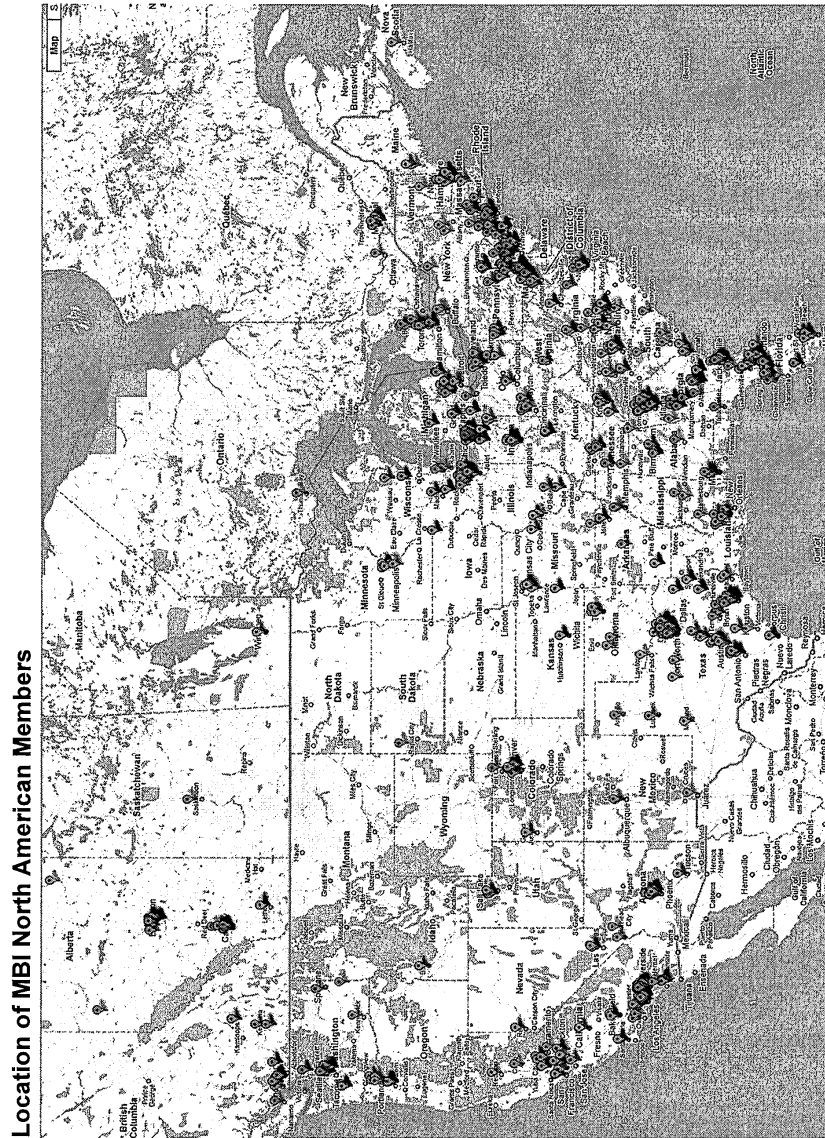
The five activities are interrelated and the implementation of each will enable that of the others. Deploying these activities so that they become standard operating procedures in the capital facilities sector will require a strategic, collaborative approach led by those project owners who will most directly benefit from lower-cost, higher-quality sustainable projects, namely the large corporations and government

¹The *capital facilities* sector includes commercial (including high-rise and multifamily residential), industrial, and infrastructure projects. It does not include single-family and low-rise residential projects.

²*Interoperability* is the ability to manage and communicate electronic data among owners, clients, contractors, and suppliers, and across a project's design, engineering, operations, project management, construction, financial, and legal units.

agencies that regularly invest hundreds of millions of dollars in buildings and infrastructure.

Attachment 2



The CHAIRMAN. Mr. Mullaney, thank you very much. I neglected at the start, but I do want to now introduce Allison Binney, who is with us, who is the Staff Director of the Indian Affairs Committee. Allison is right—

Ms. BINNEY. Right behind you.

The CHAIRMAN. She's right back here. She does an extraordinary job. She's from a tribe in California. She's a lawyer, and has been the Staff Director for us for six years.

And I did not mention at the start of this hearing that in this Congress, we have passed for the first time in I think 18 years the Indian Health Care Improvement Act, we've passed the Tribal Law and Order Act, we have reauthorized the Indian Housing Act. It is the most productive Congress on major Indian issues in several decades, and that's due to some extraordinary staff work and some members of the Committee such as Senator Franken and others who have decided to help make this Committee work the way it should work. At a time when people complain about Congress not getting much done, it's not true with respect to Indian policy. As I said, Indian health care improvements, tribal law and order, housing, we're making progress.

Denise Desiderio is with us as well from the Indian Affairs Committee, who works on these issues and does a great job.

Let me call on Senator Franken for questions, and he may wish to introduce his staff. I know that staff for Congressman Collin Peterson is here, if I could ask them to stand up and introduce themselves?

Ms. JOSEPHSON. I'm Sharon from Congressman Peterson's office.

The CHAIRMAN. Sharon, thank you very much, and thank you for the work you and Collin do on Indian issues as well.

Senator Franken?

Senator FRANKEN. Thank you, Mr. Chairman, and we are proud of especially the work we've done on passing some major legislation in law enforcement and health care, but we have so much to do.

And I would like to recognize some of my staff that's here: Bidisha Bhattacharyya, who is on my staff, and Amy Hang. Bidisha's in Washington, and Amy Hang who does that job here in Minnesota so well.

Part of doing our job here is probably to try to sort some of the what I see as dysfunction in the BIA and the BIE and Indian Health Services. And it's easy to point blame. I think Mr. Bongo talked about OMB pointing at BIA and vice versa, and I don't really want to do that today. I want to find out some stuff. I want to move toward solving some of this.

And just on a general note, Mr. Rever, do you understand the kind of frustrations that you hear from Chairwoman Vizenor and Mr. Bongo? I mean those aren't new to you, right?

Mr. REVER. I would like to say they are new to me, Senator, but the fact of the matter is that with 63 schools in poor condition, it's not uncommon for me to spend a lot of my time on the road visiting schools, because I want to see for myself the condition, what is needed to bring them into acceptable condition, and yes, I do hear complaints about the priority list, how it's established, the rules, are we on or are we off, and that's why the negotiated rulemaking committee that's meeting now, which is compromised of 25 representatives from Indian tribes from across the country, are in a committee. I'm just a committee member. The Chairmen are American Indian citizens.

Senator FRANKEN. Okay. But this history, let's do some history, and maybe I'll back up a little bit. Let's talk about the trust re-

sponsibility of the Federal Government. Chairwoman Vizenor, I'd love for you to talk about it, and Mr. Bongo. The original deal here was that in exchange for their lands, that in perpetuity, the education and health care of Native peoples would be taken care of, right?

Ms. VIZENOR. Yes.

Mr. BONGO. Yes.

Senator FRANKEN. So that's why we're talking about this is our responsibility, this is the responsibility of everyone, of everyone in the United States. Part of the deal. You paid for your schooling, for your kids' schooling, in the perpetuity as part of this deal, and we're just not keeping our end of the deal.

Now, I personally felt the same frustration on these lists, I'm sure not as deep as the Chairwoman and Mr. Bongo, but our office kept trying to find the list. I mean I'm a United States Senator, on the Indian Affairs Committee, calling your office and not being able to get the list. Now, this committee, when is it scheduled to have its rules finished?

Mr. REVER. We anticipate that the committee will finish its meetings about this time next year, and perhaps by the end of the year have the recommendations on the formulation of the priority list to the Secretary of Interior.

Senator FRANKEN. Why should it take that long?

Mr. REVER. The schedule of the committee, with the 25 members, is about once every three months, meeting across the country in various locations, in a consultative manner, to hear from local tribes and tribal members on what should constitute the rules for establishing the list. It is a prolonged process.

Senator FRANKEN. This is under No Child Left Behind?

Mr. REVER. Yes, sir, it is.

Senator FRANKEN. And when was that law written?

Mr. REVER. My memory fails me. Near 2003, though.

Senator FRANKEN. And this law in making the rules has been on the books since then, hasn't it?

Mr. REVER. It has.

Senator FRANKEN. So we're talking about the end of 2011 for a law that was written in 2001? That's 10 years to promulgate the rules. Can you see the root of the cynicism and impatience? That actually is a question.

Mr. REVER. Yes, sir, I understand the frustration.

Senator FRANKEN. Okay. Mr. Bongo, the school that Ms. White goes to, it's been on the list, on and off the list, right? And let's make it clear what this list is, please, or purports to be.

Mr. BONGO. That's a difficult question to answer directly, Senator, primarily because from what I can gather, and just hearing my colleague, Chairwoman Vizenor, when we approached the Bureau about the deplorable conditions of our school and the need for the new school, I can only characterize it as we were put through the BIA playbook for new school requests. By that I mean—it sounds like they went through the same thing. You're on the list. No, you're not on the list. No, there isn't a list. Can you be a little more definitive? I still am waiting to see the list myself.

Senator FRANKEN. Chairwoman Vizenor, let me ask you how responsive BIA is to—just to when you're trying to respond to submitted plans for constructions of the school and things like that.

Ms. VIZENOR. For the past 10 years I've been involved, except for two years when I wasn't in office, but for the past eight years I've been actively involved, working hard to get the funding for a new school at White Earth. We've had to take tribal attorneys to Albuquerque, we've had to sit on telecom meetings and ask and ask and ask, and continually we don't know. Our education director is here today as well, and you know, over the past six years that I've been Tribal Chair, I have called her at least every two weeks, "Where are we with the Circle of Life School?" We're cut down on the funds because of the student projections.

Senator FRANKEN. Now, let's talk about these projections for a second.

Ms. VIZENOR. Okay.

Senator FRANKEN. The projections are based on the fact that kids have left the school because the school's in such deplorable condition?

Ms. VIZENOR. Exactly. Yes, Senator.

Senator FRANKEN. But if you had an actually really well-built school there, then more kids would come, right?

Ms. VIZENOR. Absolutely.

Senator FRANKEN. And so the plan should be for a larger school. Now, I want to read from something that I have here. In White Earth's contract with BIA for the construction now that's been approved, the agency has 21 days to respond to each of the Tribe's submitted plans for construction of the school, yet there have been instances where the BIA has taken over two months to reply. In other cases the Tribe has received no comment or response at all. Is that true?

Ms. VIZENOR. Excuse me. Would you repeat that again? I'm sorry.

Senator FRANKEN. Okay. In White Earth's contract with the BIA for the school construction, this is once you got funding, in the contract, the agency, the BIA, has 21 days to respond to each of the Tribe's submitted plans for construction of the school, yet there have been instances when the BIA has taken over two months to reply, and in other cases the Tribe received no comment or response at all. Is that true?

Ms. VIZENOR. That's correct, Senator.

Senator FRANKEN. Now, Mr. Rever, what accounts for this lack of responsiveness on the part of the BIA Regional Office in Albuquerque?

Mr. REVER. Senator Franken, I'm not familiar with the circumstances of the Circle of Life School and the responsiveness or non-responsiveness. I would say that during the immediate past year and a half, the Circle of Life School, the prolonged period of time to get it under construction after the planning phase ran into the largest single appropriation in Indian Affairs education construction history, and that was the Recovery Act. Sir, \$280 million, 14 major projects, 4 new schools, a total of 141 projects. I don't have an infinite staff, and so there are going to be delays during

that period. I will attribute some of that to just the physical overwhelming—

Senator FRANKEN. You're too busy because you're flooded with money?

Mr. REVER. Well, sir, we're not flooded with money, we're flooded with work, and 141 projects is a significant workload for any organization that doesn't have a staffing increase to meet it, and—

Senator FRANKEN. And one of the projects is not to replace Bug-O-Nay-Ge-Shig School, even though it had been on the list at some point, right?

Mr. REVER. I'm not aware that it was on any list that I'm familiar with, that I'm aware of, no, sir.

Senator FRANKEN. Mr. Bongo?

Mr. BONGO. The BIA playbook for new school requests. It's a shell game. One minute you're there, and the next minute you're not even on the face of the planet.

Senator FRANKEN. You know, my office had terrible problems to get the list, and I would urge you to put these online and not have this lack transparency anymore.

Mr. REVER. Yes, sir. Mr. Franken, Senator, as a result of the earlier hearing we had, and at your request, we did put those online. They are available. It's by Facilities Condition Index. It lists all 63 or 64 schools as of today in poor condition.

Senator FRANKEN. And is Bug-O-Nay-Ge-Shig on that list?

Mr. REVER. It is, sir.

Senator FRANKEN. And where is it?

Mr. REVER. The last time I looked on the Facility Condition Index order, which is not the priority order that we would attach to schools, it ranked probably in the bottom 25 percent based on Facility Condition Index standards to measure the schools.

Senator FRANKEN. Let's get to the cost of these schools. You told my staff earlier this year it costs approximately 30 to 50 million dollars to replace a BIE school, and there's only \$52.8 million in the President's budget for Indian school construction for this year, so we have an enormous cost per school, and barely any money in the budget to fund construction. Is it your experience that the costs replacing a BIE school is comparable to costs associated with building schools in non-tribal areas?

Mr. REVER. It is in rural areas, Senator Franken. Our cost experience is no different than most others in building schools. We've compared ourselves to state cost in the rural communities and others. Even in Indian Country, though, there are some unique costs for things such as utility systems to support them, roads, and infrastructure. We're dealing in very remote locations in which the infrastructure is not up to the standards necessary to support modern-day construction and operation of education facilities, so a good portion of the dollars that we devote to our construction projects goes to building infrastructure, not to support it, which also benefits the Tribe because of the distribution of lights, water, sewer system, roads, and sewage treatment. I mean those are all advantages to the whole community when we get around to being able to build them. And that does add to the cost of the schools.

Senator FRANKEN. So many of these communities don't have that basic infrastructure, is what you're saying?

Mr. REVER. They don't have enough to support it. For instance, sir, it's not uncommon in small communities that go back 60 and 70 years to have single-phase electric service. We don't build anything anymore that can get by with single-phase electric service. We're now talking three-phase service. I mean there's heating, ventilating, air conditioning, all of the systems that have to go into it. Even lighting in the parking lots. All of these add to what's necessary to build a new school today.

Senator FRANKEN. Mr. Bongo, you seem to have something you wanted to say.

Mr. BONGO. Yes, Senator Franken, Mr. Chairman. I was handed some information here that could be of interest.

Of the 141 projects that Mr. Rever spoke of, none of those projects were in Minnesota. Of the 25 representatives from the rulemaking committee, not one is from the Upper Midwest.

If the Bug-O-Nay-Ge-Shig School truly is in the lower 25 percent of school replacements, I shudder to think what the other 75 percent must look like, because if the Bureau has allowed our children to go to school in this type of environment, and this is in the lower third of replacements on the list, can you imagine what the other two thirds must look like?

Senator FRANKEN. Is the 25 percent the worst 25 percent or the best 25 percent of the 100 percent that are on the list? I just want to make sure we know what we're talking about here.

Mr. REVER. And a word of clarification is probably necessary, Senator. In the list of 63 schools, the school ranks somewhere around 42 in the condition assessment, being that there are 40 schools in worse condition than the Leech Lake school.

Senator FRANKEN. I have a list, and actually it says something quite the opposite. 64, and it puts—

Senator FRANKEN. Oh, it's non-prioritized?

The CHAIRMAN. It's alphabetical.

Senator FRANKEN. It's alphabetical. Okay. Then Bug-O-Nay-Ge-Shig would be up there, then, wouldn't it? Okay.

Let's talk about the cost of these schools, and that's why you're here, Mr. Mullaney.

Mr. MULLANEY. Okay.

Senator FRANKEN. What are the pros and cons? And Mr. Rever, I want you to answer this, too. Obviously, if you build a school entirely on tribal land, part of the cost is labor, and maybe even training labor, but Chairwoman Vizenor, that would be something good, right?

Ms. VIZENOR. It would be. When we have construction on our reservation, we put our local people to work. We have high unemployment, and we could have all prefab housing if employment wasn't a consideration.

Senator FRANKEN. Right.

Ms. VIZENOR. And the same goes for schools. I think with the school, modular schools, they are probably good buildings and facilities for—I wouldn't consider that, because we want to build a school that's culturally appropriate. Our design, our atmosphere, I don't know if they build culturally-appropriate schools.

Senator FRANKEN. You design to specifications, can't you?

Mr. MULLANEY. Yes, Senator Franken. In fact, the industry itself has migrated from your single classroom trailer to permanent facilities. And in fact, I'll be glad to supply the handouts of permanent schools we've done that could have been done with general construction, but were modularized, and frankly, if I put the pictures side by side, no one in this room could tell the difference of whether they were built in the plant or built on the site.

Now, to be fair to your concern about putting all your people to work, that would be an issue where we do 30 to 40 percent on site, and the opportunities for employing multiple workforce are not as great as traditional construction.

Senator FRANKEN. And there's nothing, obviously, you can do about the kinds of infrastructure costs Mr. Rever's talking about?

Mr. MULLANEY. Completely separate.

Senator FRANKEN. Yes. Okay. Ms. White, and I feel like I'm going on a little long, but the Chairwoman talked about the attrition, loss of kids, at their school, Circle of Life School, because of the conditions, and that parents wanted their kids to go to a school that was in better condition. Have you experienced that during your 12 years at your school?

Ms. WHITE. Yes, I have, actually. Like growing up, when I was in elementary school, when I was in middle school, like other kids from other local schools, and even now today, I can hear some people, "You go to Bug School," like I'm stupid.

Senator FRANKEN. So in other words, your school's kind of known as—

Ms. WHITE. The dumb school. Even though there are many people that are just as smart as any other Native American school, or non-Native, and it's kind of insulting, really.

Senator FRANKEN. Does it have that reputation because of the physical plant, or because of the—

Ms. WHITE. Yes, that and a lot of parents I've met don't want their kids going there because it looks the way it does, and they just want them to go to a better looking school.

Senator FRANKEN. And do kids ever think of themselves, why is this place like this? Why is it cold in this room?

Ms. WHITE. Yes.

Senator FRANKEN. Why is it hot in this room? Why in the winter is it so cold, it's just so cold, and is it because I'm an Indian, because I'm Native American, in other words, does this get to an issue of self-esteem? I mean this is a very personal question, and I'm asking you maybe to interpret too much, or is there ever any discussion like that?

Ms. WHITE. Yes. With me in some of my classes we ask like why is this room too hot, on some days when we think it's too hot, and others too cold. Personally, when I was younger, I thought that. I just thought, because I see other schools being helped, and I was like, why is my school not being helped? Does the BIA care about my school? Do they even care? I just, myself, I thought they didn't care.

Senator FRANKEN. Thank you. Mr. Chairman?

The CHAIRMAN. Senator Franken, thank you very much. You've covered a lot of ground here, and—

Senator FRANKEN. Sorry.

The CHAIRMAN. But important ground as well. Ms. White, what are you going to do next?

Ms. WHITE. After school? Like after I graduate, or what?

The CHAIRMAN. Yes.

Ms. WHITE. I'm applying to colleges right now, looking at schools, but I was thinking of going to college for business, and also probably law, because I want to come back to my reservation later and help with the businesses, get more jobs, and also help educate other people, and I also wanted to open my own small business, to do bead work. I want to sell my products and help people in the community and do those things.

Mr. BONGO. Mr. Chairman, another little-known fact about her, she's also a quasi robotic engineer. She has built robots.

The CHAIRMAN. Are you familiar with FIRST Competition?

Ms. WHITE. Yes.

The CHAIRMAN. Good for you. What's that?

Ms. WHITE. I would also like to add, this past summer I went to LEAD Summer Business Institute for three weeks at Northwestern University, where I learned about business and management. That really helped me, because that's what I want to do in college.

The CHAIRMAN. Dean Kamen, do you know Dean Kamen at all? He's America's modern Thomas Edison.

Ms. WHITE. I've heard of him.

The CHAIRMAN. He's the person that started the FIRST Competition, and he's going to be in Fargo in a couple of weeks at a conference we're putting together, perhaps I can talk to you afterwards. I hope you'll come.

Dean Kamen, though, he invented the Segway, he invented the insulin pump, he invented the wheelchair that climbs stairs. He's now inventing a new bionic arm for the military for soldiers who have lost their arms and legs. He's today's Thomas Edison. He's a remarkable man. We're going to have students involved in the FIRST Competition, as part of that in Fargo, so I hope you will come.

Well, that's an aside, you know, I'm inspired by your desire to move on and do other things, and the fact is that there shouldn't be any young American child, Indian or non-Indian, that goes to a school that puts them at a disadvantage, you know, goes to a school where desks are one inch apart, 30 to a room, in a school building that's condemned. I mean I've seen all these things. I saw one today.

Chairwoman Vizenor, the school that we visited today has previously been condemned. How many years have students worked and studied in that school after it was condemned?

Ms. VIZENOR. The school was condemned by state consultants in 1999. It was not conducive to learning.

The CHAIRMAN. And 11 years later, students are going to class and preparing to graduate for another year, that really tells it all, doesn't it? That we have responsibilities that we've simply not met.

Mr. Rever, the Economic Recovery Act which you described gave a boost, which is helpful. By the way, the proposal on the Economic Recovery Act had no money for American Indians. Zero. We, Senator Franken and myself and others, got \$2.5 billion put in for Na-

tive American programs. Of that \$2.5 billion, about \$280 million was used for education facilities. And that comes as a result of our deciding you can't do this, you can't possibly do this, try to jump start this economy, and put people back to work, and build facilities and structures that we need, and decide that Indians don't matter, because we made a promise, signed treaties, we have trust responsibilities, we've got to meet them.

Now, you indicated in your written testimony, that with the \$278 million we built three new schools, and in your oral testimony you said four new schools. Is it three or four?

Mr. REVER. It's three, Senator. It's three total new schools, but—

The CHAIRMAN. That's my question.

Mr. REVER. Yes.

The CHAIRMAN. And the three new schools, it appears to me, if you're talking three schools and it took \$134 million, that's \$45 million a school. Is that about what you're spending?

Mr. REVER. You're close, yes, sir.

The CHAIRMAN. You know, it just seems to me we ought to be able to do better than that, and that gets back to Mr. Mullaney. You know, when we talk about modular construction, we're thinking about a shed somebody hauls in behind the school to handle the extra students.

Mr. MULLANEY. Yes.

The CHAIRMAN. So why would we talk about that? And then you say, well, it's not a shed anymore, and you will not distinguish between a permanent building or a modular structure. So if you put a modular structure up on this reservation for for a new school, will it be around as long as the \$45 million or whatever it is that Mr. Rever's going to spend to put up a new school somewhere?

Mr. MULLANEY. Yes, sir, Mr. Chairman. In fact, we're doing a lot of work for the Federal Government, specifically a lot of barracks work on military bases, as well as headquarter buildings. The requirement for that product is a 50-year lifecycle, and that's what you have with general construction. And that 50-year lifecycle has to be a certified 50-year lifecycle. Now, I'm not going to tell you all the modular products have a 50-year lifecycle, it has to be designed to meet that criteria, but it's certainly a viable modular solution.

The CHAIRMAN. Mr. Rever, so we have this rulemaking now, and there's going to develop from that a new list, right?

Mr. REVER. Yes, sir.

The CHAIRMAN. Will it be a, quote, new list?

Mr. REVER. It will be a new list.

The CHAIRMAN. All right. And so how about those folks who have been on it? Now, you'll say, and Mr. Bongo says, they say different things. Mr. Bongo says I've been on the list. You say you're not aware of that. Perhaps we can try to track that down. And Senator Franken is absolutely right, it's very hard to track down a list at your agency. But notwithstanding, when a new list comes out, what about the schools that were near the top of the old list?

Mr. REVER. Sir, it would be my expectation that they would remain near the top of the new list. The list—if I may, sir?

The CHAIRMAN. Yes, and then also just respond, if you would, to Mr. Bongo's question about nobody from Minnesota—well, that's

not surprising, there's 50 states, but nobody from the northern region, so respond to that as well.

Mr. REVER. Well, my immediate response, sir, is to just look at the number of schools in Minnesota compared to in Navajo or other locations. I mean the numbers would indicate that it would likely not be possible that money would be devoted under the Recovery Act, because they weren't high enough on the priority list to start out that we were using at the time.

Now, I mean we just took the existing list and used that to build the Recovery Act project. The way that I see that priority list, and I'm speaking somewhat out of turn because this is the Committee's decision, not mine.

The CHAIRMAN. I understand.

Mr. REVER. Is that we will, in accordance with Indian Affairs policy, establish a worst first list, a list of all schools, regardless of whether they need to be replaced, repaired, or simply just put some money into to bring them up to acceptable condition, and then take that list and say, okay, we'd gladly look at each one of the schools.

Now, the Bug School, sir, needs to be replaced. I'll be the first to tell you, there's no question in my mind, I've been through the building, I understand that. And when its time comes, it won't be improved or repaired, it will be replaced. The question is, when does that time come? Well, you have this list. Worst first priority. And then you let the engineers and the program decide whether it should be repaired or replaced or a combination of those two in order to provide an adequate facility.

Right now, the way the program budget is based, unfortunately it's based on the 2004 priority list, which is for replacement schools. It doesn't even talk about improve and repair projects. It's just replacement schools. So now we're faced with a problem, and I'm the first to tell you that we need a new method of coming up with a priority list, and it needs to be one list, and then you decide how you're going to create it.

The CHAIRMAN. I understand that you only have the money Congress provides you. I understand that. On the other hand, you know, the hearing that I held in Washington, you were there and Larry Echo Hawk was there. I mean I saw conditions in schools in which fire alarms didn't work, and you know, things that were just intolerable to parents, students, and I assume to those that run the program, and so somebody has to blow the whistle here to say to Congress, Are you nuts? You're going to sit by and some day see a school go up in flames and see kids lose their lives, and then you're going to wonder how it happened and why it happened. You had all the information.

Somebody's got to be blowing whistles here to say this is not right. And so the question is how do we do that? I have an alphabetical list of 63 schools. Doesn't mean anything to me much in terms of what's the relative deficiencies. If the Bug School, as Lindsey calls it, is in the bottom third or so, that means these are all in poor condition, it means there are 40 that are in worse condition, and you say this one has to be replaced or would be replaced. Almost inevitably, then, the 40 above it would be replaced, and you're talking about spending 40 and 50 million dollars a school. Does that mean that the so-called Bug School might be around

here another 15 years, trying to teach kids like Lindsey when they're wearing their coats in the winter? I mean somebody's got to blow the whistle here and say this is not right, and it's not safe for the kids. It's injuring their education, and it puts kids at risk.

Mr. REVER. May I respond, sir?

The CHAIRMAN. Yes.

Mr. REVER. The reason that we look at the Bug School to be replaced is the construction of the school. It's not conducive to meet current code requirements, nor provide a satisfactory education because of its current construction. We have a large number of schools on that list that are old but structurally sound, and are worth improving and repairing rather than replacing the whole school. And so that's where the \$1.3 billion comes from.

It's not our intent to build all new schools. Sir, we would never get there. But the \$1.3 billion is to improve and repair some and replace others as we go through the priority list.

Now, I would also like to point out, sir, to the Committee, two things. One is that, as Mr. Mullaney mentioned, I started talking to the modular building industry two years ago. We just awarded our first construction contract to a school which will include elements in modular construction. We are also looking at innovative construction techniques, new roofing materials, new wall materials, all in an effort to address the cost of construction, which largely we can't control, because the part of the market that controls it, the world economy controls the cost of materials and labor, and so we don't have much control over that.

What we can do is adapt new methodologies and new materials to address that, and to that end we had a very large and successful construction conference several years ago, and we've just awarded a contract to move in that direction.

The CHAIRMAN. All right. If not all of the 40 schools that are in worse condition than the Bug School are going to be replaced, some repaired, how many do you estimate will be replaced? Do you have an estimate of that?

Mr. REVER. I'm looking at perhaps 20 to 30 percent of them would be replaced, the rest will be improved.

The CHAIRMAN. So 30 percent of the 40 schools above the Bug School, that's 12 new schools, 40, 50 million a piece, unless you find ways to substantially reduce the cost.

Mr. REVER. Right.

The CHAIRMAN. You know, Mr. Bongo makes a very passionate and persuasive case, that there's not much he can do, and not much Lindsey White can do, except sit here and say, Do you know what? You made promises, the country made promises, and you're not keeping them. And Mr. Bongo should not be satisfied, and I'm glad he's not, and I'm glad he's raising his voice about this, he's not resonant about doing that, he should not be satisfied that this would ferment for another five or 10 or 15 years. It's not fair to the kids. It wasn't fair to Lindsey White for her 12 years, and it won't be fair to the kids that are now starting first grade if we don't find ways to address this. This is, you know, in many ways a contractual obligation this country made.

I think Senator Franken put it very well at the start of this hearing. This country said, Do you know what? We'll promise, we'll sign

treaties, we'll meet our promise, and we just haven't done it. So it's enormously frustrating.

And I think that, you know, I have schools in North Dakota that, you know, have problems and need repair, like in Minnesota and across the country, and it always seems to be the same situation; we need funding, we need to devote more funding to this and to that, and I could have the same hearing with respect to detention facilities. It's a shame.

Senator Franken, I think in terms of wrapping this hearing up, unless you have some additional questions, we'll wrap up the hearing.

Senator FRANKEN. I don't, I just have a comment. One is that we are going to miss you, Mr. Chairman. I think that's very apparent.

Two, you know, as you point out, this is an obligation that was made by the United States of America, and I think those of us who are on Indian Affairs are very well aware of that, and maybe some of our colleagues who aren't, are not as aware of that; part of the reason for this hearing is to make the people in the United States aware that as a nation, we're not living up to our word.

Mr. Rever can't build schools with money he doesn't have. And I'd like to ask the BIA to be more responsive sometimes, to be more transparent. I know that I hear not just from Mr. Bongo and the Chairwoman that they have some frustrations with the BIA, but what it really comes down to is whether the people of the United States will fulfill the obligations that it made, and whether the people of the United States are even aware that they've made that obligation.

And I'm glad that we have members of the press here covering this hearing, because I think that most Americans are people who feel like our country should live up to its obligations, especially to our first Americans. So I just want to thank all of you for being here, each and every one of you, and the Chairwoman seems to want to say something.

Ms. VIZENOR. I just want to very quickly just send appreciation to Senator Franken. Long before he was in the Senate, he told us, as tribal people, I've asked to serve in the Senate in Indian Affairs. Meegwetch, Senator. You're fulfilling your promise to us.

Senator FRANKEN. Do the best that I can.

Ms. VIZENOR. And Senator Dorgan, we regret to see you leave. [Native language spoken.] I'm so appreciative and so humbled by this very significant Senate hearing happening at White Earth, taking place here.

The CHAIRMAN. Madam Chairwoman, thank you very much. Thanks for being such a gracious host. And while I am leaving the Congress after 30 years in January, I intend to continue to be involved in American Indian issues, and you'll know that and see that, but it has been a great privilege to serve, and it's been a special privilege to try to find ways to improve the lives of the first Americans, those to whom we've made so many promises.

The hearing record for this hearing will remain open for two weeks from today. If there are those who wish to submit formal testimony to be a part of the permanent hearing record, you may submit them to the Indian Affairs Committee, and we will accept them and put them in the permanent record.

In the meantime, all of us will continue working. I especially thank the five of you who have come to present formal testimony for the record. This is the mechanism by which we build a public record in a forum, and hopefully push for better solutions. We thank you very much.

This hearing's adjourned.

[Whereupon, at 2:19 p.m., the hearing was adjourned.]

