

Testimony of

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On The Reauthorization of  
The Elementary and Secondary Education Act  
Before The Senate Committee On Indian Affairs

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## I. INTRODUCTION

Honorable Chairman and Committee Members, on behalf of the Pueblo of Acoma, its children, youth and other life-long learners within the Acoma Reservation, I would like to express our appreciation for this opportunity to testify before your Committee on the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) and its subsequent amendments. For the Acoma Tribe, education is a priority. We firmly believe that education is the foundation upon which we can realize our self-determination goals and the key to achieving economic self-sufficiency.

My testimony will focus first on Impact Aid issues; Acoma strongly advocates the elimination of Section 8009 of Title VIII of the ESEA which creates a loophole allowing States to retain funds intended for school systems on or near federal lands, including reservation lands. Second, I will focus on many of the overall concerns raised by the National Indian Education Association regarding ESEA, which Acoma supports. Third, I would like to address funding of public schools that serve Indian communities as well as general education issues. I approach these issues not only as the Governor of Acoma, but also as a former District School Board Member, elected public official and coordinator for the Acoma Educational Services.

## II. IMPACT AID FUNDING IN NEW MEXICO

New Mexico takes “impact aid” funds away from public schools serving Indian communities (as well as other federally impacted schools). Title VIII of the Elementary and Secondary Education Act (P.L. 103-382) provides “Impact Aid” funds for school systems located on or near federal lands to make up for the loss of property taxes due to the tax-exempt status of those lands. For Indian tribes, whose lands are held in trust by the United States, such funds are critical to the success of the local public school systems. In New Mexico, however, the State has reduced state funding to such schools, through 1998, by an amount equal to 95% of the Impact Aid funds. In 1999, the state reduced the funding by 75%. The funding that the State withholds is then redistributed to all schools in the state.

The Grants/Cibola County School District, where Acoma’s youth go to school, is eligible for Impact Aid funds from the Federal Government under Section 8003 of Title VIII of the ESEA because over 65% of the property in Cibola County is federal or trust land and therefore not taxable. In addition to National Forests, National Monuments and National Parks, the district encompasses the Pueblo of Acoma, Pueblo of Laguna and portions of the Navajo Nation. Most of the children and youth of the Pueblos and the Navajo Chapters in Cibola County attend public schools in the Grants/Cibola County School District.

The Loophole. Although eligible for Impact Aid funding, the Cibolla County schools actually receive only a fraction of the authorized amount. New Mexico has taken advantage of a loophole in the law which allows the State to reduce state funding to federally impacted school districts if the majority of the school districts in the state are funded within 25% of each other on a per student basis (Section 8009). This formula does not include the top 5% or the bottom 5% of schools by per student funding, which further skews the outcome. For example, Grants/Cibola County Schools receive only 52% of the funding received by the Los Alamos Public Schools on a per student basis. Acoma does not believe that our children deserve only half as much education as the children in Los Alamos, New Mexico. These statistics are all the more upsetting when funds designated to help our children, our held back by the State of New Mexico under this loophole.

In New Mexico's case, equality under this formula is achieved by effectively taking money from school systems which serve Indians and other federally impacted communities and redistributing the funds to all school systems. Under this redistribution system, Albuquerque public schools receive \$13 million in Impact Aid funds that they would otherwise be ineligible to receive. Meanwhile, school systems which serve Indian populations are deprived of critically needed funds, especially for school construction and renovation where the Indian schools greatly lag behind the non-Indian schools. For example, the Grants/Cibola County Schools, as well as Zuni and Gallup/McKinley County Schools, have used all their bonding capacity and are unable to generate enough property taxes to build any new schools. Meanwhile, the Albuquerque Public Schools have an unused bonding capacity of \$350 million.

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

Administration's Position. The Administration has proposed amending Section 8009 of the law, but Acoma remains concerned that the amendment will make no practical difference. Under the Administration's proposal, a state could only withhold the funds if (1) it can show that it has a program to equalize public education funding throughout the state and (2) the average per-pupil expenditure within the state is at least 80 percent of the national average. We understand that New Mexico funds its schools at about 80% of the national average.

Acoma does not believe that just because New Mexico chooses to underfund education, schools serving Indian and other federally impacted communities should be deprived of critically needed Impact Aid dollars.

Eliminate the Loophole. Congress provided for impact aid to assure quality educational opportunities for children residing on or near Federal property. Acoma urges the

Congress, when it reauthorizes the Elementary and Secondary Education Act this year, to strike the loophole in Title VIII and allow the “Impact Aid” funds to be used as Congress originally intended. Acoma is supported in this matter by the National Association of Federally Impacted Schools, the Grants/Cibola County, Gallup/McKinley County Public Schools, and Zuni Public School District, and the Zuni Tribe.

Additionally we request stronger language in Section 8004 - Policies and Procedures Relating to Children Residing on Indian Lands, which will allow a Local Educational Agency to use its Impact Aid funds for activities designed to increase tribal and parental involvement in the education of Indian children, and to include involvement of Tribal Government in its definition of tribal involvement.

### III. SUPPORT FOR NIEA POSITIONS

Support for State and Local School Reform. Acoma generally agrees with the positions taken by the National Indian Education Association in the following areas:

- \* Retain all provisions in the Office of Educational Research and Improvement authorizing research, assessment, and include American Indians and Alaskan Natives as eligible applicants for program funding.
- \* Retain all existing set-asides that currently provide funds for Bureau of Indian Affairs schools such as Safe and Drug Free Schools and Communities Act, Individuals with Disabilities Education Act, Education of Homeless Children and Youth, Title I Helping Disadvantaged Children Meet High Standards, Title II Eisenhower Math and Science, Title III Technology Literacy Challenge Fund, Goals 2000 and the Bilingual Education Programs.
- \* Include language in all new or reauthorized ESEA programs that will identify Indian tribes, tribal schools and BIA schools as eligible applicants and continue to include BIA as a state education agency to ensure that all eligible Indian children are served.
- \* Retain existing Title IX legislation regarding Indian Preference in personnel actions.
- \* Retain all existing authorization for programs provided in current legislation.
- \* Indian Student Eligibility forms (ED506) - The definition of Indian should be revised with considerable tribal consultation for clarity.

BIA School Funding under OIE Formula Grant Program. Acoma also makes the following recommendations for BIA Schools receiving funding under the OIE formula grant program. In many cases, these recommendations are similar if not the same as those made by the National Indian Education Association:

- \* The Bureau of Indian Affairs should not be required to seek specific permission for use of state activity funds.
- \* Include recognition of the BIA as a SEA in any new programs proposed and in existing programs that do not include BIA schools.
- \* Include tribal standards in the definition of local standards.
- \* Increase percentage of funding for BIA funded schools staff development in Title II.
- \* Since BIA-funded schools serve American Indian students who are counted as high poverty students, BIA should not have to desegregate its student data in its reporting requirements.
- \* Broaden the role of Title IX in BIA-funded schools so that students are provided an overall program that meets their culturally related needs, including integration of language and culture throughout the base curriculum rather than viewing Title IX as a separate program.
- \* Allow BIA-funded schools to utilize the consolidated school reform plans to meet the requirements of comprehensive plans required by Title IX.
- \* Mandate a relationship between BIA and Office of Bilingual Education including funding, in order to meet the goals of American Indian language development and determine a unified and viable approach to addressing the needs of LEP students.
- \* Mandate BIA-funded schools to ensure that assessments utilized are culturally and linguistically cognitive-appropriate.
- \* Provide a mechanism under Goals 2000 for States and BIA to jointly fund consortia projects including BIA funded and public schools to avoid conflicting regulations.

#### IV. FUNDING AND OTHER ISSUES

Increased funding for public schools which serve Indian communities. In recent years, there has been a great deal of focus on funding BIA schools on reservations. While it is important that these schools be adequately funded, the public schools which also serve Indian reservations should not be ignored. Most Indian students go to these public schools, which are generally underfunded, and have deficient and antiquated facilities. Most of Acoma's students go to such a school. We ask this Committee to consider ways to improve the funding of the public schools which serve Indian communities.

Consultation with Tribal Governments. The Department of Education does not currently have a policy on tribal consultation with Tribal Governments in spite of the fact that

President Clinton issued an executive order on tribal consultation on May 14, 1998. We would like to see a section in the reauthorized ESEA that: (1) will clearly mandate the Department of Education to establish a policy on and a system for tribal consultation with Tribal Governments, (2) tribal consultation shall include all policy aspects that affect the education of Indian students throughout the country in both public and BIA schools, (3) include budget formulation consultation on programs that affect American Indians and Alaskan Natives and (4) mandate consultation with Tribal Governments in development of State and Local Education Plans.

The policy should also require that a system of accountability of the State Education Agencies (SEAs) and Local Education Agencies (LEAs) to Tribal Governments be included, that the SEAs and LEAs shall be required to submit annual reports on the school performance and academic achievement of an Indian student population by tribal affiliation. By adding this section to the law, it will strengthen and complement the Department of Education in its implementation of President Clinton's Executive Order on Tribal Consultation.

#### Retention of Previous Programs; Development of a Funding Plan.

The Indian Education Act programs authorized in the last reauthorization of the ESEA in 1994 should be retained but include language that will require the Department of Education to develop a funding plan to be included in the President's budget request for these programs. These programs include both the Formula Grants to LEAs and the Special Programs for Indian Children including Demonstration Grants, Fellowships for Indian Students, Special Programs for Indian Adults, National Research Activities, Gifted and Talented Program and especially, Grants to Tribes for Education Administrative Planning and Development.

Reestablishment of educational personnel development and teacher training programs. Acoma supports reestablishment of an educational personnel development and teacher training program as found in the original Indian Education Act. We believe that the Department of Education Office of Indian Education should be providing contracts to support partnership initiatives of Tribal Governments with Universities and LEAs to establish accredited teacher-training programs. Within our local school district, we have only four teachers that are Indian out of a total of 250 teachers for K-12 grades. Out of these four, only two are Acoma. We would like to see more of our Acoma people trained for teaching positions. We believe that teachers serve as critical career role models for our children and youth. We believe our people are capable of training and working in capacities beyond school auxiliary positions such as bus drivers, kitchen personnel and custodial positions. It is estimated that over a third (35%) of these school auxiliary positions are filled with our Indian people.

Funding Indian Education - A Trust Responsibility. The Federal Government has a unique trust responsibility to American Indians and Alaskan Natives. We believe that supporting Indian education is a Federal trust responsibility and that education is a moral responsibility of the Federal Government.

To meet this obligation, there needs to be a general increase in Indian education funding. At Acoma, we have received the same funding level for our higher education students for the past three years. Cost of tuition and fees, room and board, books and supplies, transportation to schools and personal expenses such as childcare have increased for our students while our funding level has remained at status quo. We have more and more students coming out of secondary education who are motivated to go on to college and seek degrees in Education, Business Administration, Hospital Administration, Communication and Journalism, Speech and Hearing, Anthropology, various Medical fields, Music and Art Education, etc. Our present funding level cannot meet the student needs for college education. We estimate that we might be meeting only 1/3 of our student needs, we would like to be able to meet 100% of the higher education student needs.

Education is the key to the future of Acoma and, indeed, of all Indian people. We ask that the Congress stand firmly with us on this important matter by providing us with the tools to be able to achieve a life of self-esteem and self-sufficiency.

Again, I thank you for this opportunity to provide you with this testimony on behalf of the Pueblo of Acoma.