

NATIONAL INDIAN IMPACTED SCHOOLS ASSOCIATION

Testimony of

NATIONAL INDIAN IMPACTED SCHOOLS ASSOCIATION

on the

Reauthorization of the Elementary and Secondary Education Act

Presented before the

SENATE COMMITTEE ON INDIAN AFFAIRS

October 27, 1999

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Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today on behalf of the National Indian Impacted Schools Association regarding reauthorization of the Elementary and Secondary Education Act.

My name is Brent Gish. I am a member of the White Earth Band of Chippewa Tribes of Minnesota and a former tribal council member. For twenty years I taught in the Naytahwaush Elementary School on the White Earth Reservation in Minnesota. I am currently Superintendent of the Mahnomen Public School District on the White Earth Reservation and am also President of the National Indian Impacted Schools Association (NIISA).

The Mahnomen School District provides education both inside and outside the walls of our school facilities. In addition to educating students in our two elementary schools and the junior/senior high school, our educational services include a home intervention program, a pre-school program, and after-school child care.

The National Indian Impacted Schools Association represents public school districts which contain Indian trust land and Alaska Native lands. The Impact Aid program provides federal funds for public school operations that would have otherwise been provided by local tax revenues but for the presence of federal property -- in our case, primarily lands held in trust by the federal government for Indian tribes. The Impact Aid program is administered through the Department of Education.

Approximately 90% of Indian and Alaska Native elementary and secondary students nationwide attend public schools. Most of the remaining 10% of students attend Bureau of Indian Affairs-system schools whose operating budgets come through BIA appropriations.

Every state represented on the Senate Committee on Indian Affairs receives federal Impact Aid -- the most recent figures we have show that in fiscal year 1997, \$331 million in Impact Aid was distributed to states whose Senators are on this Committee.

About half -- or \$300+ million -- of the Impact Aid basic support payments are made to public school districts because of the presence of students living on Indian lands. Other funding is provided to school districts which have limited tax bases due to military land and low rent housing.

My comments will focus on two areas: Impact Aid and school construction. As a legislative matter, Impact Aid is under the jurisdiction of the Health, Education, Labor and Pensions (HELP) Committee and public school construction will fall under the jurisdiction of the HELP Committee and/or the Finance Committee, depending on the content of the proposal. *It is appropriate however, that the Senate Committee on Indian Affairs be*

knowledgeable about and make recommendations to other Congressional Committees on the Indian aspects of the Impact Aid program and school construction. These are critical issues for schools educating students from Indian lands.

Impact Aid. There are several Impact Aid reauthorization proposals in circulation -- proposals by the Administration, the Senate HELP Committee (at this time in the form of a discussion summary) and the National Association of Federally Impacted Schools (NAFIS). *NIISA members, all of whom are also members of NAFIS, support the NAFIS Impact Aid proposal*, but there are positive provisions in other proposals and there are provisions NIISA would like which are not in any current bill. Below are key points regarding Impact Aid on which we ask your support.

ï *Forward Fund the Impact Aid Program.* We urge Congress to take the long overdue step of providing appropriations to forward fund the Impact Aid program. Other major education programs, e.g., Title I, Individuals with Disabilities Education Act, and Bureau of Indian Affairs school operations, are forward funded. Public school administrators in heavily impacted districts must make very difficult and risky program and personnel decisions for the upcoming school year or the next school year without knowing how much Impact Aid funding they will be receiving. For many Indian lands schools, Impact Aid is the primary source of school operations funding and the schools would close without it.

While school administrators cope with this system, it makes much more sense for a school administrator to know 6-12 months prior to the beginning of the school year what its budget will be. For example, in Minnesota we are required to sign contracts for tenured teachers by April 15th for the upcoming school year. For non-tenured teachers, we must sign contracts by June 1 for the Fall term. Because Impact Aid is not forward funded, we must sign contracts for tenured teachers 4 1/2 months prior to the knowing the amount of money we will receive ñ and that is under circumstances when we have a Labor-HHS-Education Appropriations bill which is signed by October 1st ñ a rare occurrence, as you know.

When the government shut down several years ago, Impact Aid schools had to borrow money just to stay open and had to pay large amounts of interest -- tens of thousands of dollars for some schools -- for which they were not reimbursed. Some Impact Aid schools are in the position now of having to borrow money because of problems at the Department of Education resulting in chronically late Impact Aid payments. We know that Congress understands this problem because it has made most federal education programs forward funded. Impact Aid is a program of basic support for schools ñ it hires the teachers, pays the utility bills, transports students, etc. and this makes it all the more urgent for it to be forward funded.

We realize that the first year of forward funding will strain the appropriations process as Congress would have to make available two years worth of funding. On the other hand, we have a budget surplus and there is support from the Administration and

both parties in Congress for increased federal education funding.

If the Impact Aid program cannot be forward funded in total, we suggest that the Basic Support and the Disabilities portions of the program could be forward funded or Congress could look at the possibility of a phased-in approach to forward funding.

ii Maintain Flexible Use of Impact Aid Funds. One of the attributes of the Impact Aid program is that it provides flexible funds to public school districts. Because Impact Aid funds are actually in lieu of a property tax base, it is logical that they are not geared toward specific program use or federal accountability standards. That said, public schools must meet local and state standards, and rightfully so. It is just that we do not believe that another set of standards should be linked to the Impact Aid basic support program.

iii Make the Trust Responsibility for Indian Education an Explicit Part of the Impact Aid Findings. Neither current law nor the Administration's Impact Aid proposal make specific reference to the responsibility of the federal government for assisting with the education of children living on Indian trust and Alaska Native lands. We recommend that the Impact Aid law contain an express acknowledgment of the federal responsibility to provide funding to school districts for the education of federally connected children, and that it expressly mention the responsibility for children living on Indian trust and Alaska Native lands.

iv Maintain the Current Indian Policies and Procedures. We oppose the changes the Administration has proposed regarding implementation of the Indian Policies and Procedures (IPP) for the Impact Aid program.

Under current law, a process called "Indian Policies and Procedures" provides a formal link between tribal governments, Indian communities, and public schools. We support this process. Specifically, it requires school districts which receive Indian lands Impact Aid funding to consult with tribes and the Indian community and develop Indian Policies and Procedures. Tribes and parents of Indian students are able to comment on whether Indian students are equal participants in educational programs and school activities, and to request modifications in school programs and materials. Tribes also have administrative appeal rights under the Impact Aid statute.

The Administration proposes to require each school district which receives Title IX, Part A (Indian Education Act formula grants) to use the Title IX parent committee to carry out its impact aid consultation requirement. Another option proposed by the Administration is for the school district to comply with its Impact Aid consultation requirement through meeting the parental involvement requirement of the Title I program. A difficulty with that option is that Title I committees have no requirement for Indian membership and problems could arise with this Committee handling the consultation on a program premised on the presence of Indian lands.

We do, of course, work with the Title IX parent committee on the Title IX program and those committee members are always welcome to participate in any consultations on of the use of Impact Aid. *But we already have a broad, community-based consultation process in place involving tribal governments, parents and community members, and do not think it wise to change this process by vesting it in one particular committee.*

ï *Provide Meaningful Construction Assistance to Heavily Impacted Schools.* In recent years Congress has appropriated between \$4-\$7 million annually under the authority of the Impact Aid law for construction/repair. Funding is distributed, via formula, to heavily (50%) impacted schools. The funds received by the schools are so small that they cannot make any real dent in construction needs. We welcome any funds for repairs, of course, but we need more than band aids for our crumbling schools.

Senators Baucus and Hagel introduced Impact Aid-specific school construction legislation which we would like to see included in the reauthorized version of the Impact Aid law (or enacted sooner, if possible). That bill, S. 897, would authorize discretionary grants for school construction and renovation for federally impacted schools. It would authorize \$50 million in FY 2001 and such sums as necessary for the next four years. Funding would be divided as follows: 45% Indian land schools, 45% military schools and 10% for emergencies for schools that have at least half of their students from Indian lands. The bill was referred to the HELP Committee. A House companion bill was introduced by Representatives Hayworth and Pomeroy.

The Administration's Impact Aid construction proposal would provide all appropriated funds for Indian lands schools.

Most school construction proposals -- and there are many -- do not authorize direct construction funding as would S. 897 but rather would utilize the tax code to assist schools with facility construction. We comment on some of these proposals below.

School Construction Proposals Outside the Impact Aid Program. We urge that major school construction legislation, whether as part of ESEA reauthorization or not, be enacted by this Congress. How one views school construction proposals is determined in large part by the economic circumstances of the school district. And school districts with Indian lands vary widely.

For instance, there are 80 school districts which are made up entirely of Indian lands and 161 school districts which have at least 50% Indian lands. For the most heavily impacted Indian lands schools which have little or no bonding authority, legislative proposals whose benefits are dependent upon the local school district issuing a construction bond, are of no benefit. But for schools with a lesser percentage of Indian trust lands, relaxation of arbitrage rates and tax free bonds may indeed be of some assistance.

We would like to see a legislative proposal which takes into account the varying circumstances of Indian lands schools. NIISA has reviewed many of the pending school construction bills from the 105th and 106th Congresses, and has the following comments on their applicability to Indian lands schools:

ï *SEAs Should be Authorized to Issue Bonds.* Pending bills which would authorize State Educational Agencies (SEAs) to issue school construction bonds can, if a state uses this authority, be of assistance to revenue-poor Indian lands school districts which have limited or no bonding capacity. We realize that some states will not use this authority, but we urge that school construction legislation provide this option. Proposals which rely totally on Local Educational Agencies (LEAs) raising funds through the issuance of bonds will not help heavily impacted Indian lands schools.

ï *Equitable Distribution of Benefits.* We prefer those school construction proposals which take into account the needs of LEAs. For instance, the bills which would allocate federal tax credits for school modernization bonds that would provide 65% of credits to states based on the Title I formula and 35% to the largest 100 urban schools is preferable to the proposals which would split the benefits 50/50. (Tax credits for school modernization bonds would pay 100% of the interest on bonds as opposed to 25-30% of the interest cost for traditional tax exempt bonds.)

ï *Target Benefits to Low-Income School Districts.* Some of the legislative proposals which would require states to apply to the Secretary of Education to apply for bond authority also require that the state describe how it would use its funding to assist LEAs which lack the fiscal capacity to issue bonds on their own. We support this approach.

ï† *Relaxation of Arbitrage Profits is Not Needs-Based.* The proposals which would relax the restrictions on arbitrage profits as a means to stimulate school construction, while being beneficial to some schools, do not target funding to low-income districts. Nor do they address the lack of local revenue sources in districts which have a small or no tax base.

In summary, NIISA recommends that Congress and the Administration work with tribal and state governments and school districts to develop workable school construction funding options for public schools on Indian lands. A firm commitment from all levels of government is vital. A variety of needs-based financing options including direct federal appropriations, loan guarantees, tax credits, and lease-back arrangements should be seriously examined.

Again, thank you for the invitation to the National Indian Impacted Schools Association to appear before this Committee. We look forward to working closely with you as legislation affecting Indian and Alaska Native students in public schools moves through Congress.

