

TESTIMONY OF JOHN W. CHEEK (MUSCOGEE CREEK)

EXECUTIVE DIRECTOR THE NATIONAL INDIAN EDUCATION ASSOCIATION

BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

ON S.2580, THE INDIAN SCHOOL CONSTRUCTION ACT

The National Indian Education Association (NIEA), the oldest national organization representing the education concerns of over 3,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, parents, and students is submitting this statement on legislation impacting Indian school construction. On behalf of our president, Dr. Gloria E. Sly and Board of Directors we thank you for the opportunity to present testimony today. We would also like to thank Chairman Campbell, Vice Chairman Inouye and members of the committee for holding this important hearing on S.2580, the Indian School Construction Act.

Funding for Indian education and Department of Defense schools is the sole responsibility of the Federal Government while public education is a combination of state and federal resources. Local Education Agencies (LEAs) and their surrounding communities have the ability to pass bond initiatives in order to build or repair local school facilities. Tribal and Bureau of Indian Affairs (BIA) schools, on the other hand, must rely on the federal government to ensure their academic and construction needs are being met. The extent to which the federal government has assumed this responsibility can be exemplified in the backlog of construction and repair/renovation needs now estimated at over \$1 billion. The area of school construction and repair remains problematic as recent annual appropriations have historically targeted less than ten percent of the total need.

In 1998, NIEA testified in support of a similar school bonding initiative which failed to gain Congressional support. While we support the bonding initiative, it should not preclude the responsibility of the federal government to provide education services and resources for American Indians and Alaska Natives. The trust responsibility encompasses the learning environment as well and must be a safe conducive place for learning. A combination of direct funding and bonding authority would do much to alleviate the backlog and repair needs of Indian schools, therefore NIEA supports the proposed legislation.

Our 1998 testimony documented findings from a 1991 Indian Affairs Committee hearing on school construction which we repeat here for the record along with current information:

April, 1991: Excerpts from David J. Matheson, Director, Office of Construction Management, DOI, prepared statement:

The facilities inventory is comprised of approximately 3,500 buildings containing 19,800,000 square feet (excluding quarters) in over 400 locations throughout the United States. In 2000, the inventory is

comprised of 6, 227 buildings containing 26.4 million square feet. Of this amount 4,495, or 72 percent of this inventory are education buildings.

Educational facilities comprise approximately 80 percent of the facilities in the inventory. The BIA's FY2001 Budget Justification reports that education facilities make up 82 percent of the inventory.

These facilities serve over 300 federally recognized Indian tribes located in 26 states, with educational facilities for approximately 40,000 Indian youths attending approximately 180 different schools. The BIA reports that there are over 330 federally recognized tribes located in 23 states, with educational facilities for more than 50,000 students in 185 schools.

Of the 3,500 buildings in the facilities inventory, 1,851 are over 30 years old, and of this number, 726 are over 50 years with 16 of these being 100 plus years old. The BIA's reports that of the 4, 495 education buildings in its inventory, 50 percent are over 30 years old and more than 20 percent are over 50 years old. In 1998, the BIA reported 16 buildings over 100 years old. In 1999, the average age of the main instructional buildings of mainstream public schools was 40 years.

Ten of the twelve Area Directors reporting directly to the Deputy Commissioner of Indian Affairs have facility management staffs responsible for data collection, technical assistance, minor improvement and repair, safety, operation and maintenance oversight, and other administrative activities of the BIA's facilities program. Area Directors are now called Regional Directors.

In addition, there are facility management offices and staff at approximately 84 agency office and 400 facilities locations. Each of these offices is responsible for day-to-day operations, maintenance, safety quarters, and other facility related activities.

The U.S. Department of Interior, Inspector General, James B. Richards, also stated in 1991: During the past four years we have issued two final reports and two draft reports relating to this subject area. These reports reveal and describe a deplorable state of Indian Education facilities, which are often structurally unsound, in disrepair and poorly maintained.

Further, the degraded conditions of Bureau of Indian Affairs classrooms, dormitories, study and recreational areas and other related facilities has undoubtedly had a profound adverse effect on the quality of education being provided to Indian children.

Two recent audits we completed, currently in draft form, entitled "Implementation of the Education Amendments of 1978," dated February 1991 and "Facilities Maintenance," dated April 1991, confirm the fact that the Bureau and the Department have failed to correct life-threatening safety deficiencies, code violations, and hazardous health conditions existing in schools, dormitories, and other buildings Bureau-wide for Indian students.

These current audits show that Indian children have not been provided with facilities that are safe, healthy, or conducive to a quality education. In many instances, Indian school facilities are often so

deplorable as to impede the educational process.

These standardized tests resulted in scores that ranged from the 24th percentile on grades 3 through 9 to the 32nd percentile for high school seniors. In other words, we note that similar test scores for students at all grade levels were exceedingly low. We did note that similar test scores for Indian children attending public school were somewhat higher.

During the 1991 hearing, one witness indicated an estimated backlog in BIA maintenance and repair deficiencies of approximately \$850 million. The 1998 estimate, according to the BIA Fiscal Year 1999 Budget Justification, projected a backlog in the Education Facilities Improvement and Repair Program at \$695 million and \$63.8 million in Education Quarters for a total of \$758 million. The immediate conclusion is that few financial resources have been focused on the school facilities dilemma over the past several years. The fact of the matter is that problems with all facets of education construction at Bureau funded and operated schools have been evident for decades. The Education Amendments of 1978 (Title XI of Public Law 95-561), which govern certain BIA services, require that education facilities be safe and adequate to serve the needs of Indian children.

The 1991 Inspector General's report did, however, bring to light a pattern of neglect and the cumbersome administrative process inherent in all construction-related decisions. The deterioration of education facilities continues to this day and will plague any real advancement toward educational excellence until solutions are found.

The 1997 General Accounting Office study titled 'School Facilities, Reported Condition and Cost to Repair School Funded by the Bureau of Indian Affairs' documented that BIA schools more often reported building features such as roofs, plumbing, and heating, ventilation, and air-conditioning systems to be inadequate than did other schools. Almost four-fifths of the responding BIA schools reported having at least one inadequate building feature. In comparison, about one-half to two-thirds of the other groups of schools reported at least one inadequate building feature. The report also identified a total backlog and repair need of \$754 million. It is estimated that the cost of \$754 million in deferred maintenance grows by \$22.6 million per year due to inflation, and approximately \$33.9 million per year due to natural aging and deterioration, for an annual cost of \$56.5 million per year in growing needs.

Another factor that aggravates the resolution of the backlog of replacement school construction projects is the length of time it takes to complete even a minimum number of projects. In FY1993, the Congress approved 16 schools on the Replacement School Construction priority list. Of the 16 schools, 13 have been funded through the construction phase and expected to be completed in the second quarter of FY2001. The remaining 3 are scheduled to begin by the third quarter. The time factor notwithstanding, inconsistent funding levels have characterized the school construction program.

Appropriations determine how many schools can be added to the replacement school pipeline. Funding for all categories of education construction for the last decade ranged from \$31 million in FY1997 to possible \$180 million in FY2001. Even at \$100 million in annual funding, it would take 10 years to

complete the current backlog in school construction and repair/renovation projects. This doesn't take into account those additional schools coming "on line" pursuant to the newly created priority list of school construction projects. In early 2000, the Bureau of Indian Affairs reviewed 105 applications from schools requesting school construction funding. A final list of 96 applications were ranked in order of priority. The final slate identified 51 percent of all BIA schools in need of repair, renovation or replacement. This compares with 25 percent for all public schools nationally. The FY2001 administration request for BIA's education construction programs is \$300.5 million, \$167.3 million over 2000. The House has recommended \$120 million while the Senate recommended \$277 million.

An FY2001 Administrative initiative called the School Renovation program proposed \$1.3 billion to help local educational agencies renovate their schools. Of this total amount, \$50 million would be provided to approximately 118 LEA's that have 50 percent or more of their children in average daily attendance on Indian lands. Of the remaining \$1.25 billion, both \$125 million in grants and \$1.125 billion in loan subsidies would be provided to LEA's. This loan subsidy would leverage approximately \$6.5 billion in 7-year no- interest loans. Renovation funded through these grants and loans could include such projects as roofs, climate control systems, or planning. Unfortunately, the Labor-HHS-Education appropriations committees in both the House and Senate have recommended no funding for this program.

This year, we continue to support any effort that proposes to correct long-standing deficiencies that prevent the achievement of American Indian and Alaska Native youth. Sadly, the issues identified during the last decade continue to symbolize the state of Indian education facilities as we enter the 21st Century.

4S.2580, the Indian School Construction Act

On May 17, 2000 Senator Tim Johnson and three co-sponsors introduced S. 2580, the Indian School Construction Act. The bill proposes to establish a bonding authority to use existing tribal education funds for bonds in the municipal finance market which currently serves local governments across the nation. Instead of funding construction projects directly, these existing funds will be leveraged through bonds to fund substantially more tribal school construction maintenance and repair projects. This pilot program, would allow eligible tribes the authority to issue tribal school modernization bonds to provide funding for the improvement, repair, and new construction of tribal schools. A similar request last year during the FY2000 budget debate failed to generate the support needed in the appropriation's committee and died.

To be eligible to issue bonds under this proposal, a tribe would need to submit a construction plan to the Secretary of Interior containing a description of the needed repairs and maintenance requirements of a school based on survey of the school's needs. Schools on the Bureau of Indian Affairs' school construction priority list, will receive priority under the bond proposal. The life of the bonds are for fifteen years, at which time, the principle will need to be paid by the issuer of the bond. We note that the bill appears to serve only contract and not grant schools. We would recommend that the bill be made as inclusive as possible so that all Indian schools have the same opportunity to participate in the

program.

NIEA would like to thank the committee for allowing us the opportunity to speak on this important issue. Given the history of similar funding proposals, the outlook is not good for passage of much-needed school bond dollars. The climate in Congress has not been conducive to this or any other new school bonding/construction initiative, though we are hopeful that this proposal has some of the concerns addressed that previous versions didn't. Indian schools and tribes do not have the requisite tax base to fund school construction projects. Even, public school districts have a difficult time obtaining passage of bonds. Public schools on average are able to pass only one third of the bonds they need. Studies have shown that districts with a high proportion of high poverty students have facilities that are in the poorest condition. With American Indians and Alaska Natives having the highest rate of poverty among U.S. citizens, the state of their educational facilities are indeed among the worst in the nation.

As a closing example, NIEA held one of its spring meetings in Washington, DC in 1998 and invited several Indian educators and schools to attend. I spoke with a principal who came in for the event and he informed me that just the same day, a roof had blown off their cafeteria. Luckily, the school was on recess and no one was hurt. This incident could as well have happened during a school day during lunch with dozens of students in the area. As a new school year begins, we urge the committee to support this legislation and other Indian school construction funding initiatives.