



## DINÉ BI OLTÁ SCHOOL BOARD ASSOCIATION, INC.

P.O. Box 3719 • Window Rock, Arizona 86515

Phone: (928)871-5225 • Fax (928)871-5148

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Written Testimony of Ervin Chavez, Executive Board Chair of the  
Diné Bi Olta School Board Association

Submitted to the

United States House and Senate Appropriations Subcommittees on  
Interior, Environment, and Related Agencies

Regarding the FY 2025 Indian Affairs Budget

Filed April 29, 2024

The Navajo Nation established the Diné Bi Olta School Board Association (DBOSBA) to represent the locally-elected school boards within the Navajo Nation. With its representation of school boards from the 66 Bureau of Indian Education-funded (BIE) schools located on the Navajo Nation in Arizona and in New Mexico, DBOSBA's membership constitutes more than one-third of the 183 BIE-funded schools nationwide. Of those 66 BIE-funded schools, 32 are operated by the BIE and 34 are tribally-operated (33 pursuant to grants under the Tribally Controlled Schools Act, P.L. 100-297 (TCSA) and one pursuant to a contract under the Indian Self-Determination and Education Assistance Act, P.L. 93-638 (ISDEAA)). DBOSBA unites school boards to advocate for educational programs and services that help ensure each Navajo student graduates with the preparation necessary to lead a productive and fulfilling life, with knowledge and understanding of Navajo language and culture.

DBOSBA appreciates the key increases the Subcommittees provided FY 2023, but is concerned that the discretionary spending caps set by Fiscal Responsibility Act for FY 2024 and FY 2025 are keeping these critical programs flat funded, when increases are in fact needed just to provide parity with other school systems. DBOSBA respectfully asks that Congress prioritize funding for Indian Education in this FY 2025 budget. Our requested funding levels and policy priorities for the FY 2025 Bureau of Indian Education and Bureau of Indian Affairs budgets are as follows:

- \$950 million for *ISEP Formula Funds* (BIE);
- Ensure full funding for *Teacher Pay Parity* (BIE);
- Ensure that all the employees of BIE-funded schools receive Federal Employees Retirement System (FERS) benefits (BIE);
- Full and Forward Funding for *Facilities Operations* (BIE);
- Full and Forward Funding for *Facilities Maintenance* (BIE);
- \$86 million for *Student Transportation* (BIE);
- \$50 million for *Early Childhood and Family Development* (BIE);
- \$39 million for *Education IT*, equitably provided to schools (BIE);
- Continued full funding for *Tribal Grant Support Costs* (BIE);
- Mandatory funding for *Payments for Tribal Leases* and *Contract Support Costs* (BIA);
- Substantial and sustained increases for *Education Construction* (BIE) and a robust reauthorization of the Great American Outdoors Act; and
- Ensure BIE implementation of the statutory mandates Congress established (BIE).

**ISEP Formula Funds** are the core account for BIE-operated and Tribally Controlled Schools. This account funds everything from classroom instruction materials and teacher salaries to gifted and talented programs, and summer programs. Increases in *ISEP Formula Funds* directly benefit students and help attract and retain the quality teachers vital to our students' academic success. BIE-funded schools across the nation are facing a significant teacher shortage, but that shortage is particularly acute here on the Navajo Nation, where many schools operate in remote locations, and because the surrounding public schools in New Mexico and Arizona have responded to the teacher shortage by substantially increasing teacher pay. Having the resources to attract and retain quality teachers is one of our biggest challenges and substantial increases are needed. Unfortunately, the \$518.1 million the BIE requested for *ISEP Formula Funds* for FY 2025 would only provide an estimated Weighted Student Unit (WSU) value of \$8,033 per student. When adding in some prorated non-ISEP line items which schools receive, the per student amount is still far behind the estimated \$25,000 the Department of Defense Education Activity spends per student and estimated \$14,000 on average spent per student by public schools across the country. When recommending \$950 million for FY 2025 *ISEP Formula Funds*, the Tribal Representatives to the Tribal/Interior Budget Council calculated the average per student funding in public schools, multiplied by the WSU, and accounted for 1% contingency. When appropriating funding for *ISEP Formula Funds*, Congress must consider that these stark disparities, particularly between the two federally funded school systems in the nation, are simply unacceptable and have significant, negative impacts on our students.

**Full Funding for Teacher and Counselor Pay Parity** is a critical tool for attracting and retaining quality teachers. Federal law requires the BIE to provide funding so that teachers and counselors in the BIE-funded school system may be paid equivalent salaries to their counterparts in the Department of Defense Education Activity. Federal law also provides that, at the discretion of the local school board, a BIE-operated school may pay salaries consistent with those paid by public schools in the state where the BIE school is located.

DBOSBA would like to thank Congress for the ongoing direction that the BIE clearly display funding amounts required to comply with Defense Department-equivalent pay rates and to include sufficient funding in its budget request to fully fund these requirements. The detailed information on this issue requested by Senate Report 118-83 is particularly helpful and we ask that it be continued for FY 2025. Given the acute teacher shortages, this parity is essential to our schools' ability to recruit and retain qualified teachers.

**Ensuring that all employees of BIE-funded schools receive Federal Employees Retirement System (FERS) benefits** would significantly bolster the ability of Tribally Controlled Schools in the BIE-funded school system to attract and retain quality teachers. In Senate Report 118-83, accompanying the FY 2024 Consolidated Appropriations Act, Congress stated that,

“The Committee is concerned about the inequity created by the loss of Federal Employees Retirement System [FERS] benefits for teachers and staff when Tribes exercise their self-determination right to operate BIE-funded schools under Public Law 100–297 grants or Public Law 93–638 contracts. The loss of these benefits is a major impediment to the recruitment and retention of teachers and staff, as these Tribally Controlled Schools often bear the hardship of recruiting, hiring, and training teachers and staff only to lose them shortly thereafter to other schools offering better pay and benefits. Any policy denying Federal benefits to employees carrying out a Federal trust responsibility is incompatible with the Federal policy of self-determination. Congress recognized this incompatibility and barrier to recruitment and retention in 2020 when it extended the Federal Employee Health Benefits [FEHB] program to teachers and staff of Tribally Controlled Schools.”

As such, we urge the Subcommittees to use the appropriations process to equitably extend FERS benefits to teachers and staff at Tribally Controlled Schools in the BIE-funded school system.

**Full and Forward Funding for Facilities Operations and Facilities Maintenance.** These two accounts play a pivotal role in the health and safety of our students and staff and are for day to day operating expenses. *Facilities Operations* is for things like monthly utilities and *Facilities Maintenance* is for preventive, routine, and unscheduled maintenance – not the type of things that can wait. These two accounts are also severely underfunded and two of the remaining core school operations accounts not forward funded. This means that when there are government shut downs or continuing resolutions, some schools do not receive these critical funds until the end of the school year! This also creates significant accounting problems for schools because they have to borrow from other forward funded accounts, such as their *ISEP Formula Funds*, when this funding is delayed. Delays in funding for these two accounts also delays *Tribal Grant Support Costs* (a forward funded account) from being calculated and provided to schools because *Tribal Grant Support Costs* are calculated based on total funding a school receives. Further, significantly more funding is needed to address the BIE system-wide deferred maintenance backlog (estimated to be more than \$804 million in the BIE’s FY 2025 Budget Justification).

**Student Transportation (BIE) and Road Maintenance for School Bus Routes (BIA)** are of particular importance to schools located on the Navajo Nation. Our students travel some of the longest distances to their schools on some of the worst roads in the nation. Outdated buses improperly equipped to handle the many unpaved and unimproved roads put our students' safety at risk or can mean that our students miss critical instruction days and fall behind their peers in other jurisdictions. DBOSBA also cautions that the proposed conversion to electric buses could actually present new problems given the extensive distances of remote bus routes on the Navajo Nation and the limited electric system capacity of many of our communities. Without further increases for *Student Transportation* and *Road Maintenance*, and the alignment of new technologies to our circumstances, this precarious situation will continue.

**Early Childhood and Family Development** funding plays a critical role in preparing children for school and supporting and empowering their parents. Substantial program increases are needed each year to expand these opportunities to more BIE-system schools. Of the 183 schools in the BIE-funded school system, the BIE’s FY 2025 Budget Justification reports that just 51 receive Early Childhood and Family Development funds. The National Education Association finds that children in early childhood education programs are: less likely to repeat a grade; less likely to be identified as having special needs; more prepared academically for later grades; more likely to graduate from high school; and more likely to become higher earners in the workforce. DBOSBA asks the Subcommittees to increase funds for this critical line item.

**Education IT**, specifically, funding to increase connectivity for schools and students is critical: our schools’ connectivity needs persist even after the worst of the pandemic recedes. Further, DBOSBA is concerned to hear reports that the BIE may be prioritizing *Education IT* resources for BIE-operated schools, while directing Tribally Controlled Schools to “just use your ISEP funds” to address critical technology needs. Any policy denying Federal resources to Tribally Controlled Schools carrying out a Federal trust responsibility is incompatible with the Federal policy of self-determination. *Education IT* and other Federal resources must be equitably shared throughout the entire BIE-funded school system.

**School Replacement Construction and School Facilities Improvement & Repair** in the BIE’s *Education Construction* budget significantly impact the health and safety of our students and staff. This funding not only helps keep our students and staff safe, it also helps prolong the useful life of our school buildings. Unfortunately, many schools throughout the BIE-funded system are far beyond the end of their safe and useful life and must be replaced. Many of these schools in poor or dangerous condition are located on the Navajo Nation. The BIE’s FY 2025 budget justification reports that only five of the 10 schools on the 2016 School Replacement List

are complete and none of the 40 schools identified through the Site Assessment - Capital Investment (SA-CI) program lists for 2019, 2020, 2021, 2022, or 2023 are complete. Of these 40 schools identified through the SA-CI process, only 10 of them are classified as “funded.”

If we take these 30 unfunded schools identified through the SA-CI process and estimate \$90 million per school, that calculates to \$2.7 billion in unfunded schools waiting on the current SA-CI replacement lists, alone. Indeed, the \$7.3 billion recommended by the Tribal/Interior Budget Council (TIBC) Tribal Representatives just for the BIE’s FY 2025 *Education Construction* budget (of which \$6.2 billion would be for *Replacement School Construction* and \$1 billion would be *Facilities Improvement and Repair*), is based on replacing all the schools rated in poor condition that have not yet been funded. If Congress continues to fund *Replacement School Construction* at the FY 2023 rate of \$116.5 million per fiscal year, Congress will never catch up. Unfortunately, we understand that the type of significant and necessary increase in funding recommended by the TIBC Tribal Representatives is not likely to be a reality for FY 2025, given the current discretionary budget caps and Subcommittee allocations in place. With this in mind, we urge Congress to protect and increase *Education Construction* funding to the greatest extent possible and to swiftly reauthorize the Great American Outdoors Act, which has provided a supplemental \$95 million per year for five years to help address this staggering and dangerous backlog in the BIE-funded school system.

**Continued Full Funding for Tribal Grant Support Costs** means that Tribally Controlled Schools can focus ISEP funds where it counts: supporting students, improving classroom instruction, and attracting and retaining quality teachers. DBOSBA thanks Congress for providing full funding for *Tribal Grant Support Costs* since FY 2016.

**Shifting Tribal Leases and Contract Support Costs to Mandatory Funding** would make the discretionary budget process more predictable and would free up additional funding for Indian Education programs within the topline allocation for the Interior, Environment and Related Agencies appropriations bill. In the BIA’s FY 2025 budget request, the Administration is requesting that these accounts be classified as mandatory spending in FY 2026. DBOSBA strongly supports the request to reclassify these accounts, but urges that this occurs in FY 2025.

**Ensure BIE implementation of the statutory mandates Congress established in P.L. 95-561 and P.L. 100-297.** Congress provided clear statutory parameters to “facilitate Indian control of Indian affairs in all matters relating to education.” 25 U.S.C. § 2011(a). For example, when Congress enacted P.L. 95-561, it established consultation requirements to ensure tribal school officials have the opportunity to guide BIE policy and improve the BIE’s response to the needs of Indian students and our communities. Through P.L. 95-561, Congress also authorized local tribal school boards to exercise substantial control over the hiring and budgeting decisions of BIE-operated schools. Through P.L. 100-297, Congress limited the BIE’s bureaucratic authority over Tribally Controlled Schools’ resources and prohibited the BIE from unilaterally transferring federal responsibilities to local school boards unless such transfers are accompanied by the resources to carry them out. Yet, the BIE is undermining local school board authority at BIE-operated schools by ignoring statutory mandates that require BIE to consult with local tribal school boards when making hiring and budgeting decisions and to provide school boards with approval authority over such decisions. The BIE is also subjecting Tribally Controlled Schools to burdensome requirements that are not permitted by statute, have not been agreed to by the schools, and that operate to perpetuate the federal bureaucratic domination of Indian education programs. These policy concerns have an adverse practical effect: the BIE has made it much more difficult and much more expensive for Navajo schools to provide quality educational services in our communities. BIE must establish a training program to ensure BIE officials at all levels in the BIE bureaucracy comply with the statutory framework governing Indian education.