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Submitted to the

United States House Appropriations Subcommittee on
Interior, Environment, and Related Agencies
Regarding the FY 2026 Indian Affairs Budget

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Chairman Simpson, Ranking Member Pingree and Members of the Committee – I appreciate the opportunity to participate in today’s hearing to advocate for urgent investments and attention to the issues impacting the quality of education our Tribal children are receiving from the Bureau of Indian Education (BIE) and at Tribally controlled schools across the Nation.

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 BIE-funded schools located on the Navajo Nation in Arizona and New Mexico, DBOSBA's members constitute 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 (TCSA), and one pursuant to a contract under the Indian Self-Determination and Education Assistance Act (ISDEAA)). DBOSBA unites school boards to advocate for educational programs and services that help ensure each Navajo student graduates with the preparation necessary to reach their full educational potential and lead a productive and fulfilling life, with knowledge and understanding of Navajo language and culture.

For Tribal Nations, Indian education is both a trust and treaty obligation and an exercise of self-governance, cultural preservation, and Tribal sovereignty. The United States must uphold its responsibility as trustee to guarantee quality education for Indian children by ensuring robust funding across several key areas. Additionally, the United States must ensure that the BIE implements its statutory authorities, including the Tribally Controlled Schools Act and the Indian Education Amendments of 1978, Pub. L. No. 95-561, 25 U.S.C. § 2000 *et seq.*, in accordance with the statutes' clear directives and Congressional intent. The funding choices you make today will profoundly impact the educational landscape for our Tribal communities. I urge you to prioritize the critical areas I will speak to today in the Fiscal Year 2026 appropriations bill, recognizing that they collectively contribute to a brighter future for not only our Nation's Tribal children but the future of our country for generations to come.

My testimony will focus on increasing BIE accountability and eliminating unlawful administrative overreach, forward funding for operations and maintenance funding, achieving parity for our BIE educators through pay and benefits parity and investments in teacher housing,

sustained funding and streamlining for BIE replacement school construction, and maintaining the quality and integrity of Indian education programs in the event of the dismantling of the Department of Education.

Increasing BIE Accountability and Eliminating Unlawful BIE Overreach.

Congress established the Tribally Controlled Schools Act (TCSA) in 1988 to empower Tribal communities and advance self-determination by facilitating Tribes' autonomy to manage their own educational institutions with federal funds. As far back as the passage of the Indian Self-Determination and Education Assistance Act (ISDEAA) and the Indian Education Amendments of 1978, Congress intended to advance federal policy that would "facilitate Indian control of Indian affairs in all matters relating to education." 25 U.S.C. § 2011(a). In the Indian Education Amendments of 1978, Congress built on the principles of the ISDEAA to accomplish this fundamental policy objective by directing the Department of the Interior to provide education services to Indian people through cooperative agreements or ISDEAA contracts with Tribes and Tribal school boards, pursuant to consultation with the Tribal government and Tribal school officials. 25 U.S.C. § 2011(b).

Public Law 95-561 sought to empower Tribal communities in managing their education programs, and to increase the accountability and responsiveness of BIE-operated schools to the tribal communities they serve. Over the past decade, however, the BIE has restructured and centralized its administrative offices to make them less accessible and accountable to tribal communities.

The BIE has also ignored Congressional directives by imposing burdensome monitoring requirements on Tribally controlled schools that go beyond explicit limitations on such reporting Congress set forth in the TCSA. For instance, in the 2023-2024 school year, the BIE withheld Elementary and Secondary Education Act Title I funds from several DBOSBA member schools, alleging they first needed to comply with BIE's arbitrary reporting mechanism.¹ This unnecessarily and unlawfully delayed funding and forced schools to cut back services for students. Schools that agreed to comply with the BIE's burdensome and unlawful demands were forced to divert valuable resources and attention away from educational priorities.

Furthermore, the BIE has failed to allocate funding in accordance with statutory requirements. In P.L. 95-561, Congress has directed that "[n]otwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau-funded schools shall be allotted pro rata in accordance with the [Indian School Equalization Formula]." 25 U.S.C. § 2007(b). Contrary to this clear directive, the BIE has over the past few years taken a disproportionate share of Congressional funding increases to expand its own administrative bureaucracy at the expense of both BIE-operated schools and Tribally controlled schools.

Tribally controlled schools typically receive the smallest share of this disproportionate funding allocation, as the BIE has prioritized certain funding to BIE-operated schools. This proliferation of BIE bureaucracy has ultimately diverted federal funds away from their intended purpose: the education of Indian children at high-quality schools. Thus, in Fiscal Year 2026, Congress must

¹ The TCSA provides that Tribally controlled schools "shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under [the Elementary and Secondary Education Act, the Individuals with Disabilities Education Act, or any Federal education law other than Title XI of the Education Amendments of 1978.]" 25 U.S.C. § 2503(b)(1)(B).

make clear that the BIE must abide by Congressional intent that appropriated funds be fairly allocated among BIE-funded schools.

Forward Funding for Facilities Operations and Facilities Maintenance.

Operations and Maintenance funding is essential for the health and safety of students and staff at DBOSBA member schools. It supports vital services like janitorial staff, electrical power, potable water, pest control, and other utilities. Maintenance funding covers routine and emergency repairs, ensuring proper infrastructure for facilities such as water towers, ventilation systems, and fire safety equipment. By ensuring that school facilities are regularly assessed and maintained, schools are able to prevent smaller issues from evolving into larger, costly, and time-consuming emergencies and ensure the safety and comfort of our students and staff to engage in productive learning.

The Facilities Operations and Maintenance accounts are crucial for school budgets but remain underfunded and are not forward-funded. As a result, during government shutdowns or when operating on a Continuing Resolution, schools often cannot access these funds until late in the school year or even after the school year ends. This forces schools to borrow from forward-funded accounts like the Indian School Equalization Program, creating accounting issues and potentially leading to service cuts. Additionally, delayed funding affects the timely calculation of Tribal Grant Support Costs. Forward funding these accounts would enhance efficiency and lead to long-term cost savings by helping address maintenance needs before they escalate into costly construction projects.

The BIE has not effectively addressed maintenance needs in the past, leading to larger, costly deferred maintenance issues. The funding required to tackle significant repairs is now greater than agency estimates, with the deferred maintenance backlog exceeding previous indications. The FY 2025 BIE Budget Justification estimates it would cost over \$800 million to address this backlog in BIE-funded schools. Yet, a March 2024 report from the Department of Interior's Inspector General stated that the BIE "cannot determine an accurate calculation of estimated costs of deferred maintenance at BIE schools or effectively manage deferred maintenance" due to unreliable work order data.

Replacement School Construction.

Many BIE-funded schools, including many DBOSBA member schools, are in poor condition and need to be replaced. The BIE's FY 2025 budget shows only five of the ten schools from the 2016 replacement list are complete, and none of the 40 schools identified through the Site Assessment – Capital Investment (SA-CI) program lists for 2019–2023 are complete.

The glacial progress of BIE school replacement is of great concern, especially as many delays are the direct result of bureaucratic overreach and failure to provide competent and timely technical assistance. We note that DBOSBA member schools have benefited from Congress's establishment of the Great American Outdoors Act's ("GAOA") Legacy Restoration Fund ("LRF"), which has contributed to addressing deferred maintenance backlogs on federal lands and facilitating the repair and replacement of schools funded by the BIE. DBOSBA supports the reauthorization of the LRF as an important resource to help supplement the vital investment this Subcommittee has made to increase replacement school construction funding. DBOSBA looks to this Subcommittee's leadership to continue to invest significantly in replacement school

construction and exercise oversight of the BIE to ensure our students have high-quality, healthy and safe learning environments

Recruitment and Retention of Teachers and Counselors.

Pay Parity. BIE-funded schools continue to struggle to attract and retain quality instructional and counseling staff, despite federal funding aimed at ensuring competitive salaries. Federal law mandates that BIE teachers and counselors receive salaries comparable to those in the Department of Defense Education Activity (25 U.S.C. § 2012(g)(1)(B)). Additionally, BIE-operated schools may align salaries with local public schools at the local school board's discretion (25 U.S.C. § 2012(g)(1)(C)). However, in recent years, New Mexico public schools have been offering salaries that BIE schools cannot compete with.

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 comply with these requirements. *See, e.g.,* S. Rep. No. 118-83, at 68 (2024). DBOSBA requests that Congress continue to provide this direction in Fiscal Year 2026. Investing in our educators is an investment in the future of our children who are one-hundred percent of our Nation's future.

Benefits Parity. To improve the recruitment and retention of quality teachers, it's essential to ensure that all employees of BIE-funded schools receive Federal Employee Retirement System (FERS) benefits, not just those at BIE-operated schools who are currently eligible. Congress has recognized the inequity of denying these benefits to staff at Tribally operated schools, highlighting that it conflicts with the federal policy of self-determination. We urge the Subcommittee to equitably extend FERS benefits to teachers and staff in Tribally controlled schools so these benefits apply to all employees in the BIE-funded school system.

Staff Housing. Finally, rural Tribal communities like the communities that DBOSBA member schools serve face the unique challenge of limited housing options. Much like the lack of pay and benefits parity, housing shortages prevent BIE-funded schools from attracting and retaining high-quality educators. In Fiscal Year 2024, Congress directed the Indian Health Service to submit a report within sixty days of enactment of the appropriations bill on the distribution of funds for staff housing quarters. *Id.* at 125. DBOSBA requests that the Subcommittee require the BIE to produce a similar report in Fiscal Year 2026 to inform further funding increases for teacher housing.

Maintaining Indian Programs in the Event of the Dismantling of the Department of Education

The Department of Education currently administers several sources of funding that are vital to the operation of BIE-funded schools, the most important of which are funds under the Elementary and Secondary Education Act. To the extent that the Department of Education is dismantled in the 119th Congress, it is imperative that Indian programs be maintained in their entirety and transferred to the BIE at the same funding levels. Such funds should be distributed amongst BIE-funded schools in accordance with either (1) the formula defined in the authorizing statute for the program or (2) the Indian School Equalization Formula.

DBOSBA thanks the Subcommittees for the opportunity to provide this testimony.