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ADMINISTRATION OF THE JOHNSON-O'MALLEY ACT

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HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

THE RULES AND REGULATIONS FOR THE ADMINISTRATION OF THE JOHNSON-O'MALLEY ACT

ATTN 702398
A11600 702398

DECEMBER 11, 1974



Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975

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ADMINISTRATION OF THE JOHNSON-O'MALLEY ACT

WEDNESDAY, DECEMBER 11, 1974

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS,
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, presiding.

Present: Senators Abourezk and Bartlett.

Also present: Jerry T. Verkler, staff director; Forrest Gerard, professional staff member; Fred Ruth, legislative assistant to Senator Bartlett.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. The Indian Affairs Subcommittee hearing on the Johnson-O'Malley Act will come to order.

I would like to welcome the minority member of the subcommittee, Senator Bartlett of Oklahoma and ask him if he has a statement.

Senator BARTLETT. Mr. Chairman, I am sorry I will miss the bulk of the testimony this morning. I have another commitment and I find it necessary to be there. I will only be here about 5 minutes, but I am very interested in the testimony and I do have someone from my staff who will advise me on the testimony.

Senator ABOUREZK. This is an open public hearing to take testimony from Indian people, public school officials, and representatives from Indian-interest organizations concerning the Johnson-O'Malley rules and regulations adopted by the Department of the Interior on August 16, 1974.

The educational contracting authority contained in the Johnson-O'Malley Act of 1934 has been the subject of a growing debate between Indian educators and non-Indian educators over the past several years.

The controversy involves post facto questions of whether funds appropriated for JOM programs should be used for supplemental and compensatory programs to improve the quality of education for Indian children, or whether such funds should be used to support basic operational expenses of Indians and non-Indians in the eligible school districts.

Additionally, with the emphasis currently being placed on the concept of Indian self-determination, these new regulations place control over the funds appropriated for JOM educational programs within the Indian community.

During the current Congress, this committee endeavored to bring about a basic reform to several of the fundamental weaknesses in the JOM Act as it pertains to education programs. Because of objections raised by Indian people regarding the intent of the legislation, the committee modified its original provisions and approved only modest reforms to the JOM Act.

Recently, Indian people and public school officials from the State of South Dakota have expressed their concern to me over certain provisions contained in the recently approved rules and regulations for the JOM education provisions.

At the same time, proponents of the newly approved rules and regulations argue in behalf of the various changes.

The hearing today has been called to provide the interested parties with an opportunity to have their views recorded on the official hearing record.

The BIA has been requested to submit a written statement regarding the new rules and regulations which will appear in the printed hearing record.

If it is necessary to take further testimony from that agency, an additional day of hearings will be scheduled early in the 94th Congress for this purpose.

It is my hope that this record will be beneficial to the Indian people, public school officials, the Congress and the executive branch agencies concerned with this important Indian activity.

At this point, I shall order that the new JOM rules and regulations and the Department's statement be inserted in the record.

[The information referred to above follows:]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER E—EDUCATION

PART 33—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF INDIAN CHILDREN

AUGUST 16, 1974.

This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938). The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 1776 of the January 14, 1974, FEDERAL REGISTER (39 FR 1776), there was published a notice of proposed rulemaking to revise Part 33 of Subchapter E, Chapter I, Title 25 of the Code of Federal Regulations. The revision was proposed pursuant to the authority contained in the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-456).

The purpose of this revision is to clarify the rules governing disposition of financial assistance to meet the special needs of eligible Indian children and to define the role of Indian parental participation and control in the development of supplemental education programs for Indian children funded under the authority of the Johnson-O'Malley Act, cited above. In addition, this revision will require the participation and control by Indian parents, will delineate specific areas of accountability, and will provide audit and monitoring procedures so that contract funds negotiated under this part can most effectively be used for supplemental programs to enhance the educational opportunities and achievements of the Indian children who are the intended beneficiaries of these funds.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed revision.

During this period comments, suggestions, and objections were submitted by interested persons. Careful consideration was given to the comments received and certain revisions were made as a result of them.

Part 33 of Subchapter E, Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

Sec.

- 33.1 Definitions.
- 33.2 Contract eligibility.
- 33.3 Parental participation and control.
- 33.4 General requirements for contracts.
- 33.5 State school laws.
- 33.6 Use and transfer of Federal property.

AUTHORITY: Sec. 3, 48 Stat., 596, as amended; (25 U.S.C. 452-456), unless otherwise noted.

§ 33.1 *Definitions*

As used in this part, the term—

(a) "Johnson-O'Malley Act" means the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-456).

(b) "Secretary" means the Secretary of the Interior.

(c) "Commissioner" means the Commissioner, Bureau of Indian Affairs.

(d) "Area Director" means the administrative officer in charge of a Bureau of Indian Affairs Area Office.

(e) "State" means a State of the United States of America or any political subdivision thereof.

(f) "School District" means the local unit of school administration as defined by the laws of the State in which it is located.

(g) "Indian" means an individual of $\frac{1}{4}$ or more degree of Indian blood and a member of a tribe, band, or other organized group of Indians, including Alaska Natives, which is recognized by the Secretary of the Interior as being eligible for Bureau of Indian Affairs services.

(h) "Indian corporation" means an Indian controlled corporation chartered under State law, Federal law, or under Tribal authority.

(i) "Indian Education Committee" means a group selected by Indian parents pursuant to the provisions of this part.

(j) "Educational plan" means a comprehensive plan for the programmatic and fiscal services of and accountability by a contractor for the education of eligible Indian students under this Part.

(k) "Supplemental programs" means those programs which are designed to meet the special needs of Indian students that may result from the socio-economic conditions of the parents, or from cultural and language differences, or other factors. Funds for such programs shall supplement, and not supplant, funds received from any other source.

(l) "Operational expenditures" means those expenditures made in support of basic school operational costs in order to meet educational standards established by the State.

§ 33.2 *Contract eligibility.*

(a) Contracts may be entered into under the provisions of the Johnson-O'Malley Act with a State, school district, or Indian corporation for the education of Indian children from early childhood through grade 12.

(b) Monies shall be expended under contract only for the benefit of Indian students who are recognized by the Secretary as being eligible for Bureau of Indian Affairs services because of their status as Indians. Nothing in these regulations shall prevent the Commissioner from contracting with Indian corporations who will expend all or part of the funds in places other than the public or private schools in the community affected.

(c) The contracts may authorize payments for educational programs and services in two major categories:

(1) For supplemental programs. All funds for supplemental programs under this part shall be distributed annually among the States and among contractors within each State on an equitable basis.

(i) All funds for supplemental programs shall be apportioned among the States on a substantially equal basis, based upon the number of eligible students for whom funds are sought, with allowance being made for the actual cost of delivering educational services in each State. For the purpose of determining the actual cost of delivering educational services in each State, the Commissioner shall refer to the average State-wide per pupil expenditure.

(ii) Funds for supplemental programs shall be distributed among the contractors within each State so that each contractor will receive approximately the same amount for each eligible Indian student to be served under the contract. The Commissioner may make exceptions based upon the special cultural, linguistic, social and educational needs of the communities involved.

(2) For operational expenditures. All funds for operational expenditures shall be used to meet educational standards established by the State and only if provided for in the educational plan required by § 33.4(a) and only under extraordinary or exceptional circumstances. The contract may authorize operational expenditures only when the school district establishes all of the following:

(i) That it cannot satisfy the applicable minimum State standards in the absence of such funds;

(ii) That it has made a reasonable tax effort, with a mill levy in support of educational programs at least equal to the State average;

(iii) That it has fully utilized all other sources of financial aid, including all forms of State aid. Pub. L. 874 payments, etc. The State aid contribution per pupil must be at least equal to the State average; and

(iv) That there exists at least 70 percent eligible Indian enrollment within the school district or within any particular school served.

Funds authorized under this part shall supplement, and not supplant, State and local funds. Each contract shall require that the use of these funds will not result in a decrease in State, local or Federal funds which, in the absence of funds under this Part, would be made available for Indian children. In no instance shall these funds be used as payment for capital outlay or debt retirement expenses.

(d) Equal educational opportunities. (1) Contracts shall specify that State school districts receiving funds under the provisions of this Part shall provide educational opportunities to all Indian children within that school district on the same terms and under the same conditions that apply to all other students. School districts receiving funds under this Part must insure that Indian children receive all aid from the State, and other proper sources other than this contract, which other schools in the district and other school districts similarly situated in the State are entitled to receive. In no instance shall there be discrimination against Indians or schools enrolling such Indians. (2) When informed by a complaint or through its own discovery that possible violations of Title VI of the Civil Rights Act of 1964 exists within a State school district receiving Johnson-O'Malley aid, the Department of the Interior shall, in accordance with Federal requirements, notify the Department of Health, Education, and Welfare, of the possible violation of Title VI and, pursuant to Memoranda of Understanding between the Secretary of the Interior and the Secretary of the Department of Health, Education, and Welfare, conduct an investigation into the matters alleged.

If the report of investigation conducted by the Department of Health, Education, and Welfare discloses a failure or threatened failure to comply with this Part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this Part may be effected by the suspension or termination of or refusal to contract or to continue financial assistance under the Johnson-O'Malley Act or by any other means authorized by law. As delineated in 43 CFR 17.1, 17.8 and 17.9, such other means may include reference to the Department of Justice with a recommendation that appropriate legal proceedings be brought by the United States to secure compliance or by formal hearing before the head of the Bureau or office administering the Federal financial assistance, or at his discretion, before an administrative law judge designated in accordance with section 11 of the Administrative Procedure Act. The Secretary, may, by agreement with one or more other Federal departments, provide for the conduct of consolidated or joint hearings as prescribed in 43 CFR 17.8(e).

§ 33.3 *Parental participation and control.*

(a) The Commissioner shall require maximum participation and control by the Indian parents in the community affected in the approval and implementa-

tion of programs under this Part. Contracts shall provide that this participation and control shall include, but shall not be limited to, the provisions of this section. In the case of contracts with Indian corporations, all provisions of this Part relating to Indian Education Committees shall be required.

(b) Each contractor having a contract under this Part shall work with the Indian Education Committee established for each school community involved pursuant to paragraph (c) of this section. Each contractor may, subject to the terms prescribed in its contract, make available part of its contract funds for conducting elections of Indian Education Committees; for attendance of members of Indian Education Committees at State-wide meetings, workshops, and training; and for other reasonable expenses incurred by an Indian Education Committee in relation to its primary duties, including the planning, development, evaluation and monitoring of programs and services funded under the Johnson-O'Malley Act.

(c) All Indian Education Committees shall be nominated, selected, and serve by procedures determined by the Indian community affected. Each Committee shall file a copy of its organizational papers and by-laws with the Area Director together with a list of its officers and members. Selection of members shall not limit the continuing participation of the Indian community in the operation and evaluation of the program.

(d) Each Indian Education Committee shall have full veto power over all supplemental programs and over all expenditures of funds for supplemental programs. In addition, each Indian Education Committee may at its option:

- (1) Make an initial, annual assessment of the learning needs of Indian children in the community affected;
- (2) Participate in negotiations concerning all contracts under this part;
- (3) Participate in the planning, development, evaluation, and monitoring of all programs funded under this part;
- (4) Hear complaints by Indian students and their parents;
- (5) Meet regularly with the professional staff serving Indian children and with the local educational agency;
- (6) Hold Committee meetings on a regular basis which are open to the public;
- (7) Have full access to all records maintained by the school concerning all students served by the program;
- (8) Establish rules for conducting its meetings; and
- (9) Have such additional powers as are consistent with these regulations.

§ 33.4 *General requirements for contracts.*

(a) *Educational plan.* To become eligible for negotiating a contract, a prospective contractor and its Indian Education Committee(s) must formulate an educational plan annually and submit it to the appropriate Area Director as part of the proposal to contract. Such plan shall become a part of any contract awarded.

(b) *Budget estimates and financial information.* Each contractor must submit to the Area Director such budget information as is necessary to determine program costs to contract for services. If contracts are to be negotiated for operational expenditures, a school district shall prove financial need based on the standards set out in § 33.2(c)(2). This information shall include records of receipt of local, State and Federal funds. If a contractor requests supplemental expense funds for special need programs, it shall specify by line item in each school district's program for which funds from this program are to be expended. When supplemental funds are sought, full information on such programs funded from other supplemental sources shall be furnished as evidence that there is no duplication of funding or supplanting. In every case where a contract is awarded for operational expenditure, formal written determination and findings supporting the need for such funds shall be made by the Area Director and incorporated into the contract.

(c) *Reporting.* Information shall be furnished in the educational plan by the contractor as to the type of expenditure for which reimbursement may be sought under the terms of the contract. Each school district or Indian corporation having a sub-contract shall report expenditures by line item. An adequate fiscal accounting system shall be required and maintained that enables identification and annual audit of expenditures of funds for services contracted under this section.

(d) *Educational standards.* The educational plan shall provide that the established State standards must be maintained for operation of programs and services approved under this part.

(e) *Staff.* In educational plans where supplemental programs are requested, a provision shall be included that preference for the selection of personnel shall be given to Indians.

(f) *Inspection of programs.* Records of contractors and subcontractors receiving funds shall be open to inspection for purposes of program and fiscal audit by duly-accredited representatives of the Federal government and the Indian Education Committee. The contractor receiving funds from the Area Director shall be primarily responsible for contract compliance, and in any instance deemed necessary, the Area Director shall assist the contractor in securing necessary documentation of expenditures from the subcontractor. The contractor shall furnish the Area Director with a detailed annual report for the previous school year, due before September 15 each year, which shall contain an evaluation of the effectiveness of the contract program. The Area Director shall also audit program effectiveness and the financial expenditures for each year such sioner, who shall have the authority to determine the propriety of such expenditure that has been questioned shall be further maintained until final determination has been made on the questioned expenditures by the Commissioner, who shall have the authority to determine the propriety of such expenditures. All schools affected by any contract pursuant to this Part shall provide members of the Indian Education Committee with full access to all records concerning all students served by the program.

(g) *Parental participation.* Each educational plan shall include provisions that the contractor shall comply in full with the requirements concerning parental participation and control as set forth in § 33.3.

(h) *Visits and consultations.* The educational plan shall provide that educational facilities receiving such funds as subcontractors shall be open to visits and consultations by duly-accredited representatives of the Federal government, by Indian parents in the community, by members of the Indian Education Committee, and by tribal representatives.

(i) *Inspection of documents.* Copies of all contracts, records, reports, budgets, budget estimates, plans, and other documents pertaining to preceding and current year administration of the contract program shall be made available by the contractor to each member of the Indian Education Committee. Such documents shall be made available, upon request, to members of the public by contractors and local school officials for inspection. The contractor or local school officials shall provide, free of charge, single copies of such documents upon request.

§ 33.5 State school laws.

State employees, in those States where Pub. L. 280, 28 U.S.C. 1360 and 25 U.S.C. 1311 do not confer civil jurisdiction, may be permitted to enter upon Indian tribal lands, reservations, or allotments if the duly constituted governing body of the tribe adopts a resolution of consent, for the purposes of: (a) inspecting school conditions in the public schools located thereon; and (b) enforcing State compulsory school attendance laws against Indian children, parents, or surrogate parents.

§ 33.6 Use and transfer of Federal property.

The use of Federally-owned facilities for public school purposes may be authorized when not needed for Federal activities. Transfer of title to such facilities may be arranged under the provisions of the Act of June 4, 1953 (67 Stat. 41).

(a) When nonexpendable Government property is turned over to public school authorities under a use permit, the permittee shall insure such property against damage by fire, rain, windstorm, vandalism, snow, and tornado in amounts and with companies satisfactory to the Federal officer in charge of the property. In case of damage or destruction of such property by fire, rain, windstorm, vandalism, snow or tornado, the insurance money collected shall be expended only for repair or replacement of property. Otherwise, insurance proceeds shall be remitted to the Bureau of Indian Affairs.

(b) If the public school authority is self-insured and can present evidence of such fact to the Area Director, insurance for lost or damaged property will not be required, provided however that the public school authority will be responsible for replacement of such lost or damaged property at no cost to the Government or for remitting funds to the Government sufficient for replacement of the property.

(c) The permittee shall maintain the property in a reasonable state of repair consistent with the intended use and educational purposes.

Effective date. This revision of Part 33 shall become effective September 20, 1974.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C.

HON. JAMES ABOUREZK,
U.S. Senate, Washington, D.C.

DEAR SENATOR ABOUREZK: The revised regulations for operation of a program of assistance to Indians in public schools, published in the Federal Register on August 21, 1974, were the results of many months of discussion between Indian parents, Indian Education Committees, BIA program administrators, and nationally-based Indian organizations.

In preparation of the final draft, it was agreed that discussion would exclude:

- (1) Changes in individual eligibility requirements and
- (2) eligibility of private schools to receive funding.

In the final work session, it was agreed that these discussions would exclude these two points.

Following are the major changes and major points of emphasis in the revised regulations:

(1) The requirement that a school district must contain large blocks of Indian-owned, non-taxable land was removed. It was agreed that retention of this requirement would cause some Indian students to be ineligible for this service, even though they might be eligible for other BIA educational services, such as attendance at a Federally-operated school. In States such as California, there may be small amounts of Indian-owned land within the school district and Indian residents would still be eligible for BIA Education Services, including Johnson-O'Malley services.

(2) The new regulations specifically define the authority to contract with Indian corporations, not clearly defined in previous legislation. Previous regulations did not clearly establish eligibility for Indian or Tribal Corporations to contract to provide services. The new regulations specifically authorize contracts with Indian Corporations, incorporated under tribal authority.

(3) The new regulations clearly delineate between a school district's eligibility to receive *operational* (basic support) funds, and eligibility to receive *Supplemental* (special program) funds. Under the old regulations, there was some question about the need of school districts to prove financial need to receive Johnson-O'Malley funds for supplemental or special programs. Under the new regulations, it is clearly specified that Johnson-O'Malley funds can be used to operate these special programs without regard to school districts financial need for operational funds.

(4) The new regulations provide basic guidelines for equality of funding, and yet leave room for flexibility based on varying needs between school districts. The new regulations will require that each State will receive equal funding, based upon the State average-per-pupil cost of operation. Within a State, funding for each school district can vary according to proven needs of Indian students within that school district.

(5) The new regulations more clearly establish a procedure for appeals for discrimination or Civil Rights violations. This was not provided for in the old regulations.

(6) The new regulations provide for program control by local Indian Education Committees. The local Education Committee has full authority to determine what supplemental programs are to be funded with Johnson-O'Malley funds.

(7) The new regulations provide strict budgetary controls, program evaluation, and addition procedures. These requirements were not established under the old regulations.

(8) Under the new regulations, the school district must meet specific requirements in order to receive basic support or operational funds. School districts that do not meet all requirements may apply to the Secretary of the Interior for a waiver of these requirements if full justification is provided.

BASIC SUPPORT

| | Fiscal year 1974 | Fiscal year 1975 ¹ |
|--|------------------|-------------------------------|
| Nebraska..... | 353,000 | 311,665 |
| North Dakota..... | 186,828 | ----- |
| South Dakota..... | 660,000 | 700,000 |
| Minnesota..... | 365,476 | 426,505 |
| Wisconsin (no basic support after fiscal year 1974)..... | 113,152 | ----- |
| Iowa..... | 108,037 | 38,395 |
| Arizona..... | 3,835,000 | 4,155,000 |
| Total..... | 5,631,493 | 5,631,565 |

¹ Most contracts signed prior to effective date of new regulations.

Projections for FY '76 under the new regulations indicate that, with the 70% requirement, only 3-4 districts would be ruled out in Arizona. In South Dakota without exceptions and waivers being granted, basic support would be cut in half. In North Dakota there would be no effect. In Nebraska, we spend Basic Support only in Omaha (Macy) & Winnebago. The bulk goes to the school at Macy which we support almost entirely.

These revised regulations have been reviewed at the State level, by local school districts, by Indian Education Committees, and by nationally-based Indian interest organizations, and the response has generally been favorable. It is recognized that each State, each school district, each rural or urban area has specific interests, and that the revised regulations represent a compromise, within existing policy, which did not totally conform to recommendations from any one group.

We hope this information will be helpful to you and the subcommittee.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

Senator ABOUREZK. I would like to welcome Mrs. LaDonna Harris originally from Oklahoma who now lives here in Washington and is president of Americans for Indian Opportunity.

STATEMENT OF LADONNA HARRIS, PRESIDENT, AMERICANS FOR INDIAN OPPORTUNITY, WASHINGTON, D.C.

Mrs. HARRIS. I think the emphasis I want to make, and the panel will improve upon it later in the day, is to show you how serious and strongly we feel those of us who are proponents of the regulations—many of us who have worked for, given a year of our lives to this work and in some cases, 2 years of our lives, we feel very, very serious on giving up any of the principles of the regulations.

We feel we are the lucky ones who really escaped the institutions, escaped educational institutions because we brothers, sisters and cousins, numbers and numbers of cousins who are on skid row in Oklahoma City, Sioux Falls or in Phoenix whom the system did not allow to escape.

This law has been on the books for 40 years and in my opinion, our brothers and sisters would not be on skid row if those moneys had been used appropriately in the beginning as they were intended.

I just want to say how strongly we feel and we are quite angry at school officials at this late date for coming around. You wonder where they were years before, those from Oklahoma, Arizona and New Mexico and South Dakota.

Where were they? Were they sitting there and smiling and smirking while we can misuse Johnson-O'Malley moneys for 40 years because the dumb Indians cannot—we can outsmart them, we can use their moneys because some would even be gracious enough to say well you cannot teach them anything anyway, but just the idea that this has occurred for 40 years before anything was ever done about it.

I know the individuals who are here representing their State. If I got to know them individually, I would appreciate them personally, but we are very angry and disturbed that they would come at this late date and make these kinds—and not understand what we are trying to do.

We do recognize that there is a special problem for the Sisseton's and we think that should be considered.

We are upset. It is like the story they tell about the guitar player. The guitar player always has to tune up his guitar and it takes so long.

Everytime I am leaving the office, my husband says what is your schedule today and I say, well, we have another Johnson-O'Malley meeting.

He says, my God, do I have to hear Johnson-O'Malley one more time?

If we ever get it fixed, we want to weld it. We are tired of Johnson-O'Malley. We have been working on this for 2 years or more than 2 years, for 40 years, to try to get justice and use of these funds.

We consider both of you gentlemen very fairminded and we know you will make the right decision. We want to say we are supportive to the Sisseton problem.

I want to thank you for giving me special privilege to speak first.

Senator ABOUREZK. Thank you, LaDonna. Do you have to leave right away?

Mrs. HARRIS. No. I have 15 minutes.

Senator ABOUREZK. I wonder if you might be able to outline for the committee what the abuses of the Johnson-O'Malley Act have been, in your opinion?

Mrs. HARRIS. All kinds. The money, as I understand from the legislation, is extra moneys, over and above what the school should provide for every student.

Every State has its responsibility for every schoolchild and the Johnson-O'Malley moneys were moneys that were to supplement for special programs.

I have the scars. Because of the misuse of Johnson-O'Malley moneys, had the moneys been made available for me, I was in a home for Comanche; Comanche was my first language. There was no one to help me with my lessons.

Each and every one of the people carry those scars that have come through this. Had there been special programs made available, then I could write better, spell better, I could do all kinds of things.

What has happened, the States have taken these moneys, used them for general financing. I know in our State of Oklahoma, the school district could use it in any way they saw fit.

There was no kind of Indian input. That is why we have worked so hard to have Indian veto power over the decisions. It happens in every State. Oklahoma is not any prime example.

As the Congressman testified, when we had those other hearings, he was appalled that State after State, including his own, had misused those funds.

Senator BARTLETT. I am aware of the report and I am sure Mrs. Harris is too, of a few years ago, showing the funds for Oklahoma were not used for that purpose and were comingled with general funds and really lost their identity.

I think this is what you are saying the report shows.

Mrs. HARRIS. It actually took a legal case by the good Indians of New Mexico to bring us where we are and we feel so strongly about that, we may have to resort to the courts, if indeed these regulations, we feel are fair and just, are tampered with.

I think every State—Mr. Jones who is on the panel will show you every State has done the same thing. Oklahoma does not particularly have to hang its head. Every State has done the same thing.

Senator ABOUREZK. Do you have any questions?

Senator BARTLETT. No.

Senator ABOUREZK. Thank you very much, Mrs. Harris. I would like to ask if the panel will come forward and sit at the witness table.

The panel consists of Mr. Glen Barnes, superintendent, Todd County Schools, Mission, S. Dak.; M. J. Rabenberg, superintendent, Public Schools of Sisseton, Sisseton S. Dak.; Edward Red Owl, chairman, Sisseton-Wahpeton Sioux Tribe, Education Board, Sisseton, S. Dak.; Robert Burnette, president, Rosebud Sioux Tribal Council, Rosebud, S. Dak.; Virgil Kinzel, chairman, Board of Education, Smee Independent District No. 4, Wakpala, S. Dak., and Charles M. Fields, Federal program officer, McLaughlin and McIntosh School Districts, Sisseton, S. Dak.

Glen, are you leading the panel off? I would like to welcome all of you first of all to the subcommittee. The hearings were instituted partly at the request of this group and we are very happy to have you here and to hear your testimony.

STATEMENT OF GLEN BARNES, TODD COUNTY SCHOOLS, MISSION, S. DAK.; ACCOMPANIED BY M. J. RABENBERG, SUPERINTENDENT, SISSETON PUBLIC SCHOOLS, SISSETON, S. DAK.; EDWARD RED OWL, SISSETON-WAHPETON SIOUX TRIBE EDUCATION BOARD, SISSETON, S. DAK.; ROBERT BURNETTE, PRESIDENT, ROSEBUD SIOUX TRIBAL COUNCIL, ROSEBUD, S. DAK.; VIRGIL KINZEL, BOARD OF EDUCATION, SMEE INDEPENDENT DISTRICT NO. 4, WAKPALA, S. DAK.; CHARLES M. FIELDS, McLAUGHLIN AND McINTOSH SCHOOL DISTRICTS, SISSETON, S. DAK.

Mr. BARNES. I am Glen Barnes. I am speaking in behalf of the basic support of the school districts in South Dakota.

I would like to express gratitude to Senator Henry M. Jackson, chairman, U.S. Senate Committee on Interior and Insular Affairs and our own Senator James Abourezk, chairman of the Subcommittee on Indian Affairs and the rest of the subcommittee members for the privilege of appearing before this body and presenting testimony on the rules and regulations for the administration of the Johnson-O'Malley Act.

The purpose of my testimony today is to speak in opposition to the enrollment percentage requirement for eligibility of a school district for operational expenditures or basic support.

We do not take exception to the rules and regulations for supplementary programs or the other three requirements for operational expenditures.

Part 33 of title 25 of the Code of Federal Regulations directs that all State school districts receiving funds under the provisions of the Johnson-O'Malley Act shall provide educational opportunities to all Indian children within that school district on the same terms and under the same conditions that apply to all other students.

Elsewhere in the same set of rules and regulations, it states that the JOM contract may authorize operational expenditures only when a school district establishes at least 70 percent eligible Indian enrollment within the district or school to be served.

The equal educational requirements and the 70 percent enrollment figure are completely inconsistent with each other.

A heavily impacted district cannot provide equal educational opportunities in South Dakota without basic support. Certainly none of us can support anything other than equal educational opportunities for all children, we therefore are requesting that the 70 percent figure be recognized as arbitrary and unrealistic.

For purpose of illustration, I will use our own school district as an example of need and even though we are above the 70 percent requirement, a 5-percent change in enrollment would put us under that figure.

The estimated average daily membership cost of a basic educational program in the Todd County School District for 1974-75 is \$1,030,000.

Utilizing all other sources of revenue, we can come up with \$818 per child leaving us a deficit need of \$212 per child. This latter figure will vary among the various districts depending on local circumstances.

It is the position of the Basic Support School Districts of South Dakota that the 70 percent eligible Indian enrollment figure is completely arbitrary and is of mysterious origin.

We would seriously question its being based on any indepth study of the needs of public schools located on or near Indian reservations in South Dakota where there are both Indian students in attendance and nontaxable Indian lands within the boundaries.

We further submit that unless basic support continues to be forthcoming in these school districts, programs and staff will have to be cut drastically with some facing the possibility of closing.

The recommendation of the Basic Support School districts of South Dakota is that part D under section 33.2 contract eligibility, be amended to 20 percent eligible Indian enrollment with a 10 percent Indian land requirement added and a minimum basic support need of \$15,000 in order to qualify.

There is statistical information from each of the basic support schools which I shall leave for the committees' examination and there are other representatives from South Dakota who wish to speak to this common concern.

Thank you again for the opportunity to present testimony.

We would like Mr. Red Owl to speak next.

STATEMENT OF EDWARD RED OWL, SISSETON-WAHPETON SIOUX
TRIBE EDUCATION BOARD, SISSETON, S. DAK.

Mr. RED OWL. My name is Edward Red Owl. I am the elected chairman of the Sisseton Wahpeton Sioux Tribe Reservation Education Board, which has been delegated the function of providing for the educational needs of tribal members on the Lake Traverse Reservation by the Tribal Council of the Sisseton Wahpeton Sioux Tribe, pursuant to Tribal Resolution No. 73-49.

Our reservation education board, chartered under the authority of tribal law, is organized under provisions of a Constitution and bylaws, and has 10 members who are elected by the enrolled members of the tribe on the reservation.

We sincerely thank Mr. Abourezk for providing the opportunity of presenting our testimony and views on the proposed Johnson-O'Malley regulations.

Also, I have been asked by the Tribal Council of the Sisseton Wahpeton Sioux Tribe to convey their gratitude and deep appreciation to Senator Jim Abourezk and his colleagues in the 93d Congress for enacting Senate bills 1411 and 1412 into Public Laws 489 and 491.

Since 1934, the people of the Sisseton Wahpeton Sioux Tribe have awaited such legislation, which authorizes our tribe to consolidate landholdings within the boundaries of the Lake Traverse Reservation.

The position of the Sisseton Wahpeton Sioux Tribe Reservation Education Board regarding the proposed Johnson-O'Malley regulations necessarily is premised on the conviction that the highest quality of education must be provided to members of the tribe in a manner determined by the members of the Sisseton Wahpeton Sioux Tribe.

Specifically, this conviction rests on the following five criteria.

One, the principle that those powers are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.

The Sisseton Wahpeton Sioux, objectively cognizant of their identity, refuse to surrender their desire to control their relationships, both among themselves and with outside forces, in the context of Indian country as defined in 18 U.S.C. in section 1151, on the Lake Traverse Reservation, whose territorial integrity is established by the Treaty of February 19, 1867, 15 Stat. 505.

Two, it is mandated that the Federal Government maintain its unique and continuing relationship and responsibility to the members of the Sisseton Wahpeton Sioux Tribe who reside within the boundaries of the Lake Traverse Reservation, pursuant to article 6 of the Tribe's last treaty with the United States, op. cit. 15 stat. 505, which makes this provision:

"... it is agreed that Congress will, in its own discretion, from time to time, make such appropriations as may be deemed requisite to enable said Indians to return to an agricultural life . . . including . . . the establishment and support of local and manual-labor schools; the employment of agricultural, mechanical and other teachers . . . and so forth."

Three, the Sisseton Wahpeton Sioux Tribe concurrently endorses the position that the States have a responsibility with regard to the

education of Indians who are located and reside outside and away from the boundaries of the reservation or Indian Country, as defined in Federal statutes, inasmuch as off-reservation Indians are full-pledged citizens of the State, contribute of themselves as any other citizen especially as regards the payment of State taxes; and, accordingly, are entitled to all the opportunities in education afforded to all State citizens on equal terms.

Four, while on the subject of the States, the Sisseton Wahpeton Sioux Tribe gives assurance that it is prepared to extend the hand of intergovernmental cooperation to the States of South Dakota and North Dakota and their political subdivisions which overlap the Lake Traverse Reservation, provided both States provide reciprocal respect for the Sisseton Wahpeton Sioux Tribe, its people, laws, sovereignty, and territorial integrity.

Fifth, the Sisseton Wahpeton Sioux Tribe also holds the position which recommends that the Congress in its legislative authority and annual appropriation process, especially as regards the appropriation of Indian moneys, make provision for a procedure which would enable the affected Federal agencies to directly channel authorized programs, services, and moneys directly to the federally recognized Tribes on reservations, thereby relieving the States of unneeded and duplicated administrative burdens.

Utilizing the above criteria, the Sisseton Wahpeton Sioux Tribe Reservation Education Board on the first day of the current fiscal year, commenced implementation of an Indian defined and controlled program of education on the Lake Traverse Reservation.

The Reservation Education Board developed and established a plan, which outlines the policies and procedures to be used in the administering of Federal funds received by the board from the Bureau of Indian Affairs through authority of the Johnson-O'Malley Act.

This plan superseded all previous agreements and policies regarding the Johnson-O'Malley program on the Lake Traverse Reservation.

The Reservation Education Board currently administers the Johnson-O'Malley program to six local educational agencies, to be hereafter referred to as LEA.

Over 1,200 children of the Sisseton Wahpeton Sioux Tribe derive and enjoy direct benefits of the JOM program, now that the program is administered by the Reservation Education Board.

The Reservation Education Board requires that each LEA receiving funds have actual and functional local Indian Education Boards which consist of a group of parents elected by Indian parents in the community for the purpose of assisting the LEA in providing for the needs of Indian children.

On the Lake Traverse Reservation, there are six Local Indian Education Boards, which involve well over 30 Indian parents who are elected to these boards.

On a regularly scheduled monthly basis, the governing Sisseton Wahpeton Sioux Tribe Reservation Education Board requires each Local Indian Education Board to submit narrative and verbal reports outlining and evaluating the effectiveness of LEA utilization of JOM moneys which support services to children of the tribe.

Payments to the six LEA's are then authorized, based on the effectiveness of each LEA in providing quality education to the children of the tribe.

The Sisseton Wahpeton Sioux Tribe Reservation Education Board requires the local educational agencies to maintain local tax levies at or above the State average as to provide for the educational needs of non-Indians on the Lake Traverse Reservation.

Accordingly, the non-Indian citizen contributes his or her share to the educational system, and the members of the tribe have provided for a system which administers Federal funds of the Johnson-O'Malley program to this same system.

The youth of the tribe as well as non-Indian youth together derive the benefits of quality education, in an environment where harmony and equality may prevail.

While the members of the Sisseton Wahpeton Sioux Tribe do not pay State taxes, the tribal government does assess and levy tribal taxes on tribal members.

This tribal tax effort levied on 3,273 resident members of the Lake Traverse Reservation enables the tribal government to derive a tax income of less than \$100,000 per year, part of which moneys are to be expended after appropriation by the Tribal Council for the continuation of the tribe's administrative and governing capability.

The Reservation Education Board shares in this responsibility. It is hence evident that the resident members of the Sisseton Wahpeton Sioux Tribe of the Lake Traverse Reservation are making their contribution to the well-being of the society.

One of the local educational agencies, the Sisseton Independent School District No. 1, would be subjected to hardship under the provision in the proposed JOM regulations, which would require the school district to have a 70-percent eligible Indian enrollment, in order to receive operational moneys, from the Reservation Education Board.

This situation is unique inasmuch as costly school facilities consisting of a large senior high school and grade school were constructed under provisions of Public Law 815.

The LEA utilizes these facilities under provisions of a use permit obtained from the Bureau of Indian Affairs. The advantages of utilizing such facilities are many, one of which consists of enabling the LEA to maintain the highest rate of education in South Dakota.

The LEA holds the title of exemplary I. In order to maintain such facilities, the LEA maintains a maximum tax level, which still fails to produce sufficient revenue not only to maintain the facilities, but also to retain competent teachers and staff.

The Reservation Education Board also points out that local pay scales for professionals, and paraprofessionals are 5 to 10 times lower than the pay received by BIA school administrators, teachers, and paraprofessionals, and yet the quality of BIA education does not compare with the quality offered by the board's local educational agencies on the reservation.

The Sisseton Wahpeton Sioux Tribe Reservation Education Board in defense of quality Indian Education and Indian controlled education for its members, is forced to recommend that the 70-percent eligible Indian enrollment provision be amended in the proposed JOM regulations, provided the Congress and the Federal agencies charged

with trust responsibilities fail to offer the tribe adequate and suitable alternatives to the current problem.

I sincerely want to thank Senator Abourezk for providing this opportunity to present the position of the Sisseton Wahpeton Sioux Tribe Reservation Education Board.

We have herein attempted to be fair and objective, while at the same time we are mindful of our responsibilities to our people on the reservation. By their consent and election, we have provided our position.

Senator ABOUREZK Thank you. You are recommending the 70-percent Indian enrollment provision be amended. What specific recommendations would you make?

Mr. RED OWL. We would concur with Mr. Barnes statement.

Senator ABOUREZK. You would concur with that recommendation. Glen, I wonder if I might get a clarification of what you are recommending.

You want to change the 70 down to 20 percent. What does this mean with a 10-percent Indian land requirement?

Mr. BARNES. We feel it would have to be at least 10 percent of the land within the district would have to be nontaxable Indian land, before they would be eligible for basic operational support, it would have to be at least 10 percent of the land in the district, nontaxable Indian land, before you would be eligible.

Also, \$15,000, let us say the basic need was less than \$15,000. They, again, would not qualify for operational expenses.

Senator ABOUREZK. When you say need you mean that the school district needs to make up \$15,000 in deficit. What do you mean by that specifically?

Mr. BARNES. If the district shows less than a \$15,000 deficit need, they still would not be eligible for operational expenditures.

Senator ABOUREZK. I wonder, insofar as amending these regulations, if they do get amended, Mr. Red Owl, what would be wrong with an amendment to provide discretion to the tribe to change that if it is in the wishes of the tribe?

I understand your tribe wants to help out the Sisseton Schools. You would be able to do that under the amendments. Do you see any kind of objection to that kind of amendment?

Mr. RED OWL. No, sir.

Senator ABOUREZK. Let me ask Mr. Rabenberg and Superintendent Barnes what they think of that?

Mr. RABENBERG. At this time, Senator, with the working relationships that exist today, I think it would be fine. I think we need to come back to one point of issue that I would need to be concerned about and I think the school board would be very concerned about.

That is the item of jurisdiction. Right now, we do have the subdivisions of the State. We are working quite well with the tribe and somewhere along the line—I do not know how you serve two masters.

Senator ABOUREZK. How do you mean that?

Mr. RABENBERG. Living basically with the standards of the State and those of the tribe also. What if those are in conflict and I need to follow State statutes in order to qualify for State aid?

I am trying to think of something that might trouble us 5 or 10 years from now.

Senator ABOUREZK. It is a serious conflict and I do not have to tell you what it is. The Indian people feel the Johnson-O'Malley money is their money for their special education needs.

I know these school districts which you represent need some kind of money to operate those schools because the lack of a taxable base in your district.

I guess that is why we are having hearings today, to try to resolve that conflict.

It was like a jurisdictional problem I was dealing with a couple of weeks ago out in South Dakota. I was dealing with two almost immovable forces. I do not know how you make both sides happy.

I do not have the wisdom to solve that. I wish I did. What I am trying to accomplish through this hearing is a way where the Indians can control Johnson-O'Malley money according to the law. This can best be accomplished through Indian self-determination with the Secretary contracting with the Indian people to control and manage JOM funds.

However, the tribes must be given the discretion to determine when JOM funds can be properly used to support basic operations in the districts educating Indian children.

Would that be acceptable over the long term? I know you think it is acceptable now because you have good relations with the tribe at Sisseton.

Mr. RABENBERG. I think, Senator, if I might relate a bit further to this. Somewhere there is, going back to the subdivision of the State, the elected school board members who will some day or could possibly one day find themselves in conflict.

I am still really concerned on being at odds with the States as a subdivision of the State. If the State puts out requirement A, then let us say, the tribe, in the future, would want to put out A plus, which they would have every right to do, the school board—

Senator ABOUREZK. Can you make that example more specific?

Mr. RABENBERG. I am not sure what it might be, Senator.

Senator ABOUREZK. You are talking about an educational requirement?

Mr. RABENBERG. Right.

Senator ABOUREZK. If the tribe did not like that requirement, they might cut off the money.

Mr. RABENBERG. Right. As a school administrator, I would be dependent, as we are now, on the good will and working relationship of the tribe in order to qualify for State aid, equalization, transportation, these good types of money from the State department.

I also have certain rules and regulations that must be followed there and one day they could be in conflict. I think Glenn would like to speak to this too.

Mr. BARNES. I agree basically with what he is saying. I am sure under the present conditions at Rosebud, with Bob, that we could work this out, but I can see some time in the future, a transitional period between administrations of the tribe and at the same time, the schools are faced with planning their budgets in advance, that we could come to a real problem, possibly because of personalities, conflict between members of the board of education or administration and tribe officials.

I would question this at this particular time on basic support.
 Senator **ABOUREZK**. Does the State of South Dakota furnish money for your school district? I was not aware that they did.

Mr. BARNES. Yes, we do get State aid on flat grants and equalization. In defense of the State aid, I think most of our districts, and certainly our district receives more than the average district in South Dakota in the form of State aid because of the number of dollars behind each resident child, the tax dollars.

Mr. BURNETTE. Senator, may I interject here. I think the two gentlemen's concerns are well founded. They are educators and equally concerned with education of all of the children in that area. I do not blame them.

However, I do not think there is any concern about this possible conflict. I do not think there is a possible conflict. There is a difference between what should be taught; that can be settled.

However, there are several laws on the books which authorize the Secretary of the Interior to do certain things within the public school districts where Indians are involved and one is enforcement of attendance.

Another one requires the school to carry out a State minimum standard. I do not see where there could be possible conflict as far as curriculum or programming.

Senator **ABOUREZK**. You are saying the Secretary is already required that the State standards be amended?

Mr. BURNETTE. That is right. We are talking about basic support here. We are not talking about special. I do not think there is any possibility, regardless of what kind of administration may change, whether it is theirs or ours, I do not think there is any possible conflict at all anywhere along the line.

Those are legal Federal statutes and State statutes that coincide with each other and operate as if they are one. I do not know if they know this or not.

Senator **ABOUREZK**. Anyone else have any other comments here in that regard? Do you want to comment Brice, on that particular standard?

Mr. LAY. The requirement was written into the new regulations that a school district receiving Johnson-O'Malley funds meet the State standards in their operation of the basic support or operational program.

This is written into the standards. Mr. Burnette is right. This is a requirement in order for them to receive funds, but to me, the question the gentlemen are raising, borders on whether the school district will have total control over use of those operational funds.

I think, as I understand the gentlemen from Sisseton and Todd County, their suggestion may relate to whether the Indian advisory or education committee could exercise control over the use of those operational funds.

Maybe I misunderstood the question.

Senator **ABOUREZK**. I think you have answered what I had in mind. Does anyone else on the panel want to say anything further about that?

Mr. BARNES. If I said that, it was not my intention. What I am saying is possibly a percentage requirement could change with the passage of time and different administrations.

It might be 50 percent one year, another year it might be 30 percent, depending on the philosophy. I do not think we are talking about control of funds, but whether or not the funds would be coming in at 30.

Senator ABOUREZK. If you retain the requirement at 70 percent, as required by the regulations and your district is all right, you have more than 70 percent of Indian population in the school, but if it dropped down to 50 percent next year, you would lose whatever basic support you are getting.

How would you react to an amendment to the regulation saying that if the tribe, in their discretion, could lower the percentage on its own motion or in agreement with the school district itself?

What you are relying upon then is recognition on the part of the tribe that their children have to be educated in that school district and they might have to authorize some basic support from JOM funds.

Would such an arrangement make you nervous?

Mr. BARNES. It certainly does not make Todd County nervous and I would ask Mr. Burnette to speak to this. There are two other districts in the area, White River and Wood that would fall under the 70 percent.

The number we have is about 75 percent and I do not think this would ever affect us.

Senator ABOUREZK. I think you are probably right.

Mr. BARNES. In the case of White River and Wood, they have a lesser percentage. I think this is something that Bob should speak to rather than myself.

Senator ABOUREZK. I would like to ask Bob Burnette that if such an amendment was approved, what would the tribal position be for White River and Wood?

I would like to know what your position would be insofar as changing the requirement for those two districts?

Mr. BURNETTE. Our basic position, No. 1, is 70 percent requirement is far too high, very arbitrary and it is a very mysterious one.

We do not know where it came from or what it is based on. There is no conception of how this thing was conceived. We are concerned with Wood and Todd County where we have some JOM schools down there.

Senator ABOUREZK. You have a prepared statement?

Mr. BURNETT. Yes. If the other gentleman will proceed, we can anchor this out.

Senator ABOUREZK. That was a useful exchange.

Mr. BARNES. Bob was going to speak in summary.

Mr. BURNETTE. I am going to summarize when the other gentlemen get through.

Mr. BARNES. Mr. Kinzel has a few remarks to make.

**STATEMENT OF VIRGIL KINZEL, BOARD OF EDUCATION, SMEE
INDEPENDENT DISTRICT NO. 4, WAKPALA, S. DAK.**

Mr. KINZEL. I am Virgil Kinzel, chairman of the board of education, testifying for the Smee Independent District.

We are operating mostly under Public Law 874 because we have very little taxable land and no taxable industries.

Being that Public Law 874 does not pay full tuition for Indian children, it reduces our revenue and our belief is that the Federal Government has an obligation to the Indian people by funding them with basic support.

The main thing left for Indian people is retaining our lands and educating our children so that we can go out into the mainstream of life and be self-supporting.

By not having basic support for our schools, we would have to reduce our staffs and lower our standards of education. We would go back to where we were 10 or 15 years ago in education.

We do feel your programs are written here in Washington with no local input in them. If these programs came from the local level, they would save our Government money and fit our local needs.

That is all I have to say.

Senator ABOUREZK. Thank you very much, Mr. Kinzel.

Mr. BARNES. I will call Mr. Fields next.

**STATEMENT OF CHARLES M. FIELDS, McLAUGHLIN AND McINTOSH
SCHOOL DISTRICTS, SISSETON, S. DAK.**

Mr. FIELDS. Thank you very much, Mr. Chairman. My testimony will be directed toward the need and desires and our concentrated effort to offer equal educational opportunities to all, regardless of race, creed, or color; our needs for continued funding moneys to meet the growing needs of expanded enrollment; and the ever increasing cost of personnel and plant operations.

Any decrease in funding will decrease the standard that we offer.

I testify in any event of loss of revenue, we will be forced to decrease our accepted standard of education.

In our more recent years, we have been instructed and advised by our esteemed statesmen and legislators that our efforts should be directed toward integration in our educational systems and we should look for guidance from our grassroots people.

We have built our system on this premise and it is only proper that we strive to keep within this perspective.

I can only hope in the event our wishes to continue funding under the Johnson-O'Malley Act are not met, that others will have to answer our community advisory board for these deficiencies.

Our advisory boards take the responsibilities as an accepted fact of being guidance and counselor to our integrated society.

Please do not break the faith these people have in you. This concludes my testimony.

Senator ABOUREZK. Thank you very much.

**STATEMENT OF M. J. RABENBERG, SUPERINTENDENT, SISSETON
PUBLIC SCHOOLS, SISSETON, S. DAK.**

Mr. RABENBERG. Mr. Chairman, I am speaking to your committee in reference to basic support. Basic support was first introduced into our school district in 1959 to the amount of \$12,000.

This amount has grown as costs and programs have increased over the years to some \$350,000. This amount has been negotiated on a need or deficit budget basis.

Need is an unique item. Each school is unique unto itself. It would be impossible to cite the needs of all of the impact schools in our State at this time.

Instead, I would like to point out some of those items which the impact schools have in common in our State.

First, our schools are all of a rural, sparsely populated nature containing large amounts of nontaxable land which unites us in a common cause.

Our State is still operating under a local property tax. Each of the impact schools represented here today have significant numbers of Indian youngsters enrolled.

This leads us to the basic question of whose responsibility is it to finance the education of these youngsters?

A letter written by Assistant Secretary of the Interior John Kyl on August 3 of this year with Senator Jackson in response to the same question raised by Senator Abourezk of South Dakota is very well stated.

Our group agrees this is a State and Federal responsibility to be shared in various complicated ways.

Our group is pleased that the committee is not taking exception to the legal status of basic support.

Our group concurs with the recently revised CFR subsection 33.2, contract eligibility, with one exception. This being the 70-percent requirement relating to Indian students.

This requirement would eliminate the Sisseton schools from basic operating dollars. This would, in reality, mean that our district would need to curtail up to 40 percent of our current programs and personnel.

Our district has most of the impact schools, are at the State's maximum taxing authority and have been there for 3 years.

Sisseton, at present, has the second highest sales ratio in our State. This removes the possibility of placing any additional burden on the local taxpayers.

It also leaves us unable to meet the increased costs facing our school systems today.

If our school district is to maintain the present quality of education, we must find some means of paying the bill.

I feel, Mr. Chairman, this summarizes our problem to the point.

Senator ABOUREZK. Thank you very much.

STATEMENT OF ROBERT BURNETTE, PRESIDENT, ROSEBUD SIOUX TRIBAL COUNCIL, ROSEBUD, S. DAK.

Mr. BURNETTE. First of all, I want to thank you and the committee and all of its members, for the tremendous amount of work you have done in the past year on Indian problems.

I think we have made some great strides in the field of Indian affairs and I hope if we continue, we are all on equal par, educational, economic, and social.

I would like to speak to some matters dealing with JOM.

First of all, the Department of Interior and the new Commissioner

and those operating in that capacity, have been dealing with this problem for some time without much success.

These new regulations are a boon to Indian education, except that I do not think they go far enough. By that, I mean in this business of Indian affairs, they seem to want to lump Indian people into one categorical area in whatever they attempt to do.

I would like to call the committee's attention to the need for JOM regulations that will treat the various needed areas wherever they may be.

I happen to know a little bit about Oklahoma. I know their needs are different than those in South Dakota, North Dakota, on the reservation areas and the same way with the Southwest, it is a much different situation.

Navajo country, for example, I think these regulations ought to be styled and fitted to those individual areas. I would like to begin to work in those directions.

We are not one person and we do not have one basic land base percentage or anything else. These things must be taken into consideration before we can possibly get equality as far as funding or educational facilities are concerned.

Addressing myself to the area in which I am so closely alined and that is the Rosebud Sioux Tribe and those communities in South Dakota.

I think it is a shame, the 70-percent qualification was instituted in the JOM regulations without consulting tribal leadership or even educational leadership because it is very arbitrary and for that matter, would affect very badly many of the school districts in our State.

Mellette County is a totally different kind of educational situation than is Todd County. Tripp County is even a more radically different situation than is Mellette County or Todd County and Gregory County, is extremely different from all of the other three counties involved in our reservation.

I think they all need a special kind of treatment. I would concur very heartily with your suggestion that the criteria should be set up as to how and when a tribe would concur in the means of a school district because they are so vastly different.

With land base situations, Mr. Barnes has recommended a certain amount of acreage, a percentage of land in the county—county could not qualify and Tripp County could not qualify in that instance and we would be penalizing Indian children in that case.

I think we ought to leave this thing open if there is going to be a requirement that requires basic support, then it ought to be somewhere on the basis of 20 to 25 percent Indian participation in that school.

I do not think you ought to say school district. We are going to consolidate school districts.

Todd County, in that situation, would qualify easily on the 70 percent, but that does not mean that will continue. They may have a migration because of employment, industrial development or whatever.

They could easily deploy into other cities in our reservation, so I concur with you Senator and I hope the officials of the Department of Interior and the Bureau of Indian Affairs would write such a regulation.

It would be possible for each tribal group to decide what their basic needs are and these are tremendous concerns because we do feel the lives of our young people who will soon be leaving this country—we have seen some things happen in this country lately that point out very deeply the need for leadership.

We hope these young people will come along and really do something about some of the void that is in this country.

Thank you for this opportunity again and thank you personally for your tremendous interest in Indian people.

Senator ABOUREZK. Thank you, Bob. Would you be willing at this time to discuss what your tribe would do with respect to school districts requiring basic support money?

For example, if they needed basic support, and you saw the schools desperately needed it, would you be willing, as chairman, to discuss the lowering of that requirement for the schools?

Mr. BURNETTE. Very definitely. It would not be so much me willing to do something like that, I think the tribal councils on all of these reservations, regardless which one it is throughout the country, but would almost demand that the chief executive officer of the tribal make this decision and do something about educating those children in that district.

Senator ABOUREZK. Thank you. Glen, do you have anything additional that you would like to say?

Mr. BARNES. I have nothing further and we appreciate the opportunity to come and present our case. We certainly hope serious thought will be given as to the requirement and how this would be set up would be left to you.

Senator ABOUREZK. I want to pursue that point further. In the instance where the tribe contracts with the Secretary to manage JOM funds in a given district and agrees to meet minimum State requirements for education, Pete do you think it would be feasible to permit the tribe to lower those standards in order to get around the 70-percent requirement?

I would like to get some discussion on that point.

Mr. BARNES. I think our position would be this, if the decisions can be made locally, in the local area or—we could certainly support that.

I think our position is in opposition to an arbitrary percentage that was made elsewhere, if the final decision on eligibility can be left to the local area.

Senator ABOUREZK. The only reason I suggest the Secretary approve such a decision of lowering that if there was a tribe that perhaps does not have legal staff or good educational advisers, and there might be some around the country, to prevent them from being taken advantage of by a school district.

However, generally, I think we would have to work out something so a tribe and a district could sit down and make an agreement as to whether there was basic support needed and that agreement could be carried out by the parties with a minimum of interference.

I would say I agree with that concept.

Mr. BARNES. I could agree with that. I might make one additional recommendation, that there should be an appeal procedure which could come from either side, the tribe or the school district, under extraordinary circumstances.

Senator ABOUREZK. To who, the Secretary, for example?

Mr. BARNES. Yes.

Mr. BURNETTE. Senator, may I say the contracts that go to the tribes are you might say, predetermined. These are all predetermined and in contractual form when the tribe signs on.

If the tribe is on the ball, they are naturally going to be involved deeply with their educational facilities of these educational institutions.

Senator ABOUREZK. Or they would not contract?

Mr. BURNETTE. Right, everyone is predetermined. That would set the standards that we are talking about here.

Senator ABOUREZK. Thank you. Is there anyone else on that? OK, thank you very much for all of your testimony. Hope you will stay around. We might have more questions after the other panel testifies.

I would like to have panel two come forward, and welcome them to the committee.

STATEMENT OF MYRON JONES, DIRECTOR, INDIAN EDUCATION TRAINING, INC., ALBUQUERQUE, N. MEX.; ACCOMPANIED BY JOHN TIGER, INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW, WASHINGTON, D.C.; LANCE LUJAN, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, D.C.; JOHN WABAUNSEE, ATTORNEY, NATIVE AMERICAN RIGHTS FUND, BOULDER, COLO.; HERMAN AGOYO, CHAIRMAN, NEW MEXICAN INDIAN EDUCATION BOARD OF REGENTS, ALBUQUERQUE, N. MEX.; PETER CHESTNUT, PROJECT DIRECTOR, NEW MEXICO INDIAN EDUCATION BOARD OF REGENTS, ALBUQUERQUE, N. MEX.

Mr. JONES. I have submitted extensive written testimony. I would like to summarize that, but I would also like to give preface to it.

This testimony was not written for this committee. It was written last January as a position paper that started off a whole series of meetings.

I think one of the things that was said by the earlier panel, that is not strictly that these regulations were changed in Washington; these regulations were arrived at in negotiations between the Bureau and what has come to be known as the Red Leg Groups which includes all of the people on this panel, and representatives of 75 other tribes, intertribal organizations and educational organizations.

I think for at least the past 4 years, there has been a group of people who have worked steadily in attempting to reform Johnson-O'Malley regulations and last year, there was a more concentrated effort than ever before.

As of 1 year ago, I think the Bureau of Indian Affairs had 17 different drafts for changes in Johnson-O'Malley regulations and this paper which I have submitted is an attempt to state a position that would justify both the need for regulation changes and some arguments for the nature of those changes.

I would like to deal with a couple of the objections that have been raised today.

First of all, I do not think it is a coincidence that the two States represented are the States of South Dakota and Arizona, primarily

because they are the States that have benefited most from basic support payments.

I think it is inaccurate to read this as a situation in which everything has been OK up to now because everything has been OK up to now depending on where you sit.

If you sit in the Auditor's Office at the Department of the Interior and go back through reports that were written on these two States and the use of basic support funds, you find an audit of South Dakota covering 1970 through 1973.

Quoting from page 11 of that article, "We have questioned the total \$1,360,155 paid to the nine schools for basic support during fiscal 1972 and 1973 because the need for supplemental financial assistance by the schools has not been determined or justified within accordance with the Bureau's policies and regulations with applicable Federal regulations or the State plan."

These references can be found in the Department of the Interior's audit of the State of South Dakota for fiscal years 1971, 1972, and 1973.

One of the justifications for changing regulations was that it was never clear how districts on the one hand, could develop cash surpluses and on the other hand, claim they would collapse if they did not have sufficient Johnson-O'Malley funding for basic support.

The audit on the State of Arizona which was the letter to the Commissioner of the BIA dated January 16, 1973, and it also predates the new regulations.

It says, "The enclosed audit report discusses one, failure of some school districts to justify JOM basic support assistance because they did not levy taxes in accordance with the State plan agreement; two, unauthorized use of JOM funds for school facilities; and three, taxes levied on reservation property were not distributed to elementary schools teaching high school subjects."

We are recommending, one, the State refund JOM basic support payments to the school districts who failed to levy taxes in accordance with the State plan and two, the area director and the State plan an agreement to prohibit the JOM funds for State school facilities.

This was under the old regulations. The schools may have thought everything was going well and it may have been for them, but things were not going well from the point of the Department of the Interior and these two States.

Furthermore, I have a press release dated Wednesday, April 19, 1972, from the Arizona Republic, a copy of which you already have and which Mr. Gus Harrell representing the State Department gave.

[The press release referred to above appears on p. 43.]

Mr. JONES. I will summarize this and I hope I do not do it unfairly so that Mr. Harrell can correct me later.

The State Department is protesting an interior cut of 5 percent in Johnson-O'Malley funds, a cut which every other State in the country absorbed that year.

In the course of discussing this, Mr. Harrell says, he is asking specifically for \$1.1 million. I will not quote directly from the newspaper account.

BIA officials allocate \$3.5 million to the State each year as its share of the cost, but, Mr. Harrell said it was not enough and the \$1.1 million is needed to continue operations without a deficit.

If Congress refuses the appropriations, he said, the districts could be forced to shutdown. He said this would not occur for about 2 years.

The idea of 15 school districts shutting down because of a school deficit of \$1.1 million in Federal money is, I think, an unreal claim.

I think this is a threat that would not have been used against non-Indian districts. I am suggesting there is a double standard that is used and I am suggesting that people who are talking about the need for basic support statements very carefully avoid all mention of Public Law 874.

The only time it was mentioned in the whole panel was by a tribal representative, not one school person mentioned the existence of Public Law 874 which in fact is the funding, the source of funding for tax exempt Indian lands.

The statement by Todd County was that they received a total of \$818 per pupil in their testimony without Johnson-O'Malley.

The Bureau's figures for the same year show \$1,120 without Johnson-O'Malley. There is a clear discrepancy between the figures in here and the figures that the Albuquerque public affairs office developed last year and gave to the committee.

The fact is, the districts, both in Arizona and in South Dakota and everywhere else where there is impacted Indian land do receive Public Law 874 funds.

These funds can be based on a number of averages. They can either use five comparable school districts. They can use the State average. They can use a series of State averages, or they can use the national average, whichever is higher.

I have yet to see any district receiving Public Law 874 funds. At present, they receive more money per pupil than they receive from local, State taxation funds for non-Indians. The simple fact is that in every district on which I have ever seen statistics the Public Law 874 funds considerably outweigh the funds from local taxation. So, the general cry of, "poorhouse" because of tax-exempt lands, carefully leaves out the existence of Public Law 874 funds.

I say again, I do not say it as a coincidence, that Public Law 874 is not mentioned.

Let me state one other factor, and then we will go on to other panel members. The 70-percent figure here has been questioned as an arbitrary figure, and I think it is arbitrary, in the sense that no one arrived at 70 percent, and said that is the right figure.

I do understand an argument for it, however, and that is that once the money goes into basic support, it is used throughout the entire school system. If 70 percent of Johnson-O'Malley funds are used for basic support, that means \$7 out of \$10, out of Indian funds, are used for Indians, and the other \$3 are not. When you reduce that figure to 60 percent, it means 60 percent are used—\$6 out of every \$10 are used for Indian students and \$4 are not. If you reduce it to 20 percent, as has been suggested here, as acceptable, then you are also accepting the idea that \$2 out of \$10 appropriated for Indian purposes are, in fact, being used for Indians. I think that is an unacceptable figure.

OK, new regulations say—

Senator ABOUREZK. May I interrupt you for a minute? In drawing those particular lines, aren't you saying, in effect, that if money is used

for basic support, hiring teachers, building buildings, you are drawing a specific 70 percent line, if that is the figure used in the regulation?

What if no money goes for basic support, goes to a school district that has 50 percent Indian students, and the 70-percent requirement were still in effect? Can that school district either shut down half of its programs, or seriously damage a lot of its programs, and that would mean then, conversely, that the 50-percent Indian enrollment would be damaged. Right along side of the 50-percent non-Indian enrollment. How do you respond to that type of argument?

Mr. JONES. I cannot respond to it without knowing why the district was so poor. As I say, I am skeptical about the poverty of districts because of the discrepancy in figure.

Senator ABOUREZK. Mrs. LaDonna said she thinks there is a special case in Sisseton. If that is the case, they are poor because of the lack of taxable land base—a lot of it might be trust land, but it is not of the tax rules. And, I believe, Sisseton is moving up to the maximum. Am I correct in that? Yes, and they cannot let any more taxation, and the State of South Dakota is not providing any more than it is right now. Then, what is your response to that particular situation?

Mr. JONES. I don't know the Sisseton situation, and would not argue one way or the other, but I do know there are conflicting situations, such as this one.

Last June or July in a special session of the State legislature, the State of Arizona met to arrive at a new distribution formula for funds and attempted equalization. They passed a law, a State financing law, saying all Johnson-O'Malley, 90 or 95 percent of all Johnson-O'Malley funds would be counted into general State distribution as an equalization factor, as soon as Federal law or regulations made it legal.

What I am saying, is regardless of the poverty of the individual districts in Arizona, if the Federal Government would allow, there are States, and this is one of them, simply waiting to take credit for 90 to 95 percent of all of their money for general equalization money.

I think the real issue is whether or not Johnson-O'Malley funds obscure the argument of whether or not State equalization formulas are to apply fairly to Indian districts as they do to non-Indian districts. There are conditions under which—

Senator ABOUREZK. How would you get extra tax money out of Sisseton, for example?

Mr. JONES. I don't know the Sisseton situation.

Senator ABOUREZK. Would you mind if we just found out the Sisseton situation from the superintendents, as far as the tax burden is concerned?

Pete, what is the amount of taxable land in Sisseton? Can you give us those figures?

Mr. RABENBERG. I will have to dig it out.

I think, in summary, it would help, Senator, and this gentleman; if you would like us to go further we would, but basically, we are at every level we can meet.

If it is the capital outlay fund, the general fund, whatever it is, we are at our State's maximum authority for the last 3 years. This will make our fourth year.

Senator ABOUREZK. What is your deficit?

Mr. RABENBERG. This year we were operating under a \$360,000 deficit. When we went in, I think it was some \$450,000 when we negotiated with representatives of the Bureau with the tribe present.

Now, if you will state your questions?

Mr. JONES. I have a response to that. I have a response to the deficit part of it. I'm not clear what that means? Does that mean you build a budget, whatever that budget might be, and the Bureau of Indian Affairs then supplies the difference between your other income and that budget?

Mr. RABENBERG. Basically, if I understand your question, I'll explain our procedure, and perhaps you could question that.

Over the years, with the cooperation of various people, we planned what we would hope our school would be in 1, 2, 3, 4, 5 years, these take budgeting type things.

We would go into, it used to be the United Sioux, then it was the State Department that announced the local tribe, and we'd sit down with various representatives of this group whom we worked with all year long. We'd say, "OK, if these are the things we want to do, we'll go back and fix a value to them."

We go back and we take the Public Law 874, the State aid, equalization, all forms of revenue we know available to us, and we investigate this. All schools, as I am sure you are well aware, do not qualify, or do not get the nominations for all of the different programs.

Then, we come back and we put this back against what we feel we would like to have, or what a program for our school district would be.

Then, we submit this to the tribe or to the United Sioux. In the 9 years that I have been there we have worked with three different agencies. Then we go back, just like we do with our teachers, and we sit down and go through a very strenuous negotiation-type process, and they help us find other money, explain moneys to us, we write for programs, whatever the case might be—trying to take the burden from the JOM moneys as much as we possibly can.

Then, after they find out what their amount of money will be, then we are advised how much of that deficit they can help us with. We must curtail programs accordingly.

Mr. JONES. That is the part I do not understand. It seems to me the amount of bureau funding is determined only by the ambition of the school district. Why not double your budget next year?

Mr. RABENBERG. I suppose, theoretically, this could be possible, but this has not happened. I would have to take the opposite stand. I feel all people in the northeastern part of South Dakota are honest people, and they are setting up valid programs based on the grass root needs of our people.

Mr. JONES. I don't think of ambition and honesty as being mutually exclusive.

Mr. RABENBERG. Fine. I'm not sure, Senator, we are getting too far, if we are getting into the nit-picking part or not.

Senator ABOUREZK. What is your current Indian enrollment?

Mr. RABENBERG. I think we would run 36 to 37 percent.

Senator ABOUREZK. All right the district has 37 percent Indian children. If they run too big a deficit, they may be forced to shut down programs for everyone. Indians and non-Indians alike.

Mr. JONES. If the district is 36 percent Indian and its Indian students bring in Public Law 874 funds on a formula per student basis, then the poverty is not the presence of Indian students or the presence of Indian land as suggested in their testimony.

Their problem is non-Indian poverty and they should go not to the Bureau of Indian Affairs, but to the Bureau of Non-Indian Affairs to seek funding for the deficit problem.

Mr. RABENBERG. Are you aware of the letter we made reference to from Kyl?

Mr. JONES. Yes.

Mr. RABENBERG. I am a poor mortal. I cannot take on our State legislature, nor Congress or the Department of the Interior, all these good functions of government.

They set up our standards and we, in the field, have to live with these types of things.

I would like to go back to one point and this might clarify something, at least it would ease my mind a little bit.

You talked about the cash on hand type of balance that has been built up. I am not sure, Senator, if I have this right, but I would like to ask a question.

Do you believe in the zero principle of budgeting that on a particular date we start with no guarantee that we are started out? This is like a management labor negotiation to me where our teachers, our qualified teachers, our employees, come back to us and say you have \$3 or \$400,000 on hand as of July 1.

We want this in salary, but the point that is soon forgotten is these are obligated moneys. These are already salaries for June, July, August; for 3 months of the contract.

We have a circuit court case going on in our State right now contesting that I will buy the zero principle of budgeting if the State and Federal government will say all right, if your schools coffers are empty as of July 1, we will guarantee you, by your first payroll, that we will indeed bring you the money, guarantee you the money so that you can make payroll.

I have been through this situation and I do not know your background, but could you imagine in our case where we have some 150 employees in our school district and I could not make payroll or our school district could not make payroll?

Mr. JONES. I do not know about that. I am reading from an Interior Department audit. It raises an interesting point and that is what does need deficit mean? That is the—

Mr. RABENBERG. It is needs based on the needs of a unique school district.

Mr. JONES. You have less than you would like to have and that seems to me to be a universal deficit. Everyone in this room, if polled, has less than they would like to have.

Mr. RABENBERG. We do negotiate down every year. We do not win basically with unrealistic figures. People at the grassroots will sit down and are honest with each other.

Somewhere along in life it gets lost, but it does not happen at that level. We are dealing with our advisory boards, our Indian tribal education boards.

These people still want good things to happen to kids. They are not all caught up in buses and budgets like the rest of the scene.

Senator **ABOUREZK**. Ok, Pete, thank you very much. I do not know if you are through with your presentation.

Mr. **JONES**. Just one more thing, I want to quote again from the press release of the Arizona Republic because I think it exemplifies the position that States and school districts, not all school districts, but one that has commonly been taken and that is to create the illusion that the presence of Indian land and Indian students automatically creates poverty for school districts.

The paragraph says:

The state needs this agreement because parents of Indian children, whether the children attend reservation schools or go to public school, pay no taxes. Thus the districts involved must levy a tax equal to the statewide average school district property tax on the few landowners who are eligible to pay—normally large utilities who have operating plants on or near reservations.

The secondary paragraph is remarkable because it is an expression of sympathy such as you hear from the utilities. The second part is interesting in that it does promote a very negative myth for Indian parents.

Nowhere in this article is Public Law 874 mentioned or the new regulations. What it says is if you have a need for basic support, prove it and the list of criteria by which it can be proven.

Part of that is, and I think this is a percentage question, perhaps that percentage should be negotiated, but the percentage question is simply a way of saying if your poverty is a result of Indian land and Public Law 874 and the other funds do not make up the difference, then the Bureau of Indian Affairs will take care of it.

However, the percentage also says if you only have 20-percent Indian students and you have poverty, you have a non-Indian poverty situation and you really should not be going to the Bureau of Indian Affairs to have that taken care of.

It is a serious dilution of Indian money. With that, I will conclude.

Senator **ABOUREZK**. One question. What would your position be on an amendment to subtitle 4 which requires 70-percent eligible Indian enrollment, let us say the tribe or the contractee whether it is a tribe or an education board or whatever, would have the authority, if they wanted to agree to it, to lower that requirement to provide basic support in a case where they thought the support would be needed.

Mr. **JONES**. I would like to see evidence of school district poverty relative to what; to other school districts in that State; relative to the national average?

I would like to see some evidence of the need for basic support on the other points before the 70-percent part of the question.

Senator **ABOUREZK**. You are talking about setting a specific figure. I am not talking about that. That is what you are saying, before you would want to change that figure at all, you would want to see evidence.

However, what I am asking is what is your reaction to leaving that to the option of the tribe itself, to leave it at 70 or lower as they saw fit?

Mr. JONES. As national policy, I think it would be very difficult. I was thinking of the question of the Navajo Tribe that has students in four different States operating under four different Johnson-O'Malley plans and four different systems of funding.

Senator ABOUREZK. Why would that be difficult?

Mr. JONES. I think it is very complicated. The four States now operate in very different ways. All the Navajo Johnson-O'Malley money in New Mexico is supplementary. In Arizona, it is all basic support.

Senator ABOUREZK. But did you not just make the argument for local control? Is that not the best argument for it?

Mr. JONES. For local control, but I would not support an argument that assumes that area officers were in a position to determine whether or not people needed money because they have not been able to do so in the past.

Senator ABOUREZK. What about if the tribes determine it themselves? That is what I am getting at.

Mr. JONES. That would depend on the structure. Is tribal control more local than a school building control? If you ask me how I feel as a person, I feel in fact education, formal education, is determined by what happens in a school building in one location. That is the most local control and the most desirable.

Senator ABOUREZK. If you allow that option in the contracting body, the Secretary contracts with someone, whether it is the school board or the tribe or whoever, that presumably is the lowest common denominator of local control, I would guess, or that is the one he contracts with.

What if you left it in the option of whoever the Secretary contracts with could make that change if they saw fit?

Mr. JONES. I would be for, and I am and it is in the present regulations, the local contractor using the money any way they see fit, including spending the money outside the public school system which is now legitimized within the regulations. I am for that.

Senator ABOUREZK. It is in there except for that requirement, there be a 70-percent eligible Indian enrollment.

Mr. JONES. Not to spend the money outside of public schools.

Senator ABOUREZK. No, but to provide the money for basic support. That is the issue before us.

Mr. JONES. I do not think local regulations should allow any school system to supplant, to spend money for that which have already been made available.

That is, I do not think—national policy should be flexible. I do not think it should be waived to allow a school district to do something that is flatly illegal.

If the State supports a school from its general revenue, I do not think, even on a local level, people should be allowed to do that.

Senator ABOUREZK. But would not the tribe be able to look at the school district's books just as you have to be able to determine whether they are wasting the money or whether they want too much before they agreed to allow some of the money for basic support?

Mr. JONES. It could not work unless they were familiar with all school funding, unless they were familiar with all minimum standards.

If they were familiar with all of them, then the question is whether they can have the school do something illegal.

To give an example, in New Mexico, 4 years ago, and I think the New Mexico people here will back me up, the Bureau of Indian Affairs would go to the local education committee and say we believe in local control.

You are the local tribe, what do you need? The local tribe would say we need nurses. Fair enough. They would write down nurses on the list.

What else do you need? We need a council. Fair enough and they would write council down on the list.

Six months later, the tribe would discover they had used Johnson-O'Malley funds to fund what State minimum standards required and what the State itself provided funding for in the first place.

I think their just saying whatever anyone wants to do locally is fair enough. That is incomplete.

Senator ABOUREZK. How would you complete it?

Mr. JONES. By requiring complete, State minimum standards be met before Johnson-O'Malley was used or by doing what the present regulations do.

Senator ABOUREZK. But that is in there. Those requirements are already in there. I am asking about a change of that percentage to be done at the option of whoever the contracting agency might be.

You have talked all around that.

Mr. JONES. No; I do not know how you could build that into regulations right now.

Senator ABOUREZK. Why not?

Mr. JONES. No one has tested the regulations in any way. They have not been put into effect in any way. They have been on the books since September 20.

No one has applied for a funding under the new regulations; and in fact, under the new regulations, people decide they do want to, that they are in financial need, then I think I would look at the question again, but that has not been done at all.

I think it is a mistake for me to talk about it now.

Senator ABOUREZK. I think it is a mistake not to talk about it, frankly.

Mr. BURNETTE. May I interject here? I think the gentleman is trying to raise a very valid point here. I happen to know all about that county. I am very close to it. In fact, I have taken part in what they call Even Chance, if you read the pamphlet in title I.

I was one of the people who worked on that. I worked very hard at it. I know there have been past abuses, but the funds, the audit that is being referred to, refers to a lot of funds that have nothing to do whatsoever with the basic support that comes from the State of South Dakota.

Insofar as the poverty of that district is concerned, that is title I. Everything else involved in the total figure he is using is very misleading.

I know exactly what those figures are in Todd County, and no one is going to fool me. I can go down to Winner, S. Dak., and find out what the tax base is and how much money comes in there and what the basic support for State funds are.

It is very misleading. All of these funds are very misleading in a report like this. I would like to point that out. I think it is a mistake to use that.

I think the figure should be gathered very factually so that the committee will not be misled and so that we will not be misled.

Senator ABOUREZK. What I would like to do, if I can, is either try to get you to say yes or no.

Mr. JONES. Obviously, I would prefer to say yes or no, but if I had to say yes or no, I would no until there is some kind of evidence.

Senator ABOUREZK. What kind of evidence? What are you talking about?

Mr. JONES. That there is financial need after Public Law 874 and all other funds have been used.

Senator ABOUREZK. You are getting ahead of the question. What I am trying to say is whoever the contracting agency is, would have to know whether there is a need before they would agree to providing basic operational support. That is what I am getting at.

Mr. JONES. If you are asking me whether or not contracting agencies should be able to spend more than half of Johnson-O'Malley funds for non-Indians, the answer is no, they should not be allowed to, no matter who they are.

Senator ABOUREZK. If they are a tribe or Indian school or whatever—why do you say that?

Mr. JONES. It is a dilution for the funds. It is appropriated for Indian educational needs.

Senator ABOUREZK. Let me ask you why is it a dilution of educational funds?

Mr. JONES. Maybe I do not understand your question.

Senator ABOUREZK. Why is dilution of funds bad? Let me put it that way, assuming it is a good thing, tell me why it is not a good thing?

Mr. JONES. If there is going to be funding by the Federal Government for an integrated school program, there is legislation to do that, and that is Public Law 874 based on tax need.

I think the rule should be if it is an integrated program, it should use integrated money. If it is Indian money, it should be used for Indian needs.

Senator ABOUREZK. Getting back to the first part of my question: Is not the school system itself partly used for Indian needs, even if it is only 46-percent Indian enrollment such as at Sisseton?

Mr. JONES. But that does not justify funding the entire school, particularly if the financial needs are not a result of Indian land, but a result of non-Indian land.

Senator ABOUREZK. I think what you are doing is passing judgment on other areas based on your own personal experiences. Where are you from?

Mr. JONES. Albuquerque, N. Mex.

Senator ABOUREZK. You are sitting in Albuquerque and telling the Sisseton Tribe in South Dakota that it cannot use funds allocated to it for the purposes that tribe determines is best for its children.

I am not sure you want to be in that position. Maybe you do.

Mr. JONES. Obviously, I do not; that is why I took so long to say yes or no. I clearly do not want to be in that position.

I do want to say quite apart from South Dakota, that in many States, a lot of Johnson-O'Malley money has been misused with tribal approval because of the procedures under which it is done.

However, the Bureau of Indian Affairs approval, tribal approval at the highest level, it is always the Interior auditor who says wait a minute, it has been the area officers.

Senator ABOUREZK. Assuming that is true and I believe it is true, how do we provide for education in those districts that might need basic support from Johnson-O'Malley funds?

I do not know if anyone knows right at this point. How do we do that and still prevent the abuses which I think ought to be prevented?

Mr. JONES. I think people applying for general funds, noncategorical use of Johnson-O'Malley funds, should have to follow some standard to demonstrate why they are short of funds to operate a school.

Senator ABOUREZK. Would you go for an amendment to the regulations in that regard, that they would have to provide the contracting agency, the tribe, or whatever, some sort of standard procedural form to show why they need the money and why they have to have that to maintain minimum standards and so on?

If that were a requirement, would you then allow the local contracting agency to waive the 70-percent requirement or to lower it or whatever?

Mr. JONES. That is in the regulations now. They are required to do that. They are required to demonstrate financial need.

Senator ABOUREZK. I know that is in, but I am talking more about how they present it to the tribe. That is what you are talking about.

Mr. JONES. If it could be presented to the tribe and the tribe wished to use the money, then I would think the tribe could do that, but the safeguards involved in it would have to be much more complex than the ones that are presently there.

I have no doubt whatsoever that Bob Burnette knows whether or not a school district really needs the money.

Senator ABOUREZK. If the safeguards were provided, would you then say yes or no to that particular waiver of the requirements?

Mr. JONES. I have taken the position that contracting groups can spend the money they want to, including inside and outside of school day care centers if education is placed at those day care centers, so I would say yes, Senator.

Senator ABOUREZK. If there were adequate safeguards?

Mr. JONES. Yes. They would have to be extensive. The idea of overwhelming the non-Indian schools and overwhelming the non-Indian school district, claiming need from the Bureau of Indian Affairs because of its 20-percent Indian, is, I think, a specious claim to begin with and I would look at it with a crooked eye.

Senator ABOUREZK. Would you be willing to sit down with the staff of the subcommittee to work out some kind of safeguard or basic requirements for a safeguard?

Mr. JONES. Yes; I would.

Senator ABOUREZK. We would be happy to have you. You seem to be pretty knowledgeable in this area. Do you want to finish or do you have other people who want to testify?

Mr. JONES. I am finished and then some.

Senator ABOUREZK. Thank you very much. I think it was good testimony. I learned a lot from it.

[The prepared statement of Mr. Jones and the press release from the Arizona Republic follow:]

INDIAN EDUCATION TRAINING, INC.,
Albuquerque, N. Mex.

JOHNSON O'MALLEY

On April 16 of this year, Johnson O'Malley will celebrate his fortieth birthday. This paper represents a somewhat lengthy and necessarily premature birthday card full of resolutions that, if followed, may help him finally to become a full grown man.

He's rather long in the tooth to begin thinking seriously for the first time about real maturity, but it would be a disservice to pretend that his flaws were superficial. He's been many things to many people. To most school districts, he's always been a good old boy ready to give you a handout if you were in need and ready to double the handout if you were just bluffing and didn't need anything at all. To most State Departments of Education, he's been the Daddy Warbucks type of benefactor who would give you hundreds of thousands of dollars and sometimes millions to do something and then smile and buy you a drink if you did only a small part of it, or nothing at all.

He's never really been that generous to Indians, but in all fairness, he has sometimes come through with sneakers, lunches, pencils, papers, school year books—small but important and real things. To many more Indian parents, he's just somebody; they're not sure who, who's supposed to do something; they're not sure what. To as many Indian parents, it's a name heard more than once. Who knows? Maybe it's a utility infielder with the Cleveland Indians.

In short, we're going to accept the possibility that he can make it. He's got a big heart. All he has to do is direct his generosity toward the right people. This cannot be done unless new regulations, manual revisions, new structures, and some new people can be brought together to achieve two essential goals that have never been attained: (1) educational and program accountability; (2) fiscal accountability. This cannot be done without dealing in some specific ways with questions that have been obscured and distorted both in existing and proposed regulations.

ELIGIBILITY

Present regulations and published proposed regulations both use the phrase, "public school districts containing large tracts of non-taxable Indian-owned lands." This issue has been discussed to death by everyone but Dick Cavett. When Public Law 874 was amended to apply to Indian lands in 1958, it made Johnson O'Malley anachronistic in terms of its old "in lieu of tax" function. That isn't an opinion; it's a fact, and the BIA at the time acknowledged that fact by attempting to do away with Johnson O'Malley since they couldn't think of anything to do with it if they couldn't simply give it away. (Behavioral studies may one day show that philanthropy, at least with other people's money, is more habit forming than heroin.)

The documentation to support my contention is both voluminous and easily available. The real question is, "Why do people continue to deny the existence of Public Law 874? It's clear why public schools do. They get more money that way, but why does the Bureau of Indian Affairs? Previous discussions have indicated that this phrase is meant to cover two questions: (1) justification for excluding urban Indians; (2) justification for using Johnson O'Malley funds for basic support rather than supplementary programs.

The question of urban Indians or unrecognized tribes can be handled simply by saying that eligibility is limited to those Indians recognized by the Secretary of the Interior as being eligible for Federal services.

The second question—basic program needs vs. supplementary needs—is invariably discussed out of proper context. It is not, as usually presented, a question of solid foods vs. gooey sundaes. It is not a question of arguing for programs with unusual titles vs. reading, writing and arithmetic. A new title for an old idea has no intrinsic value, just as routine classes and mass boredom have no intrinsic value. These questions are curriculum questions that can only be settled within a school district; they do not properly define supplementary.

Basic vs. supplementary use relates directly to the question of accountability in a very particular context: "Are you giving schools Johnson O'Malley funds so that they can do what they would be required to do and quite able to do if Johnson O'Malley didn't exist?" The answer is usually yes. (See Appendix A,

IET's charts on Arizona and New Mexico.) These charts demonstrate that Arizona schools of comparable size have more available funds per pupil before Johnson O'Malley than New Mexico schools do after they get Johnson O'Malley. New Mexico acknowledges through its State Plan that it needs no funds for basic support. Arizona claims it needs all \$3.8 million for basic support. Something's wrong.

Once you write regulations that ask school districts to talk about their needs, you have surrendered because you are playing into one of their major areas of expertise—crying poorhouse.

The terms *basic support* and *basic program* are used interchangeably. They shouldn't be. Basic support means relatively predictable funding for an operational budget.

(a) Local and county taxes—property, license fees, whatever else might go into basic school support.

(b) State funds (whatever their source)—This would include both the basic distribution and supplemental/equalization distribution in many States.

(c) Federal funds—Public Law 874, Forest Reserve.

The common denominator of all three types of funds is that all are non-categorical and all put together are supposed to enable a school to carry out a basic (in the sense of minimum) program. That is, those responsible for enforcing minimum standards (usually State Departments) will always take the position that schools have been given enough money from basic funding sources to meet standards. The States have to believe that. If they didn't, they would be in the position of enforcing standards that were impossible to meet. Most schools, on the other hand, will claim that they are not properly funded and are able to meet minimum standards only through careful management and constant scrimping.

In States that use JOM for basic support, JOM has become part of the funding that is used to meet minimum standards. Is this real? If it were, we would find non-JOM schools of comparable size and income failing to meet minimum standards. That doesn't happen. Again, Appendix A shows that in Arizona, JOM schools have more money per pupil before their JOM funding than do non-Indian schools of comparable size.

No one has ever seriously suggested that supplementary means add-on or extension and nothing more. If your house leaks and you get wet when it rains and stay cold the rest of the time, you need to repair the leaks, not add on a recreation room or a den. That's not the issue. The issue is, can schools continue to subvert the purpose of JOM through dilution? That's exactly what they do when they use the money "in support of the basic school program offered to all students."

DISCUSSION OF NEED

Both the existing and proposed regulations deal with but distort the question of need. They are concerned with needs as described by a school district (as discovered by the school districts partially through the "participation" of a parents committee). That's starting at the wrong end from a planning and delivery point of view. Need should relate directly to the needs of the Indian students and their parents (in relation to the students' needs.)

Very few contemporary educators will publicly take a position against community involvement. They are for it, as long as they can bring community people close enough so that they can take the insider's view.

The parents' strengths don't come from a developed ability to simulate a toy educator's posture. Their real strength lies in the fact that they are not educators, but outsiders (enclosed diagrams).

School people will claim that you can't trust parents too much because they're too simplistic; not when it comes to questions of need. Take 20 parents and students and ask them what their school needs. They'll come up with a great variety of answers: better teachers, better attitudes, more free time, less free time. They may be right or wrong, but they'll put together a lengthy list. Ask 20 administrators the same question and they'll have the one, most simplistic answer of them all—they need money—period. It's a standard American internal view of oneself. We are trained to believe that money is the only and the ultimate security. It will solve all problems ranging from emotional depression to scalp itch. The New Mexico school district with the highest per pupil funding (Dulce—78% Indian) also has the highest dropout rate. I'm not suggesting that money is bad or isn't needed or by itself creates educational problems. I am saying that

money only solves problems that really have to do with money. I agree with school people that it would help if parents gave more support to education, but I disagree with the kind of support that's usually requested, i.e., complete assent to decisions unilaterally made by the schools. That isn't support; it's blind loyalty.

Under the language of the proposed regulations, parents could "participate" only in the discussion of "special need" programs. If schools declared that they were too poor to run special programs, there would be no participation in the first place. Schools are, in effect, being encouraged to unilaterally decide that (1) They don't need special programs; (2) They don't need any Johnson O'Malley committee to find out whether or not they need special programs because they've already said they didn't need the programs or the committee.

School districts are being told through new regulations how to (1) have their cake; (2) eat it; (3) make sure no one knows they've done (1) and (2). *FACT*: The Bureau of Indian Affairs has never and doesn't now have the means to determine who's eligible for basic support and who isn't.

The Bureau operates on a two-year funding cycle. Now, in January, 1974, schools are asked to submit programs or flat money requests for programs or assistance checks that will arrive in their schools in September, 1975. That's nonsense. No public school in the country knows enough; they can't. In districts with substantial State funding, their needs will depend on the Spring/Winter actions of their legislatures. In districts with heavy Federal funding, the school's financial planning will have to wait until the Public Law 874 budget decisions of that year. Even local and county taxes, bond issues, etc., are subject to last minute voter decisions.

Consider Arizona schools. They are now busily submitting their JOM non-programs for fiscal 1976. They don't need committee approval or even committees because they *know* they'll be poor in 1976. How can they possibly know? Their State legislature will meet in special session this year for the purpose of completely revamping the entire State education funding system. (They probably plan to build JOM into their basic distribution system, thus creating a permanent supplanting procedure.) No one dares guess what will happen with P.L. 874 funding. They have no idea what local decisions will be made that will effect their funding. It isn't now (as it will be in the Summer of 1975) that they don't want to talk about their total funding; it's that they have no idea. No one does and no one can.

The same thing happens with planning supplementary programs. How can you extend or alter a non-existent structure? There's a reason why people don't build attics or buy furniture and then build houses around them. Real decisions on special Indian needs, which should include any felt need not being met, can only be made locally.

In the 1973 Natonabah Decision (Natonabah vs. the Gallup-McKinley School District), Judge Bratton ruled that there were two tests for supplementary programs: (1) School districts would have to meet minimum State standards before applying JOM funds; (2) Even after meeting standards, they would have to meet the test of comparability. That is, any programs offered to non-Indians out of other funding would have to be available to Indians also before JOM could be added.

For years now, Indian-controlled schools have been used as a club to set policy for other schools. This is misleading. Gallup has a majority Indian school board (3 out of 5) and yet, a Federal court ruled discrimination. That's because the District may be known as an Indian district but has both Indian and non-Indian schools, and they spent more operational money per pupil in the non-Indian schools than in the Indian schools. The question of Indian control vs. non-Indian controlled school boards is an important one, but it still has to be measured by what happens in all the schools. Again, if there's a majority Indian school board and they deal only with one school or a few overwhelmingly Indian schools, it is reasonable to presume that all their programs are intended to meet special Indian needs, and they do not need a new set of protective regulations.

PARTICIPATION V. COOPERATION

"Participation" of Indian committees, as generally practiced now and as described in the new proposed regulations, guarantees both unilateral school control and lack of accountability.

Schools do know their history in relation to JOM. They know that they have always gotten their money regardless of GAO audits, Interior audits, threats,

demonstrations, law suits or humble supplication. The money has not only always been delivered; it's increased. In terms of educational programs, no one has ever had to prove that he was on the right track, or even the wrong track. There has been no standard of evaluation relative to anticipated results.

The real action in fiscal accountability will always, must always take place the immediate summer before school starts, and for practical purposes, that can only be done on a district level. Program accountability can either be measured by some objective testing (in some cases) or by direct observation, but only in relation to some expected result. And this can only be done on a local level.

But the local people have no power except to "participate." It's a very weak word. Miami and Minnesota participated in a Super Bowl Game. In current usage, though, the people who watched on television also participated, or at least we were thanked for participating. Will we participate in the American Bi-Centennial if we're within the borders of the country in 1976 even if we do nothing else? I think it will be described this way, and I think this is the kind of "participation" that will be elicited by these regulations. Any parent or non-parent, any Indian living in the district will be said to have "participated." (In truth, you don't have to be living. Death may be inevitable, but it's not strong enough to remove names from JOM committees. In many districts, the quick and the dead are consulted equally.)

There is one clear way to avoid meaningless participation, obtain accountability (both programmatic and fiscal) and produce actual cooperation—*contracting*. If the local parents group (through incorporation or whatever the law requires) can contract for Johnson O'Malley funds, they will determine how the money will be used and whether or not it has been used properly and wisely.

If a school can deliver what the parents want, they will get their funds. If not, the parents will use their funds for other educational programs: (1) their own community programs; (2) contract schools; (3) Bureau schools. This is a built-in, bilateral arrangement. The parents and the schools now have mutual dependency (a first; up to now, only the parents have been dependent).

A great deal of planning in Indian education has always been done with the assumption that Indian parents somehow care less about their kids, less than other parents, less than local educators, less than the planners. If you don't reject that, there's not much point in worrying about Indian education; work on mass adoption schemes. If you do reject it, if you have confidence in the intent of the parents, then allow them to make choices. We don't need ongoing debates as to school performance. Parents can decide who comes closest to doing what they want, and they can back their decisions with Johnson O'Malley funds.

Schools try to present themselves as supermarkets, and they are in some ways. But why should the "customers" be restricted to the supermarkets? Maybe it's better to buy bread in one place, meat in another, milk in another. I think you would have both the involvement and cooperation of parents if the Johnson O'Malley program represented both a decision and a commitment. For example: The public school will have a JOM math program because they have proven that their math department is the best around. The contract school runs a JOM study program because that's what they do best. The BIA school runs a third program through its language lab.

The Bureau doesn't need a Department of Public School Relations. It needs only an efficient and centralized contracting system. If Indian parents and students control the money, they can become their own Department of All School Relations (including public schools).

NATIONAL INDIAN LEADERSHIP TRAINING,
NAVAJO COMMUNITY COLLEGE,
Albuquerque, N. Mex., August 23, 1972.

REPORT

To: All persons concerned with Indian Education.
From: Earl J. Waits and other NILT Staff members.
Subject: The use of Johnson O'Malley funds for basic support in Arizona.

We have on several occasions asked why Johnson O'Malley money is used for basic support in Arizona. The standard answer from State and local school authorities has been that JOM money is necessary for basic support because the enrollment of Indian students from non-taxable lands creates a financial burden upon the district. They contend that it is necessary for them to use JOM in this way in order to keep their schools open.

in reviewing the statistics on public school finance for the fiscal year 1970-71, the only year for which we were able to get complete statistics, we find some very interesting facts. Our figures were compiled from the publication, "ANNUAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION, Statistical Section, for the Fiscal Year 1970-71," published in compliance with Arizona Revised Statutes § 15-123, by the office of the Superintendent of Public Instruction, State of Arizona. Our figures represent those reported to that office, and any errors, other than typographical errors, in our figures result from errors in reporting to or compilation by that office.

We now refer the reader to attachments A, B, and C, to this report. We find that in all common size groups, with the exception of the elementary schools of ADM (average daily membership) 10,000-20,000, those districts that receive Johnson O'Malley funds receive *more* money without JOM than the districts which do not subsequently receive any JOM aid. In that one large grouping we find that the per pupil receipts in the JOM district is only \$17 per pupil less than in the comparably sized non-JOM districts. This difference is not significant in light of the size of these districts. In all other cases, the difference ranges from a low of \$34 per pupil in the large high school districts (which may or may not be significant) to a high of \$846 per pupil in the smallest elementary districts (ADM 0-150). All of these averages are higher in the districts that subsequently receive Johnson O'Malley money.

It is interesting to note that the non-JOM elementary districts in the ADM range of 0-150 receive an average of only \$1,354 per pupil, while the JOM districts in that group receive \$846, or 63% more money per pupil *before* JOM is added. When JOM is added the difference is then \$1,362 per pupil, or 101% more. It is also significant to note that, in all cases, these are the amounts received *before* P.L. 89-10 (Title I, etc.) or other categorical aid is received. They represent only that money which is considered operational funding by the State of Arizona.

Therefore, we fail to see how the enrollment of Indian students creates any financial hardship on the district which receives these students. The reason that the districts which enroll Indian students do so well, financially, is readily apparent. While the parents of most of these students pay no property taxes, the children do make the district eligible to receive general aid from Public Law S1-874 (Impact Aid). In every case we have found, and it seems to hold true in Arizona, the district receives more, in some cases two or three times more, money for each child from P.L. 874 than it would if that child lived on taxable land and paid property taxes.

It seems to us absurd to say that a district which has a greater financial base to start with can successfully argue that it needs additional money to keep its schools open, when the poorer schools which cannot qualify for JOM are able to operate. This then brings us to the next topic.

When confronted with the above statistics the school officials contend that in their district there are certain "hidden costs" which make it necessary for them to use JOM for basic support. When we asked them why these hidden costs would not be reflected in our analysis, they maintain that we did not have the correct statistics in the beginning. As stated previously in this report, our figures were taken from an official report, compiled pursuant to an Arizona State Law.

If our figures are not correct, the two questions must be asked: 1. "Why were not the correct figures reported to the State Department of Public Instruction?" and 2. "What are the correct figures?"

If the correct figures were not reported to the State Superintendent, was it because of error or misrepresentation? If the cause was an error in reporting, more care should be taken to insure that such errors are not repeated. If the cause was misrepresentation, a violation of the law is then apparent. In either case something should be done to correct the problems.

We are then faced with another problem. If there truly are "hidden costs" that would make basic support from JOM funds necessary, but they are not reported to the Bureau of Indian Affairs, Phoenix Area Office, why has the BIA consistently approved the use of JOM for basic support? If our figures are correct, there can be no possible justification for the use of JOM for basic support, and if the districts do not supply additional information, which is documented, then the BIA is wrong in approving funding for those districts. If this other information is documented to the BIA, why is it not documented to the State of Arizona? There must be a uniform reporting requirement so that all the facts can be presented. We are not dealing with the accounting of a few dollars but rather a large sum (several million dollars) of money. And even beyond pure monetary considera-

tions, we are dealing with the quality of education for the children, especially the Indian children, of Arizona.

As we delve further into the situation in Arizona, we are faced with determining what a basic school program is. When we asked if Arizona had minimum standards for public schools, we were told that they did not. How then does one determine what is considered to be a basic school program? Further, how does one determine whether a specific instructional program is a basic one? Is underwater basket-weaving a basic program? How about English as a second language or hogan-building, or speech and debate, or kindergarten, or remedial math and English? The list of programs goes on and on. In one school a program is considered basic; in another the same program is a supplemental one.

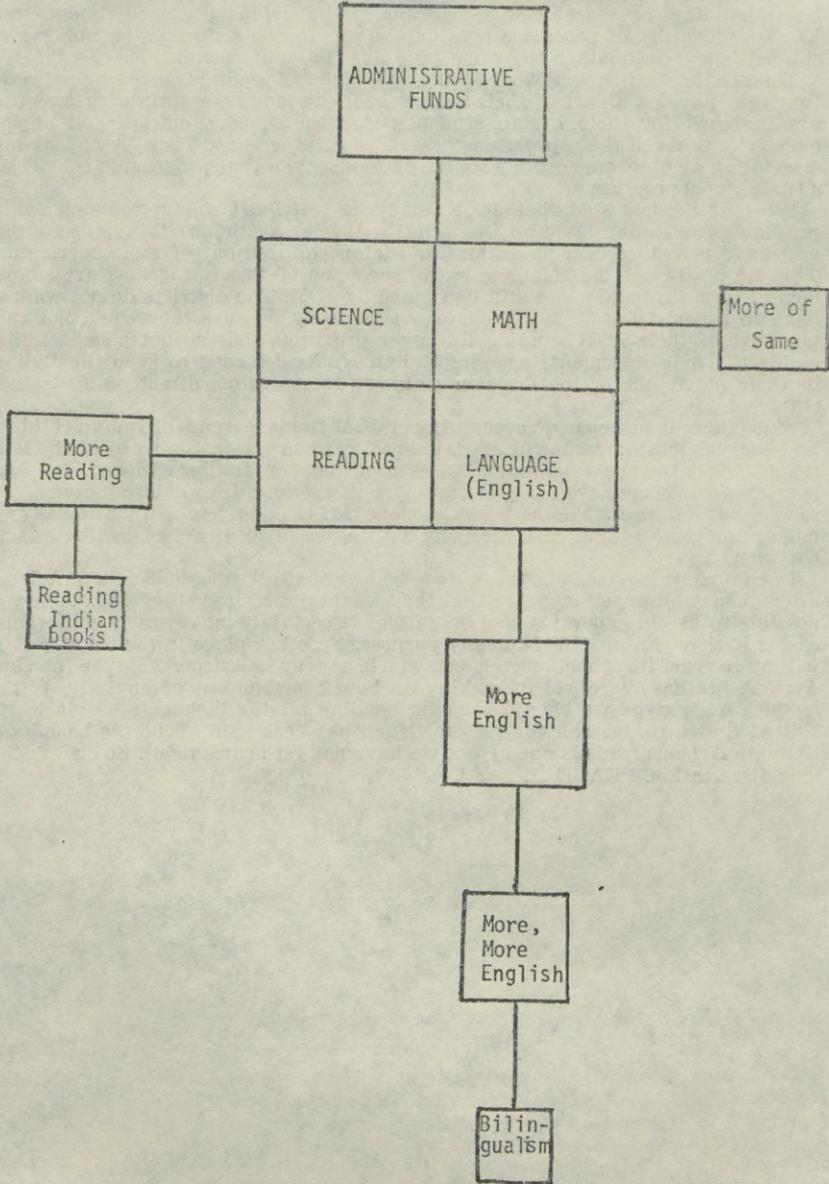
The districts which receive JOM and subsequently use it as basic support claim that they have as a part of their basic school curriculum, certain programs that are designed for their Indian students. Can the school's officials tell anyone exactly how much these programs cost? The answer is *no*. There is no separate accounting of program costs by source of funds when that program is considered a basic school program.

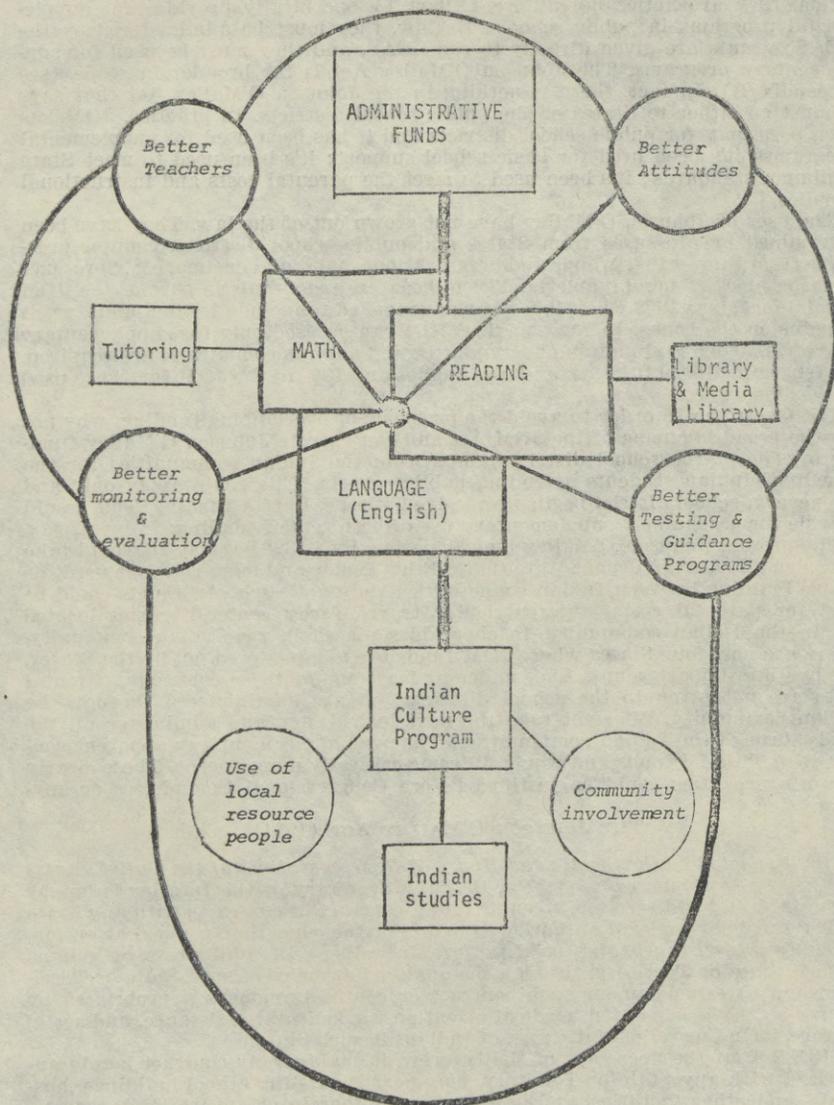
When it is suggested that JOM money be restricted solely to supplemental programs for Indian children, the school officials say that if this happens they will have to cut certain programs for Indian children out of their curriculum. This simply is not the complete truth, for some of these programs are supplemental in nature and could still be funded by JOM. The districts do not want to have to account for their JOM money separately because they could not then use part of their JOM funding for other programs that do not benefit Indian children. Their statements are simply half-truths designed to keep the Indians in their place, out of the decision making process which directly affects their children.

Since there is no separate accounting of JOM funds, parents of Indian children, and even Federal government officials are forced to accept the word of the local school officials when told that JOM is used only on Indian children. It is impossible for anyone, even the best auditor in the world, to determine what the school district is really doing with the money. If the districts really are using the money for their Indian children, why do they seem so afraid of having anyone check on them?

In summary, it seems absurd to us to believe that all school officials in Arizona are so honest and well meaning that they would not try to get as much money as possible to use in general school operation. It certainly makes their chore much easier if they can use JOM for any purpose. No other place in the country is so willing to trust its school officials this much, so why is Arizona? Maybe the clear Arizona air has the effect of making an honest person out of anybody. If this is the case, maybe we should consider sending all the dishonest people in the United States to Arizona for reform. Much has been said about the benefits of living in Arizona; this is one aspect we have not yet heard about. So endeth this long dissertation. PEACE . . .

A SCHOOL'S VIEW OF CHANGE



ANOTHER POSSIBLE VIEW FROM THE OUTSIDE

DISCUSSION PAPER ON JOHNSON O'MALLEY IN RELATION TO
PUBLIC LAW 92-318

I. Since the passage of P.L. 92-318, particularly Title IV, Part A, there has been considerable discussion of the problems created by the seeming similarities of purpose of the two Acts. This discussion has taken several forms: Interior Department has stated that the similarities represent a factor that must be taken into account in revising Johnson O'Malley regulations (see Appendix A). It has been suggested at regional and district meeting of Indian parents that Title IV threatens JOM funding. It has been suggested that Title IV threatens the entire existence of JOM. At the other extreme, JOM funding has been used as a justification for not funding Title IV, particularly Part A.

II. If present JOM regulations, existing State Plans for JOM and JOM operating systems are set aside, and one examines only the two pieces of legislation, they are noticeably different. Part IV specifically provides for supplemental programs in public schools. By law, they must be administered by the LEAS; grants are given directly to the LEAS, and they must be used for supplementary programs. The Johnson O'Malley Act is far broader in scope (see Appendix B). In fact, there is nothing in the Johnson O'Malley Act that says it must go either to States or the public school districts. In practice, JOM has been used only for public school districts and it has been used for supplemental programs; it's been used for basic school support; it's been used to meet State minimum standards; it's been used to meet the parental costs and instructional supplies.

The uses of Johnson O'Malley have not grown out of the law. They have been determined by pressures from States and public school districts, counter pressures from Inter-tribal groups and organizations, habit and custom, e.g., "presence of large blocs of non-taxable land" has been an anachronistic part of the JOM regulations since 1958 when P.L. 874 was extended to include Indian lands, yet it remains on the books. In New Mexico, JOM can be used only for supplementary programs, above State minimum standards, and parents committees are required. In Arizona neither of these standards applies and 70% of the JOM funds are used for basic support.

III. *Question*: In order to avoid the problems of overlapping funding, why not use the broad language of the JOM Act and concentrate Johnson O'Malley funding outside of the school districts and within the Indian communities for the benefit of Indian students attending public schools. This could apply only and whenever a school district begins to receive Title IV, Part A funding. This would provide for a genuinely supplementary use of both sets of funding.

The present Johnson O'Malley budget nationally is \$28,000,000. It would take only a small effort to demonstrate that all this money and more could be used for bridge building between Indian communities and public schools. Funds could be used for parental costs, extracurricular travel, study center/libraries located within the Indian community, teacher aides placed in the Indian community. There are now four States where JOM funds are administered not by the States, but by Inter-tribal groups. And, under at least one of these contracts, parental costs are not given to the school districts but are administered through the Indian community. Why not take the next logical step and administer all the funds through the Indian communities? That would clear out any apparent conflict with Title IV funds and would fill some critically unmet needs. These clearly separate programs could be justified before Congressional Committees or anywhere else.

THE JOHNSON O'MALLEY ACT (1934)

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of the Interior is hereby authorized, in his discretion, to enter into a contract or contracts with any State or Territory having legal authority so to do, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the qualified agencies of such State or Territory, and to expend under such contract or contracts moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State.

SEC. 2 That the Secretary of the Interior, in making any contract herein authorized with any State or Territory, may permit existing school buildings, hospitals, and other facilities, and—all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

SEC. 3 That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose or carrying the provisions of this Act into effect: Provided, that such minimum standards of service are not less than the highest maintained by the States or Territories with which said contract or contracts, as herein provided, are executed."

PUBLIC LAW 74-638 ACT OF JUNE 4, 1936, AMENDMENT TO THE JOHNSON-O'MALLEY ACT

"That the Secretary of the Interior be, and hereby is, authorized, in his discretion to enter into a contract or contracts with any State or Territory, or

political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory."

CODE OF FEDERAL REGULATIONS

SUBCHAPTER E—EDUCATION

PART 33—ENROLLMENT OF INDIANS IN PUBLIC SCHOOLS

Section 33.4 Contracts with Public Schools

(b) The program will be administered to accommodate unmet financial needs of school districts related to the presence of large blocks of nontaxable Indian-owned property in the district and relatively large numbers of Indian children which create situations which local funds are inadequate to meet. This Federal assistance program shall be based on the need of the district for supplemental funds to maintain an adequate school after evidence of reasonable tax effort and receipt of all other aids to the district without reflection on the status of Indian children.

(c) *When school districts educating Indian children are eligible for Federal aid under Public Law 874, 81st Congress (64 Stat. 1100), as amended, supplemental aid under the act of April 16, 1934, supra, will be limited to meeting educational problems under extraordinary or exceptional circumstances.*

(22 F.R. 10533, Dec. 24, 1957, as amended at 23 F.R. 7106, Sept. 13, 1958)

[Press Release from the Arizona Republic, Apr. 19, 1972]

INDIAN SCHOOLS NEED MORE AID, STATE TELLS U.S.

(By David Fitzpatrick)

The State Department of Education said yesterday it needs \$1.1 million from the federal government to help operate 15 public school districts on state Indian reservations for the rest of the fiscal year.

If the extra money is not forthcoming, Deputy State School Superintendent Gus W. Harrell said, these districts will be forced into a deficit for 1971-72 and could be forced to drive up their tax rates, perhaps to as high as \$30 to \$50 per \$100 in assessed valuation.

Major reasons for the shortage, Harrell said, are that estimates of financial need for these districts are placed with Washington officials 18 months to two years in advance and that the Bureau of Indian Affairs has never allocated enough money for public school support in the first place.

Harrell, who met in Washington last week with BIA officials, said Sen. Paul Fannin and Rep. Sam Steiger, both R-Ariz., promised to do "everything they can" to seek emergency appropriations from Congress.

The 15 school districts are on or near the Gila River, San Carlos Apache, White Mountain Apache, Navajo and Hopi reservations, Harrell said. They have a total average daily attendance of 12,763, which he said translates into between 14,000 and 15,000 pupils.

According to a plan drawn up in 1969 by the State Department of Education, the BIA pays the state whatever money is needed to assure that public school districts with heavy Indian student enrollments are on an equal financial footing with other districts.

The state needs this agreement because parents of Indian children, whether the children attend reservation schools or go to public schools, pay no taxes. Thus, the districts involved must levy a tax equal to the statewide average school district property tax on the few landowners who are eligible to pay—normally large utilities that have operating plants on or near reservations.

To make up the difference between these taxes and what the districts require to operate, the BIA pays its money.

BIA officials allocated \$3.5 million to the state this year as its share of the cost, but Harrell said it wasn't enough and the \$1.1 million is needed to continue operations without a deficit.

If Congress refuses the appropriations, he said, the districts could be forced to shut down, although he said this wouldn't occur for about two years.

If the same BIA funding policies remain in effect next fiscal year, the state will need another \$1.4 million in government funds to keep the districts running. The BIA has budgeted \$3.7 million for this purpose in Arizona next year and it isn't enough, Harrell said.

"They (BIA) are thinking about redesigning the regulations," Harrell said, adding that there has been no indication of when a revision in policy might come about.

The 15 districts, Harrell said, have been in similar straits in past years, but it has never been as serious before. He said he didn't know the amount of shortages in past years but the \$1.1 million is "considerably higher" than previous amounts.

STATEMENT OF JOHN WABAUNSEE, ATTORNEY, NATIVE AMERICAN RIGHTS FUND, BOULDER, COLO.

Mr. WABAUNSEE. My name is John Wabaunsee. I am a member of the Prairie Band of Pottawatomie although I spent a great deal of my life on the Rosebud Reservation.

Quite a few people in this room were graduates of—high school.

I have a prepared statement here which I will not read from, but I would like to make a few comments in relation to the Johnson-O'Malley program.

The Native American Rights Fund, myself, Charles Wilkinson, have spent considerable amount of time on these new regulations.

In August of this year, we sat down and negotiated the final negotiations and I think it is an extremely important document.

Amongst the other things it provided was Indian control for supplemental programs, but the basic thing, I think, is to provide some standards for the basic support in the 70-percent figure possibly Mr. Lay can discuss where some of the rationale for the 70-percent figure came from.

We feel the regulations including basic support aspects are flexible and can be used in all school districts. I, like Myron, have been concerned about the dilution of Johnson-O'Malley funds.

These are Johnson-O'Malley funds for non-Indian uses. We have mitigated in the Federal district court in Mexico, the question of Johnson-O'Malley funds for basic support.

The court there said that Johnson-O'Malley is intended as a basic support program. It is not intended as a supplemental—I am sorry, it is intended as a supplemental program and should not be used for basic support purposes.

That is the idea we came into with the regulations. That theoretically I would not like to see any Johnson-O'Malley funds being used for basic support purposes.

We realize some school districts have some problems and that is why we drafted a very narrow criteria, exhaust all of your State funds, exhaust all of your Public Law 874 funds.

I think what we are forgetting is Public Law 874 is supposedly the program which provides all of this basic support moneys and if 874 is not providing the funds, the school board should go to the Office of Education and talk about changing 874.

Johnson-O'Malley is a supplemental program. We worked hard to get provisions for contracting outside of the public school system, contracting for the BIA schools, St. Francis in South Dakota is one of the high schools right now and would be one of the schools, a pair of Indian affairs contract schools which would be eligible for JOM supplemental funds.

There are a number of schools in South Dakota serving Indians eligible for the supplemental programs. Right now they cannot get any of the supplemental funds because the funds are already being used.

I think a restriction on JOM for basic support should be enacted, then the schools can begin to contract for supplemental programs, as the law changes.

Personally I am satisfied. I would be hesitant to tinker with it.

Senator ABOUREZK. John, what would your response be to the same question I asked Myron? Let us say if there were adequate safeguards would you then allow the local contracting agency, the tribe or the board, to lower that at their discretion?

Mr. WABAUNSEE. I would be hesitant.

Senator ABOUREZK. Why?

Mr. WABAUNSEE. Because it is not a case of the Rosebud Sioux. Rosebud Sioux are a competent tribe but I think there are Indian tribes that are very weak and powerless and could be intimidated by a school district.

A school district could, in a sense, coerce them. I cannot think of any school districts that would do that right now but I think that is one of the problems to be faced, so I would be very hesitant about allowing the tribe to waive this and if such a waiver was to be used, I think the 70-percent mark could only be dropped to a minimum of one-half plus 1 or 50 percent or something like that.

Johnson-O'Malley is still serving the majority of Indian students.

However, I want to go back to the problem of Johnson-O'Malley versus basic support. It is not a problem of the Bureau of Indian Affairs. It is a problem of OE of 874. That is the basic support money.

The law says, and if they are crying poverty, it is OE and that particular entitlement is where the basic support money should be used or should come from and not Johnson-O'Malley.

Johnson-O'Malley can be a very flexible program. It can do things for changing Indian education, flexible parental control, everything that is in the regulations.

I am personally very disturbed at any attack on the regulations. My concern is the integrity of the regulations. I want them tested. Let us try them and see what happens.

Senator ABOUREZK. What if we do that and some of the schools that will be affected by these requirements have to close down a great many of their programs? What if that detrimentally affects the education of Indian children as well?

Mr. WABAUNSEE. If the 874 funds are used properly, I am not an expert on 874, I do not think they are using the formulas correctly.

If they truly used the formulas correctly and they have exhausted all of their State funds, then possibly an exception, a narrowly drawn exception.

Senator ABOUREZK. How would you make an exception if you do not have the regulations changed?

Mr. WABAUNSEE. The regulations can be changed. The Commissioner of Indian Affairs and the Secretary of Interior have the authority to make the changes.

Senator ABOUREZK. It would take 30 to 60 days to make the changes.

Mr. BURNETTE. The Secretary, in almost every regulation, is granted the authority to waive a portion of the regs if he is shown the need to have that done.

What I am saying is the Secretary can waive that.

Senator ABOUREZK. He can do it instantaneously?

Mr. BURNETTE. He can do it on request, but it is in his secretarial authority. He can waive a provision in the regs and make an exception.

Mr. WABAUNSEE. It must be narrowly drawn and reasonably stated. I think the Administrative Procedure Act would provide those protections to insure if a school district finds it cannot open its doors and there is good cause showing, then I think the money possibly should be made available.

I am not trying to drive school districts out of business. I have the utmost respect for them but at the same time, I am concerned about the education of all Indians.

I have no further remarks.

[The prepared statement of Mr. Wabaunsee follows:]

STATEMENT OF JOHN WABAUNSEE, ATTORNEY, NATIVE AMERICAN RIGHTS FUND

Mr. Chairman and members of the committee, my name is A. John Wabaunsee. I am a member of the Prairie Band of the Pottawatomie although I was born and attended high school on the Rosebud Reservation in South Dakota. My present address is 1506 Broadway, Boulder, Colorado and I am an attorney with the Native American Rights Fund. Our law firm represents the plaintiffs in *Natonabah v. Gallup-McKinley Board of Education* and several other Indian individuals and groups with respect to the Johnson-O'Malley program. It is the position of the Native American Rights Fund that the Johnson-O'Malley represents one of the most valuable programs in Indian education today, if administered properly.

On August 15, 1974 Charles Wilkinson, from our office, Brice Lay, from the Bureau of Indian Affairs, and myself among others, negotiated what are now the Johnson-O'Malley regulations published at 39 F.Reg. 30114. Indian people consider these new regulations to be a major step toward that elusive goal called Indian self determination. These regulations provide for six major changes in the Johnson-O'Malley program.

(1) Johnson-O'Malley funds are not tied to public schools, but can be expected in Indian controlled projects outside of a public school.

(2) Indian controlled corporations, as well as public schools can contract for Johnson-O'Malley funds.

(3) Johnson-O'Malley funds can be expended for educational programs serving Indian children from early childhood to grade 12.

(4) No longer is tax exempt lands a criteria for receiving Johnson-O'Malley funds.

(5) Any Johnson-O'Malley program for supplemental programs has to be approved by the local Indian Educational Committee.

(6) Tight restrictions are placed on any school district applying for Johnson-O'Malley funds for basic support purposes.

I feel, like most people involved in Indian education, that the new regulations mean that Johnson-O'Malley funds will be used as the law mandates, for special supplement programs for Indian children. Indian parents control the Johnson-O'Malley program, and if the school does not run the program to their liking, Indian parents have the power to take the program out of the school to run it themselves within the framework of an Indian corporation.

With respect to Johnson-O'Malley funds being used for basic support or operational expenditures by public schools, I realize some school districts now have become dependent on Johnson-O'Malley basic support monies. However, I feel the law, given the legislative history and the decision in *Natonabah v. Board of Education Gallup-McKinley County School District*, 355 F. Supp. 716, (D. New Mex. 1973) mandates that Johnson-O'Malley funds be used for special supplemental programs and can be used for basic support only in extraordinary circumstances.

School districts have the responsibility to provide operational funds, that is, obtain funds to open their doors and provide the basic curriculum, from sources other than Johnson-O'Malley. Indian children already provide adequate basic support monies through P.L. 874. In addition a school district has its own tax base and in most states, can receive state equalization funds. The Johnson-O'Malley regulations now provide that if a school district exhausts all other sources of funds including P.L. 874, the local taxes, and state aid, then and only then can it apply for Johnson-O'Malley funds for basic support.

I do not consider it the function of the Johnson-O'Malley funds to provide basic support monies. Congress has provided P.L. 874 monies for basic support. If a school district feels it is unable to open its doors then its recourse is to the Office of Education for a change to P.L. 874 monies. However, the new Johnson-O'Malley regulations do provide for funds for basic support under the narrow criteria outlined above. I would be opposed to any change in the regulations which would facilitate use of Johnson-O'Malley monies for basic support.

I also realize that many school districts were caught short by the new regulations. These school districts should have known that the era of Johnson-O'Malley funds for basic support was coming to an end. The decision in *Natonabah* is now almost two years old. Indian groups have been pressing the Bureau of Indian Affairs and Congress for over two years for changes in Johnson-O'Malley program. Change has been in the wind, and I think that many school districts and states failed to heed the change.

It is not the function of the Bureau of Indian Affairs to provide the monies to open the doors of the public schools. Where is the state revenue? Are P.L. 874 funds insufficient to provide basic support? What about local tax revenues? If these are insufficient, then the Office of Education, the state and the local district must decide on how to obtain the basic support monies. Johnson-O'Malley funds cannot be used as it has been done in the past, as a method to insure lower tax rates.

The Johnson-O'Malley regulations were the result of a long hard fight. As a part of our concern for Indian children, we are concerned with the integrity of the Johnson-O'Malley regulations. We would oppose any changes in the substance of the Johnson-O'Malley regulations which would affect their integrity.

I thank you for allowing me to present my views, and I and the Native American Rights Fund stand ready to provide this Committee any assistance it may require.

Senator ABOUREZK. Lance Lujan?

Mr. LUJAN. I have no remarks.

Senator ABOUREZK. Mr. Agoyo?

STATEMENT OF HERMAN AGOYO, CHAIRMAN, NEW MEXICO INDIAN EDUCATION BOARD OF REGENTS, ALBUQUERQUE, N. MEX.

Mr. AGOYO. This morning, I address you as chairman of the New Mexico Indian Education Board of Regents.

The board represents the 19 Pueblos and two Apache Tribes of New Mexico in matters involving supplemental programs for the education of Indian students.

The board is made up of seven members, chosen by the tribal leaders in different geographical areas.

Today I would like to give you the view we in New Mexico have of the Johnson-O'Malley regulations adopted by the Bureau of Indian Affairs effective September 20, 1974.

In our area, these regulations have been widely distributed and discussed, and all Indian education committees are operating by these rules now.

We begin from the idea that a Federal court in New Mexico has declared in the *Natonabah v. Gallup School System* case that Johnson-O'Malley funds cannot go for basic support in a public school system.

The State superintendent of public instruction has acknowledged this fact, and has gone on record favoring the current regulations.

The board of regents, after full discussion, decided to support the present regulations when they were first proposed, even though we felt that the tribal sovereignty and Federal entitlement aspects could be stressed even more strongly.

Another area where we felt the regulations could be improved was in the area of flexibility for local Indian education committees to administer funds.

Realizing that uncontrolled discretion in administration would be illegal under Federal law, we accepted the regulation as proposed and sent delegations to Washington several times to assist the Bureau of Indian Affairs in its decision to adopt them.

At this point, I would like to summarize important policies adopted by the New Mexico Indian Education Board of Regents in its administration of JOM funds for the 3 fiscal years it has received funds.

One, maximum local control. Indian education committees in each school district, intertribal committees in several cases, are selected annually by parents, students and tribal leaders. These committees have exercised a veto power over JOM programs in their districts since the 21 tribes obtained control of JOM funds.

Two, moving to per capita distribution of funds by raising the floor. Since the board of regents assumed responsibility for allocating JOM funds received from the U.S. Government, it has tried to equalize the amount available to assist each Indian student.

In doing this, we have balanced the demonstrated need for help common to all Indian students against the wish to be gentle or fair to those people in school districts where the historical JOM allocation exceeded the area average.

To this end the board uses any moneys which become available to boost the budgets of committees in school districts with historically low per capita allocations.

After 2 years, we have succeeded in substantially reducing the differences or gap between the districts receiving the highest per student allocation and the ones with the lowest figures.

Additional progress can be made, but not without additional funds. The new regulations would, we expect, give to us the money needed to close the gap still further.

Three, bold and innovative programs. The bylaws of the New Mexico Indian Education Board of Regents state this goal. Progress here, at the local level, has been noticeable.

With full opportunity and power to administer JOM funds delegated to local committees, we have seen many new programs which the parents, students, and tribal leaders feel are more appropriate to the ways of the Indian students involved.

Curriculums in elementary reading and English language, devel-

oped by the Five Pueblos Indian Education Committee, Inc., Bernalillo School District, are now going in two schools in the district.

The Taos Pueblo Committee has developed and implemented a pueblo-based study center in cooperation with the Taos municipal schools.

Other examples exist. This experimentation and interest are directly related to the local participation and control provisions now found in the JOM regulations.

Four, child-centered programs. Individualized instruction and counseling has greatly increased in programs funded by Johnson-O'Malley since tribal control began.

Five, develop more Indian interest in education at all levels. In-service education opportunities are available through the board of regents, in cooperation with several colleges and universities, particularly the University of New Mexico.

Workshops for Indian education committee members and their staffs are conducted regularly. Actual opportunity to decide the course of education programs is the key to this widespread enthusiasm.

The regulations controlling the administration of Johnson-O'Malley funds adopted effective September 20, of this year explicitly further these policies.

Guidelines of this nature are very useful to our board in that it requires the Bureau of Indian Affairs to support our efforts in these and other areas.

The All Indian Pueblo Council, representing 19 of our member tribes, formally adopted a resolution supporting these regulations and charging the board of regents with the duty to work for their adoption and implementation.

A copy of that resolution is attached to the statement for the record. A second advantage of the new regulations is that Johnson-O'Malley funds are much less discretionary in the hands of the Bureau of Indian Affairs administrators; the entitlement for Indian students aspect is now explicit Bureau policy.

The focus now is on the Indian child who needs assistance, where it belongs, rather than on the school systems where it formerly was.

At this time, the allocation procedure of the regulations are still in the implementation stage. We feel some time is still required to see how the procedure works in practice.

There is great interest on the part of the board of regents in actually participating in the national allocation of JOM funds for the first time.

This is, possibly, because of the current regulations.

There is a definite and significant increase in local Indian involvement, administration, and understanding of Johnson-O'Malley purpose and possibilities.

This would not be possible except for the veto power resting with the Indian people.

In summary, it is the view of the New Mexico Indian Education Board of Regents that the new regulations are an important and possibly meaningful change in the obstructionist or paternalist attitude exhibited in the past by the BIA.

Explicit statement of entitlement for intended recipients and unequivocal commitment to parental control gives hope to our people.

We appreciate this confidence expressed by the U.S. Government and again express our dedication to fulfilling the trust we carry for our young Indian people.

We are glad to have this opportunity to thank you legislators for your help in accomplishing what we see as an important structural change in the relationship between the U.S. Government and Indian nations in the administration of education programs for Indian children funded by Johnson-O'Malley.

Thank you very much for taking the time to listen to my testimony here.

As mentioned earlier, Mr. Peter Chestnut is with me and would like to have the opportunity to address himself to some of the issues that have been raised at this point.

Thank you very much.

[The All Indian Pueblo Council's resolution follows:]

ALL INDIAN PUEBLO COUNCIL, INC.,
Albuquerque, N. Mex.

RESOLUTION

The following Resolution was considered and adopted at a regular meeting of the All Indian Pueblo Council held at Santo Domingo Pueblo, New Mexico on March 23, 1974.

Whereas, the Bureau of Indian Affairs is presently considering revising the regulations pertaining to Johnson-O'Malley, and;

Whereas, the Johnson-O'Malley funds for school districts attended by Pueblo students are administered by the New Mexico Indian Education Board of Regents, and;

Whereas, the Board of Regents developed a set of regulations which were submitted to the Bureau of Indian Affairs Commissioner, Morris Thompson, on February 28, 1974, and;

Whereas, The All Indian Pueblo Council recognizes the need for unity among all tribal groups in order to see proper reform of Johnson-O'Malley regulations, and;

Whereas, the ideas of 38 organizations including the New Mexico Education Board of Regents staff are combined in a set of "Proposed Johnson-O'Malley Regulations" submitted to the Bureau of Indian Affairs Commissioner, February 28, 1974, and;

Now Therefore Be It Resolved, That the All Indian Pueblo Council officially support the "Proposed Johnson-O'Malley Regulations" with the following exceptions and additions:

1. 33.1 Definitions: We feel that Indian tribes should be included in the definition of "State" rather than of "educational agency".

2. 33.5 General requirements for contracts (a): The reference to financial station of parents should be deleted, and replaced with "treaty obligations and federal entitlements".

3. 33.5 (c): Instead of requiring that funds be spent "only on eligible Indian children", we prefer language such as "Programs operations conducted through contracts under this part shall be conducted for the sole benefit of eligible Indian students unless otherwise authorized by the Education Plan and the local Indian Education Committee. In all cases, programs must be conducted for the primary benefits of eligible Indian students". This language would permit programs in schools such as Dulce, New Mexico, which is very isolated and 88% Indian enrollment, to be opened to all students in that school, and be it further

Resolved, That the New Mexico Indian Education Board of Regents be authorized to work on behalf of the Pueblos, to develop a coordinated strategy to get the "Proposed Johnson-O'Malley Regulations" adopted by the Bureau of Indian Affairs, and be it finally

Resolved, That copies of this Resolution be sent to Senator Joseph Montoya, Senator Pete Dominici, Senator Henry Jackson, Senator Edward Kennedy, Senator James Abourezk, Senator Paul Fannin, Congressman Manuel Lujan, Congress-

man Harold Runnels, the Commissioner of Indian Affairs, Morris Thompson and any others the Chairman deems appropriate.

CERTIFICATION

The foregoing Resolution was duly adopted by the All Indian Pueblo Council at a meeting held on the 23 day of March 1974, with 12 members voting for, 0 abstaining, and 7 members absent.

DELFIN J. LOVATO,
Chairman.

Attest:

FRANK TNEORIO, *Secretary.*

Mr. CHESTNUT. Senator Abourezk, I have no prepared statement, but I would like to give some answers to some of the questions you have been asking.

Senator ABOUREZK. Please do.

STATEMENT OF PETER CHESTNUT, PROJECT DIRECTOR, NEW MEXICO INDIAN EDUCATION BOARD, ALBUQUERQUE, N. MEX.

Mr. CHESTNUT. I think the question regarding basic support to school districts is, in part, historically determined. It assumes if the percentage of students drops below 70 percent, there will be no Johnson-O'Malley funds to help the students.

I think the choice is not between basic support, but rather between putting money into the basic program where Indian funds are used to help all students in the school district and between supplemental programs where Johnson-O'Malley funds are used for the exclusive benefit of Indian students.

In our case, we deal with 12 school districts and the percentage of Indian enrollment there ranges from 88 percent in the Dilsey School District to less than 10 percent in the Albuquerque School District.

However, in all cases, the funding of Johnson-O'Malley goes for the benefit of Indian students.

The hypothetical question you asked all members of our panel was what if the enrollment drops the 50 percent, would the program be hurt?

I think not. I think if money were available or supplemental programs, that the Indian students would not be hurt, that the programs would remain and they might get more programs because the money would be concentrated for their benefit rather than being diluted and spread across to help all students in the school district.

Senator ABOUREZK. What kind of special Indian programs do you have in mind? If all JOM money were to be used for that, as the regs require?

Mr. CHESTNUT. I can draw on our own experience and say these cover reading programs, math programs, study problems, counseling, summer programs, really the complete range of school activities but on the range of supplemental basis.

In this way, the school district meets the minimum standards using its own local tax money, state aid and Public Law 874 funds which are Federal moneys provided in lieu of the tax money lost by having nontaxable land in the school district.

Also non-Indians. It is my understanding if there are minimum State standards in the State, a school district is not permitted by the State to operate below standard for an extended period of time.

Senator ABOUREZK. If they do not have any money—

Mr. CHESTNUT. If they do not have any money, they are talking about problems in the financing formula. In this regard, I would point to New Mexico and say in our districts, many of them are taxed to capacity and we heard the South Dakota districts were to.

In response to that, the New Mexico State Legislature has increased its equalization funds from \$2 million to—

If they are running into these problems, despite receiving Public Law 874 funds which bring in more per student basis than local property taxes and county taxes, then we get to a situation where the State is proposing requirements which the school district cannot meet, using the present financing formula.

If this is the problem, then the duty is on the State to make provisions so its school districts can provide the minimum standards of education.

I see this as a State problem rather than an Indian problem. If there is a deficit, then let us bring in Johnson-O'Malley.

Even if there are 20 percent Indian students in one school. If there is unlimited Johnson-O'Malley money, there is no problem with this kind of dilution.

The problem we see is the basic support money is coming out of the top, so this is going in and for every \$10 of Indian money that goes in, \$2 of it goes to benefit Indian students and \$8 go to benefit non-Indian students.

If it is spread throughout the district only support basis—in our situation where all of the money is going to Indian students, we have less. Our problems are exclusively for Indians.

The act says exclusively for Indians. The regulations are an attempt to tie the money to Indian students and yet here is a loophole which would allow the money to be drained off, to be bled away for the benefit of non-Indian students, for the 20 percent of Indian students in a school district—let us put it this way, if we are talking about allowing the tribes the discretion to lower the percentage for operational funds, I see no problem if the Johnson-O'Malley were divided on a per capita basis across the country.

Then you could say fine, here is your number of students times the number of dollars and you can do with it what you wish.

Then the local control would be there but not at the expense of other tribes in other States where they are making an attempt to focus on their own students in a particular district.

Even in our situation, I think there might be tribes who would wish to allow Johnson-O'Malley funds to be used throughout the district.

I am thinking of the Dilsey school district where there are 80 percent Indians. The tribes' position is they do not want separate programs.

Nevertheless the percentage of Indian students is so high they are retaining—obtaining benefits from Johnson-O'Malley. If that percentage drops to 20 percent without this per capita distribution, you have the situation of Johnson-O'Malley funds being taken away from people following the Indian entitlement aspect and it is going to non-Indians at the start.

That is not being fair to either the spirit or the intent of the regulations.

I think it is opening up but you have the effect of destroying one of the main purposes of the regulations as they were adopted.

That is the statement I would like to make.

Mr. WABAUNSEE. Senator, I would like to make one additional comment to follow up what Mr. Chestnut said.

I was looking at an analysis of Johnson-O'Malley funding for fiscal 1973. I do not know if these figures are correct or if they are being used properly, but they seem to show there are several States that are able to run their schools without Johnson-O'Malley being used for basic support purposes.

In the figures I have here, it says Montana, Wyoming, Idaho, Washington, Colorado and New Mexico, and Oklahoma. In their budget lines, they are not using any of that money for basic support.

All their money supposedly is being budgeted for supplemental programs only. An audit may show they are actually using it for basic support.

Possibly some investigation should be made into the other States. Montana, I think, is interested. They are taking \$1 million of Johnson-O'Malley funds and none of it is being used for basic support.

I just looked at a little school district called Hayes-Lodgepole. They are getting over \$1,000 in support moneys. Granted that district is entirely within the reservation, but there has to be some adjustment in the formulas.

I think the law provides there are States that are able to run their school systems without Johnson-O'Malley support.

Senator ABOUREZK. How do the new regulations distribute money? It is capita; is it not?

Mr. JONES. Per capita based on State education costs. They specifically allow for—

Mr. BARNES. There is one remark on 874 as far as South Dakota is concerned, we will be getting \$612 per three-A student.

Apparently works on Federal property.

Senator ABOUREZK. Is trust land included in that Federal property?

Mr. BARNES. Yes.

Senator ABOUREZK. You get how much again?

Mr. BARNES. The information we have from the State Department, give or take a couple of dollars, is \$612.

Senator ABOUREZK. What is your student costs per student?

Mr. BARNES. Last year it was \$1,008.

Senator ABOUREZK. How does that stack up to the State average per student costs?

Mr. SPELTS. The State average is \$846, something like that.

Senator ABOUREZK. What is your tax base makeup per student then? What do you get from that?

Mr. SPELTS. That is the local contribution rate. Public Law 874 is paid on the formula of the second preceding year, so you have that much lag automatically.

That amounts to about 20 to 22 percent.

Senator ABOUREZK. For this year, what would taxes make up per student, local taxes?

Mr. SPELTS. Over 80 percent.

Senator ABOUREZK. In terms of dollars?

Mr. SPELTS. It would be \$640.

Senator ABOUREZK. Public Law 874 gives you \$640?

Mr. SPELTS. That rate is the local contribution rate per student on a statewide basis.

Senator ABOUREZK. What are 874 funds?

Mr. SPELTS. That is based on South Dakota's formula of local taxes 2 years before.

Senator ABOUREZK. What I am trying to figure out is where do you get your money per student? You get \$600 from the Government under Public Law 874. How much do you get from State and local taxes?

Mr. BARNES. I can give this for our county or our district. This \$1,008 would be split over the average daily attendance of our student bodies, roughly \$874 per child; for every child we would get approximately \$341 from \$874; we would get \$211 from taxes and almost \$300 in State aid.

Miscellaneous is less than \$50.

Senator ABOUREZK. What was the \$874 again?

Mr. BARNES. It would be \$347 spread over the entire State, not just the eligible.

Mr. WABAUNSEE. The statement I made about Hayes-Lodgepole is incorrect. Their figure is accountable to Todd County, but there are still school districts receiving—Todd County at least, in 1972-1973 it showed Shannon County received \$786 per student.

These are the figures presented by the Bureau of Indian Affairs.

Senator ABOUREZK. The \$746 comes from where?

Mr. WABAUNSEE. Public Law 874. They show Shannon County getting \$876 for fiscal year 1972-73.

Senator ABOUREZK. They got \$786 from Public Law 874 funds?

Mr. WABAUNSEE. Yes.

Senator ABOUREZK. There is a vote on right now and I have to preside in the Senate at 1 o'clock. I am going to do something I do not ordinarily do.

I am going to ask you to continue so that we can finish the hearings by 1 o'clock because I cannot come because of my presiding.

I would like to ask subcommittee staff to continue the hearings, I hope that is all right with everyone. I would not do it if I could avoid it, but I cannot avoid it.

I will be back in 10 minutes, but I would like for you to continue through. Are there any other statements from this panel?

Mr. JONES. I wanted to answer the question you asked earlier. All funds for supplemental programs will be apportioned among the States on a substantially equal basis based upon the number of eligible students for whom funds are sought, with allowance being made for the actual cost of delivering educational services in each State.

For the purpose of determining the actual cost of delivering educational services in each State, the commissioners will refer to the average statewide per pupil expenditure.

In the next paragraph, the Commissioner will make special exceptions based on special cultural, linguistic, social, and educational needs of the communities involved.

That is for supplementary only. You could get basic support and then get that kind of supplementary distribution.

Theoretically South Dakota districts could get more money than they have gotten so far.

Senator ABOUREZK. I want to thank this panel very much for your testimony and for answering these questions. We will continue and I will be back.

Mr. GERARD. Our next witness will be Mr. Gus Harrell, Associate Superintendent of Public Instruction, Arizona State Department of Education, Phoenix, Ariz.

Mr. HARRELL. On the far end is Dr. Ken Ross, Superintendent of Window Rock School District, Navajo Reservation, Dr. Bob Roessel, Jr., Superintendent of Chinle School District, Navajo Reservation, Don Peterson, Superintendent of Sells Indian Oasis District, Papago, Reservation.

Mr. GERARD. You may proceed any way you wish Mr. Harrell.

STATEMENT OF GUS HARRELL, ASSOCIATE SUPERINTENDENT OF PUBLIC INSTRUCTION, ARIZONA STATE DEPARTMENT OF EDUCATION, PHOENIX, ARIZ., ACCOMPANIED BY DR. KEN ROSS, SUPERINTENDENT, WINDOW ROCK SCHOOL DISTRICT; DR. BOB ROESSEL, JR., SUPERINTENDENT, CHINLE SCHOOL DISTRICT; AND DON PETERSON, SUPERINTENDENT, SELLS INDIAN OASIS SCHOOL DISTRICT

Mr. HARRELL. The hearing today—I would like you to be aware there are some 22,400 Indian children enrolled in the public schools in Arizona on the reservation, near the reservation or in peripheral dormitories of the northern part of our State.

Within the Arizona State Department of Education, there is an Indian education division working with the two area offices located in our State, the Phoenix area office, non-Navajo public school districts, and the Navajo area office at Window Rock, Navajo public school districts, and the peripheral dormitory program.

The division administers the Johnson-O'Malley program in the State of Arizona based on a mutually agreed Arizona, Johnson-O'Malley State plan.

In compliance with the contract provisions, the division distributes JOM funds to eligible public school districts educating eligible Indian children, one-fourth or more degree of Indian blood.

Administration of said contract funds requires direct participation and cooperation with the Bureau of Indian Affairs, participating in public school districts, and Arizona Indian tribes.

The latter is accomplished through the Arizona Johnson-O'Malley Steering Committee, an all-Indian Advisory Committee with members and alternates selected by tribal resolution for each of the 19 tribes in Arizona.

Indirect involvement with Federal and State legislation and agencies is accomplished through the office of the superintendent on matters relating to the Johnson-O'Malley program and Indian education in general; for example, U.S. Office of Education, HEW, and Department of the Interior, Washington, D.C.; Arizona Commission of Indian Affairs and the Arizona Inter-Tribal Council.

Local participation is accomplished through the local boards of trustees, parent advisory committees, parent-teacher organizations, and the State's universities and colleges—Office of Indian Education.

Major activities involve continual onsite visitations to participating school districts for evaluation and periodic monitoring; sponsoring and participation of Indian education workshops, seminars, and conferences on the Johnson-O'Malley and title IV programs; preparation of legislation analysis on revised Federal and State rules and regulations affecting Indian education; and departmental liaison on Indian education.

In general, the performance indicator of the Johnson-O'Malley program is to distribute the contract funds to eligible and participating state public school districts, major and minor impact schools, as provided in the Arizona JOM State plan.

Said funds are distributed on unmet financial need of a district educating Indian children.

Annual and monthly JOM program reports to the contracting agencies provide a measurable means of determining extensiveness, efficiency, and effectiveness of the program.

By auditing and budget control checks, the division determines the extent of actual funding need, deficit need, of a district.

Payments, according to agreed timelines provide a further indication of program effectiveness.

The JOM program provides for a basic evaluation of distributing contract funds to participating schools, as per their total deficit needs, as a supplemental source to the operational costs of a district.

It is the goal of the division to provide special services to eligible projects which are measurable and lend evaluation. By the development of divisional goals and objectives, we are able to evaluate the JOM program at designated intervals to determine program accomplishments and needs in compliance with the JOM State plan and contract requirements.

The alternative to our present State plan is to distribute funds on a mutually agreed formula based on a per pupil expenditure rather than total deficit need.

A pending alternative is the contracting of JOM funds through tribal governments; however, this method still requires the approval of the State Board of Education and is further subject to contract provisions of the Bureau of Indian Affairs and changes to the federal regulations.

Indian students and State public schools educating Indian children. Program funds distributed to eligible school districts for operational costs on educating Indian children from nontaxable Indian trust lands further benefit the minority real property owners on tax burdens.

The JOM program further provides indirect benefits to Indian communities to enable community involvement and input through the Arizona Johnson-O'Malley steering committee—an all Indian membership appointed by each of the 19 tribes in Arizona.

The ultimate consequence of nonperformance of the Johnson-O'Malley program is the closing of many participating State public school districts located on or near an Indian reservation, nontaxable Indian property, whereas, the local tax effort is insufficient to maintain the operational costs.

Employment would terminate and the basic economic levels would drop, as in many cases the public school is a major economic factor.

Above all, the educational needs of the Indian children would suffer and be lost.

The most pressing issue of the Johnson-O'Malley program is the availability of funds as allocated by the Bureau of Indian Affairs.

For the past 5 years, the level of funding has remained constant and is insufficient to meet the high and spiraling costs of public education.

Our current State plan provided for various areas, yet, little if any funds are available. A much controversial concern of the Indian communities is in the area of special services and the lack of funding distributed; however, as noted, this is based on available funds and is not within the control of the Arizona Department of Education.

One concern is presently being addressed—the need to revise the Arizona Johnson-O'Malley State plan, June 1974.

The regulations discussed here will not, in my opinion, allow the support needed to continue the public education programs for Indian children that now exists—the public school district with its local board of trustees designs its own program past the basic and differs in about all communities in Arizona.

In other words, elected within each Arizona school district is a board of trustees. They employ the superintendent and other employees of the school district.

They pass basic regulations to decide what is good for that community on Indian reservations or near Indian reservations that particular tribes needs are considered. The State does not interfere.

We believe the special programs needed for the rounded education of Indian children in Arizona is now being cared for.

Perhaps you would like to hear from some of the superintendents on the reservations.

Mr. GERARD. Why not have the other gentlemen speak and I am sure when Senator Abourezk returns, he will have some questions.

Mr. HARRELL. Dr. Ross?

STATEMENT OF DR. KEN ROSS, SUPERINTENDENT, WINDOW ROCK SCHOOL DISTRICT

Dr. Ross. Mr. Gerard, basically I have come before this committee at the request of my school board to present the understanding and the picture as they see it with respect to the Johnson-O'Malley regulations, and its applicability with respect to our schools' operation.

I have been involved personally in a number of efforts in terms of changing or modifying the Johnson-O'Malley program for a number of years.

I think that may be one of the reasons why the school board I am presently employed for sought me out. There are a number of changes which need to be made with respect to Johnson-O'Malley in the State of Arizona, but again, it takes time for those ideas to be transmitted into practical application.

We, in the administrative community of the public schools, have been working as individuals and with our tribal councils, with various other Indian organizations to seek out the necessary change.

As the committee knows, we went through something like 17 different

modifications of the Johnson-O'Malley regulations and in the matter of 2 weeks or so we were expected to be in full compliance with those regs, which was a very arduous undertaking for any organization, let alone one that had to.

By complying with those regs, establish what is in some situations, has not been the communication links with the Indian community.

Our school district, Window Rock, No. 8, Fort Defiance, Ariz., 2 years ago underwent some radical changes from a school district that educates 2,700 students with a total Indian enrollment of 94 percent, where we had one American Indian on the school board 2 years ago, to a situation today where we have a complete Indian school board, three of whom are—four of whom, excuse me, hold college degrees.

It speaks well for the desires put into action by the Indian communities to become informed and involved. I think it is one of the things the new regulations addresses itself to.

At the same time, the involvement depends on open communication. I, for one, feel in many cases that communication could stand a lot of improvement.

We talk about categorical versus general assistance or basic support. There are pros and cons to both sides. Indian people have expressed, through various forums, their opinions.

I also wonder in those forums how many times has it been the privilege of an American Indian to address those issues as a professional in the administrative sphere, rather than relying, in the past as the case has been, on the testimony of supposed experts in the field who may not have had that practical experience of living on the firing line in a day-by-day situation.

I think in summation, I feel there are many fronts we need to address ourselves to for the needs of children and that is basically why I am here.

Without the support of Federal assistance, Public Law 874 is not a panacea that will cure the ills of the Arizona schools. I know that. My school board knows that.

What we hope to accomplish is an equitable distribution through communication so that we, too, have an equal educational opportunity.

I would like to thank this committee for the privilege of testifying. [Dr. Ross supplied the committee with the following:]

MATERIALS PRESENTED TO THE SENATE SUBCOMMITTEE ON INDIAN AFFAIRS,
DECEMBER 1974

(By Kenneth G. Ross, Ph. D., Superintendent of Schools, Window Rock School District No. 8, Fort Defiance, Ariz.)

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COMMENTS ON JOHNSON O'MALLEY REGULATIONS

(By Kenneth G. Ross, Ph. D., superintendent of schools, Window Rock School District No. 8, Fort Defiance, Ariz.)

Quotation from regulations

"For the purpose of determining the actual cost of delivering educational services in each state, the Commissioner shall refer to the average State-wide per pupil expenditure."

Comment

A State-wide average dilutes considerably the expenses incurred in school districts with low assessed valuations and large amounts of non-taxable property. School Districts such as Window Rock School District #8 being rural in nature are confronted with severe and unique problems such as providing teacher housing, extensive transportation systems, and added administrative costs due to the existing operational structure of public education.

Quotation from regulations

"The Commissioner may make exceptions based upon the special cultural, linguistic, social and educational needs of the communities involved."

Comment

The present delegation of authority principle within Federal Agencies could result in subjective decisions on a local area level, negating Tribal or parental input which is a basic principle within the newly adopted regulations.

In addition, programmatic solidarity and consistency could be jeopardized by allowing potential political influences an opportunity to determine outcomes in negotiated settlements.

Quotation from regulations

"Funds authorized under this part shall supplement and not supplant, State and local funds. Each contract shall require that the use of these funds will not result in a decrease in State, local or Federal funds which, in the absence of funds under this part, would be made available for Indian children."

Comment

The idea is of sound principle, however, coupled with discretionary power to make exceptions with no definitive boundaries for those exceptions has resulted in utter confusion.

In Arizona for example Johnson O'Malley funds are used to defray teacher retirement where as in non-eligible school districts State revenue is used for the same item. The State of Arizona under State Law SB 1001, Part C, provides for up to an 80% reduction of State support by claiming Johnson O'Malley and P.L. 874 as State money.

Quotation from regulations

"Each contractor having a contract under this part shall work with the Indian Education Committee established for each school community involved."

Comment

The Window Rock School District No. 8 has a duly elected Board of Trustees of which all members are Navajo. There is a potential for conflict when an Indian Education Committee with veto power is legislated.

Ancillary comments

It is very difficult from an administrative standpoint to implement drastic changes within the time frame allowed by this recent legislation when local school districts must overcome state financing inequities outside the direct realm of their powers.

Consideration for administrative complications should be addressed prior to legislating change.

COMPARATIVE SALARY INDEX

| Year 1974-75 position | Window Rock | Ganado | Chinle | Kayenta | Tuba City | Arizona average |
|-------------------------|----------------|---------|---------|---------|--------------|--------------------|
| Beginning teachers..... | \$7,440 | \$7,400 | \$7,400 | \$7,600 | \$8,050 | \$8,100 |
| Busdrivers..... | 5,346 | 6,191 | 3,920 | 4,410 | 5,700 | 7,840 |
| Head cook..... | 5,551 | 5,510 | 4,500 | 3,800 | 4,750 | 5,550 |
| Janitors..... | 5,088 | 4,542 | 4,160 | 3,920 | 5,136 | 5,890 |
| Maintenance..... | 4,312 | 4,542 | 4,100 | 4,410 | 5,136 | 6,300 |

WINDOW ROCK SCHOOL DISTRICT No. 8, POST OFFICE BOX 559, FORT DEFIANCE, ARIZ.

FISCAL YEAR 1975 NARRATIVE JUSTIFICATION FOR FEDERAL ASSISTANCE FOR PUBLIC SCHOOLS ELIGIBLE FOR FEDERAL IMPACT AID

(Submitted to All Appropriate Agencies Involved in Administering Federal Impact Aid to Public Schools)

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BOARD OF TRUSTEES CERTIFICATION

This application for assistance has been reviewed by the Window Rock Public School Board of Trustees and the Indian Parental Committee. It is the consensus of these bodies, whose compositions are entirely Navajo, that the projected educational needs of the Window Rock Public School District #8 are as realistically depicted as can possibly be forecast at this time.

At this time, basic operational program costs are obviously essential to ensure adequate educational services for our students. However, additional funds are required to ensure the availability of basic facilities in which equal educational opportunities can be offered to all students attending public schools. The special requests projected herein will substantially improve the basic educational opportunities for all district students.

Your close perusal is urgently requested in considering these projected costs.

Chairman, Board of Trustees.

Clerk, Board of Trustees.

Member, Board of Trustee.

Member, Board of Trustees.

Member, Board of Trustees.

Jom Indian Parental Advisory Board endorsement.

Chairman, JOM Indian Advisory Committee.

A PROFILE OF THE WINDOW ROCK SCHOOL DISTRICT NO. 8

Background:

Window Rock School District #8 is a public school district of the State of Arizona located in Apache County. It was formed in 1950 out of three elementary districts existing then; Window Rock, Bonita Canyon and Sawmill. Although all twelve grades are taught by the school district, it is considered only an elementary district by the state under an agreement and a State Act passed at the time of consolidation. The four schools operated by the school district are: Window Rock Elementary School, Fort Defiance Elementary School, Fort Defiance Junior High, and Window Rock High School (located in Fort Defiance, Arizona).

Location:

Window Rock School District is located within Apache County in the North-eastern corner of the State of Arizona. It lies entirely within the Navajo Nation,

the largest Indian reservation in the United States. Due to its location within the Navajo Nation, the school district is affected directly and indirectly by jurisdictional divisions other than the state or county. It lies within District #18, a political subdivision of the Navajo Nation, consisting of the Chapters of Fort Defiance, St. Michaels, Sawmill, Red Lake, Crystal, Houck and Lupton. Students attending the schools of the district come primarily from the first five chapter areas listed, including tuition students from Crystal, which is located in New Mexico. The district is also located within the Fort Defiance Agency, one of the five agencies into which the Bureau of Indian Affairs has subdivided the Navajo area for administrative purposes.

Physical description

The boundaries of the school district enclose an area of approximately 392 square miles or 250,880 acres. The school district is bisected north and south by the Black Creek Valley, between the Chuska Mountains on the East and the Defiance Plateau on the west. The elevation is between 6500 and 7000 feet. The climate of the area is semi-arid. Most rainfall occurs in late summer and fall. The amount of snow varies greatly. Temperatures vary from extremes of 100 in summer to -80 in winter. Throughout the year, the daily high-low temperature range is 20-30 degrees. Most days are sunny and dry.

Transportation

Paved roads are extremely limited in the school district. State Road #264 (Leading east to Gallup, New Mexico) bisects the district on an East-West axis. A paved road runs north from #264 at Window Rock to Fort Defiance and on to Navajo, New Mexico. A recently completed paved road goes south from #264 to Lupton and Interstate 40, some 40 miles to the south. The nearest commercial bus, train, and plane service is located in Gallup, New Mexico, 40 miles to the Southeast. A small airport is in operation in Window Rock. There is no commercial bus service available within the school district.

The district operates a large fleet of buses and transports the students in to school by approximately 20 regular bus routes. Some of these are as much as 30 miles in length. Roughly, 50% of all students ride the bus. No dormitories are operated, and all the students are day students.

Communities and services

The major communities within the school district are Window Rock and Fort Defiance. The community of Navajo, New Mexico is adjacent to the school district. Window Rock is the capitol of the Navajo Nation. Navajo Tribe and Bureau of Indian Affairs administrative offices are located there. Community services include a shopping center at Window Rock, the large Tribal Fairgrounds, numerous small stores, cafes and service stations. There is a Public Health Service hospital in Fort Defiance. Private medical care is available in Gallup, New Mexico. There are two motels in Window Rock.

Housing is scarce, especially for non-Navajos. The school district has constructed its own housing on both the Fort Defiance and Window Rock campuses, but these no longer meet the needs of the district. Trailer hookups have also been made available on campus but at present there are no vacancies.

Non-public schools within the district include St. Michaels Elementary and High School, privately operated, St. Michaels School for Special Education, Hunter's Point Elementary School, operated by the Bureau of Indian Affairs, and pre-school programs offered by church groups and the Office of Navajo Economic Opportunity.

Major employers in the area, aside from the school district itself, include the Navajo Tribe, Bureau of Indian Affairs, Public Health Service, El Paso Natural Gas, General Dynamics, Navajo Forest Products, and a variety small business enterprises.

The nearest colleges in the school district are two year programs at the college of Ganado (35 miles to the west), Navajo Community College (50 miles north), and the University of New Mexico, Gallup Branch (40 miles Southeast). Northern Arizona University is 250 miles west and the University of New Mexico is 190 miles east. A wide variety of college courses for under-graduate and graduate credit are offered in Gallup and many evening courses are offered at Fort Defiance by various groups, including college extension classes, adult education and special interest classes.

Population

There are no completely accurate population figures for the area available at present. The 1970 census gave the following figures for the Chapters within the area: Fort Defiance 3,223; Sawmill 1,036; St. Michaels 882; Red Lake 493; and Oak Springs 805. These figures, especially in regard to Fort Defiance and St. Michaels (which includes Window Rock) are considered to be very low, perhaps as much as 50% off. The population within the communities of Window Rock and Fort Defiance is growing very rapidly as various housing projects are being completed.

The public schools in the district presently enroll 2,788 students, this is just a little over one-half of all of the school age students living in the district. The remainder are being educated by the Bureau of Indian Affairs, private, and parochial schools. The total school enrollment in the Window Rock Public Schools has increased over 600% since 1954.

The following figures are taken from the 1970 census, which the Navajo Tribe has officially disputed as being far too low. They also do not include non-Navajos living in this area.

| | |
|----------------------------|--------|
| Fort Defiance Chapter..... | 3, 223 |
| Sawmill Chapter..... | 1, 036 |
| St. Michaels Chapter..... | 882 |
| Oak Springs Chapter..... | 805 |
| Red Lake Chapter..... | 493 |
| Crystal (New Mexico)..... | 833 |

7, 272

NOTE.—The Window Rock Public School draws tuition students from this community.

Student enrollment data

Approximately 95% of all students attending the Window Rock Public Schools are eligible under present guidelines for consideration under Federal Impact Legislation. As of October 11, 1974, the Window Rock Public Schools officially had an enrollment of 2,788 students. The following is a summary provided the Office of Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

WINDOW ROCK SCHOOL DISTRICT NO. 8 STUDENT MEMBERSHIP AS REPORTED OCT. 11, 1974 ON THE 1974 FALL ELEMENTARY AND SECONDARY SCHOOL CIVIL RIGHTS SURVEY FORM OS/CR 101 (RACIAL/ETHNIC ORIGIN OF PUPILS).

| | American Indian | Black | Asian | Spanish surnamed | Other | Total | Number of transfers |
|--------------------------------------|--------------------|-------|-------|---------------------|-------|--------|------------------------|
| Window Rock Elementary School..... | 569 | 0 | 0 | 0 | 44 | 613 | 613 |
| Fort Defiance Elementary School..... | 839 | 0 | 1 | 0 | 45 | 885 | 508 |
| Fort Defiance Junior High..... | 409 | 0 | 0 | 0 | 31 | 440 | 369 |
| Window Rock High School..... | 614 | 0 | 0 | 7 | 50 | 671 | 508 |
| In-Tuition (High School)..... | 68 | | | 2 | 3 | 73 | 73 |
| Special education..... | 80 | | | | | 80 | 32 |
| Total..... | 2, 579 | 0 | 1 | 9 | 173 | 2, 762 | 2, 103 |
| Less tuition..... | 68 | | | 2 | 3 | 73 | |
| Total..... | 2, 511 | 0 | 1 | 7 | 170 | 2, 689 | 2, 103 |

Note:

(A) Total student membership..... 2, 689

(B) Number of eligible students under Public Law 81-874:

Sec. 3(A) 1 equal..... 2, 476

Sec. 3(B) 1 equal..... 59

Sec. 3(B) 2 equal..... 26

Total..... 2, 561

(C) Percent of total student membership eligible for service under Public Law 81-874..... 95

The Window Rock Public Schools are educating approximately 50.97% of all school age children residing in the school district at the present time. This indicates that approximately 49.03% of the children living in our district are being served educationally by some other type of school system. The Bureau of Indian Affairs, Education Office, Fort Defiance, Arizona has provided us with the following student enrollment data:

| | |
|---|--------------|
| District students attending out-of-district public schools..... | 63 |
| District students under the LDS placement program..... | 380 |
| District students attending BIA reservation schools..... | 454 |
| District students attending off reservation BIA schools..... | 145 |
| District students attending mission and private schools..... | 271 |
| Total | 1,313 |

Should these enrollment figures be forced to change because of the LDS Placement program or changes in the educational system of the Bureau of Indian Affairs many adjustments would be required.

In the time span between 1954 and 1973, or 18 years, the number of students in average daily attendance has increased 604.17%. If this trend continues we will need to initiate a comprehensive building facilities expansion program.

Educational standards

The Window Rock Public School is in compliance with all State and North Central Accrediting Association standards. All teachers are, and must be certified by the State of Arizona. Minimum certification requirements are: Citizenship of the United States, unless authorized to teach under the teacher exchange program; must be graduate of an accredited college or university, and must have at least a Baccalaureate Degree, with a minimum of 24 semester hours of professional education courses, which may include some psychology and philosophy, must also have student teaching or two years teaching experience at the appropriate grade level. Teachers for the high school must also meet the requirements by the North Central Accreditation Association.

Administrators within the Window Rock School system also comply with rigorous qualification criteria established by the State of Arizona and the North Central Association.

The basic curriculum offered is also in compliance with the State of Arizona and North Central guidelines.

The schools in the District have offered in the past a curriculum that met all State requirements and was the equivalent of any comparable schools within the state. Until very recently, little or no attempt has been made to meet the special needs of the students attending the schools. These special needs are similar to those of nearly all schools enrolling a majority of Navajo students and are in areas that have, in the past few years, gained much publicity and attention.

The school system is in the process of developing the kinds of special programs that are vitally needed to provide a complete range of educational opportunities for all students. These programs include areas of Bilingual Education, Special Education, Bicultural Studies, Vocational Programs, etc. The school system, realizing the problems created by the lack of college-educated bilingual teachers, has also set up a counselor trainee program and a post-secondary education program for para-professionals in order to provide educational opportunities for people who must also work to help support themselves and their families.

Every attempt is being made to find the funds necessary to incorporate the new, but desperately needed, programs into the overall school district curriculum as fast as possible to meet the great needs of the students.

The following is a breakdown of the total school district employees identified by contract position and whether that position requires certification:

| Position | Certified | Noncertified | Total |
|---------------------------------------|-----------|--------------|-------|
| Superintendent..... | 1 | | 1 |
| Administrative assistant..... | | 1 | 1 |
| Principals..... | 4 | | 4 |
| Assistant principal..... | 1 | | 1 |
| Business manager..... | | 1 | 1 |
| Business manager trainee..... | | 1 | 1 |
| Personnel director..... | 1 | | 1 |
| Federal program director..... | | 1 | 1 |
| Title VII director..... | 1 | | 1 |
| Postsecondary coordinator..... | 1 | | 1 |
| Special education coordinator..... | 1 | | 1 |
| Bilingual/bicultural coordinator..... | | 1 | 1 |
| Resource center director..... | | 1 | 1 |
| Cafeteria director..... | | 1 | 1 |
| Transportation director..... | | 1 | 1 |
| Maintenance director..... | | 1 | 1 |

| Position | Certified | Noncertified | Total |
|-------------------------------------|-----------|--------------|------------|
| Oral language supervisor..... | 1 | | 1 |
| Business management instructor..... | | 1 | 1 |
| Teachers: | | 49 | 49 |
| Aides..... | | | 46 |
| High school..... | 46 | | 46 |
| Junior high..... | 25 | | 25 |
| Elementary..... | 69 | | 69 |
| District substitute..... | 2 | | 2 |
| Special education..... | 3 | | 3 |
| Counselors..... | 5 | | 5 |
| Librarians..... | 3 | | 4 |
| Music-guitar..... | 5 | 1 | 1 |
| Secretary-clerical..... | 4 | 25 | 25 |
| Assistant resource director..... | | 1 | 1 |
| Crossing guard..... | | | 1 |
| Cafeteria: Food service..... | | 27 | 27 |
| Custodians-maintenance..... | | 24 | 24 |
| School nurse..... | | 2 | 2 |
| Nurse aides..... | | 3 | 3 |
| Warehouseman..... | | 2 | 2 |
| Bus drivers-mechanics..... | | 21 | 21 |
| Security specialist..... | | 2 | 2 |
| Counselor trainee..... | | 5 | 5 |
| Bookkeepers..... | | 3 | 3 |
| Liaison officer..... | | 5 | 5 |
| Total..... | | | 344 |

The following narrative and statistical data is provided to enable the reader to visualize the economic conditions surrounding the school district:

Economy

Historically, and continuing today, the basic source of subsistence for most Navajo families has been centered around the raising of sheep and related activities and farming. In recent years, a variety of other endeavors have provided expanded employment opportunities. These include areas of government service, education, development of natural resources, tourist and private industry.

Resident Indian population (Navajo area) BIA figures—1972 (BIA, Navajo area office)

| | |
|---|---------|
| Total population..... | 133,487 |
| Labor force (16 and over)..... | 43,793 |
| Rate of unemployment..... | 44 |
| Rate of unemployment and underemployment (percent)..... | 64 |

Funds spent by Apache County on reservation area in 1972

| | |
|---|-----------|
| Teacher retirement..... | \$401,788 |
| Student education cost..... | \$102,950 |
| Navajo students to attend junior college..... | \$51,560 |
| Medicare..... | \$50,800 |
| Justice of the peace courts (2)..... | \$18,000 |

Apache County income from Navajo portion

| | |
|-----------------------|-----------|
| Total..... | \$690,000 |
| Property tax..... | \$224,000 |
| Johnson O'Malley..... | \$181,000 |

Other income (Gallup Independent)

| | |
|--|-----------|
| Sales tax (none collected on reservation)..... | \$403,000 |
| Gas tax (collected on & off reservation)..... | \$145,870 |
| High school district tax (none goes to reservation)..... | |

INCOME OF PERSONS IN 1969

| Total | Male (16 and over) | Female (16 and over) | All families |
|---------------------------|-----------------------|-------------------------|--------------|
| Without income..... | 24,447 | 25,932 | 16,779 |
| With income..... | 6,292 | 12,137 | |
| Total..... | 18,155 | 13,795 | |
| \$1 to \$999 or loss..... | 5,734 | 6,192 | 3,761 |
| \$1,000 to \$1,999..... | 2,820 | 2,499 | 2,151 |
| \$2,000 to \$2,999..... | 1,944 | 1,531 | 1,882 |
| \$3,000 to \$3,999..... | 1,490 | 1,262 | 1,372 |
| \$4,000 to \$4,999..... | 1,530 | 840 | 1,298 |
| \$5,000 to \$5,999..... | 1,323 | 637 | 1,099 |
| \$6,000 to \$6,999..... | 1,198 | 453 | 1,114 |
| \$7,000 to \$7,999..... | 829 | 167 | 838 |
| \$8,000 to \$8,999..... | 537 | 52 | 682 |
| \$9,000 to \$9,999..... | 284 | 68 | 659 |
| \$10,000 to \$14,999..... | 395 | 59 | |
| \$15,000 or more..... | 71 | 35 | |
| Median income..... | 2,269 | 1,282 | 3,434 |
| Mean income..... | 3,156 | 2,034 | 4,608 |
| Per capita..... | | | 886 |

Income less than poverty level (1970 N.S. Census Report) :

| | |
|------------------------------|--------|
| Persons..... | 56,426 |
| Percent of all persons..... | 60.2 |
| Families..... | 9,765 |
| Percent of all families..... | 58.2 |
| Mean size of family..... | 5.77 |
| Mean income deficit..... | 2,751 |

Data relating to Navajo Tribe as a whole compiled from 1970 National census :

| | |
|--|--------|
| Total population..... | 96,743 |
| Total families..... | 16,779 |
| School enrollment..... | 37,266 |
| Percent enrolled (3 to 34)..... | 55.2 |
| Ages 3 to 4..... | 15.4 |
| Ages 5 to 6..... | 67.7 |
| Ages 7 to 13..... | 92.7 |
| Ages 14 to 17..... | 86.1 |
| Ages 18 to 24..... | 30.3 |
| Ages 25 to 34..... | 3.3 |
| Years of school completed..... | 5.3 |
| Percent high school graduates..... | 18.8 |
| Years of school completed (25 & over)..... | 32,982 |
| Number school years completed..... | 12,549 |
| 1 to 4..... | 3,532 |
| 5 to 7..... | 4,684 |
| 8..... | 2,330 |
| High school 1 to 3..... | 3,687 |
| 4..... | 4,576 |
| College 1 to 3..... | 1,299 |
| Industry..... | 16,288 |
| Total employed 16 and over..... | 861 |

| | |
|--|----------|
| Agriculture, forestry, fisheries ----- | 1, 385 |
| Construction ----- | 2, 173 |
| Manufacturing durable goods ----- | 643 |
| Nondurable goods ----- | 1, 304 |
| Transportation communication, utilities ----- | 1, 737 |
| Wholesale percent retail trade ----- | 996 |
| Personnel services ----- | 3, 771 |
| Professional and related services ----- | 3, 418 |
| Other industries ----- | |
| <hr/> | |
| Class of worker : | |
| Private wage and salary ----- | 9, 501 |
| Government workers ----- | 6, 442 |
| Local government ----- | 2, 232 |
| Self-employed ----- | 306 |
| Unpaid family workers (30) ----- | 39 |
| <hr/> | |
| School district tax data (WRSD figures) : | |
| Data (square miles) ----- | 392 |
| Size of district (acres) ----- | 250, 880 |
| Acreage in district (acres) ----- | 1, 938 |
| Approximate patented land (acres) ----- | 472 |
| Church tax exempt land (acres) ----- | 1, 464 |
| Acreage subject to tax (other churches, schools and business are on leased .05 percent of land). | |

UTILITIES

There are five (5) utility companies located in the district which support schools through taxation. They are: Mountain States Telephone and telegraph Company; Western Union Company; Navajo Communication Company, Inc.; El Paso Natural Gas Company; and Trans-Western Pipeline.

Real and Personal Property

There are only forty (40) individuals or firms which are located in the district which support schools through taxation.

The total district taxable income for the 1973-74 school year amounted to barely over 4% of the total district operational budget.

| | Cash value | Assessed value | Taxes paid budget 2.58 | Taxes paid bonds .8189 |
|---|-----------------------|----------------|------------------------|------------------------|
| Total utilities ----- | \$12, 993, 261 | \$5, 197, 304 | \$134, 090. 46 | \$42, 560. 72 |
| Personal property ----- | 553, 289 | 132, 413 | 3, 416. 25 | 1, 084. 33 |
| Real property ----- | ¹ 194, 026 | 43, 931 | 1, 133. 41 | 359. 75 |
| Total assessed valuation of school district no. 8 | 13, 720, 576 | 5, 373, 648 | 138, 640. 12 | 44, 004. 80 |

¹ Includes some personal property also.

Note: St. John, County Seat, figures.

Appendix A.—Window Rock School District Bonding Capacity.

Appendix B.—Window Rock School District Needs Analysis.

Appendix C.—Factors Affecting Future Needs.

Appendix D.—Flow-Chart of Past Construction.

APPENDIX A

SUMMARY OF BONDED INDEBTEDNESS AND RELATED STATISTICAL DATA, SCHOOL DISTRICT NO. 8 (WINDOW ROCK) OF APACHE COUNTY, ARIZ.

| | Assessed valuation | Standard district tax rate | Outside municipalities | Retired and existing bond debt for school district No. 8 | | | | |
|-----------------------------|--------------------|----------------------------|------------------------|--|-----------------|------------|------------------------------|---------------------------------|
| | | | | Principal | Actual interest | Total debt | Actual supplemental tax rate | Estimated supplemental tax rate |
| Fiscal year ending June 30: | | | | | | | | |
| 1972 | \$4,481,098 | \$3.3213 | \$9.0721 | \$28,000 | \$23,478 | \$51,478 | \$1.3613 | ----- |
| 1973 | 4,918,787 | 2.9103 | 8.2593 | 30,000 | 21,938 | 51,938 | .6303 | ----- |
| 1974 | 5,373,648 | 3.3899 | 8.1929 | 30,000 | 20,288 | 50,288 | .8189 | ----- |
| 1975 | 7,432,723 | 4.2147 | 9.5200 | 30,000 | 18,638 | 48,638 | .6728 | ----- |
| 1976 | 18,000,000 | (1) | (1) | 30,000 | 16,988 | 46,988 | ----- | \$0.59 |
| 1977 | (1) | (1) | (1) | 30,000 | 15,375 | 45,375 | ----- | .57 |
| 1978 | (1) | (1) | (1) | 30,000 | 13,875 | 43,875 | ----- | ----- |
| 1979 | (1) | (1) | (1) | 30,000 | 12,375 | 42,375 | ----- | ----- |
| 1980 | (1) | (1) | (1) | 30,000 | 10,875 | 40,875 | ----- | ----- |
| 1981 | (1) | (1) | (1) | 30,000 | 9,375 | 39,375 | ----- | ----- |
| 1982 | (1) | (1) | (1) | 30,000 | 7,875 | 37,875 | ----- | ----- |
| 1983 | (1) | (1) | (1) | 30,000 | 6,300 | 36,300 | ----- | ----- |
| 1984 | (1) | (1) | (1) | 30,000 | 4,725 | 34,725 | ----- | ----- |
| 1985 | (1) | (1) | (1) | 30,000 | 3,150 | 33,150 | ----- | ----- |
| 1986 | (1) | (1) | (1) | 30,000 | 1,575 | 31,575 | ----- | ----- |
| Total | ----- | ----- | ----- | 360,000 | ----- | ----- | ----- | ----- |

¹ Estimated.

Note:

| | |
|--------------------------------------|-----------|
| 1974-75 10 percent bonding capacity | \$743,272 |
| Bonds outstanding as of July 2, 1974 | (360,000) |
| Net 10 percent bonding capacity | 383,272 |

Prepared by: Young, Smith & Peacock, Inc., 3443 North Central Avenue, Phoenix, Ariz. 85012; telephone: 264-9241

APPENDIX B

The Window Rock School District has contracted with the Southwest Research Associates of Albuquerque, New Mexico to conduct a comprehensive Needs Analysis of the School District. This project was initiated in June of 1974 and will hopefully be completed by December.

The major thrust of this survey encompasses a complete house-to-house population survey and an educational program and facility analysis to provide a basis for projecting the short and long range needs of the School District. This study will incorporate the effects of the various long-range development plans of the Navajo Tribe.

APPENDIX C

There are a number of pending potential factors that could drastically affect the construction needs of the Window Rock School District over which the School District has no control.

These factors include:

(1) The potential phasing out of Intermountain School has been a source of education for many students from within the district.

(2) The possibility of changes, including the potential phasing out of the peripheral dormitory program presently being operated by the Bureau of Indian Affairs.

(3) The continued delay in completion of a high school complex at Navajo, New Mexico, bordering the school district from which students in grades 10-12 attend Window Rock High School as tuition students.

(4) The continual construction of housing and commercial development within the boundaries of the School District, causing a steady increase in population.

(5) The decline in enrollment at Bureau of Indian Affairs Schools as more parents express their apparent desire for public school education for their children.

(6) The expanding population on the New Mexico side of the state line at Window Rock with many parents expressing a preference for their children to attend the Window Rock Schools instead of making the long bus ride to Gallup, New Mex.

(7) The continual 4.45% birth rate of the Navajo people.

HISTORY OF CONSTRUCTION IN THE WINDOW ROCK SCHOOL DISTRICT #8

1950.—There existed three rural public schools in the area. At Sawmill there was a one room building; at Fort Defiance there was one building with three classrooms; and at Window Rock there was one building with four classrooms.

1951.—On June 25, 1951 an election was held approving consolidation. During that school year there were 697 children living in the area; 189 were enrolled in public school; 133 in Indian service school. The balance were apparently not enrolled in school. Assessed value was \$56,635.00 at this time.

1951.—An application for 815 was filed and project completed in 1955. This project consisted of one (1) multipurpose building doubling as a cafeteria and gymnasium; 20 classrooms and 19 teacher apartments. The total cost was \$1,250,000.00.

1959.—The Window Rock School District entered into a second lease purchase agreement with the Navajo Tribe for three (3) buildings. The first two were metal frame buildings encompassing 21 classrooms. The third was a metal warehouse. Again, the lease purchase was paid for by local tax money. Public Law 815 provided for an additional 8 classrooms during the same period of time at Fort Defiance. There were 10 classrooms, multipurpose room, library and 9 teacher apartments constructed at Window Rock, Arizona. @ a cost of \$511,300.00.

1961.—July 17, 1961 the High School was completed. This project consisted of 14 classroom; library; multipurpose room; 16 teacher apartments; and 1 administrative building. @ a cost of \$1,066,900.00.

1962.—Nine (9) additional classrooms were added to the Fort Defiance campus, funded under PL 81-815. Nine (9) additional teacher apartments were added at the Window Rock campus.

1962.—The Navajo Tribe built a metal butler building containing sixteen (16) classrooms and an office. This building was purchased out of local tax monies on a lease purchase arrangements for a total of \$20,000.00. Paid off 1974.

The remainder of school facilities are all of a temporary relocatable nature and were purchased from local tax effort or during the period of time Title I included such allowances. The last major construction for permanent facilities supported by Federal funds was 1962.

WINDOW ROCK SCHOOL DISTRICT NO. 8 CURRENT FACILITIES

| Plant location | Temporary classrooms | Permanent classrooms | Current enrollment |
|-------------------------------|----------------------|----------------------|--------------------|
| Window Rock Elementary K-6 | 13 | 13 | 658 |
| Fort Defiance Elementary K-6 | 22 | 15 | 895 |
| Fort Defiance Junior High 7-8 | 0 | 21 | 470 |
| Window Rock High School 9-12 | 22 | 13 | 619 |
| Total | 57 | 62 | 2,642 |

Note:

48 percent of all existing classrooms are temporary units.

Permanent classroom units were constructed to accommodate a total enrollment of 1,860 students.

SUMMARY OF BONDED INDEBTEDNESS AND RELATED STATISTICAL DATA, SCHOOL DISTRICT NO. 8 (WINDOW ROCK) OF APACHE COUNTY, ARIZ.

| Retired and existing bond debt for school district No. 8 | | | | | | | | |
|--|--------------------|----------------------------|------------------------|-----------|-----------------|------------|------------------------------|---------------------------------|
| | Assessed valuation | Standard district tax rate | Outside municipalities | Principal | Actual interest | Total debt | Actual supplemental tax rate | Estimated supplemental tax rate |
| Fiscal year ending June 30: | | | | | | | | |
| 1972 | \$4,481,098 | \$3.3213 | \$9.0721 | \$28,000 | \$23,478 | \$51,478 | \$1.3613 | ----- |
| 1973 | 4,918,787 | 2.9103 | 8.2593 | 30,000 | 21,938 | 51,938 | .6303 | ----- |
| 1974 | 5,373,648 | 3.3989 | 8.1929 | 30,000 | 20,288 | 50,288 | .8189 | ----- |
| 1975 | 7,432,723 | 4.2147 | 9.5200 | 30,000 | 18,638 | 48,638 | .6728 | ----- |
| 1976 | 18,000,000 | (1) | (1) | 30,000 | 16,988 | 46,988 | ----- | \$0.59 |
| 1977 | (1) | (1) | (1) | 30,000 | 15,375 | 45,375 | ----- | .57 |
| 1978 | (1) | (1) | (1) | 30,000 | 13,875 | 43,875 | ----- | ----- |
| 1979 | (1) | (1) | (1) | 30,000 | 12,375 | 42,375 | ----- | ----- |
| 1980 | (1) | (1) | (1) | 30,000 | 10,875 | 40,875 | ----- | ----- |
| 1981 | (1) | (1) | (1) | 30,000 | 9,375 | 39,375 | ----- | ----- |
| 1982 | (1) | (1) | (1) | 30,000 | 7,875 | 37,875 | ----- | ----- |
| 1983 | (1) | (1) | (1) | 30,000 | 6,300 | 36,300 | ----- | ----- |
| 1984 | (1) | (1) | (1) | 30,000 | 4,725 | 34,725 | ----- | ----- |
| 1985 | (1) | (1) | (1) | 30,000 | 3,150 | 33,150 | ----- | ----- |
| 1986 | (1) | (1) | (1) | 30,000 | 1,575 | 31,575 | ----- | ----- |
| Total | ----- | ----- | ----- | 360,000 | ----- | ----- | ----- | ----- |

¹ Estimated.

Note:

| | |
|--------------------------------------|-----------|
| 1974-75 10 percent bonding capacity | \$743,272 |
| Bonds outstanding as of July 2, 1974 | (360,000) |
| Net 10 percent bonding capacity | 383,272 |

Prepared by: Young, Smith & Peacock, Inc., 3443 North Central Avenue, Phoenix, Ariz. 85012; telephone: 264-9241.

CONSTRUCTION NEEDS

The Board of Trustees for the Window Rock Public School District would like to include in the record a specific situation which occurred, that if not corrected, would be severely damaging to the students we are entrusted to serve.

Under a Bureau of Indian Affairs Contract No. 14-20-0150-1122 entitled "*Public School Survey of Construction Aid Needs Related to the Education of Reservation Indian Children*". The Window Rock School Districts needs were erroneously stated. The figure quoted as a need for construction was in fact that years request for Johnson O'Malley basic support. We have taken the liberty to enclose copies of our attempts to rectify this situation and the responses received to date.

HISTORY OF CONSTRUCTION IN THE WINDOW ROCK SCHOOL DISTRICT NO. 8

1950.—There existed three rural public schools in the area. At Sawmill there was a one room building; at Fort Defiance there was one building with three classrooms; and at Window Rock there was one building with four classrooms.

1951.—One June 25, 1951 an election was held approving consolidation. During that school year there were 697 children living in the area; 189 were enrolled in public school; 133 in Indian service school. The balance were apparently not enrolled in school. Assessed value was \$56,635.00 at this time.

1951.—An application for 815 was filed and project completed in 1955. This project consisted of one (1) multipurpose building doubling as a cafeteria and gymnasium; 20 classrooms and 19 teacher apartments. The total cost was \$1,250,000.00.

1959.—The Window Rock School District entered into a second lease purchase agreement with the Navajo Tribe for three (3) buildings. The first two were metal frame buildings encompassing 21 classrooms. The third was a metal warehouse. Again, the lease purchase was paid for by local tax money.

Public Law 815 provided for an additional 8 classrooms during the same period of time at Fort Defiance. There were 10 classrooms, multipurpose room, library and 9 teacher apartments constructed at Window Rock, Arizona, at a cost of \$511,300.00.

1961.—July 17, 1961 the High School was completed. This project consisted of 14 classrooms; library; multipurpose room; 16 teacher apartments; and 1 administrative building, at a cost of \$1,066,900.00.

1962.—Nine (9) additional classrooms were added to the Fort Defiance campus, funded under PL 81-815. Nine (9) additional teacher apartments were added to the Window Rock campus.

1962.—The Navajo Tribe built a metal butler building containing sixteen (16) classrooms and an office. This building was purchased out of local tax monies on a lease purchase arrangements for a total of \$20,000.00. Paid off 1974.

The remainder of school facilities are all of a temporary relocatable nature and were purchased from local tax effort or during the period of time Title I included such allowances. The last major construction for permanent facilities supported by Federal funds was 1962.

NATIONAL PRIORITIES

The future of most public schools serving large numbers of eligible Indian students, located on Indian reservations, is dependent largely on Federal Assistance. This fact is clearly identifiable by observation of the percent of federal funds used in basic maintenance and operational costs.

The reliance on property taxes to generate local and state income is used to provide construction and operational assistance to local school districts. Due to the absence of taxable property on a comparative basis with other school districts a gap in available resources exists. This gap should be addressed by both State and Federal Governments. Some states have accepted this challenge and responsibility. Others, for whatever reason, have not moved in a comparable manner. In certain instances, the espoused attitude or philosophy seems to defer financial responsibility to the federal government.

The agencies of the federal government have attempted to provide resources such as: Johnson O'Malley; PL-81-874; PL 81-815; PL 89-10; and PL 92-318. In most cases these funds are of a categorical nature and are appropriated to compensate for inadequacies in school finance relative to specific areas.

It is also recognized by those in direct day to day contact with the problem areas addressed by these federal appropriations that the amounts allocated are insufficient to cope with specific problem areas.

There has been relatively small appropriations for construction of school facilities. These meager resources are severely contested for by many school systems. Schools educating Indian youth are placed at a definite disadvantage when they are required to compete for funds with military installations and national emergency disaster areas. The political influences which are put to bear on those in authority to disseminate appropriated funds are great. As a result, conditions exist such as those at Window Rock School District No. 8 where 48% of all school facilities are temporary units. This condition creates a student moral problem and even more important student safety hazards.

These same schools are receiving PL-874 for operational expenses on a formula distribution basis. These funds at present do not, when coupled with local and State resources, equal the amount necessary to provide a basic education program in most schools. It has been mentioned that a change in PL 81-874 would alleviate the need for Johnson O'Malley funds as basic support assistance. However, to cut Johnson O'Malley basic support from some schools now and wait for changes in PL 81-874 would force many schools to reduce substantially or close entirely their operations.

There also exists a dual educational system subsidized by the federal govern-

ment. That is the Bureau of Indian Affairs Education Programs which recently is allowing local community control of schools through contracting procedures. This process is one of control within the constraints of dictated contract previews. The second system is that of the public school.

There appears to be a distinct discrepancy in equal treatment of Indian youth through the amounts of funds expended in these two systems. There are more Indian students enrolled in the public education sector yet on a comparative per pupil expenditure basis, students in public school systems appear to get short changed. Serious consideration needs to be given these issues so that maximum services are made available to the children we serve.

There are a number of pending potential factors that could drastically affect the construction needs of the Window Rock School District over which the school district has no control.

These factors include:

(1) The potential phasing out of Intermountain School which has been a source of education for many students from within the district.

(2) The possibility of changes, including the potential phasing out of the peripheral dormitory program presently being operated by the Bureau of Indian Affairs.

(3) The continued delay in completion of a high school complex at Navajo, New Mexico, bordering the school district from which students in grades 10-12 attend Window Rock High School as tuition students.

(4) The continual construction of housing and commercial development within the boundaries of the school district, causing a steady increase in population.

(5) The decline in enrollment at Bureau of Indian Affairs Schools as more parents express their apparent desire for public school education for their children.

(6) The expanding population on the New Mexico side of the state line at Window Rock with many parents expressing a preference for their children to attend the Window Rock Schools instead of making the long bus ride to Gallup, New Mexico.

(7) The continual 4.4% birth rate of the Navajo people.

| Year: | <i>Enrollment</i> | <i>ADA</i> |
|---------|-------------------|------------|
| 1954-55 | ----- | 374.500 |
| 1955-56 | ----- | 501.439 |
| 1956-57 | ----- | 615.960 |
| 1957-58 | ----- | 724.093 |
| 1958-59 | ----- | 977.318 |
| 1959-60 | ----- | 1151.188 |
| 1960-61 | ----- | 1297.818 |
| 1961-62 | ----- | 1400.543 |
| 1962-63 | ----- | 1482.643 |
| 1963-64 | ----- | 1613.788 |
| 1964-65 | ----- | 1632.950 |
| 1965-66 | ----- | 1699.750 |
| 1966-67 | ----- | 1710.500 |
| 1967-68 | ----- | 1728.869 |
| 1968-69 | ----- | 1741.098 |
| 1969-70 | ----- | 1763.339 |
| 1970-71 | ----- | 1847.705 |
| 1971-72 | ----- | 2150.268 |
| 1972-73 | ----- | 2212.503 |
| 1973-74 | ----- | 2246.669 |
| 1974-75 | ----- | 2292.950 |

Over the past 20 years there has been an average of 95.922 increase in ADA per year. An estimated 15% absenteeism average of the student body within the past 20 years and an increase of 110 student per year.

WINDOW ROCK SCHOOL DISTRICT NO. 8, FORT DEFIANCIE, ARIZONA

| | 1968-69 | 1969-70 | 1970-71 | 1971-72 | 1972-73 | 1973-74 | 1974-75 |
|---|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Operating budget..... | \$1,452,291.00 | \$1,645,964.00 | \$2,052,554.00 | \$2,320,897.00 | \$2,417,421.00 | \$2,843,782.00 | \$3,457,649.00 |
| Capital outlay..... | 113,000.00 | 134,000.00 | 321,000.00 | 497,519.40 | 495,000.00 | 347,000.00 | 526,000.00 |
| Total budget..... | 1,565,291.00 | 1,779,964.00 | 2,373,554.00 | 2,818,416.40 | 2,912,421.00 | 3,190,782.00 | 3,983,649.00 |
| Cash balance (deficit)..... | (172,245.25) | 7,275.52 | 10,367.93 | 21,030.45 | (10,500.36) | 290,230.82 | (39,497.48) |
| Receipts—actual: | | | | | | | |
| State and county aid..... | 437,518.57 | 709,899.23 | 975,197.55 | 1,090,090.38 | 1,150,405.92 | 1,226,333.09 | 1,689,980.09 |
| Johnson O'Malley..... | 523,000.00 | 425,000.00 | 569,443.94 | 640,498.57 | 701,803.59 | 499,041.72 | 1,059,913.44 |
| Public Law 874..... | 587,286.00 | 486,046.00 | 582,973.00 | 708,217.00 | 1,044,775.00 | 821,403.60 | 900,000.00 |
| Tuition..... | 78,996.43 | 119,310.02 | 105,748.68 | 139,554.90 | 114,189.27 | 77,118.12 | 75,000.00 |
| Miscellaneous..... | 37,184.47 | 18,180.77 | 33,630.07 | 48,009.84 | 45,912.23 | 47,126.86 | 50,000.00 |
| District levy..... | 61,671.11 | 101,139.93 | 83,235.89 | 85,360.53 | 111,114.18 | 136,939.93 | 248,252.95 |
| Total receipts (including cash balance)..... | 1,725,626.58 | 1,866,851.47 | 2,360,597.06 | 2,732,771.72 | 3,168,200.19 | 3,098,193.54 | 4,023,146.48 |
| Less deficit..... | -172,245.25 | | | | -10,500.36 | | |
| Balance..... | 1,553,381.33 | | | | 3,157,699.83 | | |
| Less actual expenditures..... | 1,546,105.81 | 1,856,483.54 | 2,339,566.61 | 2,732,771.72 | 2,867,469.01 | 3,137,691.02 | |
| Cash balance or deficit..... | 7,275.52 | 10,367.93 | 21,030.45 | (10,500.36) | 290,230.82 | (39,497.48) | |
| Johnson O'Malley estimated cost for year..... | (592,000.00) | (475,000.00) | (614,376.60) | (850,000.00) | (740,367.87) | (723,573.39) | (1,059,913.44) |
| Assessed valuation—district..... | 4,875,387.00 | 5,157,732.00 | 4,590,479.00 | 4,481,038.00 | 4,918,767.00 | 5,373,648.00 | 7,432,723.00 |
| Tax rate..... | 1.26 | 1.97 | 1.82 | 1.96 | 2.28 | 2.58 | 3.34 |
| ADA (average daily attendance)..... | 1870.013 | 1980.786 | 2110.245 | 2162.632 | 2262.652 | 2301.385 | |
| ADM (average daily membership)..... | 2150.514 | 2277.903 | 2426.781 | 2487.049 | 2502.049 | 2542.469 | 2681.000 |

Note: Approximate Indian membership 92 percent of total membership.

NATIONAL INDIAN TRAINING AND RESEARCH CENTER,
Tempe, Ariz., June 11, 1974.

Mr. BRICE LEY,
*Division of School Assistance,
 Bureau of Indian Affairs, Albuquerque, N. Mex.*

DEAR MR. LEY: A very urgent matter has come to our attention. In the public school survey of construction aid needs related to the education of reservation Indian children, the former Superintendent of the Window Rock School District No. 8, Ft. Defiance, Arizona 86504, grossly underestimated the needs of that district at the time of the survey last year. Our records show the only need for which funds were requested, was the replacement of some temporary buildings at an estimated cost of \$750,000.

We are advised that the estimate of construction aid needs is totally inadequate due to the following factors: (1) the Intermountain BIA School is being phased out which projects an increase in enrollment in the Window Rock District by several hundred; (2) inability of the Gallup-McKinley County Schools to expand (increasing WR enrollment of out-of-district children); and (3) the fact there has been no major construction in the District for 12 years despite a consistently expanding enrollment (700% increase the past 15 years). Approximately 95% of the present 2,526 students are Indian.

While the Window Rock District ranked number 30 for priority consideration in the scale of 162 districts surveyed, we are sure this district would have ranked even higher had the needs been more realistically reflected. The District estimates its needs now at \$20,000,000. We regret we are not budgeted to make a new on-site analysis. We urge, however, our letter be used as an addendum to the report and that the Congressional Committees along with the USOE be so advised.

Sincerely yours,

WAYNE T. PRATT, *Survey Director.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
 OFFICE OF EDUCATION,
Washington, D.C., December 9, 1974.

Our Reference: OOE-BSS-SLEP-DSAFA.

Dr. KENNETH G. ROSS,
*Superintendent of Schools, Window Rock School District No. 8,
 P.O. Box 559, Window Rock, Ariz.*

DEAR DR. ROSE: This will reply to your letter of November 22 concerning construction needs at Window Rock as reflected in the priority index assigned your district in the report compiled by the National Indian Training and Research Center under Bureau of Indian Affairs contract number 14-20-0150-1122.

In his letter of June 11, Mr. Wayne Pratt has advised you that his organization is not budgeted to make a new on-site analysis in connection with up-dating of the above referenced report. Since this office does not participate in the work of the National Indian Training and Research Center we are, of course, in no position to make any on-site evaluation in connection with their work.

As you may already know, this office provided school construction assistance to Window Rock School District No. 8 in prior years under each of Sections 5, 10 and 14 of Public Law 81-815. However, our records do not indicate that your school district has been eligible for assistance under any section of the Act since 1963. Applications were filed for the increase periods ended June 30, 1964 and June 30, 1968; but those applications were determined to be ineligible.

On the basis of the information contained in your letter of May 31 to Mr. Pratt, it may be that you will wish to file a new application under Section 14 of Public Law 81-815. Assistance may be provided to applicants eligible under Section 14 who educate large numbers of children residing on Indian reservation lands. Forms and instructions for such applications may be obtained from the Arizona State Representative, Mr. John M. George, Director, Business and Financial Services, whose address is Arizona Department of Education, 1535 West Jefferson, Phoenix, Arizona 85607, and whose telephone number is Area Code 602-271-4275.

In addition, you may wish to contact our Program Officer, Mr. Arnold C. Franklin, whose address is Federal Office Building, Room 367, 50 Fulton Street, San Francisco, California 94102, and whose telephone number is Area Code 415-556-0137.

In the event your district files an application under Section 14 of Public Law 81-815, such application will be reviewed to determine whether it is eligible and, if eligible, what its priority index is. (Priority indices for eligible Public Law 81-815 applications are not necessarily the same as those shown in the report of the National Indian Training and Research Center). If the priority index is sufficiently high to indicate that funding could be reasonably imminent, and if our Program Officer determines it advisable, a team study might then be considered to provide the on-site evaluation you have requested.

Sincerely yours,

EDNA K. CAVE,
(For William L. Stormer, Acting Director,
School Assistance in Federally Affected Areas).

STATEMENT OF DR. BOB ROESSEL, JR., SUPERINTENDENT, CHINLE SCHOOL DISTRICT

Mr. ROESSEL. Mr. Chairman, I would like to share some thoughts with this subcommittee also. I have been instructed by my school board to make the following observations and testimony.

I had the opportunity within the last 4 days of talking with Peter McDonald, the chairman of the Navajo Tribal Council, with Dillon Petaro, director of the Division of Navajo Education, and they are aware of the crisis I am going to allude to in my report.

I have been instructed to advise this subcommittee that there will be appropriate resolutions by the Navajo Tribal Council forthcoming which will confirm the crisis we see in public education on the Navajo Reservation in Arizona.

I feel this is something the tribe is now greatly concerned about and I feel there will be an appropriate response by that group.

My comments I would like to make are in two different categories. I would like, first of all, to make some observations about JOM and the regulations which is, I suspect, the reason why we have been called here today.

I think there have been, I believe, certain interpretations, certain provisions provided in the regulations in their interpretations and I think resolve certain problems that I saw.

I think in the past the regulations providing for an Indian education committee which might be competing with an Indian controlled school board and I have not been advised by Dr. Socky that it is possible, if the community so wishes, to allow these to be one and the same.

I think in the past there has been a method of distribution that has been referred to by other speakers that has not been particularly fair.

In a sense, for example, on our school district last year, we received \$212 per ADA of JOM money and an adjacent school district, Monument Valley, received \$1,163 per ADA.

I am glad to see there will be a per capita distribution. I feel some of the kinds of problems I felt existed with the new regulations, are in effect being taken care of.

I think there are two basic major problems that we are not addressing ourselves to, yet in these hearings. First is the amount of JOM funding. I think it is easy to say it is someone else's responsibility, and that is what we hear today so frequently, it is 874's responsibility to do this; as Dr. Rose has suggested, that is not the panacea to the problems of Indian education.

I think obviously there has to be adequate JOM funding. I think this would be something that needs to recognize the total needs that are applicable under the regulations, under the law for JOM.

We are not talking about keeping this figure constant as has been in the past while the needs increase and while the population increases.

I think the second area that I am concerned with deals with the area of JOM for basic or operational support. It has been interesting to hear people say because they do it in one State, they should do it in another State.

I do not think this is effective logic. I think if you look at the differences between New Mexico and Arizona in terms of the way in which public schools are financed and see they are very real and distinct differences that make the pattern, that might work in New Mexico not work in Arizona and vice versa.

I think we will get into that a few minutes later, but I think the other point that needs to be made and that is why we are talking about Indian education, we are trying to provide as everyone has said, an equal education opportunity for an Indian student.

I think we cannot overlook the fact that the Bureau of Indian Affairs is funded at a level which exceeds that, that is provided at least in Arizona on the reservation in our public school systems.

I have a rather extensive collection of data here that can confirm the points I am attempting to make.

I think in Arizona on the Navajo Reservation again on the public schools we have 23 out of 25 school board members who are Navajo as pointed out; in Dr. Ross' district, they are five out of five.

However, it is not an issue of Navajo control. We do have Navajo Indian control in all public schools on the Navajo Reservation.

I think it is a discredit to Indian people to have professionals who may themselves be Indians appear before this committee and say a tribal council does not have the capacity to make judgments in terms of whether or not expenditures should or should not be made or whether exceptions should or should not be made.

I have more faith in Indian people and in tribal councils than they have. I think an additional comment I would like to make which relates to the funding as provided by the regulations is the following.

I think the regulations and I will quote this "for the purpose of determining the actual cost of delivering education services in each State, the Commissioner shall refer to the average statewide per pupil expenditure."

I think this is a mistake. I think because you cannot say expenditures on an Indian reservation in the public school are comparable to the expenditures that you have off the reservation in public schools.

I would like to refer to the fact that in Chinle for example, we spend 38 percent of our operational budget on instruction.

The State averages 61 percent; what we call our sister district, the district off the reservation that has the same ADA/ADM that we have and the same number of schools that we have, spends 67 percent on instruction.

Then you can say, well doggone it, you are cheating the Indian kids and I would agree completely. You are cheating the Indian kids. We are not able to provide equal education opportunity for Indian kids.

The reason is not because we do not want to and not because our Indian controlled school board is not able to, but because we do not have the money to do it.

We have to spend that money for other categories. For example, in Arizona, we spend 42 percent of our budget in the categories of what we call auxiliary services, which include pupil transportation, teacher salaries, in the areas of fixed charges, which is rent and lease of equipment which we have to do because we cannot build permanent facilities.

Our 815 moneys are not enough. Our tax base does not produce the bonding revenue that we can build a permanent building. We have to bring in trailers, junk to put our kids to school in.

We spend 42 percent just to operate; in the noninstructional areas, we spend more money in the noninstructional areas than in the instructional areas.

I feel this is a big mistake when we begin to look at the per capita cost of kids—of education in the State and say we should equal that in Arizona. It is approximately \$850 at the elementary level per ADA experience.

In a public school, our cost is around \$750. The point I am trying to make is we are spending \$1,150 in the areas of just operating.

The bus transportation and the bus drivers—

Senator ABOUREZK. You are spending 42 percent of that \$1,150 on transportation? What other categories?

Mr. ROESSEL. Includes transportation, rent, and lease of buildings, the bus drivers salaries, those things. The three categories are auxiliary services, fixed charges, and capital outlay which is not construction in Arizona.

Senator ABOUREZK. The allegation seems to be, if I understand it correctly, that school districts which have been using JOM money for basic support have been in essence, wasting money because if they are getting up to their full funding from the State and Public Law 874 funds, what they are doing is taking the rest of it, either not using it or using it on unnecessary items.

That seems to me to be the allegation. Am I correct in that? Is that fair?

Mr. JONES. I would rather not answer that. In fact, I think Dr. Roessel is making an argument for his district on why they need basic support.

I think the problem is not Bureau funding, even when the State has promised to distribute that funding throughout the State not only on the district level.

The problem is that State has not any equalization plan and has no plan to meet educational needs.

Mr. ROESSEL. Let me continue. I would like to point out we operate for example 500,000 miles of buses in our district alone. This is more than the total amount of bus transportation in the Valley of the Sun for all school districts put together where they have 200 times our enrollment.

We operate 250 trailer housing units. No school district in Arizona does this except on the reservation. We have a total of 300 housing units we have to provide for. We have to maintain them and lease them.

This is all charged in these expenses I have identified in the auxiliary charges and the fixed charges. We have a 270-square-mile school district.

We have eight schools. We have the problem of transportation between that district. Our assessed value for that 270 square miles is around \$7 million.

We are not wasting the money. Our average starting teachers' salary is \$7,400 and the State average is \$8,100.

If you go into the noncertified areas, the busdrivers, we are paying half what the State average it.

Where does our revenue come from? That is the question that was asked earlier.

In Chinle, the Chinle Public School District, we get 43 percent from the State, county, and local. Obviously most of that is from the State and county because most of the reservation land is only the improvements that are taxable and I have already pointed out our limited assessed valuation.

The State average for Arizona is 88 percent coming from those three sources, so we get 43 percent from those three sources.

At Chinle, we get 54 percent of all money from Federal sources, but half of this comes from JOM. The State average for Federal sources is 9 percent.

If you look at the assessed evaluation for the ADA school district, we take the total enrollment divided about—in Chinle it is about \$2,000. For the State average, it is around \$25,000.

There is no way, when people say we are not poor, I cannot agree with them. We are poor.

Whether it is because of Indian land or Indian people, I am not going to argue that point, but the fact is the reservation school districts in Arizona on the Navajo Reservation are poor.

I think the result of this, what I am leading to, I do not believe anyone is crying "wolf" when they say within a 2 or 3 year period, there will be no public schools on the Navajo Reservation in Arizona.

This is the position the Navajo Public Council be addressing a resolution on and is addressing itself and Peter McDonald is expressing his concern over this.

Senator ABOUREZK. How do you respond to the argument that if the district is poor, the district should look to other funds rather than JOM funds to make it not poor?

Mr. ROESSEL. I think it needs to look to all sources. It is far easier to come before this subcommittee which has direct responsibility and knowledge in Indian affairs and get a hearing in terms of Indian needs than it is to go to the appropriate Senate committee and try to get it through 874 when you are competing with military bases you are competing with the kinds of organizational entities that make our needs so inconsequential.

Senator ABOUREZK. What you are doing is competing against the feeling on the part of the Indian people that the Johnson-O'Malley were originally and are still intended under the law for use by Indian students, not for use by non-Indian students. That is what the law says.

Mr. ROESSEL. That is what I am talking about. Ninety-seven percent of our students are Indian students. That is what I am talking about.

I am saying it is not enough money under JOM to say that Indian wants can be met.

Senator ABOUREZK. I missed that point apparently.

Mr. ROESSEL. Our district encompasses the heart of the Navajo reservation.

Senator ABOUREZK. Then your argument is not with the 70 percent requirement. Your argument is there ought to be more JOM funds?

Mr. ROESSEL. That is right. Just briefly, I have some photographs here which I will leave with the subcommittee which I think illustrate more graphically than words, the other point I feel needs to be made because we do not say it, and that is the inequity between the educational opportunity a Navajo child receives in going to a BIA school as compared to the opportunity he receives if he goes to a public school on the Navajo reservation.

I think this is the sort of thing that distresses Navajo people and that the figures we have here—our district costs, as I said, are about \$1,150 and the Navajo Reservation figure from the BIA is about \$3,200.

We are filled to 246 percent of our constructed capacity in our school district. The Bureau of Indian Affairs in the Chinle agency is filled to 60 percent of its capacity, yet it is budgeted for all of those teachers.

It has the money for the teachers, for the kids that are not even there.

We, on the other hand, are faced with the situation where our kids, because he lives a mile and a half less from a bus route and never goes to public school, does not have the opportunity, the same educational facilities, the same pupil-teacher ratio, does not have the same kind of books, than if he lives less than a mile and a half and goes to public school.

This is something that is not right. This situation in regard to the future is a fact that needs to be brought here through your subcommittee.

We need to know what is the future of the Bureau of Indian Affairs in terms of its position on Indian education. We know what it was in 1970, at least I am familiar with what it said it was and what Congress said it was at that point.

The Bureau of Indian Affairs Commissioner points out he is no longer abiding by that agreed upon position, so I think we need to know so that Indian people can know and respond to whether or not this is indeed a proper position for the Bureau of Indian Affairs in education.

However, it is unfair, we built a high school in our district for \$1.3 million and the Bureau of Indian Affairs built a high school for \$14 million.

We are educating the same kids. I think in closing, I think this is a responsibility that cannot be sloughed off. It has to be accepted by the State.

If I were talking before the State, and I hope to be doing that soon, I want to point out to them the things I feel they are not doing.

I think some of the points have been made in terms of allowing States to subtract 874 in JOM moneys and is illegal, if not unconstitutional and I hope we can get that change and get it challenged in courts.

I am not saying the State is good and this person is good or bad, I am trying to say there has to be a partnership between the Bureau of Indian Affairs, the Federal Government and the tribes and the public schools.

I think in that way this kind of problem can be resolved and I think our approach in the past has primarily been a band-aid approach in

which we put a band-aid on, we do a little bit here and a little bit there.

I think the patient, which is the Indian student in public schools, is going to die if we continue the band-aid approach.

I have been involved in Indian education, not just with the Navajos, but with the Indians since 1950, so I am not speaking of someone who came into this yesterday.

Mr. HARREL. I would like to clarify the State law, this is Senate bill 1001 passed by a special session of the Arizona State Legislature last year.

It does have a section that the Arizona State Legislature may not shall, may consider funds from Public Law 874 and the Johnson-O'Malley program.

It is my personal opinion that this next session of the legislature will not do so. I do not believe any legislature in the State of Arizona will until more facts are presented to them to dispel any idea that any school on any Indian reservation and there are 19 of them in Arizona, will not be hurt by such an act.

Don Peterson, the superintendent of schools at Sells, Ariz. on the Papago Reservation is next.

[Additional material supplied by Mr. Roessel appears as Appendix I, p. 91.]

STATEMENT OF DON PETERSON, SUPERINTENDENT, SELLS INDIAN OASIS SCHOOL DISTRICT

Mr. PETERSEN. When the Board met to consider my request to come here, they said if I must go, to be sure the Papago side was heard.

I think the committee here is faced—and this whole idea of Johnson-O'Malley funds—were measured on the bed. If they were too long, they were stretched short, they were to fit and if too long, they were cut off to fit.

I think this is a thing we are so frustrated with the Indian Oasis School District in Sells, Ariz. encompasses all of the Papago Reservation in Pima County which is the bulk of the Papago Reservation.

The Papagos claim they are the second largest tribe in the United States and their reservation is the second largest reservation, coming second only to the Navajos.

They are an extremely poor tribe. They have not so far had any windfalls or the landfalls of the other tribes. It looks like they are going into copper mining and get some money there but so far it has not materialized.

In a special session of the State legislature, the school district was often used as a horrible example of how unequal the educational opportunities were in the State of Arizona.

It is well recognized the difficulties we have in spite of all the money we can get and anticipating what we need to get the very minimum program of education.

We anticipate what we can get from Johnson-O'Malley. We have to do this in the spring of the year because the Bureau has set their budgets.

We send in what we anticipate what we will need 2 years in advance. Then we take this and try to work our budget out. Quite often this is not the money that comes in from Johnson-O'Malley funds.

It has not, in fact, been for the last 3 years. Last year, we began our budget with \$289 to begin payroll, to carryover payroll.

Fortunately, we have a system in Arizona where when a school system cannot meet its payroll, warrants are registered and then begin earning 6 percent interest from the day they are marked insufficient funds to meet them.

Of course, this takes money out of our educational system. We ended up the year \$70,000 in the hole. We received \$148,000 less from Johnson-O'Malley than we had anticipated.

We felt this was coming and we prepared in our budget to meet that contingency.

This year we are starting out \$70,000 in the hole and incidentally we have a student population of 1,043, so if you want to figure out the per student per capita cost here, roughly by a thousand then you get it.

We get all of the Public Law 874 money, as much as we can, of course, but it is under the gun and necessitates a continual struggle to keep the money coming in just as it does from Johnson-O'Malley.

Public Law 874 is not a sure thing every year and I am sure the Senator realizes there are problems in this area particularly with the B students because we are close—people who live close enough and who work in the mines.

We have been told we will maybe get \$338,000. The State aid is \$541,000. We have a budget of approximately \$1,600,000.

Our tax rate this year is \$14.01 per \$100 assessed valuation, that the county superintendent, which more or less recommends the setting of our tax rate, would have had a tax rate of \$37 per \$100 of assessed valuation.

The year before under the same circumstances, we had a tax rate of \$64 per \$100 of assessed valuation. She says you cannot anticipate the Johnson-O'Malley funds, so we will tax for it.

I am sure you realize this has a very bad effect on the development of industry on the reservation. No industry is going to come on the reservation to build when they are faced with an excessive tax rate.

The State of Arizona allocates on a per capita basis and under their new State law—incidentally R874 money is figured on the national average because the national average gives us more than the State average, comparable average.

In other words, the State of Arizona is really below the national average when it comes to education. In our computation our budget this year, per our elementary classroom and the State figures this year, we are \$6,802 below the State average.

This figures out to about \$261 per student that we are below the State average.

Our high school classroom is \$10,876 below the State average by total of \$449 per capita.

We are faced very real, very quickly with the problems of money for our problems. We feel the students who come to the public school and in spite of this, we continue at the rate of 25 and 100 students a year to increase in spite of the shortcomings we have.

The fact that we have a hard time meeting our obligations, the kids still come back and prefer to go to our school rather than go to BIA schools.

Our building program is way behind. Of course 815 is not sufficient money to meet our needs. We built a high school that was inadequate before it was finished because of the limitations of the 815.

We built a high school at the same time that the BIA could build a boarding school. We have had an application in to increase this since then—since 1969 and the BIA is now in the process of beginning to build their school.

We still have a priority of 815 of around 85 which means we are not going to get the money this year apparently. We have to take money that should ordinarily go for education purposes to rent classrooms, just a place to put the kids.

Even the title I funds which are supposed to go for the help of the poverty; BIA gets around \$1,000 per student. In other words for 400 students, they would get around \$3,940 for their program.

For our students, we get \$91,000. Everything seems to work against us.

The public school—I think you need to realize also of the school board we have, 100 percent is Indian. We are quite proud of our president because he has done things. He was a Senate messenger here for a number of years. He worked for the Senate and got his degree in business administration from George Washington University while he was here.

He is now back there working for the Bureau of Indian Affairs.

Our other board members are also members of the tribe. Most of them have responsible jobs working in the community, but they feel very discouraged when it comes to the programs because it does not meet the need, and there seems to be no way we can get the money to meet the need.

The only place we can look for it at the present time is Johnson-O'Malley. We cannot increase our taxes; they are already excessive. We cannot expect anything more from Public Law 874. We get more from the State probably than any other district because of the equalization for them that the State does have.

For these reasons, we feel there needs to be some provision made in the Johnson-O'Malley program to recognize unique situations.

Our board functions and represents the Indian community. We speak about self-determination, and I think there is an example of how the Papagos have taken on self-determination on the reservation.

However, every time they think they are going to get something, they are told they cannot do it.

There is nothing we can do because we are afraid you are not going to do it properly. You are not representing the people. This is something else that has to be looked at.

Senator ABOUREZK. Is it your opinion there is a surplus of special money available?

Mr. PETERSON. No. It is just my opinion that I was in hopes we could continue to get the money to run the school districts. The schools were organized on the reservations in Arizona. It was with the idea that

there would be enough Federal money coming in to take care of the needs, organize and run a good school system for the students.

This has not materialized, and that is why we are in the position we are in.

Senator ABOUREZK. What percentage of Indian students do you have?

Mr. PETERSON. We have 97 percent. We have about 32 non-Indian kids in our entire student population.

Senator ABOUREZK. So you are for more Johnson-O'Malley and not lowering the 70 percent?

Mr. PETERSON. The 70 percent does not have anything to do with us.

Senator ABOUREZK. I want to thank you for your testimony. I appreciate your coming these long distances to give us your views which will add substantially to the completion of this record today. Thank you.

The next witnesses are Jim Racine and Gerald Clifford. I would like to welcome you both to the committee.

STATEMENT OF JIM RACINE, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS, DENVER, COLO., ACCOMPANIED BY GERALD CLIFFORD, ACKCO, INC., BOULDER, COLO.

Mr. RACINE. My name is Jim Racine. I am a member of the Black-foot Tribe of Montana. I am accompanied today by Gerald Clifford of ACKCO, Inc., an Indian research firm located in Boulder, Colo.

ACKCO, Inc., has just recently completed a 750-page study regarding Indian education for the U.S. Office of Education and is presently in a consultative capacity for the coalition.

At this date, the membership rolls of the coalition exceed 140 school boards, tribal education agencies, parent committees, and Indian organizations whose ultimate concern is the improvement of education for Indian children.

It is for this membership, Mr. Chairman, that I extend the deep-felt appreciation and greetings to the members of this Indian Affairs Subcommittee of the Senate.

I am here today to present the coalition's comments on the use of Johnson-O'Malley funds as outlined to the recently published JOM regulations.

Before discussing the rules and regulations, however, I wish to establish a few principles which the CICS, Inc., has advocated since its inception.

Many of these may sound like a reiteration of what has been said before, but are of extreme importance for establishing a basis for resolving fiscal problems in Indian education.

One, Indian people have a distinct relationship with the Federal Government which includes a special responsibility by the Federal Government for addressing the problems of Indian education.

The Federal Government should carry out this function in the most efficacious manner possible according to Indian community wishes.

Two, Indian tribes have never relinquished their sovereign and jurisdictional right or responsibility to educate their tribal members within their own jurisdictions.

To be able to determine how incoming Federal funds appropriated specifically for Indian education are to be expended is concomitant to that right and responsibility.

Three, Indian people are also citizens of the States in which they reside, and because these States have assumed the responsibility for their education, the Indian children are entitled by the Constitution of the United States to an equal basic educational opportunity.

This means that financing for that education should be on a par with that for all other citizens in the State.

Fiscal responsibility for an equal basic educational opportunity in public schools rests with States. When the public school districts, which are subunits of State government, cannot provide that basic education, then it is the responsibility of the State itself to provide adequate State support.

Four, that Indian lands are not subject to local taxation is irrelevant, since Public Law 81-874 is designed to "recompense" school districts for revenues lost from such lands.

The new JOM rules and regulations emphasize that appropriations be used principally for supplemental purposes and that operational expenditures are provided only under extraordinary or exceptional circumstances which include:

A. That it, school districts, cannot satisfy minimum state standards in the absence of such funds;

B. That it has made a reasonable tax effort, with a mill levy in support of educational programs at least equal to the State average;

C. That it has fully utilized all other sources of financial aid, including all forms of State aid, Public Law 874 payments, et cetera. The State aid contribution per pupil must be at least equal to the State average; and

D. At least 70-percent eligible Indian enrollment within the school district or within any particular school served. (Par. 33.2 (a), (b), (c), (d).)

We understand that there is considerable objection to these regulations from a number of South Dakota school districts, particularly Sisseton, Waubay, White River, West River, and McIntosh School Districts.

The principal objection from such districts we understand is the requirement that such schools show an Indian enrollment of at least 70 percent before basic support is allowed.

Since we see no essential difference between public schools having 60 percent Indian enrollment and those having 70 percent Indian enrollment we understand the South Dakota congressional delegations request that JOM "funds will be available to these schools on the same basis as basic support assistance is provided to all other schools in the program."

But the issue that must be addressed, Senators, is not, or should not, be whether there should be a waiver of the 70-percent enrollment requirement.

The issue is, why aren't those funds that are appropriated for basic support sufficient to meet the needs of these districts, particularly Public Law 874 funds?

The issue is, why isn't State support adequate to meet remaining basic support needs, particularly when South Dakota had a \$27 million cash surplus in its general fund for fiscal year 1974 and anticipates a \$7 million cash surplus for fiscal year 1975?

The issue, gentlemen, is why doesn't the U.S. Government enforce the constitutional right of an equal educational opportunity by requiring State governments to exert a State basic support effort at least equal to that of all other States.

South Dakota has one of the lowest contributions to basic support in the Nation. The national education finance project completed in 1972 lists South Dakota as the second lowest in the Nation.

The problem, Mr. Chairman, exists in the fact that States have refused to face issues regarding or defining a basic educational program and have come to rely on heavy Federal funding for their specific responsibilities.

To complicate things even more the Bureau of Indian Affairs has not taken a firm position in this regard and has either through inability or its own refusal failed to enforce its own stated policies.

The current rules and regulations, for the first time, attempt to bring a measure of accountability into the JOM program.

This accountability is an accountability to the Indian community such that they will have a say in school programs. We feel that while the 70-percent enrollment issue is being put forth, the real issue that concerns school districts is the power that the new regulations give the Indian JOM committees.

We firmly support the position that JOM funds should be used for supplemental purposes as defined by the JOM parent committees.

Basic support funds should be supplied by those mechanisms specifically designed for basic support and should not come from funds appropriated by the Interior Appropriations Committee specifically for Indian needs.

Senator ABOTREZK. Thank you very much.

Mr. Clifford?

STATEMENT OF GERALD CLIFFORD, ACKCO, INC., BOULDER, COLO.

Mr. CLIFFORD. I do not have a written statement but I would like to comment on some of the points made throughout this morning and this afternoon.

I think and I am going to reiterate what was said by some of the other panel members here: We seem to be avoiding the real issue.

There is another issue that comes up, and that is a jurisdictional one. However, before I get into that, the problem of basic education and who is responsible for it—I sympathize with Dr. Ross and the gentleman from the Papago Reservation because these are real problems.

However, the Federal Government is not really addressing the issue of what can we do to enforce, make or bring about basic Indian education in the State school districts.

We talked about Public Law 874 not being a panacea. If Public Law 874 is designed to provide basic support in lieu of tax money that would have been generated if it were not Indian land, then let us steal some set-asides so there will not be that competition.

The same with 815. Getting back to the appropriations, the JOM appropriations, this comes out of the appropriations for the total Indian budget of Interior's budget for the Bureau of Indian Affairs.

There is adequate reason for us to be concerned. These are the funds specifically appropriated for Indian problems, Indian needs, through the Interior Committee.

When you take these funds and again put them over here to do a job that is supposed to be done by moneys appropriated under the 874 appropriations, you are doing this.

Granted that 815 does not provide the money right now with appropriations, but there are ways the school districts can use them.

We are using a national average because of this, higher than the State average. The South Dakota—why are those people doing that?

The 815 you can negotiate because of geographical factors, so even with the money that is appropriated right now, someone is not providing the school districts with enough information so they can get the maximum benefit under 815.

That still does not really resolve the issue. In talking about a school district, say a school district on a Navajo reservation where there are 97 percent Indians—I can think of one to make it easier.

If they want to deal and they want Indian money, let us talk about a jurisdictional question. Why should the Navajo tribe have jurisdiction over Navajo schools when they are 97 percent Indians and the money is directly routed through the tribe as opposed to the State.

We talked about in Arizona, for example, even though there are—Mr. Roessel's school board's five Indians, if I am not mistaken, they have to get all of their expenditures approved by the Commissioners.

That is one of the things you talk about when you talk about Indian control in Arizona. There are a whole lot of issues but, I think, the testimony Jim gave pinpoints some of the things that have to be addressed.

When you talk about South Dakota, granted the economy is going down, but the fact is last year they had a \$27,000 cash surplus in their fund. They did have that money available.

They have an equalization formula but they are not putting any money into it. These are basic educational problems that do not have anything to do with Indians that have to be solved.

I realize that this is in the Interior Committee and it has specific responsibility for Indians, but I hope you can communicate these type of things to the appropriate committees. That is all.

SENATOR ABOUREZK. What you are saying is that Johnson-O'Malley is designed for Indian students and their special needs as a result of their Federal-Indian relationship over the last 100 years.

If the school districts on the reservations are having additional problems, you are saying they ought not to come to Johnson-O'Malley funds for relief or are you saying they have to go somewhere else?

MR. CLIFFORD. I do not blame them for coming for Johnson-O'Malley funds for relief but what I am saying is someone is shirking their responsibilities. They are not dealing with the problems the school districts have.

I would go to Johnson-O'Malley if that was the only other option I had, but at the same time, it is taking money away from the general Indian appropriation when you are putting this money into basic support.

Mr. RACINE. I would like to comment on that statement. I agree with Gerald that relief should be sought other places than Johnson-O'Malley.

Johnson-O'Malley, in my mind, has created a situation where Indian students can begin receiving or at least it is promised that they will have equal education opportunity by supplemental programs.

The greatest thing we look to is the—decision in San Francisco, which is basically every rich area. Even though there is a great deal of money expended for education, the Chinese are not receiving equal education opportunities because of their cultural and linguistic backgrounds.

This is true of Indian people also and could be taken care of in part by Johnson-O'Malley funds. I would like to see the funds reconstructed to special programs other than basic support.

Senator ABOUREZK. Pete Rabenberg has indicated he wants to say something.

Mr. RABENBERG. Senator, may I ask a question? The question was raised—some of the things you mentioned, I cannot question the cash carryover by the State and other types of things, but I hope you understand these are items that are largely within the school board.

Mr. CLIFFORD. I think we are discussing a committee that is larger than the school board. That is my point.

Mr. RABENBERG. You mentioned why does the State of South Dakota not use a national average? We use a State average.

For one simple reason, because of the smallness, the sparsity of our State, our State averages higher than the national average; and it is to our advantage.

Mr. CLIFFORD. What is South Dakota?

Mr. RABENBERG. I do not have those figures available but I have a letter on file at the beginning of each year asking when this thing changes, that we be sure to go with the highest amount.

Mr. CLIFFORD. I heard you say your State payment was 874.

Mr. RABENBERG. I did not address myself to 874, but that is approximately right.

Mr. CLIFFORD. You said this was based on State averages? I think the national average is \$1,080.

Mr. RABENBERG. I would like to ask another question. I think we have a gentleman who can speak to this better than I but I think, Senator, I came to this hearing hoping I could go home with some way to tell our people.

This is the reason we are here. I was hoping I could tell them of ways to do bigger and better things financially. I have heard and I have heard it alluded to all morning that we can do bigger and better things in South Dakota with 874.

I would like to have that explained to me, how we can do bigger and better—how I can get more 874 money into the system of public schools, in Sisseton.

Senator ABOUREZK. I do not know that you can; under the formula, you are probably getting the maximum amount.

Mr. RABENBERG. Is it fair then to keep making these accusations where there is no reason for that statement?

Senator ABOUREZK. I do not know if that was the accusation either.

The testimony I heard today was that if there is a shortage of operating fund money, that you should not look toward Johnson-O'Malley to get it; you should look somewhere else.

That is how I understood the testimony today. If I am wrong, someone correct me.

Mr. CLIFFORD. The responsibility lies elsewhere, Senator. I think there should be an effort for the appropriate agencies and appropriate committees to deal with their own responsibilities.

Senator ABOUREZK. Pete, that is how I understood the Indian people do not want Johnson-O'Malley raided for something it is not intended for. While there is some sympathy, there is not total sympathy for the situations of the school boards.

Mr. RABENBERG. I have heard reference to how JOM funds can be used. I am not as knowledgeable as some of the other gentlemen who have testified and I admit that, because I do not have the same information available to me that they have.

We had a GAO audit. They came into our State last year and audited our State on the original set of rules from 1934. They audited on something that was 40 years out of date, but when it was over, I thought we would find out what we are doing wrong, what the State is doing wrong, the Bureau, the tribe, whoever is responsible for the type of things.

I have yet to date, nor has my board seen a copy of this audit.

Senator ABOUREZK. I will get it for you. Are there any other statements? It is 1:27 and a half and I have to get over to the floor by 1:30.

Mr. CLIFFORD. One further point in that regard and I support the gentleman's concern that studies, things that are done, are not disseminated. I think they should be.

We just finished this study. As far as the study we have done, as far as I know, it has not been disseminated. I would like to see it go to school districts for criticism so they will have the same opportunity to look at things that were done and be able to respond.

Again, I would hope that would be something the committee could do to try to disseminate this type of information.

Senator ABOUREZK. Thank you very much. The hearing is closed. The record will be open for 2 weeks to provide anyone a chance to put additional statements or testimony into the record.

The hearings are closed.

[Whereupon, at 1:29 p.m., the hearing was adjourned.]

The following information is being furnished to you for your information only. It is not intended to constitute an offer of insurance or any other financial product. Please consult your agent for more information.

Insurance coverage is provided under the terms of the policy. The policy is subject to the terms, conditions, and exclusions set forth in the policy document. Please refer to the policy for a complete description of the coverage.

The policy is issued to the named insured and is not assignable without the written consent of the insurer. The policy is not to be used as collateral for any loan or other financial obligation.

The policy is subject to the terms, conditions, and exclusions set forth in the policy document. The policy is not to be used as collateral for any loan or other financial obligation. The policy is not to be assigned without the written consent of the insurer.

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APPENDIXES

APPENDIX I

Additional Material Submitted by Robert A. Roessel, Jr.,
Superintendent of Schools, Chinle, Ariz.

APPENDIX

TABLE I

Summary of the results of the study of the
effect of the amount of food on the rate of
growth of the young of the fish.

COMMENTS ON JOHNSON-O'MALLEY REGULATIONS

(By Robert A. Roessel, Jr., Superintendent of Schools, Chinle Public School District No. 24, Chinle, Ariz.)

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1. Comments on Johnson O'Malley regulations.
2. Comparative cost and enrollment figures.
 - Salaries certified and noncertified.
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 - Where revenue comes from.
 - Where money is spent.
 - Bureau of Indian Affairs and Public School costs.
 - Budget breakdown by categories.
 - Miscellaneous.
 - Assessed valuation per ADA.
 - Johnson O'Malley funds per ADA.
 - Operational expenses per ADA.
 - Federal money per ADA.
3. Physical facility needs—Chinle School District.
4. Johnson O'Malley proposal to Bureau of Indian Affairs for Chinle School District.
5. Johnson O'Malley Supplemental proposal to Bureau of Indian Affairs for Chinle School District.
6. Basic information—Chinle Public Schools.
7. Comparison between Arizona and New Mexico funding for public schools.

QUOTATION FROM REGULATIONS

"For the purpose of determining the actual cost of delivering education services in each State, the Commissioner shall refer to the average State-Wide per pupil expenditure."

COMMENT

This is totally wrong and unfair since a public school on an Indian reservation has so many extraordinary expenses—operation of a city-housing, long bus routes, many busses, lease of buildings, etc. Chinle spends 38% of its budget on instruction. State average is 61%.

QUOTATION FROM REGULATIONS

"The Commissioner may make exceptions based upon the special cultural, linguistic, social and educational needs of the communities involved."

COMMENT

This is also unfair because it is redundant. Reason for Johnson O'Malley is because of cultural, linguistic, social and educational needs—now repeats and provides for exception. Allows for subjective personal preferences to take effect. In 1973-1974, Chinle average Johnson O'Malley was \$212; Monument Valley was \$1200; peripheral dorm program \$727. Such variation is unfair!

State should pay retirement for teachers—as is done elsewhere—Indian reservation districts take Johnson O'Malley money to do this. This should not be allowed.

QUOTATION FROM REGULATIONS

"Funds authorized under this part shall supplement and not supplant, State and local funds. Each contract shall require that the use of these funds will not result in a decrease in State, local or Federal funds which, in the absence of funds under this Part, would be made available for Indian children."

COMMENT

This is good but must be rigidly enforced. Under the new State Law S.B. 1001, under Part C, there is a provision which calls for up to 80% subtraction of State support for Johnson O'Malley and P.L. 874 monies received.

QUOTATION FROM REGULATIONS

"Each contractor having a contract under this Part shall work with the Indian Education Committee established for each school community involved . . ."

COMMENT

This may be good elsewhere but it is bad for Navajos where you have Navajo controlled school boards already—now you establish a competing and possibly conflicting Navajo Board. This will harm Navajo control—not help it. Why should there be two separate boards when you already have one Board, duly elected, composed of a majority of Navajo—23 of 25 school board positions in Navajo Reservation public schools (in Arizona) are Navajo.

Bureau of Indian Affairs should be equally desirous of obtaining controlling boards for their own schools—not advisory as they exist at present: should have veto power over Bureau of Indian Affairs schools and expenditures—Bureau of Indian Affairs wants Indians to have new public schools!

Regulations make sense where don't already have Indian control of school boards—they do not make sense where they already have such Indian control.

SALARIES CERTIFIED AND NON-CERTIFIED: COMPARATIVE FIGURES—SALARIES—1974-75

| | Chinle | Arizona average | Balsz |
|----------------------------------|---------|-----------------|------------|
| Starting teachers salary 1974-75 | \$7,400 | \$8,100 | \$7,934.00 |
| Starting bus drivers (per hr.) | 2 | 4 | 3.65 |
| Starting head cooks | 4,500 | 5,550 | 5,402.00 |
| Janitors | 4,160 | 5,890 | 6,037.00 |
| Maintenance | 4,160 | 6,300 | 6,311.00 |

COMPARATIVE ENROLLMENT FIGURES—CHINLE PUBLIC SCHOOLS AND CHINLE AGENCY BUREAU OF INDIAN AFFAIRS SCHOOLS—1974-75

Chinle Public School District No. 24

| Name of school | Number of students constructed to accommodate | Enrollment current | Insured value ¹ |
|---|---|--------------------|----------------------------|
| Chinle High School | 350 | 850 | \$1,640,000 |
| Chinle Junior High School | 300 | 830 | 1,640,000 |
| Chinle Elementary | 300 | 1,000 | 1,225,000 |
| Many Farms Elementary | 150 | 470 | 555,000 |
| Round Rock Elementary | 150 | 265 | 265,000 |
| Red Mesa High School (not complete yet) | 250 | 250 | 1,500,000 |
| Red Mesa Elementary | 250 | 630 | 640,000 |
| Total | 1,750 | 4,295 | 7,465,000 |
| Chinle public schools operating at 246 percent of constructed capacity. | | | |

Chinle Agency BIA Schools

| | | | |
|--|-------|-------|-------------|
| Chinle | 1,024 | 735 | \$1,800,000 |
| Many Farms High School | 1,024 | 755 | 18,400,000 |
| Many Farms Junior High | 1,024 | 390 | 5,400,000 |
| Lukachukai | 450 | 425 | 2,225,000 |
| Nazlini | 300 | 145 | 350,000 |
| Cottonwood | 400 | 350 | 950,000 |
| Total | 4,222 | 2,800 | 29,125,000 |
| Chinle agency BIA schools operating at 66 percent of constructed capacity. | | | |

¹ BIA schools are not insured. The BIA figures for insured value were obtained from some company that underwrites Chinle Public School District insurance and reflects their best estimate after visiting each facility and obtaining data.

WHERE REVENUE COMES FROM—COMPARATIVE FIGURES BETWEEN CHINLE PUBLIC SCHOOL DISTRICT AND ELSEWHERE SHOWING WHERE MONEY COMES FROM 1973-74

| Source of receipts | Name of district | | |
|---|---------------------|------------------------------|--------------------|
| | Chinle (Percent) | Arizona average (Percent) | Balsz (Percent) |
| County school fund..... | 16 | 22 | 21 |
| Other county aid..... | 0 | 1 | 2 |
| Other State aid..... | 23 | 22 | 15 |
| Miscellaneous receipts (tuition, etc.)..... | 4 | 3 | 1 |
| Federal aid..... | 54 | 9 | 1 |
| District levy..... | 4 | 43 | 59 |
| | 100 | 100 | |

Chinle (combined revenue for elementary and high school) :

| | |
|-----------------------------|-----------|
| County school fund..... | \$642,000 |
| Other county aid..... | 0 |
| Other State aid..... | 940,000 |
| Miscellaneous receipts..... | 166,000 |
| Federal aid..... | 2,217,000 |
| District levy..... | 163,000 |
| Total receipts..... | 4,129,000 |

53 percent of all revenue for Chinle Public School District is Federal.

Balsz Elementary School District :

| | |
|-----------------------------|-----------|
| County school fund..... | \$484,000 |
| Other county aid..... | 46,000 |
| Other State aid..... | 344,000 |
| Miscellaneous receipts..... | 25,000 |
| Federal aid..... | 27,000 |
| District levy..... | 1,366,000 |
| Total receipts..... | 2,252,000 |

1 percent of all revenue for the Balsz District is Federal.

WHERE MONEY WAS SPENT—COMPARATIVE FIGURES BETWEEN CHINLE PUBLIC SCHOOL DISTRICT AND ELSEWHERE SHOWING WHERE MONEY WAS SPENT 1973-74

[In percent]

| Expenditure | Name of district | | |
|---|------------------|-----------------|-------|
| | Chinle | Arizona average | Balsz |
| Administration..... | 6 | 7 | 7 |
| Instruction..... | 38 | 61 | 67 |
| Operation..... | 7 | 8 | 6 |
| Maintenance..... | 4 | 3 | 2 |
| Auxiliary services—pupil transportation, lunch, P.E., etc..... | 14 | 5 | 4 |
| Fixed charges—rent or lease, insurance, OASI, etc..... | 11 | 5 | 5 |
| Capital outlay—textbooks, athletic equipment, transportation equipment, additions, etc..... | 17 | 8 | 4 |
| Miscellaneous—tuition, career education contingencies..... | 3 | 3 | 5 |
| | 100 | 100 | 100 |

PERCENTAGE SUMMARIES SHOWING WHERE BUDGET MONEY WAS SPENT 1973-74

[In percent]

| | Chinle budget | Arizona average | Balsz Budget |
|---|------------------|--------------------|-----------------|
| Instruction..... | 38 | 61 | 67 |
| Auxiliary services—fixed charges, capital outlay..... | 42 | 18 | 13 |

In order to operate, Chinle Public School District expends 42% of its Budget in three areas (Auxiliary Services, Fixed Charges and Capital Outlay) while it can afford to spend only 38% in instruction. In other words, Chinle because of its size and location (operating 60 buses, traveling 500,000 miles a year, needs to rent and lease, not able to buy new facilities, need to provide housing for staff, etc.). Spends more money in non-instructional areas than in instruction.

Navajo Reservation BIA and public school comparative per public cost figures—1973-74

Operational costs:

| | |
|-----------------------------|---------|
| Chinle | \$1,154 |
| Ganado | 1,400 |
| Window Rock | 1,286 |
| Tuba City Elementary | 1,381 |
| Tuba City High School | 2,110 |
| Kayenta Elementary | 1,540 |
| Monument Valley H.S. | 2,084 |

The first three districts operate as combined elementary and secondary districts.

Average operational expense per ADA for ADA Navajo Reservation public schools in Arizona \$1,565.

Average operational expenses per ADA for Navajo Reservation BIA schools in Arizona (excluding dormitory and other noncomparable expenses) \$3,200.

BUDGET BREAKDOWN BY CATEGORIES—COMPARATIVE BUDGET FIGURES 1973-74 ELEMENTARY DISTRICTS

| | Chinle elementary (ADA 2259) | Balsz elementary (ADA 2002) |
|--|---------------------------------|--------------------------------|
| Administration | \$209,250 | \$167,165 |
| Instruction | 1,224,600 | 1,518,725 |
| Operation | 240,483 | 130,726 |
| Maintenance | 134,663 | 51,341 |
| Auxiliary services | 459,934 | 80,992 |
| Pupil transportation (salaries) | 191,533 | 20,575 |
| Pupil transportation (expenses) | 110,002 | 13,550 |
| Fixed charges | 339,624 | 112,710 |
| Rent or lease | 167,422 | 3,450 |
| Total operation expenses | 2,608,694 | 2,061,662 |
| Capital outlay | 542,735 | 98,619 |
| Furniture and equipment | 245,022 | 29,376 |
| Transportation equipment | 160,763 | 3,577 |
| Total expenditure | 3,188,930 | 2,256,582 |
| Total operational expenses per ADA | 1,154 | 1,030 |

BUDGET BREAKDOWN BY CATEGORIES—COMPARATIVE BUDGET FIGURES 1973-74 HIGH SCHOOL DISTRICT

| | Chinle High School (ADA 753) | Apache County H.S. (ADA 756) |
|-------------------------------------|---------------------------------|---------------------------------|
| Administration | \$69,750 | \$134,162 |
| Instruction | 408,200 | 617,318 |
| Operation | 80,161 | 123,422 |
| Maintenance | 44,887 | 68,186 |
| Auxiliary Services | 153,934 | 127,749 |
| Pupil transportation | 63,844 | 24,781 |
| Pupil transportation expense | 36,667 | 15,260 |
| Fixed charges | 113,209 | 63,288 |
| Rent or lease | 55,807 | 5,000 |
| Total operation expenses | 869,565 | 1,134,128 |
| Capital outlay | 180,912 | 75,554 |
| Furniture and equipment | 81,640 | 12,304 |
| Transportation equipment | 53,588 | 29,527 |
| Total expenditures | 1,062,976 | 1,240,764 |
| Total operational expenditure | 1,155 | 1,500 |

Miscellaneous—1973-74 figures

| | | |
|--|--------------------------|-------------------------------|
| 1. Assessed valuation per ADA: | | |
| Chinle Public School District No. 24 | ----- | \$2, 175 |
| Apache County Ariz., Elementary | ----- | 5, 032 |
| Apache County Ariz., High School | ----- | 56, 400 |
| Arizona average elementary | ----- | 13, 828 |
| Arizona average high school | ----- | 33, 267 |
| Balsz Elementary, Arizona | ----- | 24, 694 |
| 2. Johnson O'Malley per ADA (Arizona figures): | | |
| Chinle Public School District No. 24 | ----- | 212 |
| Ganado Public School District | ----- | 303 |
| Window Rock Public School District | ----- | 227 |
| Kayenta Elementary School District | ----- | 313 |
| Monument Valley High School | ----- | 1, 163 |
| Sacaton Elementary School District | ----- | 220 |
| Indian Oasis School District | ----- | 305 |
| Peripheral dorm program | ----- | 727 |
| 3. Total operation expenses per ADA: | | |
| State elementary | ----- | 831 |
| Chinle | ----- | 1, 154 |
| Apache County Elementary | ----- | 1, 173 |
| Apache County High School | ----- | 1, 499 |
| State High School | ----- | 1, 106 |
| 4. | | |
| | Federal money per ADA | Assessed valuation per ADA |
| Chinle | \$174 | \$2, 170 |
| Ganado | 193 | 5, 104 |
| Window Rock | 227 | 2, 440 |
| Alchesev | 294 | 2, 915 |
| Kayenta | 162 | 16, 032 |
| Monument Valley | 166 | 31, 577 |

PHYSICAL FACILITY NEEDS, CHINLE PUBLIC SCHOOL, DISTRICT NO. 24, PROPOSED BY
CHINLE PUBLIC SCHOOL DISTRICT NO. 24, NOVEMBER 1974

Total immediate needs—educational and housing

| | | |
|--------------------------------------|-------|---------------|
| Chinle High School | ----- | \$4, 050, 000 |
| Chinle High School—housing | ----- | 270, 000 |
| Total | ----- | 4, 320, 000 |
| Chinle Junior High School | ----- | 612, 750 |
| Chinle Junior High School—housing | ----- | 810, 000 |
| Total | ----- | 1, 422, 750 |
| Chinle Elementary School | ----- | 2, 967, 300 |
| Chinle Elementary School—housing | ----- | 1, 020, 000 |
| Total | ----- | 3, 987, 300 |
| Many Farms Elementary School | ----- | 1, 181, 000 |
| Many Farms Elementary School—housing | ----- | 420, 000 |
| Total | ----- | 1, 601, 000 |
| Round Rock Elementary School | ----- | 941, 000 |
| Round Rock Elementary School—housing | ----- | 10, 000 |
| Total | ----- | 951, 000 |

| | |
|--|-------------------|
| Red Mesa Elementary School----- | \$525,000 |
| Red Mesa Elementary School—housing----- | 840,000 |
| Total ----- | 1,365,000 |
| Red Mesa High School----- | 2,440,000 |
| Red Mesa High School—housing----- | 1,200,000 |
| Total ----- | 3,640,000 |
| Tsaile Schools----- | 450,000 |
| Tsaile Schools—housing----- | 300,000 |
| Total ----- | 750,000 |
| Total immediate educational needs ----- | 12,767,050 |
| Total immediate housing needs ----- | 4,575,000 |
| Total, immediate needs ----- | 17,337,050 |

Total needs in 5 years

| | |
|-------------------------------------|-------------------|
| Chinle High School----- | \$16,000,000 |
| Chinle Junior High School----- | 15,000,000 |
| Chinle Elementary School----- | 4,540,250 |
| Many Farms Elementary School----- | 307,500 |
| Round Rock Elementary School----- | 1,357,000 |
| Red Mesa Elementary School----- | 10,000,000 |
| Red Mesa High School----- | 16,000,000 |
| Tsaile Schools----- | 16,000,000 |
| Total needs in 5 years ----- | 79,222,750 |

Building needs

| | |
|---|-------------|
| Chinle High School: | |
| Current enrollment (ADM)----- | 850 |
| Total classrooms----- | 38 |
| Permanent classrooms----- | 11 |
| Temporary or relocatable----- | 27 |
| No gymnasium. | |
| Small multipurpose (used as dining area and physical ed.). | |
| One science laboratory (built as such). | |
| Current value of buildings and contents for insurance purposes----- | \$1,637,000 |

Projected enrollments

| | | | |
|---------------|-------|---------------|-------|
| 1975-76 ----- | 1,035 | 1978-79 ----- | 1,436 |
| 1976-77 ----- | 1,190 | 1979-80 ----- | 1,507 |
| 1977-78 ----- | 1,368 | 1984-85 ----- | 3,746 |

The Chinle High School has been judged to be the most inadequate high school educating Indian students in the State of Arizona. Over two-thirds of the classrooms are temporary and in below poor condition.

The High School was built in 1963 to accommodate 350 students and even these permanent classrooms were of cheap construction, and were even then inadequate; i.e., only one laboratory was provided, no gym or auditorium, etc.

The Indian Education Center at Arizona State University conducted a study in 1973 which ranked all school districts in Arizona located on Indian reservations as to their adequacy. The Chinle School District was judged to be the "Grossly inadequate in terms of physical facilities and substantially more deficient than the next second most inadequate".

Chinle High School

Immediate construction needs:

| | |
|--|-------------|
| (1) 27 permanent classrooms, including 2 laboratory science rooms (28,000 sq. ft. x \$35 sq. ft.)----- | \$1,000,000 |
| (2) Gymnasium (30,000 sq. ft.)----- | 1,500,000 |
| (3) Auditorium ----- | 1,250,000 |
| (4) Building trades shop (10,000 sq. ft. x \$30 sq. ft.)----- | 300,000 |
| Total immediate construction needs----- | 4,050,000 |
| Total immediate housing needs (9 housing units at \$30,000 each) ----- | 270,000 |
| Construction needs in years: entire new high school complex including faculty housing----- | 16,000,000 |

Chinle Junior High School

| | |
|--|-------------|
| Current enrollment (ADM)----- | 825 |
| Total classrooms----- | 32 |
| Permanent classrooms----- | 18 |
| Temporary relocatable----- | 14 |
| No Gymnasium. | |
| Small multipurpose (used as dining area and physical education). | |
| No auditorium. | |
| Current value of buildings and contents for insurance purposes-- | \$1,637,000 |

Projected enrollments

| | | | |
|---------------|-------|---------------|-------|
| 1975-76 ----- | 996 | 1978-79 ----- | 1,788 |
| 1976-77 ----- | 1,195 | 1979-80 ----- | 2,130 |
| 1977-78 ----- | 1,477 | 1984-85 ----- | 5,105 |

The Chinle Junior High is probably the best physical facility in the Chinle District and yet it is totally inadequate in terms of projected growth. In 1974, a fourteen-unit relocatable building was brought in and the older trailers used as classrooms sent elsewhere within the District.

The Junior High was built in 1968 to accommodate 300 students.

The greatest unmet needs in terms of educational programs is for an adequate gym and proper athletic and physical education facilities. At present none of these exist and this absence curtails the educational program.

Chinle Junior High

Immediate construction needs:

| | |
|---|------------|
| (1) 3 new classrooms (2700 sq. ft.)----- | \$94,500 |
| (2) Cafeteria and kitchen (13,950 sq. ft.)----- | 488,250 |
| (3) Athletic storage area----- | 15,000 |
| (4) Renovation and remodeling (enlarge library and home economics) ----- | 15,000 |
| Total immediate construction needs----- | 612,750 |
| Total immediate permanent housing needs (27 housing units x \$30,000 each)----- | 810,000 |
| Construction needs in 5 years: Entire new junior high facility including faculty housing----- | 15,000,000 |

Chinle Elementary School

| | |
|-------------------------------|-----|
| Current enrollment (ADM)----- | 968 |
| Total classrooms ----- | 41 |

| | |
|---|---------------|
| Permanent classrooms ----- | 18 |
| Temporary or relocatable ----- | 23 |
| No gymnasium. | |
| Larger multipurpose room (used as dining area and physical ed.). | |
| No auditorium. | |
| Totally inadequate adjacent playgrounds. | |
| Current value of buildings and contents for insurance purposes ---- | \$1, 227, 000 |

Projected enrollments

| | | | |
|---------------|--------|---------------|--------|
| 1975-76 ----- | 1, 036 | 1978-79 ----- | 1, 284 |
| 1976-77 ----- | 1, 055 | 1979-80 ----- | 1, 394 |
| 1977-78 ----- | 1, 163 | 1984-85 ----- | 2, 364 |

The Chinle Elementary School was originally built in 1958 to accommodate 300 students. The original structure is in fair to good shape but it obviously was never intended to handle as many students as it must at present. The area of greatest strain is the kitchen and dining areas which are so inadequate in terms of today's enrollment.

The School is pressed for space since the District's motor or maintenance Headquarters are located within the thirty acre school site.

The sixteen of the twenty-three classrooms in relocatables or trailers are hopeless. These sixteen are all in trailers and are old and falling apart. The remaining seven are relocatables and are in better condition.

Chinle Elementary School

Immediate construction needs :

| | |
|---|----------|
| (1) Expand nurses office (200 sq. ft.) ----- | \$8, 750 |
| (2) Enlarge main building for additional office and storage (800 sq. ft.) ----- | 29, 400 |
| (3) Expand kitchen and freezer ----- | 39, 000 |
| (4) New bathrooms ----- | 21, 150 |
| (5) Repair structural cracks ----- | 10, 000 |
| (6) Roof repair—Building I ----- | 45, 000 |
| (7) Renovation of electrical system (replace wiring with heavy duty wiring—improve lighting) ----- | 105, 000 |
| (8) Upgrade plumbing ----- | 75, 000 |
| (9) Installation of cooling system ; 1 ton/1,000 sq. ft ----- | 65, 000 |
| (10) Upgrade outside doors and entry way ----- | 16, 000 |
| (11) Replacement of sidewalks in front of building I ----- | 5, 000 |
| (12) Convert teachers lounge to storage ----- | 10, 000 |
| (13) Replacement and rebuilding of entrance ways ----- | 6, 000 |
| (14) Repair of structural cracks ----- | 4, 000 |
| (15) Reconstruction of bathrooms ----- | 6, 000 |
| (16) Bathroom additions to existing principal's office and con- version into teacher lounge ----- | 4, 000 |
| (17) Painting of existing permanent structure—outside and inside ----- | 10, 000 |

Additional items :

| | |
|--|----------|
| (1) Removal of maintenance building out of center of playground ----- | 25, 000 |
| (2) Construction of east side drainage culverts ----- | 25, 000 |
| (3) Fencing in school and rerouting main entrance, closing off road going through playgrounds ----- | 90, 000 |
| (4) Leveling, landscaping and construction of playground facilities ----- | 115, 000 |
| (5) Building steel and concrete barricades on south side of out- side basketball courts and faculty parking ----- | 20, 000 |
| (6) Relocation of maintenance ----- | 200, 000 |
| (7) Sidewalks connecting all buildings ----- | 20, 000 |
| (8) Relocation of bus garage ----- | 250, 000 |
| (9) Building a kindergarten play area ----- | 20, 000 |

New building :

- 1 Multipurpose room with high ceilings 16 feet with cooling over existing basketball court with existing asphalt floor as a sub floor—5,000 square feet :

| | |
|--|-------------|
| \$55 sq. ft. x 5,000+----- | \$275, 000 |
| 200 sq. ft. storage space x \$35 sq. ft.----- | 7, 000 |
| Replacement for 8 portable (trailers) classrooms and 8 outdated relocatable (too small) for the number of students; 30 x 30= 900 sq. ft. x 16=\$14,400; plus 16 x 50 (bathroom) \$800; plus 100 sq. ft. storage space \$1,600 (cabinets, closets, etc.)-- | 924, 000 |
| Additional classrooms (at \$55 sq. ft.) : | |
| Music room (900 sq. ft.). | |
| 2 reading labs (1,800 sq. ft.). | |
| Art room (900 sq. ft.). | |
| 1 developmental reading lab (900 sq. ft.). | |
| 1 EMR classroom (900 sq. ft.). | |
| 4 additional kindergarten (3,600 sq. ft.). | |
| Total (9,000 x \$55 sq. ft. or 26-room unit) all with bathrooms, sinks, work sinks and drinking fountains and heating and cooling (under 9-2 kindergarten program)----- | 495, 000 |
| Total construction related to present school----- | 2, 967, 300 |
| Total immediate housing needs (34 housing units x \$30,000 each)----- | 1, 020, 000 |
| Construction needs in 5 years : | |
| (1) 23 classrooms by 1979-80----- | 1, 449, 000 |
| (2) Addition to library (1,000 sq. ft.)----- | 70, 000 |
| (3) Kitchen—addition to (500 sq. ft.)----- | 140, 000 |
| (4) Nurses office—addition to (500 sq. ft.)----- | 140, 000 |
| (5) Office—addition to (1,000 sq. ft.)----- | 140, 000 |
| (6) Replacement of 7 classrooms, existing teachers lounge and teachers workroom, two large bathrooms (10,000 sq. ft.)--- | 700, 000 |
| (7) Additional storage space (1,000 sq. ft.)----- | 70, 000 |
| (8) Acquisition of 10 acres of playground with landscaping, fencing, etc., at \$5/sq. ft. based on \$35 being doubled in 5 years=\$70----- | 1, 091, 250 |
| Total construction needs----- | 3, 520, 250 |
| Total permanent housing needs----- | 1, 020, 000 |
| Total construction needs in 5 years----- | 4, 540, 250 |

Many Farms Elementary School

| | |
|--|------------|
| Current enrollment (ADM)----- | 483 |
| Total classrooms----- | 23 |
| Permanent classrooms----- | 11 |
| Temporary or relocatable----- | 12 |
| No gymnasium. | |
| Small very inadequate multipurpose room (used as dining area and physical education). | |
| No auditorium. | |
| Current value of buildings and contents for insurance purposes----- | \$577, 800 |

Projected enrollments

| | | | |
|---------------|-----|---------------|-----|
| 1975-76 ----- | 528 | 1978-79 ----- | 597 |
| 1976-77 ----- | 550 | 1979-80 ----- | 618 |
| 1977-78 ----- | 581 | 1984-85 ----- | 690 |

Many Farms Elementary School was built in 1964 to take care of 150 students. In 1965-1966, an addition was made to accommodate a total of 300 students.

This School's enrollment is not expected to prove as much as other Schools and yet over half of its classrooms are in trailers and are by anyone's standards totally inadequate.

Many Farms Elementary School

| | |
|--|------------|
| Immediate construction needs : | |
| (1) 14 permanent classrooms (12,600 sq. ft. x \$35 sq. ft.)----- | \$441, 000 |
| (2) Permanent library----- | 120, 000 |
| (3) Cafeteria ----- | 200, 000 |

| | |
|---|-----------|
| (4) 4 restrooms and 2 showers..... | \$160,000 |
| (5) Storage area..... | 50,000 |
| (6) Bus and maintenance building..... | 150,000 |
| (7) Paving (60,000 sq. ft.)..... | 60,000 |
| Total immediate construction needs..... | 1,181,000 |
| Total immediate permanent housing needs (14 housing units at \$30,000 each)..... | 420,000 |
| Construction needs in 5 years: | |
| 5 classrooms (4500 sq. ft. x \$35 sq. ft.)..... | 157,500 |
| Total construction needs..... | 157,500 |
| Total permanent housing needs (5 housing units x \$30,000 each)..... | 150,000 |

Round Rock Elementary School

| | |
|--|-----------|
| Current enrollment (ADM)..... | \$263 |
| Total classrooms..... | 9 |
| Permanent classrooms..... | 5 |
| Temporary or relocatable..... | 4 |
| No gymnasium. | |
| No multipurpose. | |
| No auditorium. | |
| Has separate dining room. | |
| Current value of buildings and contents for insurance purpose..... | \$264,000 |

Projected enrollments

| | | | |
|---------------|-----|---------------|-----|
| 1975-76 | 289 | 1978-79 | 386 |
| 1976-77 | 319 | 1979-80 | 424 |
| 1977-78 | 351 | 1984-85 | 624 |

The Round Rock Elementary School Facility was built in 1958 by the Bureau of Indian Affairs. The School was turned over to the Chinle Public School District in 1964. It was originally built to accommodate 150 students.

The original five classrooms are adequate but in terms of music, art, library or multipurpose classrooms, there are none.

Round Rock Elementary School

| | |
|---|-----------|
| Immediate construction needs: | |
| (1) 4 new classrooms (3600 sq. ft. x \$35 sq. ft.)..... | \$126,000 |
| (2) Gymnasium | 700,000 |
| (3) Additional office space for principal, nurse, secretary, storage | 50,000 |
| (4) Paving and cattle guards..... | 50,000 |
| (5) AV storage area..... | 15,000 |
| Total immediate construction needs..... | 941,000 |
| Total immediate permanent housing needs (Cooling on 5 permanent housing units)..... | 10,000 |
| Construction needs in 5 years: | |
| (1) 15 permanent classrooms plus related facilities (13,500 sq. ft. x \$35 sq. ft.)..... | 472,500 |
| (2) Plus toilets, library, halls, office, storage, etc..... | 625,000 |
| (3) Kitchen and cafeteria..... | 300,000 |
| Total construction needs in 5 years..... | 925,000 |
| Total permanent housing needs (15 housing units x \$30,000 each)..... | 450,000 |

Red Mesa Elementary School

| | |
|-------------------------------|-----|
| Current enrollment (ADM)..... | 647 |
| Total classrooms..... | 21 |

| | |
|---|------------|
| Permanent classrooms----- | 9 |
| Temporary or relocatable----- | 10 |
| Has Multipurpose room. | |
| No gymnasium. | |
| No auditorium. | |
| Current value of buildings and contents for insurance purposes (includes existing facilities which presently are used by the high school) ----- | \$646, 250 |

Projected enrollments

| | | | |
|---------------|------|---------------|------|
| 1975-76 ----- | 861 | 1978-79 ----- | 1169 |
| 1976-77 ----- | 943 | 1979-80 ----- | 1340 |
| 1977-78 ----- | 1040 | 1984-85 ----- | 1640 |

Red Mesa Elementary School is one of the better schools in the District. It was built in 1969 to accommodate 250 students. As the District's newest elementary school, it is more adequate than the older schools.

It is an area of great potential growth. With the new High School presently under construction there is a K-12 facility presently in operation with a new high school structure presently under construction which will be completed in 1975.

Red Mesa Elementary School

Immediate construction needs:

| | |
|---|--------------|
| 13 new classrooms plus halls, toilets, etc. (11,700 sq. ft. x \$35 sq. ft.) ----- | \$525, 000 |
| Total immediate construction needs----- | 525, 000 |
| Total immediate permanent housing needs (28 Housing Units x \$30,000 each)----- | 840, 000 |
| Construction needs in 5 years: New elementary school and Housing ----- | 10, 000, 000 |

Red Mesa High School

| | |
|---|------------------|
| Current enrollment (ADM)----- | 248 |
| Total classrooms----- | 12 |
| Permanent classrooms----- | 0 |
| Temporary or relocatable----- | 12 |
| No gymnasium. | |
| No science laboratories. | |
| Small multipurpose (share the elementary school as dining area and physical education). | |
| No physical education playgrounds or athletic fields. | |
| Current value of buildings and contents for insurance purposes----- | (¹) |

¹ See Red Mesa Elementary.

Projected enrollments

| | | | |
|---------------|-----|---------------|--------|
| 1975-76 ----- | 391 | 1978-79 ----- | 734 |
| 1976-77 ----- | 543 | 1979-80 ----- | 979 |
| 1977-78 ----- | 587 | 1984-85 ----- | 1, 749 |

Red Mesa High School presently shares facilities with the Red Mesa Elementary School. These schools are located in the Northern part of the Chinle Public School District and eventually must serve a high area of some 1640 square miles.

There is at present (November 1974) a Public Law 815 High School under construction at Red Mesa. It will be completed in the Fall of 1975 and will provide space for 350 students.

Red Mesa High School

Immediate construction needs:

| | |
|---|-------------|
| (1) Football and P.E. dressing room and facilities----- | \$300, 000 |
| (2) Gymnasium (30,000 sq. ft.)----- | 1, 500, 000 |

| | |
|---|------------|
| (3) Shop and vocational agricultural building (10,000 sq. ft.) | \$300,000 |
| (4) Cafeteria and kitchen | 240,000 |
| (5) Student lounge (4,000 sq. ft.) | 100,000 |
| Total immediate construction needs | 2,440,000 |
| Total immediate housing needs (40 housing units at \$30,000 each) | 1,200,000 |
| Construction needs in 5 years: Total new high school and housing | 16,000,000 |

Tsailee Elementary School (new)

| | |
|-----------------------------------|-----|
| Estimated enrollment (grades K-5) | 150 |
| Total classrooms needed | 6 |
| Multipurpose room needed | |
| Faculty and staff housing for 10. | |

In the Fall of 1975, it will be necessary to open an Elementary School at Tsailee, near the Campus of Navajo Community College. This Elementary School would serve not only the College Community but also the surrounding area in terms of Grades K through 5.

Projected enrollments (K-5)

| | | | |
|---------|-----|---------|-------|
| 1975-76 | 150 | 1978-79 | 357 |
| 1976-77 | 223 | 1979-80 | 431 |
| 1977-78 | 288 | 1984-85 | 2,880 |

Tsailee Elementary School

| | |
|--|------------|
| Immediate construction needs: | |
| (1) 6 Classrooms, Kitchen, Multipurpose area, and office | \$400,000 |
| (2) Playgrounds and equipment | 50,000 |
| Total immediate construction needs | 450,000 |
| Total immediate housing needs (10 housing units at \$30,000 each) | 300,000 |
| Construction needs in 5 years: Entire new elementary, junior high, and high school complex—including faculty housing | 16,000,000 |

CHINLE PUBLIC SCHOOL DISTRICT No. 24, CHINLE, ARIZ.—JOHNSON O'MALLEY PRELIMINARY PROPOSAL SUBMITTED TO BUREAU OF INDIANS AFFAIRS, WINDOW ROCK, ARIZ., OCTOBER 19, 1974

INFORMATION ON THE CHINLE PUBLIC SCHOOL DISTRICT

The Chinle Public School District encompasses some 7200 square miles in the heart of the Navajo Reservation. The District presently operates the following Schools: Chinle High School, Chinle Junior High School, Chinle Elementary School, Many Farms Elementary School, Round Rock Elementary School, Red Mesa Elementary School, and Red Mesa Junior High and High School.

The geographic area included in the Chinle School District makes the District the largest public school district in the United States. In terms of Indian enrollment, the District has the largest Indian in public school enrollment in any District in Arizona and the third largest in the United States.

The District is governed by a five member Board of Trustees of whom four are Navajo and one an Anglo. In addition to this legally constituted School Board, there are Advisory Committees at four out of the seven schools in the District. These Advisory Committees provide an opportunity for the local community residents to become more involved in the operation and direction of the school to which their children attend.

The physical facilities of the Chinle Public School District are considered the worse in the State of Arizona. The total insured value of all school facilities is less than \$5 million dollars. The Prescott Public School District, which has an almost equal student enrollment has an insured value in excess of \$50 million dollars.

In surveys conducted by the Indian Education Center at Arizona State University, in which all of the public school districts on Indian reservations were

rated as to their adequacy, the Chinle Public School District was rated most inadequate by a considerable margin. The District operates from 161 classrooms of which 80 are located in trailers and other temporary and totally inadequate facilities.

The total number of employees of the Chinle School District in the Fall of 1974 is 467, of which 208 are Certified Personnel.

The District operates at present a total of 68 buses and last school year these buses ran a total of 497,500 miles. Approximately 85% of all students ride the buses and over half of these students ride over 60 miles a day.

There are a total of 15 Chapters in the Chinle Public School District, with a 1970 population figure of 24,396.

SUPPORTING DATA FOR JOHNSON O'MALLEY REQUEST

The Chinle Public School District has an approved budget for School Year 1974-1975 in the total amount of \$5,690,032. This includes General District Expenditures, Pupil Transportation and Capital Outlay.

In the approved 1974-1975 Budget, these are the following Johnson O'Malley anticipated revenues:

| | |
|-----------------------------|-----------------|
| District | \$963, 615. 28 |
| Pupil transportation..... | 69, 283. 77 |
| Capital outlay..... | 169, 283. 77 |
| Total Johnson O'Malley..... | 1, 302, 182. 82 |

JOM Proposal—District Portion

Administration:

Central:

| | |
|----------------|----------------|
| Salaries | \$143, 897. 00 |
| Benefits | 12, 321. 00 |
| Travel | 6, 000. 00 |
| Supplies | 5, 000. 00 |
| Others | 112, 854. 00 |
| | 280, 072. 00 |
| | × 25% |
| | 70, 018. 00 |

Principals:

| | |
|----------------|--------------|
| Salaries | 137, 209. 46 |
| Benefits | 9, 214. 00 |
| Travel | 3, 000. 00 |
| Supplies | 5, 000. 00 |
| Others | 3, 000. 00 |
| | 157, 423. 46 |
| | × 25% |
| | 39, 355. 86 |

Community Liaison:

| | |
|----------------|-------------|
| Salaries | 9, 535. 45 |
| Benefits | 1, 029. 32 |
| Travel | 15, 000. 00 |
| Supplies | 5, 000. 00 |
| Others | 3, 000. 00 |
| | 33, 564. 77 |
| | × 95% |
| | 31, 886. 53 |

| | |
|-----------------------------|-------------|
| Curriculum coordinator: | |
| Salaries----- | \$15,000.00 |
| Benefits----- | 1,005.00 |
| Travel----- | 2,000.00 |
| Supplies----- | 5,000.00 |
| Others----- | 3,000.00 |
| | <hr/> |
| | 26,005.00 |
| | × 95% |
| | <hr/> |
| | 24,704.75 |
| <hr/> | |
| Psychological: | |
| Salaries----- | 8,000.00 |
| Benefits----- | 536.00 |
| Travel----- | 2,000.00 |
| Supplies----- | 5,000.00 |
| Others----- | 3,000.00 |
| | <hr/> |
| | 18,536.00 |
| | × 95% |
| | <hr/> |
| | 17,609.20 |
| <hr/> | |
| Consultant----- | 6,809.00 |
| | × 95% |
| | <hr/> |
| | 6,468.55 |
| <hr/> | |
| Instruction—regular: | |
| Agriculture: | |
| Salaries----- | 10,000.00 |
| Supplies----- | 28,000.00 |
| | <hr/> |
| | 38,000.00 |
| <hr/> | |
| Reading: | |
| Salaries----- | 59,990.00 |
| Benefits----- | 2,958.00 |
| Travel----- | 5,000.00 |
| Supplies----- | 10,000.00 |
| Others----- | 3,000.00 |
| | <hr/> |
| | 78,948.00 |
| | × 95% |
| | <hr/> |
| | 75,000.00 |
| <hr/> | |
| Navajo culture and history: | |
| Salaries----- | 49,340.00 |
| Benefits----- | 4,235.00 |
| Travel----- | 5,000.00 |
| Supplies----- | 97,000.00 |
| Others----- | 3,000.00 |
| | <hr/> |
| | 158,575.00 |
| | × 95% |
| | <hr/> |
| | 150,646.25 |
| <hr/> | |
| Instruction—Support: | |
| P.E. and intramural----- | 30,600.00 |
| | × 95% |
| | <hr/> |
| | 29,070.00 |
| | <hr/> |

Health:

Salaries:

| | |
|--------------------|------------|
| Elen Lilly Charley | \$3,951.08 |
| Rose Billy | 3,538.08 |
| Shirley A. Sam | 3,456.00 |
| Inez Edgewater | 5,130.00 |
| Lewis Edgewater | 3,456.00 |
| Ruth Draper | 5,795.95 |
| Bernice Lewis | 3,980.31 |
| Carolyn Sands | 6,984.60 |
| Harrietta Evans | 10,200.00 |
| Corine Adakai | 5,339.00 |
| Red Mesa | 4,286.98 |

 56,118.00

| | |
|----------|----------|
| Benefits | 6,734.00 |
| Travel | 2,000.00 |
| Supplies | 5,000.00 |
| Others | 3,000.00 |

 72,852.00
 × 95%

 69,209.40

Counseling:

Salaries:

| | |
|--------------------|-----------|
| W. Nelson Christie | 13,254.00 |
| Harold M. James | 12,729.00 |
| Susan Moran | 10,800.00 |
| Chester Rowe | 13,254.00 |
| John B. Osborne | 10,800.00 |

 60,837.00

| | |
|----------|----------|
| Benefits | 3,502.00 |
| Travel | 2,000.00 |
| Supplies | 2,000.00 |
| Others | 1,000.00 |

 58,539.00
 × 95%

 55,612.05

Library:

Salaries:

| | |
|-------------------|-----------|
| Joan Wood | 13,609.77 |
| Elizabeth Young | 11,540.00 |
| Joyce Richardson | 10,190.00 |
| Millard Kimbrough | 14,380.40 |
| Bruce C. Roberts | 10,190.00 |

 59,910.17

| | |
|----------------------------|-----------|
| Benefits | 4,193.71 |
| Travel | 2,000.00 |
| Supplies and library books | 48,695.00 |
| Others | 3,000.00 |

 117,798.88
 × 95%

 111,908.93

| | |
|--------------------------|-------------------|
| Classroom textbooks----- | \$78,948.00 |
| | × 95% |
| | <u>75,000.00</u> |
| Food Service: | |
| Salaries----- | 102,600.00 |
| Benefits----- | 14,220.00 |
| Supplies----- | 3,000.00 |
| Others----- | 22,464.00 |
| | 142,464.00 |
| | × 95% |
| | <u>135,340.80</u> |

JOM Proposal—Pupil Transportation Portion

Pupil transportation:

Transportation:

| | |
|-----------------------------|-------------------|
| Salaries----- | 292,659.00 |
| Benefits----- | 51,755.00 |
| Supplies----- | 117,745.00 |
| Capital outlay (buses)----- | 250,000.00 |
| | 717,159.00 |
| | <u>169,283.77</u> |

Capital outlay (Partial List):

Athletic Equipment:

| | |
|----------------------------|-------------------|
| Red Mesa----- | 25,000.00 |
| Textbooks----- | 75,000.00 |
| Remodeling (internal)----- | 108,000.00 |
| | 208,000.00 |
| | <u>169,283.77</u> |

Total JOM proposal----- 1,302,182.82

JOM Proposal—district portion

Administration:

Central—Salaries:

| | |
|-----------------------------|-------------------|
| Dr. Robert Roessel, Jr----- | 24,000.00 |
| Roland E. Kimbrough----- | 19,000.00 |
| John Kimbrough----- | 11,300.00 |
| Louis Tracy----- | 15,120.00 |
| John J. Foley, Jr----- | 12,814.20 |
| Glenda Gayle Doyeto----- | 8,296.56 |
| Abel Bizadi----- | 8,164.80 |
| Julia Mathis----- | 6,137.21 |
| Judy Tracy----- | 5,074.94 |
| Cecelia Attson----- | 4,413.40 |
| Mary Jane Jim----- | 4,183.38 |
| Julia Draper----- | 5,080.08 |
| Total----- | <u>143,897.00</u> |

Principals—salaries:

| | |
|-----------------------|-----------|
| John S. Birdsong----- | 17,854.40 |
| Robert Blaylock----- | 15,854.40 |
| Bobby Lee Folsom----- | 17,854.40 |
| William J. Kelly----- | 15,680.00 |

| | |
|--|-------------|
| Michael D. Reed..... | \$15,854.40 |
| Sam Roe..... | 14,157.46 |
| Nancy Lee..... | 10,500.00 |
| Phillip Kraus..... | 15,774.40 |
| Burton Swartz..... | 13,680.00 |
| Total..... | 137,209.46 |
| Community liaison—salaries: | |
| Richard Attson..... | 4,912.36 |
| John Fred Benally..... | 4,623.09 |
| Total..... | 9,535.45 |
| Curriculum coordinator—salaries: Wiley O. Hedrick..... | 15,000.00 |
| Psychological—salaries: Ruth Thayer..... | 8,000.00 |
| Instruction—regular: | |
| Agriculture—salaries: Brenda Oldfield..... | 10,000.00 |
| Remedial reading—salaries: | |
| Rita Ruminsky..... | 8,750.00 |
| Patricia Swartz..... | 9,740.00 |
| Cheryl Capps..... | 10,190.00 |
| Daniel Barlow..... | 9,020.00 |
| Randall C. Rober..... | 8,750.00 |
| Frances A. Laakman..... | 10,190.00 |
| Virginia S. McGilbary..... | 11,540.00 |
| Troy V. Stark..... | 10,190.00 |
| Loyetta Asbaugh..... | 9,920.00 |
| Louise Barton..... | 12,350.00 |
| Total..... | 59,990.00 |
| Navajo culture and history—salaries: | |
| Eddie B. Scott..... | 9,470.00 |
| Gloria Grant..... | 7,850.00 |
| Kathryn J. Powell..... | 10,830.00 |
| James Francis..... | 13,340.00 |
| Edward F. Feliz, Jr..... | 7,850.00 |
| Total..... | 49,340.00 |
| Pupil transportation: | |
| Transportation—Salaries: | |
| Jimmy D. Begay..... | 10,500.00 |
| James Benally..... | 5,293.51 |
| John Benally..... | 5,556.60 |
| Ned K. Benally..... | 4,808.16 |
| Ben A. Bitsui..... | 5,293.51 |
| John K. Brown..... | 5,048.57 |
| Wilson Carroll..... | 5,769.79 |
| Billy D. Charley..... | 5,293.51 |
| Herbert Clark..... | 5,293.51 |
| Denny Curley..... | 6,572.66 |
| Pauline Dawes..... | 7,144.20 |
| John Goldtooth..... | 6,572.66 |
| Roger Hadley..... | 7,144.20 |
| John Hardy..... | 8,000.00 |
| Andrew Harvey..... | 7,144.20 |
| Sam James..... | 7,144.20 |
| Sam Jim..... | 5,048.57 |
| Sam Johnson John..... | 4,880.10 |
| Johnny Johnson..... | 5,293.51 |
| Ben D. Jones..... | 5,883.19 |
| Dan Jones..... | 7,144.20 |
| Benjamin Miller..... | 5,279.95 |

| | |
|-------------------|------------|
| Joe F. Naize | \$5,048.57 |
| Jackson Poyer | 6,480.00 |
| Francis Roanhorse | 5,048.57 |
| Joe L. Singer | 5,048.57 |
| Kee Toadlena | 5,769.79 |
| Truman Toledo | 5,293.51 |
| James Tom | 5,293.51 |
| Ben Henry Tso | 6,000.00 |
| Guy Tso | 5,293.51 |
| Jackie F. Tsosie | 5,048.57 |
| Lewis Tsosie, Sr | 5,769.79 |
| Alyce Tully | 5,048.57 |
| Franklin Warren | 5,293.51 |
| Janeway Wheeler | 5,769.79 |
| Amos Kee Yazzie | 7,144.20 |
| Paul D. Yazzie | 5,293.51 |
| Raymond Yazzie | 4,808.16 |
| Wilson Yazzie | 7,144.20 |
| Stanley Yellowman | 4,888.40 |
| Willis F. Lang | 6,000.00 |
| Jimmy George | 6,480.00 |
| Charley Lee Begay | 4,245.76 |
| John Todacheene | 4,194.40 |
| Harry S. Thompson | 8,000.00 |
| Billy R. Begay | 5,302.50 |
| Billy Saggboy | 3,895.50 |
| Jones Bahe | 5,175.60 |
| Julius Crank | 3,895.50 |
| Total | 288,782.79 |

REQUEST FOR SUPPLEMENTAL PROGRAM FUNDING FROM CHINLE SCHOOL
DISTRICT NUMBER 24

(Prepared by Robert A. Roessel Jr., Superintendent, October 30, 1974)

Program requests for JOM supplemental funds

| | |
|-------------------------------------|-----------|
| 1. Bilingual and bicultural program | \$258,725 |
| 2. Parental visitation program | 384,370 |
| Total | 643,095 |

BILINGUAL AND BICULTURAL PROGRAM

PROGRAM NARRATIVE

Objective and need

The Chinle Public School District is the largest public school district in the United States encompassing some 7200 square miles in the heart of the Navajo Indian Reservation. It also comprises the largest public school district in terms of Indian enrollment in Arizona and is the fourth largest in the United States.

There has never been a major Bilingual or Bicultural Program in the District and yet about 92% of the students come from homes where Navajo Language is dominant. In recent years, there has been increasing interest on the part of students, parents, tribal leaders and teachers to develop a program(s) which would be directed at the particular educational needs of the vast number of Navajo students with limited English speaking ability.

The specific objectives of this Program are:

(1) to develop in-service and pre-service training for teachers and aides to improve their qualifications and ability to teach and reach the target population.

(2) to work with existing and/or new teachers to add areas and items to the curriculum related to Navajo History, Culture, and Language both in existing courses and where appropriate using new approaches.

(3) to build bridges between the home, school, and community through the use of Navajo Specialists (Navajo elders and other respected Navajos),

(4) to build a physical and easily identifiable Navajo Culture Center at each School which can serve as the focus of Bilingual and Bicultural efforts,

(5) to use the home and the community as a resource and treasure in the teaching and learning of Bilingual and Bicultural Education,

(6) to develop Programs to improve the listening, speaking and writing of English through use of the high motivating stimulus of Navajo History, Culture, and Language,

(7) to teach respect for differences in culture and language between and among Navajos and non-Navajos while at the same time relating to man's universal sameness.

Results expected

Short range results expected:

1. Begin the process of breaking down the separation and mistrust between the Navajo homes, community and the school.
2. Better understanding and communications between the home, community and the school.
3. Bringing Navajo language, history and culture into the schools and classrooms of the Chinle Public School District.
4. Construction of seven Navajo Culture Centers, one at each school within the Chinle Public School District.
5. Bringing Navajo parents, grandparents, elders and leaders into the various schools in the Chinle School District.
6. Students will be more knowledgeable in Navajo language, history and culture.
7. Teachers will learn to understand and respect Navajo life and culture.

Long-term results expected

1. Enhance and improve the self-image of individual Navajo students attending the Chinle Public Schools.
2. Reduce the dropout rate of Navajo students attending the Chinle Public Schools.
3. Enhance and improve the English speaking and writing ability of Navajo students attending the Chinle Public Schools.
4. Reduce evidence of personality problems such as drinking, suicide, drugs and unwed parents.
5. Improved citizenship and more activity in school as well as community officers through a greater degree of involvement and faith in democracy.
6. Develop a vital partnership between the home, school and the community.
7. Develop materials that are by Navajo and for Navajo for use not only in Chinle Public Schools but other reservation schools as well.
8. Develop students who are proud to be Americans and proud to be Navajo.

Approach

The Chinle Public School District Bilingual and Bicultural Program shall contain certain areas of emphasis for all schools within the system. Certain other approaches will be limited to the elementary level or to the junior high and high school level.

The pre-service training shall be for all schools (seven) and for all teachers. It shall be directed at providing everyone including parents and students with an understanding of basic principles involved in bilingual and bicultural education as well as the particular characteristics of the bilingual program for the Chinle School District.

There will be a continuing in-service training program for everyone. A major thrust is to teach existing teachers certain basic understandings concerning Navajo History, Culture and Language so they can reinforce and complement the specific instructions provided by the Navajo Bilingual Instructors themselves. In order for the regular and average classroom teacher to understand, respect and become familiar, in a general way at least, with Navajo life part of the in-serve effort will be directed at providing instruction in Navajo History, Culture and Language. Arrangements for granting credit have been made with Arizona State University. An important facet of the in-service training will be providing an individual Navajo family experience for every teacher who has not had such an opportunity. Each teacher will live with a Navajo family for a period of three nights and two and one-half days. The teachers will participate in the regular family activities such as herding sheep, hauling water, chopping wood,

etc. An adequate number of Navajo families from throughout our School District have indicated a desire to participate in this fundamental aspect of our Bilingual and Bicultural Program. Obviously, you can best understand and respect that which you know and have experienced.

Another basic element of our Bilingual and Bicultural Program are those activities which are designed to relate between the home and the school. These community based people have knowledge of Navajo history, past community experiences, and other vital knowledge that is available no place else. By using this reservoir of talent and experience the school and the students gain immeasurably. Also the hard line between the school (being alien and white oriented) and the home (being Navajo oriented) is blended as the school visibly demonstrates its conviction that the home and the community is a proper source of knowledge and an area about which students need to learn and which the school accepts as one of its areas of responsibilities.

Furthermore, each school will have a Center for Navajo Culture. This center will be physically located at a particular place on the campus of each school. Depending on the wishes of individual students and parents, one possibility that has been suggested by contacted community members is the construction of a hogan at each school. This hogan will be built by parents and community members. The materials will be provided by this Program. The Navajo Culture Center will be the hub of learning experiences, actually an educational resource center for the Bilingual Program. Instruction in basic Navajo Arts and Crafts will be taught at these Centers: Navajo Weaving, Silversmithing, Sash Belt Weaving, Basket and Pottery Making, etc. The Culture Centers will be used by teachers in both an observation and participation manner: students will observe as well as actually learn how to do by doing.

In part at least, these Centers will be staffed by parents and other community residents. The actual number of Navajo Specialists employed by the Bilingual and Bicultural Program will of necessity be limited so parental assistance will be absolutely necessary. A mother or grandmother how to weave will be encouraged to come in and teach weaving, spinning, dyeing wool or whatever during whatever time she can and will.

The academic instructional component will primarily hinge around a network of individuals who have an understanding, respect and knowledge dealing with Navajo History, Culture, and Language. First there will be a Program Director who will have overall responsibility for the Program and its operation. This individual must be emersed in his or her Navajo Culture. While academic credentials are secondary to understanding and respecting Navajo life; it is expected that a Navajo can be found that has both. Without vision a people perish!

The next group of key personnel consist of five Bilingual and Bicultural Coordinators. These individuals will be assigned to individual Schools where enrollment justifies:

| Name of school | Enrollment | Coordinator(s) |
|-----------------------------------|------------|--------------------------|
| Chinle High School..... | 900 | Yes. |
| Chinle Junior High School..... | 750 | Yes. |
| Chinle Elementary School..... | 950 | Yes. |
| Many Farms Elementary School..... | 450 | } One for the 2 schools. |
| Round Rock Elementary School..... | 450 | |
| Red Mesa High School..... | 250 | } Do. |
| Red Mesa Elementary School..... | 550 | |

These Five Bilingual and Bicultural Coordinators will be responsible for teaching and/or assisting teachers to prepare units within existing classrooms. In other words, at the elementary level where there are self-contained classrooms the Bilingual and Bicultural Coordinator for that School will do some teaching in the area of Navajo History, Culture and Language as well as helping classroom teachers prepare additional materials and units which each teacher can use in his or her classroom. At present, there is one unit taught in the Public Schools dealing with Indians and this is at either the third or fourth grade. With the help and expertise of the Coordinator, many additional units will be prepared for use in the classroom at all levels. Through in-service sessions with

the teachers the coordinators will be able to show where, how, and why other units on Navajo life could be taught by the classroom teacher easily and properly.

The Project has been structured to last five years. It is felt that a Program of this magnitude, reaching some 4,000 Navajo Students, must last for five years if it is to have an impact and succeed.

It would be impossible for a Program such as the one proposed to last but one year. One must remember that in the past most districts on the Navajo Reservation had no interest in bilingual or bicultural programs. Now the interest is there on the part of parents and students. Now a meaningful and in-depth program must be developed—and that takes time.

In our case, Chinle Public School System, there is not the kind of number problem that a district with a lesser number of Navajo speaking students involved. In other words, almost all of the students will be involved—over 90% of these. The non-Navajo speaking students may have the option of participating in the Program if they desire. It is expected that most of those Navajos will want to take part in all aspects of the Program. Also, many of the non-Indians will want to take part from inductions obtained from preliminary inquiries.

Any student who wants to participate can participate. Part-time students may take part also as scheduling will be flexible and the Navajo Culture Center at each school will provide a force for all efforts.

Budget—summary

| | |
|---|------------|
| Personnel ----- | \$235, 980 |
| Travel ----- | 6, 090 |
| Equipment ----- | 5, 700 |
| Supplies ----- | 85, 600 |
| Construction (remodeling) ----- | 28, 000 |
| Other ----- | 23, 000 |
| Total ----- | 384, 370 |
| Budget—personnel: | |
| 1 Project director (10 months) ----- | 14, 500 |
| 5 Individual school coordinator (12 months each); Red Mesa Elementary, Red Mesa High School (10 months each), Many Farms, and Round Rock coordinator ----- | 60, 000 |
| 21 Navajo bilingual specialists (aides) (10 months) 3 per school ----- | 126, 000 |
| Program secretary ----- | 6, 500 |
| Subtotal ----- | 207, 000 |
| Payroll Expenses at 14% ----- | 28, 980 |
| Total ----- | 235, 980 |
| Travel: | |
| Project director: 400 miles per week x 42 weeks=16,800 miles at 15 cents per mile ----- | 2, 520 |
| Other: 400 miles per week x 42 weeks=16,800 at 15 cents per mile ----- | 2, 520 |
| Per diem expenses: all staff—1 day per week (42 weeks) x \$25 per day ----- | 1, 050 |
| Total travel ----- | 6, 090 |
| Equipment: | |
| 8 cameras at \$300 each ----- | 2, 400 |
| 8 tape recorders at \$350 each ----- | 2, 800 |
| 1 tape reproduction unit ----- | 500 |
| Total ----- | 5, 700 |
| Supplies: | |
| Office: 7 locations and project director's office (8 locations) at 200 per location ----- | 1, 600 |
| Navajo history and culture supplies (maps, arts and crafts materials, and related Navajo culture center supplies at \$7,000 per location x 8 locations) ----- | 56, 000 |
| Audio visual supplies (slides, filmstrips, film, developing, etc.) 8 locations at \$1,000 per location ----- | 8, 000 |

| | |
|---|----------|
| Books dealing with Navajo history, culture, and language (using Navajo Community College and Rough Rock's materials) for 8 locations at \$2,500 each----- | \$20,000 |
| Total ----- | 85,600 |
| Contractual: None. | |
| Construction: | |
| Minor remodeling program, Navajo Culture Center at each school location \$4,000 each----- | \$28,000 |
| Total ----- | 28,000 |
| Other: | |
| 1. Consultants, tribal elders, 1 per week per 7 locations x \$50 a day ----- | 14,700 |
| 2. Local transportation, 200 miles per month x 10 months x 15 cents per mile----- | 300 |
| 3. Telephone ----- | 1,000 |
| 4. Food for community meetings (community donate labor, food supplies purchased, school provides plates and cooking equipment) at 1 such meeting per month x 7 locations x 10 months x \$100 for food each meeting----- | 7,000 |
| Total, other----- | 23,000 |

PARENTAL VISITATION PROGRAM

PROGRAM NARRATIVE

One of the crucial problems facing education on the Navajo and other reservation is attendance. There is a high degree of absenteeism in all public schools enrolling Navajos. While some of this absenteeism may be explained due to weather and road conditions and sickness most of it is not that easily understood.

A student obviously cannot learn what is taught at school if he doesn't attend school. It is probably true that certain absenteeism is due to school not reflecting areas and material of interest to the student in the past, a Navajo student was unable to learn about himself or his history and heritage at school. This is slowly but surely being corrected. There are Title I, Title IV, Title VII and State Bilingual Program to name a few efforts to correct this gross inefficiency in Navajo education. It is to be expected that attendance will improve as students feel schools are not trying to "scrub them white."

So while it is anticipated that part of the problem will be met by expanded and improved Navajo and Indian Studies type courses involving Navajo resources, it is not correct to assume that the cultural approach will totally eliminate the problem. When one looks at schools that have a heavy emphasis on "Bicultural and Bilingual" approaches one still finds problems of absenteeism. When I was at Rough Rock we still had a problem: albeit not as big as other schools; but still a significant problem of absenteeism.

One important untried approach is parental involvement and visitation on a large and sustained scale. Research conducted at Navajo Community College showed a direct relationship between parental knowledge and involvement in the schools with increased attendance and decreased absenteeism. Most public schools, including Chinle, has "community liaison personnel" or "attendance officers" who have the responsibility to establish contact between the home and the school. The community liaison personnel usually check on absenteeism and try to persuade parents to encourage their children to attend school. This program is inadequately funded with usually one such person assigned to a school. It is not a preventive program but one aimed at those who are already absent and its effectiveness is limited.

The following components are ones which will be utilized under the Parental Visitation Program:

1. Bring parents to school to visit as honored guests of school.
2. Requiring teachers to visit the homes of their students on a regular and released time basis.
3. Developing regular programs of community information, via radio, newspapers, etc.
4. Establishing parental advisory groups to work directly with individual schools and on specific problems.

A sustained and broadly based program of Parental Involvement and Visitation would tackle absenteeism where it must be tackled and that is with the parent. Where the parent, the community, the school, and the student are joint partners in education then and only then will the high rate absenteeism be substantially reduced.

Budget

Personnel:

| | |
|--|----------|
| Field workers 1 per school, 7; additional field workers for multi-chapter serving schools, 3 (10 field workers, at \$8,000)----- | \$80,000 |
| Roving teachers (to teach when regular teacher visiting homes of children) : 1 per 420 students (slightly more than 1 per school) x 4,200 students, 10 (10 roving teachers, at \$9,000)----- | 90,000 |
| Community information officer: to serve the entire 7,200-sq. mi. Chinle Public School District----- | 15,000 |
| Secretary ----- | 6,500 |
| Subtotal personnel----- | 191,500 |
| Payroll expenses, at 15 percent----- | 28,725 |
| Total personnel----- | 220,225 |

Materials and supplies:

| | |
|-----------------------------------|-------|
| Office ----- | 2,000 |
| Public relation supplies----- | 4,000 |
| Miscellaneous (stamps, etc.)----- | 1,500 |
| Total materials and supplies----- | 7,500 |

Equipment:

| | |
|-------------------------------------|-------|
| Desks, typewriters, files, etc----- | 3,500 |
| Camera ----- | 500 |
| Duplicating equipment----- | 1,500 |
| Total equipment----- | 4,500 |

Travel:

| | |
|---|--------|
| Field workers (10) 50 miles a day x 10 workers x 10 months = 100,000 x 15 cents a mile----- | 15,000 |
| Community information officer travel----- | 1,500 |
| Per diem total staff----- | 5,000 |
| Total travel----- | 21,500 |

Miscellaneous: contingency-----

5,000

Grand total----- 258,725

BASIC INFORMATION ON CHINLE PUBLIC SCHOOL DISTRICT NUMBER 24, CHINLE,
ARIZ., NOVEMBER 1974

BROCHURE ON CHINLE PUBLIC SCHOOL DISTRICT NO. 24

Location in Size

Chinle Public School District No. 24 is located in the heart of the Navajo Reservation and encompasses some 7200 square miles. The physical size of the district makes it the largest school district in the United States.

School and District Population

The Chinle Public School District is the most rapidly growing district in terms of pupil population on the entire Navajo Reservation. In school year 1973-74 the average enrollment of the district was approximately 3,000 while in 1974-75 the school district enrollment reached approximately 4200. Population projections indicates that within five years the district enrollment will exceed 8,000 while in ten years the enrollment will exceed 16,000.

The population of the district: The total population of the Chinle Public School District exceeds 30,000 individuals. Over 52% of the population of the Chinle School District is less than 18 years of age.

Economic Characteristics

According to the 1970 census 61% of the families in the Chinle Public School District have an income of below \$4,000 or are in the poverty level. Again according to the 1970 census the unemployment rate for the Chinle School District exceeded 67%. The average number of school years completed for adults over twenty-one within the school district was 3.4 years.

The assessed evaluation of the Chinle School District for 1974-75 was \$7,316,732.00. Nine companies accounted for 80% of the assessed evaluation. These companies were:

| | |
|----------------------------------|--------------------|
| Arizona Public Service Co..... | \$3, 078, 562 |
| Kerr-McGee Pipeline Corp..... | 1, 121, 783 |
| Navajo Communications Co..... | 928, 706 |
| Four Corners Pipeline Co..... | 290, 274 |
| El Paso Natural Gas Co..... | 219, 116 |
| Ari-Max Oil Exploration Co..... | 82, 100 |
| Clinton Oil Co..... | 54, 506 |
| Monsanto Chemical Co..... | 52, 380 |
| Consolidated Oil and Gas Co..... | 49, 069 |
| Total | 5, 876, 496 |

Of these nine major tax payers in Chinle Public School District No. 24 Arizona Public Service accounted for nearly half of the total assessed evaluation.

School Facilities

The Chinle Public School District operates seven schools within the district with approximately 70 miles between its most distant schools. In general, the condition of these seven schools is woefully inadequate in terms of the nature and age of the physical facilities. Actually, the seven schools are broken down as follows:

| Name of school | Year built | Number of students built to accomodate | Current enrollment | Insured value |
|-----------------------------------|------------|--|--------------------|---------------|
| Chinle High School..... | 1963 | 350 | 857 | \$1, 637, 000 |
| Chinle Jr. High School..... | 1968 | 300 | 825 | 1, 637, 000 |
| Chinle Elementary School..... | 1958 | 300 | | 1, 227, 000 |
| Many Farms Elementary School..... | 1964 | 150 | 483 | 557, 800 |
| Round Rock Elementary School..... | 1958 | 150 | 263 | 264, 000 |
| Red Mesa Elementary School..... | 1969 | 250 | 647 | 640, 250 |
| Red Mesa High School..... | (1) | (1) | (1) | 640, 250 |

¹ Presently under construction, in past used same facilities as Red Mesa Elementary School.

In a survey conducted by the Indian Education Center at Arizona State University the physical facilities of the Chinle Public School District were judged to be the most inadequate and in the worst shape of any public school district on any Arizona Indian Reservation. The most inadequate school facilities of the District is the Chinle High School wherein there are only 11 permanent classrooms and 27 temporary classrooms and trailers. There is only one science laboratory at the Chinle High School, no gymnasium, no auditorium.

The total immediate school construction needs for the Chinle Public School District is estimated \$12,700,000.00 with an additional 4.5 million needed for faculty and staff housing. This means there is a total immediate construction need for the District of about 17 million dollars. Then in a period of five years, based on students already in school and those counted in terms of entering school, the district will need an additional 79 million dollars in school and housing construction. These are staggering figures yet these only provide standard educational facilities so equal educational opportunities are available to residents in the Chinle Public School District.

COMPARISON BETWEEN ARIZONA AND NEW MEXICO FUNDING FOR PUBLIC SCHOOLS

There are a number of significant differences between the State of Arizona and the State of New Mexico as they relate to public school financial support. In

order to understand fully and clearly the reason it is possible to use Johnson O'Malley for supplementary purposes in New Mexico while it is impossible in Arizona, one must be aware of the differences in school finance between the two States.

In the first place, in the State of New Mexico, approximately 80% of public schools maintenance and operational budget comes from State source. In addition, there is a 4.45 mil local levy within the district and an additional 5 mil county levy divided on ADM—regardless of what the school districts generate in terms of assessed valuation. The final amount of operational funding, for those districts which are eligible, comes from Public Law 874.

By contrast, the State of Arizona only provides 30% to 35% of a public school eminent operational budget from State sources. While the local levy accounts for less than 3% of a public school budget on an Indian reservation.

This means that in New Mexico there are adequate State funds, as well as local and county support to provide for almost 100% of a public schools operational budget. In other words, in New Mexico, there is enough State generated support in order to know exactly what operational revenue can be counted on.

In the second place, in New Mexico, transportation is 100% funded by the State while in Arizona, up until this year, it has been totally a district's responsibility. This year in Arizona, the new State Finance Law provides for approximately 30% of a district's transportation budget to come from State sources but even then there is no provision as there is in New Mexico for depreciation, type of road traveled, etc.

In the third place, New Mexico public school districts operating all or in part on the Navajo Reservation have some ten times the assessed valuation than their counterpart districts in Arizona. In fact, in New Mexico, districts have not even had to float bond issues to build permanent physical facilities because their revenue for operational purposes was adequate to provide for all their physical facilities needs. In Arizona, reservation districts have had to rely on extremely limited bonding capacity—due to limited assessed valuation on P.L. 815 which never remotely had adequate funding.

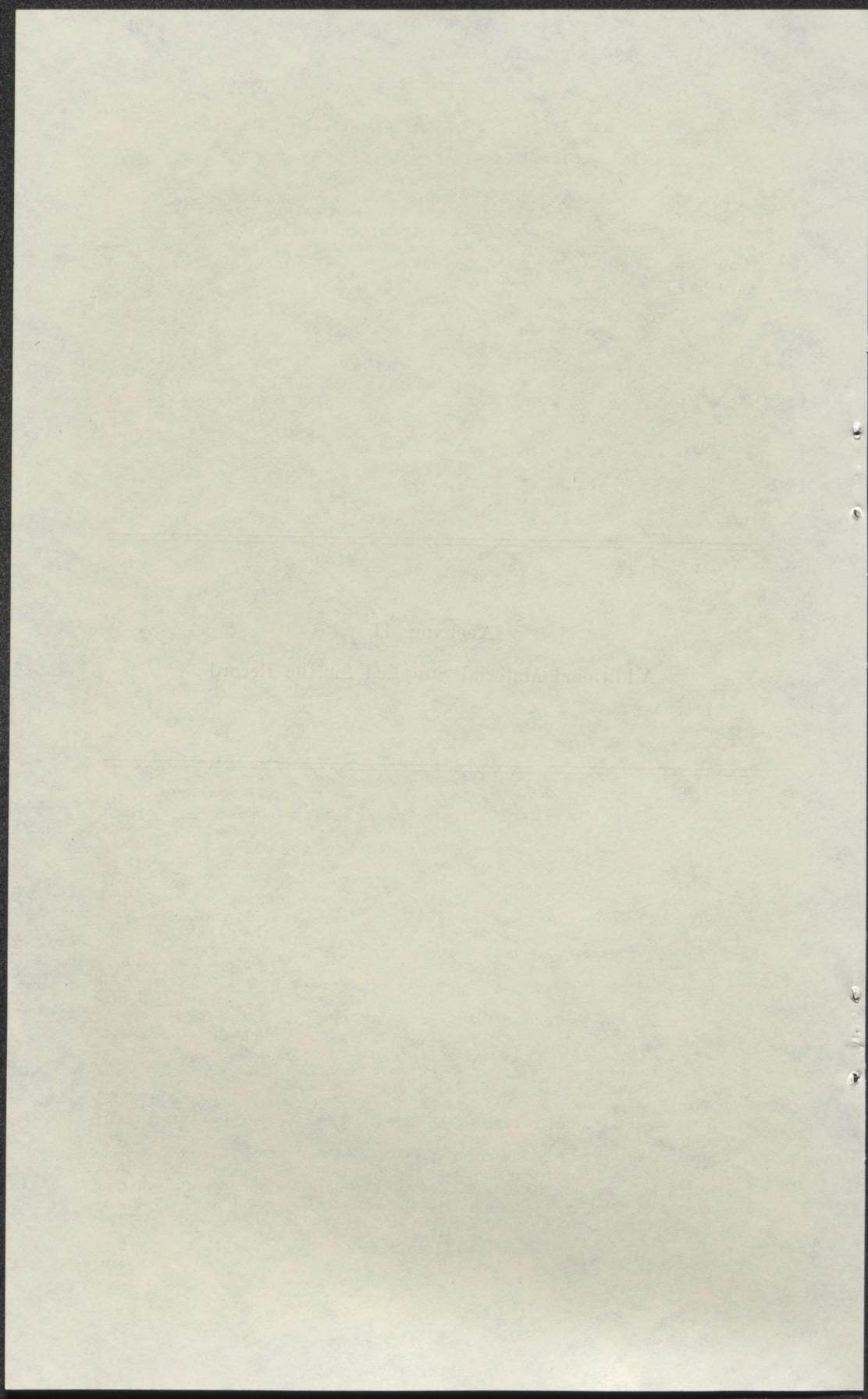
Furthermore, in New Mexico, rarely do school districts have to provide housing for faculty and staff as they do in the Arizona portion of the Navajo Reservation: For example, on the Arizona side, there are some 500 housing units, maintained and operated by public schools; in New Mexico, there are less than 50.

As a result of these and other factors, New Mexico has always been able to use Johnson O'Malley for supplementary programs. This has been because their level of State support has been adequate for their basic needs and they have been able to use Johnson O'Malley for supplementary purposes.

On the other hand, in Arizona, a school district does not receive adequate basic support from the State and must turn to other sources to provide for the basic educational needs of its students. It must be remembered that in New Mexico the primary source for public schools comes from the sales tax while in Arizona it is from a property tax.

APPENDIX II

Additional Material Supplied for the Record



RENO, NEV., December 4, 1974.

Senator HENRY JACKSON,
Chairman, Interior and Insular Affairs Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: In reviewing the Bureau Manual drafted in October, by the Bureau, that complement the new Johnson-O'Malley Regs, I feel it imperative to express my views on an issue as important as this.

I would like to say that I attended and participated in the meetings subsequently producing the "Red Regs" and further feel the present regs reflect what the Indian people have voiced for years.

My working relationship with the Indian Education Committee in Nevada give me a better insight into their needs. Also, I am actively involved in education at the Reno-Sparks Indian Education Committee (Chairperson) and the Nevada Indian Advisory Committee (Chairperson).

The revised Bureau Manual does not coincide with the present Johnson-O'Malley Regulations. As I interpret and understand the new regs, to which I fully support, the Johnson-O'Malley money can be used outside the local school and beyond the basic school program. Too much emphasis is placed on the local school districts in the revised bureau manual, totally distorting the intention of the new regulations.

Parental participation is another important factor of the regulations and is a positive step toward Indian involvement in the local school system.

These are the two pieces of the regs now under discussion by everyone except Dick Cavett. I stress that more time should be given to the revision of the Bureau Manual in order to make it more concise.

Thanking you for your consideration, I remain
Sincerely,

(Mrs.) GAYLENE EVANS.

MICHAEL J. DEASY,
Carson City, Nev., December 4, 1974.

Re December 11, 1974, hearing on Johnson-O'Malley Education Programs.

Senator HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: Please include this statement in the record of the December 11, 1974 Hearings on Johnson-O'Malley Education Programs.

I am writing on behalf of the Washoe Tribe of Nevada and California, the Washoe Tribal Education Committee, the Duckwater Shoshone Tribe, the Duckwater Tribal Education Committee and the Inter-Tribal Council of Nevada. These tribal entities, over a year ago, requested me to assist them in their efforts to modify 25 C.F.R. 33. To this end we joined forces with the 'Red Regs' Group and its efforts to affectuate a modification of 25 C.F.R. 33.

After the expenditure of considerable personal and program expense, representatives of the 'Red Regs' Group and the Bureau of Indian Affairs met in Washington, D.C. in August, 1974. This meeting resulted in the publication of new Johnson-O'Malley Regulations which took effect in September, 1974. The intent of the non-Federal drafters of the Regulations was, in part, to establish Indian parental participation and control over the expenditures of J.O.M. funds for the educational needs of Indian students. In order to develop true parental control alternative methods of permissible expenditures and contractors were included in the Regs. Thus, the Johnson-O'Malley regulations allow for the expenditure of funds for supplemental programs either within or without the public or private schools. The regulations were intended to provide the flexibility necessary for the local control of Indian education. The decision as to where to expend the funds and to how best provide for the educational needs of the Indian children would be made by local Indian parents. This has been an express desire of Indian parents for many years.

The drafters did not intend for the J.O.M. program to continue solely as a public school assistance program. After the September 20, 1974 effective date of the regulations, the intention was to allow expenditures outside of the public school system. This is widened by the inclusion of early childhood programs and the contract eligibility of private or non-public schools. An intention

was to permit J.O.M. expenditures for supplemental programs in tribally operated non-public schools such as the Duckwater Shoshone Elementary School. This provision is essential to the establishment of true parental participation and control over the educational lives of Indian children.

From the point of view of Nevada tribes, it is essential that the equitable distribution of J.O.M. monies be followed. For years, Nevada students have been short changed by J.O.M. funds. The Nevada per student J.O.M. allocation amounted to a slight bit over \$100 per eligible Indian student last year. At the same time the national per pupil expenditure averaged slightly less than \$200 per eligible Indian students. This gross disparity can only be rectified by federal law which requires Bureau of Indian Affairs personnel to treat all eligible participants fairly and equally.

Support by this committee, of the Johnson-O'Malley Regulations as published on August 19, 1974 is required in order to alleviate the gross inequities which have existed for many years. A direct mandate from this committee to the Bureau of Indian Affairs is required in order to insure the fulfillment of the aims and goals of the Bureau's constituency, the Indian people. Furthermore, support of the educational well being of Indian children, requires the increased funding of the Johnson-O'Malley Program. The funding level should be increased to provide for the development of educationally beneficial programs which will start to remedy the documentable need for education assistance by Indian students.

Sincerely,

MICHAEL J. DEASY, *Attorney-at-Law.*

MICHAEL J. DEASY,
Carson City, Nev., December 6, 1974.

Subject: December 11, 1974 hearings on Johnson-O'Malley Regulations.

Senator HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This letter is to supplement my letter of December 4, 1974. Please include this letter in the Hearing Record along with my earlier letter. This statement is on behalf of the Washoe Tribe of Nevada and California, the Washoe Education Committee, the Duckwater Shoshone Tribe, the Duckwater Tribal Education Committee, and the Inter-Tribal Council of Nevada. The latter is a membership organization whose membership includes twenty plus tribal councils in Nevada and California.

The implementation of the Johnson-O'Malley Regulations as published in August, 1974 is critical to the Indian children of Nevada and California. The effort to stay the implementation of the equitable distribution provisions of these Regulations is detrimental to the interests of the Indian students in these states. The equitable distribution requirements would result in a substantial increase in the Johnson-O'Malley allocation to the states which have historically been short changed in Johnson-O'Malley funds. This increase would allow for the development of much needed supplementary programs to benefit Indian students.

A recommended percentage split of the total appropriation is 70% to be expended for supplementary programs and 30% for basic support expenditures. It is anticipated the basic support percentage would decrease to the point that 100% of the funds are expended in a supplementary fashion. In order to provide highly effective programs to meet the educational needs of Indian children, the Johnson-O'Malley appropriation need to be substantially increased. A minimum increase of doubling the appropriation is required immediately.

Sincerely,

MICHAEL J. DEASY, *Attorney-at-Law.*

WASHOE TRIBE OF NEVADA AND CALIFORNIA,
Stewart, Nev., December 6, 1974.

Subject: December 11, 1974 Hearings on Johnson-O'Malley Regulations.

Senator HENRY JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This is to inform you the Washoe Tribe of Nevada and California is in accord with and supports the statements made on our behalf

by Michael J. Deasy. Would you please attach a copy of this letter to Mr. Deasy's letters of December 4, 1974 and December 6, 1974?

Sincerely,

ROBERT L. FRANK,
Chairman, Washoe Tribal Council.

NEVADA INDIAN COMMISSION,
CAPITOL COMPLEX,
Carson City, Nev., December 6, 1974.

HON. HENRY JACKSON,
*Chairman, Interior and Insular Affairs,
Russell Senate Office Building,
Washington, D.C.*

DEAR MR. JACKSON: It has come to our attention that there is a movement to destroy the beneficial effect of the Johnson-O'Malley Regulations which took effect in September, 1974. This movement is in the form of an effort to waive the limitations placed on basic support payments. The Nevada Indian Commission is opposed to this effort as it is detrimental to the educational interests of eligible Indian students in the state of Nevada.

The recently published regulations require the Johnson-O'Malley funds to be allocated among the various states on a substantially equitable basis. For many years the state of Nevada has been allocated a disproportionately low sum of Johnson-O'Malley funds allocated to Nevada, if the equitable distribution formula is followed, would be greatly increased. This increase could provide the much needed programs to meet the special educational needs of Indian children.

This office is supportive of the increased funding level of the Johnson-O'Malley program. We also support a percentage split between the basic support allocation and the supplementary expenditure allocation. We advocate the split to be 70% of the total appropriation to be allocated to supplementary program allocation. The remaining 30% of the total appropriation would be allocated to the basic support area. This office desires the implementation of the Johnson-O'Malley with the allocation of funds in accordance with the above outlined percentage schedule. This implementation should be effectuated as soon as possible. The Bureau of Indian Affairs has evidenced a reluctance to implement the program in accordance with the law.

Your expeditious action to remedy this situation will be greatly appreciated.

Respectfully,

BENSON GIBSON, *Executive Director.*

ELKO-SOUTH FORK INDIAN EDUCATION COMMITTEE,
Elko, Nev., December 6, 1974.

Senator HENRY JACKSON,
*Chairman, Interior and Insular Affairs Committee,
U.S. Senate,
Washington, D.C.*

DEAR SENATOR JACKSON: It has come to the attention of the Elko-South Fork Indian Education Committee that there is a possibility the effective date for the new Johnson-O'Malley regulations will be postponed until next year. This Committee strongly opposes this move. We as the Education Committee and parents of Indian children feel that these new regulations which went into effect September 1974 should remain so.

Please keep us informed on actions taken by your committee regarding new Johnson O'Malley regulations.

Yours truly,

MARGARET YOWELL,
Chairman, Elko-South Fork Indian Education Committee.

DUCKWATER SHOSHONE ELEMENTARY SCHOOL,
Duckwater, Nev., December 9, 1974.

Subject: December 11, 1974 Hearings on Johnson-O'Malley Regulations.

Senator HENRY JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: This is to inform you the Duckwater Shoshone Education Committee is in accord with and supports the statements made on our

behalf by Michael J. Deasy. Would you please attach a copy of this letter to Mr. Deasy's letters of December 4, 1974 and December 6, 1974.

Sincerely,

ALLEN LENBEK,
Chairman, Duckwater Shoshone Education Committee.

DUCKWATER SHOSHONE ELEMENTARY SCHOOL,
Duckwater, Nev., December 9, 1974.

Subject: December 11, 1974 Hearings on Johnson-O'Malley Regulations.

Senator HENRY JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: This is to inform you the Duckwater Shoshone Tribe of Nevada is in accord with and supports the statements made on our behalf by Michael J. Deasy. Would you please attach a copy of this letter to Mr. Deasy's letters of December 4, 1974 and December 6, 1974.

Sincerely,

PAUL WALKER,
Chairman, Duckwater Tribal Council.

WASHOE TRIBE OF NEVADA AND CALIFORNIA,
Stewart, Nev., December 10, 1974.

Senator HENRY JACKSON,
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.*

DEAR SENATOR JACKSON: The Washoe Tribe of Nevada and California requests the views of the Tribe to be taken into consideration at the hearings scheduled December 11, 1974 concerning the Johnson-O'Malley Indian education program.

The Tribe supports the Johnson-O'Malley Regulations as published in August, 1974. The equitable allocation of Johnson-O'Malley funds in accordance with the regulations as published will greatly enhance the educational opportunities afforded to Washoe children in the states of Nevada and California. The inequitable distribution of Johnson-O'Malley funds over the history of the program has been detrimental to the needs of the tribal members of the two states. The present regulations, if implemented as published, will increase the amount of money allocated to the educational benefit of the Washoe children.

In the implementation of the Johnson-O'Malley program in accordance with the legal requirements, the Tribe advocates a percentage split between the basic support and supplementary program. Supplementary support should receive 70% of the total Johnson-O'Malley appropriation. The basic support component of the program would receive 30% of the funds. The Tribe desires to eventually see the split increase to the point that supplementary funding receives 100% of the total appropriation. The effort to have the implementation of the Johnson-O'Malley program not in accordance with the new regulations is against the interests of not only the Washoe Tribe of Nevada and California but also the total Indian population of the two states.

The Tribe's interpretation of the Regs is that non-public schools, including contract schools, are eligible to participate in Johnson-O'Malley programs. However, we see a very practical limitation on expenditures in non-public schools. The total appropriation for the Johnson-O'Malley education program is insufficient to provide for the funding of the total operation of non-public schools. The appropriation is sufficient for non-public schools to participate in the Johnson-O'Malley program and provide supplementary programs.

The Tribe also requests you to be an advocate for increased funding level of the Johnson-O'Malley program. The increase should be at least to a level to provide supplementary programs to any Indian community which wishes to avail itself of the program. Doubling the appropriation would provide sufficient funds that beneficial programs could be provided to Indian children.

Sincerely,

ROBERT L. FRANK,
Chairman, Washoe Tribal Council.

