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SENATE

{ REPORT
106-497

PROVIDING FOR THE ISSUANCE OF BONDS TO PROVIDE FUNDING FOR
THE CONSTRUCTION OF SCHOOLS OF THE BUREAU OF INDIAN AFFAIRS
OF THE DEPARTMENT OF THE INTERIOR, AND FOR OTHER PURPOSES

OCTOBER 12, (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. CAMPBELL, from the Committee on Indian Affairs,
submitted the following

REPORT

[To accompany S. 2580]

The Committee on Indian Affairs, to which was referred the bill (S. 2580), to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

PURPOSES

The purpose of S. 2580 is to provide optional funding mechanism for replacing Bureau of Indian Affairs (BIA) school facilities. It authorizes a two year pilot project that will provide Indian tribes with the authority to issue Qualified Tribal School Modernization Bonds (QTSMB). The bonds will generate revenue that will be used to build new school facilities. It also authorizes the creation of a new escrow account to provide tribes with the resources necessary to pay bondholders when the QTSMB matures.

BACKGROUND

Through numerous treaties and legislation including the Snyder Act of 1921¹ the Federal government has assumed a trust responsibility to provide an education to Indian children. This duty includes providing safe school facilities that have such basic amenities as heat and healthy air to breathe. Adequate facilities and

¹ Pub. L. 94-482 (25 U.S.C. 13).

such essential necessities are not being provided to many Indian children attending BIA-funded schools.

The Federal government is solely responsible for the 185 Indian schools funded by the BIA. Nearly 4,500 facilities serve the Bureau's education program, consisting of over 20 million square feet of space, including dormitories, employee housing quarters, and other buildings providing education opportunities to more than 50,000 Indian students. These facilities serve more than 330 Federally recognized Indian tribes located in 23 states through Indian Self-Determination and Education Assistance Act contracts, compacts, and grants.²

Half of the school facilities in the BIA's inventory have exceeded their useful lives of 30 years, and more than 20 percent of such facilities are over 50 years old. The BIA reports numerous deficiencies in the areas of health, safety, access for disabled students, classroom size, ability to integrate computer and telecommunications technology, and administrative space.³ Many Indian students lack access to computer and science labs, gymnasias, and other basic resources. Studies suggest these types of deficiencies can have serious adverse effects on student learning.

Moreover, a 1997 General Accounting Office (GAO) study entitled "School Facilities, Reported Condition and Cost to Repair Schools Funded by the Bureau of Indian Affairs" indicates that BIA schools report building deficiencies at a higher rate than public schools. Almost four-fifths of the BIA schools reported having at least one inadequate building feature, while about one-half to two-thirds of public schools reported at least one inadequate building feature.⁴

The existing backlog of education facility repairs and new construction needs is estimated at \$2.1 billion. The BIA has published a list of 16 schools awaiting construction funds for replacement purposes. In addition, at least 96 schools have been identified as needing to be replaced. These schools have submitted data to the BIA which in turn has begun the process of ranking the schools by severity of need and related criteria.

The Federal government has responded to the problem in piecemeal fashion, often using temporary solutions instead of working on a permanent plan of action. For instance, the current BIA budget requests \$2 million for "portables" or trailer classrooms that have been used since 1993. To date, the BIA has purchased 472 portables and 20% of the BIA's total education buildings are now portable classrooms. The request states these trailers are needed due to overcrowding and unhealthy and unsafe buildings. It states that portables are used to replace buildings or parts of buildings that have "poor air quality" that results in what the BIA calls "sick building syndrome."

Indian school construction is one of the major focuses of the Fiscal Year 2001 Senate Interior and related agencies Appropriations bill in terms of funding increases, with \$276.6 million slated for such purposes. This represents a significant increase over the House recommended level of nearly \$120.2 million for the edu-

² Statement of William Mehojah, Director, Office of Indian Education Programs, Bureau of Indian Affairs, U.S. Department of the Interior, to the Senate Committee on Indian Affairs, September 6, 2000.

³ Ibid.

⁴ School Facilities: Reported Condition and Costs to Repair Schools by the Bureau of Indian Affairs, GAO/HEHS-98-47, December, 1997.

cation construction budget, but short of the President's request of \$300.5 million. Of the overall education construction budget, \$121.12 million is designated for construction of six schools: Tuba City Boarding School, Second Mesa Day School, Zia Day School, Baca Thoreau Consolidated Community School, Lummi Tribal School and Wingate Elementary School.

S. 2580 would provide Indian tribes with a new and voluntary option to fund school construction. Federal funds would be used to leverage private funds, allowing replacement schools to be build more quickly than otherwise would be possible with the same level of appropriations. The bill would also encourage tribes to gain experience in financing construction projects and to develop relationships with the financial community that could help support much-needed economic development in Indian country.

The large and growing backlog of replacement schools strongly suggests the need for new schools in Indian country has reached a level of crisis and that innovative measures to address the problem must now be considered. The pilot project authorized in S. 2580 provides both tribes and the Federal government the opportunity to employ a new method of funding BIA school construction and determine whether it is a feasible and effective alternative to the current funding mechanism.

SUMMARY OF THE PROVISIONS OF S. 2580

S. 2580 authorizes Indian tribes to issue up to \$200 million in Indian school construction bonds for the two year period beginning in Fiscal Year 2001. These bonds would provide purchasers a tax credit in lieu of interest for the duration of the bond. The bill dedicates \$30 million to provide tribes with funds to pay off the bonds when they mature. As a result, tribes are authorized to issue approximately \$75 million in bonds with funds identified to pay off the principal. This would allow six to ten tribal schools to be constructed more quickly than simply awaiting their turn for funding directly through the appropriations process.

Indian tribes eligible to take advantage of this pilot project fall into three categories: first, according to their rank on the existing priority list for replacement schools; second according to any additions to that priority list; or third on the basis of the criteria used to determine the priority list for replacement schools.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The title of this bill is the Indian School Construction Act.

Section 2. Definitions

For purposes of this Act definitions for terms such as Bureau, Indian, Tribe and Tribal School are included. A "Tribal School" is defined to include elementary and secondary schools as well as dormitories operated by tribal organizations and receiving funds under the Indian Self Determination and Education Assistance Act (25 U.S.C. 450f, 450(a), and 458(d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.). The definition makes both contract and grant schools eligible for programs within the Act. In subsection (5), the definition of "Tribe" is the same as "trib-

al government” as that term is defined in Section 7701(a) of the Internal Revenue Code.

Section 3. Issuance of bonds

Under the Act, a pilot program is established providing eligible tribes the authority to issue bonds to provide funding to construct new tribal schools. To be eligible to participate in the pilot program Section 3(b) requires a tribe to:

- (1) prepare and submit a plan of construction that includes a description of the improvements, repairs or new construction;
- (2) undertake a comprehensive survey reflecting the construction or renovation needs of the school involved;
- (3) provide assurances that bond funding will be used only for needs reflected in the plan; and any other related information determined appropriated by the Secretary, and
- (4) fill out an evaluation criteria form contained in Instructions and Application for Replacement School Construction, Revision 6, February 6, 1999, and provide any other related information deemed appropriate by the Secretary.

Section 3(b)(3) discusses the approval process of tribes applying for bonding authority. Priority will be given to tribal schools currently on the BIA Replacement School Construction Priority List. Priority for schools not on the list will be based upon the BIA’s criteria for determining “greatest need.”

Section 3(b)(4) authorizes tribes to use escrow funds for costs associated with advance planning such as designing a and developing blueprints plans for a new school. In order to use escrow funds for advance planning and design, the tribe must request such funding in the initial plan of construction and must agree to pay back the full amount from bond revenues.

Section 3(c) authorizes tribes to use bond revenues to retain and pay for licensed and bonded architects, engineers, financial advisors and other professionals whose services are required to assist tribes in bond issuance and school design.

Section 3(d) requires each tribe to obtain a trustee to manage revenues received as a result of bond issuance. All bonds issued shall be subject to a trust agreement between the tribe and a trustee. Any bank or guarantee company meeting requirements set forth by the Secretary may serve as trustee. The duties of the trustee with respect to the bonds issued include: acting as a repository for bond proceeds; making payments to bondholders; investing the escrow money in obligations that are fully guaranteed by the United States; and investing the bond revenue in a segregated account. The trustee must have the project inspected for completion by a local financial institution or licensed professional before paying the contractor(s).

Section 3(e) specifies that outstanding principal due on any qualified tribal school modernization bond is due on the stated maturity date which is within 15 years from the date of issuance. In lieu of interest, bondholders will be awarded a tax credit under section 1400F of the Internal Revenue Code of 1986.

Section 3(f) establishes an escrow account to guarantee payment of the principal on issued bonds. Payment of the principal portion of bonds is guaranteed by amounts transferred from the tribal school modernization escrow account and deposited with each re-

spective bond trustee. This section also authorizes the Secretary to deposit not more than \$30 million into a tribal school modernization escrow account. The Secretary is responsible for payments to trustees from money in the tribal modernization escrow account. Any money not used by a trustee for payment of project costs is to be returned to the tribal school modernization escrow account.

Section 3(g) provides that tribes issuing tribal school modernization bonds shall not be responsible to repay the principal on the bond except to the extent of any escrowed funds furnished by the tribe. This section also provides that any land or facilities purchased or improved with bond revenue may not be mortgaged or used as collateral for such bonds.

Section 3(h) authorizes the tribal school modernization bonds to be sold at a purchase price equal to, or more than, or less than the par amount.

Section 3(i) provides that any money earned through investment of funds under the control of a trustee pursuant to a trust agreement described in subsection (d) shall not be subject to Federal income tax.

Section 3(j) provides that any sinking fund established to ensure the payment of principal on qualified tribal school modernization bonds are to be invested in assets guaranteed by the United States or other assets as the Secretary of the Treasury may authorize by regulation.

Section 1400F. Credit to holders of qualified tribal school modernization provisions

Section (a) authorizes a credit against the tax imposed by subchapter X for taxpayers holding qualified tribal school modernization bonds.

Section (b) provides that the amount of such credit is equal to 25% of the annual credit determined, which in turn, is calculated by multiplying the applicable credit rate by the outstanding face amount of the bond. Subsection (b)(3) provides that the applicable credit rate with respect to a bond issue is the average market yield on outstanding long-term corporate debt obligations, to be determined on a monthly basis by the Secretary. Subsection (b)(4) provides that for bonds issued during the 3-month period ending on a credit allowance date, the amount of the credit shall be a rateable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding.

Section (c) provides that the credit allowable to bondholders in any taxable year shall not exceed the excess of (1) the sum of the regular tax liability plus the tax imposed by section 55, over the sum of the credits allowable under subpart IV of subchapter A. Subsection (c)(2) provides that if the tax credit exceeds that bondholders total tax liability, then the excess is carried to the next year.

Section (d) provides various definitions used in Section 1400FF. These definitions include “Qualified Tribal School Modernization Bond,” which is defined to include any bond issued under this Act whereby (1) 95% of the proceeds are used for construction, rehabilitation or repair of a school facility funded by the BIA, or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue; (2) the bond is issued by

a tribe; (3) the issuer designates such bond for the purposes of this section; and (4) the term of each bond which is part of such issue does not exceed 15 years. Subsection (d)(1)(B) provides a national limitation of bonds issuable of \$200 million in each of years 2001 and 2002, and zero after 2002. The bond limitation is to be allocated to tribes by the Secretary of Interior according to the terms of this Act. The “Credit Allowance Date” is defined as the dates on which the tax credits will be allowed to the bondholders. These are March 15, June 15, September 15 and December 15 respectively. The term “bond” includes any obligation. The term “Tribe” has the meaning given that term in Section 7701(a)(40) of the Internal Revenue Code.

Section (e) provides that credits allowable to the taxpayer are included in gross income, and the amount so included is to be treated as interest income.

Section (f) provides that if a tribal school modernization bond is held by a regulated investment company, the credit determined to be available is to be allowed to the shareholders of such company under procedures prescribed by the Secretary.

Section (g) provides that the ownership of a qualified tribal school modernization bond and the entitlement to the credit with respect to such bond may be separated pursuant to regulations prescribed by the Secretary. In case of such separation, the credit is to be allowed to the person holding the instrument evidencing entitlement to the credit and not to the holder of the bond.

Section (h) provides that the credit allowed to a taxpayer holding a qualified tribal school modernization bond is to be treated as if it were a payment of estimated tax by such taxpayer.

Section (i) provides that nothing in any law shall be construed to limit the transferability of the credit allowed by this Act through sale and repurchase agreements.

Section (j) authorizes the tax credit created by this bill to be treated as credit allowable under part IV of subchapter A of the Internal Revenue Code of 1986.

Section (k) provides that issuers of qualified tribal school modernization bonds are required to submit reports similar to reports required under section 149(e) to the Secretary of the Treasury.

Section 5. Additional provision

Section 5 provides that nothing in this Act or in the amendments made by this Act shall be construed to impact, limit, or affect the sovereign immunity of the Federal or any State or tribal government. The section further provides that the Act is to take effect on the date of enactment, with bonds being issued after December 31, 2000, regardless of the status of the regulations.

LEGISLATIVE HISTORY

S. 2580, the Indian School Construction Act, was introduced on May 17, 2000 by Senator Tim Johnson with Senators Bingaman, Inouye and Daschle as co-sponsors. Senators Cochran, Campbell, Baucus and Reid subsequently joined as cosponsors. This Committee held a hearing on the bill on September 6, 2000 and received testimony from the Administration, tribal witnesses and a financial consultant. The Committee convened a business meeting to consider S. 2580 and other measures that had been referred to

it. On September 27, 2000, the Committee favorably reported S. 2580 with a substitute amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On September 27, 2000, the Committee on Indian Affairs, in an open business session, adopted an amendment in the nature of a substitute to S. 2580 by voice vote and ordered the bill, as amended, to be reported favorably to the Senate.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 2580 as calculated by the Congressional Budget Office and the Joint Committee on Taxation are set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 11, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2580, the Indian School Construction Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Paul Cullinan.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 2580—Indian School Construction Act

Summary: S. 2580 would authorize Indian tribes to issue qualified tribal school modernization bonds, which would carry a new federal income tax credit. The bill also would authorize the Secretary of the Interior to establish a \$30-million escrow account, the funds from which would be used to provide certain tribes with enough collateral to issue these bonds. That funding would augment existing education spending by the Bureau of Indian Affairs (BIA).

CBO estimates that implementing S. 2580 would cost \$30 million over the 2001–2005 period, assuming appropriation of the authorized amount. The bill also would reduce federal revenues (i.e., governmental receipts) by about \$28 million over the same period and by \$111 million through 2010. Because the bill would affect receipts, pay-as-you-go procedures would apply.

S. 2580 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2580 is shown in the following table. The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

Basis of estimate: For this estimate, CBO assumes that S. 2580 will be enacted in October 2000, and that the authorized amounts will be appropriated at that time.

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION					
BIA Education Spending Under Current Law:					
Estimated Authorization Level ¹	585	599	614	625	644
Estimated Outlays	548	591	605	620	635
Proposed Changes:					
Authorization Level	30	0	0	0	0
Estimated Outlays	7	12	11	0	0
BIA Education Spending Under S. 2580:					
Estimated Authorization Level	615	599	614	629	644
Estimated Outlays	555	603	616	620	635
CHANGES IN REVENUES					
Qualified Tribal School Modernization Bonds Estimated Revenues	(²)	—2	—4	—9	—13

¹ The amounts shown are CBO baseline projections, assuming annual increases for anticipated inflation. The 2000 appropriation for BIA education programs was \$570 million.

² Less than \$500,000.

S. 2580 would authorize the Secretary of the Interior to allow qualified Indian tribes to issue new school construction bonds that would receive favorable federal income tax treatment. Tribes could issue these bonds, up to a total of \$200 million a year in both calendar years 2001 and 2002, only if they are able to establish trust agreements with approved banks or trust companies. These trust agreements would specify that the trustee would hold accounts for the tribes and would handle all the proceeds from the bond issue, payments to bond holders, investment of the funds that the tribes would deposit into the account (including any grants from the Secretary for this purpose), and earnings on the fund balances. Deposits by (or on behalf of) the tribes would have to be sufficient, along with earnings on the funds, to repay the principal on the bonds. No principal payments would be required until a bond matured, which in no case would be later than 15 years after the issuance date. Tribes would not be responsible for any interest payments on the bonds; instead the federal government would provide a tax credit equal to the quarterly interest payments that would have been paid if the bonds earned interest at the corporate bond rate. In addition, tribes would not be required to make any additional deposits in the trustee account if the balances are insufficient when the principal payments are due.

Spending subject to appropriation

S. 2580 would authorize the Secretary, subject to the availability of appropriated funds, to establish a pilot program that would provide grants to certain tribes to provide the funds through which the tribes could ensure the repayment of the principal of the bonds that they issue. The Secretary could deposit not more than \$30 million into a tribal school modernization escrow account. Projects that would be funded through the account would be based upon the priorities list described in the Education Facilities Replacement Construction Priorities List, published January 31, 2000, in the Federal Register or any subsequent such priorities list. In addition, other school construction projects that meet the criteria described in Instructions and Application for Replacement Schools, Revision

6, dated February 6, 1999, could qualify. The escrow funds could be used for advanced planning, design, and construction for the replacement of tribal schools. Monies used for planning and design activities would have to be repaid out of the proceeds of the bond sales.

Based on discussions with BIA and Treasury staff as well as a bond specialist, CBO estimates that the \$30 million in escrow funds would assist tribes in issuing approximately \$70 million of the \$400 million in new bonds authorized by the bill, and that the advanced planning and design costs would average \$750,000 per school. CBO assumes that five tribal schools would receive full or partial funding for construction costs from the escrow account. At least one tribe is currently using private funds to finance the planning and design process, and might be ready to issue modernization bonds during 2001. For that school, CBO assumes that the tribe would not receive the escrow money for planning and design purposes, but would receive \$6 million for the repayment of principal owed by the tribe. We expect four additional tribes would request and receive distributions from the escrow fund for school planning and design, totaling \$1 million in 2001 and \$2 million in 2002. We expect these tribes to have successful bond issues in 2002 and 2003—two issues each year—with additional grants of \$5.25 million to each tribe. Thus, CBO estimates that net distributions from the new tribal school account would be \$7 million in 2001, \$12 million in 2002, and \$11 million in 2003.

Revenues

S. 2580 would create a new income tax credit for qualified tribal school modernization bonds. The bill authorizes \$200 million in bond authority each year in calendar years 2001 and 2002, and any unused authority may be carried over in the following years. The Joint Committee on Taxation estimates these bonds would reduce federal revenues by \$28 million over the 2001–2005 period and \$111 million during the 10-year period ending in 2010.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Acts sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the four following years are counted.

	By fiscal year, in millions of dollars—									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays					Not applicable					
Changes in receipts	0	–2	–4	–9	–13	–16	–17	–17	–17	–17

Intergovernmental and private-sector impact: S. 2580 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit those Indian tribes that would be eligible to issue school modernization bonds. Any costs incurred by these tribes to meet the conditions established in the bill would be voluntary.

Estimate prepared by: Federal Costs: Paul Cullinan. Federal Revenues: Erin Whitaker. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory paperwork impact that would be incurred in implementing the legislation. The Committee has concluded that enactment of S. 2580 will result in de minimis regulatory and paperwork impact.

EXECUTIVE COMMUNICATIONS

The views on the Administration on S. 2580 are set forth in a letter of September 11, 2000 to Chairman Ben Nighthorse Campbell from the Honorable Kevin Gover, Assistant Secretary—Indian Affairs, U.S. Department of the Interior, and in a letter of September 14, 2000, to Chairman Ben Nighthorse Campbell from Jonathan Talisman, Acting Assistant Secretary (Tax Policy), U.S. Department of the Treasury, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 11, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter sets forth the views of the Department of the Interior on S. 2580, the Indian School Construction Act.

The Bureau of Indian Affairs (BIA) is the primary agency of the Federal Government charged with the responsibility to administer policy and operation for the Indian education programs at 185 federally recognized Tribal or BIA-managed schools. A critical part of the education program is school facilities, which Indian students attend.

The BIA's facilities inventory is large, over 6,000 buildings, of which nearly 4,500 serve the BIA's education program. The 185 BIA-funded schools consist of over 20 million square feet of space and include dormitories, employee housing quarters, and other buildings providing educational opportunities to over 50,000 students. The BIA operates or provides education opportunities to Indian students in 23 states through Self-Determination contracts, compacts and education grants. The education program is critical to Indian communities as pointed out by the President in Executive Order 13096, which calls for creating educational opportunities in our nation for Native Indian students.

More than half of the school facilities inventory has exceeded its useful building life of 30 years and, as a result, numerous deficiencies exist regarding health, safety, disability access, classroom size, computer and communications technology, and administrative

office space. Extensive repair or total replacements are needed for these deteriorated structures, which no longer meet national building codes and standards. The existing backlog of education facility repair needs is over \$800 million.

National studies of public schools have shown that the condition of education facilities have a definite influence on a student's ability to learn. The majority of the BIA's schools are old and in poor condition, and the physical environment has adversely impacted the education of Indian students who must attend these institutions.

It is against this backdrop that the urgency and necessity to upgrade and modernize the BIA's aging educational facilities becomes apparent. The President has proposed the use of School Modernization Bonds in support of the renovation and construction of public and Native American schools throughout the U.S. School Modernization Bonds pay interest in the form of federal tax credits to investors, making the bonds interest-free for school districts. Under the President's proposal, \$200 million of such bonds would be authorized for BIA-funded schools in both FY 2001 and FY 2002. The FY 2001 budget reflects the Administration's support by including substantial increases for school construction with over \$300 million requested for facilities replacement, repair, and maintenance. Of this \$300 million, up to \$30 million may be used to defease the principal on school modernization bonds. Using \$30 million to create sinking funds to repay the principal of the School Modernization Bonds will allow about \$60 million of the proceeds from these bonds to be used for construction and repair of BIA-funded schools.

S. 2580 would allow tax credit bonds to be issued only in those cases where sinking funds had been created out of the \$30 million. Tribal governments should have the opportunity to use the remainder of the \$200 million in bonding authority even without these sinking funds to leverage their resources and issue bonds. We would recommend a provision to allow for the use of the remainder of the bonding authority.

If the discretionary program is funded at the requested level, the three remaining schools of the total 16 school projects published in the Federal Register priority list of December 1993 will receive full construction funding. In addition, the first three schools on the new priority list published in January 2000 would also receive full funding. Another round of applications and selections is being contemplated to keep pace with Congressional appropriations at an anticipated rate of 4-6 school projects per year. We are also exploring possibilities for sharing costs with tribal partners in an effort to obtain non-Federal resources and speed construction of replacement schools.

The BIA has made good progress in the management and administration of its school construction program during the last several years. The long-range 5-year Capital Improvement Plan addresses our backlog of code and standard deficiencies, but the need is great and will require massive outlays of resources if measurable results are to be made in stopping further deterioration and eliminating the backlog. The BIA is placing strong emphasis on capital asset planning and investment control. The BIA's construction processes were re-engineered several years ago with a resultant success in reducing the time to complete a school from an average of 6-7

years down to 2–3 years. This achievement was recognized in February 1999, when the BIA facilities construction program received the Vice President’s Hammer Award for excellence in re-engineering the new school construction process.

We support the concept within S.2580, the Indian School Construction Act. The Administration has endorsed a separate bipartisan proposal sponsored by Reps. Nancy Johnson and Charles Rangel, introduced as H.R. 4094. This legislation includes all the components of the national School Modernization Bonding Initiative including the authority for tribal governments to issue \$200 million of tax credit bonds in both FY 2001 and FY 2002 for BIA-funded schools. While we can support separate legislation for BIA-funded schools that is consistent with the goals of the national Initiative, we have several concerns with S. 2580. The following provides a list of the Department’s concerns with the current language in S. 2580:

- *Section 2(4) Definition of Tribal Schools*

The definition of tribal schools should be expanded to include BIA operated schools. As written, the language would extend bonding authority to only those tribes with schools operated under contracts, grants, and by cooperative agreement.

- *Section 2(5) Definition of Tribe*

The bonds should be issued by Indian Tribal Governments as defined in section 7701 of the Internal Revenue Code.

- *Section 3 Issuance of Bonds (a) In General*

The phrase “new construction” may be interpreted to connote the establishment and building of a new school, instead of replacement or rehabilitation of BIA’s current 185 elementary and secondary schools.

- *Section 3 Issuance of Bonds (b) Eligibility*

Needs to be clarified as to how the comprehensive survey mentioned in the legislation would relate to the current BIA backlog of code and standard deficiencies, space guidelines and or education specifications, which currently regulate school facilities. Further, we ask that the phrases “and cost” and “critical health and safety related” be inserted to language in Sec. 3. (b)(2)(A) as follows: “contains a description *and cost of the critical health and safety related* improvements, repairs, or new construction * * *”

- *Section 3. (b)(3) Priority*

The Department agrees with the language that says the priority will be given to projects described in the Replacement School Construction priority list, however we are concerned that the current language makes no reference to how priorities will be established for Facilities Improvement and Repair (FI&R) projects.

Concern: We have a concern about whether these projects will also be based on a BIA National FI&R Ranking List, and if this list will be established based on need relating to health and safety code and standard deficiencies.

- *Section 3. (b)(4) Approval*

The language currently reads “* * * approved plans of construction will be based on the order in which the plans are received by the Secretary * * *”

Concern: We are concerned that this might give (1) tribes that have financial resources an advantage over poor tribes; (2) not correspond to the National Priority List order for Replacement Schools by allowing more of a first come first served basis on consideration; and (3) not correspond to the National FI&R lists established based upon need as shown in backlog of code and standard deficiencies.

- *Section 3. (c) Permissible Activities (1)*

(1) enter into contracts with A/E’s contractors, * * * in order to determine needs of Tribal schools.

Concern: We are concerned that there is no language provided on the qualifications of the people listed, i.e., professional engineers. We suggest more accountability with reference to the inspection of the final product. We advocate that the facilities should be inspected by those knowledgeable of space requirements, safety codes, etc.

- *Section 3. (d) Bond Trustee (4)(A)*

The language “* * * the tribe shall require the trustee * * * to inspect the project * * * or provide for an inspection of that project by a local financial institution to ensure completion of the project”

Concern: The current state of the language here provides no provision for BIA inspection and clearance by the Office of Facilities Management and Construction. The BIA should have review and inspection of oversight of education specifications, planning, design and the final inspection authority.

- *Section 3. (f) Bond Guarantees (2)(A)*

The language here states “* * * notwithstanding any other provision of law, subject to the availability of amounts made available under any appropriations Act, beginning in fiscal year 2001, the Secretary may deposit not more than \$30,000,000 of unobligated funds into a tribal school modernization escrow account.” Neither the House nor the Senate appropriated FY 2001 funds for the School Bonding Initiative.

Concern: The Department has serious concerns with this section of the proposed bill that is broadly worded and authorizes the use of unobligated funds from any account under any appropriations Act to be made available for the Bonding Initiative. This could result in displacement of funding for high priority projects within the same appropriation or within any appropriations Act.

- *Section 3. (g) Limitations (1)*

Concern: As drafted, this language creates a new loan guarantee program that would be subject to the Federal Credit Reform Act of 1990, as amended. In addition to implementation issues, we are concerned that the Federal Government would ultimately be responsible for repayment on the bonds if the tribes are absolved of the responsibility to repay principal in the event that something goes wrong. We would recommend a clear statement in the bill that

“Neither BIA nor any other Federal agency will be liable for repayment should the tribes fail to repay principal on the bonds.”

- *Section 4. Expansion of Incentives for Schools*

Subchapter X—Tribal School Modernization Provisions. The Department is not in a position to comment on this section as we recognize that this is within the purview of the Treasury Department and should be evaluated by them.

We understand that Treasury has additional concerns with S. 2580 and will be submitting a letter to the Committee shortly.

We look forward to working with you and Committee staff to support a bill that is consistent with the goals of the Administration’s proposal for School Modernization, and to accomplish our mutual goal of providing quality educational opportunities to American Indian youth in a contemporary setting conducive to productive learning.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration’s program

Sincerely,

KEVIN GOVER,
Assistant Secretary for Indian Affairs.

DEPARTMENT OF THE TREASURY,
Washington, September 14, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Department of the Treasury is pleased to submit these comments on S. 2580, the “Indian School Construction Act.” Section 4 of the bill would amend the Internal Revenue Code to allow specific amounts of tax credit bonds to be issued for the construction, rehabilitation or repair of tribal school facilities.

The amendments to the tax code contained in S. 2580 are modeled on the portion of the Administration’s proposal for school modernization bonds that would provide authority to issue \$200 million of tax credit bonds in both 2001 and 2002 for the construction, rehabilitation or repair of Bureau of Indian Affairs-funded schools. The Department hopes to work closely with the tax-writing committees to enact the National School Modernization bond proposal before Congress adjourns. The proposal is a major priority of the Administration.

The Department would support enactment of a separate provision dealing with Indian schools if structured along the lines of the Administration’s original proposal. To that end, we urge that S. 2580 be amended to allow Indian tribal governments, with the approval of the Bureau of Indian Affairs, to issue tax credit bonds where repayment of principal is provided by funds other than, or in addition to, any funds that might be made available through section 3 of the bill. We also urge that S. 2580 incorporate the technical specifications for tax credit bonds contained in the Administration’s proposal for school modernization bonds and Better America Bonds. These include requiring that 95 percent of any investment earnings be treated as bond proceeds that must be used for

allowable purposes, and providing that any proceeds not expended within three years be used to redeem outstanding bonds. The bill should also include provisions requiring bond proceeds, and any sinking funds established to repay bond principal, to be invested safely. In addition, the definition of Indian tribal governments eligible to issue tax credit bonds should, in order to simplify administration of the program established under S. 2580, conform to the current definition in the tax code. Other minor changes to S. 2580 would need to be made to allow these tax credit bonds to be marketed easily and to permit the program to be administered by the Internal Revenue Service.

The Department looks forward to working with the Congress and the Bureau of Indian Affairs to ensure a bill that is consistent with the goals of the Administration's proposal for school modernization.

OMB has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JONATHAN TALISMAN,

Acting Assistant Secretary (Tax Policy).

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are required to be set out in that accompanying Committee report. The Committee finds that enactment of S. 2580 will result in the following changes in existing law. All text to be inserted is indicated in *italic*. At the end of Chapter 1 of the Internal Revenue Code of 1986, the following new subchapter will be added.

* * * * *

Sec. 1400F. Credit to holders of qualified tribal school modernization bonds.

* * * * *

SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

(a) *ALLOWANCE OF CREDIT.*—*In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.*

(b) *AMOUNT OF CREDIT.*—

(1) *IN GENERAL.*—*The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.*

(2) *ANNUAL CREDIT.*—*The annual credit determined with respect to any qualified tribal school modernization bond is the product of—*

(A) *the applicable credit rate, multiplied by*

(B) *the outstanding face amount of the bond.*

(3) *APPLICABLE CREDIT RATE.*—*For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date*

of issuance of the issue) on outstanding long-term corporate debt obligations (determined monthly by the Secretary).

(4) *SPECIAL RULE FOR ISSUANCE AND REDEMPTION.*—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

(c) *LIMITATION BASED ON AMOUNT OF TAX.*—

(1) *IN GENERAL.*—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

(2) *CARRYOVER OF UNUSED CREDIT.*—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

(d) *QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND; OTHER DEFINITIONS.*—For purposes of this section—

(1) *QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND.*—

(A) *IN GENERAL.*—The term “qualified tribal school modernization bond” means, subject to subparagraph (B), any bond issued as part of an issue under section 3 of the Indian School Construction Act, as in effect on the date of the enactment of this section, if—

(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

(ii) the bond is issued by a tribe,

(iii) the issuer designates such bond for purposes of this section, and

(iv) the term of each bond which is part of such issue does not exceed 15 years.

(B) *NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.*—

(i) *NATIONAL LIMITATION.*—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

(I) \$200,000,000 for 2001,

(ii) \$200,000,000 for 2002, and

(III) zero after 2002.

(ii) *ALLOCATION OF LIMITATION.*—The national qualified tribal school modernization bond limitation shall be allocated to tribes by the Secretary of the Interior pursuant to the Indian School Construction Act as in effect on the date of the enactment of this section.

(iii) *DESIGNATION SUBJECT TO LIMITATION AMOUNT.*—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

(2) *CREDIT ALLOWANCE DATE.*—The term “credit allowance date” means—

- (A) March 15,
- (B) June 15,
- (C) September 15, and
- (D) December 15.

Such term includes the last day on which the bond is outstanding.

(3) *BOND.*—The term “bond” includes any obligation.

(4) *TRIBE.*—THE TERM “TRIBE” HAS THE MEANING GIVEN THE TERM “INDIAN TRIBAL GOVERNMENT” BY SECTION 7701(A)(40), INCLUDING THE APPLICATION OF SECTION 7871(D).

(e) *CREDIT INCLUDED IN GROSS INCOME.*—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

(f) *BONDS HELD BY REGULATED INVESTMENT COMPANIES.*—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

(g) *CREDITS MAY BE STRIPPED.*—Under regulations prescribed by the Secretary—

(1) *IN GENERAL.*—There may be a separation (including at issuance) of the ownership of a qualified tribal school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

(2) *CERTAIN RULES TO APPLY.*—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tribal school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

(h) *TREATMENT FOR ESTIMATED TAX PURPOSES.*—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

(i) *CREDIT MAY BE TRANSFERRED.*—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchasing agreements.

(j) *CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.*—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

(k) REPORTING.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).

ADDITIONAL MATERIALS

GAO

United States General Accounting Office

Report to the Honorable
Byron L. Dorgan, U.S. Senate

December 1997

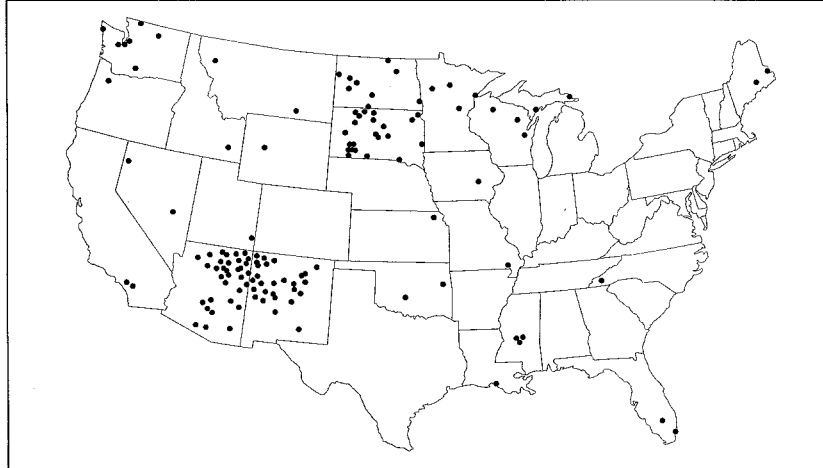
SCHOOL FACILITIES

Reported Condition and Costs to Repair Schools Funded by Bureau of Indian Affairs



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Figure 1: Locations of BIA Schools in School Year 1996-97



Source: Data are from BIA, Office of Indian Education Programs.

BIA funded 173 schools⁶ (including boarding schools) in school year 1996-97, with a total enrollment of 47,214. The schools ranged in size from 15 to 1,144 students, with about one-half enrolling fewer than 200 pupils. Enrollment in BIA schools is growing and overall has increased 25 percent since 1987. Most of this growth has occurred in the last 5 years. Growth in BIA's day schools,⁷ which do not provide student housing, has increased more rapidly—47 percent since 1987, 24 percent since 1992.

BIA officials told us that BIA schools are often located in isolated areas and have to provide and maintain extensive campus infrastructures because

⁶BIA also funded 14 peripheral dormitories.

⁷In school year 1996-97, BIA's day schools enrolled 26,752 students.

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they are too far from population centers to have access to town or city services. For example, one school we visited had to house and maintain a fire truck on campus because it is too far from the nearest city to use its fire department. In addition, some schools must provide dormitory space for students and/or housing for faculty and staff because they are so distant from population centers. BIA officials told us that this isolation may also contribute to maintenance difficulties and costs when materials have to be shipped long distances and construction/repair staff have to be housed while on site.

Officials also told us that about 25 percent of BIA school buildings are at least 50 years old,⁸ and many of these buildings are on the National Historic Register. BIA officials told us that this listing often restricts the ability to make education-related renovations and improvements.

BIA Reports Needing Millions to Improve Educational Facilities

BIA reports that, as of October 1997, the cost of the total inventory of repairs needed for education facilities at all BIA schools is \$754 million. This includes \$693 million for repairs to school buildings, including dormitories for students. It also includes \$61.7 million in repairs needed for education quarters such as employee housing.

BIA's inventory of repairs needed—the facilities backlog—is an amalgam of information collected by architects, engineers, and BIA staff over the years. The inventory describes in detail individual work items required by national standards and codes such as the Uniform Building Code, National Fire Codes, and National Electrical Codes to repair the facilities. The facilities backlog contains the repair cost for deficiencies identified in a building or at a site. The deficiencies may involve safety and health, access for persons with disabilities, or noncompliance with other building codes. BIA is currently developing a new Facilities Management Information System and will be validating and reassessing the entire facilities backlog and inventory. The validation will include professional estimates of the cost of all backlog repair items and a determination of the relative economic values of repair versus replacement. The system development and validation projects are scheduled for completion in fiscal year 1999.

Our 1994 survey asked school officials to estimate the total cost of all repairs, renovations, and modernizations required to put their school

⁸In our previous work on school facilities, we found that building age alone is not significant; rather, building condition depends on how buildings are maintained. See GAO/HEHS-98-61, Feb. 1, 1998.

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buildings in good overall condition.⁹ The amounts reported by the 71 BIA schools responding to our survey were generally in agreement with BIA's estimates of the costs required to address the inventory of repairs needed at these schools.

Most BIA Schools Responding to Our Survey Reported Less Than Adequate Conditions

Sixty-two percent of the BIA schools responding to our survey reported having at least one building in need of extensive repair or replacement. As shown in table 1, a greater number of the responding BIA schools reported having buildings in less than adequate condition than did rural/small town schools, central city schools, or all schools nationally.

Table 1: Percentage of Schools With Buildings in Less Than Adequate Condition

Type of building	Responding BIA schools	National estimates for		
		Rural/small town schools ^a	Central city schools ^b	All schools
Original buildings	46	24	31	26
Attached and/or detached permanent additions to original buildings	41	16	22	18
Temporary buildings	51	31	29	28
At least one building in less than adequate condition	62	30	38	33

^aRural/small town is defined as either a rural area (a place with a population of less than 2,500 and defined as rural by the Bureau of the Census) or a small town (a place not within a standard metropolitan statistical area (SMSA) with a population of less than 25,000 but greater than or equal to 2,500 and defined as urban by the Bureau of the Census).

^bCentral city is defined as a large central city (a central city of a SMSA with population greater than or equal to 400,000 or a population density greater than or equal to 6,000 per square mile) or a mid-size central city (a central city of an SMSA but not designated a large central city).

Officials at the three responding schools that we visited told us that although some repairs and improvements had been made, overall conditions had not changed materially since our 1994 survey. For example, one school was completing a new permanent addition that will provide classrooms for kindergarten, first, and second grades, but most of its students will remain in temporary buildings, that is, portable classrooms.

⁹We asked respondents to rate the overall condition of their school buildings on a six-point scale: excellent, good, adequate, fair, poor, or replace. See GAO/HEHS-95-61, Feb. 1, 1995.

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In addition, our survey data generally showed that the responding BIA schools reported more inadequate building features and environmental conditions than did schools nationally. These data also showed that the responding BIA schools more often reported that they met the requirements and needs for educational reform "not well at all."¹⁰ However, with regard to technology elements, the responding BIA schools were generally more comparable to schools nationally, particularly central city schools.

Building Features

As shown in table 2, relatively more responding BIA schools reported building features such as roofs; plumbing; and heating, ventilation, and air-conditioning systems to be inadequate than did other schools. Almost four-fifths of the responding BIA schools reported having at least one inadequate building feature. In comparison, about one-half to two-thirds of the other groups of schools reported at least one inadequate building feature.

Table 2: Percentage of Schools With Inadequate Building Features

Building feature	Responding BIA schools	National estimates for		
		Rural/small town schools	Central city schools	All schools
Roofs	49	24	33	27
Framing, floors, and foundations	46	17	22	18
Exterior walls, finishes, windows, and doors	56	22	34	27
Interior finishes and trims	42	21	30	24
Plumbing	53	29	34	30
Heating, ventilation, and air-conditioning	66	33	42	36
Electrical power	36	23	32	26
Electrical lighting	46	22	29	25
Life safety codes	59	16	22	19
At least one inadequate building feature	79	52	66	57

During our visits to three responding schools, school officials told us that some repairs had been made, but conditions had not changed substantially. These repairs were often referred to as "Band-Aids" that

¹⁰Survey respondents rated the ability of their school facilities to meet the financial requirements of key education reform activities on the following scale: very well, moderately well, somewhat well, and not well at all.

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kept the school operating but did not permanently correct the deficiency. Officials from the responding schools as well as the other BIA schools we visited complained that the operations and maintenance funds budgeted for their school were insufficient to properly maintain their facilities. For example, several schools were using outdated, difficult to maintain heating systems, but funds were not budgeted for boiler replacements.

Environmental Factors

Generally, the responding BIA schools also reported more unsatisfactory environmental conditions than did schools nationwide. As table 3 shows, on almost every environmental factor, about twice as many responding BIA schools as all schools nationally reported having unsatisfactory environmental conditions. Almost all of the BIA schools reported having at least one unsatisfactory environmental condition, exceeding even the problems reported by central city schools. For example, several of the schools that we visited reported outdated or inadequate heating systems. These systems are difficult and costly to repair and are not energy efficient, officials told us.

Table 3: Percentage of Schools With Unsatisfactory Environmental Conditions

Environmental factor	Responding BIA schools	National estimates for		
		Rural/small town schools	Central city schools	All schools
Lighting	30	11	20	16
Heating	44	17	23	19
Ventilation	52	24	32	27
Indoor air quality	38	17	22	19
Acoustics for noise control	49	27	32	28
Flexibility of instructional space	67	52	60	54
Energy efficiency	61	39	46	41
Physical security of buildings	57	24	26	24
At least one unsatisfactory environmental condition	94	54	65	50

Educational Reform Requirements

Responding BIA schools also more often reported that their facilities met the requirements and needs for educational reform "not well at all." As table 4 shows, for many important educational reform activities—such as large-group instruction, laboratory science, and library/media

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center—substantially more of the responding BIA schools than other groups of schools reported that their facilities met the needs for educational reform “not well at all.” For example, one school we visited was originally designed for 250 students but now has 354. A school official told us that in order to accommodate the increased enrollment, the school has had to convert storage space to other uses.

Table 4: Percentage of Schools Reporting They Meet the Functional Requirements of Some Key Educational Reform Activities “Not Well at All”

Activity	Responding BIA schools	National estimates for		
		Rural/small town schools	Central city schools	All schools
Instructional activities				
Laboratory science	63	37	48	42
Large-group instruction	72	40	39	38
Storage of student assessment materials	59	31	30	31
Display student assessment material/s	51	28	27	28
Library/media center	25	13	14	13
Small-group instruction	12	8	12	10
Support activities				
Day care	80	82	76	78
Before-/after-school care	67	66	54	59
Social and health care services	52	28	27	27
Parent support activities	43	23	24	24
Private areas for counselling and testing	42	23	30	26
Teacher planning	28	12	15	13

Technology Elements

Finally, as table 5 shows, many of the responding BIA schools reported having insufficient capability in each of several communications technology elements needed to meet the functional requirements of modern educational technology. However, in this particular regard, these BIA schools were more comparable with other schools in the nation. For example, a little more than one-half of both the BIA schools and other schools reported insufficiency of telephone lines for modems, and more than 80 percent of all groups of schools reported insufficiency of fiber optic cable.

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Table 5: Percentage of Schools Reporting Insufficient Technology Elements

Technology element	Responding BIA schools	National estimates for		
		Rural/small town schools	Central city schools	All schools
Computers for instructional use	31	21	32	25
Computer printers for instructional use	37	25	38	29
Computer networks for instructional use	62	46	61	52
Modems	70	54	65	58
Telephone lines for modems	59	52	61	56
Telephones in instructional areas	75	58	67	61
Television sets	26	13	19	16
VCR/laser disk players	34	31	39	34
Cable television	68	30	33	32
Conduits/raceways for computer/computer network cables	74	56	67	61
Fiber optic cable	88	84	90	87
Electrical wiring for computers/communications technology	60	40	55	46
Electrical power for computers/communications technology	41	28	43	35

During our visits to BIA schools and interviews with BIA officials, we were told that BIA schools had been acquiring additional computers for the past several years and, in many instances, had installed networks. Officials told us that many of the schools either have Internet access or expect to be connected in the near future. On the basis of these reports, it appears that our 1994 survey data on computers and communications technology may be somewhat outdated.

Agency Comments

In commenting on our draft report, the Department of the Interior generally agreed with our findings. Interior suggested several corrections in the numbers of schools and enrollment counts, which we incorporated in the report. Interior also emphasized the unique situation faced by BIA

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schools. It pointed out that, because of their locations, many BIA schools require extensive infrastructure, such as sewer lines and sewer lagoons, waterlines and elevated water storage tanks, fuel storage tanks, and electrical back-up generators. BIA funds the operation and maintenance of this infrastructure. Interior's comments appear in appendix III.

As agreed with your office, unless you release its contents earlier, we will make no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the Secretary of the Interior and other interested parties.

The major contributors to this report were D. Catherine Baltzell, Assistant Director, and Wayne M. Dow, Evaluator-in-Charge. Please call me at (202) 512-7014 if you or your staff have any questions about this report.

Sincerely yours,



Carlotta C. Joyner
Director, Education and
Employment Issues

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Abbreviations

BIA	Bureau of Indian Affairs
SMSA	standard metropolitan statistical area

Methodology

In the spring of 1994, we undertook a survey to determine the physical condition of America's 80,000 schools. All Bureau of Indian Affairs (BIA) schools were included in our survey sample. We surveyed a nationally representative sample of about 10,000 public schools in over 5,000 school districts. We asked about (1) the physical condition of buildings and major building features, such as roofs, framing, floors, and foundations; (2) the status of environmental conditions, such as lighting, heating, and ventilation; (3) the ability of schools to meet selected functional requirements of education reform, such as having space for small- and large-group instruction; and (4) the sufficiency of data, voice, and video technologies and the infrastructure to support these technologies.¹¹

Findings from the 1994 survey have been statistically adjusted (weighted) to produce estimates that are representative nationally, as appropriate. (The sampling errors for the national estimates contained in this report do not exceed plus or minus 5 percentage points unless otherwise stated.) However, although all BIA-funded schools were included in our sample, only 41 percent, or 71, responded to the survey. This response rate is too low to permit us to make estimates for all BIA schools. Therefore, we have not weighted the BIA data, but rather have reported only on the responding BIA schools.

We augmented the 1994 survey with more recent visits to selected school districts and schools. In September 1997, we visited three BIA schools that had responded to our survey, and seven additional BIA schools. During our visits, we observed schools; interviewed school and tribal officials; and examined relevant documents related to facilities. We also interviewed BIA officials, and examined data from BIA's Facilities Management System.

All data are self-reported, and we did not independently verify their accuracy. We conducted our study of BIA schools between August 1997 and December 1997 in accordance with generally accepted government auditing standards.

¹¹See *School Facilities: America's Schools Report Differing Conditions* (GAO/HEHS-96-103, June 14, 1996) for a copy of the survey and discussion of the sampling strategy.

Appendix II

BIA Schools for School Year 1996-97, by State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Arizona						
Casa Blanc Day School	Bapchule	K-4	332	148	36	6
Wide Ruins Boarding School	Chambers	K-6	242	69	30	3
Black Mesa Community School	Chinle	K-8	93	79	16	2
Cottonwood Day School	Chinle	K-8	250	-7	30	0
Low Mountain Boarding School	Chinle	K-5	245	83	28	2
Rough Rock Community School	Chinle	K-12	349	-9	-25	a
Cibecue Community School	Cibecue	K-12	468	138	75	13
Blackwater Community School	Coolidge	K-2	63	19	0	1
Dennehotso Boarding School	Dennehotso	K-8	342	36	13	1
Theodore Roosevelt School	Fort Apache	6-8	110	31	41	0
Greasewood Springs Community School	Ganado	K-8	384	-13	10	0
Kinilchee Boarding School	Ganado	K-6	139	15	-1	1
Nazlini Boarding School	Ganado	K-6	131	-9	-1	0
Hotevilla Bacavi Community School	Hotevilla	K-7	132	33	15	3
Pine Springs Boarding School	Houck	K-4	89	89	33	0
Kaibeto Boarding School	Kaibeto	K-8	455	8	35	0
Chilchinbeto Day School	Kayenta	K-8	126	-5	-7	0
Kayenta Boarding School	Kayenta	K-8	444	-3	19	3
Hopi High School	Keams Canyon	7-12	476	-15	-9	1
Keams Canyon Boarding School	Keams Canyon	K-6	115	-21	95	0
Hopi Day School	Kykotsmovi	K-6	86	-16	41	0
Rocky Ridge Boarding School	Kykotsmovi	K-8	206	-2	-15	1
Gila Crossing Day School	Laveen	K-6	111	-24	12	3
Lukachukai Boarding School	Lukachukai	K-8	421	1	7	0
Chinle Boarding School	Many Farms	K-8	513	-12	-7	0
Many Farms High School	Many Farms	9-12	351	-25	-2	23
Polacca Day School	Polacca	K-6	177	3	38	7
Cove Day School	Red Valley	K-6	74	14	19	0
Red Rock Day School	Red Valley	K-8	238	-7	6	a

(continued)

Appendix II
BIA Schools for School Year 1996-97, by
State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Rock Point Community School	Rock Point	K-12	547	25	16	0
Salt River Day School	Scottsdale	K-6	228	24	51	2
Second Mesa Day School	Second Mesa	K-6	241	1	10	8
San Simon School	Sells	K-8	286	-11	-10	0
Santa Rosa Boarding School	Sells	K-8	331	-27	-7	2
Tohono O'Odham High School	Sells	9-12	166	^b	-17	0
Shonto Preparatory School	Shonto	K-8	656	-13	5	0
Hunters Point Boarding School	St Michaels	K-5	124	-2	8	0
Havasupai School	Supai	K-8	95	25	8	2
Tiis Nazbas Community School	Tecnospos	K-8	357	-18	-13	0
Tonalea (Red Lake) Day School	Tonalea	K-8	310	-9	7	3
Greyhills High School	Tuba City	9-12	434	-4	-3	0
Moencopi Day School	Tuba City	K-6	179	281	52	4
Tuba City Boarding School	Tuba City	K-8	1,110	23	28	1
Santa Rosa Ranch School	Tucson	K-8	127	28	3	2
John F. Kennedy Day School	White River	K-8	185	23	6	3
Dilcon Boarding School	Winslow	K-8	417	-28	-6	0
Leupp Boarding School	Winslow	K-12	421	13	7	0
Little Singer Community School	Winslow	K-6	99	102	29	0
Seba Dalkai Boarding School	Winslow	K-6	165	-22	-5	0
California						
Sherman Indian High School	Riverside	9-12	518	-2	36	0
Noli School	Santa Jacinto	6-12	47	^b	^b	0
Florida						
Ahfachkee Day School	Clewiston	K-12	80	67	33	0
Miccosukee Indian School	Miami	K-12	82	58	5	^a
Iowa						
Sac & Fox Settlement School	Tama	K-8	80	8	27	3
Idaho						
Coeur D'Alene Tribal School	De Smet	K-8	80	45	82	^a
Shoshone-Bannock School	Fort Hall	7-12	186	389	88	^a
Kansas						
Kickapoo Nation School	Powhattan	K-12	100	25	35	^b

(continued)

Appendix II
BIA Schools for School Year 1996-97, by
State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Louisiana						
Chitimacha Day School	Jeanerette	K-8	53	51	13	1
Maine						
Indian Island School	Old Town	K-8	89	3	-12	1
Beatrice Rafferty School	Perry	K-8	109	-19	-17	8
Indian Township School	Princeton	K-8	134	41	-6	2
Michigan						
Bahweting Anishinabe	Sault Sainte Marie	K-8	175	b	b	1
Hannahville Indian School	Wilson	K-12	157	85	112	0
Minnesota						
Bug-O-Nay-Ge Shig School	Cass Lake	K-12	430	40	-16	0
Fond Du Lac Ojibway School	Cloquet	K-12	141	62	-15	5
Nay Ah Shing School	Onamina	K-12	323	773	546	0
Circle of Life Survival School	White Earth	K-12	168	102	24	2
Mississippi						
Red Water Elementary School	Carthage	K-8	109	22	31	2
Conehatta Elementary School	Conehatta	K-8	199	30	39	0
Boque Chitto Elementary School	Philadelphia	K-8	126	8	-5	1
Choctaw Central High School	Philadelphia	9-12	402	b	59	0
Choctaw Central Middle School	Philadelphia	7-8	142	b	11	1
Pearl River Elementary School	Philadelphia	K-6	464	b	40	3
Tucker Elementary School	Philadelphia	K-8	89	-7	-19	0
Standing Pine Elementary School	Walnut Grove	K-6	80	60	23	0
Montana						
Busby School	Busby	K-12	190	-7	27	0
Two Eagle River School	Pablo	7-12	138	151	55	0
Nevada						
Duckwater Shoshone Elementary	Duckwater	K-8	15	0	-25	0
Pyramid Lake High School	Nixon	9-12	48	-4	41	2
New Mexico						
Sky City Community School ^c	Acoma	K-8	312	5	30	1
Dzilth-Na-O-Dith-Hle Community School	Bloomfield	K-8	344	4	-4	4

(continued)

Appendix II
BIA Schools for School Year 1996-97, by
State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Dibe Yazhi Hebitiin Olta Inc.	Crownpoint	K-8	244	18	32	0
Lake Valley Navajo School	Crownpoint	K-8	119	1	-2	0
Mariano Lake Community School	Crownpoint	K-6	261	101	39	3
T'liists' oozii' Bi' O' Ita	Crownpoint	K-8	573	28	34	0
Tse' ii' ahi' Community School	Crownpoint	K-4	168	167	47	3
Na' Neetziin Ji' Olta (Torreon)	Cuba	K-8	393	16	7	0
Ojo Encino Day School	Cuba	K-8	240	20	17	0
Pueblo Pintado Community School	Cuba	K-8	345	70	33	3
Santa Clara Day School	Espanola	K-6	129	13	-4	2
Navajo Preparatory School	Farmington	9-12	174	-21	10	0
Wingate Elementary School	Fort Wingate	K-8	670	28	36	6
Wingate High School	Fort Wingate	9-12	634	-14	4	1
Nenahnezad Community School	Fruitland	K-7	392	-12	-6	2
Bread Springs Day School	Gallup	K-3	159	66	28	3
Isleta Elementary School ^c	Isleta	K-6	210	-23	-5	10
Jemez Day School	Jemez Pueblo	K-6	181	-1	-8	1
Laguna Elementary School ^c	Laguna	K-5	370	^b	3	7
Laguna Middle School ^c	Laguna	6-8	191	^b	198	0
To' hajilee-he (Canoncito) ^c	Canoncito	K-12	376	22	12	2
Alamo Navajo School	Magdalena	K-12	371	2	5	0
Mescalero Apache School	Mescalero	K-12	439	^b	121	4
Crystal Boarding School	Navajo	K-6	168	24	-2	0
Tohaali Community School	Newcomb	K-8	263	-37	-5	0
Pine Hill Schools	Pine Hill	K-12	501	37	34	3
Baca Community School	Prewitt	K-4	166	54	14	2
San Felipe Pueblo Elementary School ^c	San Felipe Pueblo	K-6	349	15	10	4
Ohkay Owingeh Community	San Juan Pueblos	K-6	59	-16	37	^a
Sanostee Day School	Sanostee	K-3	110	31	38	4
San Ildefonso Day School	Santa Fe	K-6	24	-29	-23	2
Santa Fe Indian School ^c	Santa Fe	7-12	545	13	-4	0
TeTsu Geh Oweenge Day School ^c	Sante Fe	K-6	56	24	12	3
Atsa' Biya' a' zh Community	Shiprock	K-6	181	202	97	2

(continued)

Appendix II
BIA Schools for School Year 1996-97, by
State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Beclabito Day School	Beclabito	K-4	99	-6	-12	4
Shiprock Northwest High School	Shiprock	9-12	159	49	2	0
Taos Day School	Taos	K-7	164	82	40	0
Dlo' Ay Azhi Community School	Thoreau	K-6	151	34	30	1
Chuska/Tohatchi Consolidated School	Tohatchi	K-8	635	13	15	0
Chi-Ch' il-tah/Jones Ranch	Vanderwagon	K-8	261	61	17	0
Zia Day School	Zia Pueblo	K-6	84	6	-6	3
North Carolina						
Cherokee Central School	Cherokee	K-12	1,128	19	15	10
North Dakota						
Ojibwa Indian School ^c	Belcourt	K-8	340	-3	-1	25
Turtle Mountain Elementary and Middle School	Belcourt	K-8	1,144	28	16	0
Turtle Mountain High School	Belcourt	9-12	572	57	25	2
Theodore Jamerson Elementary	Bismarck	K-8	108	35	14	0
Dunseith Day School ^c	Dunseith	K-8	237	45	44	0
Tate Topa Tribal School	Fort Totten	K-8	464	21	13	4
Standing Rock Community School	Fort Yates	K-12	597	32	7	7
Twin Buttes Day School	Halliday	K-8	35	-24	6	6
Mandaree Day School	Mandaree	K-12	250	37	20	1
White Shield School	Roseglen	K-12	179	35	13	1
Trenton School	Trenton	K-12	77	^b	^b	0
Circle of Nations School	Wahpeton	4-8	198	-33	-18	1
Oklahoma						
Riverside Indian School	Anadarko	4-12	355	14	11	3
Sequoyah High School	Tahlequah	9-12	297	49	41	0
Oregon						
Chemawa Indian School	Salem	9-12	341	-5	-1	0
South Dakota						
Tiospa Zina Tribal School	Agency Village	K-12	432	118	79	^a
American Horse School	Allen	K-8	187	43	8	0
Rock Creek Day School	Bullhead	K-8	84	-6	1	2
Cheyenne-Eagle Butte School	Eagle Butte	K-12	1,009	12	17	3

(continued)

Appendix II
BIA Schools for School Year 1996-97, by
State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Flandreau Indian School	Flandreau	9-12	500	-14	-17	4
Crow Creek Sioux Tribal Elem.	Fort Thompson	K-5	198	32	6	4
Swift Bird Day School	Gettysburg	K-8	54	32	-16	^a
Takini School	Howes	K-12	309	^b	20	5
Little Wound Day School	Kyle	K-12	818	60	20	4
Little Eagle Day School	Little Eagle	K-8	100	-3	20	1
Lower Brule Day School	Lower Brule	K-12	350	28	6	2
Wounded Knee School District	Manderson	K-8	203	12	-10	0
Marty Indian School	Marty	K-12	301	9	10	0
Promise Day School	Mobridge	K-8	19	-32	73	^a
Loneman Day School	Oglala	K-8	397	111	58	2
Pierre Indian Learning Center	Pierre	1-8	253	35	54	3
Pine Ridge School	Pine Ridge	K-12	863	51	16	0
Porcupine Day School	Porcupine	K-8	152	103	79	0
St. Francis Indian School	St. Francis	K-12	583	33	22	0
Crow Creek Reservation High	Stephan	6-12	352	133	56	6
Crazy Horse School	Wanblee	K-12	358	21	12	0
Enemy Swim Day School	Waubay	K-8	81	224	153	3
White Horse Day School	White Horse	K-8	37	-23	-3	^a
Utah						
Aneth Community School	Montezuma Creek	K-6	278	24	28	0
Navajo Mountain Boarding School	Tonalea	K-8	131	-10	7	0
Washington						
Muckleshoot Tribal School	Auburn	K-8	102	437	108	2
Lummi High School	Bellingham	9-12	84	^b	^b	6
Lummi Tribal School System	Bellingham	K-8	225	196	39	7
Quileute Tribal School	La Push	K-12	79	52	98	3
Wah-He-Lute Indian School	Olympia	K-9	51	82	9	^a
Paschal Sherman Indian School	Omak	K-8	166	78	20	3
Chief Leschi School System	Puyallup	K-12	759	420	93	0
Yakima Tribal School	Toppenish	7-12	89	78	98	1
Wisconsin						
Lac Courte Oreilles Ojibway School	Hayward	K-12	300	91	56	0

(continued)

Appendix II
BIA Schools for School Year 1996-97, by
State

Name	City	Grades	Enrollment, FY 1997	Percentage change		Number of portable classrooms
				Since FY 1987	Since FY 1992	
Menominee Tribal School	Neopit	K-8	251	^b	27	0
Oneida Tribal School	Oneida	K-12	587	299	125	0
Wyoming						
St. Stephens Indian School	St. Stephens	K-12	286	-11	-18	1
Total			47,214	25	18	302

Note: Schools listed in this table exclude peripheral dormitories.

^aNot reported.

^bNot applicable.

^cSchool visited by GAO.

Appendix III

Comments From the Department of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

DEC 8 1997

Ms. Carlotta C. Joyner
Director, Education and Employment Issues
Health, Education, and Human Services Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Ms. Joyner:

We have reviewed the draft audit report titled "School Facilities: Reported Condition and Costs to Repair Schools Funded by Bureau of Indian Affairs" and generally agree with the report findings. However, we are suggesting minor changes to the report language for clarification.

Now on p. 3.

The Bureau of Indian Affairs (BIA) funded 187 schools for school year 1996-97, not 175 as noted on page 4 of the draft report. In addition, there are differences in the enrollment figures cited in the draft report and the official BIA figures based on the Indian School Equalization Program count. Since the purpose of this section is to show the increased attendance at BIA funded schools, we suggest the following change: BIA funded 187 schools in school year 1996-97 consisting of 173 day and boarding schools and 14 peripheral dormitories. Enrollment at the 173 day and boarding schools was 47,214. The number of students at day schools in footnote 6 should be 26,752. In addition, we suggest the title of Appendix II be changed to "BIA Schools (Excluding Peripheral Dormitories) for School Year 1996-97 by State." Also, certain corrections should be made to Appendix II. We have attached a marked-up copy of the appendix showing the suggested changes.

Now footnote 7.

Now on p. 4.

BIA has not started validating the facilities backlog as indicated on page 6. We recommend replacing the existing sentence with the following: BIA is currently developing a new Facilities Management Information System and will be validating and reassessing the entire facilities backlog and inventory. The system development and validation projects are scheduled for completion in fiscal year 1999.

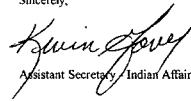
Now on p. 3.

We believe the isolation of BIA schools significantly affects their infrastructure needs. We suggest expanding the last paragraph on page 4 to include the following: Because of their location, many BIA schools require extensive infrastructure to support the schools such as: sewer lines and sewer lagoons, waterlines and elevated water storage tanks, fuel storage tanks, and electrical back-up generators. This infrastructure must be operated, maintained, repaired or replaced with BIA funds. In addition, because of remoteness, the schools may have their own facilities maintenance shops, bus garages and fire facilities. These conditions are not comparable to urban schools and some rural/small town schools.

Appendix III
Comments From the Department of the
Interior

Thank you for the opportunity to comment on this draft. If you have any questions regarding our response, please contact Ms. Linda Richardson, Director, Office of Audit and Evaluation at 208-1916.

Sincerely,



Assistant Secretary, Indian Affairs

Enclosures

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