

THE NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

“Tribalizing Indian Education”

**An Historical Analysis of Requests for Direct Federal Funding for
Tribal Education Departments for Fiscal Years 1989-2004**



September 2003

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INTRODUCTION

These materials are an historical analysis of requests for direct federal funding for Tribal Education Departments for Fiscal Years 1989 through 2004. There are two separate authorizations by Congress for direct federal funding for Tribal Education Departments. In 1988 Congress authorized funding for Tribal Education Departments through the Bureau of Indian Affairs. In 1994 Congress authorized funding for Tribal Education Departments through the U.S. Department of Education. Both authorizations were retained in the No Child Left Behind Act of 2001. These materials show the consistent support for Tribal Education Department funding under both of these authorizations by tribes and national Indian organizations. Despite this support, the agencies and the President have rarely requested the funding and Congress has never appropriated the funding.

These materials are intended to be a general resource for tribal, state, and federal officials, schools, and other interested persons. For further information and reference about Indian education law and policy and the rights and roles of tribal governments in education, please see the first six sets of materials under this project dated October 1993, October 1994, October 1997, October 1998, October 1999, and October 2000. None of these materials is intended to be legal advice for any particular tribe. Tribes should consult their legal counsel for specific advice about the existence and scope of their sovereign authority in education.

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TABLE OF CONTENTS

	Page
Section 1: Executive Summary of the Project	1
Section 2: Goals of the Project -Tribalizing Indian Education	3
Section 3: The Authorizations for Direct Federal Funding for Tribal Education Departments	5
A. Through the Bureau of Indian Affairs	5
1. The Language of the Original Authorization	5
2. The History of the Original Authorization	7
3. The Language of the Current Version in No Child Left Behind	10
4. The History of the Current Version	12
B. Through the Department of Education	14
1. The Language of the Original Authorization	14
2. The History of the Original Authorization	16
3. The Language of the Current Version in No Child Left Behind	19
4. The History of the Current Version	20

Section 4:	The Requests for Tribal Education Departments Direct Federal Funding	25
A.	Overview	25
1.	The Federal Appropriations Process	25
2.	Appropriations Requests for TEDs	27
B.	Requests for Funding through the Bureau of Indian Affairs	27
	FYs 1989- 1992	27
	FY 1993	28
	FY 1994	29
	FY 1995	30
	FY 1996	30
	FY 1997	31
	FY 1998	31
	FY 1999	32
	FY 2000	32
	FY 2001	32
	FY 2002	33
	FY 2003	33
	FY 2004	33
C.	Requests for Funding through the Department of Education	34
	FY 1997	34
	FY 1998	34
	FY 1999	34
	FY 2000	35
	FY 2001	35
	FY 2002	36
	FY 2003	36
	FY 2004	36
D.	Tables Showing Major Organizational Requests	
	Table 1 - Requests for funding through the Bureau of Indian Affairs	37
	Table 2 - Requests for funding through the Department of Education	38

**NATIVE AMERICAN RIGHTS FUND
INDIAN EDUCATION LEGAL SUPPORT PROJECT
EXECUTIVE SUMMARY**

The Native American Rights Fund

The Native American Rights Fund (NARF) is the national legal defense fund for American Indian and Alaska Native tribes. Founded in 1970, NARF concentrates on bringing cases and reforming laws that are of major importance to a great many Native people. NARF consistently has been at the forefront of issues and developments in Indian law in areas such as Indian treaty rights to land and water, Native religious freedom rights, and the rights of tribes as sovereign governments including tribal rights in education.

The NARF Indian Education Legal Support Project - Tribalizing Indian Education

NARF historically has represented Indian clients on a variety of education issues. Since 1987, NARF has represented the Rosebud Sioux Tribe of South Dakota in establishing a precedent-setting tribal education code and implementing that code through a tribal education department. As a result of its success with the Rosebud Sioux Tribe, NARF started a new project that has been funded primarily by the Carnegie Corporation of New York and the W.K. Kellogg Foundation. The project advances Native American education by emphasizing the legal rights of tribes to control the formal education of tribal members in all types of schools – federal, state, and tribal.

NARF seeks to "tribalize" formal education through developing tribal education laws and reforming state and national Indian education legislation. Tribal education laws are essential to effective tribal control of education, yet few tribes have such laws. Tribal laws are essential to defining each tribe's education rights and goals. Tribal laws are essential to delineating the forum and process for establishing tribal and non-tribal government-to-government relationships and working agreements on common education issues and goals.

The Need is Evident but Affirmative Steps Must Be Taken

Indian tribes are sovereign governments just as their state and federal counterparts. Many federal reports and some federal and state laws have focused on Indian education problems. Some reports and laws have pointed out the need to increase the role of tribal governments to address the problems. But instead of requiring active tribal government involvement, most federal and state education programs and processes circumvent tribal governments and maintain non-Indian federal and state governmental control over the intent, goals, approaches, funding, staffing, and curriculum for Indian education. And there are no effective programs to establish tribal education codes or operate tribal education departments.

The three sovereign governments in this country have a major stake in Indian education. Common sense dictates that tribal governments have the most at stake because it involves their children who are their most precious resource and their future. Some progress has been made because of Indian education programs, Indian parent committees, Indian school boards, and tribally-controlled colleges. Some progress has been made through a measured amount of tribal control and input under laws that include the Indian Education Act of 1988, the Indian Self-Determination and Education Assistance Act of 1975, the Elementary and Secondary Education Act of 1965, and the Impact Aid Laws of 1950.

Conclusion

More direct tribal control of Indian education is needed, and more direct control is the next logical step for many tribes. Federal reports and recommendations call for partnerships between tribes and state schools, tribal approval of state education plans, and tribal education codes, plans, and standards. Tribal control of education is a fact of life in a small number of tribes and more tribal communities want to assume this control. But tribes have been denied this opportunity and responsibility and have been "out of the loop" for decision-making and accountability. For Indian education to succeed, federal and state governments must allow tribes the opportunity to regain control and make decisions, be accountable, and help shape their children's future and their own future as tribes. NARF intends to ensure that tribes gain the legal control over education that they deserve as sovereign governments and that they must have for Indian education success.

NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

**An Historical Analysis of Requests for Direct Federal Funding for Tribal Education Departments
for Fiscal Years 1989-2004**

**GOALS OF THE PROJECT - TRIBALIZING
INDIAN EDUCATION**

1. To promote sovereign tribal rights and responsibilities in education, including the government-to-government interactions of tribal governments with the federal and state governments;
2. To increase the number of tribal governments that assess their education situation, develop education goals, and exercise sovereign rights through developing and implementing tribal education laws, tribal education standards, and tribal education plans;
3. To increase the number of tribal governments that take more education responsibility, control, and accountability;
4. To assist the federal and state governments in increasing their government-to-government education work with tribal governments and in monitoring that increase within their federal and state agencies and federal and state funded education programs; and,
5. To assist tribes in reforming federal and state Indian education laws and policies and in passing new laws and adopting new policies which enable tribal decision-making, ensure access to resources, and enhance other improvements in Indian education.

THE NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

**An Historical Analysis of Requests for Direct Federal Funding for Tribal Education Departments
for Fiscal Years 1989-2004**

**The Authorizations for Direct Federal Funding
for Tribal Education Departments**

A. Through the Bureau of Indian Affairs

The original authorization for direct federal funding for Tribal Education Departments (TEDs) through the Bureau of Indian Affairs (BIA) within the Department of the Interior was contained in the Augustus F. Hawkins – Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Pub. L. No. 100-297, 102 Stat. 130 (1988).

The Augustus F. Hawkins – Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 was a six year reauthorization of programs and appropriations under the Elementary and Secondary Education Act (ESEA) of 1965, Pub. L. No. 89-10, 79 Stat. 27 (1965).

The ESEA is the principal law by which states and public schools get federal funding and other assistance for elementary and secondary education. Major ESEA programs include Title I, Teacher Training, Limited English Proficiency, and Impact Aid.

1. The Language of the Original Authorization

The original authorization provided that

(a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

(b) Grants provided under this section shall--

- (1) be based on applications from the governing body of the tribe,
- (2) reflect factors such as geographic and population diversity,
- (3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

- (4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,
- (5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and
- (6) otherwise comply with regulations for grants under section 450h(a) of this title that are in effect on the date application for such grants are made.

(c) Priorities

(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that--

(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that--

- (i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and
- (ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

(D) provides a plan and schedule for--

(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

(ii) the termination by the Bureau of such operations and office at the time of such assumption, but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

(d) Terms, conditions, or requirements

The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

(e) Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

Title V, Section 5119, Pub. L. No. 100-297, originally codified at 25 U.S.C. § 2022b.

2. The History of the Original Authorization

The House of Representatives has reported that this authorization for appropriations for funding TEDs through the Department of the Interior was the result of an amendment by the Senate to the House of Representatives' bill that became the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. H. R. Conf. Rep. No. 100-567 (1988). The House of Representatives agreed to the authorization if the funding priority factors were added. *Id.* A more specific history of this authorization provision is as follows.

On January 6, 1987, Representative Hawkins (D-CA), introduced H. R. 5, a bill to Improve Elementary and Secondary Education. 133 Cong. Rec. E59-02 (1987). H. R. 5 was referred to the House of Representatives Committee on Education and Labor. 133 Cong. Rec. H101-01 (1987).

On April 22, 1987, the House Committee on Education and Labor ordered H.R. 5, now entitled the School Improvement Act of 1987, to be reported. 133 Cong. Rec. D00000-03 (1987).

On May 21, 1987, Representative Kildee (D-MI), proposed, among other things, adding an appropriations authorization provision that would fund, through the Department of Education, TEDs. 133 Cong. Rec. H3817-02 (1987).

In support of his proposed amendment, Congressman Kildee stated that it

Recognizes the need to encourage and strengthen tribal divisions of education. This is particularly important due to recent congressional actions which have placed growing emphasis on tribal involvement in the education of Indian students. Many tribes have already taken the first steps to develop these divisions. However, more needs to be done in this area.

Id. That same day, the House of Representatives passed H.R. 5, as amended. 133 Cong. Rec. D00000-03 (1987).¹

On December 1, 1987, Senator Deconcini (D-NM), proposed the Indian Education Amendments of 1987 to S. 373, a bill entitled the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987. 133 Cong. Rec. S16880-02 (1987). The Amendments contained a section authorizing appropriations to fund TEDs through the Department of the Interior. *Id.*

In support of the Indian Education Amendments, Senator Daschle (D-SD), stated that

In addition to a number of other important provisions, this title also contains a provision for special projects that could enable South Dakota's Pine Ridge Reservation to operate its own tribal department of education and assume full responsibility for the education of its children in a more coordinated fashion.

133 Cong. Rec. S16802-02 (1987).

¹ Interestingly, Representative Kildee's original proposed amendments to H.R. 5 would have set aside ten per cent (10%) of annual Indian Education Improvement grant funding administered through the Department of Education, also known as "Demonstration Projects," for TEDs. 133 Cong. Rec. H3817-02 (1987). Such a provision was not part of S. 373 or of H.R. Res. 427. 134 Cong. Rec. H1488-02 (1988); 134 Cong. Rec. H1707-02 (1988). Ultimately, the House receded on this provision. 134 Cong. Rec. S4336-01 (1988).

The TED funding authorization provision became Section 11118 of S. 373. 133 Cong. Rec. S17008-01 (1987). That same day, H.R. 5 was passed by the Senate as amended by S. 373, as amended. 133 Cong. Rec. S17008-01 (1987).

On December 8, 1987, the House of Representatives received a message from the Senate announcing that the Senate insisted upon its amendment (S. 373) to H.R. 5, and requesting a conference with the House on the disagreeing versions of the two bills. 133 Cong. Rec. H11019-03 (1987). On February 9, 1988, the House disagreed to the Senate amendment to H.R. 5 (S. 373), but agreed to a conference on the two bills. 134 Cong. Rec. D84-02 91988).

On April 13, 1988, the conferees recommended that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment. 134 Cong. Rec. H1488-02 (1988).

The conferees recommended entitling the bill the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments. 134 Cong. Rec. H1488-02 (1988). Regarding TED funding, the conferees recommended keeping the Senate version which authorized appropriations through the Department of the Interior *Id.*

On April 19, 1988, the House of Representatives, by H.R. Res. 427, added the priority factors for TED funding. 134 Cong. Rec. H1707-02 (1988). In support of the conferee recommendations and H.R. Res. 427, Congressman Richardson (D-NM), stated that he had

Worked to insure that all Indian tribes would be eligible to apply for grants to establish tribal departments of education to coordinate both Federal and tribal education programs, and to develop education standards and policies.

Id.

The House of Representatives also made clear that, although TEDs would be encouraged to administer all federal Indian education program contracts and grants, this provision was not intended to be a requirement of a single education contract per tribe. 134 Cong. Rec. S4336-01 (1988). Also, tribal college funding was to be exempt from TED administration. *Id.*

On April 20, 1988, Senator Daschle, speaking in favor of the conference agreement on the bills, stated that:

The [compromise] bill would permit the establishment of a tribal department of education to oversee schools run by the BIA and by tribes. This provision will enable the Oglala Sioux at Pine Ridge to

actively plan and better coordinate all of its educational programs. It would further the concept of self-determination by insuring the maximum participation of the Oglala in determining their future educationally.

134 Cong. Rec. S4336-01 (1988).

On April 28, 1988, with passage by the House of Representatives, H.R. 5, as amended by S. 373 and H.R. Res. 427, became Public Law 100-297, 102 Stat. 130.

When signed by President Reagan, the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvements Amendments of 1988 became Public Law No. 100-297. 134 Cong. Rec. S5082-01 (1988).

3. The Language of the Current Version in No Child Left Behind

The current authorization for direct federal funding for TEDs through the BIA is contained in the No Child Left Behind Act of 2001 (NCLB), Pub. L. No. 107-110, 115 Stat. 1425 (2001). The authorization provides that

(a) In general

Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

(b) Applications

For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) Diversity

The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

(d) Use

Tribes that receive grants under this section shall use the funds made available through the grants--

(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

- (2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau-funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and
- (3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

(e) Priorities

In making grants under this section, the Secretary shall give priority to any application that--

(1) includes--

- (A) assurances that the applicant serves three or more separate Bureau-funded schools; and
- (B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools;

(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

(3) provides a plan and schedule that--

(A) provides for--

- (i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and
- (ii) the termination by the Bureau of such functions and office at the time of such assumption; and

(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

(f) Time period of grant

Subject to the availability of appropriated funds, a grant provided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

(g) Terms, conditions, or requirements

A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 450(a) of this title that are in effect on the date that the tribal governing body submits the application for the grant under subsection (b) of this section. The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$2,000,000.

Title X, Section 1140, Pub. L. No. 107-110, currently codified at 25 U.S.C. § 2020.

4. The History of the Current Version

The No Child Left Behind Act of 2001 (NCLB), Pub. L. No. 107-110, 115 Stat. 1425, (2001) is a six-year reauthorization of programs and appropriations under the ESEA.

NCLB significantly reforms the ESEA by requiring greater accountability of schools for teacher quality and results of testing and other assessments; increasing local control of schools and their flexibility in using federal funding; providing new information to and options for parents; and, emphasizing scientifically based research instruction and other methods in schooling.

On January 30, 2001, the House of Representatives stated that among the executive communications it had received was “[a] communication from the President of the United States, transmitting a report for nationwide education reform entitled, “No Child Left Behind.” 147 Cong. Rec. H103-03, at H104 (2001). This communication, H. Doc. No. 107-34 (2001), was referred to the House of Representatives Committee on Education and the Workforce. 147 Cong. Rec. H103-03, at H104 (2001).

On March 22, 2001, Representative Boehner (R-OH) introduced President Bush’s education plan as H. R. 1, the No Child Left Behind Act of 2001. 147 Cong. Rec. E437-01 (2001). H. R. 1. would be a comprehensive reauthorization of the ESEA, reflecting “President Bush’s efforts to close the achievement gap between disadvantaged students and their peers and to work with States to push America’s schools to be the best in the world.” *Id.* H. R. 1 was referred to the House of Representatives Committee on Education and the Workforce. 147 Cong. Rec. D260-02, at D261 (2001).

On March 28, 2001, Senator Jeffords (I-VT), introduced in the Senate S. 1, 107th Cong. (2001), entitled “the Better Education for Students and Teachers Act.” 147 Cong. Rec. D277-02 (2001). S. 1 was an original bill to extend for seven years programs and activities

under the ESEA. S. Rep. No. 107-7, at 1 (2001). S. 1 was based on “a principle put forth by President Bush entitled, “No Child Left Behind.” 147 Cong. Rec. S4461-03, at S4469 (2001).

S. 1 had been under consideration by the Senate Committee on Health, Education, Labor and Pensions. 147 Cong. Rec. D174-01 (2001); 147 Cong. Rec. D162-02, at D163 (2001); 147 Cong. Rec. E254-01, at E254 (2001); 147 Cong. Rec. E276-01, at E276 (2001). On March 28, 2001, the Committee reported favorably on S. 1. S. Rep. No. 107-7, at 1 (2001).

Consideration of S. 1 by the full Senate began on May 3, 2001. 147 Cong. Rec. S4187-06 (2001); 147 Cong. Rec. S4272-02 (2001). On May 9, 2001, while S. 1 was under consideration by the full Senate, Senator Campbell (R-CO) submitted an amendment that he intended to be proposed to S. 1. 147 Cong. Rec. S4617-01, at S4675 (2001). Section 1138 of this amendment retained the authorization for direct federal funding for TEDs through the BIA. *Id.* at S4689.

Section 1138 would make some technical changes to the format of the original authorization, and it would make one major substantive change. 147 Cong. Rec. S4617-01, at S4689 (2001). In the provisions governing the priorities that the Secretary of the Interior would give to funding applicants, Section 1138 added as a new priority that the applicant serve “3 or more” separate BIA funded schools. *Id.*

Section 1138 would authorize “to be appropriated \$2,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003, 2004, 2005, and 2006.” 147 Cong. Rec. S4617-01, at S4689 (2001).

On May 9, 2001, the House Committee on Education and the Workforce ordered H. R. 1 reported as amended. 147 Cong. Rec. D419-01, at D420 (2001). On May 14, 2001, the House Committee on Education and the Workforce submitted its report, H. Rep. No. 107-63(I) (2001), on H. R. 1. 147 Cong. Rec. D439-01.

Section 1140 of H. R. 1 retained the authorization for direct federal funding for TEDs through the BIA. H. R. Rep. No. 107-63(I), at 152-153. Unlike S. 1., H. R. 1 would have retained the authorization in its original form and substance. H. R. Rep. No. 107-63(I), at 152-153. Like S. 1, H. R. 1 would authorize TED funding at appropriations of “\$2,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003, 2004, 2005, and 2006.” *Id.*

On May 17, 2001, H. R. 1 was declared under consideration by the whole House of Representatives. 147 Cong. Rec. H2310-02 (2001); 147 Cong. Rec. H2298-02 (2001). On May 23, 2001, H. R. 1 passed the whole House. 147 Cong. Rec. H4121-01 (2001).

On June 14, 2001, the Senate passed H.R. 1 as amended by S. 1. 147 Cong. Rec. S6672-03 (2001). On July 18, 2001, the House of Representatives disagreed to the Senate amendment to H. R. 1, but agreed to a conference on the matter. 147 Cong. Rec. D725-01 (2001).

On December 12, 2001, the Committee of Conference submitted its report, H. R. Conf. Rep. No. 107-334 (2001) on H. R. 1. 147 Cong. Rec. H9773-02 (2001). The Committee of Conference recommended generally that the House of Representatives recede from its disagreement to the amendment of the Senate to H. R. 1, and agree to the same with an amendment. 147 Cong. Rec. H9773-02 (2001).

Section 1140 of the amended version of H. R. 1 submitted by the Committee of Conference contained the Senate version of the authorization for funding TEDs through the BIA. 147 Cong. Rec. H9773-02, at H9937 (2001). This was the version that added as a new priority to be considered by the Secretary of the Interior that the funding applicants serve “3 or more” separate BIA funded schools. *Id.*

On December 13, 2001, the House of Representatives agreed to the Conference Report on H. R. 1, thereby passing H. R. 1. 147 Cong. Rec. D1249-01 (2001); 147 Cong. Rec. 1254-01 (2001).

The Senate proceeded to debate the Conference Report on December 17, 2001. 147 Cong. Rec. S13322-03 (2001). On December 18, 2001, the Senate passed H. R. 1. 147 Cong. Rec. D1265-03 (2001); 147 Cong. Rec. H10193-01 (2001).

On January 8, 2002, President Bush signed H. R. 1 into law as the No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425. 148 Cong. Rec. S344-02 (2002).

B. Through the Department of Education

1. The Language of the Original Authorization

The original authorization for direct funding for TEDs through the Department of Education was contained in the Improving America’s Schools Act of 1994, Pub. L. No. 103-382, 108 Stat. 3518 (1994). The authorization provided that

(a) In general

The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to--

- (1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;
- (2) develop education codes for schools within the territorial jurisdiction of the tribe;
- (3) provide support services and technical assistance to schools serving children of the tribe; and
- (4) perform child-find screening services for the preschool-aged children of the tribe to--
 - (A) ensure placement in appropriate educational facilities; and

(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

(b) Period of grant

Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A) of this section.

(c) Application for grant

(1) In general

Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

- (A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and
- (B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

(3) Approval

The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

- (A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;
- (B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and
- (C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

(d) Restriction

A tribe may not receive funds under this section if such tribe receives funds under section 2022b of Title 25.

(e) Authorization of appropriations

There are authorized to be appropriated to the Department of Education \$3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

Title IX, Section 9125, Pub. L. No. 103-382, originally codified at 20 U.S.C. § 7835.

2. The History of the Original Authorization

On January 5, 1993, Representative Kildee (D-MI) introduced in the House of Representatives H.R. 6, a bill to extend for six years the authorizations for programs and appropriations under the ESEA. 139 Cong. Rec. H82-01 (1993); 139 Cong. Rec. E5-01 (1993). H.R. 6 was referred to the House of Representatives Committee on Education and Labor. 139 Cong. Rec. H82-01 (1993).

On October 4, 1993, Senator Kennedy (D-MA) introduced in the Senate S. 1513, a bill to reauthorize the ESEA entitled “Improving America’s Schools Act of 1993.” 139 Cong. Rec. S12928-07 (1993); 139 Cong. Rec. D1078-02 (1993). As introduced, S. 1513 did not contain any new provisions regarding tribal education departments. S. 1513 was referred to the Senate Committee on Labor and Human Resources. 139 Cong. Rec. S12928-06 (1993).

On February 1, 1994, the House of Representatives Subcommittee on Elementary, Secondary, and Vocational Education approved for full Committee action H.R. 6 as amended, the ESEA Amendments of 1993. 140 Cong. Rec. D62-01 (1994). On February 8, 1994, the House of Representatives Committee on Education and Labor ordered H.R. 6 reported as amended. 140 Cong. Rec. D95-01 (1994).

On February 16, 1994, the House of Representatives Committee on Education and Labor filed its report, H.R. Rep. No. 103-425 (1994), on H.R. 6 as amended, now entitled the Improving America’s Schools Act of 1994. 140 Cong. Rec. H559-01 (1994); 140 Cong. Rec. D132-01 (1994). As reported, H.R. 6 did not contain any new provisions regarding TEDs.

On February 23, 1994, the House of Representatives Committee on Rules submitted a resolution, H. Res. 366, providing for the consideration of H.R. 6. The Committee on Rules also submitted a privileged report, H.R. Rep. No. 103-426, to accompany H. Res. 366. 140 Cong. Rec. H651-02 (1994); 140 Cong. Rec. H678-04 (1994); 140 Cong. Rec. D141-01; 140 Cong. Rec. H798-03 (1994).

On March 24, 1995, the House of Representatives passed H.R. 6 as amended. 140 Cong. Rec. D329-01 (1994).

On April 19, 1994, the Senate received a message from the House of Representatives that the House had passed H.R. 6 and requested the concurrence of the Senate therein. 140 Cong. Rec. S4462-02 (1994). The Senate referred H.R. 6 to the Senate Committee on Labor and Human Resources. 140 Cong. Rec. S4463-01 (1994).

On May 4, 1994, the Senate Committee on Indian Affairs held hearings on the Indian education provisions of S. 1513 and H.R. 6. 140 Cong. Rec. D482-02 (1994). Among those testifying at the hearings was Phil Baird, President of the National Indian Education Association (NIEA). Mr. Baird stated that:

Tribes need federal funding to help develop tribal departments of education which can engage in developmental work and place them in better positions to negotiate or enter into agreements with state and local governments as equal partners in our nation's school reform efforts.

Testimony of the National Indian Education Association before the Senate Committee on Indian Affairs on the Reauthorization of Elementary and Secondary Education Programs, 1994 WL 232500 (F.D.C.H. May 4, 1994).

Mr. Baird went on to state that NIEA proposed a new program within the Indian Education Act of 1972. Under the new program, grants through the Department of Education would be authorized for tribes

to develop education codes, to coordinate education programs, [and] to provide technical and support services to schools serving Indian children....This grant program is not included in H.R. 6, and we ask that it be adopted as part of the Senate bill.

Id.

On June 15, 1994, the Senate Committee on Labor and Human Resources ordered S. 1513 as amended favorably reported. 140 Cong. Rec. D672-01 (1994).

On June 24, 1994, the Senate Committee on Labor and Human Resources submitted its report, S. Rep. No. 103-292, on S. 1513. 140 Cong. Rec. S7638-01 (1994); 140 Cong. Rec. D731-01 (1994).

On July 15, 1994, the Senate Committee on Indian Affairs submitted its report, S. Rep. No. 103-314 (1994), on S. 1513. The Committee on Indian Affairs recommended a new program under the authority of the Indian Education Act of 1972, Pub. L. No. 92-318, 86 Stat. 326. Under the new program, the Secretary of Education would be authorized \$3 million to fund TEDs to develop tribal education codes, engage in education planning, and coordinate education programs on Indian reservations. S. Rep. No. 103-314 (1994).

On July 27, 1994, the Senate began consideration of S. 1513 as amended, now entitled the Improving America's Schools Act of 1994. 140 Cong. Rec. D885-02 (1994). Section 6206 of the version under consideration contained the Senate Committee on Indian Affairs' recommended new TED funding authorization through the Department of Education. 140 Cong. Rec. S9763-02 (1994).

On August 2, 1994, the Senate passed H.R. 6 as amended by S. 1513 as amended, and requested a conference with the House of Representatives on the two versions of H.R. 6. 140 Cong. Rec. S10281-01 (1994); 140 Cong. Rec. D919-02 (1994). H.R. 6 as amended contained Section 6206, the new Department of Education TED funding authorization. 140 Cong. Rec. S10719-01 (1994).

On August 9, 1994, the House of Representatives received a message from the Senate that the Senate had passed H.R. 6 as amended and requesting the concurrence of the House in the same. 140 Cong. Rec. H7204-05 (1994). The message also announced that the Senate insisted upon its amendment to H.R. 6 and requested a conference with the House on the disagreeing versions of H.R. 6. *Id.*

On September 20, 1994, the House of Representatives disagreed to the Senate amendments to H.R. 6, but agreed to go to conference on the matter. 140 Cong. Rec. D1085-01 (1994). The Senate received this message from the House on September 21, 1994. 140 Cong. Rec. S13093-08 (1994).

On September 27, 1994, the conferees agreed to file a conference report on the differences between the Senate and House-passed versions of H.R. 6. 140 Cong. Rec. D1140-01 (1994).

On September 28, 1994, the Committee of Conference submitted its report, H.R. Conf. Rep. No. 103-761 (1994), on H.R. 6. 140 Cong. Rec. H10006-05 (1994); 140 Cong. Rec. D1153-01 (1994). The Committee of Conference recommended generally that the House of Representatives recede from its disagreement to the amendment of the Senate to H.R. 6, and agree to the same with an amendment. 140 Cong. Rec. H10009-01 (1994).

Regarding TED funding, the Committee of Conference recommended keeping in the Senate version of H.R. 6, which authorized \$3 million for TEDs through the Department of Education in addition to the authorization through the Department of the Interior. 140 Cong. Rec. H10009-01 (1994). The House of Representatives receded with an amendment prohibiting the same tribe from receiving TED funding under both the Department of Education and the Department of the Interior authorizations. *Id.*

On September 30, 1994, the House of Representatives, by H. Res. No. 556, considered and agreed to the report of the Committee of Conference regarding H.R. 6. 140 Cong. Rec.

H10382-03 (1994); 140 Cong. Rec. D1174-01 (1994). That same date, the Senate received a message from the House of Representatives that the House had agreed to the report of the Committee of Conference regarding H.R. 6. 140 Cong. Rec. S13851-02 (1994).

On October 5, 1994, the Senate agreed to the Conference Report on H.R. 6. 140 Cong. Rec. D1210-02 (1994). On October 6, 1994, the House of Representatives received a message from the Senate that the Senate agrees to the report of the Committee of Conference on H.R. 6. 140 Cong. Rec. H11009-04 (1994).

On November 29, 1994, the House of Representatives Committee on House Administration presented H.R. 6 to the President for his approval. 140 Cong. Rec. H11562-03 (1994).

On November 29, 1994, President Clinton signed H. R. 6 into law as the Improving America's Schools Act of 1994, Pub. L. No. 103-382, 108 Stat. 5318 (1994). 140 Cong. Rec. D1257-01 (1994).

3. The Language of the Current Version in No Child Left Behind

The current authorization for direct federal funding for TEDs through the Department of Education is contained in NCLB. The authorization provides that

(a) In general

The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to--

- (1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;
- (2) develop education codes for schools within the territorial jurisdiction of the tribe;
- (3) provide support services and technical assistance to schools serving children of the tribe; and
- (4) perform child-find screening services for the preschool-aged children of the tribe to--
 - (A) ensure placement in appropriate educational facilities; and
 - (B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

(b) Period of grant

Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A) of this section.

(c) Application for grant

(1) In general

Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

- (A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and
- (B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

(3) Approval

The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

- (A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;
- (B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and
- (C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

(d) Restriction

A tribe may not receive funds under this section if such tribe receives funds under section 2024 of Title 25.

Title VII, Section 7135, Pub. L. No. 107-110, currently codified at 20 U.S.C. § 7455.

4. The History of the Current Version

NCLB is a six-year reauthorization of programs and appropriations under the ESEA. NCLB significantly reforms the ESEA by requiring greater accountability of schools for teacher quality and results of testing and other assessments; increasing local control of schools and their flexibility in using federal funding; providing new information to and options for parents; and, emphasizing scientifically based research instruction and other methods in schooling.

On January 30, 2001, the House of Representatives stated that among the executive communications it had received was “[a] communication from the President of the United States, transmitting a report for nationwide education reform entitled, “No Child Left Behind.” 147 Cong. Rec. H103-03, at H104 (2001). This communication, H. Doc. No. 107-34 (2001), was referred to the House of Representatives Committee on Education and the Workforce. 147 Cong. Rec. H103-03, at H104 (2001).

On March 22, 2001, Representative Boehner (R-OH) introduced President Bush’s education plan as H. R. 1, the No Child Left Behind Act of 2001. 147 Cong. Rec. E437-01 (2001). H. R. 1 would be a comprehensive reauthorization of the ESEA, reflecting “President Bush’s efforts to close the achievement gap between disadvantaged students and their peers and to work with States to push America’s schools to be the best in the world.” *Id.* H. R. 1 was referred to the House of Representatives Committee on Education and the Workforce. 147 Cong. Rec. D260-02, at D261 (2001).

On March 28, 2001, Senator Jeffords (I-VT), introduced in the Senate S. 1, 107th Cong. (2001), entitled “the Better Education for Students and Teachers Act.” 147 Cong. Rec. D277-02 (2001). S. 1 was an original bill to extend for seven years programs and activities under the ESEA. S. Rep. No. 107-7, at 1 (2001). S. 1 was based on “a principle put forth by President Bush entitled, “No Child Left Behind.” 147 Cong. Rec. S4461-03, at S4469 (2001).

S. 1 had been under consideration by the Senate Committee on Health, Education, Labor and Pensions. 147 Cong. Rec. D174-01 (2001); 147 Cong. Rec. D162-02, at D163 (2001); 147 Cong. Rec. E254-01, at E254 (2001); 147 Cong. Rec. E276-01, at E276 (2001). On March 28, 2001, the Committee reported favorably on S. 1. S. Rep. No. 107-7, at 1 (2001).

S. 1 would transfer programs authorized under Title IX of the ESEA to Title VII, and would rename the Title to be “Indian, Native Hawaiian, and Alaska Native Education.” S. Rep. No. 107-7, at 140 (2001).

The Senate Committee on Health, Education, Labor and Pensions reported that Section 7125 of the new Title VII “maintains current law provisions authorizing the Secretary [of Education] to make grants to Indian tribes and tribal organizations approved by Indian tribes to develop a centralized tribal administrative entity to coordinate education programs and related activities.” S. Rep. No. 107-7, at 141 (2001). The Committee also reported that “[a] funding level of \$3 million is authorized for each of the fiscal years 2002 through 2008.” *Id.*

Consideration of S. 1 by the full Senate began on May 3, 2001. 147 Cong. Rec. S4187-06 (2001); 147 Cong. Rec. S4272-02 (2001).

On May 9, 2001, the House Committee on Education and the Workforce ordered H. R. 1 reported as amended. 147 Cong. Rec. D419-01, at D420 (2001). On May 14, 2001, the House Committee on Education and the Workforce submitted its report, H. Rep. No. 107-63(I) (2001), on H. R. 1. 147 Cong. Rec. D439-01.

The House Committee on Education and the Workforce reported that it had “eliminated four unfunded programs . . .” in H. R. 1, including the authorization for funding TEDs through the Department of Education. H. R. Rep. 107-63(I), at 332 (2001).

In taking this action, the Committee recognizes that none of these programs have been funded since FY 1995, and that two of them have never been funded. This action is consistent with the Committee’s philosophy of focusing resources on the programs which are providing the best results, and consistent with its responsibility to set priorities for the Appropriations Committee. The Committee notes that the services that would be provided under these programs to Indian youth and adults are currently funded through other authorities, including parts of this Act, the Higher Education Act, and through programs administrated by the Bureau of Indian Affairs

Id.

On May 17, 2001, H. R. 1 was declared under consideration by the whole House of Representatives. 147 Cong. Rec. H2310-02 (2001); 147 Cong. Rec. H2298-02 (2001). On May 23, 2001, H. R. 1 passed the whole House. 147 Cong. Rec. H4121-01 (2001).

On June 14, 2001, the Senate passed H.R. 1 as amended by S. 1. 147 Cong. Rec. S6672-03 (2001). S. 1 would have retained the authorization to fund TEDs through the Department of Education. On July 18, 2001, the House of Representatives disagreed to the Senate amendment to H. R. 1, but agreed to a conference on the matter. 147 Cong. Rec. D725-01 (2001).

On December 12, 2001, the Committee of Conference submitted its report, H. R. Conf. Rep. No. 107-334 (2001) on H. R. 1. 147 Cong. Rec. H9773-02 (2001). The Committee of Conference recommended generally that the House of Representatives recede from its disagreement to the amendment of the Senate to H. R. 1, and agree to the same with an amendment. 147 Cong. Rec. H9773-02 (2001).

In the Conference Report, the House of Representatives generally agreed to the Senate version of the Department of Education Indian education programs in terms of placing them under a new Title VII. H. R. Conf. Rep. 107-334, 890 (2001). With respect to TED funding through the Department of Education, the House receded on its disagreement to retaining the TED funding authorization on the condition that the TED funding authorization, among other discretionary program authorizations, be moved within the new Title VII to a new “national activities” section, and that any findings or separate appropriations authorizations be deleted. *Id.* at 895.

On December 13, 2001, the House of Representatives agreed to the Conference Report on H. R. 1, thereby passing H. R. 1. 147 Cong. Rec. D1249-01 (2001); 147 Cong. Rec. 1254-01 (2001).

The Senate proceeded to debate the Conference Report on December 17, 2001. 147 Cong. Rec. S13322-03 (2001). On December 18, 2001, the Senate passed H. R. 1. 147 Cong. Rec. D1265-03 (2001); 147 Cong. Rec. H10193-01 (2001).

On January 8, 2002, President Bush signed H. R. 1 into law as the No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425. 148 Cong. Rec. S344-02 (2002).

THE NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

An Historical Analysis of Requests for Direct Federal Funding for Tribal Education Departments for Fiscal Years 1989-2004

The Requests for Tribal Education Departments Direct Federal Funding

A. Overview

1. The Federal Appropriations Process

The previous section of these materials has explained the congressional *authorizations* for direct federal funding for TEDs. Getting the *appropriations* for these authorizations requires separate action by Congress. See generally Bill Heniff, Jr., *Overview of the Authorization-Appropriation Process*, at CRS-1 (Congressional Research Service Report for Congress No. RS20371, Mar. 5, 2001) (authorizations and appropriations are a “two step process”).

Government programs and activities such as direct funding for TEDs are known as “discretionary programs.” Appropriations for such programs and activities is governed by the annual “discretionary spending” appropriations process. See Bill Heniff, Jr., *Overview of the Authorization-Appropriation Process*, at CRS-1. Congress has discretion to fund (or not to fund) these programs each year in appropriations acts.

“The President initiates the appropriations process by submitting his annual budget for the upcoming fiscal year to Congress . . . on or before the first Monday in February.” Sandy Streeter, *The Congressional Appropriations Process: An Introduction*, at CRS-2 (Congressional Research Service Report for Congress No. 97-684 GOV, May 31, 2002).

Federal departments and agencies play an integral role in the development of the President’s budget. The Budget and Accounting Act of 1921 [31 U.S.C. § 1105] requires the President to prepare and submit a comprehensive federal budget to Congress each year. Due to the size and complexity of the federal budget, however, the President relies on departments and agencies to bear the primary responsibility for formulating their budget requests.

www.senate.gov/~budget/democratic/crsbackground/roleofdepartments.

The initial development of the President’s budget begins at the agency level. Federal agencies typically rely on their own internal process to prepare their initial budget requests.

....

Federal agencies usually begin work on the budget about 10 months before the President submits his budget to Congress (about 17 or 18 months before the start of the fiscal year). When federal agencies prepare their initial budget requests, they usually . . . estimate the resources necessary to continue the existing programs at current levels for the next fiscal year. . . . Then, agencies will include estimates for new initiatives All the lower-level budget requests then are consolidated into an agency-wide budget to be submitted to [the Office of Management and Budget] OMB.

www.senate.gov/~budget/democratic/crsbackground/roleofdepartments.

The agency-wide budget requests and performance plans are reviewed by OMB

. . . .

Once final decisions are made by OMB and the President [a]gency officials prepare budget [written justification materials] for inclusion in the President's [final] budget.

www.senate.gov/~budget/democratic/crsbackground/roleofdepartments.

In the final budget request submitted to Congress, “[t]he President recommends spending levels for the various programs and agencies of the federal government” Sandy Streeter, *The Congressional Appropriations Process: An Introduction*, at CRS-2 “When the President submits his budget to Congress, the agencies provide detailed justification materials to the House and Senate appropriations subcommittees, which have jurisdiction over funding for the particular agencies.” *Id.* at CRS-3.

“After the President submits his budget, the House and Senate Appropriations Committees hold full committee and subcommittee hearings on the segments of the budget under their jurisdiction.” Sandy Streeter, *The Congressional Appropriations Process: An Introduction*, at CRS-5. “The 13 appropriations subcommittees in each house hold more detailed hearings on the agencies’ justifications, primarily obtaining testimony from agency officials.” *Id.*

The subcommittees draft spending plans and legislation to allocate funds to the agencies within their jurisdictions for the coming fiscal year. See www.senate.gov/legislation&records/appropriations. Their work is passed on to the full House or Senate Appropriations Committees, which may review and modify the bills and forward them to the floor for consideration.

The House and then the Senate must then pass appropriations bills to provide money to carry out government programs for that year. The appropriations bills “cannot be sent to the President until both houses have agreed to the entire text of the bill.” Sandy Streever, *The Congressional Appropriations Process: An Introduction*, at CRS-9.

2. Appropriations Requests for TEDs

Discretionary programs account for about one-third of the President’s total annual budget request. See Sandy Streever, *The Congressional Appropriations Process: An Introduction*, at CRS-13. It is estimated that about ninety percent of the amount requested by the President for discretionary programs is approved by Congress.

Only once has a President’s budget submitted to Congress contained a request for direct federal funding for TEDs. In the budget for Fiscal Year 1996, President Clinton requested \$500,000 for TEDs under the authorization for funding TEDs through the BIA. See *Fiscal Year 1996 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 104th Cong. 15-16 (1995) (statement of Ada Deer, Assistant Secretary for Indian Affairs, Department of the Interior).

In addition, the BIA and the Department of the Interior tried to request direct federal funding for TEDs in the budget for Fiscal Year 1994. See *Dep’t of the Interior and Related Agencies Appropriations for Fiscal Year 1994: Hearings on H.R. 2520 Before a Senate Subcomm. on Appropriations*, 103rd Cong. 301 (1994) (statement of NIEA). This agency request was eliminated by OMB and was not contained in the final President’s budget submitted to Congress. *Id.*

In any event, Congress has never appropriated direct federal funding for TEDs under either authorization for funding TEDs, through the BIA or the Department of Education.

Since about 1992 Indian tribes, national Indian organizations, and others consistently have testified before Congress that TEDs should be funded. This testimony has typically been presented before the appropriations subcommittees for the Interior Department and / or before substantive committees such as the Senate Committee on Indian Affairs and the Senate Committee on Health, Education, Labor and Pensions that then report to the congressional Budget and Appropriations Committees.

B. Requests for Funding through the Bureau of Indian Affairs

FYs 1989- 1992

For Fiscal Years 1989 through 1992, the President’s budget did not contain any requests for direct funding for TEDs through the BIA. There is no record of any testimony before Congress by tribes or national Indian organizations regarding TED funding during these years.

FY 1993

For Fiscal Year 1993, the President's budget did not contain any request for direct funding for TEDs through the BIA. The following organizations, tribes, and persons testified as follows.

- **National Congress of American Indians (NCAI):** requested \$1.2 million for TEDs. *Fiscal Year 1993 Budget: Hearings Before the Senate Select Comm. on Indian Affairs*, 102nd Cong. 146-147 and 166-167 (1992) (statement of Gaiashkibos, President, NCAI).
- **National Indian Education Association (NIEA):** requested \$2 million for TEDs. *Fiscal Year 1993 Budget: Hearings Before the Senate Select Comm. on Indian Affairs*, 102nd Cong. 74-76, 229-233 and 252-253 (1992) (statement of Karen Funk, Legislative Affairs Director, NIEA).
- **National Advisory Council on Indian Education (NACIE):** requested \$1.2 million for TEDs. *Fiscal Year 1993 Budget: Hearings Before the Senate Select Comm. on Indian Affairs*, 102nd Cong. 321-323 (1992) (statement of Eddie Tullis, Chairman, NACIE).
- **Coalition for Indian Education (CIE):** requested \$10 million for TEDs. *Fiscal Year 1993 Budget: Hearings Before the Senate Select Comm. on Indian Affairs*, 102nd Cong. 453, 462 and 473 (1992) (statement of Dr. Lester Sandoval, President, CIE).²
- **Native American Rights Fund (NARF):** requested \$225,000 for the Rosebud Sioux Tribe's TED. *Fiscal Year 1993: Testimony of the Native American Rights Fund before the House Interior Appropriations Committee* (Mar. 5, 1992).
- **Oglala Sioux Tribe:** requested \$225,000 for its TED. *Dep't of the Interior and Related Agencies Appropriations for 1993: Hearings Before the House Subcomm. of the Comm. on Appropriations*, 102nd Cong. 1294-1295 (1992) (statement of Paul "Randy" Plume, Dir. of Educ. Oglala Sioux Tribe).
- **The Honorable Tim Johnson (D-SD):** supported the requests for \$225,000 each for the TEDs of the Rosebud Sioux Tribe and the Oglala Sioux Tribe. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1993: Hearings Before a Senate Subcomm. on Appropriations*, 102nd Cong. 148 (1992) (statement of Representative Tim Johnson, (D-SD)).

² The CIE also had passed a resolution in 1991 requesting \$4 million for TEDs in Fiscal Year 1992. See CIE Res. 91-3 (Nov. 22, 1991) reprinted in *Fiscal Year 1993 Budget: Hearings Before the Senate Select Comm. on Indian Affairs*, 102nd Cong. 502-503 (1992) (statement of Dr. Lester Sandoval, President, CIE).

- **NIEA:** requested \$2 million for TEDs. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1993: Hearings Before a Senate Subcomm. on Appropriations*, 102nd Cong. 148-149 (1992) (statement of NIEA)
- **Rosebud Sioux Tribe:** requested \$250,000 for its TED. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1993: Hearings Before a Senate Subcomm. on Appropriations*, 102nd Cong. 346-347 (1992) (statement of Alex J. Lunderman, President, Rosebud Sioux Tribe).
- **Senate Select Committee on Indian Affairs:** requested \$2 million for TEDs. *Budget Views and Estimated for Fiscal Year 1993: A Report Submitted to the Budget Committee*, 102nd Cong. 9 (Comm. Print 1992).

FY 1994

For Fiscal Year 1994 the President's budget did not contain any request for direct funding for TEDs through the BIA. The following organizations, tribes, and persons testified as follows.

- **NARF:** requested \$225,000 for the Rosebud Sioux Tribe's TED. *Fiscal Year 1994: Testimony of the Native American Rights Fund before the House Interior Appropriations Committee* (Mar. 29, 1993).
- **Navajo Nation:** requested \$200,000 for its TED. *Dep't of the Interior and Related Agencies Appropriations for 1994: Hearings Before the House Subcomm. on Appropriations*, 103rd Cong. 328-330 (1993) (statement of Michael Begay, Deputy Dir., Navajo Nation Washington Office).
- **The Honorable Tim Johnson (D-SD):** supported the Rosebud Sioux Tribe's request for \$225,000 for its TED. *Dep't of the Interior and Related Agencies Appropriations for 1994: Hearings Before a House Subcomm. of the Comm. on Appropriations*, 103rd Cong. 20-22 (1993) (statement of Representative Tim Johnson, (D-SD)).
- **Lummi Nation:** requested \$267,744 for its TED. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1994: Hearings on H.R. 2520 Before a Senate Subcomm. on Appropriations*, 103rd Cong. 132-134 (1994) (statement of Henry Cagey, Chairman, Lummi Nation).
- **Rosebud Sioux Tribe:** requested \$225,500 for its TED. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1994: Hearings on H.R. 2520 Before a Senate Subcomm. on Appropriations*, 103rd Cong. 267-268 (1994) (statement of Sherry Dawn Red Owl, Dir. of Tribal Dep't of Educ., Rosebud Sioux Tribe).

- **NIEA:** requested \$2 million for TEDs. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1994: Hearings on H.R. 2520 Before a Senate Subcomm. on Appropriations*, 103rd Cong. 301-303 (1994) (statement of NIEA).³

FY 1995

For Fiscal Year 1995 the President's budget did not contain any request for direct funding for TEDs. The following organizations and tribes testified as follows.

- **NIEA:** requested \$2 million for TEDs. *Fiscal Year 1995: Testimony of the of the National Indian Education Association before the House Interior Appropriations Subcomm. 5* (Mar. 8, 1994) (on file with NIEA).
- **NARF:** requested \$225,000 for the Rosebud Sioux Tribe's TED. *Fiscal Year 1995: Testimony of the Native American Rights Fund before the House Comm. on Appropriations 4* (March 22, 1994) (on file with NARF).
- **Rosebud Sioux Tribe:** requested \$225,000 for its TED. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1995: Hearings on H.R. 4602 Before a Senate Subcomm. of the Comm. on Appropriations*, 103rd Cong. 235 (1995) (statement of William Kindle, President, Rosebud Sioux Tribe).

FY 1996

For Fiscal Year 1996 the President's budget contained a request for \$500,000 for TEDs through the BIA. See Fiscal Year 1996 Budget: Hearing Before the Senate Comm. on Indian Affairs, 104th Cong. 15-16 (1995) (statement of Ada Deer, Assistant Secretary for Indian Affairs, Department of the Interior). The following organizations and tribes testified as follows.

- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 1996 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 104th Cong. 63-64 and 280-287(1995) (statement of Lorraine P. Edmo, Executive Director, NIEA).
- **NARF:** requested \$225,000 each for the TEDs of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of the Fort Berthold Indian Reservation. *Fiscal Year 1996: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations 4* (Mar, 20, 1995) (on file with NARF).

³ NIEA testified that the BIA had originally requested \$1.5 million for TEDs for Fiscal Year 1994, which request was reduced to \$1 million by the Department of the Interior, "and which ultimately was reduced to zero by the Office of Management and Budget." *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1994: Hearings on H.R. 2520 Before a Senate Subcomm. on Appropriations*, 103d Cong. 301 (1994) (statement of NIEA).

- **Assiniboine and Sioux Tribes of Fort Peck Reservation:** requested \$3 million for TEDs. *Dep't of the Interior and Related Agencies Appropriations for Fiscal Year 1996, Hearings on H.R. 1977 Before a Senate Subcomm. of the Comm. on Appropriations, 104th Cong. 589-590 (1996)* (statement of Caleb Shields, Chairman, Assiniboine and Sioux Tribes of the Fort Peck Reservation).

FY 1997

For Fiscal Year 1997 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NARF:** requested \$3 million for TEDs on behalf of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of the Fort Berthold Indian Reservation. *Fiscal Year 1997: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations 9 (1997)* (on file with NARF).
- **NACIE:** requested \$250,000 for TEDs. *Fiscal Year 1997 Budget: Hearing Before the Senate Comm. on Indian Affairs, 104th Cong. 210-217 (1996)* (statement of Joseph Abeyta, Chairman, NACIE).
- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 1997 Budget: Hearing Before the Senate Comm. on Indian Affairs, 104th Cong. 256-261 (1996)* (statement of W. Ron Allen, President, NCAI).
- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 1997 Budget: Hearing Before the Senate Comm. on Indian Affairs, 104th Cong. 378-380 (1996)* (statement of NIEA).
- **The Navajo Area School Board Association (NASBA):** requested \$500,000 for the Navajo Nation's TED. *Fiscal Year 1997 Budget: Hearing Before the Senate Comm. on Indian Affairs, 104th Cong. 339 (1996)* (statement of the Navajo Area School Board Association).

FY 1998

For Fiscal Year 1998 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 1998 Budget: Hearing Before the Senate Comm. on Indian Affairs, 105th Cong. 189 (1997)* (statement of NIEA).
- **NARF:** requested \$3 million for TEDs on behalf of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of the Fort Berthold Indian Reservation. *Fiscal Year 1998: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations 8 (Mar. 19, 1997)* (on file with NARF).

FY 1999

For Fiscal Year 1999 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 1999 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 105th Cong. 124 (1998).
- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 1999 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 105th Cong. 160 (1998) (statement of NIEA).
- **NARF:** requested \$3 million for TEDs on behalf of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of the Fort Berthold Indian Reservation. *Fiscal Year 1999: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations 7-8* (Mar. 16, 1998) (on file with NARF).

FY 2000

For Fiscal Year 2000 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 2000 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 105 and 148-149(1999) (statement of W. Ron Allen, President, NCAI).
- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 2000 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 301 (1999) (statement of NIEA).
- **NARF:** requested \$3 million for TEDs on behalf of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of the Fort Berthold Indian Reservation. *Fiscal Year 2000: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations 7* (May 13, 1999) (on file with NARF).

FY 2001

For Fiscal Year 2001 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 2001 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 120 (2000) (statement of Susan Masten, President, NCAI).
- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 2001 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 223 (2000) (statement of NIEA).
- **NARF:** requested \$5 million for TEDs on behalf of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of

- the Fort Berthold Indian Reservation. *Fiscal Year 2001: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations* (April 2000) (on file with NARF).
- **The American Indian Leadership Program at Pennsylvania State University:** urged federal support for TEDs generally. *Fiscal Year 2001 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 270, 276-277 (2000) (statement by John W. Tippeconnic III, Director, American Indian Leadership Program, Pennsylvania State University).

FY 2002

For Fiscal Year 2002 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 2002: Testimony of the National Indian Education Association before the Senate Interior Subcomm. on Appropriations* 3 (May 2, 2001) (on file with NIEA).
- **NARF:** requested \$3 million for TEDs on behalf of the Rosebud Sioux Tribe, the Fort Peck Tribes, the Northern Cheyenne Tribe, and the Three Affiliated Tribes of the Fort Berthold Indian Reservation. *Fiscal Year 2002: Testimony of the Native American Rights Fund before the House Interior Subcomm. on Appropriations* 6 (2001) (on file with NARF).

FY 2003

For Fiscal Year 2003 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$5 million for TEDs. *Fiscal Year 2003: Testimony of the National Indian Education Association before the Senate Interior Subcomm. on Appropriations* 3-4 (Apr. 5, 2002) (on file with the NIEA).

FY 2004

For Fiscal Year 2004 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$1 million for TEDs. *Fiscal Year 2004: Testimony of the National Indian Education Association before the Senate Comm. on Indian Affairs* 13 (Apr. 5, 2002) (on file with NIEA).

C. Requests for Funding through the Department of Education

FY 1997⁴

For Fiscal Year 1997 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** urged the retention of the Office of Indian Education (OIE) discretionary grant programs generally, which include the authorization for TED funding through the Department of Education. *Fiscal Year 1997 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 104th Cong. 262 (1996) (statement of W. Ron Allen, President, NCAI).

FY 1998

For Fiscal Year 1998 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** urged the retention of the OIE discretionary grant programs generally, which include the authorization for TED funding through the Department of Education. *Fiscal Year 1998 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 104th Cong., 1997 WL 82243 (F. D. C. H. Feb. 26, 1997) (statement of W. Ron Allen, President, NCAI).

FY 1999

For Fiscal Year 1999 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 1999 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 105th Cong. 124-125 (1998).
- **NIEA:** urged the retention of the OIE discretionary grant programs generally, including the authorization for TED funding through the Department of Education. *Fiscal Year 1999 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 105th Cong., 1998 WL 892795 (F. D. C. H. Feb. 25, 1998) (statement of John Cheek, NIEA).

⁴ Until 1997, jurisdiction in the House of Representatives over appropriations for the Office of Indian Education (OIE) within the Department of Education was with the House Interior and Related Agencies Subcommittee. In 1997 that jurisdiction was transferred to the House Subcommittee on Labor, Health and Human Services, and Education. *See* H. R. Rep. No. 105-163, at 106 (1997). The addressing by tribes and organizations specifically of the Department of Education authorization for TED funding coincided with that transfer.

FY 2000

For Fiscal Year 2000 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 2000 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 105 (1999) (statement of W. Ron Allen, President, NCAI).
- **NIEA:** urged the retention of the OIE discretionary grant programs generally, including the authorization for TED funding through the Department of Education and requested \$3 million for TEDs. *Hearing on S. 1180, the Reauthorization of the Elementary and Secondary Education Act Before the Senate Comm. on Health, Education, Labor and Pensions*, 105th Cong., 1999 WL 382018 (F. D. C. H. June 10, 1999) (statement of John Cheek, Executive Director, NIEA).
- **NARF:** urged the retention of the authorization for TED funding through the Department of Education and requested \$3 million for TEDs. *Hearing on S. 1180, the Reauthorization of the Elementary and Secondary Education Act Before the Senate Comm. on Health, Education, Labor and Pensions*, 105th Cong., 1999 WL 382022 (F. D. C. H. June 10, 1999) (statement of Melody McCoy, Attorney, NARF).
- **NIEA:** urged the retention of the OIE discretionary grant programs generally, including the authorization for TED funding through the Department of Education and requested \$3 million for TEDs. *Hearing on H. R. 2 and H.R. 1960, the Reauthorization of the Elementary and Secondary Education Act Before the House Subcomm. on Early Childhood, Youth and Families*, 105th Cong., 1999 WL 528312 (F. D. C. H. July 20, 1999) (statement of John Cheek, Executive Director, NIEA).
- **NIEA:** urged the retention of the OIE discretionary grant programs generally, including the authorization for TED funding through the Department of Education and requested \$3 million for TEDs. *Hearing on S. 1180 and S. 2, the Reauthorization of the Elementary and Secondary Education Act Before the Senate Comm. on Indian Affairs*, 105th Cong., 1999 WL 983562 (F. D. C. H. Oct. 27, 1999) (statement of John Cheek, Executive Director, NIEA).

FY 2001

For Fiscal Year 2001 the President's budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 2001 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 232 (2000) (statement of NIEA).
- **NARF:** requested \$3 million for TEDs. *Fiscal Year 2001 Budget: Hearing Before the Senate Comm. on Indian Affairs*, 106th Cong. 268 (2000) (statement by Melody McCoy, NARF).

FY 2002

For Fiscal Year 2002 the President’s budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 2002: Testimony of the National Indian Education Association Before the House Subcomm. on Labor-HHS-Education Appropriations* (Mar. 14, 2001) (on file with NIEA).

FY 2003

For Fiscal Year 2003 the President’s budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NCAI:** requested \$3 million for TEDs. *Fiscal Year 2003: Testimony of the National Congress of American Indians before the House Subcomm. on Labor-HHS-Education Appropriations* 4 (2002) (on file with NCAI).
- **NIEA:** requested \$1.3 million for TEDs. *President Bush Submits Fiscal Year 2003 Budget* (Feb. 4, 2002) (Press Release of NIEA).

FY 2004

For Fiscal Year 2004 the President’s budget did not contain any request for direct funding for TEDs. The following organizations testified as follows.

- **NIEA:** requested \$3 million for TEDs. *Fiscal Year 2004: Testimony of the National Indian Education Association before the Senate Comm. on Indian Affairs* 3 (Apr. 5, 2002) (on file with the NIEA).

4. Tables Showing Major Organizational Requests

Table 1 – Requests for Funding through the Bureau of Indian Affairs 37

Table 2 – Requests for Funding through the Department of Education 38

Table 1

FY 1989-2004 Funding Requests for Tribal Education Departments (TEDs) through the Bureau of Indian Affairs (25 U.S.C. Sec. 2020)

<i>Amount Requested by:*</i>						<i>Amount Appropriated</i>
<i>Budget Year</i>	<i>NCAI</i>	<i>NIEA</i>	<i>NARF</i>	<i>BIA</i>	<i>President</i>	
<i>FY 1989</i>	-----	-----	-----	\$0.00	\$0.00	\$0.00
<i>FY 1990</i>	-----	-----	-----	\$0.00	\$0.00	\$0.00
<i>FY 1991</i>	-----	-----	-----	\$0.00		\$0.00
<i>FY 1992</i>	-----	-----	-----	\$0.00	\$0.00	\$0.00
<i>FY 1993</i>	\$1.2 Million	\$2 Million	\$225,000 for Rosebud Sioux Tribe	\$0.00	\$0.00	\$0.00
<i>FY 1994</i>	-----	\$2 Million	\$225,000 for Rosebud Sioux Tribe	\$1.5 Million†	\$0.00	\$0.00
<i>FY 1995</i>	-----	\$2 Million	\$225,000 for Rosebud Sioux Tribe	\$0.00	\$0.00	\$0.00
<i>FY 1996</i>	-----	\$3 Million	\$225,000 for Rosebud Sioux Tribe	\$500,000	\$500,000	\$0.00
<i>FY 1997</i>	\$3 Million	\$3 Million	\$3 Million	\$0.00	\$0.00	\$0.00
<i>FY 1998</i>	-----	\$3 Million	\$3 Million	\$0.00	\$0.00	\$0.00
<i>FY 1999</i>	\$3 Million	\$3 Million	\$3 Million	\$0.00	\$0.00	\$0.00
<i>FY 2000</i>	\$3 Million	\$3 Million	\$3 Million	\$0.00	\$0.00	\$0.00
<i>FY 2001</i>	\$3 Million	\$3 Million	\$5 Million	\$0.00	\$0.00	\$0.00
<i>FY 2002</i>	\$5 Million	\$3 Million	\$3 Million	\$0.00	\$0.00	\$0.00
<i>FY 2003</i>	-----	\$5 Million	-----	\$0.00	\$0.00	\$0.00
<i>FY 2004</i>	-----	\$1 Million	-----	\$0.00	\$0.00	\$0.00

* The first three columns of this table show requests by three major Indian organizations: the National Congress of American Indians (NCAI), the National Indian Education Association (NIEA), and the Native American Rights Fund (NARF).

† The BIA initially requested \$1.5 million for TEDs; which request the Interior Department reduced to \$1 million. The request was ultimately zeroed out by the Office of Management and Budget.

Table 2					
<i>FY 1997 - 2004 Funding Requests for Tribal Education Departments (TEDs) through the U.S. Department of Education (20 U.S.C. Sec. 7455)</i>					
<i>Amount Requested by:*</i>					<i>Amount Appropriated</i>
<i>Budget Year</i>	NCAI	NIEA	NARF	President	
<i>FY 1997</i>	no specific amount†	-----	-----	\$0.00	\$0.00
<i>FY 1998</i>	no specific amount†	-----	-----	\$0.00	\$0.00
<i>FY 1999</i>	\$3 Million	no specific amount†	-----	\$0.00	\$0.00
<i>FY 2000</i>	\$3 Million	\$3 Million	\$3 Million	\$0.00	\$0.00
<i>FY 2001</i>	-----	\$3 Million	\$3 Million	\$0.00	\$0.00
<i>FY 2002</i>	-----	\$3 Million	-----	\$0.00	\$0.00
<i>FY 2003</i>	\$3 Million	\$1.3 Million	-----	\$0.00	\$0.00
<i>FY 2004</i>	-----	\$3 Million	-----	\$0.00	\$0.00

* The first three columns of this table show requests by three major Indian organizations: the National Congress of American Indians (NCAI), the National Indian Education Association (NIEA), and the Native American Rights Fund (NARF).

† In their testimonies for these Fiscal Years, NCAI and NIEA urged the retention of the authorization for TED funding, but did not request a specific funding amount. *See, e.g., Fiscal Year 1997 Budget: Hearing Before the Senate Comm. on Indian Affairs, 104th Cong. 262 (1996) (statement of W. Ron Allen, President, NCAI).*