



Office of Elementary and Secondary Education (OESE)

Office of Indian Education (OIE)

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION (NACIE)

PUBLIC MEETING

The meeting convened in the Discovery Room of the Holiday Inn Washington Capitol, 550 C Street, SW, Washington, DC, 20024 on May 2, 2012 at 8:42 a.m., Thomas Acevedo, Chair, presiding.

NACIE MEMBERS PRESENT

THOMAS ACEVEDO, Chair

THERESA AREVGAQ JOHN, Member

GREG ANDERSON, Member

ROBIN BUTTERFIELD, Member

DEBORAH JACKSON DENNISON, Member

SAM MCCRACKEN, Member

MARYJANE OATMAN WAK WAK, Member

STACY PHELPS, Member

S. ALAN RAY, Member

ALYCE SPOTTED BEAR, Member*

VIRGINIA THOMAS, Member

PATRICIA WHITEFOOT, Member

*Participating via teleconference

FEDERAL PARTICIPANTS

LAURA JIMENEZ, Special Assistant, Office of Elementary and Secondary Education

JENELLE LEONARD, Designated Federal Officer (DFO)

MARGARET LEVY, Budget Analyst, Office of Planning and Evaluation

BILL MENDOZA, Executive Director, White House Initiative on American Indian and Alaska Native Education

JOYCE SILVERTHORNE, Director, Office of Indian Education

MICHAEL YUDIN, Deputy Assistant Secretary of Office of Elementary and Secondary Education

ALSO PRESENT

BESSIE ALLEN, School Board Member, Pinon School District, Arizona

BRENT GISH, Executive Director, National Indian Impacted Schools Association

LES MONRO, Facilities Director, Browning Public Schools, Montana

SUSAN SMIT, Superintendent, Wagner Schools, South Dakota

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P-R-O-C-E-E-D-I-N-G-S

(8:42 a.m.)

CHAIR ACEVEDO: We'll officially open the meeting of the National Advisory Council on Indian Education for Wednesday, May 2nd, 2012. Let's establish a quorum. I'll read off the names.

And please remember to hit your button and say your name for the record when you are speaking. That will assist Jason and Eric over there that are recording this meeting for our purposes.

With that, I'll start with Greg Anderson.

MEMBER ANDERSON: Present.

CHAIR ACEVEDO: Theresa John?

MEMBER AREVGAQ JOHN: Present.

CHAIR ACEVEDO: Robin Butterfield?

MEMBER BUTTERFIELD: Present.

CHAIR ACEVEDO: Deborah Jackson Dennison?

MEMBER JACKSON-DENNISON: Present.

CHAIR ACEVEDO: Sam McCracken?

MEMBER McCRACKEN: Present.

CHAIR ACEVEDO: Stacy Phelps?

MEMBER PHELPS: Present.

CHAIR ACEVEDO: Alan Ray?

MEMBER RAY: Here.

CHAIR ACEVEDO: Virginia Thomas?

MEMBER THOMAS: Present.

CHAIR ACEVEDO: MaryJane Oatman Wak Wak?

MEMBER OATMAN-WAK WAK: Present.

CHAIR ACEVEDO: Patricia Whitefoot?

MEMBER WHITEFOOT: Present.

CHAIR ACEVEDO: With that we have a quorum. I'd like to open now with the approval of the agenda for the meeting.

MEMBER WHITEFOOT: So moved.

CHAIR ACEVEDO: It's been moved by Patricia. Patricia, please state your name for the record.

MEMBER WHITEFOOT: Patricia Whitefoot. I make the motion to approve the agenda.

CHAIR ACEVEDO: Second? Do I hear a second?

MEMBER THOMAS: Virginia Thomas, second.

CHAIR ACEVEDO: Thank you. It's been moved and seconded. We approve the agenda for this meeting of the National Advisory Council. All those in favor of the motion --

MEMBER BUTTERFIELD: Can we have some discussion please?

CHAIR ACEVEDO: Discussion.

MEMBER BUTTERFIELD: I see that the Bill Mendoza piece has been moved up, but I am concerned about the amount of time allotted to it. I just think, given what we had on the conference call, we may need more time.

CHAIR ACEVEDO: Additional, how much more are you asking for?

MEMBER BUTTERFIELD: I'd like at least 15 more minutes. I don't know how tight our agenda is, but --

CHAIR ACEVEDO: Any objection to the additional of additional 15 minutes?

(No response)

CHAIR ACEVEDO: Hearing none, we will go forward. Thank you. Any other discussion on the agenda? State your name.

MEMBER BUTTERFIELD: This is Robin Butterfield. I also did not see on here any maybe follow-up to the conversations that we have had about the labs and centers and technical assistance.

We had a conversation about trying to get more Indian TA and I just want to know where that is, if we could get, if not today, maybe by tomorrow, some feedback on what happened with that competition and how they are thinking about how they are going to reach out to Indian country, that would be really helpful.

MS. LEONARD: Mr. Chair, I will reach out to the people who have responsibility for that, to see if they are -- see when they are available to come over tomorrow.

If they give me a time when they are available, is it possible, during the business meeting, if you could come up with these?

CHAIR ACEVEDO: Yes we could.

MS. LEONARD: Okay.

CHAIR ACEVEDO: All right. Are there any other requests?

Hearing none, call for a question, all of those in favor of the motion to approve the agenda, as amended?

Signify by saying "aye."

(Chorus of ayes)

CHAIR ACEVEDO: All those opposed?

(No response)

CHAIR ACEVEDO: Hearing none, the motion is carried. With that, let's start with -- do we have Bill here today? Is Bill here?

MS. LEONARD: Bill is supposed to be here. We have been looking for him. We could call his office and see where he is. He was in -- he was planning on being here. Actually, Deborah you all talked to him yesterday?

MEMBER JACKSON DENNISON: No, I didn't talk to him I left him a text message and a phone message and he never got back.

PARTICIPANT: Mr. Chair, would you ask the subcommittee --

MEMBER JACKSON-DENNISON: Thank you, this is Deborah Dennison speaking. I am Chair of the subcommittee along with my subcommittee, Virginia, also Greg and Patricia felt it was very necessary to move Bill Mendoza up to better understand the White House mission.

His role, as we work towards our report and -- we are concerned that we are not leaving things out, as we discussed in the session this morning about the roles and responsibilities of Mr. Mendoza as well as other people.

MS. LEONARD: Mr. Chair I failed to mention that more people, more council members said that they would be joining in, and Gary Bailey is in Arizona. He has a speaking engagement but he did indicate that when available, he would dial into the 800 number so we do have that 800 number going on, because I can say that he was at the 800 number available all day, each day.

Wayne Newell also indicated that while he couldn't physically travel, that he would simply join in on the conference call. So he may be on as well.

Alyce Spotted Bear has a scheduling conflict as well but she did say that she would be happy to join in. So they are not saying that they will be on the full eight hours of full conference meetings, but when the opportunity presents itself they will.

And Dr. Ray was going to be with us today and to the extent that he can join in tomorrow, he is going to also call in. I think I've covered everybody.

PARTICIPANT: I have a question on the committee, it is my understanding that Robert resigned --

PARTICIPANT: He did.

PARTICIPANT: So what is the process then?

PARTICIPANT: So Robin, once Robert resigned --

MEMBER BUTTERFIELD: Yes. He immediately let the folks at White House liaison office know, they need to get with the office of presidential personnel so they are aware that they have a vacancy on the NACIE and our office and the White House liaison's office which is within the Office of the Secretary, we have weekly meetings with the office of personnel and as of this week, so far they haven't indicated, you know, who or when they'll replace Robert, but I can keep you posted and I'll be going and forth over to the department today, so we might have some information for you later tomorrow.

CHAIR ACEVEDO: Welcome we have with us this morning Bill Mendoza, the Director of the White House Initiative on American Indian and Alaska Native Education.

With that, we are prepared to hear from you, Mr. Mendoza.

MR. MENDOZA: Thank you Chairman, I appreciate it. Thank you NACIE Board members for being here today. It's privilege to be among you again.

(Pause.)

MR. MENDOZA: I apologize for my tardiness this morning --

COURT REPORTER: Can you turn the microphone on?

MR. MENDOZA: And nor did my six year old or my three year old. We remain, in response to the President's Executive Order, where there has been a whirlwind of activity around the joining of two agencies, in particular the Department of Education and the Department of the Interior, and we have since our last conversation, been able to set consultations regarding the Memorandum of Understanding between the agencies.

So the bulk of my report to you all here today will rest upon what we are doing in regards to that Memorandum of Understanding, and I'd sure be interested in any feedback that you might have and then I will follow with what we are doing with the initiative.

You should have before you a copy of my remarks that I will be delivering you today in response to Board Member Butterfield's request to provide written reports. I want to do everything that I can to meet that expectation.

And so this is an effort in that regards. The Department of Education and the Department of Interior -- Bureau of Indian Education, are revising the agencies' 2005 Memorandum of Understanding in order to: 1) implement Executive Order 13592, which established the White House Initiative on American Indian and Alaska Native Education, and 2) make needed updates to provisions that apply to the transfer of funds to BIE under the Elementary and Secondary Education Act of 1965, as amended and the McKinney-Vento Homeless Assistance Act of 1987 as amended. The two agencies are consulting with American Indian and Alaska Native tribes on the final content of this new Memorandum of Understanding.

Section III of the draft MOU outlines a strategy for the agencies' joint efforts under Executive Order 13592. The White House Initiative reflected in the EO focuses on improved outcomes for Indian students, including opportunities to learn native languages, cultures, and histories, and to receive a complete and competitive education that prepares them for college and career, so they may enjoy productive and satisfying lives. The EO establishes a framework through which ED, BIE, and other federal agencies will work together, in consultation with the National Advisory Council on Indian Education and tribal officials, to achieve these goals.

On January 19th, 23rd, 25th and February 16th, the Department of Education and BIE held four tribal leader roundtables with tribal leaders and other education stakeholders to discuss the state of Indian education. These roundtables confirmed that tribal leaders and educators alike are concerned about the current system for educating Indian children.

In addition those who live in Indian Country know that the education problems that tribal education departments and communities face are not recent developments.

Thus, the initiative will begin to address these issues through the following objectives for elementary and secondary education:

Increasing the number and percentage of Indian children who enter kindergarten ready for success through improved access to high quality early learning programs and services;

Supporting the expanded implementation of education reform strategies that have shown evidence of success;

Increasing the number and percentage of Indian students who have access to excellent teachers, school leaders, including effective science, technology, engineering and mathematics, language and special education teachers;

Reducing the Indian student dropout rate;

Helping to ensure that the unique cultural, educational and language needs of Indian students are met.

The initiative will also work to address the following objectives for post-secondary and adult education:

Providing pathways to enable Indian students who dropped out of school to reenter educational or training programs and acquire degrees, certificates or industry recognized credentials;

Increasing college access and completion for Indian students through strategies to strengthen the capacity of postsecondary institutions.

Section III.A. of the MOU addresses BIE and ED's establishment of a BIE-ED committee to jointly work on these objectives. Both BIE and ED are concerned about instances in which BIE-funded schools have not spent ED funds in accordance with legal requirements in ED statutes or have excessively large balance of unspent funds, because the students are not receiving the needed services to which they are entitled.

Among other things, the committee would explore resolution of any statutory and other barriers to BIE's ability to monitor and enforce compliance with respect to the funding ED provides to BIE for BIE-funded grant and contract schools.

The committee will also examine funding and BIE status as an SEA under ED statutes.

Section IV of the MOU and the Appendix contain programmatic details that apply to the transfer of funds from ED to BIE for BIE-funded schools under ESEA and McKinney-Vento Act.

The programs covered in the new draft MOU are listed below. Most of the language regarding these programs tracks the existing MOU executed in 2005 after tribal consultation.

However, this language also contains several additions: 1) a statement regarding the ability of BIE-funded schools to apply for ED discretionary funds in part IV.B.2; 2) a statement regarding

ED's expectations with regard to BIE oversight of ED funds, in section IV.B.4.b; and 3) a statement regarding BIE's submission of data to ED, in IV.B.6.

And it is my understanding that you all have a copy of the Memorandum of Understanding in your packets, and that document was public as a result of the Federal Registry notice for the consultations that we are doing beginning May 18th, 24th, 31st and June 5th, beginning in -- we start out -- remind me Joyce, where are we on May 18th?

MS. SILVERTHORNE: Thunder Valley.

MR. MENDOZA: Thunder Valley, Lincoln, California, and then we go to Flagstaff, Nashville, Tennessee, and then Bloomington, Minnesota. It was important to me to do that.

So I think before I move on to the initiative activities, let me see if there are any questions, if --

CHAIR ACEVEDO: Are there any questions of Bill?

MEMBER BUTTERFIELD: Since you have the tribal leader roundtables, are you going to present to us a summary of the input that you received on that?

MR. MENDOZA: That is correct. We are in the process of working with the Department of Interior and analyzing those roundtables as well as a whole host of other sources including our urban Indian listening and learning sessions, the tribal consultations that were done in 2010, and then also, the tribal leaders' speak that derived from their -- and we are also including into there NACIE's recommendations for those subsequent years, FY '10, '11 and soon to be FY' 12.

So a part of that is, you know, what speaks directly from those roundtables to the Memorandum of Understanding, and if it doesn't then what is the appropriate way for us to be addressing that in Indian Country? I think there is a vested interest, of course, from NACIE as an advisory board to, actually in the future, as advisory board to the initiative, and then how that plays out with their strategic activities. So we will be reporting back on that at a later time.

MEMBER BUTTERFIELD: Can you give us a timeline on that?

MR. MENDOZA: I would imagine that we can devote full attention to that upon the completion of the consultations and that effort has been ongoing, so we have some drafts right now that are going back and forth from the agencies, that regard an executive summary of that.

CHAIR ACEVEDO: Patsy.

MEMBER WHITEFOOT: Yes, Mr. Chairman. Mr. Mendoza mentioned we have the MOU -- the MOU we have is the Departments of Interior with the Bureau of Indian Affairs -- Office of Indian Services, for Indian self-determination contracting. I don't think we have the draft MOU between the Department of Education and the Department of Interior.

MR. MENDOZA: That is correct. This is the 2005 MOU so we will provide you with the correct Memorandum of Understanding, the current one. I am guessing that this was just a mix-up, that we wanted to provide the original Memorandum of Understanding and the current one. We will provide that as soon as possible.

MEMBER WHITEFOOT: Thank you.

MEMBER JACKSON DENNISON: Good morning Bill, and thank you. Good morning and thank you for your report. I also have a couple of recommendations or, I guess, questions, as to how communications need to be improved in these roundtables. As we know, as I know in my area, Arizona, and I see you are going to Flagstaff thank you for doing that, 85 to 90 percent of Indian children attend public schools. There has been some concern that at these roundtables we don't have representation from that category, I'd like to see a way to better communicate to the public schools to attend such roundtable discussions so that we can have input from those people as well. Thank you.

MR. MENDOZA: I appreciate it. If I may, Member Jackson, we do, through Title VII, through Impact Aid, in terms of any of our functions, whether they are roundtable listening and learning sessions, and/or official consultations, utilize our list serves as well as list serves of any agencies that we partner with, in this case the Department of Interior, to make sure that we are casting as far of a net that we can.

And so I just want to give you that assurance, in that you know, we are trying to reach out to those individuals, and this is a new process even for the agencies you know, to be trying to rope in all of these stakeholders that have a vested interest in this work, and so it is going to take some education, and that's the work that I am really excited about, is how can we begin to -- where they don't

exist, is build those systems where we have support, say, from -- stronger support from our Title VII directors and our Impact Aid, you know, personalities within our schools, looking of course over at some of our other programming and bringing those people together within either geographic areas, you know, cities, you know, whatever makes sense for those communities because, you know, take Wisconsin. I just came back from Wisconsin, and they have of course Milwaukee and Madison, you know, but in between, there in the triangle of where some of the tribes are housed there, you know, there's some very significant geographical challenges to their regular communication with one another.

But you know, they do have a system in place there, where it might work better for them, but might not be the case in, say, a New Mexico, where there is a large consolidation of tribes.

So we are trying to look at those, you know, as best as we can, and of course get as much information from those regions as to how we can better communicate, and structure events that meet their needs.

MEMBER OATMAN-WAK WAK: I appreciate that comment. I think a part of it is, a large part, just in my reflection on the one that I did get in Washington it's kind of the will of whose communities that we are in.

I know the Commissioner from the state of Alaska came all the way down to that Sheldon consultation, because it was urged from his communities that he must attend.

We were in Washington state, and the office of public construction for the state of Washington did not show up, so I think it's really -- it behooves us to kind of do that outreach as well, within our local networks and communities, to do that outreach.

But I am just wondering, as I was glancing at this old, outdated version of the MOU with the BIE and the BIA, Office of Indian Services, how much this is going to be impacted with the development of this new Memorandum of Understanding, and if there is going to be unanticipated roadblocks and hindrances with the self-determination contracts as they sit in the BIE Office of Indian Services, because in my communications with anybody within the Bureau of Indian Education, for this function that we see with unspent funds having nothing to do with the U.S. Department of Education, it has to do everything to do with the internal correction, embezzlement, and misappropriation of funds within the office of -- Bureau of Indian Affairs before you even get to the Bureau of Indian Education.

MR. MENDOZA: I think there is a lot of -- if you talk to Director Moore -- I am not sure if he is slated to present to the body this time -- he will discuss in depth, just because I know our proximity to one another in respect to response for the Executive Order, speaks to severe governance concerns, inefficiencies that, you know, he is working hard at trying to address, and you know, the same kinds of issues that we heard from the consultations plague him, you know, the notion that he is solely administering the Bureau of Indian Education is one that takes -- needs to take further examination.

There are numerous funding streams, numerous governance issues, of which they are working to address on their end. But we also have, you know, concerns on the ground as well.

When we look at growth and gain of students and especially outcomes of our students as we look across the country, just taking a full sloop of that kind of experience and some of the information that we have right now, we almost see an inverse relationship of you know, what we perceive as Indian control, if you will.

The worse the growth in gain and outcomes get, the more we have in terms of just sheer phenotype because I know these schools: tribal grant schools, for all intents and purposes, are Indian schools.

There are Indian people that are, are you know, teaching those classes, and to some degree, as you know, they are in leadership positions. We all know the challenges that plague our communities in that respect.

But we have some kitchen table issues to work out in terms of just the implementation of the dollars that we get in the name of Indian students, and that is beside the point, though, that there are some concerns that, you know, from the Bureau of Indian Education structure, you know, how can they work to be more efficient.

And what I am excited about this Memorandum of Understanding, a leap forward from 2005 is that we now have mechanisms for regular communications with the -- at the director level, with the Bureau of Indian Affairs, to be able to engage in substantive policy issues here, so that we can inform, from the expertise of Department of Education, as to you know, recommendations and certainly, collaborations about how we can help one another to bridge those concerns.

CHAIR ACEVEDO: Thank you Bill. Virginia?

MEMBER THOMAS: I had some comments here. If you can hear me? I agree with Robin. I think we need to see the -- we need to see the new MOU, the existing one, now, and I think it should be in our hands before they have the new community meetings on what's going on, because if we are going to be responsible to our communities, they should know what's in this MOU and the discussion should be based on that too, because I have some concerns in finding out what the testimonies from the last roundtables were, because you know, there is that -- rumors out there, because in this MOU it talks about the funding going from the Department of Ed over to the Bureau, and now there is discussion of the Bureau funds coming the other way, regarding different programs, which includes JOM, higher ed, college, tribal colleges, and it's part of the -- the unspent funds and it affecting the programs and how well the Bureau has been able to deal with these.

So I am more concerned about what the MOU is saying about it if the funds are going to -- if the programs are -- the talk about the programs moving back over to the Department of Ed, you know, and combining it, and I'm worried about the issues of Title VII and JOM, is my concern.

But I think we need to find out what is in that MOU, because I have never seen this current one. I don't know if anybody has. I haven't seen it, and I'd like to see it, because I know there was some changes because when I talked to Michael about a month or so ago, they were still in another redraft of things, and they still weren't getting it out. So I don't know how close we are now to getting the -- the --.

MS. SILVERTHORNE: I apologize that we have the older MOU in here, but it's nice to also see that, and we have the new one for you. We are working on it right now, to get copies as -- right away.

MR. MENDOZA: No, there was certainly a lot there, and one of the things that I just want to speak to is that in the MOU, there are specific ESEA programs that are addressed in there, and there is nothing other than those programs that are involved in this.

But certainly the mechanism of the joint meetings between the Department of Ed, the joint task force if you will, it's not even a task force, just a working group actually, I just misspoke there, a working group, that's where we will be engaging in those types of conversations, and you know you know all too well the differences between Johnson O'Malley and Title VII and the interests that they represent, and so those conversations are always approached delicately.

CHAIR ACEVEDO: Robin.

MEMBER BUTTERFIELD: First of all a request just to have the dates of the roundtables on the record. But my question -- I guess, first I want to impress with just a comment is I understand that you know, the Executive Order has to start somewhere, and working on an MOU with the BIE is certainly a place to start and there was, as we all know, lots of room for improvement in terms of the relationship between the BIE and the Department of Ed.

But the larger question, and maybe you are getting to this in your report, is what is the strategy of the President's Executive Order to deal with the larger majority of Indian children who are not within the BIE system?

And that continues to be a concern of a lot of folks, and I think it was part of what Deborah was alluding to: there's a lot of confusion in Indian Country, when you ask for you know, hearings, or whether you call them tribal leader roundtables. Now we have got these consultations on the MOU.

So it sounds like there's a lot of opportunity to collect information from Indian Country. But I guess what I am looking for in terms of strategies in the Executive Order, is what is going to be proposed that's new and different on how to impact 93 percent of this native children out there, and children beyond the tribal college reach, which I understand is about 80 percent of our higher ed needs, you know, for Indian children, is we need to be thinking a little more globally and impacting those decision makers perhaps at the state level; where's the consultation that would involve state-level policymakers, state departments of education, that work with all of our Indian children?

You know, I come from being the director of Indian Ed for Oregon. We have nine federally-recognized tribes in the Chemawa Indian School, which is the only BIE school in the state, so that means that all the time and effort spent on this MOU between the Department of Ed and the BIE has virtually no impact on Oregon's native children.

And so you know I feel like I'm kind of a broken record here, but I have a lot of hope, in that this Executive Order is ratcheting up attention on Indian education, but the strategies that we are employing don't seem to be moving in the direction to, you know, have a larger impact. So that's my concern and maybe you are getting to those strategies.

MR. MENDOZA: No, I totally respect, understand, and just to serve as encouragement to you, you know, you are not sounding like a broken wheel. It is a tremendous dynamic that, for -- you have heard me talk on numerous occasions that this is a crisis that we are in from the national standpoint of tribes looking at our nationality. That is after all the lens of which we all look through ourselves, is that we have a unique existence in this country, we have a unique relationship with not only the federal governments, but in many cases, states within this union.

And so how are we strengthening that connection is critical to the health and well-being of us as Indian people, and the ability for us to maintain those programs that do impact our communities, of which, you know, I would imagine that Johnson O'Malley is a critical fund to Oregon schools, Title VII is also critical there, and you know, what are we doing to strengthen up those in addition to the wraparound services that we see across the country that are in the name of Indian students, is a part of what we are really looking at right now.

And you know, as you know, just as we have all been talking about in education for now generations, there's not easy answers to this otherwise it would have been fixed in say, an environment of greater resources, a time of greater political, you know, ability to act upon those necessary steps.

So you know, we are approaching this from the standpoint of how do we lead those two voices? One, the trust responsibility is by and large, when you talk to agency officials here, when you talk to members of Congress, is looked at through the often myopic lens of the Bureau of Indian Education and the Bureau of Indian Affairs.

That trust responsibility rests there within the Department of Interior. So our strategy has been, you know, how do you address that misinformation, that mis-education if you will, in regards to how we are dealing with these dynamics at not only the senior leader level, but also at the programmatic level in terms of educating personnel on those differences that -- and I dramatize it a bit, and you have heard this before from me as well, too: we do not -- our students do not check their sovereignty when they enter the door of any institution within this country. They are still Indian students connected to their tribes.

So to address, you know, the momentum of these roundtables, and I'll state for the record what those roundtable dates and locations were, as well as the -- as well as the upcoming consultations at the conclusion of my remarks.

But the approach has been to one, engage the absent voice in those conversations -- tribal leaders -- that without their support, their full understanding of these issues, when they get the seats with those senior leaders, whenever they get the conversations with those Congressional members, we are not going to be able to impact any of those funding streams that we rely upon for that 90 percent of students that are not reached by the Bureau of Indian Education, or tribal colleges and universities, you know, of which account for only about 75,000 of our students.

So you know, in moving forward in that direction, we have some very critical questions to be analyzing carefully, and it starts, one, with the soundness of the data that we have; how, from the census to the National Center for Education Statistics, to our own National Indian Education study, are we in alignment or disalignment with trying to reach the President's approach to us, which is cradle to career, leading of course full force with that 90 percent as being a critical issue here.

We see how problematic, from the census to our own race guidance within the Department of Education, how we may not be doing an adequate job of identifying our students.

And so then becomes the question of you know, if it's not at the program level, Title VII and Johnson O'Malley, that we can reach those students, and as critical as those programs are, we know that there are issues there, that they are not reaching students in a meaningful way to create an environment where they feel safe and welcome and are able to engage in learning that is meaningful to them in both worlds, if you will.

What do we put in its place, is the next question. Does that rest within the some 27 urban Indian and listening and learning -- urban Indian centers around the country?

And we all know that there is a whole spectrum of how those urban Indian centers are strengthened in terms of capacity. You know, those are some questions. What are we working with here? Are we working at the school level? We already spoke to kind of our disorganization if you will at the state level, and the geographic level, as to state Indian education educators. They are another critical component to this. How are we engaging them to have better connections to LEAs?

So you know, those are some of the things that we are looking at, and we are -- the direction that it's heading is how can we create something new, that brings together Title VII, brings together Johnson O'Malley in alignment, and we are really looking at how Indian -- urban Indian centers can play a role in that.

But those 27, that's not going to reach places like Milwaukee. It's not going to reach places like maybe Denver or something like that. So --

MEMBER BUTTERFIELD: Just to follow up, I guess what I'm looking for is something that's a little more comprehensive and impactful. So you are basically working right now with the bureaus in the structure for schools. The infrastructure that impacts public education is your departments of education. It's beyond Title VII. It's beyond Johnson O'Malley. We are talking about the program of the public school systems.

You know, I know for example, that every state department, to receive their federal funds, has to develop a statewide, comprehensive plan. Why couldn't we ask for those comprehensive plans to include having a state-level consultation with native schools, both urban and reservation, and include their policy recommendations for what they are going to do differently, the impact the education of native children, you know, from a state level.

So, even though the U.S. Department of Ed can't mandate, I mean, they do have those comprehensive plans, and when I worked at the state department, you know, we had conversations that if you don't have a live, warm body of somebody who has that at the forefront of their agenda, then it often gets ignored.

So I'm thinking of what other policy recommendations can be made that impact education more globally, and I'm looking for, so we are going to do the BIA piece here, we'll produce these summaries of the impacts that are here, I mean, where's the journey, where's the long-term thought in terms of concrete things that might make a difference? That's what I'm asking.

MR. MENDOZA: Yes, no, I appreciate it, and those are the substantive conversations. You know, it all boils down to, in my opinion, consultation, you know how are we redefining the notion of consultation to get beyond just meaning conference.

And that's essentially what you are talking about. And that is something that we, on a daily basis, that work with these Indian education programs, are looking at every single program, whether or not it's Impact Aid, whether or not it's Title I, whether or not it is, you know, the recent flex, you know, applications, is how are we including tribal voice into those conversations?

But again, it's a -- it rests upon tribal leadership. And so, you know, that recent approach to, you know, aligning with, and ensuring that the Bureau of Indian Affairs, Bureau of Indian

Education are in mutual understanding with us, we can't even engage in those conversations with states.

Just as much as it's not the federal government's role to, you know, overreach the bounds of authority in tribal government affairs, we deal with those dynamics in terms of states as well.

And we also employ the use of the interagency working group, from all the federal agencies, and that's where we get at the substantive level of changing regulation, of changing statute where appropriate, to get at some of the key components that you said, to require, instead of provide guidance to some of those key areas that we need.

And this work is always driven by actors, you know, the policy actors in this, and in many cases, when you go to the states and you talk to the chief state school officers, you know, they say this is the charge of the state director, to be working at this at the state level, and the state directors will say, well, we are not getting engagement from the tribes on this issue, tribal leaders if you will, to provide us with guidance on this.

And when we do have an interest from those two entities, those actors, then we hear about the LEA issues and not being able to get LEA engagement.

So again, it boils down to education and it boils down to consultation and it has to be a tremendous amount of infrastructure in place to even be able to broach those conversations, and that's what we are trying to do with the work of the interagency working group, which has voices from all 32 federal agencies, and implementation teams within those agencies, as setting out continuous measures that take us beyond administrations, beyond political turnover, and then we are also working, of course, on the political side, through this Memorandum of Understanding and the policy side, through the joint working group, with the Department of Interior, to lead with that trust, responsibility and tribal leader voice.

We have consistently, throughout this whole process, worked with educators, worked with American Indian -- working with the National Indian Education Association, AHEC, NCAI and all the stakeholder representation that's through that, and communicated with everybody in between in terms of our roundtables and our consultations.

But it's a process.

CHAIR ACEVEDO: Virginia.

MEMBER THOMAS: Bill, I appreciate the wealth of comments that you have, and I keep hearing you talking about the roundtables and the tribal leadership comments, but I hope you also really look at the grassroots people's comments that were actually there.

I attended the one in Oklahoma and we did have a few tribal leaders that showed up, but the bulk of the people there were the hands-on people that were working in the trenches.

And I hope their conversation and their testimony would be just as important, you know, to your task force, is that what you call it?

MR. MENDOZA: Yes.

MEMBER THOMAS: So that you could review that and that it goes on record to what they say, because a lot of the tribal leaders, you know, they really depend on the people that they -- their programs are working with, and if they are not educated in what's going on -- and we could -- we ended up the whole tribe would reevaluate, instead of just, you know, a few of the programs.

And so they have to make sure that those grassroots people's comments are really heeded because they are really holding the lives of our children and they know first hand exactly what is going on in the schools and how better to improve the dynamics of the educational leads of those children, so appreciate that.

MR. MENDOZA: Thank you. Okay, I just want to respond real quick, that a part of our new strategy with consultations has been to look at access points. How can we provide written, how can we provide telephonic? That was certainly the case that we were fortunate to be able to accomplish that for the roundtables, you know, and that is something that we are going to continue to encourage, is that when we are pressed up against time, and we always have these constraints and largely they are time constraints, you know, we are trying to get something out by an appropriate deadline, whether or not it's the Federal Registry notification, whether or not it's, you know, other policies that kind of dictate adequate notice of this, you know, we are always pushed up against some kind of deadline or get the money out by FY '12 or something like that.

You know, where are we doing that, how are we providing multiple means for people to communicate with the department, with the initiative?

And so we are going to try to continue to encourage and institutionalize that process as a part of the way we do business now.

CHAIR ACEVEDO: Mary Jane.

MEMBER OATMAN-WAK WAK: Thanks for your update and report Bill. I really do hope that everybody gets this Memorandum as soon as possible. It's a fourteen page Memorandum of Understanding, very intricate.

But I have to echo the concerns that Robin had brought up, in terms of, you know, as we approach this and do something anew, and look at how we can kind of streamline and be efficient, bringing 565 voices that are representative of those communities to the table, very ambitious, it's a very ambitious goal.

But I feel like mission failed from the get go, because I have to represent -- articulate and speak for the people, just like Virginia had brought up.

I know my treaty. I know it very well. And the Nez Perce Tribe does not have treaty rights. I do as an individual, as an Indian.

And so as we think about how we pursue this, and we look at how we bring into the fold these, you know, 1940s and 1950s, circa, tribes, you know, and they are in their infancy as well, they are flailing a bit, in many circumstances across the nation, and when we look at how these consultations take place and who is at the table, those tribes that have always had the least amount of resources, and that are struggling the most, are still the voices that are not heard at these consultations and roundtables, and so I fear, and have major concern that this MOU is being driven by a very small but very voicy tribal constituency across this country, that is not representative of treaty Indians or the trust responsibility that -- I think I might have heard it earlier but please correct me if I'm wrong -- was implied that only the Department of Interior has that trust responsibility.

I beg to differ. If the Department of Education is educating over 90 percent of our children, they inherit that trust responsibility as a federal agency.

CHAIR ACEVEDO: Any comment to that?

MR. MENDOZA: No, only inasmuch as to provide clarification to my characterization as to the trust responsibility. This is what we are hearing from the field, from tribal leaders, from even

educators. And you know, so goes, you know, the next characterization that BIE schools represent some of our most neediest tribal communities, that they come from that perception of strong, treaty tribes, you know, as we know, those arguments play out within our communities.

So these are just characterizations that when we go out there, that perception is that, you know, how are you working with the BIE on this?

And tribal leaders respect and understand that structure because that's where they are able to kind of hold onto those provisions as they see it, through being driven through tribes, whether it's the tribal budget interior council, where they are able to receive input and to give feedback on you know, any budgetary concerns that go through the Bureau of Indian Affairs, you know, that's where that comes from, is you know, the dynamics that we are trying to address.

And of course the perception that ED does not meet its trust responsibility -- we face that criticism all the time in our consultations, that we don't respect tribal sovereignty, we don't respect, you know, our Indian students, because we are not replicating those things of which Robin talked about, you know, consultation, regular collaboration with Indian parents, the structuring of resources and strategies as they play out on school levels and how our programs reflect that.

So you know, we face those criticism that, so I am just speaking in general terms of, you know, the conversations that I have been privy to in these now, you know, what amount to 10 listening/learning sessions and/or consultations that I have been a part of.

CHAIR ACEVEDO: Thanks Bill. Deborah?

MEMBER JACKSON-DENNISON: Thank you again Bill. I just want to reiterate a little bit of what Robin alluded to regarding the 90-something percent of Indian children that attend public schools across the country.

We did make -- and I just hope that you and the council and all of us can rise above these characterizations that you are speaking to, because I really believe that this opportunity presents itself for us to make a difference in Indian Country and I'd like to think of it as a cup half full rather than half empty.

And also, we did make a recommendation about the comprehensive state and district plans that are submitted. I am a school superintendent at Window Rock Unified School District and each

year we have to present a comprehensive plan to our state, but sometimes, you know, our state takes our ideas and many times, in regards to especially the English-only law in Arizona, we have to do this balancing act.

And so that's a good example right there. If the state plans -- and I've been saying this like a -- forever and ever -- were submitted to the federal level, this is where lies opportunity.

If the federal level, through the EO or however else we want to lay it out strategy-wise, would say through this EO, now, state of Arizona, you have to -- you have to listen to the Executive Orders, you have to listen to the treaties, you have to listen to, you know, whatever the laws are that supersede state law, you have to recognize that Indian children are being taught in X number of amounts in your state, your plan is unacceptable.

That's where the control lies over public schools and so I think that is a good example of how to rise above the characterizations of, well, you have no say because you really do -- that's the way I look at it -- through the Executive Order that was just recently signed, we really do have a say and that's what this is all about and that's why I took time off to come here, that's why all of us are here today. So thank you.

MR. MENDOZA: Thank you Member Jackson. You know, I know that Mary Jane's comment, you know, what was it, did you say dead on arrival? Mission failed. Yes.

Well I've heard both. I've heard both. So, each morning and each night I have that ringing in my ears, you know. And leading this initiative, I sometimes take that personally, you know.

(Laughter)

Am I dead on arrival? I know the challenges just as you all do, being here, representing Indian Country, having the broad scope and reach that you do, and yet, still facing tremendous challenges.

And so, you know, I still remain tremendously optimistic, as we did when this policy began to take form, and especially whenever the President signed this Executive Order.

This is -- the crisis demands nothing less, and the opportunity is before us with all the statutes that are up for reauthorization, compel us to be thinking creatively, to not worry about the

short term, to be thinking about the long term and in that way, you know, doing everything that we can to address these complex needs, and it really does hinge on the security of that 90 percent.

I think it's often misunderstood as to that 10 percent and what's in jeopardy at this point in time for us. In the next 50, 60 years, that could all be gone if we do not adequately create stronger connections to that 90 percent.

And the MOU, even though it has a lot of momentum right now, a lot of attention, is but one facet to you know, just a complex diamond, crystal, whatever you want to look at it, you know, raindrop, whatever, and you know there is a lot of work to be done that we are going to be able to engage in, and I am really excited about NACIE being a part of that, because as I have said all along, the initiative has an ability that even Director Silverthorne's office doesn't, even the Bureau of Indian Affairs doesn't.

You know, we can have conversations with stakeholders at the stake level, with LEAs, you know, with Congress, in making sure that awareness is drawn around these issues in the very least, not to mention concrete actions that need to be taking place, both in the short term and the long term, and that's what I really hope to be a part of, is that we all contribute to creating a system of infrastructure that just doesn't meet the needs of one faction, just doesn't meet the needs of the short term but that we are setting up a system that protects all of this and expands it and increases our ability to inform it in the years to come.

So I remain tremendously hopeful in that.

CHAIR ACEVEDO: Thank you Bill. Patsy and then Stacy.

MEMBER WHITEFOOT: Yes, I want -- my name is Patricia Whitefoot -- I just want to acknowledge the role that Secretary Duncan has had in providing the important leadership that we have needed in Indian Country and I believe that the work that has gone on with education over the past few years has been remarkable in terms of making certain in some of the legislation that we are getting language that addresses the needs of Indian Country, however that may be worded in the legislation.

I just want to just emphasize, again, the words that have already been said about the need to make certain that we are paying attention to the unique needs that we have in public education, but also having been administrator with the Bureau of Indian Education, and also in public education at the local level and municipal and state level, I realize that we are dealing with various

dynamics, but the overall outcome is the health and well-being of our children, our children that are coming up, our grandchildren in our communities. I think that's the long-term need that we have, is for the future of not only the children, but also the vitality of our Indian communities and where we live throughout Indian Country.

And so I think as we move along in providing support to the various initiatives that are going on, we do want to be very strategic in the work that we are doing, but also I think we want to make certain that in the role that we have with NACIE, that we are also kept informed about the various activities that are going on, if there is a working -- interagency working group here, I would hope that in the future, that we wouldn't make those notations in our written report so they can be provided to us, because as a result of this kind of information, the dialogue we have, we are also responsible for providing the annual written -- annual report to Congress, and we want to make certain that the report that we are submitting to Congress also addresses the long-term and the short-term goals that we have for the education of our children wherever they may be.

And in addition to addressing some of these needs, I just want to point out that, while there are state plans and the tribes are also -- not the tribes, but the states are submitting waivers for flexibility, you know you have these requests that are coming in from the states and also from communities that are coming in for the supporting of these flexibility waivers, I want us to make certain that we are also examining those requests that are being made by states.

While they might say that they are -- have been inclusive of tribes, oftentimes that has not been, I think, done in a very substantive way. It may have been only a half an hour in a meeting held with tribes in our regional meetings that we have, so we want to make certain that in the future, that we have more meaningful consultation and dialogue with the state education agencies and these waivers that are coming in.

So, simply because you see our names that might be on the list of those that the states have consulted with, you really have to examine what is going on with these flexibility plans.

And so as we continue to move along, I would ask that we also make certain that we get a response from the Secretary of Education with regard to our recommendations that the National Advisory Council of India Education is making, but also that the work that we are doing collaboratively, the Indian education office here at the Department of Education and the White House Initiative, also

provide the essential support that the Board needs in terms of making certain that the recommendations we are making will be addressed in upcoming meetings with NACIE. Thank you.

CHAIR ACEVEDO: Bill.

MR. MENDOZA: Moving forward, as we talk about the joint working group, with interior and the interagency working group, and the activities centered around that, and especially the four-year agency plans and annual performance reports, you know, that is something that I envision NACIE being uniquely situated to inform and you know, I make that commitment to some degree. It's encompassed within the President's Executive Order. We are working out the details of just, you know, what that means in terms of NACIE's charter and how we are going to be revising that charter. But you know, I want a setup for the Initiative that there's regular conversations and whatever you deem appropriate.

You know these interagency meetings can get pretty dry or you know, we can get you summaries, meeting minutes, you know, or in-depth conversations, you know, as you see them appropriate.

But I think the conversations will dramatically change when we, you know, begin conversations, with HUD, with HHS, you know, around the services in -- educational services for our students.

MEMBER WHITEFOOT: I just want to add that in our school districts, that we are also aware of the interagency working groups that are going on, you know, some of us in our communities might have Department of Justice funding to address the needs of our native students in our communities.

We also might have funding from the Substance Abuse and Mental Health Services Administration. So these interagency working groups are important for us to know what's going on and what kind of dialogue that is going on here in D.C.

And so I would request that we do get copies of those meetings. I understand that they can become dry, but we want to make certain that whatever the discussion is going on here, that we are also included in that discussion. I know I do, I want to know what is being shared in these meetings. We don't have the opportunity to come back to Washington D.C. for these kinds of gatherings. Thank you.

CHAIR ACEVEDO: Stacy.

MEMBER PHELPS: Bill, you -- I was listening to you, in the beginning, you made a comment about looking at schools or grant schools and now that they are more tribally staffed or managed, and looking at the self-determination as -- do you know what I'm talking about? Could you expand on that?

MR. MENDOZA: Yes. So you know, we're more of the dynamic, of the inverse relationship that I was discussing, in terms of, you know, the criticism that increased tribal control, increased resources are going to be the answer to our educational woes as it plays out, not only for tribal grant and contract schools, but also for public schools.

And you know, one of the things that we are looking at now, and there is a preliminary indicator is coming from the Bureau of Indian Education, there should be a report coming out in June, if I'm not mistaken, where they look at the growth and gain of students within the Bureau of Indian Education schools, and the tremendous concerns and this is something that is not new to us, when we look particularly at outcomes. But therein lies their criticisms of single measures for our students, and you know, the situations that we deal with in grant and contract schools.

And that understanding, you know, knowing that the data around that is cloudy, there is criticism around any study that addresses those types of concerns for our grant contract schools, that there is more to be told about that picture.

That, coupled with the assumption that resources would change that, you know, is one that I think needs further examination, because of that fact, that as the outcomes go down, we have Indian people that are, you know, teachers, staff personnel, in some respects for certain communities wholly and entirely American Indian and Alaska Native, and -- not Alaska Native because these aren't grant and contract schools -- but you know, that dynamic, we need to address somehow, that self-determination and tribal sovereignty doesn't mean less, then, for our students. How are we providing a quality education for our students? How are we being fiscally responsible in the management of funds in the name of those students are some of the critical questions that Director Moore is perplexed from an agency standpoint, and we are especially interested in, in terms of how they impact the lives of our students.

MEMBER PHELPS: Well you know, I think everybody works with, you know, schools and both public and tribal, you know, I just, you know, would caution that if we don't create this relationship where self-determination and sovereignty and 100 percent native-run schools maybe aren't as well-

positioned or aren't doing any better, I mean, that's kind of what, you know, when you say, well, we've had schools that are 100 percent native staff and we throw them more money and they're not doing any better, so is that -- when you say that, a layperson might automatically draw on, so you have Indian schools run by Indians, maybe that's the problem.

You know, if you, if you -- you know, it's my experience, you know, and so I'd just like to, you know, caution how you say it. I mean, and here I think people understand the intricacies and the complication of tribal communities, and I don't mean that just on reservation, I mean tribal communities where there's a lot of Indian people in you know, border towns and public schools.

So just, you know, be cautious, you know how you present that. Now, I understand what you are saying, the frustration, but you know, I'd draw some caution on how that relationship to there -- you know, schools are really a reflection of the communities they serve. When you look at a school and you look at test rates and things like that, you know, a little bit of investment should be done on looking at the increases of population, the increases of poverty, you know, the increases of health, and the health of that community, because I would guess that there is a much more easy correlation between poverty and the climate of the community and the functioning of the school.

I think if you go into Hispanic communities, you go into poor white communities, you go into high -- communities with a lot of African American groups, they are struggling with this issue too, you know.

I would guess and venture to say at the heart of, you know, low performance of schools, it's probably more poverty and the community climate than it is the, you know, the management educational aspect of the school itself.

So you know, you know, just be careful of that one. You know, I'd like to urge you guys to look at that because I think that, you know, we have looked at this from a lot of different angles and I think poverty becomes that overwhelming factor. That's one thing.

The second thing is, just as you guys are looking at becoming more aggressive with the tribal grant schools and you know, compliance, you know, I heard you talk about the delicate relationship with states, and how, you know, you can't just run in and make a state be more compliant, and I think this is where the frustration with public schools are coming in.

But other examples that you can look at in the Department of Education, where other federal laws, such as working with handicapped students, working with exceptional education students, where states and schools have had to become compliant, because other federal laws have dictated and guided funding to make them compliant, and I'm not, certainly, saying all native students are handicapped students, but you know, here's a pocket of students in a school that states and schools have to pay attention to now, because certain federal laws have forced that.

And I would maybe encourage you to go back and look at some of those laws with maybe some examples of pushing an agenda that makes states more compliant.

And in terms of these -- there's just a lot of missed opportunities with these waivers, with these other things, where if we were giving better guidelines or guidance to say tribal consultation is this, you know, one eight-hour day meeting where you have at least 30 people who show up, you know, versus the half-hour meeting, because you know, I think that South Dakota's plan, and you know, I sit on the state board of ED and I watch it unfold and I see the members and you know, I say well, you know, that's -- you know, that's -- I would say that's not as accurately represented or they didn't get a lot of input from the community, so to speak.

And it's not a criticism of you guys but it's just, you know, I think it's hard to change a system, but there's examples where that's happened, and how it started, and I would encourage you to look at how, you know, different federal laws and policies around compliance, you know, of how, when you change a federal system, how do states become more compliant, and maybe there could be some things that look at, when there's a threshold of students in a state, you know, that our American Indian has, there are some other factors with their federal funds, that you know, they have to set up more active committees, do more engagement, you know, something like that, because you know, you can't do a one size fits all, but you know, in states where there are these emerging native populations, I mean they can also not be ignored, you know.

And I know it's hard. You guys have got to do everything. But it might be that, you know, if you bring up some of the examples of well, look what happened when we had exceptional ed, now every, you know, student has to be mainstreamed, they have to have direct service and they have to have an IEP and you have to make sure those kids are being served.

And if you could do a similar model of looking at compliance, people are used to that at the federal -- oh yes, we did that already and we have better results. Is it 100 percent better? No, but I think everybody would agree it's a lot better.

You know, so I would encourage you from a strategy standpoint to look at how can you do, you know, build off-of what has already happened, people are used to it, versus always starting new.

And a last thing is, goes back to that schools are a reflection of the community they serve. You know, with these interagency committees, you know, look at some -- maybe some programs that would leverage all of those programmed services in a community to see if you guys can start turning around a school, when you have DOJ, you have HHS, you have ED there, you have BIE, you know, are there some general things that, if everybody took three things with their funding in the community and leveraged it, and looked at it over five years, or allowed communities to do comprehensive plans that reformed their community, which the schools are a part of, you might start to see, you know, because what happens, unfortunately, in Indian Country, well everywhere, not just Indian Country, you know, people get their money and their resources and they kind of become very siloed and they serve the same kid at the hospital that's at the school that's in the you know, the family's having issues, you know, food issues, everything, but nobody ever says well how can we kind of map these things together, and maybe this interagency committee could be a part of creating some profiles of how those funds can leverage each other to impact the community as a whole versus just focusing on the school, because if you focus on the school and you don't factor in the community and the growth that is happening in these communities, with more people, less -- you know, all these things we know, you know, you are never going to -- you are never going to be able to accurately look at that school as improving because you know, the community might be, you know, improving at a steeper level, the school is this way, you know, and so is that a victory that the school is holding up the kids and doing a little better while the community is in a much steeper, downward slide.

So you know, I know that's not your charge, but maybe with this interagency committee you guys could start looking at those factors broader.

CHAIR ACEVEDO: Bill.

MR. MENDOZA: I appreciate it, Member Phelps. Your three points, you know, are filled with great advice and certainly substantive ideas around the kinds of issues that we are looking at.

Let me speak, I guess, to the caution recommendation, and you know, part of the problem in seeing and understanding kind of what we are addressing here is -- with Indian education -- is that we lack any you know, singular, kitchen table, if you will, to take the proverbial WUB characterization, and for me, in this, you know, a little over a year now that I have been associated with the initiatives, NACIE represents that kitchen table.

And increasingly we need to be having these conversations among educators and tribal leaders together and we don't have that.

For the first time, you know, I saw some really substantive conversations going on, just in my young tenure, regarding tribal leaders concretely talking with educators about the priorities within their communities when we had these tribal leader roundtables.

You know, and so when I talk about the tribal grant and contract schools, you know, those are the kinds of conversations that are also happening within other communities of color, you are right. They are happening everywhere that we are dealing with poverty, where we are dealing with substantive issues that aren't, you know, addressed in the same way as, say, mainstream populations.

And states are having these conversations, real reforms about questioning, looking internally and saying you know, we have these diminishing resources, there is no more money, we need to be innovative, what are our systemic concerns within our communities, not only from the state level but all the way down to the school level, into the community level.

And of course, you know, the silver bullet for any community is educators fix it, in loco parentis, send our kids to school and we don't have to worry about it anymore. Something bad happens, that's it.

The same thing happens in Indian communities, and we need to be having more substantive conversations about how learning, how the strategies that we employ and especially the leadership that is involved in those schools, and how they are better connected to the communities, and we are not seeing that, not in connection with tribal grant and contract schools, and that's just taking the system as a whole.

We certainly have really awesome examples of schools that are doing that. But as a system as a whole, our growth, our gain, our outcomes, dramatically concerning, and I think, given this time, given this construct, we need to be having that conversation around quality.

And that's how I try to discuss it, you know, is that it's about quality. It's about, you know, making sure that we are putting in the systems in place that help us, not only define goals, but work towards those goals, because you know, we are not seeing that kind of action within the school, you know, consensus direction, or even majority direction on where that school is going for the communities and especially that equating to better outcomes for our students.

So you know, I appreciate the caution and just, please excuse me, that I try to qualify, wherever I can, and disclaim wherever I can, you know, exactly the context that I am talking about.

And this whole conversation around compliance really stems from a plea for help, if you will, from the Bureau of Indian Education, that they feel like we need to be addressing these issues and this is the critical issue that they are dealing with, is that the accountability of funds, that the same indicators, growth, gain and outcomes that they are seeing, and it not matching up, and not presenting critical concern for how they continue advocacy for those dollars, for strengthening relationships, for expanding opportunities for those students.

And so we are responding in the form of that MOU, the only vehicle up to this point, to strengthen the conversations, to be able to have a feedback loop of expertise between those two agencies.

The previous mechanism for us to be engaging in this conversation, was a performance improvement mechanism, dealing with fiscal responsibility, dramatically different than the kind of direct conversations between senior leaders between the agencies.

MEMBER PHELPS: Before you go past that, because this is a, you know -- I don't disagree that we don't want organizations or institutions to be more accountable for the resources that are given. I'd only ask, you know, I was flying out with the plane with this guy and we are sitting there and he's like, you know, all this TSA stuff, you know, his comment was, is that the tragedies that happened to our country on 9/11 were, you know, we can all agree, were horrific, and you look at the result of the personal freedoms we gave up now, 12 years later, where we say, well, you know, that was horrific but what have we sacrificed in terms of our personal liberty?

I would caution, in your search for compliance and accountability, that you don't lose the value of the tribal sovereignty and local control.

The very definition of local control is that those communities define success, and it may not be the measures that I am used to, or that you are used to, or that the directors of BIE are used to, but the very definition of sovereignty and local control is that they define the mission of their school.

If your -- you have -- so you have to be cautious that you are not imposing this view of what I think is success, when we have given the authority to a tribe or a community to create a school that they are going to live with, because those kids are from that community.

And so that was my caution, that I agree, you know, I mean -- and how many of the 185 schools are we saying are falling under this -- there's these huge dollars of resources that they are holding or not expending or -- I mean, how many? Is it 20, 5, 170?

I mean, I'd like to know a number, because if you are going to make an MOU that changes everything, I mean, I think every school would say we need to do better, if our graduation rate's not 100 percent, there's room for improvement. But you know, don't throw the baby out with the bath water. Should you be focusing on relationships with five tribes and their schools because there's 20 schools that are under caution, where, on Navajo, there's, what, 60 or 65 schools BIE schools that maybe they are making progress, but maybe two or three aren't, you know.

So, how many of the 185 schools we are driving down this path are non-compliant and wasting money or sitting on huge reserves? I mean, is that number out there?

MR. MENDOZA: Those are the kinds of questions that we hope to get at with Director Moore's concerns for fiscal responsibility and of course the connection to outcomes.

And you know the question all along from any program standpoint is you know, what is the program intended to do, what are the goals that you set within that program, and you know, how are you measuring that and did you accomplish that? You know, that's the whole premise behind the federal relationship in states and tribes and you know, so it's -- it's trying to get to that point of mutual understanding around that, and the situations that our schools deal with.

Yes, there are critical issues, not just in isolate to schools alone. There's a lot more actors in terms of the community, and funds that are tied to other federal sources as well.

CHAIR ACEVEDO: Thank you Bill. Patsy and then Sam.

MEMBER WHITEFOOT: Yes, as just one individual, representing the indigenous peoples of this land, I just want to make note of what we are also talking about here is a history of oppression and a history of colonization, of being indigenous on this land.

And for me, and the work that I do on education, it's always about recovery of our human beingness, of who we are as individuals, and just being human people living on this land.

And that means also the work that needs to go on with restoring our homelands, the revitalization of our language, our culture, and our history.

And so the work that we are doing is not just about Title VII and it's not just about Johnson O'Malley or Impact Aid. It's about the revitalization and restoration of who we are as people from our own homelands.

And so, you know, it's not enough to just take a look at the test scores, and I know that's what the Department of Education is taking a look at. We have to look at -- take a more holistic approach and a very comprehensive view of what is going on in our communities with our children, on up to our adults.

And while we might have job descriptions that are specific to Indian education or to education in our communities, that isn't necessarily what we do.

We really take the broader view of just restoring our rivers, restoring our salmon runs, restoring who we are as a people.

And I would hope that we all recognize that need, but as we begin to take a look at a strategic plan from NACIE as well, that we take this all into account in the work that Joyce and Bill do here at the Department of Education, I recognize that we are also operating on limited funds and we have been told that we hear that in the messages that we receive from, you know, federal officials about the limited resources that we have.

And so if we are to make a difference in those successes, it's those small successes that we are able to make in the lives of our own families, and in our own communities, and to me those are huge steps that we are making, if -- if we have parents, community members back home that are telling us daily, or share with us, that I want to make a difference in the lives of my children, I have stopped drinking.

I just was in the community of Warm Springs last week, on the Warm Springs reservation, and I had the opportunity to be with children, my own grandchildren, and elders in the community, and they do want to make a difference in their lives, and their plea, you know, to their tribal leaders, and having been a tribal leader, it's not an easy job either. It really takes all of us, and I would hope that we would begin taking the steps to make certain that we are all included in the work that goes forward, because we all have a need to be there with our families.

And if they are a tribal council, they are a tribal council, but we also hold them accountable as well, just as I was held accountable.

And we recognize, just like here at the Department of Education, that we are also in a period of transition, and we don't know the outcome of the elections and so we are going to go through turnover again and that also occurs, in our families as well, in our communities, that turnover occurs too with our tribal leadership, which we have just undergone again.

And so we are all moving forward, you know, knowing that these changes do occur in our communities, but the long, I think the long-term goal is, again, to revitalize and restore our communities and our children and families who have been broken along this journey of education, of formal education.

And it's up to us to pick up the pieces and keep moving forward. I just want to -- for me that's important, to remind myself and to also acknowledge my community and my family.

CHAIR ACEVEDO: Thank you Patsy, with that I'd like to have Sam and then Alan Ray. Thank you.

MEMBER McCracken: Good morning Bill, how are you?

MR. MENDOZA: Good, how have you been?

MEMBER McCracken: Pretty good. Sam McCracken, Assiniboine Sioux from the great state of Montana. I just have a couple of comments in here and you might have touched on it, maybe I missed it.

But this committee knows my role in this. They are all very brilliant around education and I bring a very unique point of view to this NACIE committee and that's the physical activity component of our students.

And I noticed on your document you presented to us today, Bill, that it really talks about the, you know, including effective science, technology, engineering, mathematics, language, special education for teachers, all of those things, to reduce Indian students' dropout rates, and it's proven that physical activity is an accelerant of education.

And so I just want to make sure that in that MOU as you craft it up and you partner with your colleagues across agencies, that physical activity will be a component, knowing the high rates of type 2 diabetes, the obesity rates of our kids, that it is assuring us as a community that it's part of our -- it's part of your document, and as you look at the whole child, as we educate them.

And the part two is, I was very struck, as I was getting ready to fly to Washington, D.C. yesterday, as the -- I live in the state of Oregon, city of Portland, and the students were protesting yesterday -- the students, not the teachers, the students -- about the reduction of resources and reduction of schools and things that are happening in that unified school district.

And my question to you, or part two of my idea is, are you having consultation, are you talking to the students on what they need? Because ultimately, they are the ones that are getting educated, and I understand the reasoning for talking to adults and leadership, but I think the generation today definitely has an opinion on what they want and what they need, so I would like to -- two-part question for you, but I would love to hear what your comments are.

MR. MENDOZA: I appreciate it Sam if I could get caught up. I just realized I didn't answer Mr. Phelps's last two points on compliance and interagency committee.

So if I get caught up, remind me to lead back. But in regards to you know, the concerns for the health and wellness and activity of our students, you know, that is something that we are engaging in jointly through the Office of Indian Education and the Initiative, to be looking at ED programs and the recent transition of office safe and healthy schools and those are critical levers for programmatic aspects that get at our schools and, you know, have designated funds for getting at the whole student experience.

And certainly, strengthening, you know, our existing efforts too and how we can, you know, provide guidance to schools, provide guidance to higher education, especially, you know, looking at what role do we play in that with the First Lady's Let's Move! in Indian Country experience.

And so interagency wide, we also play a unique role there, providing a validating office to the importance of how that needs to be addressed for students.

And so we are going to be looking to engage more in that process, certainly in this coming year, and you know, next administration is what we are really looking at to build concrete things that Education can take a more enhanced role in that and the Secretary himself has participated in Let's Move! in Indian Country and now the next step is getting at the infrastructure for, you know, identification of those.

We work on the education services workgroup with the tribal law and order act, and they have already done an assessment of educational services throughout the agencies, and from that, not only related to the work of the initiative, and the learning objectives in here, but also the types of services that get at those wraparound programming that are in place, and I think they need to be informed from an Indian education standpoint, so we are going to continue to work from that aspect, you know, are they set up in ways that complement and align with programming that we are trying to have, and so creating a continuum for tribes and schools to better have -- to better leverage those monies, is something that we are particularly interested in.

In terms of student voice in the initiative efforts, you know, I have, just in my travels, tried to encourage and even seek out conversations with student leaders wherever we go, trying to make sure that we are as much in touch with what's going on in terms of the practitioner level and the leader level, but also the people that are impacted by those the most -- the students.

So we regularly engage with them to not only communicate what we are doing, to be responsive to them, but also to hear from them and you know, how it validates or connects with the kinds of concerns that we are hearing from the ground.

One of the things that's of particular interest to me from an initiative standpoint in my work through the OJJDP and NCAI youth conference that they have, I believe is annually, I participated in it the first time last year, is how is that practice reflected in consultations.

So we are going to be looking at closely, you know, what kind of mechanisms we can put in place within our consultation practices, that can get at just that, you know, whether or not that's utilizing, you know, some of the existing, either external or agency youth advisory boards of that nature, you know, that's something that we are looking at.

But I'd like to see a concrete way that we can continue to ensure that at the very least, students are being notified and can access our tribal consultations, listening and learning sessions, and even more meaningfully, be directly involved in that at some point as a part of our process.

CHAIR ACEVEDO: Thank you Bill. Alan?

MEMBER RAY: Yes, Bill, this is Alan Ray. My particular background is in higher education leadership, so one of my two questions for you, goes to the Initiative's objectives for postsecondary and adult education.

I am pleased and very interested to see these listed as objectives, and I am mindful also of the statistic that was mentioned earlier, that 80 percent of Indian young people do not matriculate to tribal colleges but to other institutions.

I'd like to ask if you would elaborate a bit on what those objectives might be, and what role NACIE could play in helping frame that, and also simply to stress the importance from my perspective, that you partner with institutions of higher education so that the work doesn't simply radiate out from the federal government, but you contact those institutions, like my own and others, who are very eager and willing to play a role in helping Indian youth matriculate, but need to have connections, need to have the way paved in a way that would be most helpful to those constituents that we are now recognizing, I think in a very good way.

Second point is really more a comment than a question. I think I'm mindful of a point that Sam made earlier, that's been on my mind, and that's in regards to recommendations that come out of NACIE.

I know, having worked on the committee last year that framed those recommendations to Congress, we certainly were very thoughtful about that as a group, here. Time went into framing those.

And I think, like Sam, I am wondering you know where, where did that go? My comment here then is I hope that going forward, in both our report, whether to the Secretary or our recommendations to Congress, that feedback be given this group expressly and in writing, to the recommendations that we make.

If indeed NACIE has the more prominent role, under the Executive Order, I think it's appropriate that we do hear back about those recommendations, given the care that goes into them.

So, a question and a comment. Thank you.

MR. MENDOZA: I appreciate it, Mr. Ray. Having been the deputy director and director of the White House Initiative on Tribal Colleges and Universities, the predecessor to this Initiative, looking at the higher education lens is actually the core of, you know, why this initiative was addressed in this way.

The successes of the 40 years that tribal colleges and universities have been in inception is undeniable. They have dramatically changed the educational landscape from cradle to career within their communities.

That being said, there is only 37 of them, and you know, around 30,000 students if you will. Actually, it's about 97 percent, 96 percent of our higher education students, depending on how you define it. You can even get closer to 92 percent.

So you know, it's just that dynamic, knowing that we have an excellent model for integrating indigenous ways of knowing and being in the way that Member Whitefoot talked about, and simultaneously meeting the needs of the economies and the socio-political structures of which all of our tribes' Indian students interact with, needs to be looked at comprehensively.

We have a tier of schools in that respect called Native American-serving, non-tribally controlled institutions, that meet a threshold definition of which they don't have to certify, but of course they have to defend if ever called in question.

Those institutions, you know, by and large represent Native American-serving institutions if you will, and the connections to those institutions need to be strengthened.

There's also another tier, you know, included in that, beyond that, if you will, that has a rich dedication to American Indian and Alaska Native students, and among those ranks, to just name some of the few obvious that I have had the pleasure of kind of understanding their depth and impact down Indian Country, are like Harvard and Dartmouth and Penn State University, you know, schools that don't necessarily meet that 10 percent, but arguably, if you take Penn State in context, you know, we

are benefitting from a generation of educational investment in those leaders and they have dramatically changed in our ability to impact our communities.

So the question then becomes, is how do we then link those together? And so it comes down to program to program. It certainly relies upon a data set, and when we are approaching these four-year plans and annual performance reports, it's those questions that we are going to have to really get to the bottom, too.

And that's where I think NACIE can really help to inform us that your understanding of whether or not it's -- getting back to Mr. Phelps's question about additional statutes that we can look to for guidance on this, whether it's the Indian Child Welfare Act, or the Individuals in Education Disabilities Act, you know, those types of mechanisms that have been put in place that can help us inform and better connect the programs that are available to these schools, is something that we are keenly interested in.

We need to do a better job with making sure that when our students go to these schools, that that sovereign relationship is recognized, and that if there is money going to that institution in the name of those students, that there is a sound consultation process with students and tribal leaders, as to how we are better strengthening those programs to generate more effective outcomes and experiences.

So you know, those sometimes, as you know, play out in higher education in terms of sheer bricks and mortar, whether or not it's, you know, the Native American center that we hear about often from students as to how we are creating that kind of environment for our students, or it's through the sheer efforts of staff and professorship, and of course the leadership there, that they really feel like their needs are understood.

Certainly, support services play into that, making sure that our students, knowing that they are coming from challenging and underperforming academic backgrounds, how are we better supporting their efforts within those institutions, is something that we are always, you know, looking at, whether or not it's the trio programs that we are interested in, or it is specific, you know, programming within those degrees, that it's a degree that's in line with best practices, as we see around the country. We are particularly interested in generating those conversations.

So I hope that kind of gives you an idea about some of the directions that we are heading.

MEMBER RAY: Let me give just a very quick response to that. I'd also suggest that -- how can we work in this vital organizations of higher education, specifically in the American Council on Education, and the American Association of Colleges and Universities, two of the leaders in this way, that have the infrastructure and the resources and the mission commitment that aligns very neatly with what we are trying to do here.

So there are many ways, many doors into the house as it were. And I would urge us to think about how we could work through some of those organizations that could tap colleges that maybe are not Native American-serving even, or below that threshold, nor are they a Harvard or a Dartmouth that have the resources to dedicate these sort of magnets to generate programming for students.

I think there are many schools, like my own, Elmhurst College, where we have a small but consistent and robust community of Native American students, many of them from tribes in Wisconsin, and I know myself, there are many schools that would like to have opportunities, perhaps through our professional organizations that I listed, for engaging in these issues, and begin the educational effort that's the prerequisite for a meaningful engagement with native communities. So, a suggestion for you there.

CHAIR ACEVEDO: Theresa.

MEMBER AREVGAQ JOHN: Yes, good morning. Thank you for being here and I would just like to reiterate some of the things that have been brought up in terms of looking at the child's education as a holistic entity.

I come from -- my background is in indigenous education at the higher education level, and I am the first generation to be exposed to BIA. I saw the first school being built in our community. So since then, there has been transformation, and I was just wondering, at first I would like to support that concept of looking at the child's prosperity and future and health, as our true leaders here, education is the key to fabric of healthy communities stated, the strength of tribes that our nation's future prosperity are inextricably tied in together, we can dramatically improve the lives of our native students.

And so I would like to support what has been voiced here in viewing the child equally across the nation, not just those that are qualified and enrolled in the federal schools, but also at the statewide level as well.

And right now, in Alaska, I was wondering if you are working with the Alaska Federation of Natives in any way in this consultation with the native -- different interagency, tribes.

I would like some answer to that as well as just to inform you, in Alaska we have one immersion school, a native immersion school that is showing a positive outcome; no, not -- the high school graduates are on the top, they are valedictorians and salutatorians.

So the demonstration was that indigenous language is the power to success, and it's one school out of the whole state. But it is a good model to -- I believe, to consider as we are talking about the connection of indigenous language being part of success for our future students.

And so I would like to, again, support that idea, to look at the holistic numbers of students, because we are all feeling downfall in the quality of their education.

In Alaska there is a lot of migration, out-migration to larger schools because of the huge economic issue, and also the schools are not prepared in terms of giving our students quality education so they understand who they are, their culture, their language and their history.

And so I am really grateful for your work in trying to work with diverse interagencies as we move along hopefully to make the difference by revisiting the recommendations that we had previously. Thank you.

CHAIR ACEVEDO: Thank you Theresa. Greg?

MEMBER ANDERSON: Bill, I would just like to say that I appreciate the effort and the hard work that everybody is putting into the MOU and I think it's encouraging that in December, the President met with tribal leaders, on December 5, with regard to the Executive Order, and since that time, we have had consultations in January, the roundtables, we are currently going through consultation with BIE as we speak, and then there's a handout that says we are going to have more consultation.

That's three in the last six months, and I appreciate the opportunity for the tribes to be able to meet with you all. And so it's encouraging.

But I would also say that, I think there's an obligation, of you and the group, to listen to the people and react to their recommendations and concerns.

But I do appreciate that you and the directors have done in the last six months.

MR. MENDOZA: Thank you.

CHAIR ACEVEDO: Greg, thank you. I think everyone here has had a chance to speak or express themselves. With that, Bill, thank you very, very much for listening to us and having this constructive dialogue. I don't know if you have any closing remarks or --

MR. MENDOZA: No, I just want to thank, of course, the work of the council, I mean, just, I don't for a second take for granted your dedication and what it takes to get such esteemed individuals like this here to, you know, just put their thought and effort into this, and I just want to express my appreciation that we are day in and day out with this stuff, here, you know, and certainly for us, it's -- appreciate that acknowledgment of where we are at in terms of the response to the President's Executive Order and you know, what we are doing to try to set the groundwork for implementation, and you know, to us that's lightning speed, getting, being involved in these activities, and so I just take with all the due respect and of course, encouragement, the urgency behind all of your comments and how we are going to be proceeding forward, because you know, every day that goes by that we are not putting something in place that doesn't dramatically change the educational landscape for our students is a day lost. And so I just really want to thank you for that and provide my commitment to continue this type of dialogue and transparency to our office's efforts and the collaboration that goes on between offices within ED and of course across the agencies. Thank you so much.

CHAIR ACEVEDO: Thank you very much Bill. We are running long so we will take a 15-minute break, and be back in 15 minutes please.

(Whereupon, the meeting went off the record at 10:30 a.m. and resumed at 10:55 a.m.)

CHAIR ACEVEDO: All right. Let's convene our second session. We would like to make a couple of changes based on some needs of the folks.

As you know, we did take quite a while with Bill, and that was very, very constructive. The Impact Aid folks are scheduled for this afternoon. We, with your permission, will move them up to this morning after we conclude this first round of business.

I'd like to start presently with Margaret Levy on the education budget cycle. With that, Margaret, welcome.

Who do I have on the phone? This is Tom.

MEMBER SPOTTED BEAR: This is Alyce.

CHAIR ACEVEDO: Hi Alyce, welcome.

MEMBER SPOTTED BEAR: Hi Tom, thank you.

CHAIR ACEVEDO: All right, with that --

MEMBER WHITEFOOT: Yes, I just wanted to -- just reemphasize the fact that we made some changes to our agenda with Bill going on first, but also we wanted to understand the budget, as a NACIE committee as well, and wanted to make certain that these changes that we are making to the agenda help us to organize our reports and think about our long-term and short-term goals that we have as a committee of NACIE.

CHAIR ACEVEDO: Yes, MaryJane.

MEMBER OATMAN-WAK WAK: One quick amendment. To Patsy's comments, I think that as we look at this MOU and we look at the budget concerns, I think that that transparency with the Bureau of Indian Education budget needs to fall in alignment.

We look at these percentages and you know, for administrative overhead, state level activities, competitive formula funding, it behooves us to get our hands on the BIE budget as well.

CHAIR ACEVEDO: Okay. Thank you. Margaret, let's try again. Thank you Margaret. Welcome.

MS. LEVY: Thank you. I have a handout, two handouts that I am going to pass around, just one? Just one handout that I will be passing around.

And the handout's a schedule of the budget formulation process for fiscal year 2014, which feels like a long way in the future, but is what we are about to start doing. So I'll wait until everyone has a copy and then I'll walk you through it.

(Pause while copies distributed)

MS. LEVY: Okay. Looks like everyone has a copy. Os, planning for fiscal year 2014 starts in the summer of 2012. So pretty far out.

And we are about to get started for this year. In June, the Office of Management and Budget, which is the President's budget office, basically, will issue planning levels and guidance to all the federal agencies to help them start their planning for fiscal year 2014.

And then over the summer, all of the agencies will conduct their internal budget process and develop their request, their budget request.

So, for the Department of Education, when we develop our budget request, we inform senior officers in the Department. The Secretary will develop his priorities and strategic plan for 2014, and based on those priorities, we'll draft the Department of Education's budget request.

And then in September, we submit that back to OMB, the Office of Management and Budget, and OMB will conduct hearings and review all of the agencies' submissions.

And then we'll have a little time in October to revise that, if necessary, and then in November, the real planning starts when OMB gives us passback, which is when they provide us with their final numbers, what they think funding levels for all of the Department's programs should be.

And then we have an opportunity to appeal that if we think that -- if we disagree with any of the funding levels that they have provided.

And then we, based on passback, make our final budget -- excuse me -- our final budget request. And that is what we send to Congress. It's our budget justifications. I think you have in the packet a grey press release, which is a condensed version of our budget request. Our budget request is really about four inches thick.

But that's an overview and it has the funding levels. And our request consists of four parts generally. It's a program description, which is pretty self-explanatory. It's an overview of what the program is and what it does. And then we describe what our budget request, which is what we want for the next fiscal year, and what any new initiatives that would be supported with the funding or a continuation of existing initiatives.

Then we also have an output measures section, which provides some descriptive statistics about the program, and this is for every program in the Department, including the number of

new awards, number of continuation awards, any contracts, and the award amounts. So average grant awards for example.

And then we also have a performance section which includes any information from program evaluations and any other studies that have been conducted, and also contains data that grantees have reported under the Government Performance Results Act, which we refer to as GPRA, a little bit of an awkward acronym.

And these performance measures include indicators of grantee level effectiveness, student level achievement, as well as the impact of the program on the target population overall.

So we submit those budget requests in January and then in February, the President submits his budget to Congress, which is all of the budget justifications from all of the agencies, and then budget is in Congress's hands and they are supposed to have a budget by the new fiscal year, although that, historically, has not happened right on schedule.

I can go into more detail about that if you'd like, but I understood that you were more interested in the Department's planning process. Do you have questions?

CHAIR ACEVEDO: Questions for Margaret? Robin?

MEMBER BUTTERFIELD: So, if something comes up after this whole process has run its course that was unanticipated, how do you secure funds to cover that, like our Executive Order on Indian Education specifically.

MEMBER BUTTERFIELD: And unexpected things always come up, which is why this is an ongoing process, and we start in the summer, but it's not finished until the winter, and then of course new things come up and Congress can appropriate funds throughout, just not during the formal budget process.

So we have -- there are certain finds where we may be able to shift some funding around within the Indian education account, for example the national activities authority is pretty broad.

So for example the staff pilot that we are planning is under that.

CHAIR ACEVEDO: Virginia.

MEMBER THOMAS: A couple of things. Have you been successful un this passback to make adjustments in there, for your recommendations, when it comes back to you? Have you been successful in those?

MS. LEVY: I think it depends on the program, and generally we look for level funding, so we are trying -- not -- so, and OMB is supportive of that. They don't want to cut funding for most programs.

If sometimes, if we have a new initiative and they have different priorities where things might --

MEMBER THOMAS: And I know this is the condensed version that you have here and this is the other portion, but on the administrative level, I'm talking administrative level, I know we joke about it, but what I am personally concerned, if we coming back, I mean Joyce had to fight for these two positions that she got, and I know that, you know, in Jenelle's position, you know, she has had to, when people retired, she can't replace them.

And I'm afraid that if we don't have the staffing to oversee these programs, that it's going to be lacking in the continuity that we needed to find statistics and the follow-through.

And so you know, heaven forbid that we have people that are going to retire out and we lose those positions. It's not in here, because this is the condensed one, and it's not on this, but what is that process to make -- assuring of our staff?

And no, Michael didn't ask for the raise for this one.

(Laughter)

MS. LEVY: That's actually a separate process and so it won't be in the complete version, which is online, you can access those on the Department's website and I can get you the specific --

MEMBER THOMAS: But is that going to suffer?

MS. LEVY: Staffing is separate. That's just -- what you have is just program funding, so just Title VII for example.

MEMBER THOMAS: Because one of our issues, you know, we'd like to, you know, elevate the position that we have, hopefully sometime in the future, that this comes back up to where it

used to be, so that that is a concern with us, and I'm concerned about the follow-through that we have on the staff. I mean, did we overburden this, see all the programs that they have to oversee.

So I just concerned about that, if that's a possibility of -- when you put this together, do you ask for the top dollar knowing that you might get the lower dollar?

MS. LEVY: For the programs or for staffing?

MEMBER THOMAS: For staffing.

MS. LEVY: For staffing, I don't actually deal with staffing funding requests. That's handled separately in the budget service.

CHAIR ACEVEDO: Jenelle?

MS. LEONARD: So, speaking as a program director, and having gone through this process -- Joyce hasn't gone through it yet but she will be introduced to it in June.

So we typically get from budget in June what they call a workload S&E work plan. And so typically the way that is -- it goes is that we have a worksheet that says okay, what was your staffing level in FY '11. What is your projected staffing for FY '12 and then we look at FY '13.

But also what we get from budget, we get a cap on how many we are going to get. And so once they look at the workload analysis and they say well, we have cut 38 programs from the Department, so with cutting some programs then we may not need as many FTEs as before, so they have some formula that they do in budget, that kind of calculates what our cap is.

And so typically we have to go through and say how many FTEs it takes to do whatever work duties that we are assigned. But we do go through this whole staffing workload project in June, and then we get our results in October.

MEMBER THOMAS: My concern was the accountability back to the programs portion of this. Because of what is entailed in here I want to make sure that we have enough staffing to oversee what is in here and that we have, you know, the accountability of it. That's my concern. So who do you want us to talk to?

MS. LEVY: You can include that when you make your recommendations.

CHAIR ACEVEDO: Any other questions for Margaret? Patsy?

MEMBER WHITEFOOT: Yes, I have several questions. I am still try to organize them. I am just thinking, off the top of my head, of our report to Congress and in there we make a statement like we want to make certain that our programs are accessing all of those services that are available within the Department of Education, and that we don't narrowly define ourselves in Indian education, and I heard you say something like, you know, we could take a look at shifting funds within the Indian education budget and I don't think that's what we want, is to make you shift those funds within Indian education budget only.

For those of that are in the field, you know, particularly with Title VII programs, there are issues that come up, and so there are these circumstances that come up, and one of them is just this particular activity with the Executive Order, that you know, increased the workload that is going to be expected.

And so if this is a White House initiative, to me it shouldn't be just within Indian education. It's an overall initiative across the board for the Department of Education.

And so what kinds of accommodation do we make for that when that kind of order comes down and we are expected to respond to that order from the President?

And so what -- in terms of our recommendations then, what kind of recommendation would you suggest? I mean this happens to us out in the communities too and in school districts. You know, if we have a shortfall then we go to other -- in school districts we go to other resources that we have as well and not narrowly define ourselves as only Indian education, because we know native children are always being served in migrant education and special education and Title III, etcetera. So I want us to be more broad-based thinking here.

MS. LEVY: I think you just answered your own question. There are a number of programs that serve Indian students even if they are not specifically tailored to meet their needs, and I would look at those rural education programs, and the special ed and Title III and include those in your recommendations, because there are a number of programs that would serve the population even if it's not under Title VII.

And I don't work on those programs specifically, but if you would like more information on them --

MEMBER WHITEFOOT: I just want to just reiterate or emphasize the fact that we don't want -- from the agency heads to just narrowly define us either, under Indian education only, because the work that needs to go on is crossing all of those arenas, in the work that Bill is doing currently and Joyce, they are placed there to help us in our school districts to be able to look broadly but also to access those resources for us as well.

CHAIR ACEVEDO: Mary Jane.

MEMBER OATMAN-WAK WAK: Thank you for your presentation. Is there anywhere within the websites or -- I don't see it contained within the budget books, where we can find out, when we get, you know, 500 million for X program, how much of that is actually direct services, how much administrative.

And then also along the budget breakout, which one of them are formula-based funding versus competitive funding for each program?

MS. LEVY: That would be in the not-condensed version online, in the output measure that I talked about. Yes. And I can provide the website.

Okay, great, so Jenelle can pull that up. But that does say the number of new awards, whether they are formula or competitive, the program description will say that, and almost all of the funds go to services there, there is one percent set aside for peer review for competitive grants, but all of it really goes to the grantees.

CHAIR ACEVEDO: Robin.

MEMBER BUTTERFIELD: I just wanted to be sure I was hearing you right. Were you talking about the TEDs pilot, the 2 million that was pulled to do the TEDs pilot, that came out of national activities?

But it was additional money I thought. It didn't come out of what was already there.

MS. LEVY: It is additional money.

MEMBER BUTTERFIELD: Okay, I just -- I mean, because it's the concern that Patsy was just stating. You know, we don't want to rob Peter to pay Paul, kind of thing, and there's already

designated uses for those national activities, one being the NAEP study, in that we don't want to lose that. So I just want to be sure that --

MS. LEVY: No, of course.

MEMBER BUTTERFIELD: Okay.

MS. LEVY: Of course. But some authorities have more flexibility for how the funds can be used than others.

MEMBER BUTTERFIELD: So was there just \$2 million sitting around in national activities?

MS. LEVY: We received an additional \$2 million --

CHAIR ACEVEDO: Would you like to rephrase that question?

(Laughter)

MEMBER BUTTERFIELD: Well, no, I'm just trying to understand how that stuff happens.

MS. LEVY: Right. Congress appropriated an additional \$2 million in national activities from FY '11 -- what year are we in now -- and in the conference report, which is -- uses guidance for the agencies so that they can understand Congress's thinking in their appropriations. They indicated that that money would be used for this program.

CHAIR ACEVEDO: Any other budget questions?

MEMBER WHITEFOOT: Yes, I have another question.

CHAIR ACEVEDO: Patricia.

MEMBER WHITEFOOT: Patricia Whitefoot. I have been asking about this. I just want to also point out that during the past two years, the Department of Education has been coming to the National Indian Education Association where we have a technical assistance day, and there are a number of questions, comments, recommendations that people in the field have, and I think they -- you know, because we are the practitioners in the field and one of the recommendations that was made, you know, was to take a look at NAS, the Native American study -- the National Activities Study that Robin talked about.

And I don't know where this recommendation goes but -- and who makes these decisions -- but in order to help us build capacity in our tribal communities, it's important that we include native people attending these kinds of training sessions that are held here in the summer.

We were denied, when we submitted the name of a tribal person who was working on her Masters, and was actively involved in doing some evaluations, data assessment, those kinds of things.

We had a doctoral person that was approved but our native candidate was denied. And so that's a recommendation, of course that I am going to make here.

But I think, where are those decisions made? And I did bring it up to the NAS folks who were at Albuquerque, but I doubt whether there's going to be any follow-up, is it that we are just going to have to keep repeating those needs to build our own tribal capacity back at home, and then I also think that falls in line with GPRA, the GPRA measures, having been on tribal council, and I know as a tribal leader we have made recommendations for changes in GPRA and so GPRA is overseen by OMB, but as a FACA we are over here with GSA.

So how do we know whether the recommendations that are being made are going to indeed have some action behind it?

MS. LEVY: So, the GPRA measures we review periodically and my office does that in consultation with the program offices, and also with OMB, to try and come up with measures that most accurately reflect the performance of the grants and the grantees.

And so we -- it's a balance to try and find something that accurately describes how the program is doing, and provides us with useful information, but in a way that doesn't hold grantees to a standard that it is not in the statute, that they are not required to follow.

So I mean, we do take recommendations into consideration.

CHAIR ACEVEDO: Jenelle?

MS. LEONARD: I wanted to also respond to Patsy's questions about who makes the decisions for, who participates in what. So each program office, whether it's a grant or a peer review has responsibility for reviewing and vetting applications that come in for people who are wanting to serve.

For instance, in OESE, I'm going to take the comprehensive centers, when we were setting up the racks for the 10 regions, when we looked at all of the applications, we made sure that there was a balance and there was representation from all groups.

So we, especially, look to make sure that there is a balance. What you were speaking of, comes out of the office of IES, and so how they made the decisions is something that Joyce is going to look at.

But typically each office is responsible for reviewing whatever candidates, whether it is a grant application competition and we are looking for peer reviewers, and typically you set some qualifications or some standards or criteria that you are looking for. But the individual offices are responsible for reviewing each one of those.

MEMBER WHITEFOOT: And I understand that all, it's just that I think in our tribal communities there are some unique needs that we have and we are working toward building that capacity with our own tribal people in our communities, and I don't -- I don't know whether IES is taking those -- taking that into consideration because we don't always have a conversation with them, and that might be something, Chairman, that we might want to make certain that we have them on one of our agendas.

CHAIR ACEVEDO: Anything else? Margaret? Oh, Jenelle please.

MS. LEONARD: Before Margaret leaves, I just really want you to take a look at the grey budget book that you have. Those are precious commodities in the Department, and Margaret was able to locate them for you.

But it's typically what a program director gets, and it's the budget summary. Someone asked about looking at discretionary and formula, every program that is proposed to -- this is the '13 budget for FY '13 beginning October 1, every program is listed there, and the funding level that is requested by the President, okay? So this budget has not yet passed. This is just what the President -- this is the President's budget for FY '13 that begins October 1.

So I'm not sure what page Indian Ed -- on page 28 -- if you would look at page 28, you would see what's proposed, what the funding level is proposed for FY '13.

The good news -- and this was free choice -- the good news is that for the last two years, the budget has increased in Indian Ed and you'll see the chronology. You'll see form '11, '12 and '13.

And last year, there was an additional \$5 million, a \$5 million increase in Indian Ed. I think it's level-funded for '13, but you never know what Congress is going to do, just as they surprised the Department with putting the \$2 million in national activities for this new competitive grant, Congress may decide to put some more money in. We never know. But some programs got reduced. Some programs are eliminated. And I think probably if you look at the first part of it, it tells about the programs that are recommended for elimination, and then some programs are increased. But that's the budget layout of all the programs -- Title I, Title III, all of the programs that the Department had.

MS. LEVY: And it provides funding level for the past two years and then the requested amount for '13 in that case, so you can see a little history and in the full version it has a five-year funding history.

CHAIR ACEVEDO: Patsy, anything else?

MEMBER WHITEFOOT: Yes, I just want to again follow up on GPRA. When was the last time the GPRA measures were updated for Indian education, the discretionary programs?

MS. LEVY: I'm going to have to ask Jenelle since I am new to this program.

MS. LEONARD: Let me just tell you the history of GPRA. So, when No Child Left Behind was passed, we put in the GPRA measures, so the GPRA measures really remain in place until the law is reauthorized.

The way that you change GPRA measures, and this is something that the Department is undertaking right now, across the Department, is to look at all GPRA measures, because I think in some cases we are finding that the GPRA measures are not providing the data that we need for performance, some performance of our program.

So there is an initiative in the Department to work on coming up with a common set of GPRA indicators, as well as an opportunity for all programs to go back and look at their GPRA indicators, to see if perhaps they need revising.

And it's kind of like a prelude to reauthorization for us to examine that. In order to revise those GPRA indicators, we have to go back through budget to OMB, to realize them. And that hasn't happened, and I am suspecting that it may not happen until we get closer to reauthorization.

I'm just not sure. But some programs are kind of revisiting those GPRA indicators to see whether or not they need to be revised.

But we are required, annually, to report on them, and I think that comes, budget -- that's about June-ish that we are required to report on those --

MS. LEVY: Summer-ish, yes.

MEMBER WHITEFOOT: Right. So, thank you for that background. That's helpful to know. I just, I guess for me, I would make certain that the next time that NACIE comes together, that we make certain that we have this item on our agenda again because when we come back together again it will be about October or November and we will have updated information on the budget requests that are being made and where the revisions are being suggested by the -- or being made by the Department of Education.

CHAIR ACEVEDO: Excuse me this is Tom. One -- the greatest mystery for all of us, I think we are fairly comfortable with understanding the internal operations within education, as to how you come up with a budget, and the analysis that's done, and we are certainly very familiar with Congressional action in authorizing the appropriations.

Sort of the mystery to all of us is OMB, you know, how is that staffed, and what kind of analysis do they do when the President -- or when the Department sends the budget to them, before the President signs off and sends it to Congress?

So that's sort of that black box that we always hear about at OMB. I don't know if you can, you know, help us on that understanding.

MS. LEVY: Maybe just a little bit. They review everything. They review all of our budget justifications. They provide the initial guidance. They provide the funding levels. I mean so it's back and forth but they have the final say.

And so we do -- I mean, so when we submit new GPRA measures, when we submit budget requests, we do have a conversation with them. They have analysts similar to the way we have

budget analysts who have a portfolio of programs so they are familiar with the same kind of budget and performance measures, maybe less so with the actual grant function since they are more removed. They don't get to have meetings with the program office all the time.

So I spent some time trying to tell them how the program works and why program officers think that certain funding levels or certain performance measures may be necessary, and why it may be difficult to measure something that they are interested in.

And so it's a back and forth and if they feel strongly about it, then we defer to them, but we have a chance to make our case and they have an opportunity to accept that or not.

MEMBER WHITEFOOT: I believe with the work that goes on with the Department of Interior, and Bill can maybe help to clarify this, there -- in the work with the Bureau of Indian Affairs, I believe that there is opportunity for tribal leaders to come together and meet with OMB, and I am wondering also about the role of NACIE having OMB participate in one of our meetings in the future, because we are going back to GPRA again. I mean, that's a big concern that I have had over the years, is how does OMB and the departments come up with these measures.

And as you said, there may be areas that are very challenging and maybe don't meet the standard that OMB is coming up with, with the Department of Education, for our work that is going on with our children, and we had that kind of discussion earlier this morning, Bill. In your experience, I believe, the tribal leaders are meeting with OMB, as I understand it.

CHAIR ACEVEDO: Bill?

MR. MENDOZA: I do know that they do not only their own advocacy from tribe to tribe. I do not know if they meet any formal capacity from the tribal budget interior council.

But I know that that kind of engagement with tribal leaders' respective educational interests is one that we are engaged with right now with Interior, and how can we better coordinate regular communications through the appropriate channels, whether it's the Department of Education, Department of Interior, and the tribal budget interior council, and of course, the new role of the Initiative in that, in terms of having conversations.

CHAIR ACEVEDO: Any other questions of Margaret before we let her leave? There being none, Margaret, thank you very much.

We would like to, with the council's permission, is move up the Impact Aid presentation from 2:45 this afternoon to now.

And so that will slide the other elements that we have. But that will really allow us to do additional concentrated work on the stuff that we need to do after hearing from folks, and we will continue to have Michael come in at 1:30.

If everyone's all right with that?

MEMBER WHITEFOOT: Patricia Whitefoot. I move to move forward with the Impact Aid presentation.

CHAIR ACEVEDO: Is there a second to that?

MEMBER JACKSON-DENNISON: Second.

CHAIR ACEVEDO: It's moved and seconded by Deborah, and Patsy was the movement. Any discussion?

(No response)

CHAIR ACEVEDO: Hearing no discussion, call for the question, all those in favor of the motion, please signify by saying aye.

(Chorus of ayes)

CHAIR ACEVEDO: All those opposed, same sign.

(No response)

CHAIR ACEVEDO: There being none, motion is carried. So with that, I welcome the National Indian Impacted Schools Association to give their presentation to us here at the council.

And if you could introduce the folks you have got with you?

MR. GISH: (Off mic comment) which is Impact Aid. Joining me this morning, a representative of school districts --

CHAIR ACEVEDO: If you could have the mic on so they can pick up your recording, thank you so much.

MR. GISH: Thank you. Members that are with us this morning are: Les Monro from Browning, Montana, please be recognized; we have Susan Smit in the back from Wagner, South Dakota school district; Michelle Hoffman from Fremont County 14 in Wyoming; and Bessie Allen from Pinon, Arizona.

And what I'd like to provide is an overview of the Impact Aid program and the NIISA organization and they will provide specifics about their school district.

Also present is from -- from Arizona, is -- San Carlos, is also present this morning. They are not planning on presenting but will be available for questions as well.

So again, thank you. To your comments, I would just, before I begin, Mr. Phelps made a comment here about looking at education holistically.

And I am very pleased to say that we are living examples -- our school districts are putting that to practice; that we are beginning to look beyond the reading and the math scores, that we are being judged by, by the state education association as well as the U.S. Department of Education.

And taking a look at our communities as a whole, and the role that public schools play in promoting culture and language, the role that public schools play in the health of native people in the communities that we serve.

As example, I recently retired from a school district in northern Minnesota where I have spent my entire 40-year career in public education as a teacher, as a principal and finally as a superintendent.

But one of the key elements of the reforms that we implemented after a horrific tragedy in 2005, was to put our heads together with our community, with our tribal council, with all the agencies in the tribal council, to include children and family services, our courts, the Indian Health Service, tribal health services, law enforcement and housing was another one that we put our heads together and said who can we work together to address the needs of our community today but also improve it in the next generation.

And I am very pleased to say that great progress has been made. It's a work in progress of course and these are generational issues, but it's not being ignored.

We are not simply, let's put them in the desk and let's teach them to read and compute and consider our job done. It is much greater than that. We take it very, very seriously.

The National Indian Impacted Schools Association is a program, an organization that was organized over 35 years to represent Indian lands school districts across the nation.

We adopted a vision which is full funding for every Indian lands child. Currently Impact Aid is about 60 percent funded. Now, whereas we are grateful for the dollars that we receive and we fight very hard to keep it at least at flat funding here, it is still 40 percent short of providing full funding for our children.

Our mission is building partnerships to maximize learning opportunities for Indian lands children. We have formed partnerships with the Minnesota department of ed, the U.S. Department of Ed. We have reached out to the National Indian Education Association, to NCAI as well, and now we are reaching out to NACIE, asking that you join us in our efforts to serve the children of Indian lands school systems here.

The NIISA organization or the Indian lands component is one of four major subgroups of the National Association of Federally Impacted Schools, representing over 1,300 school districts across the nation.

Of those 1,300, they are comprised of military children, Indian lands children, inner city, low rent or HUD units as well, and federal properties across. So there is a wide variety of lands.

Over 635 Indian lands public schools across the nation, there is no BIE funding for operation or facilities that comes into our school districts.

Nearly 90 percent, and we can go back and forth but it's that 90th percentile of American Indian children attend public schools.

Of those, over 115,000 federally impacted Indian land students, and it's a growing number -- our Indian lands children are actually growing at this time -- the Impact Aid generated by these students benefits over 950,000.

The dollars that come to our school benefit every child in that school district. The priorities are set by a locally-elected board of education and designs programs to meet the needs of those students.

And so what is generated by 115,000 benefits almost a million students in total. Payments to Indian land schools exceeds \$473 million just in basic support.

The total Impact Aid budget is approximately one and a quarter billion dollars. Including payments for disabilities, we get over a half billion dollars to serve our children.

However, there are dilemmas and that is one of the reasons we would come to you today. Due to Indian treaties and trust lands, significant parts of our land base is tax exempt.

We don't have the luxury of suburban schools in large cities here to go to the taxpayers and say let's just increase our taxes.

An extreme example of one of our members is that they have one -- a single taxpayer in their school district. That local levy generates less than what it costs to hire one teacher.

In that school district, Impact Aid represents over 50 percent of their operating dollars. The dollars that we receive are absolutely critical to provide basics, the basic operation of our schools.

Therefore we are dependent on federal and state resources. Obviously we get state aids that are generated by our students, but those dollars from the federal government are absolutely critical.

Another problem or dilemma that we have is that the program, even though it comes out of the education department, is not forward-funded. It is funded in the current year.

And so as we make decisions, and you talk to those superintendents right now and representatives from the school districts, they are making decisions on staffing and programs for next year, and operating in good faith, just saying, those dollars will be coming, Uncle Sam will come through with those dollars, we have contracts that we have to adhere to, master contracts with our teachers, our non-licensed and administrative staff, and yet, we are facing some huge challenges that are coming and we will talk about them in a little bit greater detail here.

Basic support provides that operating revenue that I touched on here. Children with disabilities is another category that receives additional dollars that come in for those children who qualify under IDEA, and schools that have at least 50 percent impactation will receive construction and facility renovation revenue.

It is section 8007 of the law. It is grossly underfunded. In a facility study that we did for Indian land schools, there is a backlog of between three and four billion dollars in renovation and construction needs in Indian land schools.

Indian land schools do not have the local capacity to be able to solve their own problems and therefore are dependent upon the federal and state resources to be able to do that.

Further, Impact Aid basic support from the -- is a very efficient program, very efficient. It does not flow, as many of the other dollars flow, from the federal government to the state and then to the local school district. It flows directly from the department of ed to the local school district with no one taking additional dollars there. All of the dollars are intact, where that locally elected school board sets the priorities.

NCLB reforms and restructuring are being implemented at this particular time. We are very pleased to say, and you are going to hear from very stark examples, just wonderful examples of progress that is being made in Indian Country today.

And I would contend, and you are going to hear it even more boldly from our representatives here, it's a result of those dollars that we get through Impact Aid to provide personnel and programs to close the achievement gap.

It also helps with overcoming poverty and you will find in more and more of our school districts that we are recognizing there, it is the community need and getting involved with school readiness and early childhood programs.

Wagner, South Dakota is going to be one of those examples that you'll hear here. It's not exclusive. It is one of many that are going in that direction.

It also provides for the embedding of native culture in everything we do. Not only are there exclusive classes that are offered in native languages; native history, native culture is embedded throughout all of the disciplines, all of the courses that we teach as well, many times supported by Impact Aid dollars.

And as I cited, with adequate resources we have the talent pool and what we have is a growing talent pool of native administrators, a growing talent pool of native teachers and support staff to make this happen. With adequate resources, the successes do come.

We have an issue of timely payment as we are not a forward funded program. We would just cite that. Many times we do not receive initial payments in Impact Aid until well into the school year. It's very common to have it in November and December and sometimes as late as March and April.

What that means, unless a school district has an adequate reserve, they are out borrowing money, paying interest on those just to be able to make payroll and pay for those programs here, interest that is never recovered, and I would contend that means that our native kids lose.

We talked about Uncle Sam paying his fair share of the local taxes. That's what Impact Aid is. Uncle Sam becomes a taxpayer in the local district.

We are very concerned about the potential for sequestration. If Congress does not pass an appropriations bill by December 31, it's automatic.

Impact Aid would lose over \$100 million. You can ask any of the four that will be presenting, or five that will be representing, what would happen in their local districts, that will be the reality, what program would you cut? What teachers and support staff will you cut and add to the rolls of unemployment?

It is estimated that there are over 300 school districts that would reduce programs. The class sizes would increase and staff would be cut.

Also, there is a provision in law that allows federally impacted schools to request early payments, when you are in dire straits, and you need to make payroll.

That provision would not be there, and we would be forced to go to the credit sources there to be able to fill those gaps.

We would ask for reauthorization of ESEA. This is Title VIII of ESEA. Well, work has been done. The work has been done in the House. Mr. Kline's committee has completed the work. Now it's a matter of moving it along, getting on the floor, but it doesn't appear -- I know that there's less than 25 working days left in Congress before the end of the session. I know that there are many, many, many priorities, but I would also contend, none greater than what we have asked for.

Impact Aid is our future. It serves the children that will be tomorrow's leaders in each of our communities in each of our states and in this nation.

If ESEA can't move along, there has been a bill that's been introduced by Hirono and Noem in the House, H.R. 1342, called the Local Taxpayer Relief Act.

It builds in, it builds in those revisions that we would advocate for, that will make the program even more efficient and more effective.

We would urge Congress, and ask your support to urge them as well, pass an appropriations bill, let's avoid sequestration.

I know that there are tough, tough decisions that have to be made. We are prepared for those but the appropriations bill just simply has to move.

Technical amendments bill is a potential. As an alternative, in talking with Congressmen and Senators and staffers from each, if we can't get ESEA passed, and if H.R. 1342 cannot move, how about technical amendments that would address many of the issues that we would advocate for?

That has not been drafted. It's still basically in a thought stage. We are basically feeling out both the committees both on the House and Senate side here.

But it is something that if it arises, we just wanted to make you aware of it.

There is concern on the part of our membership and with all due respect to the presidential order and the work that Dr. Mendoza is doing right now, we are wholeheartedly supportive of the Initiative.

Let's improve Indian education from the beginning, from preschool all the way through higher ed. Absolutely, let's put our heads together to do so.

Let's build the capacity. Let's build the capacity of TEAs, of tribal education agencies. Yes. We are very, very supportive.

Our membership and our organization says Impact Aid, although it serves Indian children, it's not exclusive to Indian children. It serves all children in the district regardless of race, or culture that it comes from.

There is a provision in law right now that provides for tribal input, parent input into the programs and policies that we have in a local school district. They are called Indian policies and procedures. They are intact right now, each year. At least annually and then upon need, local school

districts hold those meetings to provide for, to present the programs that are currently in effect in that school district and ask for critical analysis, ask for input from the tribes, ask for parents to respond and tell us what they like about that and what they don't.

And if there's a dispute, there is a provision that says there will be hearings that will be held to resolve those particular issues.

I want to thank you very much for your time, and I find that all the notes that I had here I am holding in my hand. I apologize for that. I will make a belated distribution of those.

There's two things that you are going to get. I can't believe it. I don't do this often, ladies and gentlemen. There's two things that you are going to get from me. One is a fact sheet on Impact Aid and one is the PowerPoint itself.

I want to thank you for your attention and would be happy to respond to any questions that you may have.

CHAIR ACEVEDO: Mr. Gish, thank you. And before we ask questions, I just want to, on behalf of the council, welcome all of you here, and we are very pleased to hear from all of you, and that was an excellent presentation that you opened with.

So with that, first question? Patsy?

MEMBER WHITEFOOT: Just a question for the record, just want to make certain that the NACIE members receive a copy of the PowerPoint, which you have also expressed, but also, people who are here in the audience too representing their tribes from across Indian Country, I think it's important that we also make note that they also receive copies as well. Thank you very much and I'll have questions.

CHAIR ACEVEDO: Thank you Patsy. Robin?

MEMBER BUTTERFIELD: Yes, I just want to be sure, that on that last slide, I was getting your point. Because you said that Impact Aid funds flow directly from the feds to the LEA, correct?

MR. GISH: Correct.

MEMBER BUTTERFIELD: So in the proposal that the TEDs or the TEAs have to, I guess administer federal funds, they would be putting, like, an intermediary step if those funds flowed to them, to the school, correct?

MR. GISH: Correct.

MEMBER BUTTERFIELD: So you are saying you don't want that?

MR. GISH: We think it's efficient the way it is right now and there is -- there are provisions in law to get tribal input on the programs that we are providing, yes.

MEMBER BUTTERFIELD: Right. I just wanted to be sure that I was clear on that. So that's very helpful. Thank you.

MEMBER OATMAN-WAK WAK: Thank you for your presentation Mr. Gish.

CHAIR ACEVEDO: State your name please.

MEMBER OATMAN-WAK WAK: Mary Jane Oatman-Wak Wak.

This Impact Aid issue has been something that the NACIE council has kept on the forefront, especially in regards to concerns around equalization.

We haven't really heard, you know, a lot of the numbers game in comparison. Do you have any ballpark figures of what the per pupil appropriation is for Indian impacted lands students versus military impacted lands students? Because there's a lot of concerns about funding inequity between the two groups.

MR. GISH: Indian lands students are weighted at a 1.25 weighting factor versus a 1.0 with military, and so Indian lands students receive an additional 25 percent of funds.

I do not have a per pupil amount for that. I can tell you, in the area of disabilities, the range of the disability payment is somewhere between 900 and 1100 dollars per year per child.

MEMBER OATMAN-WAK WAK: I appreciate that. This is exactly what we need, because there's you know a lot myths and misconceptions that are out there in regards to Indian impacted lands.

I guess coming from the community level aspect, and seeing egregious violations of Indian policies and procedures at the local level, I can see why tribes are still making that push, because you know, sometimes those dispute resolution measures, there's not a lot of fidelity at the local level.

(Off record comment)

MR. GISH: Yes, the military organization, NISA --

CHAIR ACEVEDO: Get closer to the mic please. Thank you. Otherwise Eric is coming after me.

(Laughter)

MR. GISH: I don't know that I'll ever get used to it. But the military organization has gone to Congress and asked for additional appropriations above and beyond and outside -- outside of the Impact Aid law and have been very successful in doing so.

Unfortunately the compelling story that we have to tell has not generated additional revenues to be able to fill that gap that we have got in funding.

We continue to work on that. That is certainly our goal, as we stated in our vision, full funding for all students here. But we are about 40 percent short at this particular time.

And to your question, Ms. Oatman-Wak Wak, am I correct? Okay. Trying to pin down a former superintendent is not easy. Basically it just goes with the training. You just stay on your feet.

I apologize. The issue of equalization -- now I can move --

CHAIR ACEVEDO: Now he's really dangerous.

(Laughter)

MR. GISH: Yes, now -- never give a mic to a superintendent, another cardinal rule The issue of equalization is, it's the end of the current impact aid law. The section 8009 currently states qualifying for the equalization factor. New Mexico, Kansas and Arizona.

What happened? Alaska. I'm sorry. I'm sorry. And what is happening right now, with budgets as they are, each one of the states, is that there are more and more states that are looking at this. How can we access additional revenues to balance our budget in state?

We do not believe, we the NIISA organization, in the Indian lands section, do not believe that it was ever the intent of Congress to supplement state budgets.

The intent of Congress was to compensate local school districts for that lost tax revenue. But there is that provision, and once we qualify, I understand the reluctance on the part of a state to give it up.

So again, and I apologize there, the New Mexico to Kansas and the Alaskan schools, and in the state departments there, currently take advantage of that.

About \$50 million goes to state coffers in New Mexico as an example. Those are dollars lost by the local school district. They lose about 75 percent of the revenue that is generated under the law.

Bessie, if you move as much as I do, because if you take that --

(Laughter)

CHAIR ACEVEDO: Welcome, school board member Allen. Thank you.

MS. ALLEN: My name is Bessie Allen. I am a governing board member. I need to talk with you for your help, a presentation from Pinon.

Pinon is located west of Chinle, if some of you are familiar with Chin Le. We are about an hour away from Chinle, where the highway ends. Beyond that we know there is no highway.

So we have a school there. And you notice that we have K-12, three schools, primary, elementary and high school, and 1300 students, 92 percent attendance rate, and graduation rate is low, 57, and we have reduced meal, 90 percent, and now it's 100 percent, just a while back we qualified for 100 percent, I understand.

And then student ratio per teacher is 15.1. Average teacher salary is 43,000 plus. And years of experience, almost 10 years percentage of teachers in their first three years is 30 percent, and then Indian students, of course, we have 1320 this year.

As Mr. Gish has presented, the school districts, in lieu of tax, property tax we are talking about, is replaced by federal Impact Aid funds which was created, I understand, back in the '50s.

There's a long history about that one, why it was done. And then it is not a supplemental like other title programs, Title I, IDEA etcetera.

And between 1998 and 2012, Indian land districts were paid out or above 100 percent, 100 percent. We didn't -- we have not really gotten the money at 125 percent, which we qualified for. That's why we are always short-funded, like Mr. Gish has mentioned, 40 percent lower than what we are supposed to be getting.

And then mostly highly qualified impacted Indian school districts receive their maximum calculated payment. This is no longer true because we are always getting lower amounts for each year and then for that current year, we are not forward funded. That's how our fund goes.

So we are always looking. We make our contracts thinking that we'll get the funds. And then we know one day Uncle Sam will come through and we say okay, we're here, here's the teacher contract and we hire them before the money which should not be like that, and this new bill that we are talking about, if it's passed, it'll address that.

Impact Aid is a program paid to federally impacted public schools in lieu of taxes, which we mentioned. We don't have any property tax.

We used to have one trader in Pinon. Recently he decided to move.

(Laughter)

MS. ALLEN: He got. Well actually he got old and retired and left the trading post. He was our only taxpayer. Now we don't have anybody. We depend on totally the federal money.

In our budget, local budget, we have M&O, maintenance and operation, instructions 3000 plus, 3 million plus, and support services, 3 million, property services 87,000 and then capital expenses none. So, which makes 6 million.

Then our Impact Aid, which you'll notice, we really depend on it, instructions, we pay some of the money for teachers and then a lot of it goes to support services like buses and etcetera. Then maintenance of other properties, capital expenses like repairing or fixing up buildings.

And then we do have grants. We apply for grants all the time for us to survive. So we bring in at least somewhat a little over 2 million, and then some of it goes into support services.

Like I said, we don't have any highways, so a lot of our expenses are into transportation. You'll notice, in the city, they hardly replace a bus for 15 years. Like, people down in Phoenix area, Tucson, anything beyond Pinon, let's say Flagstaff, they don't replace buses for a lot of years and ours, we have to buy new buses within three or four years, so that's why we have a lot of expenses and support services.

And you know, if we don't have Impact Aid, a three-legged stool is not going to stand up. The same, just like this pie chart, our fund is 42 percent of the entire school budget.

If that 42 percent keeps shrinking, Pinon's school or other reservation, Indian lands, how are they going to survive? There's no one to tax out there.

And I guess come to Congress and come up with a different bill? 1342 is our answer at this time, if we can support that.

Okay, Pinon unified school district receives 100 percent basic from Impact Aid in the current year because learning opportunity threshold, what we call LOT, is about 100 percent, above 100 percent, needy districts funded first, however that is not working out right now because the funds are reduced.

So if we, let's say, delay -- every year there is a delay. Let's say 100 percent, or we qualify for 125 percent. However we end up getting funds at 85 percent, a lot less. For example there's 1,331,000 less and it's delayed. That's how we get our funding. But we continue to survive as we go along.

And this Arizona state Title I puts in around -- close to 7 million. Then I mentioned there's grants that we constantly apply for to survive, to add on a few other programs. That comes up with almost 3 million, and the most money we use is the federally impacted funds that come to our school.

And I think most of the Indian land schools are similar, the ones that are located up on the Indian lands, they don't have any tax base, no property tax to come up with, so we totally depend on Impact Aid funds.

So every year we -- there's a reduction. Now in this sequestration, 10 percent of our tax, our federal impacted money, it's going to really hurt us, and we don't know where we're going to find this future funding.

That's why we are really talking to the Congress to see if they can pass the new law that has been in -- that has been made up. Its name, H.R. 1342.

And then this other technical package. We don't know much about that one yet. However, if they can pass that 1342, that would be very, very helpful.

If your group, NACIE, I understand all of you are from some federal Indian lands. We really do need your help to keep our children in school, help us, especially, to pass this particular H.R. 1342 so we can get some money back to our schools.

Any questions?

CHAIR ACEVEDO: Thank you very much Board Member Allen. With the council's indulgence, if we could hear from each of the presenters and then reserve your questions for the answer, everyone has a chance.

We are moving into the lunch hour. We will go ahead and proceed. With that, Mr. Gish, who is next?

MR. MONRO: My name is Les Monroe. I am an administrator for Browning public schools on Blackfeet Indian Reservation in Browning, Montana.

And I just want to -- there was a question asked earlier, I wanted to answer. NIISA estimates that there's 160 school districts that will receive money for operating their school districts on Impact Aid funding. Indian land schools take 12 percent. We have 12 percent of the total Impact Aid. And there's over about a million students that generate funding for Impact Aid students.

Indian Impact Aid schools is about 12 percent of the whole program. But Indian land schools receive 41 percent of the total amount for basic services.

So even though we are at 12 percent, we get 41 percent of Impact Aid money, just because Indian land schools are on reservations that's non-taxable.

And I just want to -- I just want to let you guys know. The only money that we get is Impact Aid in Indian land schools, Impact Aid, and what money we get from the state, not putting anybody on Indian tribal programs or funding, but we don't get a penny from any Indian education funding from the BIA or BIE or anything, tribal funding, we totally depend on Impact Aid.

And you know not only that we are fighting with states trying to take our money through equalization, and any time somebody takes money from Indian land schools, it hurts our schools, just like the schools in New Mexico, and it's just really -- that really bothers me.

I am going to tell you guys a story. I went to the national board -- national school board association in Orlando, Florida. I walked out of a meeting that just -- it just teared my heart.

I was sitting in there. There was a superintendent from one of the bigger cities in New Mexico, and he was -- he was talking, "In our city we build 8 to 12 new schools every year."

He said, you know, "And our approach to our taxpayers is we don't have to raise your taxes because we've got this free money."

He said, and that, and he said, "It's called Impact Aid. We get over \$10 million of Impact Aid." To a city, to that city, who does not have any Impact Aid schools, in that city, and they have got a huge tax base. "We get over \$10 million from Impact Aid," because it's equalized.

And he only said, so, "That money we get, from Impact Aid." That's robbing those school districts that's on Indian lands. He said, "We use that money to build new schools."

I was so upset. I told my board I'm -- I cannot stand this. This is taking money away from kids on our reservation that need that money for education.

You know and the thing about this, Browning public school is located on Blackfeet Indian Reservation. We are 100 percent LOT.

Now, LOT, it's -- is a need basis formula which was talked about earlier. Now if sequestration should happen, Browning public school, in the high school budget, will lose \$260,000, elementary \$700,000, total loss would be \$960,000, to our school district, and you know, that's going to be devastating for our school district.

We depend on Impact Aid. Our demographics for our school district is we serve 1804 students, the largest Impact Aid school in the state of Montana. Our budget is \$26 million.

Forty-two percent of that is Indian Impact Aid funding. Funding is used for everything in our district, in order for our district to survive.

It meets our payroll to our classified staff, which is 140 -- 40 staff members. Our certified staff is 172 teachers. Our administration is 28, and that money we get from Impact Aid is used to meet this need.

And it's not only just for our payroll. Utilities are paid -- are Impact Aid.

We have one high school and eight elementary schools and our utilities run from -- have you ever been to Browning? It's a windy city. It's the coldest place in the world. Our utilities run from \$40-60,000.

That money is used for that, and the other thing is we have -- out of the nine schools we have, we have three schools that make AYP, because that's our goal, to give our students the best education that the money that we get -- to provide a better education for them, and two of them are in safe harbor. That means they almost met AYP, but they didn't meet it.

So out of the eight schools, we have three that met AYP and two that came pretty close. So we work, all these Impact Aid schools, we work hard to make sure that our -- that we meet the law, No Child Left Behind, and we want our students -- because they are our future -- we want them to have the best education that they can have with the money that we get.

And it also, I'll just -- the school year -- our bus -- our transportation. We own 26 buses. We are the second largest school in the state of Montana, in owning buses. The school, the number one school that owns more buses than we do, they best us by one school bus. But we are the second school that has got the most buses to operate.

And they have 20 different runs and our school district has 1.1 million acres of land, and them buses have to run at all points in our school district to pick up the kids. And we just got this statistic from bus transportation last school board meeting. He says we covered 250,000 miles, you know, a year.

The cost for gas keeps going up, but based on our, you know, what we are paying today, we are paying \$235,000 just on gas.

Browning public school lies within a district that you know, one point half million acres. So of this land, 400 acres of it is taxable land but 1.1 million acres is non-taxable land and this is where Impact Aid comes in.

Browning public school has no tax base and if sequestration goes through, it might be at 80 percent, Browning will have a hard time operating our schools.

And I talked to -- I'm a board member for the Eastern Montana area. I talked to a school, Rocky Boy, on Rocky Boy Indian Reservation, Box Elder, Pryor, Montana on Crow Indian Reservation, Arlee on Flathead Indian Reservation, they are small schools, but yet they are 100 percent LOT schools. They said if sequestration goes, we are only going to get 50 percent first payment, some of those schools might not open their doors because the money won't be there.

That's why we are here. We are really concerned about it and we hope that doesn't happen. We hope Congress looks at our children and says these kids need to be educated and quit the fighting between both parties.

And again, I want to stress, the only funding that we get is Impact Aid. And whatever we get, whatever funding we get from the state. We do not get any kind of funding from any federal Indian monies, from anybody, you know, we don't.

I'm sorry to say that but that's the rock bottom truth. And you know, I know people want to get some of this Impact Aid money, tribes. That's good. We'll be willing to work with them.

A friend told me one time, friendship should be this: friendship is not what you can get out of a friendship, but friendship is what -- it should be what you should give and get out friendship.

And I think in Indian Country, we need to work like that. I think that if the tribes want to take a more active role with Impact Aid money, then we should see some money come into our schools.

But what we are seeing as Impact Aid schools, everyone wants to take from our schools. You know, we are here. We educate 93 percent -- and I just got that from NAFIS -- 93 percent of all that Indian kids in the United States. BIA schools educate only three percent of all Indian kids in the United States, and the others, Indian tribal schools.

We don't get no government funding for Indian programs. We don't. Or any Title I, money for our facilities, to rebuild them, we don't get none of that.

The only thing we get is Impact Aid and that is a tax issue that was established by President Truman in 1950. He'd seen that schools were educating kids on federal lands and they were not getting no money from taxes, so he implemented Impact Aid.

And he said, them schools educate students that live on federal lands, and they need -- we need to pay our taxes. The federal government is paying their taxes but they are only paying at 60 percent. The Impact Aid is not fully funded. That's our dilemma.

And you know, our purpose is to educate Indian kids in Indian land, but we constantly see states, through equalization, taking away precious money needed to run these public schools on Indian reservations.

So when we see something like well, you should go through this government agency or this, it bothers us.

I know in Browning, if it goes through the tribe, they are going to take 28 percent just to route that money to the school district.

That means we are going to lose 28 percent of our budget. Where are we going to get the 28 percent to make up for that? We can't unless we go out and borrow.

So this is why every one of us, you know, Impact Aid is precious to us. A lot of these people that's on NIISA, and all the people that come up, there are meetings twice a year in D.C., and board members, they do this because they have a compassion to see our Indian kids be educated, to give them the best education that we can give them, in public schools on Indian lands.

That's our only goal. The way it's set, like Brent said, it's good. It works. We do it. The tribes and parents of Indian kids do have a say, how we run our schools, through that Indian procedure and policies.

We can't get Impact Aid. It's got to be part of our application. We have to have a sign up. It's got to be signed up by the tribal council and that tells how that money is going to be spent in the school year.

CHAIR ACEVEDO: Thank you Mr. Monroe. Thank you. Next.

MS. SMIT: For the sake of time I am going to read my testimony. I think Mr. Gish has a copy of it. I want to thank you for the opportunity --

CHAIR ACEVEDO: Please state your name for the record. Thank you so much.

MS. SMIT: My name is Susan Smit. I am the superintendent at the Wagner community school in Wagner, South Dakota.

CHAIR ACEVEDO: Welcome.

MS. SMIT: Thank you. I am a little nervous. Important people today. I want to thank you for allowing me to appear before you to testify on behalf of 38 South Dakota Impact Aid public school districts and the 880 Wagner community school districts students that I serve.

And I am the superintendent at the Wagner community school. We are a public school district on the Yankton Sioux Reservation.

We receive both 8003 basic support and B2 heavily funded, Title VIII, or Impact Aid funding. Sixty-seven percent of our student population identify themselves as Native American. Within our district boundaries, there is a tribally operated school that receives Bureau of Indian Education funding.

Now, as people have said, you know that Impact Aid is not a supplemental program like Title I, IDEA, Title VII, JOM or others. It is a basic program providing dollars to operate schools on a day to day basis and it is used for salaries, textbooks, supplies utility bills and the list goes on.

Unlike other Department of Education programs, impact Aid is not forward funded. Fiscal year '12 appropriations provided payments for '11/'12 school year, and fiscal year '13 appropriations will provide payments for the upcoming school year in '12/'13.

I would like to begin my testimony by telling you what it was like before the Wagner school district was found eligible for Impact Aid.

It was 1993 and the school district faced a major financial crisis. Tax money was not adequate to meet the needs. A major portion of the school district could not be taxed because of reservation status.

Staff salaries were some of the lowest in the state, and as you know, South Dakota teachers currently rate last in the nation in teacher pay.

Staff positions were cut. Class sizes increased. Staff benefits were reduced. Materials and resources were eliminated. Some textbooks were 20 years old. The gifted education program was eliminated. The cafeteria was in the gym, making the gym unusable for physical education for a major portion of the day, and dangerous playground equipment was removed rather than repaired. The roof leaked and the teachers used buckets in their classrooms to collect the water.

There were no funds for infrastructure repairs. Buses were in poor condition. It was a celebration when the district became eligible for the funding, but it has taken the past 15 years to repair the infrastructure and bring back programs as well as improve staff salaries and benefits.

We take pride in the current condition of our building as well as the programs for students that we have instituted.

Probably one of the first important things that we did about five years ago is that we recognized the need for early childhood education and for the past five years, we have served 110 three- and four-year-old children in a free and appropriate education through a partnership between Head Start, with funding provided by Impact Aid.

Seventy-five percent of those children are Native American. Then we also instituted alternative education, both at the middle and the high school levels.

The third thing we are very proud of is that we have just completed our third successful year in partnership with Jobs for America's Graduates or JAG.

And this is a national dropout prevention program that we define as a leadership development program for students who face a myriad of barriers to high school completion and graduation.

One of these students has just been selected as a Rotary exchange student for the 2012/13 school year. He is a student who shares his story and credits the program for saving him as he would have dropped out of school in junior high.

His story is only one of the success stories shared by students in this program. These students have presented at NIISA's national conference. They have also -- which as you know, is a subgroup of NAFIS.

Our JAG students have raised funds for a professional in our school district who was diagnosed with cancer. They have partnered with the local Rotary Club to gather children's coats and distribute them.

Students who have never had the opportunity to experience leadership are serving as officers in organizations, being selected by their peers as homecoming candidates, and participating in extracurricular activities.

They see themselves as leaders and others are taking notice. This and other programs within our school is helping us close the achievement gap and we all know that Native American students have the lowest graduation rate in the nation, due in part to poverty and significant unemployment rates on reservations.

And I will say that the JAG program was instituted because of the lack of graduation of our native students, and the program does serve about 95 percent of Native American students.

The fourth thing we are very proud of is one of our most recent uses of Impact Aid funding, was the completion last summer of a classroom for children diagnosed with autism.

We remodeled an existing classroom, we hired and trained a teacher. The business manager told me that this was a waste of money. She has since changed her mind.

Two of the children who utilize the services of the classroom had never spoken a word. Both of these children have now spoken their first words.

It brings tears to my eyes when I think about it. A swing, special lighting, water balls, they are all part of daily interventions that are making a difference because of Impact Aid funding.

There are many school districts that have similar stories to share. Ninety percent of all native students attend public schools and Impact Aid is critical to providing a quality education to these children.

The NAFIS organization estimates that 160 school districts will not be able to operate their programs without Impact Aid funding.

Three hundred school districts would be required to reduce programs, offerings or increase class size without Impact Aid. The bottom line is that Impact Aid, for many districts serving children residing on Indian land, is what keeps the school open.

As a school district, we are worried. We are concerned. We are fearful. What if Congress does not pass a year-long fiscal year 2013 appropriations bill prior to December 31st? What if Congress has not averted the potential for a January 2nd, '13 sequestration?

We try to build budgets based upon the past, but there are many Indian lands districts in need of early payments before January 1st or they will not have the cash on hand to pay staff, unless they have a reserve fund.

Many cannot go out and ask for funding from the patrons. I had the opportunity to serve as a superintendent of the Smeeth public school district in Wakpala, South Dakota, for five years. It's on the Standing Rock Reservation.

We had five taxpayers in our district. There was no money, Dakota taxpayers. NAFIS estimates that those who must have early payments may only receive 50 percent of LOT. Some school districts rely 50 percent of their budget, as you heard, from the others.

Many Indian land districts are having difficulty budgeting for the '12/'13 school year because of not knowing how much Impact Aid money they will receive.

Our school budget year begins four to six months prior to receipt of Impact Aid revenue for the school year. Future decision-making is daunting.

Some school districts have had to borrow money for cash flow purposes because they did not receive their Impact Aid payment.

Complicating this is the fact that Congress, if it does not pass fiscal year '13 full appropriations of LOT percentage payout, then between 82 to 88 percent will be received. This is very concerning to all of us.

We have been paid out 100 percent of LOT, and as you have heard the others say this is probably not going to be the case.

Impact AID funding is and should always be under the control of the locally elected school board, with input provided by the local tribe as provided for under Section 8004 of the Impact Aid law as it relates to Indian policies and procedures.

Impact Aid is not a supplemental program and should be paid to districts in lieu of taxes that would otherwise be collected if trust or treaty land was subject to property tax.

I would like to make one point regarding sequestration. South Dakota has four counties that are identified in the top poorest counties in the nation.

They are as follows: number one, Ziebach County, the Dupree public school district at 62 percent poverty index; number two in the nation is Shannon County, Shannon County public school district at 51.67 percent poverty index; number six is Todd County, Todd County public school district at 45.3 percent poverty index; and number 10 in the nation is Buffalo, or the Chamberlain public school district, at 43.6 percent poverty index.

These four public school districts rely on Impact Aid funding and sequestration will be devastating to their budgets.

In our school district we received approximately one quarter of our anticipated 2011/2012 payment last month, and we are still waiting for three quarters of our payment, or nearly \$3 million, nine months after the completion of the school year.

We will end our year on May 16th and we will receive, we have been told, our final payment next week. These late payments are the norm and not the exception for most Impact Aid school districts. You must have cash flow.

Although we are not an 8002 or a federal properties district, I must take this opportunity to share a story about their plight.

As you know, President Obama has removed 8002 funding from his budget. School districts who receive 8002 payments have only received foundation payments for Fiscal Year '10 through '12.

One school district in South Dakota has reduced their budget over the past several years. A few weeks ago, there was an article in the Rapid City newspaper discussing their situation.

They are reducing their 2012/13 budget by half a million dollars. The irony of this situation is that their 8002 payment of a half a million dollars would have filled the gap and they would not have had to reduce staff and services to students, and although they receive 8002 funding, some of their students are Native American, they just do not qualify as a Native American school.

They are in the same situation as we were in 1993, and that is what scares the patrons of our school district. Impact Aid funding is an obligation by the federal government to native children as well as all children who reside in a federally impacted school district.

So how can we prepare for and continue to meet the needs of all children who attend a public school impacted by federal presence, whether it be military, federal properties, Indian lands or low-rent housing.

In summary, I hope you have heard me say that 90 percent of Native American students attend public school districts; two, Impact Aid is essential funding for public schools serving native students; three, Impact Aid funding is not forward funded and payments are historically late and subject to appropriations which cause challenges for long term budget planning; and four, sequestration is a serious threat to school districts in ways that we have not yet fully realized.

I would encourage NACIE to be aggressive in advocating for the Impact Aid program, to support the basic premise of the program which is that Impact Aid is not a supplemental program, but is paid to school districts in lieu of tax dollars, and to support the current policy that locally elected school boards, with meaningful input from local tribes, through the Indian policies and procedures provision, determine local school district policy, including establishing a school district budget to meet the needs of all students in that district who are affected by the federal presence.

I want to personally thank you for providing the leadership that focuses upon meeting the needs of native children. Paying for the day to day bills requires funding. Closing the achievement gap requires funding. And in our case, that is Impact Aid.

I commend you and thank you. I truly believe that it is -- if it is going to be, it is up to me and each of you to speak up on behalf of children who have no voice.

In the words of Sitting Bull, let us put our heads together to see what life we will make for our children. Respectfully submitted, Susan Smit.

CHAIR ACEVEDO: Thank you Superintendent Smit. Very comprehensive. Superintendent Hoffman?

MS. HOFFMAN: Good afternoon. I was getting ready to say good morning but we have gone into the afternoon. Are you sure you don't want to break for lunch, because you all know that we are just not us when we are hungry?

CHAIR ACEVEDO: Please proceed.

MS. HOFFMAN: Okay. I will try to be brief. I'm going to talk to the council today about the faces that we look at every day, and that's our children.

My name is Michelle Hoffman. I am superintendent at Fremont County school district number 14, Wyoming Indian schools, located in the central western part of Wyoming.

The reservation encompasses 2.2 million acres. It is home to approximately 2,000 Shoshoni in eastern Shoshone, and over 5,000 northern Arapaho tribal members.

I want to kind of take you on a little trip with me from when I started at Wyoming Indian schools, and that was in 1987, so I have been there a few years, a little bit. Most of my kids call me (native language spoken) now, which is grandmother.

In 1987 our graduation rate was 17 percent. The first day I came to work I walked up to the high school. I was a special education teacher at the high school and I walked into the high school and I had to go buy a group of boys that were standing there, and at that time they had their big boom boxes and were smoking outside of the class -- outside of the doors.

And from then on, things have changed greatly over the years in our school district. In 2002, 2000, 2002, our state gave the first statewide assessment and the results were pretty dismal.

The only proficiency we had in our school was at fourth grade, and that was 12 percent in math. Everything else was at zero percent.

We all know how that affects your school climate. Your staff do not believe in themselves. Your students do not believe in themselves. And your community wonders what you are doing during the day.

In 2005, our average kindergartner came into the classroom three to four years behind academically. And it's a poverty issue. It's not anything else. Our community is poor and we know that.

Ninety-five percent of my students didn't know the letters of the alphabet. They and no number recognition, and a third of them were not even potty trained when they came to school.

It's kind of hard to talk about this, because it's my little ones coming in the door.

In 2005, 97 percent of our students qualified for free to reduced lunches. And in 2010 the Obama administration embarked on a domestic surge modeled on the U.S. military's 2007 strategy in Iraq.

In three of the four reservations targeted, crime was reduced, while it was reported that violence on the Wind River Reservation increased by seven percent. That's earning our reservation the title of one of the most dangerous places in the country.

On February 2nd, 2012, in the New York Times, there was an article published by Timothy Williams entitled, "Brutal Crimes Gripped an Indian Reservation."

In this article, my schools and students are the highlight and the focus. The eighth grade female student he talks about that was mentioned in the article was one of my kids.

Williams wrote, "One crime the surge was unable to prevent was the death of Marisa Spoonhunter, an eighth grader at Wyoming Indian middle school who was killed in April of 2010.

"Her parents recognized her body by the coat they had recently bought for her in Denver. Marisa's 21-year-old brother, Robert, and 19-year-old step-cousin, were arrested and convicted.

"The three had been drinking in their trailer home when Robert Spoonhunter said he blacked out and awoke to find his sister and cousin having sex.

"In a rage, Mr. Spoonhunter said he choked his sister for about 20 seconds before flinging her away. Marisa's head hit a weightlifting bench. The men fastened a rope to her ankles and dragged her under a tree before resuming drinking."

We only teach reading, writing and arithmetic. That's what we are assessed on. But we are also charged with the social, emotional and cultural teachings that we must do in our schools.

As I said, in 2000, 2002, we had no one proficient except for math at fourth grade, and that was 12 percent. That wasn't good enough.

In our school district, we refocused, we retrained. We did a lot of looking at what's good for our students. And the paper that was handed out, I believe -- was it handed out? Yes -- will give you some ideas of what we are doing in our school.

I am very proud of my students. I am very proud of my staff. Because we had to take a whole different approach to education. We started a preschool about five years ago.

We serve 30 four-year-olds, and those students, when they enter kindergarten, the advancements are made. They know how to go to the bathroom. They know their letters. They are writing. They are reading. And the results are remarkable.

So we have to catch them early. We hired a school resource officer because at the time before the surge began, sometimes it was 30 minutes you might get an officer if you called, but most times it was three days later.

We were our own law enforcement agency, so now we have a resource officer that provides training to our students in gang awareness, drugs, alcohol, coming to school. He also goes out to homes. We have home school coordinators. These are the things that are financed through Impact Aid that we would never be able to have.

We have additional counselors that we hire. In the state of Wyoming, it pays fairly well for education, but it is based upon a normal classroom, normal meaning -- in my district I am funded for 1.1 counselors. I have six because of the trauma that my students deal with, that my border towns do not understand.

We have our breakfast and lunch programs. Our board believes that it's important for our students to be fed well. As I said, in 2005, 97 percent of our students are on free and reduced lunch.

Now, it's about 75 percent because we have casinos sprouting up all over the place and my families are better paid, we have jobs. But that brings other problems into the mix as well.

But now we are about 73 percent but my board still pays for 100 percent of breakfast and lunches.

We do drug testing for our students because in 2002, we had a documentary about my school district -- there must be something about it -- in 2002 my school district was featured in a documentary called The Chiefs. My basketball team, they are a great basketball team. We win, we win state, but when they had their showing in our community, my parents and community members either were appalled at what they saw and denied what they saw, or they took to heart that we had a problem and in this documentary it showed my basketball players smoking marijuana, very freely, and in a lot of different places.

And so at that time, the community came together. We had put policies together. We have a drug testing policy that we have done with our students for many years, and on this paper you will see that about one percent of our students will test positive, which gives our students a reason to say no during the season. It's another thing. We used to pay for that for free -- for school -- free, safe and free schools, money, but that's gone down so much that that doesn't pay anymore.

It's not just Impact Aid that we are looking at being cut. It's all the programs across the board and we do understand, if the money is not there, we understand that. However, to go back to my kids and say no, because someone is not reauthorizing, someone is not appropriating, it's hard.

I won't go on and on. You all know the same story. We have all seen the same story. But thank you so very much for allowing us to come today and to present on behalf of our students. It's very important to us or we wouldn't be here. But thank you very much.

CHAIR ACEVEDO: Thank you Superintendent Hoffman for that impassioned delivery. We are really tight on time. If we could, with the council's permission, have you take questions outside that you may have, and we will then include that in, obviously, when you make your recommendations, into the record if that would be acceptable to you, because we are due back at 1:30. Is that -- are you in agreement? Yes?

Okay, thank you. With that we will recess. 1:30.

MEMBER WHITEFOOT: I was going to say I'm not in agreement, for the record.

CHAIR ACEVEDO: Thank you Patricia.

(Whereupon, the meeting went into lunch recess at 12:43 p.m. and resumed at 1:42 p.m.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:42 p.m.)

CHAIR ACEVEDO: If I could have your attention, we would like to convene this afternoon's session. Since we cut off this morning's for lunch, and Michael is not here yet, and I see we still have some of the folks here from the Impact Aid discussion, so if you have any questions of them, and they are prepared to answer, now is your opportunity. Patsy?

MEMBER WHITEFOOT: Yes, I did have a question. I just wanted to also, just for the record, state that I didn't agree with us just cutting off our dialogue this morning that we were having with the National Indian Impact Aid Schools Association.

So I am pleased, Chairman, that you have allowed this opportunity for us to ask questions or make comments. Thank you.

To the National Indian School Board Association, I just want to say I appreciate the opportunity to listen to your input being provided to the National Advisory Council on Indian Education, and also from the four school districts that were this morning. Thank you.

And I think it's important for us to hear about some of the highlights that are occurring in Indian Country under the Impact Aid funding.

And I also think it's, for me personally, coming from a tribal environment, as all of you expressed, I appreciated the fact that you talked about the -- you addressed the holistic needs of education and also the final statement that Mr. Gish expressed about the tribal education departments.

While I felt that there was general support for Indian self-determination, I couldn't help but think about, I think, the need that exists in Indian Country for tribal control and what we have been working toward for many years, and that includes education and the school districts where our children attend.

I think that I just want to say that overall it sounds like there's a need for an initiative just to address Indian self-determination and what does that mean in Indian Country, regardless of where we are or the boxes that we put ourselves in, if we are teachers, a certified teacher, we know that in education, that we don't get this type of training about sovereignty, about our own history in public education.

And as I shared earlier today, it's all about, you know, revitalizing our communities, restoring our, you know, all the things that we are doing in Indian Country.

So I just wanted to share for the record that I believe overall in education, we really need to take a look at some type of initiative that really focuses on self-determination.

And I can appreciate, you know, individual careers, the professions that individuals are in. But what I feel like we are really about is about undertaking self-control but also building capacity in our own communities, regardless of the funding sources, regardless of the infrastructure, it's really about building capacity in our own communities and sustaining the work that is going on, whether it be environmental restoration, or whatever it may be.

And I guess that's the vision that I have for my children and grandchildren yet to come, and it's about building healthy, vibrant communities. Thank you.

CHAIR ACEVEDO: Virginia.

MEMBER THOMAS: Thank you. I also want to thank the presenters this morning. It was very well presented, very much in the documentation and statistics and that's exactly what we needed.

We worked yesterday, some of us -- some of us worked yesterday --

(Laughter)

MEMBER THOMAS: I won't mention names. But you know, we are preparing for the annual report and for our letter, and for our letter to the Secretary. We are Indians, no matter where we are, we are Indians here.

But we want to assure you that we are very much concerned ourselves, and we are putting this in our recommendations, both to -- in our annual report and in the letter to the Secretary to what our needs and what we see as -- that's I guess I -- it's kind of like being on the dangerous edge of

losing and what the impact is, and I loved this report from Arizona state. This, this is excellent. I am going to plagiarize this, if you don't mind. I am telling you know, because it is, it is something that we can take to Congress and let them see what this is, and how it affects the children and how it affects the school district. This is an excellent report that's in here, and I just, I thank you for your presentation. It did mean a lot. Thank you.

CHAIR ACEVEDO: Stacy.

MEMBER PHELPS: Could you send her the report so she could plagiarize it easier? That was -- that was Greg and Sam and my contribution to not being at the meeting. We are saving her some time.

(Laughter)

MEMBER PHELPS: But are there administrative cost allowances in Impact Aid when states or schools get them?

CHAIR ACEVEDO: Whoever would like that, please come up to a microphone. Thank you Mr. Gish.

MR. GISH: Members of NACIE, no, there are no administrative costs that come out of here. These are dollars that flow directly to the district, without administrative costs, and go directly into programs without those additional deductions.

MEMBER PHELPS: So, like if they flow through a state, the states don't take administrative overhead off-of them, or any handling or anything?

MR. GISH: Impact Aid, sir, flows directly from the Department of Ed to the individual school district without going through the state.

MEMBER PHELPS: I thought, Susan, you said yours is held up at the state.

CHAIR ACEVEDO: Susan please come forward.

MS. SMIT: Ours comes directly to us. One of the things the state would like to see is what we talked about with equalization, where they would like to see it come to the state and then that be deducted from what they would pay in state aid. That would be the future goal of South Dakota.

They have been working towards that for a number of years. They can't do it yet because we are not equalized.

So right now, it comes to us and then it can be used in any way. The money, once it comes to you, it loses its identity. In other words, it can be used for construction or salaries or paying the electricity bill or paying for kids to go on a field trip. It loses its identity once it comes into your school district.

CHAIR ACEVEDO: Deb.

MEMBER JACKSON-DENNISON: Thank you Brent, and thank you to the school districts that represent the national impacted schools association. Brent, can you explain a little bit more to the council what exactly you think would need to be in the report to Congress?

It's two parts. There's a report to Congress as well as -- and that, we worked on it quite a bit yesterday, but we want to know what you as an executive director would like to see in the report, but even more specifically, what you would like to see in the letter, which is a letter of recommendations, bold recommendations to the Secretary of Education, that would help better serve Indian children across the United States as far as Impact Aid is concerned.

MR. GISH: Dr. Dennison, members of the council, if we were to take a look at the entire Impact Aid program we would advocate for greater efficiency.

That greater efficiency would fall in two areas right now that essentially are the biggest challenge to the department, to Mr. Lott and his staff, in trying to get payments out in a timely manner.

First of all, it's the section 8002 which is the federal properties provision and in that provision it's a matter of verifying every piece of property in that school district, which is very, very time consuming, and the rest of the payments cannot flow until that is done.

Then there is the Table IX provision, which is basically renovation of housing on -- and it's primarily on military, but it also happens on Indian lands as well, and so it's a matter of verifying those property descriptions as well, and that's one of the biggest hang-ups.

Number two, it's the provision in section 8007, which is grossly underfunded. The need for facility construction and renovation is huge with Indian lands, and what we would advocate for is the

system is in place, but there is inadequate funding, and it's a matter of funding at an appropriate level to truly address the facility needs in Indian lands.

Section 8009 is the equalization provision, which I touched on previously. Currently there are three states, as I had indicated here, New Mexico, Kansas and Alaska, qualify; during these economic times, that there are more states that are looking at that provision to see if they qualify and if so, it would mean that those dollars would be seen as a local resource and would be sent back to the state.

The example that is most prevalent in my mind here is the New Mexico situation, where approximately \$50 million go back to the state coffers to supplement and essentially lower the taxing, you know, the tax levy that is placed on New Mexico taxpayers there and property owners.

So those are four items that I think that would help it, you know, make more efficient. You know, if we had our wishes, members of the council, it would be forward funded as well. We are one of the only education programs that is not forward funded and so therefore we depend on the appropriations in the year that we receive the dollars.

That, just given the situation right now in trying to pass appropriations here, complicates an already difficult situation for the Department.

So just off the top of my head, those are just some that I would advocate for. Thank you Dr. Dennison.

MEMBER JACKSON-DENNISON: Just a follow-up. Can you touch a little bit more because I -- my -- and I think the council knows that I asked for this to be on the agenda for you all, but can you touch a little bit more on what you think we might be able to do as far as through the Secretary, I would think through the Secretary, about the issue of sequestration and how we can prevent that, if we can. I mean I'm not promising anything, but I'm thinking that if we make our strong letter, that we would be able to at least touch on that and -- because I wouldn't think that that would be something that the President nor the Secretary want to do, but it just so happens that because Impact Aid is connected with the reauthorization of the Elementary and Secondary Education Act, that it's tied into that and so the -- not reauthorizing ESEA is what is holding Impact Aid hostage. So I think I'd like to expand on that a little bit more to the council.

MR. GISH: Dr. Dennison, members of the council, I am glad you brought me back there. The reauthorization of ESEA with the recommended changes that would cover the areas that I have already talked to, making 8002 a more efficient section, tightening up the provisions in 8009, which is the equalization one, likewise with the Table IX, all -- we have been spending in excess of five years on our reauthorization, ours being the Impact Aid reauthorization proposal, giving it to Congress.

Essentially the provisions show up in H.R. 1342, sponsored by Hirono and Noem, bill, and -- but right now that doesn't seem to be going any place.

We think that the work has already been done, that takes care of most of the issues that we have got forward in the current bill that Mr. Kline on the House side and Mr. Harkin on the Senate side are building in as well.

The alternative to that, as I alluded to, is perhaps technical amendments that could streamline this process. We don't have an avenue to take. We don't have it in mind right now, nor do we have a sponsor on how that might happen.

Recently in a meeting with the federal relations outreach that we had done approximately two or three weeks ago, we actually used some committee staffers as sounding boards, and looking at this as a first step. Take a look at that as a first step.

And although it didn't appear as though anyone was opposed to it, but they wanted to know, how would you get it done. So I think one of the keys, if we could get ESEA reauthorized with the recommended changes in it that streamline the law, that would solve many of our issues at this time.

CHAIR ACEVEDO: Patricia.

MEMBER WHITEFOOT: I just have one final question that has to do with military families. I know that didn't really come up, but I am wondering about the number of native families that are in the military. I know that there are great needs to our military children. I have grandchildren that are in a military family and the kinds of services they need are important with them traveling across the country, you know, they don't stay in one community very long, they are moving from one community to the next.

And I think our grandchildren and children, you know, carry these extra needs that they have and so I am wondering if there has been any real dialogue with military families, particularly our native families.

MR. GISH: Members of the council, direct and indirect, council has been going back and forth here. The dialogue is there. As I mentioned to you, and I would just restate, military impacted schools receive an additional amount of funding here that is outside of the Impact Aid formula at this particular time, to address those issues of mobility, to address the issues that come with families that have been sent out to defend this country, and the mental health kinds of issues that are there.

And so I can't speak with detail to the programs that are there, but I am aware that there are additional dollars to address that unique need that the military families bring as well.

MEMBER WHITEFOOT: Just for your information, I know that there was a period of time when my grandchildren were in the San Diego area, and the kinds of conditions that you shared about Indian Country, our military children also are exposed to those kinds of conditions, where they have needs for facility renovation, repair, those kinds of things as well. So I just wanted to share that with you.

MR. GISH: Members of the council, again, I am aware that there is a bill that has been introduced to address military facility, military schools and military land schools. At this particular time there is no counterpart for Indian lands, and I don't know the status of that bill. But we were made aware of that.

CHAIR ACEVEDO: Thank you Director Gish. With that, Jenelle, or are we having Michael? Michael welcome, I didn't see you come in the room, sorry. Welcome again.

MR. YUDIN: Thank you Mr. Chairman, it's good to be here. So what I thought, if it would be helpful, is to kind of provide you with the general landscape of where we are, with -- at the Department, but in particular with regards to Elementary and Secondary Education Act and the flexibility initiative that is a significant amount of work that is going on now. Mr. Chairman.

MEMBER WHITEFOOT: Mr. Chairman could I have -- ask Mr. Yudin to introduce himself for our public that's with us, who have traveled across country to be with us.

MR. YUDIN: Yes, absolutely. So my name is Michael Yudin. I am the Deputy Assistant Secretary for Policy and Strategic Initiatives. I have been delegated the authority to act on behalf of the assistant secretary so I am functioning in that capacity for the office of elementary and secondary education.

So you know, if it's okay with the Chairman and members of the council, I'd like to kind of give you a brief representation on ESEA flexibility, what some of the key issues are, why I think there is -- this is important, important work ahead that I think is relevant to improving outcomes for Native American kids as well as kids across the country.

So if that's okay Mr. Chairman, I'd like to do that.

CHAIR ACEVEDO: Yes, Michael, please. That's great.

MR. YUDIN: Thanks. So, and of course please feel free to ask me questions as they come up, because I'll just keep rambling if you don't.

So you know, I think all of us know No Child Left Behind has some really important pieces, components, to it, has some really important accountability provisions, making sure that we are shining the spotlight on subgroups of kids, that when measuring the performance of kids that have historically kind of been left behind, that we are comparing and looking at the performance of those kids as compared to their peers, we have really required school systems, for the first time, to look at kids in a different way, and compare the performance of kids with disabilities to the performance of kids without disabilities, or English learners compared to the kids -- to the outcomes of kids who do speak English as their primary native language; look at ethnic and racial groups and look at kids that come from poverty, and how those kids are performing as compared to their peers.

And that is actually really important work. But No Child Left Behind set up an accountability framework that no longer really makes sense.

It required states to set goals for each of these subgroups of kids that by the year 2013/14, 100 percent of the kids would reach proficiency on state standards, and it's not achievable.

We are at, you know, we are about to embark on the 2012/13 school year and they are not there. And if they are there, we have seen in many cases states have actually dummed down their standards to make it easier to get kids there.

Truth of the matter is that states want to do more. They want to do better. Forty six states and the District of Columbia have adopted common college and career-ready standards, high standards to show that kids actually, if they meet these standards, will graduate from high school ready to succeed in college and careers, ready to succeed in their first year of college without the need for remediation.

That doesn't mean they need to be successful and go on to get a four-year degree at Harvard, but that they can enter postsecondary school, community college without having to take remedial courses in English or math.

A couple of states that haven't even adopted this common core, have moved forward to adopt high standards that are college- and career-ready.

But as states want to move forward to implement these higher expectations, they are mired in an accountability framework; the federal law requires them to go this way when they want to go this way.

They want to implement these new higher standards. They want to look at accountability systems that actually target resources to kids that need it the most.

Under current law, if you are not making your targets, your ever-increasing targets to 100 percent proficiency, you are required to do a set of very punitive actions that are mandated under the law, regardless of the fact if your school didn't meet its targets because one subgroup or all of your kids, or for how long your kids or how far off your kids are.

If you didn't check every box, you had to do a one size fits all set of mandates. States are saying you know what, that doesn't work for us. We actually think there are better ways to target our resources and our interventions and supports to kids that need it the most.

We want to move away from highly-qualified teacher, which is an important floor that says you know, this is what a teacher needs to have, to how is a teacher actually performing and how is a teacher's performance actually impacting learning in the classroom.

We want to move to more -- to measures of teacher effectiveness. And I can honestly tell you, from my chair for the last two years, I have had heard from, you know, state chiefs and supes. and principals and educators across the country, that have said, you know, what, we are mired in this

system and we are expending all of our energy and resources complying with a law that just doesn't make sense for us anymore.

We need a full reauthorization. There is nobody, I don't think, in this room, that doesn't believe that we need a reauthorization of No Child Left Behind.

But it's 10 years -- It was written over 10 years ago and it's many years overdue. The President said, you know, he needed a bill on his desk by the beginning of this school year and it didn't happen.

He has made the decision that kids can't wait anymore. Kids can't wait for Congress. We need to do more to move forward with reform, to hold our kids to higher standards.

So he charged the Secretary with coming up with -- identifying the provisions of law that are standing in the way of reform, that act as barriers to states and schools and districts moving forward with innovation.

So we did that. We identified provisions of the law that act as barriers to reform. We reached out to stakeholders, we heard from the community, we identified a set of provisions, most importantly, the couple of provisions that we heard are the requirement that states have to set targets towards 100 percent proficiency by 2013/14, and then the kind of one size fits all prescriptions that require school districts to set aside resources if they don't meet Adequate Yearly Progress, if they don't meet their targets for every -- for any subgroup, they have to then set aside their resources to provide supplemental services in school choice and then a series of cascading consequences that really, really eat up a district's resources.

But not a free pass. In exchange for a commitment to do more and do better, our waiver authority actually requires, we can provide waivers from a number of provisions under ESEA that actually improve outcomes for kids and improve the quality of instructions.

So we identified a set of principles that in exchange for this, this significantly greater flexibility under the law, we want to see you do three things: show us that you have these high, college- and career-ready standards and plans to implement them; how are you going to make sure that all of your kids have access to these standards, that your teachers know how to teach all kids, English learners, students with disabilities, how are you going to make sure all of your kids, your low-achieving

kids, are in the plan, that they are going to have access to these standards, and that your communities and your stakeholders are going to understand what it means to be college- and career-ready.

Two, we want to see an accountability system that actually targets and drives interventions and supports to where they are needed the most, in other words that you have a system of accountability that says you know what, we are going to hold these kids to high -- you know, hold these schools to high expectations for all of our kids, but we need a system of supports that is going to help get them there.

So develop an accountability system that actually targets interventions and supports to where they are needed the most.

And there are a few things we want to see in there. We want to see that you are targeting your efforts at the lowest-performing schools, that you are identifying the bottom five percent of your lowest-performing schools, and do some pretty rigorous interventions.

We want you to look at your schools with the largest achievement gaps, which kids are performing worse as compared to their peers, identify your schools with the largest achievement gaps, and identify a set of interventions that are really appropriate to closing those achievement gaps.

And look at your schools, your Title I schools that are actually doing really well, that are doing some great work, that are making some really important progress, so we can not only reward those efforts, but learn from them and replicate them.

So that's the second principle. It's a different shade of accountability and support system. And then the third principle is develop a meaningful system of teacher and leader effectiveness of support.

So, identify and create a framework for districts to develop teacher and leader evaluation systems that provide meaningful information to stakeholders, to teachers, to superintendents, on -- that actually provides meaningful information on how a teacher is impacting student learning in the classroom.

So those are the kind of the three areas that we asked states, and those were heavy lifts. Those were heavy lifts. This was -- the President of the United States said this is not a free pass. We are not giving away the store.

So we created these kind of three principles. We announced our flexibility package last fall and September. We had 11 states apply for flexibility. We established a rigorous peer review process that we held the first week of December.

Because this is not a competition, we were able to have a really meaningful, iterative process with the states, a back and forth. Actually let me back up for one quick minute.

We asked our peer reviewers to look at how states, you know, met -- whether they met the principles and the elements that we laid out, but if they didn't provide the recommendations, what are the strengths and the weaknesses of these states' requests, and provide technical assistance and suggestions on how they can actually improve that. That turned out to be an incredibly valuable and important document, that we were able to work with our states, these 11 states, to get to the place where we felt comfortable that they were meeting our priorities, they were meeting our high bar, they were continuing to protect kids but giving them the flexibility and the space they need to innovate and create the systems that allow them to get all of their kids to high standards.

We required each of the states to establish a consultation process that required them to meaningfully engage diverse stakeholders in the development, and importantly the implementation of these new flexibility requests.

You know, and we asked them to show us how they are reaching out to these stakeholders, you know, civil rights groups, the business community, tribal leaders, teachers, and a wide array of stakeholders.

So again, so we provided this peer review, we gave them these notes, we had this incredibly useful, iterative process with the states, where we went back and forth and said you know what, we need to -- high bar, we are going to hold you to this high bar. The peers suggested, you know, for example, that you know, a number of states kind of created these combined subgroups and they were concerned that combined subgroups could mask, you know, mask the performance of some of the lower-performing subgroups of kids.

So we used that and identified was in which states could show us they are not they are not masking. So they provided us with data, or they provided rigorous criteria that showed that they were going to look at their new measures, that they were actually going to meaningfully inform the school improvement process.

So we had a really interesting back and forth with the states, and ultimately, we approved 11 of those states, 11 out of 11.

So we approved 10 up front. New Mexico was the 11th state. It took us a little bit longer to get them to a place where the Secretary felt comfortable that they actually met that high bar.

And I believe we approved them in the -- at some point in February, if my memory serves me correctly.

We have since actually received requests from 27 other SEAs, so that's 11 now. We have 27, 26 plus the District of Columbia have applied for this flexibility.

So we are talking all, total, we are talking about 38 SEAs, looking for this type of flexibility. We held a peer review of these 27 in March. And we are now in the process where we are working with these 27 states to get them again to the same place we got the 11, is where we are providing them with the flexibility to innovate and to do more and better, how they are going to get all of their kids to high standards, what are the interventions and supports they are going to put in place to get there, the accountability that they are going to impose upon their districts and their schools to make sure that we are continuing to protect kids, to protect the traditional ESEA subgroups of kids, how they are going to ensure continuous improvement in all of their Title I schools, and how they are going to move forward with meaningful teacher and leader evaluation and support systems.

So that's where we are today. We have 11 that are approved and the 27 are in process.

CHAIR ACEVEDO: Mr. Secretary, is there a model that is emerging, or is it each one individualized?

MR. YUDIN: That's a great question. There is no one model. They are doing fairly radically different things. If you look at, for example, the state of Florida, has a state accountability system that they have been building and working on for well over a decade.

So what they wanted to do is build off-of that effort, and use their -- they have a very sophisticated accountability system. Colorado has a very sophisticated accountability system that is -- uses very detailed and rich data at the school level to inform a whole array of supports and interventions and consequences, and it's really very, very, very sophisticated and comprehensive.

And then you have other states that literally created accountability systems, you know, as a result of this flexibility, that weren't as comprehensive and longstanding, that really just looked at our criteria and said this is what we are going to do, and New Jersey and Oklahoma, you know, are examples of states that didn't have those -- as thoughtfully and longstanding and developed state accountability systems.

So they are very different. We have on our website, for the public and the council's consideration, we have -- for each state we have the requests that were submitted, their original requests, we have actually put online the peer review notes. We have put online a summary of each state, what changed, because a lot changed from the original submission to the approval.

So all of that information is there and is available and just to -- one note, Mr. Chairman, if I may, and I'm sorry Virginia, we think this is an incredible opportunity to learn. There is no one model that Washington this is the best way to do this. The states are really providing the way forward with what they think is best to, you know, to improve outcomes for their kids, and there really are a lot of models that we can learn from.

CHAIR ACEVEDO: Virginia.

MEMBER THOMAS: Didn't want to cut you off Michael. I just wanted to make sure you were done because I am sure you have more to say. I had two questions.

You said this is becoming the norm now for the states that was going to happen. Is this going to be consistent now, that it will be individualized towards the states?

MR. YUDIN: I'm not sure I understand your question.

MEMBER THOMAS: To where they would be able to be accountable for what's important in their state and that changes their -- because Alaska's one way in Oklahoma is another way and --

MR. YUDIN: Exactly.

MEMBER THOMAS: there's not a norm that could fit both of them.

MR. YUDIN: That's right. That's right. And so I think to answer your question, and hopefully I can answer it correctly, yes, I think there -- the trend is that there -- you know, I would hope

that Oklahoma feels that they got the opportunity to develop an accountability system that provides the supports and the interventions and the whole -- that meets their needs, that is tailored to the needs of Oklahoma, but that also meets our priorities, right?

We put in place some pretty -- like I said, a high bar. We, we -- this was not a free pass. The President to the Secretary then to me and my team made sure that each of these states were kind of identifying these priorities and meeting these priorities that we had identified.

So the objective was to provide states with a lot of space and flexibility to do what Oklahoma thinks is best and Alaska, which hasn't come in yet, but hopefully will, you know, are very, very different. They are radically different approaches to improving outcomes for kids and we hope -- that is our intent, is to give them the space to do what they think is --

MEMBER THOMAS: Okay, knowing that then, then I know you talked about your team was working on how they can make this available, how do you see the accountability overall because if we have got two different norms here because of states that are happening, how do you make it accountable to the -- not only to the Secretary but to the President, that this is working and this is good, and over here, this is good and this is working over here, then how do you make the accountability across the board?

MR. YUDIN: That's a great question. I don't mean that condescendingly. That's a great question. That's a great question. That's a really tough nut, you know. At the end of the day, implementation and we are going to have all these different state systems, right, and implementation is going to be very challenging. What we are going to be looking for, you know, to start, is are states doing what they said they were going to do? We required them to tell us, set ambitious but achievable targets for each of your subgroups of kids, and how are you going to use those targets to improve performance in your Title I schools.

We asked them to show us your bottom five percent of your schools, your lowest-performing schools, and implement rigorous interventions. We are going to hold them accountable to doing that.

Identify your focus schools, your 10 percent with the largest achievement gaps, and provide us with you think are the right sets of interventions and how are you going to make sure that you are closing those achievement gaps.

And what Oklahoma has proposed is very different from what Massachusetts proposed. So what we are going to do is hold Oklahoma accountable for what it said it was going to do. Does that answer your question?

MEMBER THOMAS: Yes, the guidelines will still be there but the restrictions that were before, won't be as it was.

MR. YUDIN: Well, the federal requirements, right, so the federal requirements around setting targets, the AMOs, the Annual Measurable Objectives, that 100 percent proficiency by 2013/14, are now waived for these 11 states. They don't exist anymore.

The requirements that, if your school doesn't make AYP, which is using those targets, that you have to set aside your 20 percent for SES and choice, that federal requirement, those cascading consequences under the law, it's actually section 1116 of the law, are now waived. They don't exist anymore for those 11 states.

CHAIR ACEVEDO: Thank you Michael. We have got several questioners in line. Deborah, Robin and then Alan.

MEMBER JACKSON-DENNISON: Thank you Mr. Secretary. I do have a question regarding some discussion that came up this morning as far as Indian children or native children, and the waiver, I guess, in this case.

And I'm thinking I saw Arizona on the list up there, but is there anything built into the waiver to ensure that they are taking on the demographics of the children that are being served?

I know when the Secretary initially put out the Race to the Top information -- this was years back when he first took office -- it was a requirement very similar to what you are explaining now, where they had to identify the lowest-performing schools, and quickly I got on and I realized, you know what, that's us, schools on Indian reservations.

So I guess Arizona probably won't qualify for -- this is the beginning -- the Race to the Top, because they are not going to -- they have never really reached out to us. This goes back to the discussion this morning, where is there anything in this process where -- I see New Mexico got a waiver. But is there anything showing that these states are going back and truly working with Indian land schools and truly making an effort and not just saying oh, well, we won't worry about them but very

similar to what happened with the Race to the Top, they finally came to us and said how are you doing, what are you doing and what can you do to help, what can we do as a state to help other Indian reservation schools, because we are the lowest performing when you -- I mean there's no doubt about that when you look at statistics.

But I'm just hoping that, through this process, we don't forget that, like our states sometimes forget about us, that we are -- we have different issues, we have different situations and I can see where that flexibility is really important and that each state has its own, I truly hope that those plans are very, very well looked at in the sense, before they are approved, because I know in the state of Arizona, we have a large number of Indian land children that are usually left out of the plans when it goes to -- comes to the federal level.

MR. YUDIN: Yes, really important. You know, two things, I can try to answer your question, three things I'd like to say actually.

The first is you know, when we set a high bar, we actually really set a high bar, and it was very difficult and challenging for the states, for most of them. Again, not one state was approvable as it emerged from the peer review process.

The peers, we had experts on English learners, we had experts on students with disabilities, we had advocates on accountability, systems and interventions and what are the interventions, and we really identified and I urge you to actually look at some of them, maybe, you know, and we can help you, we can provide you with some of them, I mean, that have, you know, high percentages of Native American kids, New Mexico's for example.

At the end of the day, New Mexico ended up with a very rigorous accountability system that is really going to hold those schools accountable for all of their kids.

They built in an accountability system that is going to look at a wide array of measures of success, including growth, to academic standard, but also look at access to college readiness courses like AP or dual enrolment, or industry certification.

They are looking at a wide array of courses. They put it, built in place, a very rigorous accountability system.

To finally answer your question, at the end of the day, we are going to hold New Mexico accountable for what they said they were going to do, which is hold all kids to high expectations.

So, and so the final piece that I want to say is we are going to do everything we can to ensure that, but as Virginia, I think, applied, New Mexico's is very different than Oklahoma's and it's going to be a challenge for us to do it.

So you know, I've said this publicly. This is a shared responsibility. You know, this has to -- everybody has to kind of know what's going on and really be a part of this process.

I am -- I have to rely on stakeholders in New Mexico to hold New Mexico and us accountable for what New Mexico said it was going to do.

MEMBER JACKSON-DENNISON: Okay. Just a follow-up is that for example, and I had mentioned we talked about this a little bit this morning, but the Native American language Act and -- is totally disregarded in the state of Arizona because they have their own English only act, and that is an example, but I am talking about does it really impact schools in Arizona, public schools, that really push to -- there's this fear or there's this -- that the immigration issue and all that is all compounded within, so it becomes very difficult, philosophically, to -- it's not as hard now as it was a few years back, but it's just out there, and that's where the plans really need to be viewed at the federal level before just accepting, because they should not be able to tell schools like my school that English only is the law when in fact the Native American Language Act should take precedent over the English only law that is a state law. That is an example of what I am talking about, with the innovative part of plans that are going through.

MR. YUDIN: So, we do not have the authority to supersede state law and we are not. So where state law is in effect, we don't have the authority to waive state law.

So we will not. Correct me if I am wrong. All of the 27 are posted, the requests, as submitted are posted. So what Arizona has proposed to do for its flexibility, is online, is available for you and everyone to look at. It's on our website. If you go to ed.gov there's a box, a window, that says ESEA flexibility and it has all of the information that you would need to know about every state's request.

What I would want to caution members of the council and as well as the public, is, you know, what we found in round one and we are finding in round two, as well, is the request changed very significantly from those that were originally proposed to those that were finally approved.

So the request is the original proposal by the state. It is not what we will approve. And in fact haven't. So we have not approved a single state yet, based on what they have submitted. In fact, you know we sent out letters under my name. I sent out letters to each state identifying some criteria that the peers in our department, staff identified as areas of concern for each of the states to address.

Those letters are not and because it is an iterative process, it is a snapshot in time, what we found particularly with round one, was we had conversations with the states every day. It was constantly changing and evolving and it really was an iterative process, so it wouldn't provide meaningful information. I mean, it wouldn't provide an accurate portrayal of where they are today as compared to where they were four weeks ago, because it is an iterative process.

Once those are approved, that will absolutely be made available and then, like we did in the first round, we will highlight where the states actually changed and what they, kind of a summary of what they changed, so that is available to the department.

MEMBER BUTTERFIELD: I guess my question is, well, let me give you context. I have worked with a lot of low-performing schools in terms of being kind of a technical assistance provider, and my experience is that people don't know what they don't know.

And so -- and I have worked at the Department of Ed level, I have reviewed, you know, Oregon's comprehensive plan, this is way back in another lifetime. But you know, so I know that there are attempts to put in accountability with these plans.

But, so I am, even if they say, well we are going to consult with the tribes, you know, I guess I'm a little numb to even the word consultation, because you can consult but there is no accountability. There is no feedback. You know, we go to -- Indian people are tired of going to meetings and saying we need this, that or the other thing, because we don't ever hear, based on what you said, we are providing this, that or the other thing.

So I am just wondering, even in your sense of these flexibility plans, what are they really going to do different? And how would you -- and because we have this President's Executive Order, is there any closer attention to -- I mean we could probably identify some of the key states up there that could be used to pilot what they are trying to do differently to impact native student outcomes. Is that a possibility?

MR. YUDIN: So, you asked a lot and I want to try to be as responsive as I can be. You know, consultation, the consultation requirement is really important for the Secretary, that we built into this process, and not just, you know, tribal leaders or Indian Country, but you know, stakeholders, civil rights organizations, organizations representing students with disabilities or English learners, the business community.

The Secretary firmly believes that meaningful buy-in and investment from stakeholders is critical to the ultimate successful implementation of a plan. The best plan is only as -- you know, on paper a plan is a plan. But the rubber hits the road at the end of the day upon implementation, so stakeholder buy-in is really important to successful implementation.

We didn't dictate the type of consultation. We just required them to do it. And we, to be truthful, you know the first 11 didn't do a great job. There wasn't a lot of time, particularly.

When the Secretary approved each of those 11, we specifically identified consultation as a really critical element moving forward, and encouraged these states to continue to work with diverse stakeholders as they move forward with implementation, because at the end of the day that will be the measure of our success, is the extent they have buy-in from stakeholders, from key stakeholders.

With regards to your other question about, you know, learning, I think if I can, you know, maybe paraphrase, learning from states that do have high student populations of Native American students. I think that's a great opportunity. You know, for the Secretary, for us, this is all about learning from each other. We want to do that. This gets back to one of the questions, you know, how do we -- what is the great, what is the best model. They are different.

This is -- this should be -- we should be learning from each other. We should be identifying the best practices that are going out there. Minnesota for example as part of their proposal, they actually built in a requirement that lowest-performing schools are going to partner with their highest-performing Title I schools so that they can learn from each other and share and really actually be partners in improving outcomes for kids, and a number of states actually built similar types of requirements into their proposals.

You know, we are absolutely looking for opportunities to identify best practices, and are absolutely open to suggestions from the council on how to do that.

CHAIR ACEVEDO: Alan.

MEMBER RAY: Your concluding remarks actually addressed part of my question as well, which is although you, in response to Mr. Acevedo, said that there was no emerging model, 38 different applications is a considerable amount of creativity, and I was wondering about the best practices.

Are those intentionally being looked for? Are they being culled in some way and made available to other states that may be considering making these applications? How are we capturing the creativity that might be helpful amidst all this difference?

MR. YUDIN: Yes, that's a great question as well. So I don't want to be misleading in saying that there are no emerging trends, because there are. There, you know, hopefully there are, right? Hopefully states are saying, you know what, that's a really good idea. Let's see if we can do that.

So states are actually doing that. A number of states have established, you know, grading systems, A through F grading systems. So a number of states in the first round did just that. Florida has a longstanding grading system that's an A through F grading system, and New Mexico has adopted it and Oklahoma has adopted it. Indian adopted it. There are a number of states that did adopt it and a number of states that are doing so in this round as well, based in state criteria.

So there definitely are emerging models. We have not done that, right Laura? I mean we have not identified those models. I know we, you know, have begun conversations with the chief state school officers and they are very interested in that effort. So we welcome that partnership to help us do that and welcome other opportunities to do that. Just as a matter of capacity, we haven't quite done that yet, but it's really important to do that.

I mean, the Secretary has frequently kind of even said what you've just said, is we know need to learn from the best and share that, and hopefully that influences the ultimate reauthorization at the end of the day so we are not, you know, reinventing the wheel every few years.

MS. JIMENEZ: Can I add a couple of things?

MR. YUDIN: Sure.

MS. JIMENEZ: So a few things that we are doing --

CHAIR ACEVEDO: For the record, Laura.

MS. JIMENEZ: Hi, I am Laura Jimenez and I am a special assistant in the office of elementary and secondary education. A couple of things that we are planning to do to capture what is happening in the states. We are planning to provide a technical assistance meeting where we are bringing in states to talk about promising practices. We are looking to do that very soon because we know that states are just beginning this work and need to learn from each other what folks are planning, what's working, what isn't working.

We are also planning on monitoring of these states and through that we will be collecting information about practices that they are implementing.

We are also looking to conduct a study of these states and we are working with IES to do that study. So we have got a number of things that are on the way that will collect information about what is happening in the states.

CHAIR ACEVEDO: Patsy.

MEMBER WHITEFOOT: Good afternoon. I am Patricia Whitefoot and thank you, Michael, for sharing with us this afternoon.

I have several questions. One is the peer review process and the role of native educators in that process if there were any individuals involved in that.

And you keep referencing sophisticated accountability systems, and so in terms of these accountability systems, and as you are looking at each of these requests that have come in, I am wondering what if any provisions are being made for all of the years of work that gone on with Indian education, particularly around, you know, culture, language, histories, that kind of information, particularly from states where there are a high concentration of tribes. In our state, in Washington we have a very diverse group of tribes, you know, 29 tribes, and I know, I took a look at the flexibility request from our state and it's sad to say that our chief state school officer came to one of our intertribal meetings and they didn't -- they only shared about a half an hour of information.

And the people that come to our tribal meetings are primarily our tribal leaders and people who are working in various capacities in education, and so I don't believe that there was a good opportunity for us to have a good dialogue, that I think was necessary for us to have about -- particularly around flexibility issues.

So when you are looking at these plans with your -- with your reviewers, I think it would behoove the Department of Education to make certain that we are including tribal people in these review processes as well.

And finally, I just want to say that this morning, you weren't here, but whatever we are working toward, I would hope we would pay attention to the need for principles around Indian self-determination for our tribes and our communities where we are working, whether that be in our reservation settings, or urban communities, those principles that were established years ago were based on studies that have been conducted, research that is being done, and the work that has been going on for years now. So that would be my recommendation, and I would like to hear about any provisions that were made for making certain we have tribal peer reviewers also in this process.

And as you continue to move forward with the technical assistance meetings, I would hope that you would also provide outreach to our tribal communities and not to a select group of tribal tribes, because of the diversity within our regions.

It's not necessarily states. I mean I can just think about, you know, our tribe, our original land base is about a third, and we still exercise jurisdiction over that third of the state of Washington, up and down the Columbia river and into Canada.

And so I think that it's important for us to pay attention to those historical aspects of our livelihood as well.

MR. YUDIN: Yes, that's really important. Thank you Patricia. I appreciate that. You know, with regards to the peer reviewers, I just don't, off the top of my head, know to the extent we had Native American peers on the panel. I just don't know off the top of my head the extent that we did. But that's an important point.

You know we did have, you know, we did some broad outreach. We used peers that we've used in other aspects of our competitions that we have used before, particularly with regards to standards and assessments and accountability.

And that's really what we were driving at, and I think what is important for me to convey is that this isn't an attempt to reauthorize the law. This isn't a comprehensive reauthorization. We desperately, desperately need a comprehensive reauthorization that looks at the array of needs and services for all kids.

This is a transition. This is a two-year waiver. This is an attempt to say you know what, let's take some of the pressure off these key provisions that are stifling innovation and reform, build some protections in and let states do what they think they need to do.

And it's a transition. It's really only a two and a half year waiver. There's an option for a third year if Congress doesn't move forward with reauthorization.

But it's not meant to be all that. We are -- we have waived provisions of the law and we don't have this broad authority to require all these conditions. They have to be related to the waivers that -- of the provisions themselves and show how they are improving outcomes and improving the quality of instruction.

So, all of the principles that I identified are in fact related to the provisions that we waived. So we don't really have the opportunity to go much beyond that, not to say that that's not critically important and it needs to be continuously looked at and explored in this context as well as the reauthorization context.

CHAIR ACEVEDO: Virginia next, and then Stacy.

MEMBER THOMAS: Michael we are not picking on you.

MR. YUDIN: I can take it.

MEMBER THOMAS: But Alan stole one of my questions and then Patsy stole one of my questions.

MR. YUDIN: Oh my goodness.

MEMBER THOMAS: So I am just going to elaborate on these two that I have here. First of all, then peer review that you had on there, Michael, feel more than welcome to use any of us on NACIE, because I think that would help the connection, you know, to work on this, especially if we have to be accountable, you know, in talking back to our communities. It would be a good thing. So you can use us, well, maybe not all of us.

(Laughter)

MR. YUDIN: Just saying. Thank you.

MEMBER THOMAS: The other thing that I had here is I like the idea of the mentoring of best practices for this, because I want to steal Robin's idea, they don't know if they don't know. I love this. I'm stealing that one Robin.

And, but I think it's a good thing because if you don't know how to make it better then you are never going to learn, and if you don't have someone to mentor you, or say this worked for me, maybe it will work for you, because Debbie is still sitting there with sad eyes, because she didn't get the answer. And I didn't feel like we got an answer -- not that you weren't answering us, Michael -- but it didn't feel like it was done, because you know, when you said you are not going to supersede the state authority, well what you should be doing as part of this, when you have your review and things, you know, that that could be part of it, and say, you know, you should look at this state, to what they have done, because it is not going to end. It's not going to end. And if something doesn't happen, our children that are here in Arizona are going to suffer from this.

So you know, if we could urge you to select another state or another program that has succeeded to where this need is, then you should, you know, write that in, you know, the review for -- maybe you should look at this date, maybe you should see how they did this, because this worked here, maybe it'll work for you there, because that problem is not going to go away, and we don't have any answers and if we -- not saying that you are superseding the state regulations or their laws, but you can push them, Michael. I know you can do this.

MR. YUDIN: No, we can do that, and we are doing that, you know, I mean this was a particular issue that didn't come up in the other context, the English only issue. But we absolutely are pointing states in the direction of other states. There's no question about it. This is really about learning, and we are absolutely doing that.

CHAIR ACEVEDO: Stacy.

MEMBER PHELPS: So, what happens if they don't get the waiver done in this year or at all I guess, or approved, I guess.

MR. YUDIN: Yes. They have to continue to comply with the law. So No Child Left Behind is still the law of the land and so the Secretary has the authority to waive certain provisions of the law, you know, in an effort to improve outcomes. I mean that is the statutory waiver authority that you know, he can waive provisions in order to improve outcomes and improve the quality of instruction.

And so that's really what we have done is we have waived these provisions of law for this handful of states. Those that don't get waived have to continue to comply with the law.

MEMBER PHELPS: So is that for this current school year that has nearly ended?

MR. YUDIN: So, for the 11 states, it depends on which aspects of the law, which provisions were waived. But for the most part, it's the accountability frameworks that don't exist, now, for these 11 states.

So for example, you know, they are beginning their spring assessments in their administration and they would be making AYP determinations. Well they are not going to be.

And then the implementation of the consequences really wouldn't begin until the next school year, right? If your schools didn't make AYP, your districts had to set aside your 20 percent, that would happen for the '12/13 school year. That won't happen for the '12/13 school year.

MEMBER PHELPS: What about for the 28th?

MR. YUDIN: So, to the extent we are working very hard, to the extent we can get states to an approved point in a timely manner, we are going to do our best to do that.

Some states are further behind than others, and for those that don't get approved, are going to have to continue with law, with current law, what we have offered is states an opportunity that if they need more time, like some of these states may, they can apply for a freeze of their AMOs, a one-year freeze of their AMOs.

So as you know, like, under the current law, the AMOs continue to go up to 100 percent, so they are on a trajectory to 100 percent proficiency. What they can do if they need more time is at least freeze that at this point, so it doesn't do away with the law, but at least freezes them so you don't, you know, California I think is going to have 90 percent of its schools not making AYP if they haven't applied. But if they were to and they were in the process then at least it was freeze them at this level and many states have big jumps in their last couple of years, for their targets, they kind of back-loaded them. This would at least give them a little bit of a reprieve.

MEMBER PHELPS: Is that automatic almost?

MR. YUDIN: No, we asked for -- it's not automatic. They would have to apply for it. We asked for -- to show us that they have adopted college- and career-ready standards, that they can link teacher and student data, that they are using teacher -- student data for teacher -- to teachers, and that they are identifying their schools with persistently large achievement gaps and make those publicly available, so the communities know which schools actually have the largest achievement gaps.

So in return for that, and a commitment to actually move forward with the request, we will give them that annual freeze.

MEMBER PHELPS: And this is the last thing, and don't take this as a shot, but six, seven years ago, when this was done in tribes and schools, voiced concerns about meeting the bars.

It didn't seem to be as big of a priority, listening to that concern as it is today, because most of the things I imagine are in these plans are things tribal schools or low-performing schools with high Indian population proposed as alternatives to No Child Left Behind, and it was ignored.

So it's just kind of, maybe next time you guys should listen a little more to the sentinel that seemed to go through this stuff first, and now it's a priority because everybody else can look at it.

MR. YUDIN: I appreciate that.

CHAIR ACEVEDO: Thank you Stacy. Deborah.

MEMBER JACKSON-DENNISON: Thank you Michael, and thank you Virginia for reading my sad eyes.

(Laughter)

MEMBER JACKSON-DENNISON: It is true, I mean, I'm sitting here thinking should I ask or not. So what is the purpose of Executive Orders and for laws like the Native American Language Act, and why are they in place if they don't have a significance on this very process that we are talking about, if -- I mean, that's a question that, I mean, it may sound like a dumb question --

MR. YUDIN: No, it's not.

MEMBER JACKSON-DENNISON: But that's something, coming from me that, as a leader, trying to implement what is being require of us under No Child Left Behind and then we know the practices, as a native leader myself, trying to -- we know what works with our children. We know what

doesn't work. And yet we have the state telling us no, you have to teach English only and then so what - I don't understand the part of it and so that's probably the sad eyes on my face.

And then the other part is that we had some very important or very good information presented from the National Indian Impacted School Association about the -- about one of the areas of sequestration that is happening because of Impact Aid being connected to the lack of being -- ESEA being reauthorized. So how does that all play into this, if right now, the way I see it in my school, and in schools in my area, is that we are really pushing hard, as we have been, over the last however many years it's been, 11, 12 years since NCLB came into existence, really pushing hard to reform and to do the things that we are called upon to do, and yet now, we are saying okay, there's flexibility, you can kind of do some things but you still have to maintain with the state laws, and even though we have these federal laws and we have these Executive Orders, and -- but you are no different than anybody else, and that's the thing about NCLB that many of us don't like, is that it shouldn't be a one size fits all. Those laws are put -- those acts, I should say, are put in place, Executive Orders are put in place for a reason, and why is it that states are not held to the accountability of the language of that.

And then also why is it that our children are -- why is it that our funding source, Impact Aid, is being held hostage because ESEA isn't being reauthorized? Is there something that can be flexible in that area as well?

It's a compounded question.

MR. YUDIN: Yes, and I'm sure I won't give you an answer that is satisfactory to you. And I apologize. I mean, the questions you raise is why we need a reauthorization. You know, it is the legislative branch's constitutional authority and responsibility to legislate. We can't do that.

What we do is -- what we do have is the statutory, the legal authority to waive certain provisions of the ESEA, and so it's -- while it's very broad and in impact, there are some key provisions that are narrowly waived, right, I mean, so there -- it's only a handful of provisions that are actually waived.

And so what we are asking in return is related to those provisions that were waived. So Impact Aid is just not one of them, doesn't remove the need to reauthorize ESEA so we actually address some of the concerns and inequities of Impact Aid, right, that doesn't go away.

You know, if the Secretary were here, I'm sure he would tell you we need -- this is not an attempt to reauthorize the law through waiver. We need a reauthorization. We need a full, comprehensive, bipartisan reauthorization. This was never an attempt to sidetrack that, because it doesn't and can't address the breadth of issues that need to be addressed, and I'm sorry that that is not as satisfactory.

But again, we are just waiving provisions and requiring commitments to do things that are totally opposed to those waivers.

I apologize, but I have to leave very, very shortly because I was only on until three and I have a --

CHAIR ACEVEDO: Yes. Thank you. Well in fact I was just about to close it up.

MR. YUDIN: Thank you.

CHAIR ACEVEDO: And you gave Director Silverthorne an opportunity before we took our first break this afternoon. Director Silverthorne?

MS. SILVERTHORNE: Pardon me. Rather than begin and just be able to barely start, if you would like to take a break so that we can kind of go through all of these in a row, there are some points that I think tie back to conversations that we have had that are going to be relevant to the things that we are involved in currently. And so I think we will have an opportunity for some wrapping things back together, and I know that Michael has pressing time. If anybody would like to be able to talk to him before he's gone, now is your only chance, and so I would rather lean to that and I'll take up after the break.

CHAIR ACEVEDO: All right. With that, any other questions of Michael, or Michael have any closing remarks?

MR. YUDIN: Thank you for your service. I mean that sincerely. Virginia is laughing at me. I mean that sincerely. This council plays an incredibly important role. I can't stress that enough. The Secretary has said that publicly. NACIE plays such an important role and we rely on you to push us and make those recommendations and push us. I urge you to push us. I need you to push us. Make me uncomfortable. Make me feel bad that I am not answering your questions to the satisfaction of the

council.

I mean that. I need you to push us and thank you.

PARTICIPANT: It's on the record.

MR. YUDIN: Yes it is. Oh my goodness. So thank you and thank you for the opportunity to talk with you.

CHAIR ACEVEDO: Thank you Michael very much. We will take a 15-minute break. Thank you.

(Whereupon, the meeting went off the record at 2:56 p.m. and resumed at 3:15 p.m.)

CHAIR ACEVEDO: If we could get started right now, if Dr. -- Director Silverthorne from the great state of Montana and a citizen of the Salish and Kootenai tribes, would like to call this meeting to order and Joyce.

MS. SILVERTHORNE: Thank you. In your agenda, it talks about us doing a report on what we are doing in the Office of Indian Education. And you have received several handouts during the break.

The first is a two-page document that summarizes each of the areas of funding that we have in a relatively brief way. The next may answer some of the questions some of the questions that I have heard today, and that has to do with where our formula programs are located, and you will see a chart of the United States, and you will see an amount of money and to how many programs, and to the count of students. And this is for 2011/2012 so this is the current school year.

The third thing that you have received is a summary from the formula program again, that talks about the number of locations and places, the different kinds of grantees that receive the funds, the amounts and the per student as a comparison of 2010 to 2011.

Those will be good reference points as we go through part of this discussion, and what I'd like to do is to tie together some of the things that we have been working with over the morning. And that includes, as we started out the day, and we were talking about the Memorandum of Understanding

with the Department of Interior and the Department of Education -- not the BIE and us, this is the two head Secretaries in this Memorandum of Understanding.

And so remember that things get larger and smaller depending on which population we are addressing, and so this is at the top level.

And then that will define how, and what Bill talks to us about as the three-legged stool, that looks at Indian education across the country, so those folks that are working with the postsecondary work, through Witco the former Witco office, the K-12 system that is both the Office of Indian Education and other programs within the Department of Education, and the Bureau of Indian Education K-12 component as well.

It also looks at those early learning opportunities where we see the cross-section and the transition of children who are in preschool programs coming into our Kindergarten and first grade schools.

So for the first time, we really are looking at a broader population of American Indian children as they are served through the education programs, the various education programs, that work with all of the funding that goes to our tribes, our public schools, our bureau schools, and our other private organizations that work with Indian children.

So there is a very complex system here and that complex system has many components, many funding areas, and they should all be able to interact and support each other.

And so what we are talking about as an Executive Order has come about, is how those various entities work together and carry out our treaty obligations, our responsibilities as departments, and the care and well-being of children from early childhood to postsecondary work.

And then I would like to share with you some of the things I have learned in my seven and a half months here, and part of that is the incredible task of understanding the federal system, and working with it.

Kenneth, were we able to find that chart? No. There's a really nice chart and it's in very pretty colors, and unfortunately all I can show you at the moment is a black and white because my printer isn't talking to my color printer -- my computer.

And so a black and white chart, talks about all of the steps, the length of time of clearance review, and this is a clearance flowchart.

And I will have colored copies and we will get this to you, because what it does is snapshot of just one component of all of the clearance that documents need to go through in order to come out to you.

I know there has been some concern as we look at the STEP project and that state tribal education partnership, and those are the TEA funding that were authorized and the national activities through the appropriations for 2012.

When you look back at your grey book, on page 28, you will see that the change in national activities, it was three point -- I believe it's 3.9 and it goes to 5.9 for 2012, stays 5.9 for 2013.

So it is at least proposed, not only for this year, but on to next year. It is proposed. We don't know where that is going to go, but at least that is what we work from.

In working through the process of clearance, as we are moving from the fact that we received \$2 million for a TEA pilot project, there are an incredible number of steps, and those steps each require edits, compilation.

Laura Jimenez needs to be commended for the volume of time and work that she has dedicated to this process, because it has been a very complicated process.

This did not exist in our funding in the education department prior to this time, and it is a process that, to invent the program, to stay within our ability, you heard a moment ago that we can't tell states what to do, so this is within our legal boundaries, within our department boundaries, bringing to you the best option that we can in order to make this proposal be a success.

The steps that go through in this chart take you from the program office, the front office, the -- oops, DRS stands for Division of Regulatory Services. Acronyms too. The executive secretary's office. And the Office of Management and Budget.

All of these need to review and approve even just a Federal Register notice. I know that many of you have worked with writing grants in the past and I took for granted, prior to this job, receiving a Federal Register notice seemed like oh, here's the beginning. Not so.

There is a great deal of work that goes on before you ever see a Federal Register notice. And it's only one component of the review process.

This is a chart and it has -- and this is not a secret chart. This is a chart that has information about all of the different grants that the federal government has proposed, where they are in their review process, and when they expect to be out, available in Federal Register notice, their peer review process, the competition, and when the money will be committed and obligated.

When I look at the process for the STEP project, in order for us to have the money out the door before September 30th, the end of this fiscal year -- remember we are only authorized this money for this fiscal year -- we right now, as early as we started, will only beat September 30th by a week unless we have been able to cut some of the time off-of this clearance review process.

And so that's -- to answer a question that I have heard, it's also to give you a little bit better understanding of some of the mechanics that go on through time.

There are a certain number of days allotted to each of those review components, and each of those review components go out to a variety of folks, and there are comments that comments come back, and those comments that come back need to be agreed upon, disregarded or -- not disregarded sorry, that's the wrong word for me --

(Laughter)

MS. SILVERTHORNE: I was afraid of that. They have to be either accepted or not accepted, depending on what they mean, because it's -- sometimes some of the comments have already been addressed in other means or have been negotiated before they ever went into the document, and so not all comments make changes, but all comments are considered.

Did I back-step enough there? Jill, catch me.

There are a lot of these pieces that we are going through in the process of doing the federal notice for the STEP project. We hope that we will be a little bit early. We are working our way through the clearance process with the notice, inviting applications and the frequently asked questions. There have been a lot of questions as we have gotten this far, and -- but it's coming together, and it's looking positive.

You will, in the very near future, see an appeal for peer reviewers, that we will be looking for people with special expertise, and we need people who understand the complex role of bringing together the state education agencies, the tribal education agencies, and providing that education to LEAs, to tribal reservation community schools.

And as we talked through the budget this morning, as we talked through the Memorandum of Understanding, the complexity of that task I'm sure is evident to everybody on the board, because there are so many different facets, there are so many different issues that need to be addressed.

Our children go through this system but once. We spend a lifetime working in our careers, but our children experience it one time, and for better or worse, however that is delivered, is their view of education, the same as it was for us.

My mother is a boarding school success story. My father is a boarding school runaway. And all of my family has their own stories about education, and it didn't make any difference that I devoted my life to it.

So I think as we move this forward, and remember that our children are the eventual stakeholders and consumers, that that makes a huge difference in how we provide these programs.

Are there any questions?

CHAIR ACEVEDO: Sam.

MEMBER McCracken: Thank you. I know that you represent 93 percent of our students, if I am reading the stats correctly. The other seven percent is not represented here. Do you know how closely you work with the organization that represents seven percent of our student body?

And how closely do you work together so that we can get to 100 percent, right, because I think that is where what are all encompassing. We want to impact 100 percent of our students, and I don't see any representation here.

And I'm just curious on how closely you work with them. And part two of my question is, how often do you in your role as our leader of education for our kids get to interact with our kids? So that's kind of a two-part question.

MS. SILVERTHORNE: Cool question. I like that. We do meet with representatives from the Bureau of Indian Education on a fairly regular basis. I am certain that that kind of has come about recently in the history of this office, and that is particularly guided by the Executive Order at this time.

However prior to that, the Department of Education has been meeting with Bureau of Indian Education representatives over the compliance for No Child Left Behind, the funding of programs within the Bureau of Indian Education.

So it's not something that just started, but it has intensified in the past, probably, year.

And the other part of your question. I have had an incredible opportunity to visit with students who come to D.C. It is nice in the fact that there are delegations that are sent to the head of government for the country, and when they do have representatives that are American Indian students, they frequently call and ask to talk to somebody.

Now that isn't always an organized presentation. Sometimes it is. Sometimes it isn't. We have small delegations that come by. We also have large delegations that come by.

The most recent one was a close-up group of over 90 students that were in the audience. I had no idea what we were going to present. I came -- actually I came with this paper to talk about the programs that I work with.

The lady who was going to introduce me said we have already posed a question for you, for them, and they are going to be talking to you about it.

And the question to the students was do you think the tribal governments have a significant role in the education of American Indian students.

So I threw the little piece of paper -- I held it up, I showed them, but we didn't talk about it, and we spent the next over an hour in conversation about what they see as education, where they see their tribal governments, where they see their schools involved, and what they do, and it was a bright, capable audience. They were really -- it was exciting to be in a room with kids again. And they were all high school students.

So it isn't an organized opportunity that we get, but we do get random opportunities to meet with kids. It is very difficult, in my 40-some years of working in education, it is very difficult to create and sustain youth input into these complex programs. Just like we are having a tremendous

learning time to be able to understand how these programs work together, it's challenging for kids who really don't have the patience for the complexity of this.

And to keep them interested, keep them engaged in what makes a difference is only one half of the problem. The other half is having them come together, having it be consistent, long enough to be able to teach them about what they are being able to have input on, and to be able to get them -- keep them fully engaged in the conversation.

But every opportunity that we get, we should have that. Graduation matters going across the country at the moment has been a program that has really put a lot of effort into trying to do that, JAG, and we heard about the program this morning, the dropout prevention.

There are programs out there but they tend to come and go.

CHAIR ACEVEDO: Laura.

MS. JIMENEZ: Thank you. Can I just add a couple of things? As Joyce was talking about the STEP program, she was talking about our process for formalizing the program, designing the program, but do folks know what we are thinking about as far as what that program might look, and would it be helpful to hear about that?

CHAIR ACEVEDO: Yes.

MS. JIMENEZ: Okay, so -- okay great. So as Joyce mentioned, in the FY '12 appropriations, in the conference report, we received approximately 2 million to fund a tribal education agency pilot.

And the intent of that program would be that these TEAs would enter into collaborative agreements with state departments of education as we call them here, ESEAs.

And what would occur in these partnerships is that TEAs would take on some state-level functions for certain programs under ESEA.

As Joyce did mention, we have an extremely tight deadline to get funds out the door. But there is a provision of the law that allows us, for a new program, to waive the rulemaking requirement, which helps us to save time so that we can obligate the funds and they wouldn't lapse to Treasury, because we absolutely didn't want that to happen.

So what we are thinking -- what we are really pleased about is that this is really furthering the Obama administration's policy of promoting tribal self-determination, and we really believe that we are going to be able to give tribes and TEAs a meaningful role in the education of their children.

So what does this mean? We have got two -- approximately \$2 million. The only funds that would be granted to the applicants would be these \$2 million, so all state-administered funds for ESEA programs like Title I, Title II, Title III, those would continue to go to the SEAs.

The language in the conference report did not change ESEA grantees. So the only funds that would be going to grantees, the TEAs, is this approximate \$2 million.

SEAs would also continue sub-granting to districts to LEAs the ESEA formula funds. However, we are thinking about allowing TEAs and SEAs to share funds in some ways, and one way could be that they could share a portion of the award amount, or possibly share a portion of the state's administration funds, and it would just have to be consistent with whatever the state's procurement laws are.

We have done some outreach to various tribal organizations and the public in order to gather some input around what an effective program would look like.

We had a public comment blog on our website open. We conducted conference calls with states and with tribal organizations. We did use a lot of the feedback that we received in consideration of the design of the program.

This would likely be a three-year grant period and the eligible applicants, we think, are going to be the TEA in partnership with an SEA, and we are also considering that there are going to be probably three major grant activities.

One would be the development of these preliminary agreements between the TEA and the SEA, and given all of the complexities that it would -- that are involved in developing such an agreement, we think that the application window of approximately 65 days or 45 days wouldn't be enough time for them to work out all of the details.

So we would allow them to submit a -- to work on their preliminary agreements during the first chunk of the year. We would also expect them to come with a final agreement that would

detail the exact activities that the TEA would be taking on, the capacity-building activities that the TEA and the SEA would undertake, which programs they would be taking on those functions for.

And that's essentially what we have been thinking through for the program. One thing to keep in mind is that this is a pilot. So we are trying to take a measured approach in this first step to give tribal education agencies a more meaningful role, and we are planning to provide some technical assistance.

As soon as the application is published we will be hosting some webinars and we are also thinking through what technical assistance we will be providing to grantees as they commence the grant and we are certainly open to any ideas that you might have of what might be some topics that we would cover.

And I am happy to answer any questions that you might have about the STEP.

CHAIR ACEVEDO: Questions from the council? How many TEAs are going to fund?

MS. JIMENEZ: Well, we have got the approximate \$2 million. I think one of the biggest factors in how many come in, is ensuring that the TEAs get the agreement from the SEA.

Our investigation, our research, there are about a handful of TEAs that have pretty robust education programs and even have some type of collaboration with state departments of education, and we are thinking that those might be the more likely to come in for this, they might be pretty ready for it.

What we are hoping is that the program continues to be funded, and that we learn a lot from the pilot, and that in coming years, as the public is seeing how these pilots are progressing, that we would get more and more applicants over time.

But you know if I had to guess, I think a handful would come in.

CHAIR ACEVEDO: Any other questions from the council? Deb?

MEMBER JACKSON-DENNISON: On the TEAs, thank you for that information. I am just curious as to how they are getting input from not only just the states, but the actual stakeholders, the school administrators, the parents and as we mentioned, the students, on their feelings about being -- about this.

MS. JIMENEZ: Yes, so we did as much as we could in the time that we had available. So we had the blog up and we included a link to that blog. We blasted it out to the public, to tribal organizations, to the states, to any of the stakeholders, we had a list of stakeholders that we gathered and Joyce provided input, Bill provided input, so as many people and organizations that we knew about to conduct the outreach to, we did.

And we hosted the conference calls as well and those were open to the public and we did as much outreach as we could to get folks participating.

MR. MENDOZA: Just want to name the stakeholders that were a part of those conference calls. We did reach out to NCAI, AHEC, and the TENDA organization as well.

CHAIR ACEVEDO: Jenelle.

MS. LEONARD: As well, we also had the White House participating in this. I know that Laura reached out to the white House, so that all of the tribal leaders would get information about the blog as well, for public comment.

CHAIR ACEVEDO: Virginia.

MEMBER THOMAS: I just have a point of information. Were we on that list to notify, as the NACIE board?

MS. LEONARD: Virginia I'll go back and look at -- may I -- I'll go back and look at my email but I am certain that I sent the NACIE members an email announcing the blog, because when it went public, I sent it to you all.

I'll go back and look, but I'm almost certain.

MR. MENDOZA: Yes, my recollection of that conversation was yes, we knew to reach out to the NACIE board members, and I also neglected to mention also National Indian Education Association was a part of that outreach as well.

MEMBER JACKSON-DENNISON: The reason I'm asking is that I keep talking about the statistic of -- I started with 85 to 90 percent, but somehow it got to 93 percent of Indian children attending public schools.

And of that 93 percent or whatever that number is, we have that many parents that are impacted by this type of a -- and I just feel like yes, it's good to reach out to organizations, but I feel like it's really important to get to the parents and to the children and to the grassroots people I would call it, that will be impacted if something like this were to happen, and where teacher education, tribal educations begin to take over the education system, because it is a choice that parents make if they want their children to attend right now, BIE versus public schools, and that choice is being made. So I just -- I don't want that to be overlooked. Personally that's the way I look at it, and I'm just curious as to, if you had any feedback from parents, from -- I'm not talking about leaders. I'm talking about, well I guess parents are leaders. They are the first leaders of their children. But to have right from the horse's mouth I guess, if I can use that, about this -- about what's happening in -- with this whole issue.

MR. MENDOZA: If I may, just speaking for the team and kind of how we really work hard to make sure that we are reaching out on an interagency and especially an interdepartmental level to reach as much stakeholders as we can, and whether that is looking at it through specific programs and/or the 566 different tribes, and looking at the inter-coalition efforts within the states, you know, we deal with, on that level, the same kind of dilemma that schools do in regards to parent engagement, is what are the mechanisms that are in place to be able to elicit those kinds of meaningful collaborations from parents themselves, and so we welcome any feedback as to how we can do a better job of that, because yes, we don't -- I think we could probably look into how much comments we received from parents or, that's specifically identified themselves in this process, but you know, my just knee-jerk reaction would probably be that it was probably minimal, if any at all. I mean, sure, some of these individuals that serve on various boards and especially within tribal governments, are parents and kind of wear those multiple hats in a respect, like we all do here, but you know, we welcome any suggestions on how we could just do that from a federal level other than you know, the kind of blanket Federal Registry notice and/or you know, mass mailings that we do to associations around the country.

MEMBER JACKSON-DENNISON: Thank you. I'm thinking I know our school district, as most if not all public school districts that receive Title VII funds, we have Indian education committees. Those are made up of parents. That's what I'm talking about. Have we gone to those avenues or have we pursued getting that on agendas throughout the public school sector?

I am just really looking at the public school sector because I keep hearing, and I'm not picking on you or anything, I'm just thinking about when people come to me and say what's going on, what's going on, why is this happening, and what was this Executive Order, what was this -- what's going

on out there -- I've got to be able to answer myself as to say well this is going to be on the IEC agenda or the PAC agenda, whatever we call them in our various school districts that serve these high numbers of Native American students. That's where I'm going with this, is have we really gone there, because I honestly haven't seen it on our IEP agenda and I am just curious and we are one of the larger school districts in Indian Country.

CHAIR ACEVEDO: Joyce.

MS. SILVERTHORNE: I would agree Deb. I don't believe that it has gone out to that level yet. And part of the difficulty in reaching that population and the grassroots people throughout the country is the incredible complexity of what we are proposing to do with this, and how to make that understandable.

As we have listened today to each other, the understanding of the Executive Order, the understanding of how these things play together, the pros and cons of BIE versus public education, are all laced into this, and it is a very difficult thing to shout out and get meaningful comments back.

However that doesn't mean that we are done with this yet either. This just the beginning of this pilot, and as this comes together, there are pieces -- I would like to be able to show you what we are working with so far, but until the clearance process is done, which is why I thought that clearance understanding was important today, until that clearance process is done, there is some limitation on how broadly we can take this out, until we have at least come to an agreement about what we are taking out.

And so as this is now coming to a close, we hope to have it in the Federal Register by the end of May, to the Federal Register in May, there will be a competition this summer, depending on how quickly this moves through those next few processes.

It's going well but it's not done, and when that's done it'll go out in the Federal Register notices. There is a space already created and held in private right now until we are ready to release it, until all of the final language is together, and when that is done, there will be a place on the -- in Office of Indian Ed website that will have this information on it, and that will make it far more public.

We will also have it addressed at the technical assistance day this fall. We can also get it sent out to the Indian education associations. We haven't yet tried to do that, but that's -- but that doesn't mean that we won't.

MR. MENDOZA: I just wanted to offer that with our technical assistance day, though, it is standard for us to send out to the programs like Title VII, making sure, and we are pretty much reliant upon those directors to communicate that information to parent committees, to school districts, you know, as appropriate, and the same goes whenever we send out communications, whether it's the roundtables or consultations for tribal colleges and universities and Native American serving non-tribally controlled institutions that we tap into, basically their listservs and their communications channels to hopefully get it -- part of our strategy around tribal colleges and universities is not only making contacts with the presidents but also the academic deans as well, to make sure that we are communicating that information there, because of some of the feedback that you kind of alluded to, is that even though you speak to the heads of those entities, that message doesn't always get down to the varying levels, and so that's a part of our process to try to continually improve.

CHAIR ACEVEDO: Joyce, do you have any comment before we close on this?

MS. SILVERTHORNE: If you take a look at the back of the two-page document, you will see bulleted items there that talk about some of the other things that we are involved in.

Part of the process of becoming familiar with this job is understanding how the mechanics work behind the scenes for NACIE, for the research projects, for operating the ETHI for being able to do the technical assistance and the outreach consultation meetings that we hold and I am still learning. It is a very complex spider web of how funding and programs and federal role interacts to make these things work.

But that smattering on the back of that page gives you some idea of some of those other pieces that we are involved in, and so if anybody was reading the Indian Country Today, recently, there was criticism of the NIES, NCES research study, and this has been before the NACIE board in the past, and I have been assured at least on an introductory level, from some of the other people who are involved in that, that there has been more conversation.

The document that they were referencing is the school staffing survey -- school and staffing survey, SASS, and that is a collection of data on the -- on school staffing, and so that information, for the Bureau of Indian Education, they are assuring me from NCES, is actually available from a couple of other sites as well, and was not a -- was not a component of the decision for the NIEA, NIES study to be expanded between, that the NIES study was not finding significant change in the --

because we were doing it on a more frequent basis, and so the decision by NACIE was to extend it, and so it will be collected again in 2012.

That decision is not part of this decision, that the SASS, they felt that that information had been collected in other forms, which is not a component that the Indian Country Today reported on.

And we will try to have more information back to you. The person who contacted us on that was Jack Buckley and he is one of the other people besides myself that people are sending email to concern for whether that's being collected.

As an ongoing conversation at this time the BIE and the Department of Education are looking at data collection that both entities do and trying to understand how that interacts.

So it's -- there are multiple conversations proceeding even though there was some negative press.

CHAIR ACEVEDO: Thank you Director Silverthorne and with that thought, Patricia?

MEMBER WHITEFOOT: Joyce, I have two questions, maybe to you and Bill. I just want to go back to the discussion around GPRA measures again, because I have had one of the demonstration grants and I know that the GPRA measure are critical to that.

I just am curious whether, after being here for a while, whether you have specific recommendations to improve these measures so that they are more tribally-based measures.

And then I earlier heard -- we heard from Michael about the Annual Performance Objectives, and so I want a clarification about both the GPRA and the APOs as well. APOs were referenced under the flexibility program or whatever that is.

So that's my first question, and then I would like to also have follow-up on action that NACIE took when we were in Portland for the technical assistance centers as well. What is the status of the technical assistance centers and the specific recommendations that we made for specific states to be considered for these technical assistance centers.

And I don't recall whether that is on our agenda, but I think it is important that we you know, it's one of our recommendations in our report, but we just need to make certain that we are continuing to follow up with that. Thank you.

MS. SILVERTHORNE: Thank you Patsy. As far as the GPRA measures go, that is not something that has been proposed for a change on a frequent basis, and nor is it something we can just change as a department.

So there is -- back to the clearance process -- there are procedures for making any of those changes. I can tell you that there is a document that is being worked on that is beginning to look at key performance measures and those key performance measures may at some point in time under development impact the GPRA, but that's not soon.

I mean we are looking at probably at the reauthorization and it will happen about the same time that would anyway.

And they are -- they are not a comfortable fit in many ways, and I agree, but they are -- they are the best indicators we have at the moment of knowing whether our programs across the board, and the way it's explained to me, is that we ask similar questions of many different funding sources and then the answer that comes back should tell us whether we are keeping pace with those other programs.

That's a work in progress. GPRA measures are a hard task to do. Whenever you are looking for an indicator that crosses over that many different programs, with that many different stakeholders and outcomes that are being assessed, it's very difficult to get something that is consistent.

The AMOs that we were talking about and flexibility, annual measurable objectives. What are those things that schools actually look at and perform and what are those outcomes?

It is not the same thing as a GPRA. But it is again an assessment and data are the key to our looking at all of these programs and being able to justify not only to our budget office, but to our budget office to Congress, and how well we fund the programs that we operate, and they are not a perfect system. They are the system we are struggling in right now.

And I'll defer to Jenelle for the comprehensive centers because she does have some answers for you.

MR. MENDOZA: Before Jenelle I'd just like to say that in regards to the GPRA and performance measures, that I think it would be proactive for the council to, you know, express their thoughts and concerns around those areas as well.

MS. LEONARD: And this morning I know Robin brought the same issue up, Patsy, about the status and update on decisions that you all made in the last meeting, and it wasn't on the agenda. It kind of slipped off I think all of our radars.

But what I have done is I have contacted the two people who can bring us a update and I did check with the Chair to say that during your business meeting tomorrow, whatever time they said that they would be available, would it be okay for them to come and present, and so he okayed that.

So tomorrow you should get an update, okay?

MEMBER WHITEFOOT: So I apologize, I think I stepped out when Robin was asking those questions. And so I want to say -- sorry Robin. I just want to say thank you.

And just I guess just a comment in closing. I shared earlier about base transitions that we go through and I think we have, you know, we are able to interview and hire the best individual for the Office of Indian Education but I also recognize the fact that there is a huge responsibility that both Joyce and Bill carry in terms of providing for Indian education 101 in the department, and I just want to echo a sentiment that I heard one of my fellow Washington tribal members talk about, and I realize it's something that as native people and also as educators, that we are constantly conducting Indian education 101 over many, many years, not just about education, but the whole realm of us as tribes exercising our sovereignty and self-determination and so I just want to say I appreciate the work that you are doing here but I just had hoped, and I am going to rephrase what my colleague stated, is that we really, as she told the Vice-President, we need to make certain that whatever we do with education, that we are going to make changes, we are going to throw out the old textbooks on social studies and history and put together the correct history of the United States of America, the correct history, the whole social studies, from preschool to higher education, because it -- it just gets tiresome, you know, having to repeat this over and over and over to educate other people about this country and the history of this country and our role as indigenous peoples in this land. I just want to close with that. Thank you.

CHAIR ACEVEDO: Joyce, anything else?

MS. SILVERTHORNE: Thank you Patsy, and that reminder is one that I think we carry with us as a constant in these jobs, in these roles, working with everything that we do. So thank you for this opportunity and we will be here throughout the next day. So thank you.

CHAIR ACEVEDO: Thank you Director Silverthorne. I'd like to move on today, we can get this piece done, so that we can devote the bulk of our day tomorrow to the additional work that the council is required to do, is receive subcommittee reports.

So with that, I look to Deb to see if she can handle that for us. Thank you, Deb.

MEMBER JACKSON-DENNISON: Thank you Mr. Chair. And thank you again Joyce. I want to recognize first my dream team that worked with us yesterday on this, and I think you have the handout already. Earlier this morning we passed it around so you could look at the very rough draft -- and it's very rough t== but I feel like we have made a lot of progress on it.

This is the annual report to Congress for the 2011 and 2012 and would my team please stand.

(Laughter)

MEMBER JACKSON-DENNISON: No, we have -- okay. Do the wave or whatever. We had -- and I just want to recognize that even with one arm, Patsy was the best typist, the best clerk ever.

So I slipped out to use the restroom at one point and I came back and my chair was taken. So I realized that okay, she is going to do better than I did, so -- and she did. So we -- this is the annual report and I don't know if we want to pull it up. I don't know if we want to do that or just introduce it. Is that what you want me to do, Chair?

CHAIR ACEVEDO: Whatever you'd like. Whatever your --

MEMBER JACKSON-DENNISON: Okay. I'd like to pull it up. Do we have it electronically Jenelle?

Okay.

MEMBER WHITEFOOT: While we're waiting for this to be pulled up on the computer here I just want to -- there is a story behind my ability to be able to type, and I think like many of us, or maybe I am just the lone person here, when I graduated, when I was preparing to graduate from high school, and this is not unlike many stories that I have heard from my own colleagues, and we were told by our school counselors, in this case a white male, that I would one day grow up to be a great clerk. And so it's those kinds of skills that have helped me along the day, being a good clerk, and being able to

pursue my career from those humble beginnings, to be able to sit here amongst you as my colleagues. Thank you, Deborah.

MEMBER JACKSON-DENNISON: Thank you Patsy. The other two that I didn't recognize is Virginia Thomas and Greg Anderson. They also contributed a lot yesterday, as well as -- Robin is on our team as well but she wasn't able to make it yesterday but I am sure she will be with us in future meetings if necessary.

And we hope to get this done in -- we have to get it done by this month, but I feel very glad that we started with a mission statement, and this is something that Patsy, I guess all of us worked on, but you know what, I don't know if I want to read it.

It says, "The inherent relationship between the United States and federally recognized Indian tribes is the basis for the implementation and obligation of upholding Indian treaties, U.S. Constitution statutes, regulations, case law, Presidential Executive Orders and agency policies.

"This unique trust responsibility of the United States and sovereign Indian nations works to provide a quality, cradle to career educational system to Indian people."

We called it a preamble at first but we realized later that it is really a mission that drives everything.

Before we get into any of the recommendations we felt it was necessary to add that type of a statement. Of course it is not set in concrete. We can change that. But we just felt it necessary to have something of that nature before we even get into the annual report.

And then we go right into the legislative authority and functions. A lot of this is information that was on previous reports but we -- in some areas we took it even further.

We want to add language right where it talks about the provisions of the Federal Advisory Committee Act. Do you want to speak more to that because that was what we were working on with you, Patsy?

MEMBER WHITEFOOT: And I go back to my experience on tribal council working with an in-health service on the reauthorization of the Indian Healthcare Improvement Act, and one of the things that we did is we took apart many of the provisions that are made in different kinds of

committees, and in our case, I was involved in the tribal leaders diabetes initiative, and got the formula out to the tribes.

But during that process, I thought that was an important process because you begin to take a look at all of these regulations and so we did request a copy of the Federal Advisory Committee Act and one of the statements that is made in there makes a reference to our charter.

And so I think in any document that we create, we want to be able to reference our charter and when it was approved.

We heard this morning, I don't know if it was from Bill or someone about that even though we were working with an older charter, and we are working on the transition to a newer charter, we still need to pay attention to those dates and the role of the charter.

And when we begin to take a look at FACA, we also recognize that we want to be able to spell out the status of where we are at and those areas that we have not completed.

And so we are always going to be looking for recommendations on how to organize our recommendations and status as well. We want to make it very proactive and aggressive so that we know when we are achieving some of these needs that we are going to be expressing as a committee.

And then also just making certain that, as every time we meet, that we especially have Bill and Joyce up front along with the budget now, up front on our agenda, because the work and the activities that they are going to be doing is going to be critical to the decisions that we are going to be making as we move forward.

And as I listened to the reports today, I began going back and highlighting those areas in FACA that we want -- we really want to be able to make certain that we pay attention to.

And part of the reason that I keep coming back to GPRA is having been on tribal council and negotiating with the federal government, we do have that opportunity to make changes in some of the statutes, and we have all of our national organizations that we could be working with in expressing some of those needs.

MEMBER THOMAS: This is Virginia. And I did want to add that when we put down add language there, you have to -- we realized, I think, we realized that this is the report that we are giving,

and hopefully this is going to be read by several people including the President, that's who we are hoping for.

And he has got so many other reports and if we just cite chapter verse here, he's not -- oh, yes, it's just one of them. But if we give him detail, that's what we want to adding there, and hopefully the council here can help, the detail in this, because if he doesn't read the rest of it, he is going to read the beginning, and that is where we need to really, you know, get our word out to where -- who we are and why we are here, just a short little chapter thing in there that we can put in there, but that was our concern, that we have some language at the beginning, not just citing, you know, what our authorization is by what act and where it is, and things like that, but what it really means.

So that's what we needed the help with because by the time we were done, we were kind of -- we were a little grouchy.

MEMBER JACKSON-DENNISON: Thank you Virginia. And then, moving on, it does say that under the legislative authority and functions, what our purpose is I guess, as a council:

"To advise the Secretary of Education concerning the funding and administration, including the development of regulations and administrative policies and practices of any program, including any program established under Title VII, part A of the ESEA with the understanding that the Secretary has certain jurisdiction.

"This includes the oversight of Indian children or adults as participants in Indian education and related programs."

And it goes on to talk about the fact that we are -- "We will be making recommendations to the Secretary on Indian education outcomes of all American Indian and Alaska Native students, including students attending public schools in urban and rural areas, students attending schools operated and funded by the BIE and students attending postsecondary institutions including tribal colleges and universities.

"Further, it is critical that Indian education initiatives align with the holistic education approach as prioritized by AI/AN and promoted by the U.S. Department of Education's cradle to career philosophy."

That is what we added in addition to what was in there last year. And I don't want to have to read the whole thing to you, but just to give you some idea of what we worked on, and italicized areas are what we were still considering that are in draft form.

We tried to use as much as possible the language from the Executive Order, as well as what we knew to be the philosophy of the administration currently, and Virginia had her hand up. Go ahead.

MEMBER THOMAS: I did. Back up into the language that we need to add, I have been thinking about this, what we need to put in there, and like I said, they are going to read the very first, the beginning.

And I think that maybe we should put something in there about the number of children that we represent, you know, what within the Bureau, what within the title -- within the Department of Ed, so that they realize that the number of children that we affect, and maybe we can even list the tribal representation that is on this council so that they will know that it is a wide variety and who we represent, and not only the children but the parents.

MEMBER JACKSON-DENNISON: I agree.

MEMBER THOMAS: You know, that we parents -- we have the parents that are involved and that is why this report is going out, that we represent them.

So the language that we need to add in there, my opinion is, that we need to add those statistics in there.

MEMBER JACKSON-DENNISON: We can do that. I agree. Everybody else agree?

Okay, so as you read down through it, we pulled together, and we found out Greg is really good at this, he can find the key points of an -- I am giving him some kudos -- with his iPad and his iPhone, and able to pull from the Executive Order the primary areas that we went through and the ones that needed to be included.

We battled over what to put, facilitate -- you see that italicized area where it says we are talking about the Executive Order Obama signed on December 2nd. I think that's the 5th, right, that we should have? I am not sure of the right date but we need to get that right.

Was it the 2nd? Okay. -- which established a White House Initiative on American Indian and Alaska Native education to help expand educational opportunities and improve educational outcomes for all American Indian and Alaska Native children, or education.

The Executive Order requires an MOU between the U.S. Department of Ed and the U.S. Department of the Interior to -- and we struggled over this one -- facilitate a new partnership ... to improve American Indian and Alaska Native education.

The MOU is to take advantage of both U.S. DOE and U.S. DOI expertise, resources and facilities and address how the departments will collaborate in carrying out the policy set out in the Executive Order.

And like I said, those are italicized because we were still kind of struggling over that language.

"NACIE recognizes the unique but separate trust responsibilities of the U.S. DOI and the U.S. DOE in fulfilling the cradle to career needs of American Indian and Alaska Native students."

So that was an area that we spent quite a bit of time struggling over, on how to include that . We talked about the MOU establishing -- this is really important that we came, that again, I'll give credit to Greg here, the interagency working groups on American Indian, Alaska Native and TCUs consists of the Department of Interior, Justice, Agriculture, Labor, Health, Human Services, Energy, Environmental Protection Agency and the White House Domestic Policy Council, which shall be convened by the Initiative's director.

"These agencies, in consultation with NACIE, shall review plans and develop for the President a synthesized interagency plan to achieve the aims of this order.

The Executive Order revokes previous Executive Orders that are listed there and we felt like it was really important to put that in there, because that really lays the foundation of a lot of the work that we foresee needing to happen in order for the Executive Order to be truly implemented, which is something that I have learned personally over the years, that it seems like we have had Executive Orders but they really don't go anywhere.

And so we want, as part of our responsibility, we want to make certain that executive -- this particular Executive Order really does take root and we are taking charge to make certain that

things are implemented with the people that we are working with, Joyce, Bill and others that are working with us along the way.

We go on to talk about the goals to create an interagency work group to address policies and practices base on research conducted within AI/AN communities, data and specific outcomes, community-based research and capacity building composed of the Office of Indian Education director, BIE, Office of Indian Education director and the White House Initiative on Tribal Colleges and Universities director, and that's Bill.

To meet the long-term goals of AI/AN communities, it is essential to develop and provide direction to state education agencies and local education agencies on state and local plans.

And then it just goes on. I don't what to have to -- I feel really bad reading to you guys. Like you can't read and -- but it goes on and we talk about the Esther Martinez Act.

"Additionally NACIE expects the accountability of Impact Aid funds in any state with AI/AN students and not funded at the national average, cannot be allowed to equalize.

"Mandated collaboration and consultation with NACIE, tribal officials tribal education departments and parents, should happen regularly with tribes in accordance with Executive Order 13175 and Obama's 2009 Memorandum on Tribal Consultation."

And this is really rough. We are willing to make changes. It is not set in stone, but these are some of the ideas that we came up with, and we are not even into the activities and accomplishments.

We haven't -- okay.

MEMBER RAY: I didn't mean to interrupt on that one. Listen, as somebody who reads a lot of these in my work, let me just say, the thing that strikes me as I start this, is that you have got to wade through a lot of text before you get to the meat of this thing.

And I'm thinking about what Michael said earlier, when I asked about prioritization, and he said, "Look, if you don't prioritize it, the Secretary will do it for you."

So I would just suggest thinking about doing an executive summary as point number one, that would capture whatever you decide -- we decide -- are the main priorities, the action items,

the things we want the Secretary to do, to bullet those out in an executive summary so that we get his attention and then he can proceed.

For what it's worth, I'd also suggest, and this is again, this just goes to the eyes glazing over factor as you begin to say what is all this, you could -- there's no magic to how this gets organized.

My own suggestion would be to take legislative authority and functions, activities and accomplishments, and put it in the back.

Put it in the back and go straight to priorities and recommendations. And you could put a short blurb about what NACIE does, maybe just grab it from the charter, and put it where the mission is, so that he knows who is speaking to him.

MEMBER JACKSON-DENNISON: Virginia.

MEMBER RAY: For what it's worth.

MEMBER JACKSON-DENNISON: Thank you.

MEMBER THOMAS: It's a good idea. Under the priorities and recommendations, these are things that we just added. This is the section. All the rest of it, all the rest of this, is what we had planned for y'all to go through and condense it and make it bullet points.

And I think it's a good idea if we can -- if you want to move that Tom, we are open to it. I hope that Alan rewrites this tonight.

(Laughter)

MEMBER RAY: Yeah, yeah, yeah, yeah. Look, I, you know, I'm sorry I opened my mouth.

(Laughter)

MEMBER THOMAS: No, I think this is -- it probably is a good idea, you know, because we just started off by the seat of our pants trying to get this done and get it on there.

But that is probably a good point Alan, to put it up there.

MEMBER RAY: The executive summary point is the main thing I wanted to convey.

MEMBER THOMAS: But we do have to work very diligent on the priorities and recommendations because those are only bullets that we put on there. And this is where we needed to combine, I think Patsy was typing as fast as she could, but there were several items in it that we can combine. I think there ended up 22, 24 -- 24 items and we gave up 23, 24, we couldn't go any further.

But we could condense all this and maybe we can get it down to 10 to 12 that's on there and then come back and do it. But we do need to work on that.

MEMBER JACKSON-DENNISON: I agree, and just to -- some of the discussion we had yesterday, just to let you know, we felt like it was really important to get some of this information even though I know right now we all have tired eyes, I know I do. But it is really important that -- I know to myself and those that we were in discussion with yesterday, that it is made clear that this does not just go to Congress and although we have heard there is no response, we want -- that is a bold recommendation that we are making, is that we aim it towards certain committees of Congress that have to do with Indian education and expect a response back.

I think that, as we all know as educators, people only meet the expectations that you are asking of them. And if we let them know that hey, we expect some sort of action from these recommendations that we are making to Congress, then perhaps we will get something back.

If we don't, and we expect to get nothing, we won't get anything. So that again is -- this again will take on the platform of the letter that we will ask of our Chair to write to the Secretary, leading from this to the Secretary, which I don't think we took advantage of last year. We do need to do that this year. And so that was why we spent quality time on it and it is really rough like I said, and we can condense it, but personally I felt like it was necessary to do the preamble or the mission and to pull it together from there to give us a direction, because it has, like many things in education, just gone through the hoops and been forgotten about. Oh, NACIE does this, check, done, you know, and then nothing results of it, and we heard some great testimony today. We heard it in Portland. We really need to take those into consideration when we are making these recommendations to both the Secretary and our annual report to Congress.

And that is what we started with, so we can go back and do that, condense it more.

MEMBER McCracken: So I just have a comment to our committee, and you guys are way more experts than me, but I know in the corporate world, and Tom, you probably can relate to this, we have what we call imperatives that are game changers, and we prioritize at the top, right?

So if I want to get something across to my leadership, I prioritize my imperatives, or call them game changers, and for us, the reason I asked the question earlier today is, after last year's recommendations, how many even got reviewed or even looked at, and I guess the consensus of the answer was zero, right?

So as we look at that, as you know, our battlefield, for lack of a better term, what are our game changers as an organization, and what do we want to put as a priority that maybe an advocate like Joyce or Bill can say we are on the same team.

As I sat through the NACIE meeting, the game changers for them were these three. There's 12. We have 3. So that way when we look back at this in retrospect, we can say hey, as a board we got three key initiatives to be heard, be listened to, be approved, whatever it might be.

So I mean, you guys are more of the expert on what are the game changers for our kids, and you know, that is just my recommendation and how I had to build my strategic plans. It's not an annual report but it's a strategic plan that we put together, and those are some of the learnings that I have had. So sharing my knowledge.

MEMBER JACKSON-DENNISON: Alan.

MEMBER RAY: Thank you very much. I appreciate your time on this. I would agree with that, and I think that it occurred to me, and probably to you too, that in light of the fact that there are strong impediments to the Department acting if it wished on things that take Congressional action, and the Congress not being -- doing business right now, I think one thing we should think about is whether, in creating those priorities or game changers, we want to take those that just the Department could do, right, even if on some master list, the priorities, ones would be higher. If those higher ones are ones that require Congress's cooperation, and we don't think that there is a lot of chance that that will get done in the next year, should we think about just putting at the top the things that the Department itself could do, or maybe breaking them out. Here are the things the Department could do. And be very short and to the point and we could expand on them later, and here are the ones that are going to require Congressional action.

You know, if we really want to put him on the spot and say here are the things we want you to do that you can do, I think we have to draw their attention to those, whether it's at the top or somewhere close to.

MEMBER WHITEFOOT: I just wanted to respond. That was our exact strategy, is that we would do that, we would prioritize these and then we would reorganize and condense all of the recommendations that were made last year. We just built on them, but we also took those five items that we came up with, our goal statements from our previous meeting in Portland, we took those and integrated them in here.

And take a look at FACA as well. One of the statements that is made in there is that we also have to demonstrate that we are an essential committee.

And so what does essential mean? And for me essential would be that we are representing Indian Country, and I am from a sovereign nation. I think that's important because it is going back to educating, in writing, Congress and the general public about who we are and what we represent.

Like Virginia said, the students, the unique population that we are representing in our states and in our communities.

The other point that it makes has to do with that we -- the Congress and public should be kept informed with respect to the number of meetings, the number of -- what is our purpose, our membership, our activities, and then the cost. That's the reason I was asking questions about the budget this morning, you know, FACA goes on and so we have to make certain that we are checking off every one of these requirements.

And so our intent was to try to get everything we stated in Portland and bring it forward so we weren't leaving anything out and then we can go back and start cutting and pasting, and so the intent was for us to come here and get the feedback and go back again and update this, and I agree with pretty much all the statements that were made earlier.

MEMBER JACKSON-DENNISON: Hold on there Virginia, I just wanted to add to what Patricia just said. I understand what Alan is saying. And I agree to a certain extent.

But I also feel very strongly that this is a -- there is a purpose for this annual report, and I feel very strongly that, you know, my time is crucial, all of our times is crucial, and we -- our purpose for being on this council isn't -- we shouldn't let Congress off the hook.

We need to state in this annual report what is really -- what really are the issues out there and what really we want them to deal with, and whether they can do it or not, we need to have it down. It needs to be in, whether they are going to look at it with glazed eyes or not, and then it becomes our responsibility as native people to keep knocking on their doors and saying, hey, here's our annual report we gave you, what's coming about? Why are you in these offices if you are not going to help us as a people? Why are you doing what you are doing in leadership or whatever role they are in.

And so that is my position on it, and I feel like we would just let them off the hook if we just say okay, well this is this, this is this and this is that, and that's not too important so we are just going to leave it to what the U.S. Department of Ed can get done.

To me that is where the letter to Secretary Duncan, we have heard over and over again, give us your bold recommendations, and I think there are two separate things.

I really feel like the annual report needs to be thorough and it needs to be = it needs to be -- it needs to have what exactly it is that -- not just what we are working on but what the issues are that we have been dealing with and hearing about and what needs to happen.

And if they choose not to do anything with it, then that is their choice, but then again, it becomes our responsibility to follow up and say hey, what is happening with this, and so I could go on and on about it, but I have been dealing with this, with Congress these last few weeks with this whole Impact Aid issue and I am getting very frustrated with Congress not doing their jobs and that needs to be reported because it is hurting Indian children across the country.

Virginia?

MEMBER THOMAS: Okay, people have stolen my questions earlier and now she has stolen my comment, because we really have to realize that there are two separate documents that are coming up: the annual report, which I feel that is the detail and that is why we worked hard on this, to get it in detail; and then the letter to the Secretary that we have never really utilized that avenue before, and that is what we wanted to do.

And so maybe, you know, the plan of condensing and trying to get it done, is the letter to the Secretary that says, here's a one-page bullet, this is this, this is in the annual report, so he can kind of glance it and see what it is, and then he has got a full-fledged report and he says, oh, let me look that up and see what they said about that and come back to it and reference it, because that's the detail that we were really aiming for.

MEMBER ANDERSON: Could the executive summary be included in the letter to the Secretary? Could you do something like that, then the meat is in the report, as she said.

But I think the content that we put in here is necessary. The format, Alan I agree with you, there needs to be an executive summary that highlights what we are trying to do. But I think it's important to the content because we need to use our own words and dialogue and promises and trying to lead to goals that we are trying to achieve, the EO and the President's comments within the EO, the Secretary's comments, the comments from the Department of Interior, Department of Ed, they have all made commitments -- let's use those comments and statements to support what we are trying to do.

MEMBER RAY: I want to be clear about my position on this. I am not suggesting for a moment that Congress be excused from its trust responsibility, or that we let them, as you say, off the hook. That certainly is not my intention in any regard.

But as a matter of drafting, my suggestion was that we call out those that can be done by whom, that we -- I think we put people more on the hook when we say we know you can do this, right, instead of saying to someone go do that and they can later say well, that's not within my power, or Congress didn't act, you know.

I think we put them more on the hook when we specify those relationships. I think the idea of breaking them out into a very distinct, two audiences -- Congress and the Secretary -- is an excellent one. And that certainly is consistent with my thoughts. Thank you.

MEMBER BUTTERFIELD: Yes. I agree that this is overwhelming. I had a conversation with one of the key members or staffers for the Senate Committee on Indian Affairs, and I did ask him, I said, so, what's your response to the NACIE report, and he said, "Well," he said, "I know I should have read it again, but you know, we got it and it's kind of in a pile of stuff that we use if we reference if we need to."

And it was just like -- he said, "Unless somebody actually asks us that question, you know, they pretty much just shelve it."

And so I totally agree that the more succinct it is -- I think you only need to, in the beginning, reference that this is in response to the NACIE charter, you can put a little language in there, but I would leave out all this -- the devil is in the details I guess and we could debate this, but I totally agree that the more succinct and focused it is, any time you ask for something, I agree. It has got to be the top, you know, three to give items and those are the big, big ticket items that people are going to pay attention to.

So, and I also agree that it should be two separate documents that have a focus of which audience is going to actually be able to do something with it.

MR. MENDOZA: Mr. Chair, if I could just real quick, in terms of the activities requirement, under the charter, you know, that will have to be a specific one part document I think, but maybe the utilization of an appendix to kind of create that connection, but still -- that's one of the approaches that the agencies took with the Memorandum of Understanding. As you look at the MOU, we really have the substance, the big picture policy language up front and then the minutiae if you will of the programmatic language as an appendix, that we figured could be referenced, but it certainly wasn't what we wanted to draw the emphasis on, so the formatting of that again.

And then I just want to speak to the recommendations aspect, and what the Secretary is invoking -- the Interior Secretary as well, Secretary Salazar.

Prior to December 2nd, the Secretaries met with tribal leaders and proposed just that. They said you know, we have done consultations, we have done listening and learning, and it is basically all over the place. What do tribal leaders want to advance on now? What is an actionable agenda that we can do with an executive authority to be able to impact and dramatically change the educational landscape for our students?

So along those lines, there is -- that kind of approach does resonate with the direction that the Secretaries went ahead, is they are seeking guidance on this, and you have heard yourself the Secretary speak to this, about be bold.

And that is the strategy of the Initiative as well, is what can we do both in the short term and what do we need to do in the long term, and how do we begin to engage strategically in those activities.

MEMBER JACKSON-DENNISON: Okay, thank you Bill and thank you Robin. I think Mary Jane had her hand up.

MEMBER OATMAN-WAK WAK: I just wanted to concur with the rest of the board and most specifically around the separation of the two reports because there are some very attainable things that Congress can do that the Secretary doesn't have authority and we need to really vet through those and make sure we are mindful of the execution and power of anything that we are proposing.

So I guess I am on board primarily with your concerns, everybody's.

MEMBER JACKSON-DENNISON: Thank you. Virginia.

MEMBER THOMAS: I have to agree with some comments, but I think we need to keep the detail into the annual report. The format can change the -- we can move the front to the back, whatever the detail.

And the reason I say that, two reasons, is when we all go on the Hill and visit with people and we say did you get this, did you get -- someone says oh no, I didn't read that. When they pull it, then they have the detail in front of them. They can reference oh, that is what they are talking about. That is what this is.

The other issues we have got people in the audience here to -- we are accountable to our people, period. You know, that is how come we are sitting right here, because of the expertise that we have, the experience we have and we go back to the people. They are going to ask us what have you done? This is going to be public record and they can say well, gee, they just skipped over this, and two pages, when -- where is it about the native language, where is it about, you know, everything that we have listed in here, and we can condense it, yes, from the 23, maybe down to 12 and combine them and do it, but I think we need to have the responsibility here but the detail to the response that we are asking for is the letter, you know, that we need to come through.

MEMBER JACKSON-DENNISON: Okay, I agree with Virginia. Go ahead.

MEMBER McCracken: So, just a comment. So if, to your comment, if we are held accountable to our people, how do we hold the people who we give these documents to accountable? Is there any accountability there? Right? And that is my question and I ask that of our Chairman, because what I heard loud and clear from Michael today, is hold us accountable. Exactly. I mean, he echoed it how many times? I mean it is on public record. But how do we empower ourselves to do that?

I think that would be the question that I have.

MEMBER JACKSON-DENNISON: That is a good question and that is exactly why I am thinking historically and excuse me if I am really passionate about this, but I was just on the Hill two weeks ago on an issue related to Impact Aid, the sequestration issue, and we were divided up into groups with other Impact Aid, just school districts, and the -- what I am getting at is that right now Congress, there are so many that do not understand Indian education, and so yes, we can just make this -- I wish Congress ran like a business, but it doesn't unfortunately.

So what I am getting at, my position is I want to go present something or send something up there that is going to be very, very, very -- yes succinct, but also very informational. They should take the time. Whether they do it or not, you know, that is the question of the hour. But we have the responsibility to report what are the issues to Congress.

And then like Virginia said, the Secretary is where we report what we know the Department of Ed can get done, and they are two separate documents.

But I really feel strongly, being up on the Hill just as recent as two weeks ago and hearing from people that know nothing about Indian education issues and about funding and about how -- they have no clue and that is our responsibility to continue to let them know, knock on their doors and continue to keep going there. Virginia.

MEMBER THOMAS: Just another comment. On the back of the first page, in the middle of the page, we were very clear, because we needed help on this too, and this is why we put it in here, so we could have this discussion.

But it says, "NACIE also anticipates accountability and a response from the Secretary of Education and Congress within 90 days of the above recommendation to ensure leveling of all federal funds, policy alignment and improvement outcomes for the AI/AN students.

"Finally NACIE urges the Secretary to consult and utilize the office of legislative and Congressional affairs to advance on NACIE recommendations with the Oversight House and Senate Congressional Committees."

That, so if you had read it -- no, but at least we have asked. At least we have asked for some kind of accountability, and it would be our fault if we had a report and we didn't ask for it, because if they come back to us and they say well you didn't ask for it, well yes, we did.

MEMBER JACKSON-DENNISON: Okay. Alan.

MEMBER RAY: I think that the way we might handle it simply is in the letter to the Secretary, our first recommendation is the process recommendation, that we ask that the Department give us a point by point response to each of the things that you are about to read. Period.

MEMBER BUTTERFIELD: Just, you know going through these items quickly, you can write Department, Department/Congress, Department -- one of the things that, just after hearing what you read, I mean, if you understand how Congress works you know, Congress is set up of individuals who respond to constituents.

The only way that you are going to actually get a response from Congress is to go to a Congressional person and either through their staff or some conversation they may be able to respond to these, but you are not going to get a response from Congress.

I mean, so I think it's kind of unrealistic to expect that, and the best you can do are like the Senate Committee on Indian Affairs or the HELP Committee, and we certainly send them forward, but they are not going to respond unless one of their constituents, which is any one of us, can say you know, we know that NACIE sent a report forward. What has your office done, you know, to take a look at these and what is your feedback in terms of what you can support?

You know, and we might try that just as a tactic because each one of us could do that to get it on the -- at the forefront of those Committees.

MEMBER THOMAS: But, like you said earlier, you don't want your name put in the substance if there is no action and that is what we are here for.

You know, we all signed on, we raised our little hand and said we would do this, but we also raised our little hand to our nation, and said that we are going to do this.

MEMBER BUTTERFIELD: But what I am suggesting is most of the stuff in here, I guess, which is why I was frustrated last year after we had done, gone through this exercise, most of it applies to the Department. There's things that the Department can do, or they can give us feedback in terms of like what was just shared with us about, you know, the money that was given -- the 2 million that was given for the STEP program, you know, they can -- that money can be authorized but it doesn't mean that the TEAs actually get the federal dollars to execute, because that is a reauthorization issue. That is a Congressional request, is that you know, I mean that is different from what we have in place.

So it is just kind of being a little more thoughtful in terms of you know, who is responsible for the action that can be taken.

MEMBER THOMAS: Maybe we can break that back down into categories, and say this is the responsibility of this, this, this and break all of these recommendations down into categories, because like yesterday we were just brainstorming them out to get them out.

So we can break it down. That's no problem.

CHAIR ACEVEDO: Members of the council, we have had a nice, I think, discussion here about -- and I want to applaud all the hard work that you have all put into it. I think that it has been good work.

And I think I agree with the idea that we have two audiences. One is obviously the Department of Education and the Secretary with respect to what he expects from us and what we expect from him.

So that is a separate letter and I really -- I think it has to be succinct, with whatever we agree tomorrow as our number one through five, or whatever those numbers turn out to be, priorities, so we get that out and we get that to the Secretary.

We will get a response from the Secretary. I feel comfortable about that and Michael's commitment to that, Joyce's commitment.

I don't think we have to be concerned about that happening or not happening.

The second part is we have a statutory duty to do a report to Congress, which is that sort of pro forma. That doesn't mean that we change the meat and potatoes that you have all put into it. I think it has to be in there.

But I also think there has to be an executive summary attached to that, and to echo what Robin said, if you want -- how are we going to get a response from Congress has absolutely nothing to do with any sort of general sort of response from Congress, it's not going to come from that.

We have to have a champion on the Hill, and that he or she, coming from one of the Committees that has primary jurisdiction over education, and Indian education, is where we request in our letter to that Chair and the other members of the Committee, a hearing, because otherwise nothing happens and as you know it takes subsequent hearings before legislative action takes place.

And if they haven't authorized the big one, NESAs, they sure in heck aren't going to, you know, enact -- unless maybe we can take technical amendments because they are not going to enact NESAs so that at least we get one or two things done and being realistic, knowing Congress, and especially knowing how this Congress is so divided, I mean they were about to shut down the government last year over a budget issue, simply to raise the debt ceiling, you know, let's be realistic. I mean that doesn't mean we shouldn't do it, and we have an obligation I think to advance that, but we have to understand the political climate we live in.

So I think the response from Congress will be a request for hearings, and then we can schedule that, try to get that champion, a member of the Committee or the Chair of the Committee to schedule these, Yes?

MEMBER OATMAN-WAK WAK: Chairman, that was going to be my recommendation, is that we are more strategic and tactical in who these are going to.

The concern brought up with the Senate Committee on Indian Affairs' responsiveness or lack of engagement with the report itself was concerning and so the recommendation would be, as you mentioned, the Committees of jurisdiction, as well as those have any periphery jurisdiction around Indian education or around education issues that would fall, like the House Natural Resource Committee, that I mean, our children are Indian Country's greatest natural resource, the Senate Committee on Indian Affairs, Senate House, of course, are very, very mindful of where they are going.

And then to follow up on -- actually I will save that, it's for another topic, so the recommendation that the committee is very mindful of where those reports are going.

And another follow-up I guess, in terms of accountability and responsiveness, we did have a recommendation or a response from the goals and the recommendations that we requested

from the Secretary. I am wondering what the turnaround time on that is, because we have not heard any feedback on that.

CHAIR ACEVEDO: We have had a very long day. I think everybody is tired. You have got a draft in front of you. You have heard some good suggestions.

Come tomorrow prepared to tighten this up and I applaud the committee members. It's not easy to work on this. I know you have put a lot of effort into it and it shows.

All we are trying to do now is make readable to that audience that wants to read. We heard, you know, the comment made, I didn't even -- oh, the report came in, yes, it's sitting on my desk. That I think is the natural response on the Hill, because they have a lot on their plate and they have a lot going on, and so we have to keep it succinct and we have to keep it with the key things we think we could possibly get out of Congress. The Secretary's a separate issue.

With no objection from the council, we will recess for today and convene tomorrow morning. I think Jenelle we have an early start time. 7:45, all right? Thank you all.

(Whereupon, at 4:49 p.m., the meeting was adjourned.)