



NATIONAL INDIAN EDUCATION ASSOCIATION

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For the House Committee on Natural Resources
Subcommittee on Oversight and Investigations**

**“Leaving Indian Children Behind: Reviewing the State of BIE Schools”
February 12, 2025**

On behalf of the National Indian Education Association (NIEA), and the students, educators, and Tribal Nations we serve, thank you for this opportunity to provide testimony regarding the challenges and solutions related to the maintenance, repair, and modernization of Bureau of Indian Education (BIE)-funded facilities and “the State of BIE Schools.” NIEA’s testimony will address key issues surrounding deferred maintenance backlogs, funding constraints, and structural inefficiencies within BIE operations. I will also outline potential solutions, including increased funding, streamlined processes, enhanced staffing, and the expansion of 105(l) leases as an alternative model.

Safe and healthy classrooms are essential to positive educational outcomes for our students across the Nation. Unfortunately, due to the rural, remote, and underinvested nature of Tribal communities, Native students often do not have access to the high-quality education facilities guaranteed to them by the federal trust and treaty obligations. Rooted in treaties between Tribal Nations and the federal government, the US Constitution, and decades of legal precedent, Congress has a direct fiduciary responsibility to provide federal funding for Indian education, ensuring the economic futures of our communities.

Approximately 45,000 Native students across 23 states attend BIE-funded schools. While some of these schools are directly operated by the BIE, 128 out of 183 are tribally controlled under the Tribally Controlled Schools Act of 1988, 25 U.S.C. § 2501, or the Indian Self-Determination and Education Assistance Act (ISDEAA) of 1975, 25 U.S.C. § 5301. These include day schools, boarding schools, dormitories, and off-reservation residential facilities. Many of these schools serve students in rural or remote locations, making their maintenance and modernization more difficult, but still essential for student safety, well-being, and academic success. Many of these facilities also include administrative buildings, athletic facilities, and teacher housing, all of which require sustained investment in infrastructure to ensure safe and effective learning environments.

As of September 2022, the Department of the Interior (DOI)’s Indian Affairs (IA) reported that addressing deferred maintenance at BIE-funded school facilities would require more than \$1 billion. For the BIE Fiscal Year (FY) 2025 Budget Justification, BIE estimated that deferred

maintenance backlogs currently exceed \$804 million.¹ However, a March 2024 report from the Office of the Inspector General (OIG) for DOI highlighted BIE's inability to accurately determine and manage deferred maintenance costs². Even with recent funding from the Great American Outdoors Act (GAOA) and annual appropriations these funds have been insufficient to address the scale of maintenance needs. Recent school repairs and replacements funded under the GAOA Legacy Restoration Fund (LRF) have cost an average of \$101.4 million dollars as of October 2024. With 66 schools remaining on the FY 2020 list of BIE schools in "poor" condition, it is not difficult to estimate that appropriations for BIE Construction should be closer to \$6.7 billion. This is in-line with the Tribal Interior Budget Council's recommendation of \$6.2 billion dollars for FY 2026³. With the reauthorization of the GAOA expected in 2025, there is an opportunity to expand its impact by ensuring that BIE schools continue receive a dedicated portion of these funds. The reauthorization should continue to prioritize targeted investments for deferred maintenance backlogs, streamlined access to funding for school infrastructure projects, and long-term strategies to sustain these improvements. Without a firm commitment in the reauthorization process, BIE schools will continue to struggle with deteriorating facilities and an overwhelming maintenance deficit.

However, the BIE maintenance backlog is not just a matter of funding—it is compounded by inefficiencies in work order processing and categorization. Historically, the Indian Affairs (IA) system has classified maintenance requests based on an arbitrary monetary threshold rather than the nature of the repair. Previously set at \$2,500, BIE announced in 2023 that this threshold would increase to \$10,000 to expedite funding approvals for repairs. While this change aims to improve efficiency, it also shifts the financial burden to schools. Operations and Maintenance (O&M) funds, allocated directly to schools through a formula, are already scarce. In contrast, Deferred Maintenance (DM) projects are funded through the Education Construction account at BIE's central office and require a lengthy approval process. Schools appreciate the potential for faster repairs but worry that the increased threshold will deplete their O&M funds more quickly, forcing them to divert resources from other critical operations. Beyond adjusting monetary thresholds, BIE must prioritize accurate work order processing, streamlined approvals, adequate staffing, and reliable data to ensure that maintenance requests are properly managed and addressed in a timely manner.

The March 2024 report from the Inspector General of the Department of Interior noted that the BIE "cannot determine an accurate calculation of estimated costs of deferred maintenance at BIE schools or effectively manage deferred maintenance." Faced with a vast number of aged maintenance requests in its system, the BIE deleted the over 14,000 work orders that had been pending for over three years, which IA claimed drastically improved its confidence in data quality. However, it seems these work orders may have been deleted simply based on their age,

¹ Budget Justifications and Performance Information Fiscal Year 2025: Bureau of Indian Education, DEP'T OF INTERIOR 96 (last visited Oct. 28, 2024), https://www.bia.gov/sites/default/files/media_document/fy2025-508-bie-greenbook.pdf

² Indian Affairs is Unable to Effectively Manage Deferred Maintenance of School Facilities, DEP'T OF INTERIOR OFFICE OF INSPECTOR GENERAL 17 (Mar. 2024), https://www.doioig.gov/sites/default/files/2021-migration/FinalEvaluationReport_BIEDeferredMaintenance_Public.pdf.

³ Tribal/Interior Budget Council FY 2026 Tribal Budget Submission for the President's FY 2026 Budget Request to Congress (Apr. 9, 2024), <https://cdn.sanity.io/files/raa5sn1v/production/9c4e1e12d80bfbc11d349b24dd86ecf1a89ee23.pdf>.

and some school officials report these projects that remained in the system were there as schools were still awaiting reimbursement for emergency repairs.

To address these systemic challenges, several solutions must be considered. First, increasing and stabilizing funding for BIE schools is essential. Ensuring Advanced Appropriations for O&M, facilities maintenance, and education construction accounts would eliminate disruptions caused by continuing resolutions and potential government shutdowns. Additionally, annual appropriations must be increased to address the growing deferred maintenance backlog, with greater transparency in tracking the effectiveness of these investments. The Fiscal Year (FY) 2024 not only represented a mere 3.5% of the estimated need to repair and replace the backlog but was also a reduction in funding from FY 2023. We applaud the House appropriations package for including \$271 million for FY 2025, increased over FY 2024 and FY 2023. However, I would encourage this Committee to do what it can towards continuing to cut away at the \$6.694 billion in estimated backlog costs.

Unlike most other BIE line items, Facilities Operations, Facilities Maintenance, and Education Construction accounts are not forward-funded, leading to frustration and confusion around federal funding cycles as continuing resolutions become more frequent and the threat of government shutdowns remains constant. Just two weeks ago, these accounts were labeled to be frozen under OMB memo M-25-13 before the directive was rescinded. Such unpredictability threatens the stability of BIE school maintenance and construction efforts. Ensuring the entirety of BIE line items are at minimum forward funded, if not provided Advance Appropriations, similar to Indian Health Service (IHS). One such avenue would be the reintroduction and passage of the Indian Programs Advance Appropriations Act, which was bipartisan legislation we saw in the 118th Congress which would implement Advance Appropriations across BIE accounts. This would protect BIE schools, especially Tribally Controlled Schools, from funding unpredictability which threatens the stability of BIE school maintenance and construction efforts.

Streamlining BIE operations and work order processes is another critical solution. Implementing clearer definitions for deferred maintenance and O&M would ensure accurate processing of maintenance requests. Eliminating unnecessary layers of approval and empowering school facility staff to address maintenance issues more efficiently would significantly reduce delays. Streamlining the work order process is crucial to improving efficiency and reducing delays in addressing critical maintenance needs. One key improvement would be implementing a standardized digital tracking system that allows real-time updates on the status of maintenance requests. This system should integrate automated notifications for pending approvals and ensure that work orders are categorized based on urgency rather than arbitrary monetary thresholds. Additionally, BIE should consistently train school staff on inputting and monitoring needed maintenance requests, coordinating directly with central and regional BIE staff, reducing redundant oversight layers and ensuring faster response times.

Moreover, inadequate staffing and oversight have further hindered the process. The OIG report recommended that IA conduct a workforce study and develop a system for ongoing monitoring of DM work orders. Neither of these recommendations have been implemented. Staffing shortages and inconsistent training for personnel handling work order submissions continue to impede the effective tracking and completion of projects. We strongly encourage Congress to

direct a GAO study on the BIE maintenance workforce and provide enhanced training on work order submissions for school personnel.

Increasing funding for and mandatorily appropriating 105(l) leases provides an alternative model for Tribal Nations and their schools to opt-in to. Section 105(l) of ISDEAA allows Tribes to lease their school facilities to the federal government as a part of their self-governance compacts or contracts. In the same vein as returning broken school systems to the Tribes and ensuring Tribal self-determination over education systems, the federal government can and should enable Tribes to build, replace, and repair schools on their own while ensuring the Federal government continues to fulfil its fiduciary duty. Section 105(l) Leases are not traditional leases but function as payment agreements for facility use with the BIA, BIE, or IHS compensating Indian Tribes or Tribal organizations for their use of facilities during the execution of federal programs. This compensation is based on “fair market value” and can be used for scheduled and unscheduled maintenance, operations and maintenance expenses, principal and interest, savings for future construction, among much else. The Gila River Indian Community successfully implemented this approach in 2019 with the construction and leasing of Gila Crossing Day School, since then Tribal interest in 105(l) leasing has grown exponentially, not just for BIE, but also for IHS and BIA facilities. However, because these payments are legally obligated but currently provided for under discretionary funding, they increasingly result in the offsetting of other Tribal programs by cutting funding *after* a budget has been enacted. We want to encourage Tribes to take advantage of 105(l) leasing, and to put control of maintenance, repair, and replacement of school facilities back into their own hands, foregoing the significant backlog and administrative failures of the BIE. However, we cannot currently do so responsibly, unless 105(l) lease payments are designated as mandatory spending. This model represents a meaningful alternative to the current bureaucratic bottlenecks within BIE and would prove to decrease the need for bureaucratic involvement in the maintenance process, while also advancing Tribal self-determination over education infrastructure. NIEA strongly encourages Congress to increase its viability by securing mandatory appropriations for 105(l) Lease Payments.

Ensuring the safety, modernization, and long-term viability of BIE-funded schools is not just a policy decision—it is a fundamental obligation of the federal government under its trust and treaty responsibilities. The chronic underfunding, bureaucratic inefficiencies, and staffing shortages that have plagued BIE facilities for decades have resulted in learning environments that fail to meet the basic standards our students deserve. Without immediate and sustained intervention, these conditions will continue to hinder the educational outcomes and well-being of Native students.

Congress has a clear opportunity to take decisive action. By increasing funding, implementing Advance Appropriations, streamlining maintenance processes, and moving 105(l) Lease Payments to mandatory funding, we can create lasting improvements that empower Native communities to take greater control over their educational infrastructure. These are not just investments in buildings and facilities; they are investments in the future of Native students and the sovereignty of Tribal Nations. We urge this Committee and Congress to uphold their commitment to Indian education and ensure that every Native child has access to a safe, modern, and fully functional school. Thank you for your time and attention to this critical issue.