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U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN EDUCATION

Elementary and Secondary Education Act
(ESEA) Flexibility Request

TRIBAL CONSULTATION

BISMARCK, NORTH DAKOTA

July 27, 2012

24

25

DOUG KETCHAM & ASSOCIATES
118 BROADWAY, SUITE 200, FARGO, ND 58102 (701) 237-0275

1 WHEREUPON, the following proceedings
2 were duly had: --

3

4 MR. DRAPEAUX: We're going to get
5 started. I'd ask Jace Killsback to open up with
6 an opening prayer.

7 MR. KILLSBACK: Thanks for asking me
8 to say a prayer.

9 For Cheyennes we're in our holy season
10 for our ceremonies so hoping everybody has their
11 blessing and we all travel safe. Creator, we ask
12 today for your guidance in our discussion with our
13 education of our people.

14 Creator, I ask that you put blessing
15 for those who are less fortunate, those who may be
16 suffering, those who may be hungry, and ask that
17 you look after our elders, our youth, our young
18 parents, and young adults, those who are in
19 college, those who are incarcerated, those who are
20 in service of our military and be safe, that you
21 protect them.

22 Creator, we ask that you look over our
23 Cheyenne covenant, those who watch over and
24 protect and keep our sacred path, our sacred

1 for our ceremonies and sun dances.

2 Creator, I ask that you look after all
3 our tribal leaders, all our educators, all those
4 who are not born yet.

5 And I ask this in the name of the
6 (inaudible). Amen. Thank you.

7 MR. DRAPEAUX: Thank you. My name is
8 Brian Drapeaux. I'm the acting director of the
9 Bureau of Indian Education and I want to welcome
10 you all here this morning for our fourth
11 consultation on the flexibility waiver request.
12 And what I'll do this morning is just speak
13 briefly of our intent.

14 I have Dr. Jeff Hamley and Brian Bough
15 from our offices get in to the details of the
16 flexibility waiver proposal through PowerPoint,
17 and then we'd like to just open up to either
18 comments or statements, and kind of -- and open
19 that concerning the proposal.

20 We'd like to point your attention to
21 full document review on our website bie.edu our
22 130 plus page flexibility proposal is online. We
23 have a 13-page summary that's also available for
24 review, and we hope that you spend some time

25 taking a look at it.

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1 And I think the other important aspect
2 of doing the review is for our understanding what
3 states are going through as well. I think there
4 are 46 -- 46 states? Forty-six states that have
5 been given a flexibility waiver by the U.S.
6 Department of Education. So the process is -- is
7 in flux and the approach and the direction of
8 education in the United States is moving right
9 now. And I think it's important that we not only
10 take a look at BIE's application but understand
11 what the indications mean for us as tribes, as
12 well as school level activities and the impacts of
13 that. And we'll talk about that in some degree
14 when Brian and Jeff present their BIE's
15 application process.

16 So again, welcome and thank you for
17 the patience this morning of a late start and we
18 hope that -- we are dedicated to fulfilling our
19 time allowance of four hours or more and are
20 committed to that and so even though we've gotten
21 a late start we will continue on as needed to have
22 a dialogue up until the point where my plane flies
23 out. So we want to have this to -- we want to
24 have an open dialogue, so we encourage you to ask

1 encourage about the review of what it is that
2 we're proposing. So with that I'll turn it over
3 to staff for introductions and we'll get started.

4 MR. HAMLEY: Good morning. Jeff
5 Hamley, Associate Deputy Director, Division of
6 Performance & Accountability, BIE.

7 MR. BOUGH: I'm Brian Bough. I'm a
8 member of the (inaudible) Indian tribe in
9 Washington state. I'm a supervisory educational
10 research panelist for the Division of Performance
11 & Accountability.

12 And so I think I'll get us started off
13 here. We're gonna go through sort of a brief
14 agenda, and I'm gonna try to keep this as brief as
15 possible so that we have more time for comments.
16 And I suspect that we have more people that will
17 show up that will also have comments and then
18 review the material as we go along anyway.

19 We're gonna go through a review of No
20 Child Left Behind, touching on its major points.
21 The challenges for BIE that came about because of
22 how negotiated ruling implemented No Child Left
23 Behind. We'll be talking about the flexibility
24 request generally and then we're going to move

1 particular. Then we're gonna talk about the
2 benefits that we see accruing from receiving the
3 flexibility waiver from the U.S. Department of
4 Education, and then we will make some concluding
5 remarks. After this we'll be talking with tribal
6 leaders and seeing what their input is and then
7 we'll open up for public discussion as well.

8 The BIE views this process of applying
9 for the gratification from No Child Left Behind is
10 an opportunity to strengthen tribal education
11 through the vision that we have to empower tribes
12 to exercise greater control over the education of
13 their students.

14 BIE's flexibility request
15 reestablishes tribal sovereignty in two main ways:
16 First, it allows tribes to reassert sovereignty by
17 moving away from state standards and assessments.
18 The system set forth under No Child Left Behind in
19 negotiated rulemaking.

20 The second way is through the adoption
21 of Common Core Standards that allow for 15 percent
22 customization from local standards through
23 tribally developed standards. These standards
24 include things such as culture, language,

25 government, history, these types of things. We'll

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1 talk about that a little more in depth in a
2 moment.

3 Students that possess a more
4 culturally relevant education according to the
5 most recent national Indian education study are
6 more likely to achieve higher scores as a result.
7 So the BIE is fully behind having more tribal and
8 cultural items being taught and being measured in
9 our classrooms so that we can improve student
10 achievement throughout the system.

11 No Child Left Behind was passed into
12 law in 2001. I'm sure that most of the educators
13 are aware of this particular law. It seems to be
14 the thing of BIE and how we have to implement it
15 and we'll talk about that a little bit here.

16 Primarily it established school
17 accountability systems based on state assessments
18 and state standards. A key here is that we look
19 to standard based measures of academic performance
20 as ways to judge how schools are performing to
21 make accountability decisions based on student
22 performance primarily as measured on tests. This
23 was unique. It was a first of its kind back in
24 2001 and it's been in place since 2002 which was

1 It required all students to meet
2 rigorous testing targets in reading/language arts
3 and mathematics.

4 And it set 2014 as the year for which
5 100 percent of students would be required to reach
6 proficient levels in both mathematics and
7 reading/language arts.

8 The challenges for the Bureau of
9 Indian Education under ESEA, Elementary and
10 Secondary Education Act, as reenacted we
11 authorized in 2001 was No Child Left Behind is
12 that negotiated rulemaking process BIE conducted
13 discovered that -- or came about in mandating BIE
14 would follow the state assessment systems, their
15 accountability system, their guidelines, their
16 standards. BIE views this as a deferral of
17 sovereignty from the tribes through the states for
18 the development and interest of those standards
19 and for the assessments and for the actual
20 criteria by which schools will be judged.

21 More pressingly we found that we have
22 23 different definitions of Adequate Yearly
23 Progress by which our schools were judged. In
24 other words, the state in which the school resided

25 in could have either more stringent or less

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25 from No Child Left Behind, the Department of

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1 Education is looking for very stringent standards
2 that would essentially meet spirit of the
3 Elementary and Secondary Education Act while
4 giving states flexibility in how they measure the
5 performance of their schools. This would include
6 raising its standards, improving the
7 accountability system to be more reflective of the
8 academic learning that's going on in schools, and
9 improving teacher effectiveness.

10 Currently 19 of the 23 states with BIE
11 funds schools have applied for or received
12 flexibility. This means that no matter what it is
13 the BIE does we're looking towards some aspects of
14 the program going into place no matter if the BIE
15 is there with us or not.

16 The flexibility request centers on
17 four major principles. The first principle is the
18 move to college-and career-ready expectations for
19 all students.

20 The second principle is the
21 development of the state differentiated
22 recognition system, a new accountability system,
23 and a new system of support for schools identified
24 in a very solvable academic progress under the new

1 Principle 3, support for effective
2 instruction and leadership.

3 And principle 4 talks about the
4 reduction of duplication and unnecessary burdens,
5 particularly we're reporting and carrying out
6 requirements of concern.

7 Under Principle 1: Standards and
8 Assessment, we see that the vast majority of
9 states in this country have adopted what are
10 called Common Core State Standards or have more
11 recently been referred to more generically as
12 career -- college- and career-ready standards.
13 These standards were developed initially by the
14 National Governor's Association, NGA, and we are
15 headed off by Council of Chief State School
16 Officers, the CCSSO.

17 These it is important to emphasize
18 were developed by the states, not by the federal
19 government. So when we talk about the Common Core
20 Standards, we see states referring to them as the
21 college- and career-ready standards because they
22 don't want it to sound like the federal government
23 is imposing these standards on the states. States
24 have voluntarily moved to this.

25

These standards are standing up in

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1 reading, language/arts, and mathematics initially,
2 but we'll see other subjects added as the years go
3 on. The way in which they're being added into the
4 system is through two consortia. One's the PARCC
5 consortia, which is primarily on the east coast,
6 and the Smarter Balanced Assessment consortia,
7 which is primarily on the west coast. U.S.
8 Department of Education funded these two consortia
9 to get states involved to start developing these
10 standards and then eventually to develop
11 assessments to measure those standards.

12 One of the key features, the key
13 feature in which we want to emphasize today, is
14 that up to 15 percent of the standards will be
15 allowed to reflect tribal values. And the BIE's
16 committed to helping tribes develop these
17 standards and the assessments that go with them in
18 order to ease into the accountability system. And
19 we'll talk about that in terms of alternate AYP in
20 a moment.

21 What we'd like to do is employ a
22 single assessment for all BIE-funded schools. The
23 idea that we move towards a single assessment
24 would give not only the Bureau of Indian Education

1 relative to one another in terms of academic
2 achievement. The assessment itself we're going to
3 be implementing will assess students three times
4 per year, once in the fall, once in the winter,
5 and once in the spring.

6 It will assess all grades in high -- K
7 through 12 and a pre-K screener, but we will only
8 use grades three through ten for accountability
9 purposes. That way we have more information about
10 our students and where they're performing.

11 And the assessments will be used to
12 establish growth targets or progress goals as
13 we've been referred to it more commonly in the
14 waiver application itself.

15 This is my favorite part of it,
16 differentiated recognition. Every time you have a
17 new reauthorization or a new concept that comes
18 out you have to have new terminology that goes
19 with it. Differentiated recognition is a new way
20 to say identification for school improvement
21 status. What we're going to see in our waiver
22 proposal is what is reflected by the U.S.
23 Department of Education in the filings to the
24 states are going to be required we'll do, which is

1 focus status, or a priority status. Each of those
2 statuses will entitle or require schools very
3 specific actions and recognize schools that are
4 achieving at higher levels.

5 The new accountability index is our
6 way of addressing how to change what's going on
7 under No Child Left Behind is something that's a
8 little bit more fair. If you're familiar with the
9 No Child Left Behind system, you are familiar with
10 the concept of what they tried to implement.
11 Every student and every subgroup had to meet the
12 requirements of No Child Left Behind in every
13 single academic indicator for the school to be
14 judged as successful or as making AYP. If any one
15 subgroup of students failed to meet any one
16 academic indicators, then the school was judged as
17 not successful, as not making AYP. That's a very
18 high standard.

19 And so in the Bureau of Indian
20 Education that means that the all students group,
21 the special education group, and the limited
22 English proficient group all had to hit these very
23 stringent targets in order for the school to be
24 judged at the AYP. The Bureau of Indian Education

1 zero to 100 and that it has an Annual Measurable
2 Objective that's applied to this index on school
3 level that allows some schools that hit some soft
4 targets or AMO's on a yearly basis or maybe missed
5 them by a little bit but have an overall score
6 that shows that the school is still making
7 progress. The progress is then to be judged as
8 satisfactory from accountability perspective.

9 The first area to discuss this is
10 proficiency. This is a carryover from No Child
11 Left Behind. It's going to be required by the
12 U.S. Department of Education that we measure the
13 percentage of students who scored proficiently or
14 advanced on the assessments.

15 The secondary is new and it's unique
16 to the new systems that are coming out under the
17 flexibility application. It is growth in student
18 achievement across the academic year. Finally,
19 we're going to be able to measure and give schools
20 credit for student progress it's making at the
21 beginning of the year and the end of the year.
22 That is important because many of our schools make
23 a lot of progress with students that are
24 underachieving the very beginning of the year, but

1 students make because they don't hit the
2 proficiency targets that are required under No
3 Child Left Behind. That's a major gap in the
4 system.

5 We'll also be looking at attendance
6 and graduation rates. Depending on the school
7 configuration K-8 schools will be responsible for
8 attendance. Graduation rates will apply to high
9 school. And if you have a K-12 system, you'll be
10 looking at the inclusion of both indicators.
11 Graduation rate is absolutely required under the
12 flexibility proposal. As it stands we have just
13 one model of measuring graduation rates and that's
14 the four year adjusted (inaudible) model.

15 And we have a question here in a
16 second.

17 And I want to make sure that I say
18 this clearly we're open and can include other
19 models in the system, so the National Governor's
20 Association might be included. We can look at
21 including fifth and sixth and other year graduates
22 as part of the system too and give schools credit
23 for keeping these kids in school and making sure
24 that they graduate.

25

MR. LADUCER: Why are you only using a

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1 10-12 as a indicator --

2 MR. BOUGH: Okay. But let's get one
3 thing -- we need to have people state their name
4 before they ask a question.

5 MR. LADUCER: I'm John Laducer, Turtle
6 Mountain High School principal. My question was
7 why are you going ten --

8 MR. BOUGH: It's a typo.

9 MR. HAMLEY: Restate the question.

10 MR. BOUGH: Okay. The question is why
11 does the PowerPoint talk about graduation rate
12 applying to grades 10 through 12? And the answer
13 is that's a typographical error.

14 So we got it. We nailed that question
15 down pretty close.

16 Lastly -- actually we got two other
17 items here. Annual Measurable Objectives will be
18 reset in the new system. We'll generate Annual
19 Measurable Objectives for (inaudible) material,
20 but it's gonna be based on the school's
21 performance in a baseline year so that the
22 subsequent year schools be given a target that is
23 challenging but obtainable.

24 Now, the indicator by indicator AMO is

25 not going to be a major break deal. So if you

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1 have excess scoring in one category, let's say you
2 have a target of 60 percent in reading, but your
3 school scored 66 percent in reading, usually under
4 No Child Left Behind that extra 6 percent just
5 goes away. But we know that one of the strategies
6 that schools employ in their approach to
7 mathematics is to really emphasize reading so that
8 the students in the next year will be better upon
9 word questions, word problems in mathematics. So
10 we might expect lag -- a lag in the mathematics
11 proficiency scoring for a current year. So within
12 the same year we see a 60 percent target rate in
13 mathematics but the school only scores maybe 55
14 percent, that extra 6 percent from reading could
15 be applied to the mathematics category and you can
16 see that both areas would be hit and go over all
17 the amount. It would balance out in the
18 accountability index. So the school wouldn't be
19 automatically judged as failing because it didn't
20 meet one of the indicators. So that's going to be
21 a major change. It's a little more forgiving and
22 gives schools credit for their progress that they
23 were able to achieve.

24 Finally, we have to move to a more

25 service-oriented model for how we identify schools

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1 for status. The models under No Child Left Behind
2 are very punitive. If you're in school
3 improvement status, corrective action status, or
4 restructuring status, you have an increasing
5 number of requirements made at your school and
6 that includes at the very end terminating
7 principals, staff, teachers, these kinds of
8 things. Very aggressive, very difficult type of
9 decisions need to be made in order to turn the
10 system around.

11 And if you're familiar with how the
12 situation's played out in the Bureau where we have
13 some states that have fairly easy standards and
14 other states have very hard standards, and my
15 classic example is Mississippi versus South
16 Dakota. I say it this way because in Mississippi
17 we know that the standards and the testing are
18 easier. And that's (inaudible) school because
19 they're very fine schools, but it doesn't really
20 test their students in what they know, what
21 they're capable of doing.

22 But here in North Dakota and more
23 particularly in South Dakota, we see that the
24 standards and the assessments are much higher, and

1 Dakota. And while all schools are making AYP in
2 Mississippi, all eight of them, almost none of
3 them in any of the area in South Dakota ever make
4 AYP. And you can look at the standards and
5 assessments and say that's not fair, but where it
6 really comes down with the hammer is in the end
7 when you have school improvement statuses, when
8 you're going through corrective action, when
9 you're making personnel changes and restructuring
10 status. Then the unfairness really becomes
11 evident and it's not really fair for our schools,
12 it's not really fair for the staff, and it's not
13 an accurate judgement of what's really going on in
14 the schools.

15 So the new model is to be more of a
16 service oriented approach, identify schools of
17 status in order for them to receive very
18 specialized services that based on their students
19 testing profile, scores that they're able to
20 achieve, addresses the needs to the students and
21 helps schools to address those needs by
22 instructional supports, by getting other items in
23 there so that the school can address the student's
24 needs and put student achievement at the very top

1 that out.

2 Teachers and principals -- teachers
3 and principals, principle 3, we work to develop an
4 evaluation and support systems focused on
5 effectiveness of teachers and principals, and
6 inform professional development and improved
7 practice. This stems directly from what we talked
8 about in the previous screen with the
9 differentiated recognition model. We're going to
10 put teachers on pathways to have better
11 instruction through professional development over
12 the long term and through technical assistance on
13 the short term.

14 Whenever we do the testing, each of
15 those testing periods will provide us information
16 on where the students are performing relative to
17 the standards for those grade levels. So we're
18 going to be able to customize the type of training
19 that can go back to the school and address the
20 students needs through the teacher saying you have
21 really put, you know, subject studies in something
22 like numbers and counting, but you really started
23 not having such good success in subtraction, so
24 we'll get a specialist in there to help the

25 teachers out in teaching that subtraction in a way

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1 that students will be able to grasp and really
2 provide that kind of effective support that will
3 improve students.

4 The evaluation and support system will
5 become an interior policy for BIE-operated
6 schools. And it will be optional for
7 tribally-controlled schools, except for recipients
8 of certain funds, such as School Improvement
9 Grants. What we're talking about here is
10 developing a system of evaluating teachers and
11 principals that uses as part of its basis student
12 performance on tests as part of the way to
13 incorporate evaluation of teachers.

14 Again, this is mandated by the U.S.
15 Department of Education in their applications for
16 these for this level of flexibility. And those of
17 you that are very astute observers of what's been
18 going on with the Race to the Top funds, funds
19 that the Bureau of Indian Education was not
20 eligible for, the teacher incentive grants Race to
21 the Top funds. This is something that comes out
22 of that as well. Ways of improving teacher and
23 principal effectiveness over time.

24 We're going to take that data from

25 student growth and we're going to use that to help

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1 customize and supports for providing teachers and
2 to help measure what it is that's going on in the
3 teacher and principal level.

4 MR. DRAPEAUX: Brian Drapeaux. On the
5 teachers and principals piece, I think it's really
6 important for everybody to understand as we go
7 through this that one of the things that the
8 Bureau of Indian Education is doing on the federal
9 side is that we have a cool core of professionals
10 in our school systems. And we have about 60
11 schools that are federally operated and those
12 teachers are part of a -- part of a federal --
13 yeah, they're part of federal collective
14 bargaining agreement union where we have
15 approached the union about a year and a half ago
16 and negotiated two things.

17 One is that we negotiated with the
18 union to treat teachers as their own core in the
19 collective bargaining process. And then from that
20 the idea then was that once we recognized the
21 teachers within the union structure individually,
22 then we want to move towards national standard
23 that was having just to start tying teacher
24 activity to student performance. The union is 100

25 percent behind this, and we're currently in the

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1 process of developing those standards on how to
2 judge teachers.

3 I think what that role -- what that
4 could do potentially is create an opportunity for
5 tribes and tribal schools to start looking at a
6 model, role models, that are sitting out there
7 that are either managed by states or local
8 districts or the BIE in what we're doing in
9 negotiating that piece.

10 The -- it becomes evident through the
11 union discussions that the classroom activities
12 and the challenges and the struggles that teachers
13 have in terms of student performance, they're
14 looking for ways to strengthen their own teaching
15 opportunities and to become more efficient
16 teachers and to not be afraid of the idea and the
17 concept of being judged based on student
18 performance, in fact, they're welcoming it.

19 And we're in the process right now the
20 staff in Albuquerque working with the union to
21 develop those standards. So we see it's a very --
22 for us a very exciting time because it's starting
23 to change the focus and shift the responsibility
24 to where ultimately we think needs to happen which

25 is in the classroom. How do you as principals and

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1 tribal leaders and structural leaders take a look
2 at what's going on in the classroom and address
3 it.

4 And then what that means to us in the
5 BIE is that we currently have millions of dollars
6 in professional development funds. Some of them
7 are given directly to schools, others are given to
8 schools through LEA and then we also have SEA
9 activities. That is all dedicated to professional
10 development.

11 One of the focuses that we have over
12 the past year really is to get our arms around
13 professional development component to start
14 identifying what is effective and what is not
15 effective. And what we found in our system on the
16 budget side is that we have consultants hired all
17 over the spectrum of professional development.
18 And really what we want to do and what we're
19 excited about in terms of this common core and
20 what it means to actual teachers in the classroom
21 is that what really helps us focus in on
22 professional development in terms of teacher
23 performance and student achievement.

24 So what we're doing right now one of

1 is the Navajo Nation and the BIE has started to
2 train -- we've trained 1,067 teachers in our
3 Navajo schools right now and really have a
4 focused, professional development component
5 engrained in this, as well as professional
6 development training for principals as well. And
7 so what that's allowing us to do is we'll review
8 the professional development funds in a more
9 focused manner that we hope will lead to better
10 outcomes in the classroom.

11 So the implications of these
12 principles in what we're describing here has
13 multiple ramifications, budget, purchasing,
14 professional development and so on, and so we're
15 excited about what it means for us in terms of
16 really providing a much stronger guidance and
17 towards that component of the budget.

18 MR. RABIDEAUX: Just a comment on that
19 --

20 MR. DRAPEAUX: Your name and --

21 MR. RABIDEAUX: Mike Rabideaux, Fond
22 Du Lac Reservation, Cloquet, Minnesota, Ojibwe
23 school.

24 If that is true that there are so many

25 funds dedicated to professional development, we

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1 recently found out that both in our BIE reads and
2 our math enhancement both were cut specifically in
3 professional staff development. Both were cut to
4 the tune of nearly \$50,000.

5 Could you make a note of that and
6 maybe find out through DPA? We received Joe
7 Lonjecz (phonetic) notice of that this past week.
8 I think it was the 22nd or 23rd.

9 MR. HAMLEY: Jeff Hamley. We'll look
10 into that and get back to you, okay?

11 MR. RABIDEAUX: Thank you.

12 MR. BOUGH: And this is one of the
13 areas that I like to discuss and this is Principle
14 4: Reducing Duplication & Unnecessary Burden. I'm
15 the guy who collects the data from the schools,
16 and I'm the guy that reports to the U.S.
17 Department of Education. And because I report to
18 U.S. Department of Education, I review the
19 elements of the (inaudible). I have a tremendous
20 amount of sympathy to these schools that have to
21 provide to them as well.

22 What I'm saying is there are a lot of
23 things that the U.S. Department of Education asks
24 me collect, and I wonder why it is that they're

25 asking me to collect this. And I would appreciate

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1 it if at the very end you had a list of
2 suggestions that in which you felt that you no
3 longer needed to collect, the ones that are
4 unnecessary, the ones that are extremely
5 burdensome.

6 I'll give you an example among my
7 favorite examples. It is the special education
8 (inaudible) by ways by (inaudible) status. I
9 don't know why they would ever possibly need that
10 data, but if I have to report it, then you're in
11 and you're out. And it's one of the most
12 complicated things for me to report, but it's also
13 complicated for our schools to report that because
14 it's a ridiculous data collection generally. And
15 it's one that we can conclude or other ones that
16 are similar to that where we can essentially
17 reduce the amount of burden we're placing on
18 schools to collect this information.

19 There are other ways in which we can
20 look at reducing burden, and we can look at
21 reducing duplication as well or eliminating
22 duplication. And your suggestions are definitely
23 going to be most welcoming to us in crafting
24 whatever it is that (inaudible) future and what it

25 is that we're gonna be required to report to the

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1 U.S. Department of Education. We'll put these
2 things in the proposal. We don't know if the U.S.
3 Department of Education will go for it, but we
4 won't get it if we don't ask for it.

5 The overview of our flexibility
6 request. We've already covered many of the
7 features of the new accountability system that we
8 wanted to talk about. First what we have to do is
9 amend 25 CFR Section 30.104(a), which requires the
10 use of the 23 state accountability systems. That
11 would allow us to unify our accountability system
12 to having a single set of standards and a single
13 assessment point by which those standards would be
14 measured and move to a single definition of
15 adequately progressed or whatever it is we want to
16 call the new system under the waiver proposal to
17 measure our schools.

18 Instead BIE will implement a single,
19 bureau-wide accountability system to unify all of
20 those elements.

21 Stakeholder input and consultation are
22 key components to making sure that we can
23 adequately measure the legislation to do that.

24 So we're seeking input from our tribal

25 leaders, from our public, about amending 25 CFR

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1 and implementing a unified accountability system.

2 We actually listen to and take
3 seriously the consultation comments that come in.
4 In particular when we've met down in Nashville
5 with the (inaudible) tribe and the (inaudible)
6 tribe and when we went to the Navajo tribe, they
7 were clear that they wanted to continue to have
8 their own options. And so 25 CFR 30.104(b)
9 alternate definition of AYP will still be
10 available. And in particular because the
11 accountability systems under No Child Left Behind
12 remain valid accountability systems, we will make
13 those available to the schools if they choose to
14 look at the tribes, if they choose to opt out of
15 the new accountability system so that we're
16 already paying state funds as well if the schools
17 and the tribes choose to stay in that manner.

18 Student achievement will become the
19 focus of the new accountability system. I think
20 under the old system of No Child Left Behind we
21 talked a lot about the dull issues. We really
22 didn't have to focus on student achievement.

23 Student achievement was judged by penalties that
24 arrived before the accountability system. We're

1 student achievement, that rewards schools that
2 have very high student achievement, that help
3 schools that do not have high student achievement.

4 And by moving to this kind of system,
5 we're going to have an accountability
6 determination that's more reflective and more
7 useful for what schools have going on in terms of
8 unifying the accountability system with standards,
9 assessment, and criteria will level the playing
10 field by which all BIE schools, BIE-funded schools
11 will be judged.

12 The accountability system will credit
13 successful efforts and will be less punitive to
14 schools that aren't successful.

15 And here's the important part;
16 alignment in the accountability system will allow
17 the BIE to better leverage Technical Assistance
18 and Professional Development resources. Under the
19 23 states models, every school that's in a
20 different state from any other school has a
21 specific set of accountability frame periods, a
22 specific set of common standards, and a specific
23 set of assessments they use. To duplicate this
24 kind of support that's necessary, to really

1 it's almost impossible for our school system to
2 perform. It is impossible for it to perform.
3 States have a hard time doing it with just one
4 state.

5 By unifying the accountability system
6 resources that at our disposal, professional
7 development and training can be essentially merged
8 into one, because then every single school that we
9 have will have the same set of standards and the
10 same set of a system -- assessment systems and the
11 same accountability system by which they're going
12 to be judged. And so we're going to be more
13 effective because we will not have to have a
14 specialization on a state by state basis.

15 The waiver opportunity is a chance for
16 us to effect significant reforms in BIE-funded
17 schools that's consistent with national reform
18 movements we see like with Race to the Top, the
19 Bureau of Indian Education was left out. We saw
20 that initially with the waiver request. The U.S.
21 Department of Education did not ask us what would
22 happen to BIE's accountability system if the
23 flexibility were made available to the states.

24 One of the reasons why we have come

1 our accountability system is essentially going to
2 fall apart because 23 states are doing things so
3 radically different from one another that the BIE
4 will be unable to replicate faithfully the
5 accountability systems of each state where we have
6 schools.

7 The most significant reform is unified
8 accountability system across all BIE-funded
9 schools, and that would consist of common core
10 standards, the common assessment, and a common
11 accountability methodology.

12 And to emphasize once again I
13 (inaudible) about 15 percent of locally developed
14 standards this gives tribes an area in which they
15 can have the things the tribe values, measures
16 part of the accountability system directly. And
17 if we talk about alternating AYP, alternating AYP
18 finding that requires a tribe to put together an
19 accountability workbook that is on par with
20 meeting the peer review at the same level that the
21 state education uses. State education agencies
22 have difficulties putting the workbooks together
23 themselves. They expect tribes to have the
24 expertise and resources and money available to do

1 of the tribes that have tried alternate AYP have
2 been able to crack that definition.

3 However, with this opportunity here,
4 with this developed proposal, this flexibility
5 proposal, we can include that area of
6 accountability in this proposal, and then we can
7 help tribes to develop that 15 percent by putting
8 the money and expertise available to them, making
9 it available to them so they can have that
10 alternate definition of standards that we can
11 automatically implement. So when we talk about
12 restoring sovereignty, we're talking about helping
13 tribes to develop their own standards and
14 assessments to measure the things and be
15 accountable for the things that they value
16 themselves.

17 And, you know, I'll concludes here
18 real quick and I'll turn the microphone back over
19 to Brian. We're open for questions and
20 clarifications here. I know that I went through
21 it pretty briskly. The website for flexibility
22 request is at bie.edu. You'll see the whole 130
23 page -- some page document. And we'll be
24 collecting through eseaconsultation@bie.edu email

25 address your comments, and we'll be using those

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1 comments as time goes on up through I think August
2 6 is the date that we saw the tribal leader
3 letter. Simply because we have to submit the
4 application on September 9 and we need enough time
5 to reformulate what it is that we collect in the
6 consultation to rewrite the proposal and to put it
7 in such a form that we can get it to the U.S.
8 Department of Education on time.

9 MR. DRAPEAUX: So the basic premise of
10 the flexibility waiver for the BIE comes down to
11 this slide. And what's become clear to us in this
12 whole discussion around flexibility in the last
13 couple of years here in BIE is that tribal
14 flexibility to -- to run their own operation and
15 we agree that they should. And there's a lot that
16 quite frankly the BIE knew and we're gearing up to
17 do in order to strengthen that activity on behalf
18 of the federal government to allow tribes to move
19 forward in this area.

20 When you take a look at the state
21 structures that are in place, you have a
22 three-tiered structure. You have the state
23 education agency, you have the local education
24 agency, and you have the school. On the tribal

1 and so ultimately you end up with a difficult
2 manner to formulate budgets and to decide how
3 these activities and responsibilities of these
4 three levels should fall all out within the tribal
5 structure.

6 There's a major push and rightfully so
7 for the development of tribal education agencies
8 in the country. And we agree that that level of
9 management should be developed. And the question
10 is, is what should it look like? And so
11 there's -- there's a clear idea from groups like
12 TEDNA and others that they're proposing to fund.
13 When you take a look at the most current activity
14 that TEDNA and others have been attempting to
15 formulate is through the U.S. Department of
16 Education STEP Program. Essentially what that --
17 what U.S. Department of Ed has asked is that
18 tribal groups get together and come up with a plan
19 and then submit it to states and then ultimately
20 ask states to give them the authority to perform
21 certain activities.

22 We're not quite sure what the response
23 to states are going to be, but I would find it
24 very difficult to believe that the state is going

25 to turn its authorities as a state education

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1 agency over to anybody. And so with that -- with
2 that idea it's going to be difficult. I do know
3 that South Dakota, for example, has declined the
4 application or declined to participate with tribes
5 in this effort.

6 But when you start taking a hard look
7 at the funding mechanism within the BIE budget,
8 what you find is that there are monies available
9 in our line items to support activities at each
10 level, at the state educational agency level, at
11 the local education agency level, and at the
12 school level as well. And the implications of
13 that under the current definitions of law in ESEA,
14 it's very descriptive so schools are LEAs.

15 The BIE is a quasi SEA. And there's
16 no place in the whole dialogue about tribal
17 education departments or agencies and if they
18 should exist and if they do exist, what's their
19 responsibilities. What we do know though is that
20 tribes are doing things like developing education
21 laws and government's laws for their own education
22 priorities, but there's very little mechanism for
23 them to -- for the tribes to implement that at the
24 local level. Because schools basically have the

1 And so what we're hoping to do and do
2 this flexibility waiver through budgeting and so
3 on in our approach is to find a mechanism, and
4 we're starting to do it right now to find
5 mechanisms to strengthen the tribal education
6 agencies. There's some admin monies and
7 activities that we're starting to move towards
8 that level and put the responsibility of those
9 function at the tribal level. We think it's an
10 important move on the BIE to strengthen that idea,
11 strengthen that concept and help develop that
12 level of governments and to try to take a step
13 back in terms of the BIE's overall presence as the
14 BIE in to form a manner in which we work
15 collaboratively with tribes, tribal education
16 agencies and schools, to create a three-legged
17 school so to speak in propping up the education
18 approach for the -- or Indian education.

19 The flexibility waiver on its face we
20 believe reestablishes tribal sovereignty. We
21 believe that back in 2002, 2003 when the
22 negotiated rule making happened that inadvertently
23 by agreeing to keep the BIE out of the discussion
24 and referring to states for the standards,

1 particular group agreed and Department of Interior
2 wrongfully allowed it to happen that they did not
3 offer an alternative to what states were offering
4 at the time. And we think that it's time to offer
5 something different, to offer tribes the
6 opportunity to participate at a level that over
7 the years referred.

8 Now, I know the first five years of No
9 Child Left Behind all we heard in the field was --
10 and I was part of that movement -- that's just
11 not working. Our children are being left behind.
12 They started talking about the gaps and inequities
13 and so on. But there was no alternative offer to
14 replace or to amend it. So we think that the new
15 opportunity for Indian country, Indian Education
16 is through this -- potentially through this
17 flexibility waiver.

18 What we do know in the way that we
19 started to talk about Indian education in the BIE
20 is that there are really policy areas that must be
21 talked about distinctly. One is BIE-run schools,
22 which are federal, they have their own rules and
23 regulation. We have tribal grant schools, which
24 have their own rules and regulations, and then you

1 and regulations. And what we do know is that
2 Indian country is interested in all three policy
3 areas.

4 And in some cases like in Belcourt
5 they have a loose collaboration and a loose
6 agreement to work together to educate kids. It's
7 a -- we've got funding sources from multiple
8 levels. Financially it's -- it's -- and
9 accountingwise it's a challenge. We know that
10 exists in different places throughout the country.
11 And that we think that the offering of the
12 flexibility study or the flexibility waiver
13 through the BIE will help consolidate tribal
14 efforts to solve some of these jurisdictional
15 issues that tribes are facing.

16 I'm glad that Jace Killback is here.
17 I know he's on the tribal council of his tribe. I
18 don't know if there are any other tribal leaders
19 here but officials. But it's important when we
20 start talking about education, Indian education in
21 particular, that the idea of tribal sovereignty as
22 its relates to Indian education is something that
23 is being deferred over the -- over the years. And
24 we want to reestablish and offer reestablish it

1 So I was talking to a gentleman this
2 morning and, of course, you know, if you take a
3 look at the issue of sovereignty and the issue of
4 jurisdiction, it would be -- I look at it
5 similarly to that if tribal governments hire their
6 own police forces and then said to their police
7 force go ahead and enforce state laws, well,
8 tribal government's just not -- initial phase
9 would just -- it would say, well, no, we're not.
10 That's not for us. We will develop our own laws.
11 Right? We will implement our own laws and we will
12 enforce our own laws in terms of law enforcement.
13 So that's an easy, easy thing to understand.

14 Now, when you look at that from a
15 educational perspective and what's happened under
16 No Child Left Behind and the negotiated rule
17 making process in 2002, 2003 is that ultimately
18 the negotiated rule committee at that time said to
19 tribes let's defer your sovereignty to states, and
20 they did. And subsequently the -- the focus meant
21 Indian education has been over the past ten years
22 and historically on the issue that tribes share
23 the most important thing language, culture,
24 history, and tribal sustainability.

25

And they feel like nobody's listening

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1 to that dialogue, to that discussion, and so what
2 they're doing outside of the current structure is
3 developing a process. And they do develop
4 processes. They're looking for other funding
5 mechanisms, they're looking for other structures,
6 looking for other opportunities to strengthen that
7 component and hopefully implement it where they
8 can through their own tribal ordinances, through
9 education, or through other funding and management
10 of those activities. But what I say is why don't
11 we do it through our education system? And I
12 don't think there's anybody that disagrees with
13 that.

14 The flexibility waiver opens the door
15 for that specific dialogue and it starts to shift
16 the Bureau of Indian Education's focus away from
17 -- not away from it -- towards strengthening our
18 position in the language, culture, and history and
19 perpetuation of our Indian communities. In a
20 matter of fact I believe puts us in a more of a
21 mainstream and a main frame approach to Indian
22 education.

23 We've had tribes come to us and talk
24 about the-- talk about the issue of public schools

1 going on in those scenarios. It's our hope that
2 the flexibility waiver will -- will put tribes on
3 a path for true sovereignty until there is a
4 standard that tribes develop and is equitable to
5 other jurisdictional standards than the idea that
6 a discussion around public school education is in
7 the case of up in Belcourt is -- is a
8 collaboration. Everybody must agree that this is
9 the manner that they're gonna go on. And if you
10 can get that, that's fabulous, but in some cases
11 you cannot get that. And so it leads tribal
12 leaders and community members with basically a
13 void in their ability to -- to have public school
14 children and public schools, quite frankly, to be
15 accountable for what's going on in the schools and
16 how tribes can play a part in framing and
17 discussing and protecting the children in terms of
18 education outcomes.

19 So our proposal is a broad vision.
20 We think that -- that it offers a lot to tribes.
21 We think it offers an alternative to tribes. This
22 is not a mandatory offering. It's not -- we will
23 develop it as tribes become familiar with it and
24 help us tweak it to their needs and their

25 standards and their approach. We want to leave

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1 the door open for them to have an alternative to
2 the current structure of governments over the
3 school systems on or near reservations educating
4 its students.

5 I don't believe that states will ever
6 answer this question on behalf of tribes. I don't
7 think that they can. And I think that it's
8 important for us to continue to think through this
9 process and talk through this process and get into
10 the weeds of this process. That's why we really
11 encourage you to take a look at our flexibility
12 waiver as it exists today and to offer upon it as
13 you can and to try to really understand what it is
14 that we're attempting to do and the direction and
15 approach that we're trying to take here at BIE.
16 We're excited. We're really excited about we
17 think what the implication mean.

18 The final piece to this is funding.
19 So under the current law and ESEA the Bureau of
20 Indian Education is a quasi SEA. And so what that
21 means to Indian country is that we are sometimes
22 eligible for funds and we had kind of a -- under
23 the Let's Move initiative -- we have a Let's Move
24 Indian country initiative -- some of your schools

1 watched a great activity in their school that was
2 really phenomenal last year.

3 About a month ago we had our one-year
4 anniversary of Let's Move. We had a White House
5 event, we had Secretary Duncan, Secretary of
6 Education come. He talked about it. And what he
7 said was, was that the U.S. Department of
8 Education is committed to movement. They
9 applauded the BIE's effort and tribal efforts to
10 combat obesity and diabetes and that they wanted
11 to support the effort and that the U.S. Department
12 of Ed has opened up another 80 million dollars in
13 funding to support movement in schools. Everybody
14 stood up and applauded. It was really a great
15 announcement except for the fact that BIE is not
16 eligible for those funds because we're not an SEA.

17 And what they're asking schools to do
18 as LEAs then, monies that are available to you is
19 to compete for those funds at the school level.
20 So in cases of Belcourt or the cases of -- you
21 know, can Belcourt compete with Bismarck as an LEA
22 or one of your schools? Can pure Indian running
23 sec compete with pure school district as a LEA?
24 And the examples go on and on.

25

So it's really an inequitable

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1 structure through definition that keeps us from
2 fully participating in educating our students and
3 the fundings associated with those education
4 opportunities. So we would -- are expecting a lot
5 of time by frankly challenging that current
6 structure within the U.S. Department of Education
7 asking them to take a hard look at their policies
8 that eliminate Indian education students from
9 participating and Indian schools from
10 participating in those funds and fully enjoying
11 all the benefits of policy development through the
12 U.S. Department of education.

13 So we have a lot of pieces moving.
14 We're excited about this. This particular piece
15 is something that we're happy to talk about, and I
16 know that we have two questions from the crowd and
17 so I'll start here with gentleman.

18 MR. RABIDEAUX: Mike Rabideaux,
19 superintendent, Fond Du Lac school in Minnesota.

20 One of your comments -- certainly I
21 think I can talk loud without that. I prefer not
22 to use that. I'll sit here then.

23 One of your comments just now, Brian,
24 is pervasive through the waiver request that the

25 BIE has put on the table. And throughout the

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1 entire request, maybe not entire, but a great
2 majority, is constantly asking for that definition
3 of a tribally-controlled grant school. Actually
4 building an argument that somehow the Bureau is
5 not going to have success unless somehow there's a
6 definition of what a tribally-controlled school
7 is. And example is used of being a LEA. And
8 quite frankly I -- I don't understand completely
9 the argument.

10 I understand that authority and
11 responsibility and especially sovereignty has been
12 eroding since possibly 1988 when the Education Act
13 first came about. And it came about simply
14 because someone started kicking a can around the
15 neighborhood and started defining roles and
16 responsibilities. And here we are again to a
17 point of defining and identifying what possibly a
18 tribally-controlled grant school might be and what
19 authority or responsibility they have.

20 I know I shared earlier in a
21 conversation that someone called tribally-grant
22 schools, like my school, a school that's funded by
23 the federal government, but basically we're a
24 state school because we follow a state curriculum.

25 We weren't given an option as you explained

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1 earlier to do anything less. But because of the
2 reality that we do follow the State of Minnesota
3 curriculum and we do take their assessments, it
4 ties into our own mission of statement. And this
5 is where we begin to identify from a tribal
6 perspective of who we are. Much of what we see is
7 what someone thinks we ought to become. Little is
8 spent about what we do and what we know and what
9 capabilities we do have.

10 Listed here are two alternatives.
11 Listed here are hashbrowns and French fries.
12 That's what we have on the menu. We don't want
13 hashbrowns and we don't want French fries. We
14 want the potato. There's a number three and
15 number four on this table. Tribal governments
16 have that responsibility with their own people to
17 develop these alternative measures.

18 We read through the waiver and
19 compared it. I think, Brian, you mentioned the
20 BIE waiver is about 134 pages. State of
21 Minnesota's waiver is 794 pages, which includes
22 not prescriptive language but language that an LEA
23 could use to build accountability in the programs.
24 So there's a huge difference between what an SEA

1 And I only use Minnesota because we're
2 tied to them for accreditation. We're tied
3 through them for accountability. We have a
4 relationship that is very responsible for both
5 parties, but it -- it's all documented. We don't
6 accept any state program without rewriting how
7 that program is going to impact our program.
8 That's the responsibility of the tribal sovereign.
9 A true tribal sovereign takes upon those
10 responsibilities. A sovereign questions any party
11 that holds our trust and examines what that impact
12 would be on our reservation, and that
13 responsibility is not taken lightly. So we go
14 back to look at how we are viewed.

15 Your our BIE waiver is widely read.
16 I'm hoping that Congressional people would read
17 it. I know they have much on their table or
18 plate, but when Congressional people read and many
19 Congressional people know about this much about
20 Indian issues according to this entire room so
21 what they read from those trust responsible people
22 about the clients that they're serving in the
23 field carries weight. And often times to really
24 clarify an issue calls for a special meeting

1 socially, or educational connected.

2 Here in this state I read in the paper
3 this morning that maybe a coal mining agreement
4 might flourish in western North Dakota. That
5 would've been -- that was unheard of ten, twenty
6 years ago, unheard of, but economics and the money
7 that it brings attracts a lot of attention. Our
8 own education system isn't unlike that. We have
9 over 90 percent of our American Indian students in
10 public schools. Last we checked the in the state
11 of Minnesota schools not making AYP was as great
12 or a bigger issue than what we're dealing with,
13 but that goes unsaid.

14 What is said that in your request
15 waiver and through other documents that American
16 Indians are failing. The word failing is a
17 terrible word to put to any of this. There's a
18 chief in gap. There are things that can be done.
19 Things that can be accomplished, but they're not
20 going to be accomplished by putting French fries
21 and hashbrowns to choose off a menu. They're
22 going to include some real tribal consultation.

23 I shared earlier, Brian, that in my
24 profession and yours, our professions are worlds

1 any time we deal on a policy or something that
2 affects anyone, we're probably closer to it than
3 anybody that is gonna be the recipient of it.
4 That's just the way it goes, but that cannot be
5 for our relationship with tribes and the
6 government. That cannot be.

7 I'll be more than interested to hear
8 the results of the second thing on the item -- or
9 the menu how we're going to be reported back. I
10 hope it's not by majority, but it probably won't
11 be. Knowing that we have a choice, our choice
12 isn't going to be very complicated. Why would we
13 go with the Bureau when we really don't have any
14 idea what you've come up with those standards on?

15 We've been working with the State of
16 Minnesota for 20 years in curriculum. We've made
17 a lot of good progress. We've grown a lot of good
18 talent in our schools. I shared earlier that we
19 have American Indians, twelve, in our school
20 becoming teachers, and we share space in our
21 school for these teachers to learn the important
22 thing, the dynamics of what happens in a school.

23 You can read all you want to in the
24 course book and be taught teaching at the college

1 you see how people interact, how community members
2 come -- how principal and a teacher and a
3 community member have discussions, how students
4 have discussions, if you're going to be a teacher,
5 then you're gonna be completely submersed in the
6 reality of what that is. And we're a tribal
7 school. You're gonna see what it is to have a
8 Ojibwe-Muang program. You're going to see it, and
9 then you're going to decide do you want to do the
10 tough thing and work for a little bit of money in
11 a tribal school with probably everybody sets it
12 the most challenging group of learners on the
13 planet or in this nation? Do you want to sign on
14 to that? If you do, then you're signing on for
15 probably a different reason.

16 So this whole idea of bureaucratic
17 uniformity again I don't know how or why it comes
18 where that unique tribes in this nation somehow
19 have to become uniform. Can you think of anything
20 that we would have in -- in any other context that
21 we would be uniform to? The ideas of democracy
22 probably, freedom, probably those, but this.
23 We're going to put all the tribes under some
24 bureaucratic uniformity when, in fact, no insult

1 been doing for a long time already.

2 There have been some very, very
3 probably embarrassing mistakes made, and these
4 include going with national informational systems.
5 There was a couple tribes -- and, you know, we
6 talked to people too. If we had people on the rez
7 in Ponshock (phonetic) that knew a little bit more
8 about accountability systems for technology,
9 guaranteed we would have thrown in the contract.
10 Not to say the NASIS program right now is one of
11 the best but the fact remains those are very
12 lucrative contracts and they're offered not
13 probably very widely in many circles.

14 Like the reading program when it was
15 first in veil, I know the track record. When we
16 first attended we weren't part of the select
17 group, but I think it was in the Bush
18 administration and I think there were a lot of
19 rumors about who invested heavily into that first
20 BIA national reading program. Well, that kind of
21 backed off a bit too. But these are realities.
22 We understand that governments have to do their
23 work. We're government too. We have to do our
24 work too.

25

So what we're asking for basically is

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1 equal playing ground. That's all we're asking
2 for. And we don't want to be tossed in with all
3 the other tribes. I don't think all the other
4 tribes want to be tossed in with us. All tribes
5 have elected government, government officials. We
6 all have our local educational needs. In fact, we
7 all have needs regardless of some arbitrary
8 definition. We are LEAs. Why does that become an
9 argument? The Bureau wants to become a state
10 education agency. Quite frankly I don't think the
11 Bureau has the expertise to do that.

12 I would think that somehow between
13 someone wanting to be an SEA and clarifying who is
14 an LEA we could find common ground. And the only
15 way we find common ground is quit kicking the can
16 around and look at and maybe renew or redefine
17 what the Indian Education Act is. Thank you.

18 MR. GIPP: Thank you. My name is
19 David Gipp and I'm president here at United
20 Tribes, so I want to welcome you all along with
21 the delegation of being here today. I understand
22 there was a mix up on the site, but hopefully more
23 people will find it.

24 Obviously this is a very, very

1 our population is now under the age of five
2 nationally speaking, and in some cases depending
3 where you're from, half that population is
4 probably under the age of 18 now. And so we have
5 a very young and growing population out there
6 whether we're speaking of Navajo or the Turtle
7 Mountain up in Montana or the Woodlands. So it's
8 a major issue and the issue of what is happening
9 to our children and young adults and their success
10 or lack thereof. It's a very critical issue.

11 I know when I see young people coming
12 into our college here who are at a fifth grade
13 reading level or maybe a third grade reading
14 level, we're here as a two-year college and we're
15 expected to bring them up to a level where they
16 can both perform and understand the path of all
17 the kinds of behavior and expression to be a
18 successful student when we give them a diploma
19 when they walk out.

20 So the issue of remediation is a major
21 issue as far as I'm concerned. And the failing is
22 in the public schools, as well as the BIA and
23 maybe even contract schools or grant schools.
24 It's a shared responsibility in my view because

1 We have our own elementary school on
2 the campus by the way, and so on average our
3 students here change over at least every two
4 years. Some go a little longer, but that's the
5 average. We have four-year degree programs, three
6 four-year degree programs, and we're adding more
7 to that. But my point being is that, you know, we
8 all have to do better and we have to be better
9 equipped to do that. Our teachers certainly need
10 that better advantage, if you will, to be better
11 teachers.

12 And when we talk about failure then,
13 we have to join the nation in some of that
14 failure. The problem is we have higher some of
15 that problem -- problem for our children as they
16 go through our system no matter what the age level
17 is, and as we all know tend to do very well in
18 lower grade levels, and when you get to grade
19 eight and nine and above, they seem to have major
20 difficulty, but I won't get into all of that.

21 I -- I would come back to what you
22 have presented here, Mr. Drapeaux, and I'm gonna
23 say that on the whole I think it is a good idea.
24 It's a good change because we need to look at

25 change and how we make improvement itself

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1 particularly in the classroom and the results
2 thereof in terms of the student and create more
3 successes rather than failures. So that's a major
4 charge because as we know this has been going on
5 for many, many years. This is not something that
6 just occurred in the last couple of years. This
7 has been going on for many, many years. From the
8 time that I graduated from college in the late
9 '60s, these kinds of things have been going on.
10 And to do the same old, same old is not working.
11 Whether it's a public school system or whether it
12 is a tribal-granted school system or a BIE-run
13 school system, failure is there. We need to make
14 some significant changes in the way that we teach
15 and what we teach and how we teach it, and that's
16 really a challenge as far as all of this goes.

17 So when we look at reform, I think we
18 have to keep those kinds of things as major issues
19 of what we want to accomplish and focus success of
20 Indian students. I mean, we've certainly got good
21 successful Indian students by the way. I don't
22 want to diminish the fact that we do have very
23 successful Indian students out there from probably
24 all three of these different systems.

25

The only ones I'm not including are

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1 probably the religious schools, a few that exist,
2 you know, that continue local Indian education. I
3 come from a -- that system. I'm an old BIA
4 (inaudible) Catholic religious schools
5 (inaudible). But my point being is -- and I'm not
6 advocating that those come back by the way, but
7 the point being is -- is, you know, we have to
8 look at what we have (inaudible).

9 On the whole I think this is a good
10 thing because, first of all, it imposes some
11 change. I'm not sure how much of the proposals
12 shows kind of qualitative aspects we will hope to
13 accomplish in the goals that we will have in
14 accomplishing success by and for native students.
15 And that maybe something that you need to look at
16 and put up on the board so that we can consider
17 that. Because if we're gonna rush into something
18 or walk into something that reflects change, let
19 us not make change just simply for the sake of
20 change.

21 I come from the old system before
22 there were Indian controlled and
23 tribally-controlled school systems. I remember
24 the coalition of Indian controlled schools that I

1 Higher Education Consortium back in the early
2 '70s. I remember all of those movements. And one
3 of the things they did was create beginning change
4 that we wanted, first of all, control of what we
5 do ourself by and for Indian country. That's the
6 first concept.

7 The second concept is how do we ensure
8 quality. I don't think we've arrived there even
9 in tribally-controlled systems. There are some
10 that are doing very well. There are some that are
11 not. And so we need to examine how we will ensure
12 quality. You know, how -- what can we do when you
13 talk about teacher training or professional
14 development and those aspects that are gonna be
15 very critical. If I were on a local school board
16 whether it was a grant school or a profit school
17 or a BIE-run school, I would still want to know
18 what is it and what will be the outcome for
19 students. That's the critical issue.

20 So when we talk about that even though
21 you have one and two up there, you also need to
22 look at again how do we ensure that putting up the
23 point that we will ensure and assure quality
24 education. Yes, standards are there, core state,

1 statement that we will ensure a qualitative and
2 successful student in terms of outcome. Because
3 we're under the gun folks.

4 You mentioned the issue of attack on
5 sovereignty and these kinds of things. Throughout
6 the land you are at the forefront of all of that,
7 whether we're dealing with minerals, whether we're
8 dealing law and order, or whether we're dealing
9 with education or tribal transportation, who gets
10 the bucks to do those things and who has the
11 access and the right to interpret what those laws
12 will be.

13 The tribal government has a very
14 severe pressure constraint. We have great
15 collaborations for tribal leaders because they
16 know they are facing these questions every day
17 when they're back home, you know, whether it be
18 social services or all of this whole set of
19 different issues that they are expected to be
20 experts about.

21 I think that we also need to create
22 some model that will be, you know, the potential
23 of some success. And that is something that
24 Indian people and tribal leaders, school boards,

25 or otherwise need to begin to see. What are the

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1 possibilities of those models.

2 And so I think that is very important
3 and invest it in research would be very, very
4 critical, not just the at the Bureau but at the
5 community level. We are finding that with respect
6 to our tribal colleges. We need to invest or find
7 a way to invest into research for what is going to
8 be and what is to be, and we're not spending any
9 time or energy that we're leaving that to, quote,
10 the experts. And the experts are where? Either
11 the state system or mainstream colleges and
12 universities, wherever that may be, and
13 specialize non-natives. So we need to look at how
14 we invest in this -- this effort here.

15 The 51st state concept of having BIE
16 be that is not new. It's been around for years.
17 We talked about it back in the late '60s and the
18 early '70s. Generally as it was alluded to the
19 Bureau said, well, let's -- why don't you just
20 follow the state standards, whatever those might
21 be, because that's the easy way out.

22 And the second thing is that -- is
23 that they said we didn't have any of these in
24 place. And as you point out, if you're going to

1 has engaged with tribal governments and tribal
2 school boards, first of all, and even its own
3 system, then it needs to engage the tribal
4 communities themselves along with the tribal
5 council. And that means developing new improved
6 systems as you alluded to. If we don't have a
7 system, we don't have a system. Not even a system
8 that is to be broken because it's already broken.
9 And you need to put something in place in
10 infrastructure, if you will, and I agree on that.
11 How that works is another set of issues though.

12 I think you talked about the BIA being
13 the 51st state. It might do that as an umbrella
14 principally on the issues of ensuring that federal
15 dollars are channeling local or tribal communities
16 and tribal school systems, and it may serve then
17 also as an umbrella for helping tribes to develop
18 the models that they will use when we talk about
19 these standards and how they will then be
20 implemented.

21 But relying on tribal government, I
22 know a lot of tribal governments that will
23 probably be ready and are ready to develop or
24 maybe even have developed some of their own

25 standards already. But you can't implement that,

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1 because that's entirely up to the state and the
2 local education board, LEAs and school boards, as
3 to whether they want accept them or not. At home
4 at Standing Rock where I'm from, I mean, we've got
5 a (inaudible) that says we will teach, you know,
6 (inaudible) dialogue in all of our schools, not
7 just the BIA cooperative school between the tribe
8 and the public school.

9 When we go to the (inaudible) in South
10 Dakota, it's entirely up to that school board on
11 what they accept or reject. That doesn't mean
12 they won't invite you in as a local speaker and
13 you can talk about your talent and your knowledge
14 of culture and language and spirituality all that
15 you want, but it's not a part of the curriculum.
16 And that bear in mind is the fall of what we have
17 with state systems.

18 Johnson (inaudible) existed reforms
19 that came about exist because Indian country and
20 many other people rose up and said public schools
21 were misusing that money. I was part of that in
22 1968, 1969 when Leonard (inaudible) did a study
23 called An Even Chance and that's what led to
24 reform of, first of all, creating an advisory

25 committee. And second having the tribe do an

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1 annual review of (inaudible) budget because all of
2 that money, many of them -- those dollars were
3 being spent on non-natives and other than Indian
4 students themselves.

5 So that's our history with the states.
6 They do as they please. If it benefits them, they
7 will help us out. If it doesn't benefit them,
8 they will not. We can all cite example in that
9 relationship with public schools. Now we have
10 Indians that are entitled to more that are
11 exhibiting the same kinds of behavior
12 unfortunately.

13 So my point being is there's plenty of
14 evidence to look at to reform from giving more, if
15 you will, authority that deals with fundamentals
16 of sovereignty by tribal governments. I know you
17 have the issues of 280 states, Minnesota being one
18 of them, and that may be one of the challenges
19 that you face at Fond Du Lac versus those that are
20 not 280 states, and how this model will fit, if at
21 all, in all of those cases. So I think that's
22 something that also needs to be considered. How
23 does this work in 280 states versus non-280
24 states? And you talked about the waiver, the

25 extent in which that maybe will happen from that

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1 kind of coverage.

2 The other issue that I will point out
3 is you mentioned funding. If -- if this waiver
4 will allow for channeling other federal dollars
5 other than the BIA dollars -- other federal
6 dollars impact and so forth indicates cooperative
7 schools where you have both public and you have --
8 you have -- have tribally-controlled systems. How
9 did that work with respect to making sure that
10 that dollar gets to the place where it needs to to
11 benefit that child? If it doesn't, then we don't
12 need it. Let's put it that way.

13 And to me there will be no (inaudible)
14 issue from states and state -- and state public
15 schools as far as I'm concerned because, again,
16 you know, that history. Some of it's just about
17 -- I hate to say it -- is about the money, who
18 gets the money and where it goes. Anytime you put
19 that thing on the table, you're going to have
20 somebody who says, uh-uh, you can't do that.
21 We'll do it for you or we'll figure out a way for
22 you and for your children.

23 I went through this when we fought to
24 get (inaudible) status for the tribally-controlled

25 college. I had at least two university presidents

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1 hoping to vote one from the Dakotas and one from
2 the (inaudible) because they were afraid we would
3 take money away from them. And so the deal we had
4 to make was we had to go out and get other
5 appropriations to establish that (inaudible)
6 status. So, you know, the money issue is still an
7 issue.

8 As far as the Department of Education
9 I think they have a whole lot to be held
10 accountable for that they are not acknowledging.
11 And Secretary Duncan's one. The Bureau of Indian
12 Education be moved over to the Department of
13 Education only last year, along with the then
14 approval of the Secretary of Interior, the tribal
15 leadership at least with the National Indian
16 Budget Council unanimously passed a resolution
17 opposing the movement of BIE into the Department
18 of Education.

19 I will tell you this that we would be
20 far worse off if we were over there than we are
21 here. We have major issues with BIA we could have
22 pointed out, various reform issues that have been
23 tried in the past (inaudible) that BIA will be
24 renewed and it has not (inaudible) because we have

25 to put up with civil service rule. We have to put

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1 up with the unions and all those entities. And we
2 have to get some type of an agreement of what will
3 happen and not happen with respect to those
4 entities.

5 So I would just say that those are the
6 issues that I think you had some preliminary
7 agreements with the unions and you have with civil
8 service rules, particularly those that are run as
9 far as direct BIE schools. So those are some of
10 the complications I will see.

11 But talking on the positive side, I
12 would also say that we have some new models coming
13 up from tribal colleges on teacher training,
14 teacher education, what -- the term what the Band
15 of Chippewa agrees with their college in teacher
16 education. They just opened up a new degree in
17 early childhood development at the four-year
18 level. We do a teacher education review program
19 here as well, fairly new, and we've always done an
20 early childhood program at the two-year level and
21 we do stuff online of course.

22 So there are ways to get some of these
23 funds into communities. It makes a guy blessed to
24 have both an undergraduate degree and a masters

25 degree in education. But there are others that

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1 don't that we list as partners in developing
2 because we know there is such a great teacher
3 shortage in our community. Many of us are about
4 to retire and probably need to retire in some
5 cases, but the point being, you know, we need
6 replacements and we need lots of them,
7 particularly in math and science. That's why we
8 just built a new 34,000 foot, square foot, science
9 and technology building, a new campus to the
10 south.

11 So to me there are some beginning
12 resources and maybe we're not there a hundred
13 percent, but we need to rely on each other to do
14 things like professional development. There are
15 enough Indian experts out there that have former
16 teacher or administrators that we can call about
17 if we put ourselves together and that may be one
18 way in which the Bureau can be helpful in bringing
19 some of that talent together and then we can do
20 some of these things, whether we're talking about
21 curriculum and research and curriculum or
22 curriculum itself or the issue of leadership both
23 in the classroom and at the administration level
24 of some of these schools. Those are all very

1 within tribal colleges and be of great help by the
2 way as we develop these things. And so I think
3 being open to how we model this stuff is very,
4 very important in the aspect of spirituality and
5 culture and language is very, very critical.

6 Before I move on too far we have as I
7 said an elementary school on campus and part of
8 our theory is we educate people here is that we
9 try to deal with not only the individual student
10 but the family that's with them, their children,
11 their spouse, who hopefully is also a college
12 student here, but we try to do kind of the whole
13 thing in which we can engage the whole family in
14 both education and training where it's
15 necessary.

16 And looking at our K through 8 system
17 here, our future plans are K through 12 as we
18 stand and grow. We serve about 1200 students
19 annually here, and we'll probably grow to at least
20 another 1000, 1500 in the course of the next five
21 years or so. But along with that comes for
22 children and families, so that's the kind of
23 scenario that will happen here as I mentioned is
24 growing population.

25

But we're kind of a unique kind of

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1 situation here. We're not on trust land. This is
2 owned by five different tribes that -- that are --
3 sit on our board, the tribal chairs, and usually
4 another council, which is a ten-member board, but
5 we are an Indian or tribal federally recognized
6 tribal Indian nation. We operate under 638 and
7 several other (inaudible) law. So we're clearly
8 an entity, but on the other hand as you mentioned
9 a school follows a state schedule. Mainly at the
10 urging of BIA and the past BIA leadership, BIE
11 leadership I should say.

12 And so we're in a unique situation
13 that we're not one tribal government. And so one
14 of the questions is how does our system fit within
15 things like the waiver and the issue of standards
16 and whose standards then do you follow at that
17 point. So that's the question is more specific to
18 our situation. And there may be a few others
19 around that are kind of in this unique bubble, if
20 you want to call it that.

21 The same issue though has come up
22 about cooperative schools, both BIA-run -- or
23 BIE-funded schools and public schools, you know,
24 how do we keep that together? I watched my own

25 reservation at Standing Rock had a coop agreement

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1 for 44 years and then it broke apart and those two
2 school systems went separate. And for nearly 30
3 years until both of them nearly went bankrupt
4 (inaudible) economically set. So how could we
5 foster the ways in which the public school systems
6 and tribal systems and the BIE systems will work
7 together, again, with that view of what happens to
8 the child in a positive way. So I don't know if
9 that's covered in this, but to me I'm sure there
10 are going to be those kinds of questions that need
11 to be dealt with.

12 Teacher effectiveness is another one.
13 I won't comment on that other than the issue of
14 professional development is very critical and
15 leadership development is very, very critical. So
16 we certainly stand ready to help out with this
17 movement especially if it comes in the name of
18 tribal sovereignty. I think that's a very, very
19 critical issue. Tribal governments can learn and
20 understand what its role and responsibility is in
21 education. I work directly with tribal
22 government. Some understand it very well, some do
23 not, and there's a few tribes that don't care.
24 And we need to remind them as educators what that

25 responsibility is, you know, this -- and it can be

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1 a good one. Let's put it that way. Not just an
2 issue of addressing solely failures.

3 We also need to make sure that we're
4 telling our story among our Indian people, as well
5 as we need to tell the state department and public
6 instruction about what we want. But to do that we
7 have to have a good plan and we have to understand
8 that, you know, we have to implement it. Thank
9 you.

10 MR. DRAPEAUX: Thank you, Dr. Gipp.

11 I just want to comment on a couple of
12 pieces. There are a couple of other driving
13 issues here for the BIE. We had a scenario in
14 Arizona, for example, where the state of Arizona
15 has passed a state law that says English only in
16 their schools and that applies in the face of all
17 things tribal and the idea and the concept around
18 tribal sovereignty and the issue of language,
19 culture, spirituality, and so on that Dr. Gipp
20 alluded to. In response to this it has been --
21 we've met with the solicitor's office and has
22 asked our solicitors, which are our lawyers, to
23 take a look at what BIE's authority is to -- to
24 allow and develop the ability to accredit

25 teachers, administrators, and schools.

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1 We think it's important that if the
2 state of Arizona at some point decides to invoke
3 their law on our schools and on tribal schools,
4 what the response -- or what the result would be
5 is that they -- if they do not perpetuate to state
6 law, then the state could eventually pull
7 certification on their educators and their
8 administrators and the accreditation of their
9 school. And so we've had to respond to that state
10 law by looking for authority in starting to
11 develop that infrastructure within the BIE and
12 legal justification to grant those authorities
13 from a federal perspective, which in my own mind
14 is our responsibility. It's something that we
15 should be doing anyway to protect tribal
16 sovereignty in these types of cases and ultimately
17 protecting schools and their operation needs at
18 the local level.

19 So -- so we have this kind of -- these
20 instances all the over the United States where we
21 have situations like this, and that's probably the
22 most egregious one that applies in the face of
23 tribes and really starts to question what the
24 BIE's responsibility and ultimately the Department

25 of Interior's trust responsibility is to protect

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1 these schools from actions such as. And so we're
2 gearing up to do that.

3 I think Dr. Gipp hits many, many good
4 points in his comments. And we take a look at
5 what's analytic to these states, and so one of the
6 -- I think the exciting pieces for places like --
7 it's really an undiscussed issue in the term
8 Indian education that is what are tribes currently
9 spending off the books so to speak to either
10 supplement or support Indian education on or near
11 their own reservation lands. It's in the tens of
12 millions there's no doubt.

13 Because when you look at instances
14 like, for example, the Chickasaw Nation of
15 Oklahoma, when you start to look at the Chickasaws
16 and their checkerboard, jurisdictional issues and
17 all the 280 jurisdiction piece of that -- that
18 they're based in Oklahoma, as well as other
19 states, the Chickasaw Nation responds in order to
20 ensure equity -- equity and education for their
21 students is to supplement public schools to the
22 tune of 286 employees that they employ to public
23 schools to ensure educational equity in state
24 funded schools. I mean, to fund an activity like

1 I'm sure every year.

2 What we hope that the flexibility
3 package waiver will provide them is that the
4 states like -- you know, the tribes like the
5 Chickasaw Nation, for example, if they -- if the
6 BIE is granted a waiver and we work through all
7 the details of the waiver and meet all the needs
8 that are described here and elsewhere, that the
9 Chickasaw Nation and other tribes like that could
10 adopt the BIE flexibility approach, adopt a time
11 for standards, start to develop the standards, the
12 curriculum, and the assessments or a piece of that
13 they deem to be important. And what keeps them
14 then from standing up to their own school. So why
15 would they then submit their children to state
16 education opportunities, when then they would have
17 the opportunity to build their own school, we
18 could then -- they could either adopt standards
19 that BIE has as their own or equitable standards
20 for their own purposes. And if they did not want
21 to accredit their own teachers, principals, and
22 schools, then we could offer that on their behalf.

23 So you start to answer some of these
24 complicated jurisdictional funding and government

25 issues when it comes to education in places you

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1 need to, states like Oklahoma. And then when you
2 look at it in a much larger scope, you have, for
3 example, the Cherokee Nation in Oklahoma, as well
4 as North Carolina, historically they're one
5 people. Right now they're federally recognized as
6 separate tribes, but they share a common history,
7 they share a common culture, they share a common
8 language. Under the BIE's flexibility waiver what
9 would keep tribes like the Cherokee Nation, for
10 example, from adopting the common core, the common
11 standards BIE is offering and then as a nation
12 develop their own tribal language, culture, et
13 cetera, standards that they would have a
14 commonality in place that they could get to.

15 More regionally if you look at the
16 Great Sioux Nation -- I grew up on the Indian
17 reservation and the discussion was always around
18 the Great Sioux Nation, Montana, North Dakota,
19 South Dakota, Minnesota, and elsewhere. Sioux
20 Nation, Sioux tribes are all over these states why
21 could not the Great Sioux Nation develop their own
22 standards through adopting our waiver and our
23 approach and common core, which is an equitable
24 standard, and move towards unifying their own

1 The Ojibwe's multiple states common
2 language, common culture, broken up not by their
3 own choices, but by multiple policies that the
4 United States government and the states quite
5 frankly have imposed that keeps them from being
6 one nation in terms of looking at these types of
7 opportunities. The BIE flexibility waiver in my
8 mind provides that opportunity to tribes to have
9 the choice, if they so choose, to come together as
10 a nation and to start developing their own
11 educational approach as a nation. That's what I
12 find to be most exciting through this process in
13 what they offer in the flexibility waiver.

14 An important structural piece, we
15 applied for and have been accepted interestingly
16 enough to the counsel of Chief States School
17 Officers. What significance does that have to
18 anybody? Well, the significance to the BIE and to
19 Indian country is that the Council of Chief States
20 School Officers are all of the state
21 superintendents or state secretaries they meet as
22 a group. It's a state funded entity. They've
23 accepted us as a peer and, in fact, quite frankly
24 support BIE's flexibility waiver, are willing to

25 weigh in politically to support the approach and

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1 effort we're proposing because they recognize the
2 challenges, the practical challenges, of
3 governments when it comes to Indian education and
4 the need to quite frankly unify the discussion
5 points of Indian education in the nation.

6 It's interesting that that
7 organizations like the Council of Chief State
8 School Officers would support this, because I
9 would think that once they had started taking a
10 look at it that they would kind of treat it as a
11 hot flame. Well, we've had interesting
12 conversations. Brian Bough, Dr. Hamley, and I
13 have attended numerous CCSSO meetings and have had
14 off line conversation with state secretaries on
15 our application and on the correction. Quite
16 frankly the only question that was asked by --
17 when I mentioned this -- our approach in a
18 regional meeting was I had the state secretary
19 from Oklahoma, state secretary from Oregon, and
20 from Washington state come to me and say are you
21 gonna take the money? That was the only question.
22 Not that we had talked about that.

23 So we know that the budget
24 implications of our -- this approach are national.

1 we do know is that based on the three policy areas
2 that I talked about earlier, that there is no
3 mechanism today to talk about those policy areas,
4 public school children, grant school children, BIE
5 run schools in any sort of sync manner. We talked
6 about this kind of general Indian education piece.

7 But there are funding streams to each,
8 there are policies for each, and the implication
9 and the outcomes of what these institutions are or
10 aren't doing and how they are and aren't funding
11 and ultimately making tribes -- attempting to make
12 your job a little bit easier in terms of finding
13 things to open up funding streams and to create a
14 common ground that Indian leaders and Indian
15 educators are taught from I think is really the
16 entire kind of push of -- by review found out
17 this. We didn't have to talk about this quite
18 frankly. We could have just left it up to you to
19 work it out with your own states, to not take a
20 look at the flexibility waiver saying the school
21 voted work outs for you guys with 23 different
22 states, but we opted not to do that.

23 Our approach has been to take a look
24 at the flexibility and the changes in the national

1 and to infuse ourself in that. Because right
2 now in my mind if BNP does not do that, then
3 there's no organization, it's not NIE and it's not
4 NCAI, that can infuse themselves at the national
5 behavior policy development and funding of those
6 policies in terms of Indian education. So we've
7 taken it upon ourselves to do it maybe gradually.

8 I'm a former vice chairman of my
9 tribe. I see these things as -- as partly my
10 responsibility and the government's responsibility
11 to open the dialogue and create an opportunity for
12 tribes to have a discussion rather than to be left
13 (inaudible) and to clean up the mess so to speak
14 as these new flexibility waivers are approved and
15 as the standards are implemented. Change is here.
16 It's coming. The states are training teachers
17 right now. Local school districts, local schools
18 are starting to train teachers. It's happening.
19 And so what I want to make sure is that we are
20 having a dialogue and that it's a thoughtful
21 dialogue, whether we agree or disagree whether
22 tribes choose to stay with their states or choose
23 to come with us doesn't matter, but we need to
24 have a national dialogue on the state for making a

1 MR. GIPP: Brian, I wish that a -- the
2 period has come -- the issue really is for us how
3 to communicate with the tribes and school systems.
4 You know, we've heard proposals before. I've
5 heard a couple of them in the years past and every
6 one of them said they were going to bring about,
7 first of all, change. And then, second,
8 improvement and hopefully successful students.

9 And they start out with something and
10 then get so far and then they're gone and then
11 nothing happens and we go back to maybe that
12 particular mark and that's about it, about as far
13 as we go. The system pretty much stays in place.
14 No real structural substantive change is taking
15 place.

16 And so that -- so when you're acting
17 right now and you're gone, is that the end of this
18 fail here of how -- how institutionalized is this
19 going to be so that something begins to happen I
20 guess is one part of my question, you know, and
21 out of the folder is going to adopt the leadership
22 whoever fills that chair. And it maybe a chair
23 next time that's filled by a republican president,
24 for example. We don't know. But the point being

25 especially if we talk about this issue of

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1 recognizing tribal sovereignty (inaudible) in this
2 country. We have both (inaudible) that don't like
3 the idea of any aspect of giving more authority to
4 Indians, much less tribal governments. So I just
5 point that out. And so how would this continue
6 on?

7 And the second part is how do we
8 ensure that we can really develop our own systems
9 if that's part of the game, if you want to put it
10 that way?

11 MR. DRAPEAUX: Right. So this
12 sustainability piece is something that was deeply
13 -- is right on the forefront of my brain. I came
14 two years ago with a gentleman who's no longer
15 here, after two years he left, and I'm still here.
16 The -- after Director Moore left, me with
17 Secretary Salmazarjar, membership Terry Gates, the
18 assistant secretary acting (inaudible) who said
19 we'd like you to post (inaudible) and want you to
20 continue it.

21 This effort is being driven by staff.
22 That's why we're looking at the timeline for the
23 flexibility waiver to us. September is the
24 submittal date. We want to submit an

25 application.

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1 One of the -- somebody talked about
2 the bureaucracies, the bureaucracy. Well, the
3 bureaucracy can be seen in two act. It can be
4 seen as a innards or it can be seen as
5 sustainability. We see it as opportunity for
6 sustainability and that by moving towards
7 institutionalizing this effort and getting it
8 adopted and putting in a place at least a frame
9 work will continue the dialogue and create an
10 opportunity to have the dialogue and to create
11 discussion. You don't need to have (inaudible)
12 because you know that the complication as you move
13 down to the classroom level is a complicated
14 dialogue from the classroom to the administrator
15 to the tribal level to the BIE and that doesn't
16 include the state or the U.S. Department of
17 Education bottom moving pieces.

18 But we're committed to having a
19 document, which is bureaucratic but important.
20 We're committed to opening a dialogue, putting
21 this on your plate, because this should be
22 something that you review and drive as tribal
23 leadership and educators, and that's why we're
24 here as well. And one of the things that we know

25 to be true is that if we at the BIE did not

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1 convene and discuss it, probably won't ever get
2 discussed. And so that's why we're here. And
3 we're open to the entire range of dialogues
4 whether people fully support it or whether they do
5 not support it at all.

6 But unless we've had the opportunity
7 and the forms to have a dialogue and to create a
8 document and have a place to work from, then we'll
9 never have the opportunity. So the -- the
10 documents that we have in place are really the
11 corner stone for sustainability. And as you know
12 that -- the government -- the late interior's
13 really an interesting place so you've got Gail
14 Lavinger (phonetic), who's a lawyer, you have
15 David Gase (phonetic), deputy secretary, who's a
16 lawyer, and you have Secretary Salazar, who's also
17 a lawyer. Lawyers like documents. They -- and in
18 the Government power of the document is really the
19 driving force behind the opportunity. So that's
20 why this document is being developed.

21 I know Jace has been very patient.

22 MR. KILLSBACK: Jace Killsback, tribal
23 council member from Cheyenne tribe, also a school
24 board member, vice chair of the Northern Cheyenne

25 tribal schools.

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1 We have any tribal leaders here?

2 No.

3 Well, I guess last night I was
4 watching CNN. Did you guys see the big tribal
5 (inaudible) on CNN last night? Did you guy see
6 that?

7 It made me think about what you're
8 talking about here, sovereignty, and how easily it
9 is -- it can be stripped away with a supreme court
10 case, also by public perception, mainstream
11 society I guess. And I was sitting through your
12 presentation there. That's what caught my ear I
13 guess the key point about sovereignty.

14 Uniformity I know you mentioned that
15 earlier in Minnesota. As a tribal leader I have a
16 different perspective and I feel that too often
17 our administrators and educators are in a comfort
18 zone and maybe even territorial at times, but from
19 a tribal perspective I feel that this effort to
20 reassert sovereignty is one I can stand with, is
21 one I can support.

22 My only question would be and maybe
23 just nod because I don't want you to talk again,
24 is was this effort or this idea, this concept,

25 tribal agreement or did it come from the Bureau?

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1 Did you hear that, Brian?

2 MR. DRAPEAUX: This concept, the
3 flexibility waiver was something that the U.S.
4 Department of education offered to states as a
5 result of the -- of the 2014 --

6 MR. KILLSBACK: Was it BIA's or was
7 this concept brought forward by the BIE?

8 MR. BOUGH: This concept was brought
9 forward by the BIE as --

10 MR. KILLSBACK: And, you know, and
11 that again an effort to say they're an expert and
12 in support of tribal communities, tribal
13 governments. Tribal leaders can say that's a
14 little convulistic sometimes to do it on our
15 behalf. But I'm gonna say let us as tribal
16 leaders help you to get this flexibility waiver
17 issue addressed.

18 I think not every tribe is as
19 fortunate as, say, the tribes in Montana because
20 of our superintendent being a native. And I like
21 the comments about school already being under
22 state standards. I think there is some fear
23 because of the history of the Bureau with schools
24 that was addressed in the first comments, but from

1 change and the way I think I see the state of
2 Indian country it's -- it's gonna get a lot of
3 backlash because of the culture of the Bureau.
4 Just the culture itself of the Bureau's issue with
5 tribes this is on surface -- it's a good thing.

6 But when you break it down and have
7 complications and you got oppositions -- I was a
8 tribal leader -- I was waiting for a position to
9 come in North or South Dakota because they're the
10 most local. I guess you're lucky to know me. But
11 I think I could -- I could support this and speak
12 out on that. I know that another board member had
13 some other issues with it, but I think we need to
14 get past that comfort zone and look at the
15 uniformity.

16 No Child Left Behind we should be
17 talking about no reservations left behind. There
18 are schools and other reservations in states that
19 aren't as fortunate as those who work with their
20 states, who are -- have good relation issues with
21 their -- their states, their tribal development.
22 And I think we should be on that mentality keeping
23 in mind that we all need this uniformity. I think
24 it's time to gear us that way.

25

But again, too often we're about

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1 divide and concur. What's good for us is not good
2 for them. But this sounds like this would benefit
3 everybody. If there was something in it that
4 wouldn't benefit a tribe or a federal school, of
5 course, we wouldn't buy it. But my concern is for
6 those who don't -- for those who don't have any
7 voice and those who don't have any relationship in
8 the case, and I think you have to (inaudible).

9 And that's just coming from a tribal
10 leader perspective so that's kind my view. I just
11 wanted to share those comments. Thank you.

12 Turn it over to Norma.

13 MS. BIXBY: Thank you, Jace.

14 And, you know, I see you are very
15 passionate about flexibility where you've been
16 explaining and --

17 MR. KILLSBACK: Norma --

18 MS. BIXBY: Oh, I'm sorry. Norma
19 Bixby, Northern Cheyenne tribal schools electing
20 govern, as well as tribal education director for
21 the Northern Cheyenne tribe. I'm sorry.

22 But I see you're very passionate about
23 this whole flexibility thing and -- but I really
24 feel that there's some questions that we need to

1 state of Montana is for sports purposes. How is
2 that going to possible if we go under the
3 flexibility, you know? Is that going to be
4 impacted by the state of Montana where our
5 children wouldn't be able to participate in our
6 high school competitions?

7 The other thing is what about the --
8 what's going to happen nationally when Congress
9 gets back and approves a new plan? Could this all
10 go away? That's a big question right now.

11 And then there's the mention of the
12 money that, you know, if we don't go with the
13 flexibility plan, will we still be eligible for
14 money for helping us as a low performance school,
15 say? And how can we access those professional
16 developments if we don't go? Are we going to be
17 eligible for the same money as anybody else that's
18 under the flexibility plan? That's the question I
19 have.

20 And the other thing, you know, Jace
21 mentioned we are really fortunate to be in the
22 state of Montana because we already have adopted
23 the common core standards. We already have the
24 culture standards. So we're really fortunate in

25 Montana to have the standards, and we have the

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1 supportive state board of ed. We have a really
2 supportive state board of regions. And so we're
3 really, really, really fortunate in Montana.

4 And to me, you know, as a tribal local
5 contract schools, we are acting as a sovereign.
6 Jace sits on our board and two other council
7 members were ad hoc right now. But we are
8 actually really practicing true sovereignty, and
9 sovereignty is respected by the state of Montana.

10 One of the things that Montana has
11 done is they developed an advisory board, the
12 Montana Advisory Council on Indian Ed. And so
13 every tribe is a part of that board and advises
14 the state superintendent and the State Board of
15 Public Ed of what is important to us as tribal
16 members.

17 And as far as our language, one of our
18 public schools is always number one in our
19 Cheyenne language contest. So we're really
20 fortunate to have these things, and so we're
21 really I think showing our tribal sovereignty.
22 And we really -- the flexibility plan maybe is
23 needed for the BIE schools, but I don't feel it's
24 needed for the contract schools because we are

1 sovereignty. And I don't see how that is going to
2 protect us from coming under the waiver to be not
3 sovereign, to effect our sovereignty.

4 And I'm wondering too what's happening
5 with the MOU? The MOU is supposed to give us some
6 of the state department's money. What's happening
7 with that? And so if the MOU goes forward, then
8 we're eligible to apply for those department of ed
9 dollars. And so I'm just wondering where that
10 stands. And if that goes through, then we would
11 have to worry about, you know, money the
12 department of ed had. We'll be able to apply for
13 those dollars.

14 And then up in the air is who's going
15 to be president? Is Obama gonna be president or
16 we gonna have a Republican president? Who knows?

17 So I guess that's my opinion, you
18 know. It's a -- you know, maybe -- maybe the BIE
19 does need the flexibility waiver. Montana is --
20 did not go along with the flexibility waiver. And
21 I did talk to someone in the Office of Public
22 Instruction and Montana has a waiver already
23 because Denise has refused to go with the
24 department of ed's waiver. And in some respects

1 And so as far as the tribal contract
2 schools in Montana there are two of them, Two
3 Eagle River and Northern Cheyenne, and so Montana
4 I fell pretty comfortable that we are practicing
5 our sovereignty. We don't have to, you know, go
6 on with flexibility waiver. And it might be
7 needed for the other BIE schools, but I don't
8 think in my opinion we should go with the
9 flexibility waiver.

10 That's my opinion. It's a little
11 different from Jace's.

12 MR. DRAPEAUX: Thank you, Norma.

13 Just to address a couple of your
14 issues. I guess our idea about sports -- I know
15 sports is a bid deal. I know that we had a
16 situation in South Dakota a few years ago where we
17 had a tribal grant school who refused to cooperate
18 with the state and give them data. He said it
19 doesn't belong to you. We're a tribe, we're
20 sovereign. Why should we share our data? We're
21 not going to. Everybody was in a -- over it.
22 What are we gonna do? How are we gonna get data?
23 Data is important. Blah, blah, blah. So the
24 state of South Dakota went to the South Dakota

25 High School Athletic Association and said jerk

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1 their accreditation to play sports. So they sent
2 a letter don't give us the data, don't get to play
3 sports. Two days later the letter was signed and
4 the data was received.

5 My point is that is that when a tribe
6 attempted under this current structure to impose
7 its own sovereignty by either choosing or not
8 choosing to share data, then states have the
9 option the opportunity to do other thing. Under
10 the scenario of -- and I understand that you had
11 multiple discussions with the Secretary
12 superintendent Juno. It's my understanding from
13 her that the state of Montana had a constitutional
14 change in 1972. And although that they had it, it
15 as part of their constitution there was no
16 implementation until recently. So the idea that
17 the state of Montana took 40 years or so to
18 finally decide on implement and fund the
19 activities of a constitutional mandate, we -- I'm
20 sure you're all very appreciative of their efforts
21 today, but if you go back to the 1980s or 1972
22 and, you know, the goodwill of the state didn't
23 exist at that time.

24 So for those folks who hope that

1 flexibility package is optional. For those who
2 want to come with us, right now the BIE is
3 currently under No Child Left Behind responsible
4 for signing MOUs with states on the issue of data,
5 AYP assessment, and an array of other things. But
6 that is a core activities of schools. What we
7 would prefer is that tribes sign agreements with
8 the states or athletics that we agree to
9 participate in your conference or this conference
10 at a certain level and at the state level.

11 Those kinds of agreements to me would
12 seem much more easy and reasonable to articulate
13 than, you know, the core educational standards
14 curriculum and assessment piece that would hurt
15 trying to manage and in a very difficult
16 transitional time. And so it's our hope that the
17 flexibility waiver for those tribes that are
18 willing to take a look at it and opt into it or
19 not, that we can work through the details of the
20 issue that you're bringing forward. I think it's
21 important to understand the full range of
22 implications that happen.

23 Food programs is another one. I mean,
24 it seems like a silly thing why the school lunch

1 BIE-funded schools in the United States who are
2 -- we said, well, let's find out who's running all
3 the breakfast programs and lunch programs and all
4 the other programs that are available to our
5 communities. What we found is that we had 15
6 schools in our system that we fund that were not a
7 part of our school lunch program. We said why are
8 you not part? This is free. It's free. Free
9 food for your kid. Why aren't you doing it?

10 And they said the administrative
11 burden to our states was so difficult that they
12 opted to pay their food programs through other
13 funds than to use a cost reimbursement program of
14 the school lunch program. And that seems almost
15 ridiculous in terms of budget management and so on
16 when you look at the cost of these programs. But
17 the fact of the matter is that the burden that
18 sits under schools to manage is fast, and so from
19 that point forward we've been meeting with the
20 school lunch program folks in D.C. and have them
21 change the law to over fund us as an SEA, as they
22 do with all of the states, so that we forward fund
23 schools to manage their own school breakfast and
24 lunch and snack programs as opposed to it having

25 to be a cost reimbursement program through a

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1 state.

2 So what the state is saying you prove
3 it to me you're getting these kids. Prove it.
4 Send in your list every how often that they
5 require it. Right? I mean that's the program.
6 And then based on what -- who you're feeding
7 manual funds you back. What it is on natural hard
8 numbers because, you know, it's not what you're
9 eligible group is but who you're actually feeding.

10 So we think that the approach
11 regarding the terms of education in issues like
12 these are at the heart of sovereignty. They
13 should be forward funded programs. You get the
14 money for it, you decide how you're gonna fund the
15 food programs, school lunch, breakfast programs,
16 who's eligible to feed them. And then as well as
17 open up an array of other types of programs that
18 our schools aren't eligible in certain cases
19 because the definitions are completely in U.S.
20 law.

21 The definition of school in the
22 Department of Agriculture is different than the
23 definition of the U.S. Department of Education, as
24 well as the U.S. Department of Interior. Three

1 being fed. Now that's ridiculous.

2 But these things have all been
3 highlighted as the results of our efforts to take
4 a look at the governments piece in terms of Indian
5 education and what it means. And all three levels
6 are the policy areas. So we don't have all the
7 answers, but we understand the challenges. And
8 our only goal quite frankly is to create a frame
9 work that you can work in. Where you can -- you
10 can make some decisions and choices that you
11 should be allowed to make in my estimate.

12 So your questions are -- I think I've
13 answered all your questions or addressed them at
14 least. And then there was one more question that
15 I didn't touch on.

16 MS. BIXBY: The one about the MOU.
17 Why that status was --

18 MR. DRAPEAUX: Right.

19 MR. HAMLEY: Is the MOU --

20 MR. DRAPEAUX: Yeah. The question is,
21 is the BIE state MOU or is it the MOU that's been
22 developed between the BIE and U.S. Department of
23 Education?

24 MS. BIXBY: Um-hum. The one with the

25 Department of Ed and the BIE.

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1 MR. DRAPEAUX: Right. So we're hoping
2 to finalize that MOU. The MOU that Norm
3 (inaudible) consulted previously on the MOU. And
4 it was historically funding document that
5 highlighted the funds, the transfers, and
6 responsibilities from the U.S. Department of
7 Education to the BIE. There are no local
8 authorities in that for tribes to receive SEA
9 money or other account. This is for the current
10 --

11 MS. BIXBY: We're not eligible for
12 now?

13 MR. DRAPEAUX: Right, right.

14 So the Department of Ed when the BIE
15 -- the BIE currently manages about 200 and -- 200
16 million dollars of that flow through in BIE to
17 schools. That MOU was document that -- that
18 basically identified the funds, how they would be
19 sent off to schools, and BIE's responsibility for
20 monitoring compliance of those funds. That would
21 remain the same. It's all based -- essentially
22 based on formula of student count over a period of
23 time.

24 So there's no -- there will be no

25 major changes to that other than, you know, if

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1 your school count has gone up or down. So there's
2 no local authorities in that. And there was never
3 -- that never was the intent of that MOU as
4 available -- we're hoping to have that signed by
5 the two secretaries here within the next 30 days
6 or so.

7 You look confused.

8 MS. BIXBY: Because I remember the
9 information from the consultation that said our
10 tribal schools would be -- or tribes would be
11 eligible for Department of Ed dollars that we are
12 not eligible for now that was part of the MOU.

13 MR. DRAPEAUX: Right. So I mentioned
14 earlier that what we're challenging the U.S.
15 Department Education -- I think what -- what --
16 and I've touched on that earlier today. One of
17 the efforts that we're embarking on is challenging
18 the U.S. Department of Education to review their
19 policies that keep BIE-funded schools from
20 receiving funds through ESEA or No Child Left
21 Behind.

22 So their current policy position is
23 this; is that the BIE is not specific to be
24 mentioned as it is in Title I or special ed, for

1 receive any of those other funds out there. We're
2 working. We're continually working. It's in a
3 negotiation to have the U.S. Department of Ed
4 review their policy that keep us from
5 participating in those pools of funds, which keeps
6 you from participating in those pools of funds.

7 Those pools of funds are essentially
8 dedicated to state education agencies, which we
9 are quasi SEA for terms of funding. So we want to
10 expand that opportunity for the BIE, which
11 ultimately will stand before you. We're still in
12 negotiations and working with the U.S. Department
13 of Ed on that. I hope that clarifies.

14 MR. KILLSBACK: Can you make clear in
15 your presentation you mentioned about there is the
16 waiver process is authorized that there's
17 resources there for the training and
18 implementation of that.

19 MR. DRAPEAUX: So the -- we have
20 professional development funds right now in our
21 line items. And there are monies in U.S.
22 Department of Education funds specific to
23 professional development, as well as in
24 (inaudible) the Department of Interior and so one

25 of the efforts in what we're hoping to do is to

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1 through the flexibility waiver is to -- because if
2 we're adopting the common core standards, then
3 those particular standards we can focus training
4 and professional development for our teachers and
5 our principals and so on more succinctly than we
6 are -- than we have been in the past.

7 So as we get a contract review, for
8 example, all the contracts that BIE's done based
9 on professional development we have numerous
10 contracts, big and small, to provide professional
11 development across the organizational of
12 structure. What we're hoping to do then is that
13 by adopting common core will allow us to formulate
14 our training more specific -- in a narrow -- in a
15 more narrow approach I guess based on the common
16 core standards.

17 MR. KILLSBACK: Your feedback for your
18 consultations are going to be posted on your
19 website?

20 MR. DRAPEAUX: Correct.

21 MR. KILLSBACK: Like your other ones?

22 MR. DRAPE: Yes.

23 MR. KILLSBACK: Comments or question?

24 MR. BOUGH: Not particularly. You

1 People were concerned with the application of the
2 flexibility waiver. People were concerned with
3 the effects it might have on accreditation,
4 particularly sports. People were concerned about
5 the core standards. They did talk a little bit
6 more about the development of the 15 percent
7 locally controlled standards.

8 And I think that this is a bit
9 confusing here. It seems like it's come across as
10 when you have 15 percent development for all BIE
11 schools. The truth is, is that they're going to
12 fund tribes to develop 15 percent specifically for
13 their tribally-controlled schools. And so we're
14 talking about a tribe by tribe basis. We're not
15 talking about a part in, say, 15 percent of
16 customized standards for every school everywhere.

17 So we're going to have common core
18 standards, yes. These are going to be uniform.
19 But what the BIE does not require almost doesn't
20 matter because 19 out of 23 states where we have
21 schools have already adopted common core or as in
22 Minnesota they adopted something that actually
23 goes above and beyond. States like Utah and
24 California kind of (inaudible) at the document

25 common core, but there more or less going along

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1 the lines of the common core.

2 So we're gonna have the common core
3 come out no matter what. There's (inaudible)
4 unification of the standards no matter what it is
5 that we adopt in this. So for us the real goal
6 regarding accountability enacted is that we can
7 employ tribes up, you know, money to develop these
8 locally controlled standards reflective of what
9 the tribes want and use that for accountability.
10 And by incorporating the accountability systems
11 now, we avoid having to do it through alternating
12 AYP, which is a much higher standard later.

13 And so I think we're talking about
14 customizing this in ways tribes want, to reflect
15 what tribes want, and helping use those dollars
16 61-11 money. The state's already used to develop
17 such standards in the first place. Except that in
18 the 700 states we're talking about giving away --

19 MR. KILLSBACK: So you're going to
20 e-mail your presentation to the --

21 MR. BOUGH: We've got the website
22 bie.edu where the presentation is available
23 online.

24 MR. KILLSBACK: I'm just saying in

1 Montana fortunate. We're fortunate because of
2 elections. That's really it. Who knows. We
3 might have favorable leadership at the state level
4 again. Who knows.

5 MR. BOUGH: The way which I view this
6 -- and let me be clear. We talk about it's not
7 the things tribally implemented. This was an idea
8 of BIE. I've been with BIE now for four years and
9 I work with all the schools. And in fairness of
10 the AYP systems we apply to our schools is just
11 out of control. I identify schools on a regular
12 basis as making AYP that by the state standards is
13 qualified as making AYP, because of their size.
14 They may not have five students proficient in math
15 and reading and I check the school, yeah, I see
16 they're making AYP. I have schools -- and this is
17 the primary example -- right across the grass here
18 that year after year after year they have
19 phenomenal growth in students, but because of the
20 rules of North Dakota for AYP, only the size
21 bureau is (inaudible) that they made AYP. And so
22 I know by speaking, you know, with this
23 (inaudible) what's going on in the school, I feel
24 so bad about identifying it's not making AYP

1 their students.

2 And so when I look at that, I see
3 there's a failure in the system that we have in
4 front of us. And I would be morally responsible
5 if I didn't act to take the advise from the
6 principal and the teachers and the daily suppliers
7 that I work with, to actually take this
8 opportunity right now to strike while the iron's
9 hot. And so, yeah, there might be a new president
10 coming this next year. There might be a new
11 secretary of education. There might be any number
12 of things that would prevent us from making a
13 change that we need now. So I want to see this
14 being made as soon as possible.

15 MR. KILLSBACK: As in NIEA are
16 meeting organizations to come out with a response
17 to this or some comments too. I missed that.

18 MR. HAMLEY: We're in an investibility
19 request. We're really nominated where it lists
20 all the organizations we've solicited from. NIEA
21 is one. They're in the process of producing a
22 written response, but the verbally they have told
23 us that they support us, but we'll wait for the
24 written response. We did NCAI and NEA, NEA.

1 input from them, so they will mostly likely
2 provide written responses on that.

3 MR. KILLSBACK: I gotta go. Thanks
4 you guys. See you guys.

5 MR. DRAPEAUX: Thank you, Jace.

6 MR. RABIDEAUX: In the final tally of
7 the MOU it has been determined that there will be
8 MOU between Bureau and DOE then with no
9 significant changes based on any testimony that
10 was provided, based on clarifications of some of
11 the punitive areas that were at best one or two
12 sentences, that were at best especially in some of
13 the costs and who was going to get what as far as
14 administrative money. I believe we rounded it out
15 about 17 and a half percent administratively is
16 what the Bureau would get right off the top for
17 such services.

18 Those were shared in Minneapolis right
19 off -- right after -- right off the MOU that was
20 presented.

21 MR. HAMLEY: Right. And I remember
22 you were there and you testified and you sent a
23 follow-up letter, didn't you?

24 MR. RABIDEAUX: Correct.

25

MR. HAMLEY: Yeah, we have that. The

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1 17 percent I guess we're still scratching our
2 heads as to where that comes from. Because we --
3 it's the percentage for admin under TILO is -- and
4 it's in the MOU. It hasn't changed from the 2005
5 under the current one that's under consideration
6 is all statutory. Like for Title I it's 5 percent
7 and then one and a half percent for SEA, which is
8 money that supports professional development for
9 the schools. It varies by program. But that's
10 all statutory, and that's kind of actually in
11 other consultations tribes have asked can that be
12 changed. And the response to that is, it's
13 statutory. Congress can change it under -- at any
14 time but probably in the authorization, but that
15 would effect not just us, it would effect all the
16 states.

17 MR. RABIDEAUX: So thank you, Jeff,
18 for refining it. You've actually stated my
19 argument better than I ever thought you could.
20 That was my point why would that money -- why the
21 deal then? And our point was we deal with DOE
22 independently as a tribe. We get Title 7 dollars.
23 We deal with them. We don't have any issues.
24 We've never had an issue day one. And we

1 and all that other stuff.

2 The difference between you and the MOU
3 is administrative money. We don't get it. Why
4 wouldn't the tribe -- and that was the argument,
5 Jeff, and again I should send some of my argument
6 to you beforehand. You've worked it out nicely.

7 MR. HAMLEY: Thank you.

8 MR. RABIDEAUX: But that would be a
9 point again for the tribe perspective. Why
10 wouldn't the tribe be in a position to do what, in
11 fact, the Bureau is doing? That was the whole
12 sense of the argument, but it wasn't answered.
13 And now I'm hearing that the MOU is going through
14 and this new age of opportunity again, once again,
15 to create some administrative functioning jobs on
16 the tribes, who need jobs, another opportunity
17 passed.

18 MR. DRAPEAUX: I think this is on --
19 your point is well taken. If the U.S. Department
20 of Ed wants to fund and manage the grants as
21 opposed to giving them the Bureau of Indian
22 Education, that's a -- that's a policy decision
23 that the U.S. Department of Ed and tribes can do.
24 I mean, I'll tell you it's no fun.

25

MR. RABIDEAUX: But, Brian, I'm sorry

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1 to interrupt again. You are equal basis in
2 articulation with your colleague Jeff. The point
3 being we provided that consultation. We attempted
4 to do as much as what you've just shared to, in
5 fact, influence policy. Now I'm hearing it didn't
6 go anywhere.

7 MR. DRAPEAUX: No. I think --

8 MR. RABIDEAUX: It didn't go
9 anywhere.

10 MR. DRAPEAUX: No. That -- that's
11 not -- I think the challenge is that in ESEA, No
12 Child Left Behind, in the law, BIE is mentioned in
13 the law to perform certain functions. As a result
14 of that language the money comes from the BIE,
15 right? So the federal responsibility under that
16 is some admin activities, oversight, monitoring
17 clients essentially, and there's professional
18 development as well.

19 So if in the reauthorization of ESEA,
20 if tribes want to have this done and Congress
21 concurs, then we don't -- we're not gonna stand in
22 the way. We don't quite frankly object to tribes
23 receiving this money for their own activities. In
24 fact, it would help support the development of

25 tribal education agencies.

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1 Does the BIE need to manage it?
2 Initially back in -- whenever it was initially
3 written and added in somebody thought so. Today I
4 know that -- that, you know, our relationship with
5 the U.S. Department of Ed over these funds has
6 been difficult at best about the administration of
7 those funds, as a result of those funds, what's
8 happening with those funds in the field.

9 So if I wanted to be frank, at any
10 point if the U.S. Department of Ed wanted to
11 change ESEA to have the BIE not be responsible for
12 those funds, they want them granted to you
13 directly, do it. Because the administration of
14 those dollars in relation to 100 to 97 is almost
15 untenable based on the grant assurances that we're
16 trying to implement and the interpretation in the
17 field of -- of what those dollars look like once
18 they go through the U.S. Department of Interior.

19 MR. RABIDEAUX: Brian, sorry to
20 interrupt. Then why wouldn't that statement you
21 just shared go into the MOU for tribes showing
22 that interest to work the way we are now. Why
23 wouldn't that go in there then?

24 MR. DRAPEAUX: Right. I don't know if

1 It should go in another dialogue with U.S.
2 Department of Education. Then would do is
3 essentially a funding document, how the money will
4 be moved and transferred. We tried to expand to
5 include some other things, some policy areas, that
6 we thought were important to highlight in terms of
7 Indian education with the U.S. Department
8 Education because the way we interpreted Indian
9 education dialogue in the country is that it's
10 basically a whisper. Everybody whispers about it.
11 Okay.

12 So we're trying to find ways to
13 amplify the issue of Indian education and what
14 that means, and so we saw the MOUs as it expired
15 in 2010 as an opportunity to revisit not only, you
16 know, reestablishing the funding mechanism,
17 because there's been no reauthorization of ESEA
18 for five years, but also there to highlight with
19 you the Department of Ed some new opportunities
20 quite frankly that Deputy Secretary David Hayes
21 and assistant secretary at the time wanted to --
22 to highlight with the U.S. Department of Ed this
23 was a vehicle to bring these issues to
24 consultation.

25

So your comments are not going

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1 unheard. I mean, we are looking for common themes
2 across the country that tribes are putting forth.
3 We put the entire dialogue on the web for
4 everybody to review and have access to, as well as
5 the written, and we're trying to find ways to
6 incorporate through the new meaningful language
7 act that will have the desired impact that tribes
8 across the country are stating that they would
9 like to see it.

10 MR. RABIDEAUX: Then, Brian, I would
11 ask you -- have to do with what Dr. Gipp brought
12 up earlier, at least a connector. Dr. Gipp
13 brought up a bit about Johnson O'Malley (phonetic)
14 and how difficult that has become. Minuscule as
15 the funding might be, but it's very difficult to
16 have any impact especially for Indian parent
17 committees working with public schools to really
18 have a voice in how those dollars are allocated
19 but more importantly or as we how services are
20 provided in.

21 In the same note Title 7 has developed
22 as seeing terrible track record. In my area I
23 have an agreement with the public school as far as
24 I know only a second in the nation and that was

1 Title 7. But with Title 7 that program has
2 shifted so far from home. There was a time and
3 even the language now, or the original language,
4 was specific to culture and language. Well, it
5 shifted so far away now that it's back into the
6 AYP mix and now schools are forced out of a menu
7 to choose AYP or reading or math or attendance.

8 So the language and the culture piece
9 are not even connected to it any longer. So there
10 I would -- I would share that Title 7 needs to be
11 placed on some agenda for some discussion.

12 MR. DRAPEAUX: Now you're making our
13 case. That's exactly the point I'm looking. And
14 you give it as well as we could ever do it.

15 MR. RABIDEAUX: I doubt it.

16 MR. DRAPEAUX: You guys are gonna have
17 to take this show on the road, you and Jeff.

18 But what your point is, is exactly
19 what we're saying to the U.S. Department of Ed.
20 We took a look at the entire funding streams
21 impacting Indian education as a whole. We
22 attended a meeting the Office of Management
23 Budget, the folks who oversee the interior funds
24 and the folks who oversee education funds. What

1 by the interior is that the BIE as stated here
2 today only, only, educates 10 percent or so of all
3 the Native Americans in the country and the rest
4 are in public schools, so you only educate this
5 many.

6 But when you start looking at the
7 public school's funds that are dedicated to Native
8 Americans, the total invested by the Department of
9 Interior for the entire operation, not just ISETH
10 (phonetic), but supplemental as well as operations
11 is about 900 million dollars. When you look at --
12 and that's for 10 percent. When you look at the
13 U.S. Department of Education's investment in
14 Indian education Title 7, Impact Aid, and some
15 Title I monies, the total's about 900 million
16 dollars as well.

17 So when you look at funding equities
18 what the U.S. government through the U.S.
19 Department of Ed, Title 7, Impact Aid, and Title
20 I, these dollars could be dedicated or -- and are
21 dedicated to Native American education outcomes.
22 What you find is that the per student allocation
23 is much, much smaller, and that our question to
24 the U.S. Department of Ed is how do you U.S.

25 Department of Ed ensure to delegate those funds

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1 based on what you're saying right here. We agree
2 with you.

3 We're offering what we'd like to do is
4 see a different management of those funds. Again,
5 it comes down to the issue of the three policy
6 areas, right, public school, Indian students,
7 BIE-operated schools and tribal grant schools.
8 How do you assure to delegate those funds because
9 you're as interested in those kids and what's
10 happening in the public schools as we are and as
11 the parents are. But we can't guarantee that the
12 public schools are as interested in those kids.
13 Now, we like to hope that they are. That they're
14 as invested in their future as we are, but we
15 can't guarantee that. In fact, nobody can because
16 the Department of Ed sure can't.

17 So we agree with and that there should
18 be mechanism in place to ensure videlity [sic] of
19 those funds across the board. And that's all
20 we're saying videlity across the organizational
21 funding mechanisms, interior and education.

22 Do we have other comments or questions
23 or concerns that any of you would like to talk
24 about?

25

MR. BOUGH: I'll say one thing, which

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1 is the national Indian education study that I
2 mentioned earlier, some of the students had some
3 incense of their cultural being. They performed
4 better on the achievement. That's -- that's
5 something NIES. I had a chance to actually work
6 with the national customer of educator progress
7 data about a month ago. And I was able to do some
8 interesting regressions that showed that among
9 students that were tested, those that were
10 receiving Title 7, Johnson O'Malley or Impact Aid
11 funds were less likely to see themselves in some
12 sort of higher educational institution or having a
13 nice career after school.

14 That is students that are in public
15 schools and they receive these aids at these
16 schools don't have a higher than where they'll be
17 in life after they finish their secondary career.
18 And so all things being equal in student
19 achievement, I think that the tribally-controlled
20 system and the BIE system actually prepare these
21 students much better for life after school than
22 public schools do. And so that's something very
23 important you're bringing on the forefront.

24 And the sources of funding indicators

1 not just something we run up here, but whenever we
2 have consultations in Palomino and Sacramento the
3 tribes annually will have two schools in the
4 entire state of California, we're extremely
5 interested in finding out information on this.
6 And they were concerned that the public schools be
7 trolling their reservation with their buses trying
8 to find students just to achieve that funding.
9 And so I think that's a major concern.

10 And so I'll just close by saying I
11 think this flexibility opportunity is one that
12 will actually benefit the entire Bureau as a
13 whole. And when we were doing this in Nashville,
14 the representative from the tribal foundation, the
15 lawyer there, he was initially against the idea,
16 and after we talked with him about 15 percent
17 flexibility, after we talked to him about being
18 able to achieve this flexibility document
19 (inaudible). He says, well, we're open to
20 alternatives. Show us what you can put together.
21 This is the time for to have input and import what
22 this flexibility proposal looks like, and so if
23 you don't like this tell us how to change it, tell
24 us how to make it better, and we will take those

1 The primary thing that came out of our
2 national (inaudible) was that we would make state
3 accountability systems available and alternate
4 definitions of AYP, which the schools could use.
5 The tribes could elect to go with that. So they
6 could see how this was played out in the rest of
7 the Bureau and weigh their options, see what it
8 looked like, see how actually it happened in
9 practice, and at the same time not have to commit
10 to it. You can stay with the same accountability
11 system you're already under.

12 So help us make this a better
13 document. We take your comments seriously and
14 more appropriately this is our document and make
15 it the best document possible.

16 MR. HAMLEY: Jeff Hamley. Final words
17 I guess. I think that the flexibility request is
18 an opportunity. For too long now students and
19 Bureaus for schools have been left out by design I
20 believe out of major reform initiatives occurring
21 in the country. There's mentioned earlier Race to
22 the Top and we weren't included in that, also the
23 teacher incentive initiative. There are many
24 examples.

25

I think we in a mission to those we

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1 would like to define a new funding opportunities
2 to get access to more programs. And then that's
3 the rational -- party rational of trying to
4 strengthen the Bureau, the Department of
5 Education. This is a lot of funds in there, but
6 right now we don't have access to them.

7 But the main point is that we've been
8 left out of these major reform efforts too long,
9 and I think that Indian children are being
10 shortchanged. When you look at our achievement
11 scores, I mean, they're dismal and we're all
12 looking for ways to improve those and some
13 integrative things are happening in tribal schools
14 and also Bureau schools. And actually the Bureau
15 despite the bureaucracy is trying to define some
16 ideas to and is having some success.

17 So this is an opportunity to join the
18 national reform efforts, to join with the
19 governors, with the chief state school officers,
20 and some of the major contenders in the country
21 and to implements and reforms that I think are
22 gonna have some positive results. So for that
23 reason I think it's a good idea and I'm hoping
24 that we can get through, get it accepted.

25

MR. DRAPEAUX: And I'll just say that

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1 the record as upon screen will be open until
2 August 6. We -- these -- these -- at every
3 consultation I've had where the end of the
4 consultation period folks feel like they need more
5 time to review the documents and provide comment.
6 And so if you feel like you need more time, let us
7 know, and we'll see what we can do to extend the
8 time.

9 But we ask you to do a thorough
10 review. We're not done talking about this at this
11 point. I mean, this is really an opportunity for
12 us to weigh, not drip sign, but we wanna come back
13 at a different level and talk to schools and
14 administrators and tribal leaders again about what
15 the document looks like after the rewrite one more
16 time. We do have a submittal date that we want to
17 make.

18 Dr. Gipp mentioned, you know, how do
19 you create sustainability. Well, it's in the
20 documentation, it's in the forms, and the
21 opportunity to submit. So we -- what's funny is
22 that when we started talking about this almost ten
23 months ago, we thought we would have a document
24 prepared and ready for review by February of last

1 year. And we still have a working document, but
2 it's been a worth while effort.

3 And if tribes weigh in at any point
4 and, you know, really don't want us to do this, we
5 won't. I mean, that's the bottom line. We won't
6 do it. We won't offer flexibility waiver, but
7 that not what we've heard. What we've heard is go
8 for it, and we know that going forth means for us
9 that we go forth, you know, with caution and with
10 thoughtful deliberation and with consultation.
11 And so that's what we're attempting to do, and
12 that's why we're really here.

13 We greatly appreciate you traveling
14 long distances to come meet with us this period.
15 I know some longer than others. And we've really
16 appreciated you coming here and spending time with
17 us this morning. We apologize again -- I
18 apologize for the mix up on the location and time
19 and so on. We will -- I'll guarantee it will not
20 happen again. And we look forward to your written
21 comments. And, you know, we're always open
22 Dr. Hamley and Brian and myself. You know, we're
23 e-mail friendly. We're phone friendly, so if you
24 have other things that you want to visit with off

25 line, feel free to pick up the phone and reach out

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1 to us or you can encourage to do the same.

2 So unless there's any other comments,
3 we'll conclude for today.

4 Yes, sir.

5 MR. LADUCER: I just think that if the
6 BIE moves forward with the -- can you hear me?

7 MR. HAMLEY: Your name as well.

8 MR. LADUCER: John Laducer, principal
9 Turtle Mountain High School. The schools are
10 notified in advance of when this transition is
11 going to take place so that we can start preparing
12 our schools. Now, one of the things that I've
13 mentioned of these consultation is, is what's
14 next? I mean, there's no plan for what's next.
15 There's no time line for what's next.

16 After these consultations can you
17 prepare or give us an advance notice of when this
18 is going to happen so that we at the school level
19 can prepare for that.

20 MR. BOUGH: We're moving forward with
21 the (inaudible) training simply because
22 fortunately the reestablishing of a school has
23 switched to the common core of the coming school
24 year. Every state will not have a common core

1 12-13 school year, so they usually have some sort
2 of a transition assessment period. And this tends
3 to be in the form of what we're calling in our
4 transition baseline here. We've already got the
5 (inaudible) in place or close to being in place to
6 put an assessment into your hands that will be
7 used for measuring student growth and student
8 efficiency the current year.

9 Until that test score has absolutely
10 positively been awarded, I'm not gonna say the
11 deem of the contractor, but you're already
12 probably very familiar with the vast majority of
13 our schools have this assessment already.

14 Realization is that Ed has not
15 approved our request, then you'll still be taking
16 the state assessment at the end of the year. In
17 the meantime you will have this separate variety
18 for school paid. It's a wonderful informative
19 assessment. And at the end of the year we have a
20 blended model of that. It's both standard and
21 long records. It's currently being piled in the
22 state of Utah for measurement of student growth
23 with the academic year.

24 So we look it at it we're trying to

1 timetable as the states. We look at the states
2 and they are scrambling to get their teachers
3 trained on the count of four and they're
4 scrambling to get their assessments ready. Now in
5 the school year 2014-2015 that's when these two
6 assessment consortia will have their assessments
7 available.

8 But what we seen happening in both of
9 the Smarter Balanced Assessment consortia and the
10 PARCC consortia is that the governing of the
11 support obligated by the taxes at the end of the
12 period at which the testing has become available
13 have chosen to become participating members and
14 not governing members. And I think that gives us
15 the sense that what these states are doing decide
16 if it's possible that the cost of this assessment
17 will be so expensive that we cannot afford to buy
18 the assessment once it is developed.

19 And so we may see a fluffera [sic] of
20 assessments (inaudible) even though the intent was
21 to develop one common core assessment that the
22 entire country could use. So in short term we're
23 preparing our schools as best we can by getting
24 them trained on (inaudible). The contract that we

1 also cover additional subject areas as we come
2 along the line over the next five years.

3 We've got an assessment that we are in
4 the process of getting for our schools, but we are
5 paying for the assessment. If that assessment's
6 not going to be approved by the U.S. Department of
7 Education for use of accountability purposes,
8 we'll still have to use the state assessments, but
9 you'll still have this formative assessment that
10 many of our schools have used to improve this new
11 achievement in the short form.

12 And I can point to several schools
13 particularly in New Mexico. Navajo (inaudible)
14 use it. The school of (inaudible) has gone crazy
15 on this. And they've had amazing success in their
16 scores.

17 So we're trying to get our schools
18 prepared because we know that the common core
19 standards are being adopted by the states. And if
20 our waiver request doesn't go through, we're still
21 obligated to follow the state standards. This
22 will get us more prepared. So the only major
23 difference in trying to see the waiver request put
24 into place is that when they accommodate systems

1 (inaudible) at the end of the year, they will give
2 you prior student growth across the entire year.

3 Have I answered your question?

4 MR. LADUCER: Somewhat. But I have a
5 question that how are you, for example, training
6 schools? Is this bureau operated schools and what
7 are you doing for tribally-controlled.

8 Because as again I don't see any
9 training or funding available when you switch to
10 long form?

11 MR. BOUGH: Well, if you attended some
12 of the other consultations where they talked about
13 the (inaudible) report and the need for the Bureau
14 of Indian Education to have control over its
15 acquisitions cycle, you'd understand the situation
16 we're in. We had a contract put into the
17 acquisitions department for quite some time now
18 and they still haven't had it advertised, and so
19 we have to advertise that for a 30-day period
20 during which we will receive a contract proposals.
21 What we're asking for in each of those proposals
22 is that the common core trainers go up to each and
23 every one of our schools and conduct a training
24 onsite at the schools for the reading of the

25 (inaudible).

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1 They will haul this up with a regional
2 national-type training event where you will have a
3 follow-up set of training and also serve rides
4 home when this is going on. So this kind of
5 training will be made available to all of our
6 schools regardless if they're Bureau operated or
7 if they're tribally-controlled.

8 MR. LADUCER: So what is the timeline
9 for the training then? Because once -- especially
10 because once school starts, you know, you're
11 asking us to pull our math and reading teachers
12 and to get subs to replace them, you know, that's
13 almost difficult in rural areas.

14 MR. BOUGH: We're trying to aim for
15 September as a starting point for this. We're
16 going to have to work through those particular
17 issues very carefully. You know, I apologize for
18 not having this contract out on the street sooner,
19 but there are some constraints on what it is that
20 I'm able to accomplish based on the workloads of
21 other individuals in different organizations. And
22 I think the lack of tribal organization of our
23 contracts is part of what was in the report, so I
24 -- I could comment more, but I don't think I

1 MR. DRAPEAUX: Soon. In general
2 terms. So -- but we'll keep the communication
3 open, and what -- what's happened in other areas,
4 for example, in Navajo we've had an associate
5 deputy director just formulate and do his own
6 training, formulate his own training based on the
7 common core. And he's trained 1,067 teachers up
8 to this point. So it's taking some effort and
9 some work, but he has formulated it to happen.

10 We're in the process of, you know,
11 offering that across the BIE. It's not without
12 our own challenges, but we don't want to
13 ultimately burden you, over burden you with our
14 challenges so we'll get answers for you here,
15 offer it.

16 MR. LADUCER: Thank you.

17 MR. DRAPEAUX: Thank you.

18 MR. BOUGH: And I'll just I guess one
19 more thing, which is in our proposal that coming
20 your way baseline year and so all of our schools
21 will be more or less the same situation with
22 regards to the training.

23 MR. DRAPEAUX: Well, thanks again. We
24 appreciate it. This will conclude the

1 (Whereupon, at 11:50 a.m. the
2 proceedings were duly ended.)

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REPORTER'S CERTIFICATE

CERTIFIED that the foregoing one
hundred thirty (130) pages constitutes a true and
correct copy of all proceedings which it purports
to contain.

Stephanie L. Marjamaa
Court Reporter

My Commission expires
1-31-2016.

Dated this 16th day of August, 2012.

DOUG KETCHAM & ASSOCIATES
118 BROADWAY, SUITE 200, FARGO, ND 58102 (701) 237-0275