Annual Policy Update

2021 Convention & Tradeshow

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YEAR IN REVIEW
As NIEA celebrates over 52 years of advocating for Native education, we invite our members, educators, and stakeholders to engage with our federal policy priorities. Since our founding, Native leaders and educators have fought to exercise sovereignty in the education of Native children and communities. Self-determination in Native education systems forms the foundation of our work at NIEA. Our advocacy seeks to reflect the priorities of Native students and communities across the nation, with sovereignty at the center of our federal work.

STRATEGIC DIRECTION
Each year, NIEA’s advocacy priorities are driven by our Strategic Direction, which envisions NIEA as a national convening organization that advocates for Native students at the state, tribal, and federal levels. Developed through member engagement and direction, this document provides the foundation for our work as an organization.

Our policy agenda highlights the advocacy component of NIEA’s Strategic Direction, focusing on elevating specific priorities to drive change and shape the national narrative on Native education. NIEA advocates on all issues related to Native education, connecting our policy priorities with organizational objectives.

A YEAR OF ADVOCACY AT NIEA
Legislative Priorities
Legislators convened on Capitol Hill for the first session of the 117th Congress in January 2021 amidst the new Biden-Harris administration after a contentious 2020 election year in which the nation was further divided across political and ideological lines.

The spread of the novel coronavirus (COVID-19) in the United States in 2020 forced policymakers to quickly shift priorities in the interest of public health and safety. The year 2021 saw a shift from COVID-19 relief to bills that focused on recovery and investment in infrastructure. Since March 2020, NIEA has been on the frontlines of advocacy for COVID-19 relief in Native nations, schools, and communities.

Despite the pivoting of priorities in 2020, NIEA continues to engage with congressional leaders to highlight the following four critical priorities for Native students and schools beyond the COVID-19 pandemic:

- **Postsecondary Education** - All Native students should have access to a high-quality academic and cultural education that prepares them to succeed in life. This year, NIEA continues to lay the groundwork for a reauthorization of the Higher Education Act (HEA) that strengthens sovereignty, improves access, and increases support for tribal colleges and universities (TCUs) and Native-serving institutions.

- **Teacher Preparation** - Culturally competent teachers have the potential to change the trajectory of a student’s life. Teacher shortages are pervasive in schools that serve Native students
across the country, and teachers that understand and implement culturally responsive education strategies are even more rare.

- **School Climate** - Native students learn best in healthy learning environments that provide resources to support the holistic needs of each child. However, echoes of harmful policies that sought to “kill the Indian and save the man” continue in our classrooms today. To combat these effects, NIEA has worked with Congress to support better data, educator training, and oversight of federal agencies that oversee programs that serve Native students.

- **School Construction and Infrastructure** - Safe and healthy classrooms are critical for students to achieve equity in opportunity across the nation. NIEA continues to advocate for tribes and schools that serve Native students to have equity in access to funds made available in any infrastructure legislation or package - including funding to support COVID-19 relief.

**COVID-19 Recovery**
NIEA continued to engage and to engage with Congress to ensure that funds for our nations, schools, educators, and students are included in Coronavirus recovery bills.

On March 11, President Biden signed into law the American Rescue Plan Act (ARPA). This $1.9 trillion COVID-19 relief package provides critical relief to communities impacted by the pandemic. In recognition of the disproportionate impact of COVID-19 on Native students and communities, this law includes historic funding for Native education. The ARPA provides $1.9 trillion to American families, $1.1 billion for Native education, and more than $31.2 billion for tribal governments and Native communities. This funding will be critical in addressing the disproportionate impact of COVID-19 on native students and families on the frontlines in both urban and rural areas. The package builds upon many of the measures in the CARES Act from March 2020 and in the Consolidated Appropriations Act, 2021, from December 2020.
Infrastructure Investment and Jobs Act (H.R. 3684)

In August, the Senate passed H.R. 3684, the Infrastructure Investment and Jobs Act. The $1.2 trillion legislation includes $550 billion in new federal spending and $650 billion in projects spanning over five-years, providing critical infrastructure relief for communities across the country. The legislation includes more than $15 billion dollars in tribal specific funding measures that addresses critically overdue infrastructure projects such as climate change mitigation, broadband, and clean drinking water. The summary below highlights the funding available as it relates to Native education and education sovereignty.

Education Infrastructure - Native-serving schools continue to lack the basic infrastructure needs for students to return to the classroom and remain in the classroom due to the aging school buildings that puts Native students’ health and safety at risk. To address school building aging and classroom infrastructure, H.R. 3684 will provide grants for energy-efficiency and renewable energy improvements at public school facilities by appropriating $500 million from Fiscal Year 2022 through Fiscal Year 2026 (FY2022-FY2026). Funding related to school infrastructure includes:

- $200,000 for each grant towards the energy efficiency material pilot program; and
- $200 million over five years in grants towards lead contamination testing, reduction, and compliance monitoring for schools.

Transit - H.R. 3684 also authorizes $5 billion towards the clean school bus program from FY2022-2026. This would allow eligible contractors to sell clean school buses, zero-emission school buses, and charging or fueling charging buses to states and tribes. The bill also establishes a program for replacement of existing school buses with clean school buses and zero emission school buses as well.
Broadband - Broadband connectivity continues to be vital for schools on and near tribal lands. During the COVID-19 pandemic, the disparities within Native communities have highlighted the demand for access. H.R. 3684 addresses the issue of broadband by authorizing a total of $17.3 billion in tribal set-asides for telecommunications and broadband projects in Native communities.

- $2 billion in additional funding for the Tribal Broadband Connectivity Grant Program;
- $14.4 million from FY2022-2026 for the Department of Commerce, State Digital Equity Capacity Grant Program;
- $14.2 billion in additional funding and extension of the Federal Communications Commission (FCC)'s Affordable Connectivity Program; and
- $1 billion for the Middle Mile Infrastructure grants by the Department of Commerce and FCC.

Workforce Development - Provisions to expand workforce development, training, and education that addresses the current workforce gap within transportation were also included in the legislation. This funding will provide states and educational institutions with the opportunities to develop new training programs within the emerging transportation sector. Specifically, the bill includes the following:

- Transportation Education and Training Development and Deployment program: Makes grants to educational institutions and the State Department of Transportation to develop, test, and review new curriculum and education programs to train individuals at all levels of transportation workforce.
- Building, Training and Assessment Center: Provides grants to institutions of higher education to identify energy efficiency and environmental performance in building and promote research and development for the use of alternative energy sources and distributed generation for buildings. This center will also assist higher education institutions and tribal colleges and universities in training building technicians.

As of the date of this publication, House Speaker Pelosi had set a date to vote on this legislation by September 27, 2021. NIEA is engaging and will continue to engage with the House as they work towards this vote to ensure that funds are secured to improve the infrastructure in our communities.

Congress Introduces Native Education Bills

In addition to a busy year in COVID recovery and infrastructure legislation, a number of stand-alone bills that impact Native education were introduced. Below are some examples of bills that were introduced in both chambers.

- S.1471, the Safeguard Tribal Objects of Patrimony Act
  Sponsor: Sen. Henrich (D-NM)
  A bill to enhance protections on Native American tangible cultural heritage, and for other purposes.

- S. 1402, the Durbin Feeling Native American Languages Act
  Sponsor: Sen. Schatz (D-HI)
  A bill to amend the Native American languages Act to ensure the survival and continuing vitality of Native American Languages, and for other purposes.

- S.989, the Native American Language Resource Center Act
  Sponsor: Sen. Schatz (D-HI)
  A bill to authorize the Department of Education to make a grant to or enter into a contract with an eligible entity to establish, operate, and staff a Native American language resource and training center.

- S.1543, the STANDUP Act
  Sponsor: Sen. Hassan (D-NH)
  Amends the Public Health Service act to provide best practices on student suicide awareness and prevention training and prevention training policy in schools.
S. 1497, the Protecting LGBTQ Youth Act
Sponsor: Sen. Kaine (D-VA)
Amends the Child Abuse Prevention and Treatment act to provide protection for LGBTQ2S youth and their families.

H.R. 2861, the America’s College Promise Act of 2021
Sponsor: Rep. Levin (D-MI-09)
Establishes State and Indian tribe grants for community colleges and grants for Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions in the Higher Education Act of 1965.

All legislative bills and any accompanying reports can be downloaded at www.congress.gov.

APPROPRIATIONS PRIORITIES

Fiscal Year 2021
Final appropriations for both the Department of Education and the Bureau of Indian Education (BIE) saw modest increases over last year. In the Department of Education, Impact Aid stayed roughly at the same funding level as Fiscal Year 2020 with roughly double the increase over the prior year in Title I Grants to support Native students in public schools on and near tribal lands, as well as low-income students across the nation.

Fiscal Year 2022
Over the past year NIEA has engaged with congressional leaders and staffers to support increased funding for Native education programs. This fall, the Majority is seeking to use the budget process to advance the President’s agenda through a process known as budget reconciliation.

Budget Reconciliation Resolution & NIEA Budget Requests: On Tuesday, August 24, 2021, the House of Representatives approved a budget framework that will pave the way for $3.5 trillion in spending to expand the social safety net that President Joe Biden has made a signature agenda item.

The House vote came after a series of negotiations between Democratic leaders and a group of moderates yielded a compromise that paved the way for passage. Ultimately, the House voted on a rule to advance both the budget deal and a separate...
$1 trillion bipartisan infrastructure bill. The rule directs the House to take up the bipartisan bill by September 27.

The Senate approved the budget resolution earlier this month. Budget resolutions do not become law and are not signed by the President, but the framework will act as an important policy blueprint. Both chambers must adopt the resolution to employ a process known as budget reconciliation to later pass legislation addressing the climate crisis, aid for families, health care and more that cannot be defeated by a GOP filibuster in the Senate.

The budget resolution includes a set of instructions for House and Senate committees that will allow them to write reconciliation legislation with a totaling as much as $3.5 trillion. As of date of this publication, the final reconciliation package has yet to be drafted, but committees in the House had already begun hearings on what bills should be included in their final package to be considered this fall.

Advocating for Education Sovereignty Through Infrastructure

Many Native-serving schools remain shuttered, creating major complications for students who have only experienced education through distance and virtual programs in the past year. As our schools look at reopening, many lack the basic infrastructure to safely return to the classroom. The number of schools that need replacement continues to grow, particularly considering public health hazards such as ventilation. Deferred maintenance has nearly doubled, exacerbating the rate of deterioration in our school facilities, and increasing the need for a strong investment in school replacement and facility construction. Even the newest facilities must undergo major renovations to heating and air, plumbing, and other systems to ensure the safety of students, staff, and faculty in the building. In addition, transportation expenses are expected to rise due to limitations on space, and requirements for technology support and broadband have become even more essential in the new virtual world.

Accordingly, NIEA is requesting the following during the reconciliation process:

- $725 million to address deferred maintenance and failing infrastructure in Bureau of Indian Education (BIE)-funded schools, as defined in 25 U.S.C. § 2021(3);
- At least $2.6 billion for Replacement School/Facility/Employee Housing Construction at BIE-funded schools, as defined in 25 U.S.C. § 2021(3);
- $120 million for education information technology;
- $73 million to the BIE Student Transportation Program for funding and improving transportation; and
- $4.2 billion to address pressing school facility needs at Impact Aid schools.

NIEA continues to engage with lawmakers as they advance the reconciliation process through the fall and prioritize the needs of our Native communities.

Administration Priorities

With the election of President Joe Biden in the fall of 2020 comes a change in Administration. Typically, new Administrations take a number of months to staff key positions, develop a policy agenda, and set priorities.

Of important note this year was the appointment of then Congresswoman Debra Haaland as Secretary of the Interior. This historic confirmation makes the Congresswoman the first-ever tribal citizen to serve in the capacity of Cabinet secretary.

Overseeing 70,000 employees and managing nearly 500 million acres of land, the Department of Interior’s responsibilities range from management and conservation of public lands, water resources, wildlife management, cultural heritage preservation, and upholding the federal trust responsibilities to 574 tribal nations and more than 5.2 million American Indians, Alaska Natives, and Native Hawaiians.
Priorities Highlight Tribal Sovereignty and Education: On April 9, the White House released an abbreviated version of the President’s Fiscal Year (FY) 2022 Discretionary Budget Request to Congress. This document outlined the Administration’s priorities for funding the federal government in the coming year. A commitment to uphold the federal trust responsibility to tribal nations and historic investment in high-poverty schools were among the top priorities for the Administration.

Key priorities for education included:

- $36.5 billion for Title I Grants
- $15.5 billion for Individuals with Disabilities Education Act Grants
- $1 billion for counselors, nurses, and mental health professionals in schools
- Increase maximum Pell Grant by $400
- Additional $65 million for rural broadband
- $4 billion for Bureau of Indian Education and Bureau of Indian Affairs

Federal agencies released individual budget requests and justifications that provide additional details on these top-line priorities.

Bureau of Indian Education

The President’s Budget for Fiscal Year (FY) 2022 invests $1.3 billion in Bureau of Indian Education (BIE) initiatives that would support Native students and teachers from early childhood through college. This represents a $110.6 million increase from the FY 2021 enacted level. Highlights of the FY 2022 budget request for BIE programs include:

- $58 million increase ($484.8 million total) for the Indian School Equalization Program (ISEP). This includes $49 million towards the ISEP formula findings which would improve opportunities and outcomes in the classroom; provide improved instructional services; and support improved teacher quality.
- A $3.7 million increase ($24.7 million total) will go towards the Early Child and Family Development to expand preschool opportunities at BIE-funded schools.
- An $8 million increase ($94.9 million total) for Tribal Grant Support Costs for Tribes that choose to operate BIE-funded schools to support 100% of the estimated requirement.
- A $20 million increase ($35.4 million total) for the Education IT that will support the ongoing costs of distance learning and enhanced use of technology within the classroom.
- An $10 million increase ($45 million total) for the Scholarships and Adult Education (TPA program) that will provide educational opportunities and serve a larger population of qualified Native students with financial assistance.

The FY 2022 budget also includes $264.3 million in annual funding towards the Education Construction to replace and repair school facilities. The Education Construction funds will be supplemented by funds from the Great American Outdoors Act.

In May, the BIE announced their plan to disburse $850 million allocated for BIE programs in the American Rescue Plan late last month. The BIE has begun the process of releasing funds to schools based on the formulas below:

- $535.5 million for K-12 schools based on the Weighted Student Unit formula,
- $229.5 million for TCUs based on student count, and
- $85 million will be managed by BIE School Operations for investments, such as the buildout of a Learning Management System and facility ventilation improvement projects

Finally, the BIE has made progress to implement the agency’s new Strategic Direction over the past year. As the Bureau approaches the two-year mark, BIE officials highlight upcoming consultations to evaluate progress, develop milestones, and elevate priorities for the next two years. NIEA looks forward to
continuing our work to ensure a strong and healthy education system in our Bureau-funded schools through effective implementation of the Strategic Direction.

**Department of Education**

In 2020, the Department of Education (ED) continued a trend of withdrawing guidance and regulations from the previous Administration. These actions disproportionately impacted Native students and brought strong statements of opposition from the Native community. We worked and continue to work with our national partners and allies to ensure full implementation of federal statute and civil rights laws.

In stark contrast to 2020, 2021 brought about a number of guidance documents, FAQs and instructions on how to request waivers for specific financial and other data requirements in the midst of a global pandemic.

In addition, the Office of Indian Education (OIE) held two tribal consultations in April:

- On January 26, 2021, President Biden issued a Presidential Memorandum on Tribal Consultation and Strengthening the Nation-to-Nation Relationships that requires the Department of Education to submit within 90 days a detailed plan for implementing Executive Order 13175, which charges all executive departments and agencies to engage in regular, meaningful, and robust consultation with Tribal officials in the development of federal policies that have Tribal implications. The purpose of this consultation was to review the November 4, 2015 Tribal Consultation Policy.

- On April 26, 2021, OIE conducted tribal consultation for two discretionary grant programs with tribal implications. The purpose of the consultation will be to receive meaningful tribal input on the State Tribal Education Partnership (STEP) discretionary grant program and the program for Tribal Education Agencies (TEAs) authorized in Section 11006(1) of the American Rescue Plan (ARP).

OIE also released the National Indian Education Study (NIES) which is designed to describe the condition of education for American Indian and Alaska Native students in the United States.

This study provides information on the academic performance of fourth- and eighth-grade American Indian/Alaska Native students in mathematics and reading, and on their educational experiences. A roundtable discussion followed the release of the report.

**LANGUAGE AND CULTURE-BASED EDUCATION**

Classrooms that value and integrate Native language and culture are vital to promoting inclusive learning environments where Native students thrive.

**Johnson-O’Malley Modernization**

The Bureau of Indian Education (BIE) hosted two listening sessions in May on the Johnson-O’Malley (JOM) Program on the following issues related to the JOM Program:

- Implementation of a distribution methodology based on the annual student count,
- JOM student count form,
- JOM Annual Report update,
- Clarification of JOM student eligibility criteria in 25 CFR 273.112,
- Discussion of allowable costs/expenditures of JOM funding in 25 CFR 273.113, and
- Documents needed for annual award of funds.

The BIE held specific sessions for both public and tribal schools.

In addition, the BIE launched efforts to report on the current number of students eligible for JOM programs, as well as the potential number of eligible students in schools across the country. While a preliminary report was released for public comment, a final report to Congress, due in early 2020 has yet to be published.
A number of bills were introduced in 2021 aimed at preserving culture and language:

The Safeguard Tribal Objects of Patrimony Act (S.1471/H.R.2930)

*Status: Passed by Senate Committee on Indian Affairs on July 28, 2021. Subcommittee hearing held in the House on May 20, 2021*

The bill would enhance protections on Native American tangible cultural heritage.

The Durbin Feeling Native American Languages Act (S. 1402)

*Status: Passed by Senate Committee on Indian Affairs on August 4, 2021.*

This bill would amend the Native American languages Act to ensure the survival and continuing vitality of Native American Languages.

The Native American Language Resource Center Act S.989/H.R.2271

*Status: Passed by Senate Committee on Indian Affairs on August 4, 2021. Referred to the House Committee on Education and Labor on March 26, 2021.*

The bill authorizes the Department of Education to make a grant to or enter into a contract with an eligible entity to establish, operate, and staff a Native American language resource and training center.

NIEA Model to Develop High-Quality Native Language Immersion Programs

NIEA is currently working on a project with the BIE to build capacity for both improving and creating Native Language Immersion Programs in schools across the United States. This project centers collaborative efforts with local Native education partners that have a deep level of knowledge and expertise about Native education at the state level. Additionally, NIEA will host Language Convenings within target states to gather as many stakeholders together as possible, including parents, tribal leaders, school principals, superintendents, teachers, and students. Through this work, NIEA is developing a model for effective Native Language Immersion Programs that will employ best practices from our research, as well as strategies to mitigate any potential challenges of pitfalls.

BUILDING TRIBAL EDUCATION CAPACITY

Tribes and Native communities are most knowledgeable and qualified to make decisions related to the education of tribal citizens. Native nations must have access to the tools and resources necessary to ensure equity in access and opportunity for all Native students to thrive.

The Full-Service Community School Expansion Act (S. 385/H.R. 1241)

*Introduced in the House and the Senate on February 23, 2021.*

This bill would provide integrated student supports to schools and districts. These services include medical, mental, and nutrition health services, mentoring and youth development programs, technical assistance, and continuing education courses to serve students, families, and communities. This legislation would also provide essential resources for school districts to plan for, implement, and expand community schools, and would further develop the infrastructure to support these schools.

The Educational Partnerships for Innovation in Communities Program Authorization Act (H.R. 2993)

*Introduced in the House on May 4, 2021*

This bill would authorize the Educational Partnerships for Innovation in Communities program. Both the Secretary of Transportation and the Secretary of Housing and Urban Development, shall award a nonprofit organization no more than $10,000,000 for FY2022-2026. The program is...
designed to train and support institutions of higher education to assist local governments, by leveraging existing graduate and undergraduate classes at a large scale in order to amplify projects in need.

**SKILLED EDUCATORS & LEADERS**

Culturally competent teachers have the potential to change the trajectory of a student’s life. Teacher shortages are pervasive in schools that serve Native students across the country, and teachers that understand and implement culturally responsive education strategies are even more rare. NIEA has engaged both legislatively and programmatically to address this national issue.

**NIEA Native Educator Initiative**

In conjunction with our federal policy initiatives, NIEA partnered with TNTP to recruit and retain effective teachers and unleash the power of the seventh generation of Native students. As part of our commitment to improve educational opportunities for Native students, NIEA has developed the first-ever online job board where schools representing hundreds of tribal communities can post employment opportunities available across the United States.

We are additionally developing several toolkits and resources for school leadership, hiring managers, administrators, leaders, teachers, educators, teacher candidates, etc.

**WRAP-AROUND SERVICES**

Native students learn best in healthy learning environments that provide resources to support the holistic needs of each child.

**Trauma-Informed Education**

NIEA continues to engage with legislators on Capitol Hill to address gaps in trauma-informed education. Most recently, NIEA has worked with Congress to include language in a variety of COVID-19 provisions that recognize the importance of addressing historical trauma, and trauma due to the current pandemic, in schools to promote healing and create safe environments where students can thrive.

**The Protecting LGBTQ Youth Act**


A bill to amend the Child Abuse Prevention and Treatment Act to ensure protections for lesbian, gay, bisexual, transgender, and queer youth and their families.

**The STANDUP Act**

*Passed the House of Representatives on May 13, 2021. Passed the Health, Education, Labor and Pension Committee on August 3, 2021*

This bill would amend the Public Health Service Act to provide best practices on student suicide awareness and prevention training and require school-based student suicide awareness and prevention training policy.

**POST-SECONDARY SUCCESS**

Native students must have access to equity in postsecondary opportunities. Over the past year, NIEA has significantly expanded our work to support access, enrollment, completion, and affordability for Native students through the reauthorization of the Higher Education Act. As the second session of the 117th Congress Convenes in January 2021, we will renew our efforts to push passage of a bill that supports post-secondary Native education. In addition, we continue our in-depth landscape analysis of Native students at postsecondary institutions, as well as the opportunities afforded to them.

**Higher Education Act**

Native students must have equity in access to postsecondary opportunities. NIEA will continue to engage with both chambers in the second session of the 117th Congress to ensure that Native students
are represented in provisions that address student access, enrollment, completion, affordability, and data sovereignty.

The America’s College Promise Act of 2021 (S.1396/H.R.2861)

Introduced in the Senate on April 27, 2021.
Introduced in the House on April 28, 2021.

The bill would amend the Higher Education Act of 1965 to establish State and Indian tribe grants for community colleges and grants for Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions, and for other purposes.

The Advancing International and Foreign Language Education Act (H.R. 2940)

Introduced in the House on April 30, 2021.

This bill reauthorizes through FY2027 and otherwise revises international education programs. These programs provide grants to institutions of higher education and related entities to (1) enhance instruction in international and foreign language studies, and (2) promote international business skills and education. The bill would permit the Department of Education to prioritize grant applications from minority-serving institutions.