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North Dakota Advisory Committee

to the

U.S. COMMISSION ON CIVIL RIGHTS

Briefing Forum

on

Native American Students in North Dakota

Special Education Programs

Holiday Inn Hotel
1152 Memorial Highway
Bismarck, North Dakota

December 13, 1991

ORIGINAL

A P P E A R A N C E S

Committee Members Present:

BRYCE STREIBEL

BETTY L. MILLS

MARK G. SCHNEIDER

AUDREY HENDERSON-NOCHO

CAROL JEAN LARSEN

JOHN M. OLSON

Staff Members Present:

WILLIAM F. MULDROW

MALEE V. CRAFT

C O N T E N T S

C O N T E N T S (cont.)

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1 (The following proceedings were had
2 and made of record herein, commencing at 9:06 a.m.,
3 Friday, December 13, 1991, at the Holiday Inn
4 Hotel, 1152 Memorial Highway, Bismarck, North
5 Dakota:)
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7 BRYCE STREIBEL: Good morning. Can you
8 all hear?
9 (No response.)
10 BRYCE STREIBEL: I'll call the meeting of
11 the North Dakota Advisory Committee to the U.S.
12 Commission on Civil Rights to order. And for the
13 benefit of those of you in the audience, I'll
14 introduce myself and my colleagues, committee
15 members. I'm Bryce Streibel and I'm the
16 chairperson of this advisory committee. And the
17 members of the committee are with us and I'll
18 introduce them. Over here, Betty Mills, Mark
19 Schneider, Audrey Henderson-Nocho, Carol Larsen,
20 and John Olson. And we have staff with us, Bill
21 Muldrow and Malee Craft.
22 Now, we're here to conduct a fact-finding
23 meeting. I want to emphasize that. That's exactly
24 what we're here for, to try to determine what facts
25 that we can put together as a committee on Native

1 American students in North Dakota as regarding
2 special education programs.
3 The participants in this meeting will
4 address the extent to which Native American
5 students are treated equally in North Dakota's
6 special education programs and to highlight any
7 efforts aimed at promoting equality. The
8 jurisdiction of the commission that's meeting today
9 includes discrimination or denial of equal
10 protection of the laws because of race, color,
11 religion, sex, age, handicap or national origin, or
12 in the administration of justice.
13 The proceedings of this forum, which are
14 being recorded by a public stenographer, will be
15 used, along with other information collected
16 through interviews and correspondence with
17 individuals, agencies and organizations, in the
18 development of a written report with findings and
19 recommendations from the committee which will be
20 released and distributed to the public.
21 At the outset, I want to remind everyone
22 present of the ground rules. This is a public
23 meeting. It's open to the media and to the general
24 public. But we have a very full schedule of
25 participants to fit in with the limited time we

1 have available. The time allocated for each
2 session must be strictly adhered to. Twenty-five
3 minutes have been allocated for remarks from each
4 presenter, which should include ten minutes for
5 dialogue with the committee.
6 To accommodate persons who have not been
7 invited to make a presentation but wish to make
8 statements, we have scheduled an open period on our
9 agenda from five p.m. to six p.m. today. Anyone
10 wishing to make a statement during that period
11 should contact a staff member for scheduling.
12 Written statements may be submitted to
13 committee members or staff here today, or you may
14 mail them to the U.S. Commission on Civil Rights,
15 Federal Office Building, Suite 1366, Post Office
16 Drawer 3585, 1961 Stout Street, Denver, Colorado.
17 The record of this meeting will be closed on
18 December 23rd, 1991.
19 Though some of the information provided
20 here may be controversial, we want to ensure that
21 all invited guests do not unfairly or illegally
22 defame or degrade any person or organization. In
23 order to ensure that all aspects of the issues are
24 represented, knowledgeable persons with a wide
25 variety of experience and viewpoints have been

1 invited to share information with us.
2 Any person or any organization that feels
3 defamed or degraded by statements made in these
4 proceedings should contact our staff during the
5 meeting so that we can provide a chance for public
6 response. Alternately, such persons or
7 organizations can file written statements for
8 inclusion in the proceedings. I urge all persons
9 participating to be judicious and factual in what
10 they say.
11 The advisory committee appreciates the
12 willingness of those who have agreed to participate
13 and share information with us.
14 Now I'll turn the meeting over to Mr.
15 Muldrow who will share some remarks with us.
16 WILLIAM MULDROW: Thank you, Mr.
17 Streibel. I'm Bill Muldrow, the regional director
18 for the U.S. Commission on Civil Rights and of the
19 Rocky Mountain Region in Denver. I would just like
20 to second the welcome extended to all of you by Mr.
21 Streibel and to explain that the North Dakota
22 Advisory Committee to the commission is charged
23 with providing information on current civil rights
24 issues in the state to our commissioners in
25 Washington.

1 Each state has an advisory committee
2 composed of 11 members who are citizens of the
3 state that they represent, representing a wide
4 variety of segments of the population. And this
5 meeting today is part of the information gathering
6 process which will be used to put together a report
7 on Native American students in North Dakota's
8 special education programs.
9 This, as Mr. Streibel has explained, will
10 result in a written report which will go to our
11 commissioners and then be published and distributed
12 free of charge to the public. So we appreciate the
13 cooperation and help we have had from the
14 participants in this forum in putting together the
15 information necessary to compile the report.
16 Later this evening, later in the
17 afternoon, we will have an open session, as Mr.
18 Streibel has explained, to allow other persons who
19 have not been specifically invited to participate
20 to make statements to the committee and provide
21 them information.
22 So we look forward to this day and we
23 hope that out of this will come a better
24 understanding of the place of Native American
25 students in North Dakota's special education

1 program. Thank you again for your help and welcome
2 to our meeting today.
3 BRYCE STREIBEL: Thank you, Bill. And
4 before we go into the presenters, I want to
5 publicly thank Bill Muldrow and Malee Craft for the
6 work that they've done preparatory to this
7 meeting. And I am very impressed with, to be
8 honest with you, the -- they did a very thorough
9 job. Malee came into the state a couple of times
10 and interviewed a lot of people and made an
11 excellent presentation to our committee last night
12 and gave us a good briefing to prepare us for
13 today, and we want to thank you, Malee and Bill.
14 MALEE CRAFT: Thank you.
15 BRYCE STREIBEL: Our first presenter
16 today is Dr. AnnMaria Rousey. Dr. Rousey is the
17 director of research with the North Dakota Center
18 for Disabilities, project director. She's involved
19 in the Developmental Disabilities of Native
20 Americans Project and associated with Minot State
21 University.
22 Dr. Rousey, Welcome.
23 (Dr. Rousey distributes document to
24 committee members.)
25 DR. ROUSEY: Since you came to the state,

1 I even brought you presents. And I sent someone
2 scurrying off for a transparency so that everybody
3 else can see them, too. But until they come back,
4 I'll just talk about what's on here.
5 We're funded to do three things on the
6 Developmental Disabilities of Native American
7 Project: Technical assistance, training personnel
8 serving Native Americans with disabilities, and
9 research.
10 And thinking about what I could talk
11 about that all the other people you're having would
12 know ten times more about than me, I decided to
13 focus on the research and start with our
14 conclusion, because if we run out of time, I know
15 that's the thing you really want to know. What I
16 want to talk about is assessment of Native American
17 children in North Dakota for special education.
18 And one of the first things I want to
19 point out is that, if you look at the statewide
20 figures, you get a little bit more optimistic
21 perception than is actually there. And I can say
22 this as a statistics professor. It's sort of like
23 if you stuck one hand in boiling water and one hand
24 in ice and said that, on the average, you're
25 comfortable. It doesn't quite work out that way.

1 When you look at it, about 5.6 percent of
2 Native American children are in special ed, and
3 that's not a very high figure. About 10 percent of
4 children nationwide are. But when you look at
5 specific areas, as we did, and look at specific
6 schools, you find that that ranges from about 17
7 percent -- if you look on the next page there, it
8 ranges from about 17 percent to 44 percent. So
9 statewide it's 1 in 20, but in a lot of specific
10 areas it's 1 in 5 or 2 in 5.
11 And those areas don't occur randomly.
12 What happens is children who live on the
13 reservation are much less likely to get special ed
14 services. Children who live off are much more
15 likely to identify as in need of special ed.
16 There are a couple of reasons for that.
17 One is that if children live on a reservation and
18 only get services from the BIA, they're not in the
19 state count. So, for example, 13 children at
20 Turtle Mountain Reservation are listed as getting
21 state special ed services -- and I know you're back
22 there and I know you have more than 13 kids in
23 special ed. Don't deny it.
24 So there you have six-tenths of a percent
25 of the kids shown in the figures getting special

1 ed, but it's a lot more than that. Those are only
2 kids who get state services. If you look at other
3 reservations, you'll find like 7 percent. If you
4 look in some of the cities, you'll find it's 40
5 percent. So the main point is there are a lot of
6 areas we have a very high proportion of Native
7 American kids in special ed.
8 The reasons for those disproportions,
9 there are three main ones. The first one is the
10 difference in the method of assessment. That for
11 mildly handicapped, the law says you must have a
12 deficit in intellectual ability and adaptive
13 behavior.
14 What the North Dakota public schools do,
15 which is the same as most schools nationwide do, is
16 it gives the child an IQ test. And since they're
17 failing in school, they got problems in school,
18 that's considered a deficit in adaptive behavior.
19 They get an IQ below 70 and that child is mentally
20 handicapped.
21 There is a little chart there. You're
22 probably wondering what those pictures are. And
23 it's right here. And what it shows is that if you
24 look to the right side of that line, all the -- the
25 left side of that line -- all the kids with an IQ

1 below 70, if you did a regular assessment like in
2 public school, would be in special ed. They have a
3 deficit IQ.
4 If you look at that little dash line, if
5 you gave them a test of adaptive behavior as well,
6 because adaptive behavior is sort of getting along
7 in life -- do you remember to comb your hair, do
8 you remember to bring your books to school, the
9 type of things on the adaptive behavior measure --
10 they're not that high related to intelligence.
11 So if you gave both of those tests --
12 each of those dots represents an individual person
13 -- you'd only have that little number in the
14 square down there identified as mentally
15 handicapped.
16 And so if you use one method, you have a
17 lot of kids. If you use the method of assessment
18 that the BIA schools have chosen, you'll have many
19 less children. So that results in one difference
20 right there.
21 Another difference is social and cultural
22 factors. The definition of learning disabilities
23 -- and I don't know how many people are aware of
24 this -- it's a disorder in the basic psychological
25 processes involving understanding or using language

1 spoken or written; that we're saying that child has
2 a disability, they've a basic psychological
3 disorder, and the law says it cannot be due to
4 visual impairment or motor impairment or social,
5 cultural or economic disadvantage. So if a child
6 is not doing well because they're environmentally
7 disadvantaged, they're not disabled. They're not
8 doing well in school, but they're not disabled.
9 So in our research, we interviewed a lot
10 of teachers and administrators and we asked them,
11 "How do you determine that?" And the universal
12 response we got is, "Well, we really don't know,"
13 or, "Well, we look at those factors." Now, can you
14 imagine putting your child in a class that's
15 mentally disturbed? Well, we looked at him and he
16 didn't look very bright, so we put him in there.
17 But there aren't any methods for identifying that
18 it's due to social and cultural disadvantage.
19 So we asked the same people a follow-up
20 question, which is: Have you ever had children in
21 your class that you thought weren't really
22 disabled, but it was due to environmental
23 disadvantage or social disadvantage? And 80
24 percent of the teachers said yes and gave specific
25 examples.

1 So we asked the next logical question,
2 which is: Does that bother you? And most of them
3 said, "Well, no, not really, because the child was
4 having learning problems and they do need extra
5 help and now we get extra funding for them, so it's
6 okay."
7 Well, it bothers me for two reasons. One
8 is that it has been -- it will never be to
9 anybody's credit to have been sent to a special
10 school and it's not to anybody's credit to be
11 identified as disabled. So it concerns me for that
12 reason. But for an educational reason -- Willy
13 Labov did research on African American children and
14 what he said: A child may not read a word in a
15 particular way because he doesn't understand it.
16 He phonetically has not learned to pronounce those
17 words or because he has a dialectical difference,
18 or maybe he just doesn't know what a museum is
19 because he's never been to one, he has no
20 comprehension of one.
21 So you have three different things. You
22 have a real learning disability where the child may
23 have a problem processing visual information, you
24 have a problem with pronunciation which is
25 different from the school, or you have a problem

1 with experience, that the child just isn't
2 comprehending it because he doesn't know what
3 you're talking about, not that he's not very
4 bright. It seems in each of those three cases we
5 do three different things, and yet we're labeling
6 them all as disabled and putting them in there.
7 The question of sociocultural
8 disadvantage is one a lot of people don't want to
9 face. Native American children in this state, as
10 well as nationwide, are much more likely, more than
11 twice as likely, to live in poverty. And we like
12 to euphemistically say, "Well, that's just a
13 difference." It's not a difference, by God. It's
14 a disadvantage.
15 When you have kids that -- and this is
16 from the North Dakota health statistics -- are less
17 likely to have prenatal care and more likely to be
18 born to teenage mothers and more likely to be
19 raised in poverty, who have less of everything we
20 know counts educationally -- they have less books
21 in the home, they come to school, many of them,
22 they don't have a book.
23 One of the little girls in the classroom,
24 she came in and asked if she could buy a book with
25 her food stamps because she didn't have any. The

1 teacher, bless her heart, bought it for her, and
2 she's brought it twice for show and tell because
3 that's the only one she has.
4 Those kids are at a disadvantage because
5 they come to school not knowing the stuff that we
6 assume the children know for the first grade or
7 third grade curriculum. Then what happens is when
8 we assess them, they're not doing very well,
9 they're not doing very well in school, and they end
10 up placed in special education. If they're in an
11 area where Native American children are the
12 minority, they're much more likely to be placed in
13 special education.
14 The reason for that is teachers have to
15 refer a child, then they have to be evaluated, and
16 then they're labeled for a particular category.
17 Teachers evaluate kids relative to the other kids
18 in their class, not to hypothetical national norm.
19 If most of the children in the class are achieving
20 below average, then that child doesn't stand out so
21 much. If they move to another area, they stand out
22 more and they're twice as likely or more to get
23 referred. So you end up with more children
24 referred and you end up with more children in
25 special ed.

1 There are also cultural differences, that
2 children learn different things at home. And when
3 they come to school -- there's an article called
4 the Indian Father's Plea. It talks about he can't
5 understand why his child is identified as a slow
6 learner because he knows all of these things. He
7 knows the migratory patterns of 23 different
8 birds. He goes on and on about all the stuff his
9 child knows. He's probably not learning
10 handicapped, but he is at a disadvantage because
11 those aren't the things that are in the first grade
12 curriculum. So he's going to have problems in
13 school.
14 And there are those same type of items on
15 tests. When I taught out in the desert, we had a
16 little boy that he got asked what season of the
17 year is this, and it showed a snowman and snowballs
18 and a snowball fight. He said, "Fall?" And he
19 wasn't dumb. He just had no clue. And we have no
20 idea to what degree that's included in the tests.
21 Those tests that we use are not normed on the
22 Native American at all.
23 The other element of cultural bias that I
24 have to talk about, because I interviewed these
25 teachers, many of them, and the administrators, is

1 the other 20 percent that said no, they've never
2 had that happen. To give you a few of the quotes
3 that I could bear to repeat, what they said is:
4 These kids are just basically dumb, they're never
5 going to do anything, their families never do
6 anything, they have terrible families who don't
7 care about them and they're lucky that they get any
8 services.
9 Those teachers, when you look at the
10 classroom materials they're using, tend to be --
11 they have very low expectations for the kids in
12 their classroom. Materials reflect that, because
13 it's often been the same things two or three years
14 in a row and they're bored and they don't do them,
15 and so that just reinforces the perception that
16 they're unmotivated. And those schools also have a
17 real high proportion of kids in special ed.
18 Some suggestions -- because I was told in
19 graduate school you should never mention problems
20 without having suggestions -- a couple of them: We
21 need prevention programs and we need them very
22 badly. An excellent example is the comprehensive
23 child development program they have at Fort
24 Totten. The inner-tribal tracking system is a good
25 thing and a good start, but they don't have the

1 funding to do as many direct services as they
2 need.
3 When you have children who are at a
4 disadvantage, it is possible to provide a lot of
5 enrichment activities in the home to provide a lot
6 of parent training. It's not true that they have
7 terrible families. These families love their
8 kids. But how do you know that you're supposed to
9 read to them and do all these things with them? Or
10 even if you do know, how can you do it if you don't
11 have the books and the educational toys? So that's
12 some of the things that we're trying to get funding
13 for.
14 In the state here, as well as nationwide,
15 there's a lot of lip service about how concerned we
16 are, but when you look at the funding -- the
17 inner-tribal tracking program, for example. When
18 the BIA funding ended, it got picked up temporarily
19 by the state, and it's always going, looking for
20 more money. So I don't think we quite put our
21 money where our mouth is. There's a CCD program
22 that's federally funded.
23 The second thing -- I'm going to talk
24 about these out of order -- we need Native American
25 personnel. There are some non-Indian teachers who

1 are doing a fantastic job, but there are no Indian
2 teachers that we interviewed that had zero percent
3 participation in their IT meetings that told us all
4 the kids were dumb.
5 And also, the teachers that we graduated
6 that I've gone and looked at are really powerful
7 role models for the kids. You know, I think they
8 want to tell them some things like: "Well, I know
9 the work is hard, but when I went to college, did
10 you think it was easy? But if I could do it, I
11 know you could do it." So there's a lot of
12 credibility there.
13 And that's another place we want
14 funding. We talk and talk and talk about the need
15 for more personnel, but I can tell you that we have
16 7 percent Native American students in our
17 undergraduate program, 3 percent in our graduate
18 program, and that perception that "Hey, any Indian
19 student that wants to go to college has the
20 funding" is patented false. The great majority of
21 our students, if they drop out, it's because they
22 have financial problems; it's not because they
23 weren't making the grade. So that's a real need
24 that we have.
25 And finally, we need enrichment programs

1 for all the children who need it in public school.
2 The reason teachers give is: What's going to
3 happen to these kids if they're not in special ed?
4 A lot of teachers agree they shouldn't be, but what
5 are they going to do for them? They may not have a
6 disability, but they're still having learning
7 problems and will continue to do that.
8 And one thing that I'm real concerned
9 about is we'll say these kids aren't handicapped,
10 we'll cut the special ed funding, and then what
11 will they get? In another state, what I've seen
12 happen is they get put back in the regular
13 classroom and they keep failing where they are.
14 So that's most of what I have to say.
15 It's like everybody says, we need more money. But
16 we need more money. If we really are concerned, we
17 need to fund those programs that we've shown can be
18 effective.
19 BRYCE STREIBEL: Thank you. Any
20 questions on the part of committee members of Dr.
21 Rousey?
22 MARK SCHNEIDER: Doctor, do you have
23 statistics on the percentage of Native American
24 teachers in North Dakota at the primary and
25 secondary level?

1 DR. ROUSEY: We looked at the percentage
2 of special education teachers for a grant that
3 we're doing right now and we found that out of our
4 -- we looked at 2,000 students that we had
5 graduated in the last dozen years, and there were
6 about three point -- it was slightly over 3
7 percent. And that's the students from MSU, but we
8 graduated other students in the state.
9 MARK SCHNEIDER: Is there anything that
10 can be done to attract more Native American
11 teachers to North Dakota?
12 DR. ROUSEY: Well, we have plenty of
13 really good, qualified people in North Dakota. We
14 don't need to attract people from elsewhere. What
15 we need to do is provide funding for the very good
16 students that we have. We have plenty of really
17 good students who could go through the program.
18 And there aren't that many students nationwide.
19 What we need to do is make it possible for them
20 financially to do that.
21 MARK SCHNEIDER: Thank you.
22 BRYCE STREIBEL: Any other questions on
23 the part of committee members? Yes, Bill?
24 WILLIAM MULDROW: Dr. Rousey, you
25 indicated that, in your estimation, there is a very

1 high proportion of Native American students in
2 special education, and you attributed that to
3 several factors: The problem with IQ testing,
4 cultural, economic biases that influence the type
5 of background as to Native American students have
6 coming into the system.
7 It would seem that they do have some
8 educational needs which may be unique to Native
9 American students. And you're suggesting the
10 answer is not to place them in special education
11 programs as kind of an out for remedying these
12 deficiencies, if you can call them that, or
13 differences.
14 How would you suggest the problem be
15 dealt with in terms of their educational needs, if
16 a special education program is not the answer for
17 them?
18 DR. ROUSEY: Well, I would suggest
19 several things. One of the first ones starting
20 with the very early years is children coming in
21 unprepared. The reason they come in unprepared is
22 we assume they know certain things like their
23 colors and what a book is and which way to hold it
24 and how to color and all that stuff.
25 But early on you can provide programs

1 where kids get that experience, something similar
2 to the headstart program but more intensive. And
3 those programs have been tried other places -- for
4 example, they have Abecederain Program in North
5 Carolina -- have been very successful. So that is
6 one thing you can do to start with.
7 The second thing is if we're emphasizing
8 the children's ability to read as opposed to their
9 -- I don't know if this is what we want to do in
10 all cases -- but in some cases when you're
11 emphasizing a child's ability to read as opposed to
12 tell them specific material, you can use material
13 which is based on experiences that they have. And
14 that -- those materials are available.
15 For example, for any ethnic group, there
16 are a lot of what are called low reading level high
17 interest materials, which are often used by the
18 learning disabilities teachers. They include
19 biographies of people who have been particularly
20 significant, and so there are all -- as well as
21 role models. They're stuff that the kids are
22 interested in and there are things that deal with
23 experiences they've had. So changing some of those
24 materials can be effective as well.
25 One of my concerns is we say kid's are

1 just culturally different. The child's reading two
2 years below grade level. He's not culturally
3 different, he's at a disadvantage. So I say as
4 well as making some of the material more culturally
5 relevant, as well as providing some preventative or
6 intervention activity at the start, we also need to
7 provide remedial activities for -- remedial
8 interventions for children who need them,
9 regardless of whether they meet some category.
10 Jane Mercer is asking: Why do we spend a
11 thousand dollars to test a kid because he needs to
12 go down the hall two hours and get help? Why don't
13 we just send him down the hall two hours to get
14 help? So I think having some more remedial
15 capability within the school for all the children
16 would be a thing to do.
17 BRYCE STREIBEL: Dr. Rousey, could you
18 elaborate just a bit on a point that you made
19 regarding Native Americans and the disadvantage
20 that they're confronted with with regard to
21 funding? You mentioned something about they were
22 treated not exactly fairly when it came to funding,
23 educational funds available for them.
24 DR. ROUSEY: You mean for Native American
25 students?

1 BRYCE STREIBEL: That's right.
2 DR. ROUSEY: Well, there are a couple of
3 things that happen. One is that a lot of
4 scholarships are for students entering the
5 university, for freshman coming in. The great
6 majority of students who come into a university
7 around the state transfer from one of the tribal
8 colleges, which means they're not incoming
9 freshman, so that cuts them off from all those
10 scholarship funds.
11 A second thing is the Native American
12 students tend to be older than average and have
13 dependents. So if $4,000 a year might be
14 sufficient for a young single person, it's not
15 going to be sufficient.
16 So there are two reasons. One is because
17 of that qualification on a lot of the scholarships
18 and a lot of the financial aid, they're not
19 eligible. And the second is because they have a
20 higher need level because they're more likely to be
21 parents.
22 BRYCE STREIBEL: Thank you. Yes, Malee.
23 MALEE CRAFT: Dr. Rousey, when you -- as
24 you're going out and doing your research, do you
25 make -- is part of your job to make recommendations

1 to school districts on some of the things you've
2 recommended on how they can better help Native
3 American students? And I guess maybe if I target
4 some of the school districts where it's off the
5 reservation and there's a high number of Native
6 American students in special education. Have you
7 made recommendations? Have they been accepted?
8 Where are we at in that area?
9 DR. ROUSEY: We've done a couple of
10 things. We do a lot of public forum types of
11 things. We've spoke at Native American Week. We
12 had about a hundred people attend that and they
13 broadcast it on the radio. We go out and we do
14 multi-cultural education course, which is a
15 graduate course in continuing education.
16 There's no way we can force school
17 districts to listen to us. And the problem with
18 things like multi-cultural education is the people
19 who take them or want them are the ones who need it
20 the least.
21 The school we were in where they were
22 flagrantly in violation of the law in anything that
23 you can think of was not the least bit perturbed
24 about their program, didn't think they needed any
25 recommendations. They had kids in special ed that

1 someone had looked at when they were in
2 kindergarten and said they were LD and they'd been
3 in there and they were in the 9th grade. They
4 would not be routinely -- the teacher would give
5 one test and that child would be identified based
6 on that one test. They didn't think we were
7 talking about them.
8 One of the things we do every year is an
9 annual report. And the stuff I've been talking
10 about since -- last year's report is coming out in
11 the next year's report. Things like that, I don't
12 think, have that much of an effect, sad to say.
13 Because when you have people with the perception
14 that all the kids are dumb and come from terrible
15 families that aren't going to do anything -- and
16 these are some of the things I can repeat -- I
17 don't think our going in and saying "This is what
18 the kids are going to need" is going to make a lot
19 of difference. In some areas it will.
20 What we do try to do more is focus on the
21 teachers who are in pre-service training to sort of
22 get the idea before they get out. It might be more
23 effective if that was required, and that's one of
24 the things we've been talking about, is requiring
25 people to have that as part of their continuing

1 education. Because we have done some things for
2 the school districts that have the most problems.
3 It seems they sort of fall on deaf ears.
4 Maybe I should tell you how we did our
5 research, too, because I didn't get to that. That
6 little map shows you an idea of our sampling. We
7 started with people we knew, it then refers to
8 another person we knew. In some cases, we asked
9 the school district's permission. After doing
10 research for about a dozen years, I've come to the
11 conclusion it's a lot easier to apologize later
12 than ask permission and get turned down.
13 So we sent students out to go through
14 files and interview teachers. Some of them called
15 us up over the phone. So this was not, in all
16 cases, done with the complete cooperation of the
17 school district even when we got our data.
18 Sometimes people called up and said, "Well, I might
19 get fired for this, but I want to talk to you."
20 BRYCE STREIBEL: Dr. Rousey, how many
21 institutions of higher learning, of the 11 or so
22 that we have in North Dakota, are you aware that
23 have a staff that attentions Native American
24 projects and programs? Are you aware of the number
25 of institutions that have similar emphasis like you

1 have with the Minot State University?
2 DR. ROUSEY: There are none others that
3 have a specific emphasis in special education. The
4 University of North Dakota has the in-med program.
5 The North Dakota State University has a Native
6 American Students Program. But there are no others
7 that look specifically at Native Americans in
8 special education with disabilities. And that's
9 because we're part of a federally funded university
10 affiliated program that's only at Minot State
11 University.
12 BRYCE STREIBEL: Any other questions on
13 the part of the committee members? Bill?
14 WILLIAM MULDROW: Mark's got a question.
15 BRYCE STREIBEL: Oh Mark, I'm sorry.
16 MARK SCHNEIDER: Doctor, you stated that
17 you've seen flagrant violations of the law in some
18 of the schools that you've studied. Have you ever
19 turned over or made a complaint to the U.S.
20 Department of Education on Civil Rights? And if
21 so, what's your opinion about the compliance of
22 that?
23 DR. ROUSEY: Well, because I've done
24 research for a long time and continue to do it for
25 a long time -- and intend to continue to do it for

1 a long time, everything that we do is
2 confidential. I think it would be a little much to
3 ask to come into your school and have you tell us
4 everything that you possibly could and then turn
5 you in for it. The only case where we would do
6 that is if we actually found child abuse.
7 I tell my students the reason researchers
8 sit like this -- (Indicating) -- is so their mouth
9 doesn't fall open when they hear some of this
10 stuff. And I have, at times, not been able to keep
11 my mouth shut and say, "Do you know that that is
12 against the law?" And when I told them that, they
13 are not concerned at all. Well, maybe we'll do
14 something about it.
15 MARK SCHNEIDER: This may not be a fair
16 question because you may not know, but are you
17 aware of any compliance efforts by the U.S.
18 Department of Education regarding the problems that
19 you've perceived?
20 DR. ROUSEY: Not that I'm aware of.
21 MARK SCHNEIDER: I want to ask you about
22 headstart. The problems you talk about for Native
23 American preschoolers, does the headstart program
24 address those problems? That's number one. Number
25 two: What percentage of Native American

1 preschoolers have access to headstart in North
2 Dakota?
3 DR. ROUSEY: That would really differ by
4 where you're looking. On some of the reservations,
5 I think there's a much greater proportion than
6 others. And so that would be something you have to
7 look at in each area.
8 In some areas they have -- well, from the
9 tracking program -- I can tell you that -- where
10 they serve children that aren't getting any other
11 services, in some places there's quite a large
12 proportion of children, particularly in rural and
13 remote areas. And on others, there's certainly
14 very few children because they're all either in
15 headstart or the CCD program or something similar.
16 So that would vary from place to place.
17 BRYCE STREIBEL: Bill?
18 WILLIAM MULDROW: Among the factors that
19 result in a high proportion of Native American
20 students being placed in special education, you did
21 not mention plain old racial bias. Is that a
22 factor of discrimination against Native American --
23 DR. ROUSEY: Well, I think that 20
24 percent that I was talking about, I think I would
25 characterize that as racial bias. I mean, I think

1 if you think that all the students are dumb and
2 their parents don't care about them and that
3 they'll never amount to anything, and all of those
4 students are Native American, I think I would --
5 WILLIAM MULDROW: Would you distinguish
6 that from cultural bias, the lack of understanding
7 of the needs of the children?
8 DR. ROUSEY: Well, I don't think that is
9 as much of a problem, because I think the people
10 who are really concerned about their students and
11 are teaching in a predominantly Native American
12 situation really make an effort to get some
13 understanding of that culture.
14 So, you know, they may have some problems
15 their first year. But those are the people we see
16 coming to the university to take courses from
17 Melvin Yellow Bird on multi-cultural education.
18 Those are the people that we see really making an
19 effort to understand the kids and meet with the
20 parents.
21 So I think that it's a lot more commonly
22 a -- just a preconception that those kids are not
23 very bright and not just ignorant, because I think
24 you can overcome ignorance, and if you really are
25 committed, you do.

1 BRYCE STREIBEL: Dr. Rousey, just to
2 follow up on Bill's query, I've been intrigued,
3 too, by the -- probably the assumption that Native
4 American students probably should be moved over
5 into special education expeditiously and that
6 they're good candidates for that, and you kind of
7 commented a little bit about that.
8 Would you amplify your opinion what --
9 how real that is and how high it is on the priority
10 list of really trying to say, "Hey, these
11 youngsters are no different than anybody else and
12 let's treat them that way?"
13 DR. ROUSEY: Do I think that's a
14 priority? No. I think that's a mistake to say
15 they're no different from anybody else. I think
16 that they often have more needs than a lot of other
17 kids.
18 BRYCE STREIBEL: I guess what I meant --
19 pardon me for interrupting -- is that there's a --
20 they're probably not viewed like other youngsters
21 are, and as the evaluation process begins, they're
22 probably -- the evaluator says: Hey, I got a
23 different student here. I probably am going to
24 have to refer him or her into special education.
25 That assumption certainly could be an underlying

1 current in the evaluation process, couldn't it?
2 DR. ROUSEY: Yes. And I'm sure it often
3 is.
4 BRYCE STREIBEL: How do you get around
5 that?
6 DR. ROUSEY: How do you convince people
7 that their Native American students aren't any less
8 intelligent than any of their other students?
9 Well, I think that's something we've been trying to
10 do for every minority group for a couple hundred
11 years. So I don't think there's a real easy answer
12 to that.
13 One of the things we tried at the
14 university level is multi-cultural education. But
15 I think there is no easy way to do that. You can
16 teach them and tell them and go back and back and
17 tell them again. That's one of the reasons I think
18 it's so important to have Native American
19 personnel, because you don't have that problem with
20 those teachers. That's probably the easiest way to
21 get around that.
22 BRYCE STREIBEL: Thank you, Dr. Rousey.
23 I guess we're at our time frame for the next
24 presenter. And our next presenter is -- our next
25 presenter is Dr. Ramona DeCoteau, assistant

1 professor for elementary education at Moorhead
2 State University. Dr. DeCoteau?
3 DR. DECOTEAU: Prior to my position at
4 Moorhead State, I worked in public schools for ten
5 years. Since 1981, my experience working with
6 Native American students in special education is
7 limited to four students, between 1981 and 1991.
8 One student did not qualify for special
9 education because his scores placed him in superior
10 range of ability and achievement. Another student
11 was diagnosed as being attention deficit disorder
12 after a medical evaluation was recommended by the
13 educational team. Two transfer students entered
14 school with an active IEP. Those IEP's came from
15 other institutions.
16 The school where I was employed has a
17 screening committee in place. One of the charges
18 of the committee is to determine what the regular
19 education program has to offer a student so that
20 student is successful. When a student is not
21 successful, the committee makes recommendations to
22 the persons involved. Those persons might be the
23 parents, the student himself, classroom teachers,
24 counselors, and school administrators. In the
25 event the recommendations are not making a

1 noticeable change in the difference -- in the
2 student's overall school achievement, the student
3 may be referred for special education.
4 The difference I noted between the way
5 Native American students were treated was not in
6 the referral process but in the written reports
7 made by some evaluators. Conclusions were drawn
8 and included in the report using hearsay rather
9 than hard data.
10 An example is the parents are of Native
11 American descent and are alcoholic. Caucasian
12 students whose parents were reported as being
13 alcoholic was not written in the report nor was
14 their heritage mentioned in that report. When this
15 happened, I requested that the report be revised so
16 that the student would be viewed in a fair manner.
17 The request was honored, the revisions were made.
18 I believe great care must be given when
19 evaluating children for programs that will label
20 them severe handicapped. Think about the
21 following: Emotionally disturbed, behavioral
22 disorder, mentally impaired, attention deficit,
23 severely handicapped, profoundly handicapped,
24 learning disabled, autistic. This incomplete and
25 partial listing of labels should make you aware

1 that schools can and do categorize students for
2 special education programs.
3 What could happen is place a distorted
4 label on the child as being handicapped. When
5 misdiagnosed, the label placed on the student has
6 the potential of a negative effect on that student
7 for the rest of his life. When that student is a
8 Native American child, the child has two conditions
9 to cope with: One, being handicapped; two, being a
10 minority.
11 I believe in a sound education for all
12 students and I believe that students are able to be
13 successful when they are provided with
14 opportunities to learn in a safe environment and
15 allowed adequate time to learn a process and a
16 concept.
17 Teaching students how to learn. Teach
18 them strategies that will allow them to be
19 successful in life beyond the classroom. Teach
20 them to believe in themselves as worthwhile human
21 beings. Teach them to be life-long learners so
22 that they are able to make decisions that affect
23 their lives in a positive way.
24 Because of the environmental factors,
25 Native American children need to be provided with

1 opportunities and experiences that allow them to be
2 able to compete in a society beyond the
3 reservation. They do not need to be placed in
4 special education programs because of lack of
5 opportunity. Children need to learn to learn.
6 They need to be provided with positive role models
7 that would build their self-esteem.
8 Students who are truly handicapped also
9 need to be taught same skills that any other
10 student is expected to demonstrate to suggest that
11 that student is an active citizen in this society.
12 I would like to make reference to the
13 multi-cultural courses that are offered at
14 university systems and are required by the State of
15 North Dakota. One multi-cultural course
16 specifically stated for Native Americans, I
17 believe, could do more harm than good. One credit
18 hour is not adequate, in my professional opinion,
19 to work with the Native American population.
20 It has been my experience, working with
21 my colleagues, that one credit hour sometimes
22 distorts what is out there. What I'm saying is, is
23 it's not enough. Professionals who are going to
24 teach any child need to be aware of the population
25 in which they teach.

1 I would also like to mention some facts
2 about working with parents. I have worked with
3 special education for approximately 19 years and it
4 has been my experience that there have been some
5 concerns about parent involvement. My concern is
6 that too often professionals give all of the
7 information about the child prior to getting
8 information about the child from the person who
9 knows the most about that child, the parent.
10 Imagine if you will a staffing where a --
11 after a child is referred, evaluated, and labeled,
12 walking into a conference room where possibly 15
13 professional people are sitting around a table.
14 Almost every one of those 15 people will likely say
15 something negative about that child and then they
16 will say to the parent, "What do you have to add?"
17 If you have a son or a daughter, think
18 about your child. And if you were in that place,
19 after everyone has said they are functioning below
20 average, perhaps in the low average range, they are
21 not functioning like they are expected to, this
22 child cannot read, write, or do mathematical
23 problems, etcetera, etcetera, and then ask
24 yourself: What do you have to add? That is your
25 child.

1 I think we need to be cautious as
2 professional people how we interact with parents.
3 My practice is to ask the parent first: Tell me
4 about your son or daughter. I find I get much more
5 information. Some of the things the speaker before
6 me talked about, I could gather a lot more
7 information by talking to the parent first and
8 getting the parent's input before making my formal
9 evaluation.
10 BRYCE STREIBEL: Any questions on the
11 part of committee members of Dr. DeCoteau?
12 AUDREY HENDERSON-NOCHO: I have a
13 question.
14 BRYCE STREIBEL: Yes, Audrey.
15 AUDREY HENDERSON-NOCHO: On the
16 conclusions sometimes that these reports give out,
17 individuals who write them normally make their
18 personal conclusions before they evaluate. What do
19 you think -- in your -- I've got to reword this.
20 When those events happen, how often are individuals
21 aware of that fact, that that does occur?
22 DR. DECOTEAU: I'm not sure if I
23 understand what you're asking. If you want to know
24 if the evaluators are aware of their drawing
25 conclusions prior to evaluating?

1 AUDREY HENDERSON-NOCHO: Right. And then
2 once you've brought that back to their attention,
3 how often -- that change that you wanted them to
4 make, how often is it made? And is it made with
5 resistance? Do you understand what I'm asking?
6 DR. DECOTEAU: Yes, I believe I
7 understand what you're saying. Yes, there was some
8 resistance to begin with. And when I questioned
9 further what purpose did it serve to identify the
10 heritage of that child and the alcoholism of the
11 parent -- I must add that the parent is not an
12 alcoholic nor does this parent have any -- that was
13 a -- something that was drawn before -- without --
14 that was not a fact -- I mean, it was just written
15 in that report -- the evaluator thought it would be
16 helpful to the people who would be carrying out the
17 program to know that that child was of Native
18 American descent, as well as having alcoholism in
19 the family, because that child would be treated
20 differently.
21 AUDREY HENDERSON-NOCHO: Okay. Is there
22 a procedure set in place with the recommendations
23 that you have, that it's better to address the
24 parents and the children before that evaluator
25 writes their own information on that?

1 DR. DECOTEAU: Is there a procedure in
2 place?
3 AUDREY HENDERSON-NOCHO: Right.
4 DR. DECOTEAU: No, there is not.
5 AUDREY HENDERSON-NOCHO: Because if this
6 is continual --
7 DR. DECOTEAU: No, not to my knowledge.
8 There is a time when -- the interviewing process is
9 different. I -- usually at a referral meeting,
10 several people are involved. I, most often, take
11 the time to meet with the parent individually, any
12 parent. When I had a referral, I would spend time
13 alone with that parent as part of my evaluation
14 process.
15 AUDREY HENDERSON-NOCHO: You mentioned
16 also the part about the one credit in a
17 multi-cultural course. Can you just explain a
18 little bit more about that? It distorts the
19 meaning of --
20 DR. DECOTEAU: So often I think -- one
21 quarter credit hour is equivalent to 15 classroom
22 hours? -- no, not that much. Eight, maybe. And
23 it's not enough information. They talk about --
24 there are -- sometimes there are characteristics, a
25 little bit of history, and that's all you have, and

1 then assumptions are made, drawn, from lack of
2 information. I just think there needs to be more.
3 AUDREY HENDERSON-NOCHO: Okay.
4 BRYCE STREIBEL: Dr. DeCoteau, in the
5 survey made in the academic year 1990-91 in North
6 Dakota, it was shown that there were 119 Native
7 American instructors in elementary education and
8 only 19 in secondary. What kind of a void, in your
9 professional opinion, does that present?
10 DR. DECOTEAU: What kind of a void?
11 BRYCE STREIBEL: The lack of Native
12 American instructors in high school. Nineteen
13 isn't very many.
14 DR. DECOTEAU: No, it's not. And as I'm
15 thinking about the building I was in and thinking
16 about adolescents and thinking about those Native
17 American children, students, that I interacted
18 with, there were -- there were some things that we
19 could understand, the Native American student and
20 myself, where it may have -- it was not understood
21 by other instructors. An example might be some
22 language that's used and I knew what that student
23 was talking about. There were not enough of me. I
24 mean, I was one in a faculty of about 600. I think
25 we need more numbers, more representation, more

1 positive role models.

2 BRYCE STREIBEL: I guess that's the

3 point, the last statement you made, role models. A

4 youngster up in high school, that's when they

5 really begin to seriously think about what lies

6 ahead after high school education. And I think --

7 I'm not trying to discount the role of elementary

8 education, but giving that youngster a sense of

9 direction really comes into the foreground and into

10 focus when they get into high school because they

11 know the reality of life lies ahead of them and,

12 when they get out of that four-year program, they

13 have some pretty important decisions to make.

14 It would appear to me that a lack of

15 Native Americans being there and available to

16 counsel with them and give them advice certainly is

17 important. You spread 19 of them around the system

18 in North Dakota, that isn't very many.

19 DR. DECOTEAU: I firmly believe students

20 need to be taught particular skills in that

21 transition from a rural community, be that a

22 reservation community or another community, into

23 the university setting. The speaker before me

24 spoke about the students dropping out once they get

25 into post secondary. There are particular skills

1 that need to be taught of how to function on
2 campus.
3 BRYCE STREIBEL: Betty?
4 BETTY MILLS: Do you think that the
5 reason that there are not more Native American
6 teachers at the high school level, is this because
7 they are not hired or because they are not
8 available to teach at that level or both?
9 DR. DECOTEAU: I don't know the answer to
10 that.
11 BRYCE STREIBEL: Bill?
12 WILLIAM MULDROW: Dr. DeCoteau, we hear a
13 lot about so-called fetal alcohol syndrome and
14 effect and that this disproportionately affects
15 Indian children and that it affects their learning
16 ability as well, which might account for some of
17 the disproportionment of Native American students
18 in special education.
19 Could you comment on that and also
20 comment on the relevance or -- of placing students
21 with this fetal alcohol effect problem in special
22 education? Does that meet their needs, of those
23 particular children?
24 DR. DECOTEAU: I don't feel like I'm
25 qualified to respond to that question. I have not

1 completed any research on alcohol syndrome.
2 WILLIAM MULDROW: Let me follow up on
3 that just a minute. You mentioned, and Dr. Rousey
4 also, cultural and -- cultural bias, differences in
5 background of Native American students. Do the
6 special education programs meet the needs of Indian
7 students who have a need for being placed in
8 special education?
9 DR. DECOTEAU: I think they meet the need
10 when they are truly handicapped, when a student is
11 truly -- meets the criteria, all criteria, for
12 being truly handicapped and placed in those
13 educational programs. I also believe in full
14 inclusion, not to isolate students.
15 WILLIAM MULDROW: Do you think the
16 programs which are in effect in North Dakota by and
17 large meet the needs, then, of Native American
18 students?
19 DR. DECOTEAU: I could only answer that
20 based on my previous ten years in the public
21 schools, not what's -- not other programs. I could
22 only answer that in response to the building in
23 which I worked.
24 WILLIAM MULDROW: Okay. In your
25 experience, you feel that they do -- are

1 appropriate for -- the programs are appropriate for
2 the Indian students?
3 DR. DECOTEAU: Only in the building that
4 I worked. I will only answer it that way.
5 WILLIAM MULDROW: But not at the higher
6 levels?
7 DR. DECOTEAU: I'm not sure what you mean
8 by higher levels.
9 WILLIAM MULDROW: You said only at the
10 elementary --
11 DR. DECOTEAU: No, I did not say that.
12 Only in the building in which I worked. I worked
13 in the secondary level.
14 WILLIAM MULDROW: I see. Okay.
15 BRYCE STREIBEL: Any other questions on
16 the part of committee members? Yes, Mark.
17 MARK SCHNEIDER: Doctor, you talked about
18 the bias of evaluators themselves. What about the
19 testing Dr. Rousey talked about, the tests in
20 determining whether a Native American child has a
21 learning disability or special need have never been
22 normed? Is that your understanding? And do you
23 see a problem with the tests themselves, as well as
24 the evaluators?
25 DR. DECOTEAU: I see a problem with the

1 test when only -- when only scores are looked at
2 for placement, yes, and some of the test items. I
3 find that particularly true in the area of
4 humanities. Some of those students have no idea
5 who Bach is and they were expected to answer
6 questions such as that.
7 MARK SCHNEIDER: Have there been any
8 tests or studies -- I'm very surprised if there
9 haven't been -- about how to make the test more
10 ethnic or race neutral for Native American kids to
11 identify whether, in fact, they need -- have some
12 learning disabilities?
13 DR. DECOTEAU: I don't believe there has
14 been any that have been normed.
15 MARK SCHNEIDER: Thank you.
16 BRYCE STREIBEL: Any other questions on
17 the part of the committee members?
18 (No response.)
19 BRYCE STREIBEL: Hearing none, thank you,
20 Dr. DeCoteau. Well, we're a few minutes ahead of
21 time. I guess that's a luxury. We might need them
22 as we progress.
23 Our next presenter is Peggy Lutovsky.
24 Peggy is the community education coordinator of the
25 North Dakota Protection and Advocacy Project.

1 Peggy, welcome.

2 PEGGY LUTOVSKY: Thank you. Good

3 morning. I was asked to appear before you today

4 for the primary purpose of highlighting the nature

5 of Native American student involvement in special

6 education from our agency's point of view. Prior

7 to doing so, I would like to digress for a moment

8 in order to provide you with an overview of our

9 agency's mission, program and services.

10 The North Dakota Protection and Advocacy

11 Project was established in 1977 as a result of the

12 Developmental Disabilities Assistance and Bill of

13 Rights Act of 1975. To summarize, the

14 Developmental Disabilities Assistance and Bill of

15 Rights Act, in part, required that states, in order

16 to receive federal financial assistance for

17 developmental disability programs, must establish a

18 system to advocate for and protect the legal rights

19 of its citizens with developmental disabilities.

20 At that time, the Protection and Advocacy

21 Project was staffed by one person. As a result of

22 the March 7th, 1984 Implementation Order in ARC

23 versus Sinner, our developmental disabilities

24 program was expanded to its present level, which

25 includes developmental disability advocates in each

1 of the eight regions of the state and at the
2 Developmental Center at Grafton, a coordinator of
3 community education, and a coordinator for our
4 citizen and self advocacy programs.
5 More recently, the project establishes
6 advocacy programs for people who have mental
7 illnesses. This program was established in 1988 as
8 a result of the Protection and Advocacy for
9 Mentally Ill Individuals Act of 1986. Presently,
10 our mental health advocacy program is staffed by
11 four advocates.
12 Services offered by the protection and
13 advocacy project include technical assistance,
14 education and training, self advocacy, which is a
15 program that assists individuals with disabilities
16 in advocating on their own behalf, citizen
17 advocacy, the program which matches community
18 volunteers with people with disabilities,
19 protective services whereby agency staff
20 investigate allegations of abuse, neglect, and
21 exploitation of adults with developmental
22 disabilities and mental illnesses and assures
23 appropriate remediation if necessary, and direct
24 representation whereby our staff or legal counsel
25 assist individuals with developmental disabilities

1 and mental illnesses in advocating for the legal
2 rights to which they are entitled.
3 To summarize, the mission of the
4 Protection and Advocacy Project is fourfold:
5 First of all, to protect and advocate for
6 the human, legal and civil rights of people with
7 developmental disabilities and mental illnesses, as
8 those populations may be defined by Congress,
9 through administrative, legal, and other
10 appropriate remedies.
11 Secondly, to advocate for quality
12 services as determined by the person with the
13 disability within the scope of, and compatible
14 with, that person's legal rights.
15 Third, to provide education, training,
16 and technical assistance to people with
17 disabilities, agencies which serve them,
18 professionals and others, regarding the rights of
19 people with disabilities.
20 And lastly, to maintain an independence
21 in decision making from any public or private
22 agency which provides services to people with
23 disabilities, or other third parties whose
24 interests conflict with the preferred options or
25 rights of those served by the project.

1 With respect to protective services and
2 direct representation services, the Protection and
3 Advocacy Project, within its last federal reporting
4 period ending September 30th, 1991, served a total
5 of 654 individuals. Of those 654 individuals, 46,
6 or 7 percent, were Native American. More
7 specifically, 15 percent of those Native Americans
8 represented by our agency requested assistance due
9 to concerns with educational services.
10 Because our agency was involved in a
11 total of only seven education cases involving
12 Native Americans within the last federal reporting
13 period, it may be presumptuous on our part to
14 arrive at factual conclusions regarding appropriate
15 services, least restrictiveness, and a host of
16 other related legal and educational issues
17 affecting this population.
18 However, there are some similarities
19 among these seven cases, as well as other cases
20 that we have had involving Native Americans, and
21 they are:
22 Number one: In all seven education
23 cases, our clients had to move off the reservation
24 in order to obtain appropriate services. This data
25 is consistent with the findings of a study

1 conducted from 1984 to 1986 by Diana Medicine Stone
2 of the Center for Independent Living in Mandan. In
3 her study, Ms. Medicine Stone found that regardless
4 of the type of disability or service needed to
5 accommodate or remediate the disability, and
6 without respect to any one particular reservation,
7 special equipment and/or service needs were
8 consistently unmet for those continuing to reside
9 on reservations.
10 Number two: Of the seven education cases
11 handled by our agency, only two were referrals from
12 parents, who, by the way, resided off the
13 reservation at the time of the referral. This
14 finding is consistent with the many other cases
15 handled by our agency in representing Native
16 Americans and opposite of education cases we have
17 had involving our non-Native American clients,
18 where the most common referral source to our agency
19 has been the student's parents and/or guardian.
20 Reasons for the contradiction in these findings may
21 include not having the means of contacting our
22 agency, not wanting the involvement of state
23 government, or not realizing that potential rights
24 violations exist.
25 Number three: None of the seven

1 education cases handled by our agency were referred
2 to us by education professionals. Again, reasons
3 behind this may be similar to those I previously
4 indicated. In addition, I believe it is worth
5 noting that our data concurs with information
6 recently published by the North Dakota Center for
7 Disabilities.
8 In a study entitled "North Dakota Native
9 Americans, Native American Experience and
10 Developmental Disabilities Services," Dr. AnnMaria
11 Rousey and Bruce Gillette found that less Native
12 American children are identified by school systems
13 as having mental retardation than would be expected
14 given the estimated prevalence rates.
15 Reasons for under-identification were
16 cited as differences in methods of assessment for
17 mental retardation used by BIA schools, lower
18 standards of teachers who are less likely to refer
19 low achieving Native American children, and
20 resistance of parents to labeling. Without an
21 accurate diagnosis, it is less likely that our
22 agency will receive referrals.
23 And number four: Staff of our agency who
24 have represented Native Americans in these
25 education cases and others express similar concerns

1 over communication barriers. Examples cited
2 include the lack of knowledge of all parties
3 involved regarding service availability on and off
4 the reservation and the inability of our staff to
5 identify and/or contact appropriate persons on
6 reservations.
7 Project staff have recognized the
8 importance of addressing these concerns as one
9 means of assuring appropriate services to Native
10 Americans with disabilities on reservations. We
11 have previously held training for our professional
12 staff on topics specific to North Dakota Native
13 Americans and reservations, such as cultural issues
14 and differences among tribes, government structure
15 on reservations, and laws applicable to people with
16 disabilities, such as guardianship and commitment.
17 In addition, we are currently in the
18 process of initiating proactive steps towards
19 facilitating contact and communication with service
20 providers and professionals who work with people
21 with disabilities on reservations. By next fall,
22 agency staff will be conducting at least two
23 presentations on each reservation in order to
24 inform professionals of the services we have to
25 offer, including our role in providing direct

1 representation services and protective services.
2 We hope that these proactive measures
3 will assist providers of disability services on
4 reservations and ultimately result in the
5 development and/or refinement of appropriate
6 services to meet the needs of Native Americans with
7 developmental disabilities or mental illnesses.
8 Thank you.
9 BRYCE STREIBEL: Thank you. Any
10 questions on the part of committee members?
11 (No response.)
12 BRYCE STREIBEL: Well, I might lead off.
13 You alluded to the inception of the protection and
14 advocacy program, the one staff person, a half-time
15 secretary, at that time, and it's grown not only in
16 numbers of the people but substantial increase in
17 funding. How does the growth of the program --
18 which, I guess, originally was an available
19 department that the people could come to, as
20 compared or contrasted to the present where you
21 seek out people that might be eligible. Am I
22 correct in that?
23 BETTY LUTOVSKY: Not necessarily, Sir.
24 And that's been, I think, part of the whole issue
25 as far as our involvement in providing services to

1 individuals who are Native American and/or reside
2 on a reservation.
3 Part of the problem is we receive the
4 vast majority of the referrals that ultimately end
5 up in direct representation or protective service
6 cases, thereby tying up our staff, which limits us
7 in proactively seeking out referrals. And that's
8 one of the reasons why we're planning, by September
9 30th of next year, to go out and do presentations
10 to initiate that contact out there.
11 BRYCE STREIBEL: Thank you. Any other
12 committee members? Mark?
13 MARK SCHNEIDER: Have you had any
14 relationship with the U.S. Department of Education
15 Civil Rights Compliance Division at all?
16 BETTY LUTOVSKY: Yes. On individual
17 case-by-case basis. We have -- I'm aware of cases
18 where our advocates have made referrals to OCR in
19 Denver on education or human service related
20 issues, but it's case by case.
21 MARK SCHNEIDER: What kind of results
22 have you been getting from OCR in Denver?
23 BETTY LUTOVSKY: Boy, again, these are on
24 a case-by-case basis and I wasn't totally familiar
25 with those cases that result in -- I can think of

1 one case, I guess, without knowing a lot of detail,
2 where it was referred to the Office of Civil
3 Rights, Division of Education, in Denver. And the
4 allegation was inappropriate or lack of services
5 for a couple of individuals that had resided --
6 students that had resided on the reservation, were
7 now off the reservation, and still were not
8 receiving appropriate services. And the Department
9 of Education, through OCR, could not substantiate
10 the findings.
11 MARK SCHNEIDER: Do you know if the OCR
12 Division of Department of Education out of Denver
13 has ever done an on-site investigation in North
14 Dakota regarding noncompliance?
15 BETTY LUTOVSKY: In that particular
16 situation, yes.
17 MARK SCHNEIDER: They sent a staff
18 member?
19 BETTY LUTOVSKY: Yes.
20 MARK SCHNEIDER: Thank you.
21 BRYCE STREIBEL: Any other committee
22 members? Yes, John.
23 JOHN OLSON: Thank you, Mr. Chair.
24 Peggy, you mentioned communication barriers as
25 being a problem with serving this population. The

1 answer may be obvious, but could you define
2 communication barriers for us?
3 BETTY LUTOVSKY: Usually what -- and this
4 is somewhat anecdotal because I talked to my staff
5 before I came here to get the feel for what they're
6 seeing out there. A couple of examples that they
7 had cited were either it was difficult to obtain
8 information because, you know, sometimes we have to
9 get releases of information, and in a couple of
10 situations the parents were transient, so it was
11 difficult to locate the individuals in order to
12 obtain the release of information.
13 A couple of situations involved both our
14 staff and the folks that they were in contact with
15 on reservations not being aware of each other's
16 services, which ended up that was the most common
17 problem that was cited by our staff, is once they
18 could make the contact, appropriate contact, on the
19 reservation, the people that they really needed to
20 talk to based on the particular concerns or
21 questions they had, is the unfamiliarity with each
22 other's services.
23 It seemed like our staff had difficulty
24 in trying to get a handle on all of the services on
25 a particular reservation and who the contact people

1 were for those services. And then the reversal was
2 true, which, in those seven cases, all the
3 individuals were off the -- had to go off the
4 reservation to get those services. Then there was
5 confusion again in our advocates having to explain
6 the services on our end outside of the
7 reservation. So those were the two biggest that
8 ultimately resulted in somewhat of a delay in
9 providing direct representation services.
10 JOHN OLSON: Thank you.
11 BRYCE STREIBEL: Bill?
12 WILLIAM MULDROW: Ms. Lutovsky, how is
13 your agency funded?
14 BETTY LUTOVSKY: I brought those notes
15 with me. We have two programs, our developmental
16 disabilities and our mental health program. Our
17 developmental disabilities program, if I can read
18 off my stats here, is state and federal funded and
19 has a two-year budget of $1,765,080. Our mental
20 health program just recently, within this last
21 biennium, started receiving state dollars. And
22 their budget, two-year budget, is $487,442.
23 WILLIAM MULDROW: How many staff people
24 do you have in your agency?
25 BETTY LUTOVSKY: I have to picture the

1 map around the state when I do that. We have 4
2 mental health advocates, plus part-time secretarial
3 help for those staff; our developmental
4 disabilities program, 14 staff in regional offices
5 and then our administrative staff in our office
6 here in Bismarck, plus part-time secretarial help.
7 WILLIAM MULDROW: How many of those are
8 Native American?
9 BETTY LUTOVSKY: None anymore.
10 WILLIAM MULDROW: Why -- on such a
11 crucial area where Native Americans are
12 disproportionately involved, why is it you don't
13 have staff?
14 BETTY LUTOVSKY: Pardon me?
15 WILLIAM MULDROW: Why is it that you
16 don't have Native American staff to deal with the
17 problems relating to Native Americans?
18 BETTY LUTOVSKY: I'm sorry. I'm unable
19 to answer that.
20 WILLIAM MULDROW: Do you have an
21 affirmative action program to try to recruit Native
22 American staff for that?
23 BETTY LUTOVSKY: We have an affirmative
24 action program. I'm not so sure, being I don't do
25 the hiring per se, whether we target specifically

1 Native Americans. We use affirmative action and we
2 do look at the qualifications of individuals with
3 disabilities or any other individual that would
4 otherwise be qualified. But it just so happens, at
5 this time, none of them are Native American.
6 WILLIAM MULDROW: Thank you.
7 BRYCE STREIBEL: As I recall, Bill, the
8 budget is in the area of two plus million and I
9 think their total FPE's or full-time equivalent
10 staff is in the low 20's, 20 plus some staff, if
11 you take all of those programs. I was going to ask
12 the same question you did. I think I knew the
13 answer before you asked it about Native Americans
14 on board. I don't recall any of them either. The
15 point is well made that you wonder why.
16 Any other questions on the part of the
17 committee members?
18 AUDREY HENDERSON-NOCHO: I have one.
19 BRYCE STREIBEL: Yes, Audrey.
20 AUDREY HENDERSON-NOCHO: At what time --
21 or you say that you did have Native American
22 employees at one time.
23 PEGGY LUTOVSKY: Uh-huh.
24 AUDREY HENDERSON-NOCHO: How many did you
25 have?

1 PEGGY LUTOVSKY: In the past?
2 AUDREY HENDERSON-NOCHO: Yes.
3 PEGGY LUTOVSKY: Since I've been on
4 board, I can think of one.
5 AUDREY HENDERSON-NOCHO: How long have
6 you been there?
7 PEGGY LUTOVSKY: Three and a half years.
8 AUDREY HENDERSON-NOCHO: In what capacity
9 were they?
10 PEGGY LUTOVSKY: An advocate.
11 AUDREY HENDERSON-NOCHO: How long had
12 they been there?
13 PEGGY LUTOVSKY: I'm not sure. They were
14 there before I started.
15 AUDREY HENDERSON-NOCHO: Okay.
16 BRUCE STREIBEL: Yes, Bill.
17 WILLIAM MULDROW: How do you feel about
18 your program? Do you feel it's an effective
19 program? Are you making some inroads on some of
20 the problems you mentioned?
21 PEGGY LUTOVSKY: With respect to the
22 issues I've cited with Native Americans?
23 WILLIAM MULDROW: Uh-huh.
24 PEGGY LUTOVSKY: I think we are getting
25 to that point. We're still in real early stages, I

1 think, with respect to what we can be doing as far
2 as serving Native Americans who reside on
3 reservations. That's why we brought in individuals
4 to provide some training for our staff, to assist
5 them in making at least the initial contacts they
6 need to make when they go out on reservations,
7 serving individuals. But I think we have a long
8 ways to go.
9 Recognizing whether it's Native Americans
10 or any other population of people you would like to
11 refer to, there are a lot of people that probably
12 need services that aren't getting them. And we do
13 have a waiting list for our services.
14 WILLIAM MULDROW: Thank you.
15 BRYCE STREIBEL: Any other questions on
16 the part of committee members? Mark?
17 MARK SCHNEIDER: Just one. Ms. Lutovsky,
18 in fairness, you don't do any of the hiring at
19 Protection Advocacy, do you?
20 PEGGY LUTOVSKY: Correct.
21 MARK SCHNEIDER: Who does the hiring?
22 PEGGY LUTOVSKY: Our executive director,
23 our program director.
24 MARK SCHNEIDER: Who is your executive
25 director?

1 PEGGY LUTOVSKY: Barbara Braun.
2 MARK SCHNEIDER: How long has she been
3 executive director?
4 PEGGY LUTOVSKY: Since 1977 or '78.
5 MARK SCHNEIDER: Thank you.
6 BRYCE STREIBEL: Any other questions?
7 (No response.)
8 BRYCE STREIBEL: Thank you, Peggy. We're
9 now at --
10 (An off-the-record discussion was
11 had.)
12 BRYCE STREIBEL: Okay. We have a -- Dr.
13 Jim Davis has a scheduling problem today, and we
14 had Dr. Davis scheduled for 2:15 p.m. this morning
15 (sic) and I think it would be a good time now to
16 accommodate him. If it infringes a bit on our
17 coffee break, so be it.
18 So Dr. Davis -- he'll be our next
19 presenter -- is past president of the North Dakota
20 Indian Education Association.
21 DR. DAVIS: Chairman Streibel, members of
22 the North Dakota Advisory Committee to the U.S.
23 Office of Civil Rights and staff members of the
24 U.S. Office of Civil Rights, Denver, Colorado, good
25 morning and I thank you for changing your schedule

1 or, I guess, to accommodate my schedule so that I
2 am able to be given some time to speak to you on
3 behalf of our organization, the North Dakota Indian
4 Education Association.
5 This association has been in existence
6 for 21 years and it has had a membership, active
7 membership, of a hundred and seventy to 200
8 individuals throughout that period of time. The
9 membership on this organization does not, of
10 course, only include Native American educators. It
11 also includes quite a number of non-Native members,
12 who we refer to as associate members of our
13 organization. I'm the past president of the
14 association and was the president for three years.
15 The mission of the North Dakota Indian
16 Education Association is that of an advocacy role
17 and to support and propose programs that offer
18 educational opportunities for Native American
19 students throughout North Dakota.
20 To accomplish this, this mission, we of
21 course do a lot of collaborating, communicating,
22 with various organizations throughout the state.
23 These organizations, of course, include the North
24 Dakota Department of Public Instruction, the North
25 Dakota Education Association, the Teacher

1 Professional Practices Commission, colleges,
2 universities, tribal colleges, tribal councils,
3 schools that enroll a sizeable number of Indian
4 students, and other organizations that we see as a
5 need to accomplish our mission, our goal, as a
6 statewide organization.
7 One of the major components that this
8 organization has been involved in over at least the
9 last 15 years, as I recall, is the teacher
10 certification requirement for teachers in North
11 Dakota. Any individual who teaches in a school in
12 North Dakota is required to have two semester or
13 three quarter hours of Native American studies.
14 And this was discussed a little bit
15 earlier this morning about probably some of the
16 shortcomings of that requirement. Although we
17 realize it's a start -- and it was passed by the
18 state legislature, I think, back about 10, 12 years
19 ago, 12 years ago -- we feel it is a decent start,
20 although it has created some problems for us in
21 North Dakota and in particular with those colleges
22 and universities who don't have on staff the
23 individual or individuals who have the background,
24 the information, the resources, the knowledge of
25 being able to teach that type of course.

1 And you probably say: Well, how does
2 this relate to special education? It has a lot of
3 relationship and correlation to special education
4 from the standpoint that when we have teachers
5 teaching in our schools, in our special education
6 programs, who don't have an understanding of the
7 cultural language, socioeconomic condition of our
8 students, they're going to make assumptions and
9 decisions that aren't in the best interest of our
10 students.
11 And in a lot of cases we know, and as Dr.
12 Rousey has indicated, there's evidence out there
13 that shows there are a lot of these students being
14 placed in special education programs without full
15 consideration of language deficiencies or language
16 barriers and the proper understanding of the
17 culture.
18 The teacher certification requirement,
19 getting back to that, is something that we've
20 worked with, like I say, for the last 10, 12
21 years. And even before that, through a series of
22 legislative challenges, I think we were able to get
23 the requirement passed.
24 And as some of you may remember, a number
25 of the teachers were grandfathered because they

1 felt that those people who already had their
2 certification did not have to fulfill this
3 requirement. And when the law was passed, it went
4 for about two years and then the people who were --
5 had already received their certification came in
6 and said: Why should we be required to go back and
7 take this class because -- why not just grandfather
8 us in and we won't have to fulfill that
9 requirement? That was accepted.
10 And one of the things about that, I
11 guess, is that it left a -- I think a void there
12 within our education system that we still have
13 today, probably. Because I would say a lot of
14 those people who were grandfathered in at that time
15 are probably still teaching today and are probably
16 still continuing to have those perceptions and
17 attitudes about teaching Native American students.
18 The colleges, so as a result of that, of
19 course, have made their attempts, I think, to do
20 some things to more properly prepare teachers, but
21 I would say not much more beyond that.
22 It seems to me, in my work today as an
23 education superintendent on the Turtle Mountain
24 Reservation, that colleges and universities aren't
25 doing enough to train -- properly train teachers of

1 Native American students. I say that because we
2 continue to get teachers, I feel, in most respects,
3 or in a lot of respects, that go into our schools
4 who aren't fully prepared.
5 And I'm even going as far as saying that
6 they're not training even our Native American
7 teachers well enough. I think that there has been
8 some -- I'm not sure if you can call it oversight
9 or lack of interest or concern on the part of the
10 universities and colleges to deal with that, but
11 there's an option to deal with that and I think
12 that option is a viable, workable, and I think in
13 some ways a proven option, and that is to get the
14 tribal colleges more involved in the training of
15 teachers in our state.
16 And there has been a need for those
17 colleges to receive some state funding, I realize
18 and I understand. In the past, they've gone to the
19 legislature to request funding to support the
20 colleges, and that hasn't come about. Maybe the
21 approach that needs to be taken by the state
22 legislature, since we're dealing and talking about
23 teachers and teachers of Native students and
24 teachers of students who are in special education,
25 that the state legislature ought to fund or help

1 support the tribal colleges and especially for
2 those students who want to go into the teaching
3 profession.
4 We do certainly have a lack of teachers,
5 Native teachers, in our schools across the state.
6 And I say across the state because I think they
7 ought to be in most schools or all schools where
8 there is a sizeable number of Indian students.
9 For a lot of these kids, they don't have
10 a role model, and for a lot of these kids, they
11 lack a positive self identity. They don't have a
12 strong self concept about themselves as minorities
13 and, in some regard, it's probably no fault of
14 theirs. They grew up feeling inferior for one
15 reason or another.
16 For those of you people who are
17 minorities, or maybe not minorities, on this panel,
18 I'm not sure if you know what discrimination feels
19 like when you are a minority, but it's certainly
20 out there. I won't get into that too much, but I
21 think that's a known fact throughout our state,
22 that there is that discrimination, that there is
23 that subtleness about how we treat Native students,
24 Native people in the state, and cities and towns
25 across the state and across the country.

1 I guess I can't -- I don't want to come
2 up here and talk just about the problems. I want
3 to be able to talk about some solutions, and I did
4 make some reference to some solutions in regard to
5 the state legislature and the tribal colleges.
6 And another solution, I think, is that
7 our tribes need to -- our tribal councils, our
8 tribes in the state, need to take a greater role in
9 the -- in determining what types of programs are
10 needed in our schools. I really don't feel that
11 our tribal councils are taking an active enough
12 role to determine and decide locally what is needed
13 in their communities.
14 And I think with their establishing what
15 we would refer to as a tribal education department
16 in our -- on our reservations, that that would
17 provide some coordinated effort to pull things
18 together on reservations in terms of education.
19 Now, of course, we had that with higher
20 education, with the tribal colleges, but for
21 basically any -- all of our reservations in North
22 Dakota, we don't have, per se, a tribal education
23 department that has any proven success.
24 Now, we have one up at Fort Berthold that
25 has been in existence for about a year and a half

1 or so now, but they're trying to work out what it
2 means and what it is to have a tribal education
3 department in their own community.
4 Now, to go -- to take that tribal
5 education department a step farther, there has to
6 be an understanding that certain standards and
7 expectations have to result from that type of a
8 structure. And that -- that structure would
9 require that teachers and educators who teach on
10 reservations and in our schools have certain --
11 that they have met certain requirements. We're
12 talking about requirements that exceed the state
13 standards.
14 We don't feel -- I guess I need to speak
15 for myself, and maybe for a lot of people that have
16 been in education, Indian education, that we do not
17 feel that the state standards adequately meet the
18 needs of our students in North Dakota. The North
19 Central Accrediting Agency does not really meet the
20 needs of our students in North Dakota, and
21 especially on Indian reservations.
22 So to address that and to improve upon
23 that, we need to, at the local level, establish
24 those tribal education departments and write within
25 our tribal education codes that greater

1 expectations and standards are to be met by our
2 educators in our schools.
3 Because we have a greater need in terms
4 of our students both from a cultural, linguistic,
5 and socioeconomic viewpoint, we have to have
6 greater standards or higher standards for our
7 educators, our teachers, our support staff, our
8 paraprofessional staff, to really meet that
9 challenge. So I wanted to mention that.
10 And I guess the reason I'm saying that is
11 because I think we're in a position ourselves at
12 the local level, at the tribal level, to begin
13 that. We can't wait for a change of attitudes, a
14 change of behaviors, in our state to say that
15 that's going to improve in any given time. I think
16 the tribal colleges, and hopefully with the support
17 of the state offices and the state legislature, is
18 going to bring about a change in education.
19 I work for the -- my day-to-day job and
20 my responsibility is that of a Bureau -- a Bureau
21 of Indian Affairs educator. And if you've heard
22 about the Bureau of Indian Affairs, there's been,
23 of course, a lot of concern about the quality of
24 education that we provide.
25 Well, there is a massive effort going on

1 right now to restructure the Bureau of Indian
2 Affairs where that most of the decision making
3 power and authority will go down to the lowest
4 level possible.
5 Right now, in education and throughout
6 the Bureau of Indian Affairs, it's my understanding
7 that we receive like 12 cents on the dollar that
8 gets down to the local level. And with the
9 re-organization task force and their efforts, they
10 want to bring down more of those dollars to the
11 local level and more of the decision making
12 authority down to the local level, and that means
13 down to the reservation level.
14 WILLIAM MULDROW: Dr. Davis, how do you
15 relate what you're saying, the need for trained
16 Native American teachers, to this topic that we're
17 discussing, special education needs of Indian
18 students and their place in the system? How do you
19 relate that to that topic?
20 DR. DAVIS: Well, again, it gets back to
21 any teacher you have in our system, in our school
22 system, and probably more so when you talk about
23 off reservation schools that are educating
24 students.
25 And it's known that throughout the

1 country, that about 90 percent of the Indian
2 children are educated in public schools. The
3 balance of those students, about 10 percent, are
4 educated in Bureau of Indian Affairs schools. So
5 by that fact, we know that a high number of our
6 kids are enrolled in public schools.
7 And the teacher training component that
8 needs to be addressed and strengthened is
9 reflective of, I feel, the problem we have right
10 now in the excessive number of students that are
11 placed in special education programs.
12 When you have a person, a teacher, a
13 special education teacher, an administrator who is
14 not fully aware of the cultural differences, the
15 linguistic differences of students, you're going to
16 make some assumptions, and most likely that
17 assumption is that the student is a slow learner
18 and will end up in a special education program.
19 Back a few years ago when I worked at the
20 State Department of Public Instruction as the
21 director of Indian Education Programs, we got
22 involved in the bilingual programs. And we found
23 that a large number of our students -- and I'm
24 saying Indian students -- were non-English speaking
25 students. In other words, they could speak the

1 language, but to write it, to read it, to
2 understand it, they had a difficult time.
3 (A brief recess was taken for court
4 reporter to change paper.)
5 DR. DAVIS: As I was saying, back in the
6 early '80's and mid '80's, we did a number of
7 assessments of our Native students in North Dakota
8 and we found that a certain number of those kids
9 were non-English speaking students. They didn't
10 necessarily speak their own native language, but
11 they were English speakers in the sense that they
12 understood the English language, they could speak
13 it, but they had a hard time conversing in the
14 English language, speaking it, writing it,
15 understanding it. And more so, we had students who
16 were limited English speaking students.
17 In fact, it was a real surprise to me
18 that, in some of the schools, nearly a hundred
19 percent of our kids were limited English speaking
20 students, using that one form of assessment. Now,
21 if we would have used another assessment, probably
22 would have come up with a different figure.
23 But it was a real surprise to me when we
24 found out that we had schools that had students who
25 scored -- or 90 percent of our students in those

1 particular schools were limited English speaking or
2 non-English speaking students.
3 So when you have that type of a situation
4 in our schools and you don't have trained teachers
5 and you have these young kids coming in to the
6 kindergarten, first grade, second grade, and have a
7 new teacher coming in, and the English skills of
8 these students are maybe already two and three
9 years behind grade level, there is a -- there is
10 going to be a natural assumption on the part of the
11 teacher, an educator, especially those who do not
12 understand Native students and the culture, the
13 language, there's going to be that natural
14 assumption that they're going to say that this
15 student is a slow learner, because he can't read,
16 because he can't comprehend the English language.
17 That does have an adverse impact on the success in
18 other subject areas.
19 So that's why I feel that the teacher
20 training program in our state needs to provide a
21 greater role, I guess, or become more involved in
22 what it is to prepare our teachers who are going to
23 be teaching Native students.
24 Now, we don't have a lot of students in
25 our state who are Native speakers, but because the

1 -- the community and the parents, grandparents,
2 extended family members do speak the Native
3 language and they themselves have limited English
4 speaking skills or are non-English speakers, that
5 has an influence on those young kids. If they
6 don't have access to day-to-day conversations with
7 individuals who are proficient in the English
8 language, then they are going to start school with
9 a disadvantage.
10 And not that they're incapable of
11 learning the English language, but the mistake that
12 teachers make is when the student comes in to the
13 kindergarten classroom or first grade classroom or
14 third grade classroom, they need to take the
15 student where that student is at. They may be
16 still, at that time, one or two years behind grade
17 level, but the attitude that teachers have is that
18 this student is a third grader, he or she should be
19 learning at the third grade level. And if he's
20 not, then there's something wrong.
21 And the next step, of course, is what we
22 call step one, to consider possibly placement in
23 special education. And without proper training of
24 these educators and these teachers, we're going to
25 continue to have that.

1 Now, a lot of this probably is
2 attitudinal, a lot of it could be related to
3 racism, maybe, but a lot of it probably is just
4 simply unawareness, unaware of what they're doing.
5 They're not educated to the fact that these things
6 do exist.
7 BRYCE STREIBEL: Dr. Davis, over the
8 years, I've had the opportunity to visit many of
9 the Native American schools across the state. And
10 one time I recall then Senator Olson and I stopped
11 in at Four Winds, which is something else, really
12 is a facility and a program that is very, very
13 impressive. And you go up to Belcourt and you find
14 the same -- same type of an offering there. And
15 then you can go -- I don't know if that institution
16 is still there or not on the Fort Totten
17 Reservation. They called it a college and it was
18 three or four rooms. It was very primitive, you
19 know.
20 And you made a statement that a good
21 preponderance of the Native American students are
22 in public schools. How do you compare the offering
23 that -- the attention that's given in the Native
24 American schools and the product that they turn out
25 versus the public schools and the product that

1 eventually emanates from those schools?
2 DR. DAVIS: Well, there's been some
3 recent studies on that and some studies that have
4 been done years ago. And OMB just recently -- in
5 fact, last spring -- required that we do a
6 comparison of the success of students attending
7 Bureau of Indian Affair schools, of course on
8 reservations, with public schools of similar size.
9 And what they wanted to look at was how good are --
10 you know, what type of a job are the Bureau schools
11 doing in comparison to public schools.
12 And we don't have the results of that
13 yet, but other studies have shown that the success
14 of on-reservation schools in teaching Native
15 students is better than public schools who are --
16 we're comparing Indian students against Indian
17 students here. We're not comparing Indian against
18 non-Indian. But if you compare Indian against
19 Indian students in the Bureau schools,
20 on-reservation schools, and off-reservation public
21 schools, the on-reservation schools are doing a
22 better job.
23 One thing that's probably significant in
24 those studies is the dropout rate of students in
25 public schools off reservations. We have schools

1 across the country where you have 80, 90 percent
2 dropout rate of Indian students in public schools.
3 And although we don't have that, and we're
4 certainly not proud of our dropout rate, we need to
5 -- it's better than 80, 90 percent. I don't think
6 there's any school that's on a reservation that has
7 that high of a dropout rate.
8 In comparison to the general public or
9 the students, non-Indian students, across the
10 country, our test scores -- if you're looking just
11 at test scores, and that's not necessarily an
12 indicator of success -- but our students don't
13 score as well. In fact, within Bureau schools, we
14 have a range of successes and things we are not too
15 proud of, but we're working on those to, hopefully,
16 improve it.
17 I had some recommendations, I think, for
18 the -- I felt for the -- my presentation, if I
19 could state those. There's just three, I think, or
20 four. And that will conclude my presentation,
21 unless you have questions.
22 BRYCE STREIBEL: We are running a bit
23 short. Coffee break is gone, by the way. If any
24 committee members want to go get coffee, they can
25 go down there, I guess, and get it.

1 WILLIAM MULDROW: Our court reporter will
2 need a break.
3 BRYCE STREIBEL: Oh, okay. There's other
4 things besides coffee, I guess. Maybe you can make
5 them brief.
6 DR. DAVIS: Yes. The recommendations I
7 have is that the state legislative take a serious
8 look at and assess the teacher needs and
9 certification requirements as it relates to the
10 teaching of Native students in our state. That's
11 number one.
12 Number two: The state legislature
13 provide financial support to tribal colleges in
14 North Dakota so there is an expanded effort to
15 prepare teachers.
16 Colleges, universities can -- or should
17 offer tuition waivers for, say, an X number of
18 students going into teaching and who have a desire
19 or interest in teaching in an Indian school or
20 where there is a sizeable number of Indian students
21 enrolled.
22 Number four: Tribes need to be afforded
23 and they need to accept a much greater role in
24 deciding the educational needs of their students.
25 And this can be done through tribal education

1 departments, tribal education codes that would
2 raise the standards and expectations of teachers
3 coming into those school systems, and as a result,
4 I feel, improve the academic, social, emotional,
5 psychological achievement of our students and
6 well-being.
7 BRYCE STREIBEL: Thank you, Dr. Davis. I
8 might add you sent a pretty good senator down there
9 from --
10 DR. DAVIS: Dan Jerome?
11 BRYCE STREIBEL: Yes.
12 DR. DAVIS: We're proud to have him in
13 there.
14 BRYCE STREIBEL: We will stand in recess
15 for ten minutes. Eleven o'clock.
16 (A recess was taken from 10:48 a.m.
17 to 11:00 a.m.)
18 BRYCE STREIBEL: The committee will come
19 to order. And the next presenter is the 10:45
20 agenda item -- we're about 15 minutes behind -- and
21 Steve Bailey, who represents Concerned Citizens
22 Against Prejudice. Steve?
23 (No response.)
24 BRYCE STREIBEL: Is he here?
25 AUDREY HENDERSON-NOCHO: I don't see

1 Steve here.

2 BRYCE STREIBEL: Well, is Connie Glasser

3 here? There you are. Okay. Connie, we'll move

4 you into this slot then. Okay? Connie is the

5 secretary of the Parent Committee Board, Indian

6 Education Programs, in the Bismarck Public

7 Schools. Connie?

8 CONNIE GLASSER: Hello. First of all, I

9 have four children. I'm a single parent. My

10 children are enrolled in the Standing Rock Sioux

11 Tribe.

12 As a member of the Indian Education

13 Committee, I'm involved in policy making. I help

14 make decisions on how to best help the Native

15 American student adjust to off reservation life and

16 schools and to help them academically any way we

17 can.

18 Within the last couple of years, there

19 has been more culture awareness in our Bismarck

20 public schools. And because of the high rate of

21 alcoholism on the reservation, which has led into

22 stereotyping of the Native American, restoring

23 respect for the culture has been quite a task in

24 the non-Indian schools and communities.

25 The culture awareness is growing in the

1 Bismarck schools and I think it's good. The
2 National Native American Week is also being
3 celebrated more so now than it used to be. I feel
4 that having the culture awareness in the off
5 reservation schools will broaden the knowledge of
6 the non-Indian staff and student.
7 And a lot is to be learned when different
8 cultures can share their ideas. If the Native
9 American culture dies, so does a lot of wisdom. If
10 people understand, I feel, where other people are
11 coming from, with a little help of God, maybe some
12 of the prejudice could be lightened or, hopefully,
13 disappear.
14 I'm going to switch the subject now
15 because I was asked to share my experience with my
16 son's learning disability in a Bismarck school.
17 Ever since he was a toddler -- he is now seven
18 years old, almost eight -- but ever since he was a
19 toddler, I had suspected he might be a little slow,
20 but it was never bad enough where there was really
21 a definite problem showing up, but you always
22 suspect.
23 So when he began headstart there were
24 things that still made me a little concerned. At
25 the end of the year he took a test which would tell

1 him whether he was ready for kindergarten or not,
2 and he just barely passed all these tests, just
3 borderline. So they'd say: Well, we see no reason
4 to hold him back. Yeah, there might be a little
5 something, but we think he can go on. So he went
6 on to kindergarten.
7 He couldn't even remember his alphabet at
8 the end of the kindergarten year, and I was very
9 concerned about how he was going to learn to read
10 when he didn't even know his alphabet. Phonics is
11 way above his head. Any phonics that is taught in
12 kindergarten is way above his head.
13 So at that point I wondered if I should
14 keep him back in kindergarten another year. I
15 asked about being tested for LD and I was told by
16 the principal that they do not test for LD until
17 after Christmas of the first grade, which is five
18 months into the school year. So I thought: Well,
19 why hold him back in kindergarten? The sooner we
20 get him in first grade, the sooner we can get some
21 testing done.
22 We moved him on to first grade. I
23 questioned it, but I did do it. It was a
24 nightmare. The principal suggested for us to stick
25 him in -- he was having some behavior problems by

1 this time, too, lots of no smiles, punching kids,
2 attitude was getting bad, didn't like school.
3 So we -- as he got into the first grade,
4 that continued, and it even worsened with -- now
5 which I believe was probably -- we stuck him with
6 the wrong type of teacher. I think it was a
7 personality conflict. That's my opinion. But this
8 teacher -- I kept close tabs with her on his
9 behavior. I checked almost weekly because I wanted
10 to do what was best for him.
11 Finally, I found out -- it was only a
12 month into the school year, and I found out
13 accidentally about a program at one of our local
14 hospitals called the Developing Potentials Program,
15 and it was the best thing I had ever done. So
16 about two and a half days of testing -- I decided
17 to run him through there. Two and a half days of
18 testing and about $550 worth, they diagnosed my son
19 as having a mild LD. It was mild, but it was
20 there.
21 So I went to the teacher and told her
22 about the diagnosis and she disagreed. She still
23 insisted that he was just being stubborn, that he
24 could do it if he wanted to. So I told the
25 specialist, the team specialist, at the hospital

1 that she did not believe.
2 So the teacher and the principal were
3 invited to our conference at the hospital where all
4 the specialists would meet and give their opinion.
5 Well, she did show up and the principal showed up
6 and she seemed like she accepted it there, and she
7 got back into the classroom and it was -- she still
8 -- I met at a conference after that and she still
9 seemed to think that he did not have a disability.
10 It was almost the end of the year before
11 she finally put him back into the slower group of
12 reading, which they call the "Lions" because they
13 don't want to offend them, and he was -- it was a
14 good move. He was so happy. There was only, like,
15 two months of school left, but he was the fastest
16 reader in the Lions group, his self esteem -- he
17 was smiling a little more and his self esteem was
18 up.
19 But still I really feel there was a
20 personality conflict. She had constant power
21 struggles with him. He was also diagnosed as being
22 very sensitive and a perfectionist. He'd want to
23 sharpen his crayons more than the other kids and
24 she didn't want to let him. It was really a
25 nightmare.

1 So this year it's a new year with a new
2 teacher and a teacher who seems to understand his
3 disability. She allows for shortcomings and she
4 works with him. She doesn't expect him to work at
5 as fast a pace as the rest. He does get it done,
6 but it takes him a little longer. He's still
7 capable of learning. She said he's just the best
8 kid in class. There hasn't been one punch or poke
9 this year, always smiling, always participates.
10 It's a relief that last year is over.
11 So I guess I'll close with still the
12 question in mind: Should the public school system
13 -- or why do they start, you know, that late into
14 the school season? Thank you.
15 BRYCE STREIBEL: Could I -- don't run
16 away. (Laughter.) There might be some questions.
17 Are there any questions of the committee members?
18 BETTY MILLS: It's kind of interesting
19 because up to now what we've heard is that the
20 children are put in special education and that
21 being a Native American is one of the ways that
22 they get -- you know, an identifying mark that gets
23 them there faster. You're telling us that you
24 tried to get them to recognize a disability and
25 they didn't, which sounds like a reserve seat.

1 I guess because of what we're trying to
2 establish here, do you feel in any way that this
3 conflict with the teacher was just purely personal,
4 or do you think the fact that he was a Native
5 American child had something to do with that?
6 CONNIE GLASSER: I suspected at the
7 beginning it may be Native American, it might be a
8 racial thing. But I think -- towards the end of
9 the year I changed my mind. I think it was a
10 personality conflict.
11 MALEE CRAFT: Do you think also -- you
12 talked about the difference, because this year your
13 son has a different teacher. Do you think that the
14 teacher's orientation and training is a significant
15 factor also in how last year's teacher has worked
16 with your son and how this year's teacher has
17 worked with him? Do you think last year's teacher
18 would have the same results with your son that this
19 year's teacher has, or do you think there's a
20 difference?
21 CONNIE GLASSER: Yes, I do. I believe
22 that. I believe that it would have made a
23 difference. I feel she was -- she's a very bright
24 woman, but I felt there's a lack of understanding
25 for somebody who might be having a little bit hard

1 time.

2 MALEE CRAFT: Was this teacher -- the

3 teacher last year was just a regular ed teacher?

4 CONNIE GLASSER: Regular, yes, first

5 grade teacher. Right.

6 MALEE CRAFT: I'm hearing you say that

7 maybe regular ed teachers need to have some

8 orientation also as far as --

9 CONNIE GLASSER: Possible. I thought

10 they had. I thought they were trained for that

11 area. I assumed if you're a teacher, you're

12 probably pretty much aware to watch for signs of

13 disability. I'm not a teacher, but I'm the mom. I

14 watched for signs.

15 So I think -- I was told he should be put

16 in that class because the principal said: Well, I

17 think we'll put him in here. He's having some

18 behavior problems. We'll put him in here. This

19 teacher runs a pretty tight ship. It was a

20 mistake. He needed somebody a little mellower.

21 There's different things she's doing this

22 year. Like when you have a paper, you have things

23 to do on the bottom and on the top there may be

24 little pictures to color. He's such a

25 perfectionist, he'll spend 20 minutes, a half an

1 hour, on coloring one -- you know, a few little,
2 tiny pictures at the top of the page and then he
3 doesn't get his work done. So this year she's
4 saying: Skip the coloring, Arnold. That's not as
5 important. Do your other work first, and then, if
6 you get the time, do the coloring. Simple
7 solutions, really.
8 BRYCE STREIBEL: Thank you, Connie.
9 WILLIAM MULDROW: One more question. To
10 what extent are Indian parents involved in the
11 school system? Do they take an active role in the
12 decisions made about their children? Are there
13 avenues that they can use to participate in
14 decisions regarding their children, either through
15 the parents associations or any other way?
16 CONNIE GLASSER: Well, I find, on the
17 Indian Education Committee, we have a few families
18 that participate, but the bigger percentage does
19 not. Some of it may be due to lack of
20 transportation. Some people don't have cars or
21 phone, you know. I'm not sure if that would make a
22 difference or not, but I do know that is the
23 problem of some people.
24 WILLIAM MULDROW: Is there a special
25 effort made to involve Indian parents by the school

1 administration?

2 CONNIE GLASSER: I don't think -- well,
3 about the only time I think I really hear of any
4 encouragement -- I don't think they're pushed away,
5 but, you know, come Native American Week, my
6 children are -- don't have a lot of Native American
7 blood in them, but they still hike all their
8 cultural awareness artifacts down to school every
9 year at that time, Thanksgiving, and share all
10 their things, and they seem to be the only ones
11 bringing it.

12 Now, I'm not sure -- I really couldn't
13 tell you if it's the school's fault or the parents'
14 fault. I do know in some cases the parents have
15 asked the Native Americans to bring in their
16 dancing dresses or their dancing uniform or outfits
17 and nothing's ever brought.

18 WILLIAM MULDROW: For example, in the
19 placement of your child now, was there any kind of
20 a consult -- there was some kind of a consultation
21 with you as an individual, apparently, about your
22 child. But your concerns were not listened to,
23 apparently, by the -- whoever was responsible for
24 placing the child in the program. Was that one
25 teacher alone responsible for making the decision

1 about your child?

2 CONNIE GLASSER: I would say -- as far as

3 the school system goes, public schools, in the

4 school?

5 WILLIAM MULDROW: Yes.

6 CONNIE GLASSER: I would say yes. I

7 would say the first grade teacher had the most

8 say-so. After he was diagnosed, the LD teacher was

9 going to start seeing him and so we had a little

10 meeting at the school this time. And the teacher

11 disagreed to have him -- we had to have her

12 permission in order to pull him out of the class

13 and she disagreed on that. She said no, she

14 thought it would be doing him more harm than -- he

15 needs that class time.

16 So she left and the LD teacher said:

17 Well, you sign this paper now saying whether you

18 agree to that or not. I said: No, I don't agree.

19 What would a little help hurt? You're the

20 specialist and you say he doesn't need it, fine,

21 we'll back off. So I didn't sign the paper.

22 And she went and had a little -- a little

23 talk with the teacher, and she said okay, fine.

24 She says maybe she'll let me just come in for 20

25 minutes twice a week, just to sit by him and

1 observe. So finally she agreed to that, the
2 teacher agreed to that.
3 So that's what went on then. And before
4 the year was over, he was taken out of the class,
5 into the hallway, and worked with somewhat. So
6 they must have found somewhat of a need to do
7 that.
8 But I would say yeah, the first grade
9 teacher probably had the most pull there.
10 BRYCE STREIBEL: Thank you, Connie. Now
11 we'll go back to the 10:45 a.m. agenda item. Is
12 Steve Bailey here?
13 (No response.)
14 BRYCE STREIBEL: I guess he opted not to
15 make a presentation. So we'll go to the 11:35
16 agenda item, which is Deborah Painte, the executive
17 director of the North Dakota Indian Affairs
18 Commission. Deborah, welcome.
19 DEBORAH PAINTE: Good morning, commission
20 members and members of the audience. My name is
21 Deborah Painte. I'm the executive director of the
22 North Dakota Indian Affairs Commission. I'm
23 relatively new in this position. I assumed my
24 duties on October 21st of this year, so I've been
25 on staff or on board for the last two months.

1 However, I am a native of North Dakota. I am an
2 enrolled member of the Three Affiliated Tribes.
3 I just want to share some data with you.
4 I'm not sure if you were aware of some of the
5 census figures, but there are approximately 4.1
6 percent of the population in North Dakota that is
7 comprised of American Indians, Eskimos, and
8 Aleuts. I would venture a guess that more than 99
9 percent of that figure is Native American. I'm
10 using some redistricting figures that were used and
11 they are based on the 1990 census.
12 Of that population of approximately
13 25,917 Native Americans in North Dakota, a little
14 over half are under 18 years of age. For the state
15 of North Dakota, Native American population is
16 quite young and we're seeing that there is a
17 predominance of youth. So special education is of
18 considerable importance here in North Dakota.
19 One of the things that I would like to
20 tell you what the North Dakota Indian Affairs
21 Commission does is to try to advocate for the
22 tribal populations who are members and citizens of
23 North Dakota. We try to build a bridge or at least
24 advocate for tribal members with state and federal
25 agencies.

1 We also serve as people that the
2 legislature can call upon to do legislative case
3 work in case there's a constituent who calls and
4 says they have a problem getting some service. Or
5 maybe addressing a need that could be met by state
6 agencies, some of the legislatures will contact our
7 office.
8 We are also used as, I guess, a data base
9 that some of the state agencies call us and ask us
10 for statistics. Right now, our staff is very
11 limited and so is the funding, so our data is not
12 as good as we would like. It's very limited in
13 nature.
14 We do not, at our commission, directly
15 work with special education, your target
16 population. However, I have talked with the
17 service provider in the fields and some of the
18 things that she has told me, and I would also be in
19 agreement with her, is some of the problems that
20 you will find on the reservations as far as special
21 education services is because you have several
22 jurisdictions on the reservation, or it's
23 concurrent jurisdiction. You have federal
24 jurisdiction, you have tribal jurisdiction, and you
25 have state jurisdiction.

1 What occurs is that -- in providing
2 special ed services, is that many times there is
3 fragmented services provided. You may go to one
4 area on the reservation and the type of services
5 that they receive are not the same as what may be
6 received on another part of the reservation, or, in
7 fact, even on another reservation within North
8 Dakota. So there seems to be some problem as far
9 as uniformity of services.
10 Other things that I would like to mention
11 is some of the reservations are spread over several
12 different counties, so that those services that are
13 provided by the state, they reach different targets
14 of our reservation. So that's where you're finding
15 that some of the children who are being provided
16 services get different levels of services.
17 You may even find some pockets of the
18 population who are in need of these services who
19 are not being reached, primarily because there's an
20 assumption that, well, that jurisdiction or that
21 agency is providing those services.
22 For my office right now, we do administer
23 four grants, and those are state, youth, alcohol,
24 and drug grants. Some of the, I guess, areas that
25 the coordinators that I work with have mentioned is

1 special education can relate to their target
2 population in that maybe fetal alcohol syndrome and
3 FAE have been diagnosed in some of the cases as
4 being disabled in their learning.
5 I don't know -- I don't have the exact
6 data on that and I don't know if that is possible
7 to find out how much of our special education
8 children who are Indian are affected by alcohol and
9 drug or substance abuse. However, I would like to
10 say that there are high alcoholism rates on the
11 reservations. A problem in addressing it is a lack
12 of a good data base from -- I guess that
13 encompasses state agencies.
14 And my personal feeling -- and I have
15 talked to a service provider -- is that this should
16 not be something that should be the entire domain
17 of the Indian Affairs Commission. And I will be
18 bringing that up on some of the other committees
19 that I serve on, that this should be a statewide
20 effort, collaborative effort, by statewide agencies
21 to have identifiable statistics for their service
22 populations.
23 They do have statistics on a whole, but
24 it is hard to extract specific Native American
25 statistics. So that might be one area that the

1 office that I'm working on can pursue at the state
2 level.
3 BRYCE STREIBEL: Thank you.
4 DEBORAH PAINTE: I guess that's all I
5 would have to say.
6 BRYCE STREIBEL: Any questions on the
7 part of committee members? Bill?
8 WILLIAM MULDROW: If a parent had some
9 concern about the placement of a child in special
10 education programs, is there a way that you could
11 help the parent, or have you had any experiences
12 with the parents of this kind?
13 DEBORAH PAINTE: Not of yet. But just,
14 you know, thinking about that scenario, I'm sure
15 that that will happen. And if that was to happen,
16 one of the things that the Indian Affairs Office
17 could do is, you know, contact the school or talk
18 to some of the agency people at the state level to
19 see, you know, what the problems are and is there
20 anything that they could do to help facilitate or
21 at least alleviate the problems that those parents
22 are facing.
23 MALEE CRAFT: What -- are you involved
24 currently in parent concerns, the commission? And
25 if so, what are some of the concerns that you may

1 get from parents?

2 DEBORAH PAINTE: Because I've only been

3 there two months, I really haven't got any calls

4 from parents yet. It seems like the big issue

5 right now is -- and I guess it would apply to, you

6 know, parent relationships with the school -- has

7 to do with the tribal state relationships. A lot

8 of the tribes are asserting their sovereignty and

9 are -- there's taxation issues and gambling

10 issues. And I guess that really would not be

11 conducive to Indian and non-Indian relationships.

12 I don't know the magnitude of the problem. I know

13 it's there.

14 And some of the problems, you know -- I

15 heard the last parent who was on was -- you had

16 asked her about parent involvement at the local

17 level. And having just come from the reservation,

18 there are different or varying levels of parent

19 involvement on the reservations, and that's due to

20 a lot of problems.

21 One of it is maybe there is -- Indian

22 parents do not feel comfortable in some school

23 districts because they might not have as much

24 Indian representation on the board. Some of them

25 may not have even graduated from high school or

1 grade school, so they feel uncomfortable and ill at
2 ease just being there, and because of the
3 relationship between the schools, thought of as
4 authoritarian figure or something like that.
5 But I could see where those -- the
6 perception of Indian parents towards many of the
7 schools that are, I guess -- I would think, you
8 know, have a -- would serve the general population
9 and would not specifically identify Native American
10 needs as being a priority, more as -- I guess they
11 don't want to distinguish providing them services
12 than they would from the regular student
13 population.
14 BRYCE STREIBEL: Deborah, your
15 predecessor -- and you, in your opening remarks,
16 touched upon briefly -- your predecessor, before
17 any number of legislative committee hearings,
18 forcefully made the point that alcohol and
19 controlled substances were a very big problem in
20 the young people on the reservations. And she pled
21 the cause that the state should increase funding in
22 those areas to try to do something about that
23 problem.
24 Would you elaborate a bit on that?
25 Because it is very devastating when this problem

1 impacts these young people. If they can't be
2 helped, all the educational programs in the world
3 won't do any good. Would you just expand on that a
4 little bit?
5 DEBORAH PAINTE: Yes. Right now the
6 State of North Dakota is one of the few states that
7 provides funding to Indian tribes for alcohol and
8 substance abuse from general funds. One of the
9 avenues that the Indian Affairs Commission is now
10 seeking is to work on the grass-roots level. We
11 are in the process right now of seeking additional
12 funds to target youth for a wellness conference. I
13 am also looking at working with empowering the
14 women on the reservations.
15 A lot of times you find that alcohol and
16 substance abuse has to do with unemployment, lack
17 of self esteem. And that lack of self esteem can
18 come from a number of problems. First of all, the
19 poverty conditions, low educational rate, the loss
20 of, I guess, their cultural identity.
21 And the other thing I want to mention was
22 that the Indian Affairs Commission, in its
23 appropriation, does also receive educational
24 scholarships for those Indian students who will be
25 attending college within the boundaries of North

1 Dakota.

2 Again, talking with the same service

3 provider, she thought that one of the reasons for

4 there being not enough attention given to Native

5 Americans was because there was not enough staff

6 out there anyway. And hopefully, with the

7 scholarship assistance, we would see more people

8 enter these fields that are not attracting enough

9 Native Americans into them.

10 I think that would help, because there is

11 a low number of special education providers in the

12 field who know about the problems and needs of

13 Indian children. Granted that there are some

14 special services that should be provided to the

15 general population, but with the Indian children,

16 those problems are magnified twofold, threefold --

17 I'm not sure. So that it -- it would really

18 behoove the system if they had more Native American

19 special education providers.

20 And I can see that's one way, through the

21 scholarship program that's being administered.

22 That would be one area we could look at and set

23 aside a certain amount for health, people going

24 into health professions.

25 BRYCE STREIBEL: Thank you, Deborah. Any

1 other questions? Yes, Bill.
2 WILLIAM MULDROW: Does your commission,
3 the North Dakota Indian Affairs Commission, have
4 any relationship with the public school system? Do
5 they ever consult with you about their programs or
6 do you have any means about which you can advise
7 them of problems that you see from your
8 perspective?
9 DEBORAH PAINTE: Not really, but they do
10 have a person within the Department of Public
11 Instruction and her name is Ms. Cheryl Kulas. She
12 is a Native American. And I'm sure that's why we
13 don't see as many of those issues being addressed
14 to our office, because they would usually go to
15 that office first. And if they did call us, we
16 would probably refer them to her because she works
17 right within that agency.
18 One of the other things I forgot to
19 mention to you was that the commission is comprised
20 or -- it's chaired by Governor Sinner, who also
21 co-chairs with the lieutenant governor, Lloyd
22 Omdahl. We have the four tribal chairmen from each
23 of the reservations: Devils Lake Sioux Tribe, Fort
24 Berthold Indian Reservation, Standing Rock Sioux,
25 and the Turtle Mountain Chippewa Tribe. It also

1 includes four at large members. One of those is
2 Mr. Enos, Chairman Enos, from the Trenton Indian
3 service area, a Gladys Ray, who is a citizen member
4 from Fargo, Austin Engel, who is a practicing
5 attorney here in Bismarck, and Bertha Gipp, who is
6 an administrator with Maternal Child Health, which
7 is a state agency.
8 So given those people, you know, the
9 governor has direct -- or the chairmen have direct
10 access to the governor in that sense so that they
11 can voice their needs.
12 BRYCE STREIBEL: Any other questions on
13 the part of committee members? Betty?
14 BETTY MILLS: You were a teacher before
15 you had this position. Did you teach off
16 reservation or on the reservation?
17 DEBORAH PAINTE: I was a tribal college
18 instructor at the Fort Berthold Community College.
19 BETTY MILLS: From that position, do you
20 have any suggestions to make about how we could
21 improve the education of teachers in order to
22 better deal with the problems that Native American
23 children have in our schools?
24 DEBORAH PAINTE: Well, one of the things
25 that Fort Berthold Community College -- as an

1 instructor that I encountered, was sometimes we
2 would get adult learners who had never been
3 diagnosed as requiring special services. And just
4 that -- I don't know what the other colleges are
5 doing, but at that college we did have an
6 in-service workshop as far as at least attempting
7 to identify those people who may require those
8 services. And then what we would do is -- you
9 know, a red flag went up in our classrooms -- we
10 would refer that student to maybe voc rehab to be
11 tested to see if there was a learning disability.
12 I guess that would be one of the things
13 that I seen firsthand, was that a lot of the
14 students had never been diagnosed ever, and they
15 assumed, I guess, they had low self confidence
16 because they thought they just couldn't learn or
17 they were stupid, but they weren't. It was just
18 that no one had ever tried to reach out and try to
19 identify them.
20 And we did find that once they were
21 identified, once the problem was known, their self
22 confidence in college did increase. They were
23 referred and they did start receiving services.
24 Many of those students have went on to four-year
25 colleges or employed in the work force now.

1 BRYCE STREIBEL: Getting back to the
2 notation you made about having instructed at the
3 college there, I personally think that's an
4 excellent institution, one of the finest, I think,
5 we have not only in North Dakota but anywhere in
6 this country. And at the time you were there, can
7 you recall, just roughly, the makeup of the
8 faculty, Native Americans versus other ethnic
9 groups?
10 DEBORAH PAINTE: Well, in my case, it --
11 we're going through a transition period. But when
12 I first started, most of the administration and
13 staff were Indian and most of the instructors were
14 non-Indian. However, at the facility now, most of
15 the administration is non-Indian and most of the
16 instructors are non-Indian. At that time, I guess,
17 I was a token Indian because I was the only Indian
18 instructor there.
19 BRYCE STREIBEL: Do you know Mrs.
20 Laducer?
21 DEBORAH PAINTE: No, I don't. This was
22 at Fort Berthold Community College. Those same
23 statistics may not apply to the other tribal
24 colleges.
25 BRYCE STREIBEL: Yes. Any other

1 questions on the part of committee members?
2 (No response.)
3 BRYCE STREIBEL: Thank you, Deborah.
4 Now, is -- one more time call for Steve Bailey. Is
5 Mr. Bailey in the room?
6 (No response.)
7 BRYCE STREIBEL: Evidently, he opted to
8 have a higher priority today. I don't know if --
9 we got 20 minutes. I'm sure -- are any of the
10 Department of Education people here? I'm sure they
11 aren't. Department of Public Instruction people
12 here?
13 (Person in audience raises hand.)
14 BRYCE STREIBEL: Who are you pointing to,
15 John? Oh, we do have one.
16 UNIDENTIFIED SPEAKER: I'm currently
17 working for the Department of Public Instruction,
18 but I'm not a --
19 BRYCE STREIBEL: A presenter, no. Thank
20 you. I don't know -- it would not be --
21 WILLIAM MULDROW: Let's go ahead and
22 adjourn for lunch.
23 BRYCE STREIBEL: It wouldn't be an
24 advantage to take care of any of the other
25 presenters except those that come down to the

1 bottom of the agenda, because it wouldn't
2 accomplish that much. So we get a longer lunch
3 break than we anticipated, I guess. We'll be back
4 here at one p.m.
5 WILLIAM MULDROW: Before we adjourn, I'd
6 just like to remind you that any person who would
7 like to make a presentation to the committee on
8 this topic who has not been specifically invited
9 would be able to do so this afternoon in our open
10 session. And we would invite you to sign up on the
11 schedule to do that. We'd welcome your remarks if
12 you'd like to do that.
13 BRYCE STREIBEL: Stand in recess until
14 one p.m.
15 (A recess was taken from 11:39 a.m.
16 to 1:03 p.m.)
17 BRYCE STREIBEL: We'll call the committee
18 back to order, and first presenter we have --
19 that's the one p.m. slot -- is Bernadene Young
20 Bird. Is Bernadene here?
21 (No response.)
22 BRYCE STREIBEL: I don't see her. We
23 didn't think she was here. So we're pleased that
24 Dr. Lowell Jensen is here, who was scheduled for
25 1:25 p.m. And Dr. Jensen is the superintendent of

1 Bismarck Public School District and used to be with
2 the Department of Public Instruction. And I had
3 the pleasure of working with him over the years and
4 he's one of our outstanding superintendents of
5 schools in North Dakota. And we're glad to have
6 you here, Lowell.
7 DR. JENSEN: Thank you very much, Mr.
8 Chairman and members of the committee. I was
9 hoping to have maybe 25 more minutes to figure out
10 what I was going to say.
11 (Laughter.)
12 DR. JENSEN: What I'm going to talk about
13 today is special education that exists -- as it
14 exists in the Bismarck School District. We're not
15 going to have a whole lot of information, I guess,
16 for you this afternoon -- I'm assuming that other
17 people will do that -- with respect to Native
18 American children, specific information about that,
19 other than the fact that we do, of course, serve a
20 number of them within our special education
21 programs in our school district.
22 From the standpoint of probably some
23 demographic data with respect to our school
24 district and the state of North Dakota, Bismarck
25 School District -- that's the school district of

1 which I am the superintendent -- is the largest
2 school district in the state of North Dakota. It,
3 at the present time, has slightly over 11,000
4 children that we serve.
5 We usually use a rule of thumb, and the
6 rule of thumb is about one in ten of those students
7 is handicapped in some way. We also try to provide
8 special programming for our gifted and talented
9 young individuals as well. At any rate, what that
10 works out to, then, is that out of those 11,000
11 kids, we can generally think in terms of almost a
12 thousand of them -- it isn't quite that many, we
13 haven't included all of them in these numbers
14 either because we have some early childhood
15 youngsters that aren't included -- but about a
16 thousand of them are handicapped in some way and
17 provided services.
18 One of the things that's happening in the
19 Bismarck School District, and I assume it's
20 probably happening in other parts of the state and
21 other parts of the country as well, is that we are
22 kind of on a continuum, I guess, from programs
23 provided in special classrooms for young people,
24 special education classrooms.
25 The way in which -- the direction in

1 which we're headed is what they call full
2 inclusion, and what that means is that we're
3 eventually probably going to be thinking of in
4 terms of including special education youngsters,
5 almost all of them, into regular classrooms as
6 opposed to the special classrooms.
7 And we're very much involved in that
8 process at the present time, moving in the
9 direction of what we call integration of students
10 into the regular classroom. And that's the kind of
11 trend, I think, that has been occurring over the
12 last -- I don't know how long, but probably for a
13 good deal of time, as we try to search out the
14 definition of what the term least restrictive
15 environment means. The definition, I think, keeps
16 -- keeps changing.
17 And at one time, of course, we had a lot
18 of handicapped youngsters being served in
19 institutions. I'm thinking in terms of the
20 institution at Grafton for the retarded youngster.
21 I'm thinking in terms of the institution at Grand
22 Forks for blind youngsters, and, of course, Devils
23 Lake for the deaf, and so on.
24 And as a result of -- as you're all well
25 aware, I assume -- the ARC lawsuit, we are now

1 being asked to provide a less restrictive
2 environment for those youngsters. And we're being
3 asked and have been asked and are doing -- or are
4 placing them into our regular classrooms in our
5 school district.
6 As that trend continues, what happens is
7 that -- in Bismarck, for example, we have 13
8 elementary schools. And least restrictive
9 environment in our school district is becoming --
10 or causing a movement toward serving those
11 youngsters in their home attendance school -- home
12 attendance area school.
13 So if they live in, for example, the area
14 of our school district served by Centennial School
15 or Solheim School or whatever, now we are moving in
16 the direction of trying to serve those children in
17 the schools in their attendance areas, and then
18 also thinking in terms of educating them within the
19 classroom, regular classroom, whether it be second
20 grade, third grade, or whatever.
21 So we're moving very, very strongly in
22 that particular -- in that particular direction.
23 BRYCE STREIBEL: Dr. Jensen, I might
24 underline what you just said. It's been my
25 privilege to -- on the interim committees, to visit

1 some of your schools. And let me tell the
2 committee that Dr. Jensen and the Bismarck School
3 District, in my estimation, are doing a very
4 outstanding job in the very points that he made,
5 accommodating these youngsters in a very natural
6 setting. They're not treated any different than
7 the normal student. And you really have a program
8 here that a lot of school districts could pay heed
9 to.
10 DR. JENSEN: Thank you very, very much
11 for -- you know, for the comment. The next thing
12 that I would like to do, Mr. Chairman and members
13 of the committee, is just talk a little bit about
14 the way in which our special education youngsters
15 are served.
16 I'm looking for my first transparency and
17 I wonder if I -- did I leave it up there? Is it on
18 there? Apparently not. At any rate, what we --
19 excuse me just a minute.
20 (Dr. Jensen examines documents.)
21 DR. JENSEN: I'm slightly embarrassed.
22 Must be here somewhere. Here it is. What you have
23 in front of you is the kinds of programs that we
24 offer in our school district at the present time,
25 along with the numbers of young people that are

1 served. And this was in 1990-91, which is, of
2 course, the last school year.
3 And so starting off at the top of the
4 list are the programs for trainable retarded
5 youngsters. Educable retarded, there are 82 of
6 those. 43 trainable retarded. Hearing impaired,
7 11. As you see, we've got two actually deaf
8 students. We've got 300 that we serve in speech
9 and language. We've got 11 that are visually
10 impaired, at least a couple of whom are totally
11 blind. We have emotionally disturbed youngsters,
12 15 of them. Orthopedically handicapped, 14. Other
13 health impairment, 14. And then specific learning
14 disabilities, we have 383.
15 So that's the breakout of the young
16 people that we serve in our special education
17 programs. I'll be talking a little bit more about
18 the dollars involved in that in just a few
19 minutes. If you total them up, there are 875. We
20 could add in some other numbers as well at the
21 early childhood, from zero through three and so on,
22 as well.
23 Then at the bottom of that, it breaks it
24 out as to the age of those youngsters. We've got
25 84 in a 3 through 5 category, we've got 472 in the

1 6 through 11, we've got 282 in the 12 through 17
2 category, and 37 in the 18 to 21 category. I'd
3 like to just talk a little bit -- that's the number
4 of students that we actually serve.
5 This next chart that I'm going to put on
6 indicates what grade levels they're in and so on.
7 This is by way of, I guess, preliminary information
8 to what I'm going to talk about.
9 CAROL LARSEN: Excuse me. Are these 875,
10 are they in special classes or are they
11 mainstreamed?
12 DR. JENSEN: I would say the bulk of them
13 are mainstreamed at the present time in regular
14 classrooms. As I indicated, we're kind of moving
15 on the continuum toward mainstreaming most all of
16 them.
17 Some of the ones that probably would not
18 be would be the severely emotionally disturbed.
19 We've got special classrooms for them. Some of the
20 others would be the severely and multiply
21 handicapped youngsters where, you know, you've got
22 several of the handicapping conditions that I
23 talked about. They could be mentally retarded plus
24 other handicaps as well, maybe blind and -- or
25 partially sighted and hearing impaired as well.

1 So if we've got the multiply handicapped,
2 they're probably in separate classrooms. But the
3 bulk of them would be mainstreamed in the regular
4 classroom.
5 What you see here is kind of a pattern by
6 grade level of what our enrollments are. You see
7 by virtue of this pattern also the fact that the
8 Bismarck School District is growing. You can see
9 that by the number of kids in kindergarten and
10 first grade as compared with the ones that are out
11 in the 11th and 12th grade; in the range of about
12 900 kids in each of the first several grades there,
13 and then as it goes off in the 12th grade, you'll
14 notice that it tapers off. That's part of a
15 national demographic trend, you know, more kids at
16 the lower levels.
17 The numbers at the bottom, however, are
18 the numbers of kids that are actually in special
19 education programs. And that does not necessarily,
20 as you'll notice, conform to the pattern at the
21 top, because in some cases we got pretty high
22 incidence of special education youngsters, but not
23 necessarily -- does not necessarily follow the same
24 pattern. So that's basically where the -- what
25 kind of students we have and, you know, what grade

1 levels they're in.

2 In our school district, we have -- as I

3 indicated before, we have about 10,000, 11,000

4 kids. This next pie chart kind of shows, you know,

5 the comparison that I indicated exists, about one

6 in ten or so. Notice, please, that -- of our total

7 youngsters, we've got about 7.8 of them, 7.8

8 percent of them, served in special education

9 programs and the other 92.2 then being served in

10 regular ed. In other words, they don't get

11 additional services provided to them.

12 What I'd like to do next, after having

13 talked about, you know, where we are relative to

14 the number of kids served, I'd like to give you

15 some idea of where we are relative to dollars and

16 cents providing these programs. And so if I could

17 just hand these little handouts out.

18 (Dr. Jensen distributes document.)

19 DR. JENSEN: If anybody else is

20 interested, I have them here as well.

21 When you get that chart, if you -- this

22 is not, obviously, our entire budget that you have

23 in front of you. It's just kind of two pages that

24 are excerpts from the budget. What I'm trying to

25 show you is the magnitude of the special education

1 program as it relates to other areas.
2 And so in our budget, for example, the
3 first page in there, you'll notice we have had an
4 increase in our budget, a substantial increase,
5 over the last several years. We're looking at a
6 total budget for 1991-92 in the 38-and-a-half
7 million dollar range. Last year it was 34.7
8 million. And the year before, our actual
9 expenditures were $33.8 million. And so that's --
10 that's the total budget.
11 The next sheet that you have in front of
12 you ties some of the numbers into those programs
13 that I just talked about a little bit earlier, and
14 includes other expenses as well, including
15 administration and transportation and things of
16 that nature.
17 But the point that I'm trying to make
18 with all of this is that if you look at the -- the
19 total special education expenditures as we move
20 through the years, what you're finding, of course,
21 is that we are increasing -- just like other school
22 districts are -- increasing the amount of money
23 that we spend on special education programming in
24 our school districts.
25 And so total special education, you'll

1 notice at the bottom, in 1989-90 was $4,444,776.
2 That went up, actual expenditures for last school
3 year, to 4,714,000. Up about almost 300,000. And
4 then you'll notice a pretty big jump. Now,
5 obviously this is budgeted. It may not all be
6 spent. It's budgeted. But we are looking at a
7 budget this year of five million three hundred
8 fifteen thousand almost seven hundred dollars.
9 So that's what the total special
10 education, the excess costs, actually involve in
11 our school district for the last three-year period
12 of time. Where it starts to impact on local
13 general fund and the amount that we have to raise
14 with local property tax and so on is kind of
15 indicated at the very bottom of this chart.
16 And so what it says there is that -- you
17 know, we get a certain amount of it from
18 reimbursements, but the total net special education
19 costs are the bottom three figures across the
20 sheet. So in '89-90, with our local property tax,
21 we were expected to come up with about $2,100,000.
22 Last year we came up with about $2.3 million. And
23 then in '91-92, we are anticipating having to come
24 up with $2.7 million.
25 The point that I'm making with all of

1 this, obviously, is that at the local level schools
2 are being asked to contribute a lot of general fund
3 money. There's increases in state, but
4 nevertheless we still increase at the local level
5 as well.
6 This chart indicates two trends that kind
7 of are putting us in the squeeze. I talked about
8 one of them already, and maybe to some extent both
9 of them, but the top number that you see -- these
10 are in percentages. But the top number that you
11 see across the chart is -- as you see down below --
12 is the percentage of reimbursement that we get from
13 the -- from other sources, whether it be local --
14 excuse me -- whether it be state or federal or
15 other sources.
16 And you'll notice that in '89-90 that
17 percentage of reimbursement was 52.8 percent. It
18 went down a percentage point. It doesn't seem like
19 a real significant amount, but when you translate
20 it to dollars, it's quite a large number of
21 dollars. It went down to 51.8 percentage
22 reimbursement in '90-91. And we anticipate that it
23 will be 48.3 percent in the '91-92 school year.
24 So that's one trend that's occurring that
25 impacts on us. The percentage that we get back

1 from other sources, other than local, is going
2 down.
3 And then secondly, the trend on the
4 bottom set of numbers is the percentage of our
5 budget that is made up of special education costs.
6 And so that percentage in '89-90, 13.1 percent of
7 all the dollars that we spent were for special
8 education. And then in '90-91, you're looking at
9 13-and-a-half percent. And in '91-92, you're
10 looking at 13.8 percent. So that figure keeps
11 going up; higher and higher costs in the area of
12 special education and then less and less
13 reimbursements.
14 If you'd want to look at some of the
15 numbers that go to make that up, obviously the
16 charts that I just gave you are where these
17 percentages come from. So, for example, in '91-92,
18 that 48.3 percent, the amount reimbursed then, is
19 $2.5 million divided by the $5.3 million of total
20 expenditures, and that's where those numbers come
21 from, obviously. And then the one on the bottom is
22 the percentage -- excuse me -- the percentage of
23 the budget would be just the five million three
24 hundred divided by our total 38.5 estimated budget,
25 and so on.

1 So that's kind of where we are with
2 respect to special education. My point with all of
3 this is that we kind of have a two-pronged problem
4 that is facing us. We're adding all of the
5 programs, not -- you know, not just for Native
6 American youngsters, but for all youngsters in our
7 school district. We're adding all of these
8 programs that we're absorbing from other
9 institutions in the state of North Dakota, and, in
10 my opinion, the money that's made available for
11 doing so, you know, keeps kind of -- we get a
12 little bit of slippage.
13 Just two other things that I'd like to
14 say before I open it up to questions. First of
15 all, I'd like to have you have some kind of an idea
16 as to, you know, where we are with respect to
17 Native American youngsters in all of this. And so
18 I got a couple of charts here that I think
19 indicates that.
20 The chart that you see up there now is
21 our enrollment, our total enrollment, Native
22 American and other students. And so we don't have
23 a real large percentage of Native American
24 youngsters in actual numbers. What we have, at
25 least the numbers that I was given, is 237 out of

1 the total enrollment of 10,789. And so that
2 accounts for about 2.2 -- 2.2 percent. Those, as I
3 said, were the numbers that I have been given.
4 And then the second chart, if we could
5 put that one on --
6 WILLIAM MULDROW: This is total
7 enrollment in the school?
8 DR. JENSEN: Yes, right. 2.2 percent of
9 total enrollment would be Native American.
10 Here now, however, is the special
11 education enrollment. And so the numbers that I
12 have been given there indicate that 7.7 percent of
13 the children in special education programs are
14 Native American. And so what you see there is kind
15 of a threefold increase, or whatever the term is.
16 You know, if you went just with actual
17 numbers of kids as they exist in terms of minority
18 numbers, you would expect that 2.2 percent of the
19 children in our special education program would be
20 Native American. What actually occurs, of course,
21 is that about almost 8 percent of them are Native
22 American. And so we're serving, you know, larger
23 numbers percentage-wise of Native American students
24 than we are of regular -- regular or other
25 students.

1 I think, Mr. Chairman and members of the
2 committee, I'm going to stop there. The reason
3 that I'm not, at this point at least, been able to
4 give you numbers as to specific programs that
5 Native American children are involved in is that we
6 simply don't keep track of that information that
7 way, not to say that we couldn't, but I wasn't able
8 to put it together for this presentation.
9 But I'd be happy, Chairman Streibel, to
10 answer any questions that anybody might have.
11 BRYCE STREIBEL: Thank you, Dr. Jensen.
12 Any questions. Audrey?
13 AUDREY HENDERSON-NOCHO: What does 7.7
14 represent of the total, the number?
15 DR. JENSEN: The numbers, we're looking
16 at 65.
17 AUDREY HENDERSON-NOCHO: 65 of the 237?
18 DR. JENSEN: 65 of the 800 and so
19 children that are served in our program. Right.
20 AUDREY HENDERSON-NOCHO: So that's 25
21 percent?
22 DR. JENSEN: 7.7 percent. We're looking
23 at 850 approximately total, 7.7 percent or 65 of
24 whom are Native American. 778 are other children.
25 BRYCE STREIBEL: John Olson.

1 JOHN OLSON: Well, Lowell, if you take
2 the total number of students, compare that -- the
3 total number of special education students and
4 compare that with the total enrollment, that's 875,
5 10 percent, out of the 10,000. If you take the
6 total number of special education Native American
7 students at 65, out of their total enrollment of
8 237, that's an alarming percentage to me. That's
9 almost 25 percent or, you know, two and a half
10 times the other average that you're looking at. Do
11 you have any insight into why that percentage is
12 the way it is?
13 DR. JENSEN: As to why there is a higher
14 incidence of Native Americans in our special
15 education program?
16 JOHN OLSON: Right.
17 DR. JENSEN: I don't have an insight into
18 that, Mr. Chairman and Mr. Olson.
19 JOHN OLSON: The first question I should
20 have asked is: Do you have any knowledge of the
21 referrals for Native American children? Where are
22 those referrals coming from? I know that you get
23 special education students from a larger area than
24 the Bismarck-Mandan area. Is there some -- some
25 sense that you have that these children may be

1 coming from reservations?

2 DR. JENSEN: I can speak to the question

3 not so much with respect to Native Americans -- and

4 I'm sorry about that -- I can speak to the question

5 more from the standpoint of our total special

6 education program.

7 And when speaking about that, I believe

8 the answer to your question is yes, there are a

9 large number of students that are referred or who

10 come to our school district for the very simple

11 reason that we have a very comprehensive special

12 education program. And I suspect the same would be

13 true of Native American youngsters as well.

14 And I think also there is a tendency for

15 referrals of the more difficult handicapping

16 conditions, that probably, you know, more of them

17 that come even than of what we would call lesser

18 handicapping conditions.

19 So we get more than our share simply

20 because we have a good program and we have programs

21 for the severe handicapping conditions. As to

22 specific information about Native Americans, I'm

23 sorry, I cannot answer that.

24 CAROL LARSEN: Dr. Jensen, the cases up

25 to this point in the course of the morning

1 testimony has been that -- that there is -- there
2 seems to be some tendency throughout North Dakota
3 to be misplacing Native Americans in special
4 education classes, whereas they may have some
5 learning difficulties but they might not be related
6 to intellect. It is more cultural and social.
7 Have you considered this as a possibility
8 with these kinds of high figures? And a second
9 point of the question: What types of things do you
10 do -- because Bismarck is sitting on the edge of an
11 Indian reservation, what kinds of things are being
12 done in the school system with teachers to
13 sensitize them to the Native population?
14 DR. JENSEN: I can probably answer the
15 first part of the question better than the second
16 part. I think there are other people, probably
17 even in the room, from our district who can answer
18 the second part better than I.
19 With respect to whether we're
20 misdiagnosing or misplacing young people, I suspect
21 the tendency for that to happen in a district --
22 we're the third largest special education unit in
23 the state. I would suspect that the tendency to
24 misplace youngsters in our school district probably
25 is less than in many other school districts for the

1 simple reason that we have most all of the
2 programs.
3 I think if you only had half of the
4 programs, for example, there might be a tendency to
5 try to slip them into programs where they really
6 haven't been diagnosed and treat them maybe as a
7 specific learning disability, you know, when
8 they're really retarded, or vice versa. I think
9 that can happen.
10 My opinion is that we've got the people
11 in our school district who are able to diagnose
12 young people's handicapping conditions. Obviously,
13 you know, it's always open to error, and I suspect
14 that some mistakes were made. But I would not
15 anticipate that there would be a large occurrence
16 of that happening.
17 BRYCE STREIBEL: John?
18 JOHN OLSON: One other thing, Lowell,
19 that I just noticed. Mandan Public School District
20 gave us information. They indicate that they have
21 94 Native American children in their system,
22 preschool through 12, I guess. And then they
23 indicate only 4 children, Native American children,
24 in the special education program. I just -- I'm
25 just wondering why the significant disparity there.

1 It could be because your -- your special
2 education program, I know, is attractive. I know
3 that it's more attractive than other special
4 education programs. And I wonder if that's the
5 answer. I don't want to put words in your mouth or
6 make assumptions here, but something is not --
7 something is not tracking in those comparisons with
8 other school districts.
9 DR. JENSEN: Well, to be real honest with
10 you, I have no idea why the disparity, Mr. Chairman
11 and Mr. Olson. The numbers sound so different that
12 I guess I would -- my immediate reaction would be
13 that maybe we want to look at the data and make
14 sure the data is accurate before we make -- do any
15 judgments based on it, too.
16 BRYCE STREIBEL: Mark.
17 MARK SCHNEIDER: According to my math,
18 it's almost 28 percent of the special education
19 population are Native Americans in your school. Do
20 you have a breakdown as to the sub file in the
21 special education, how many of the Native Americans
22 have been labeled as emotionally disturbed, for
23 example, as opposed to having a learning
24 disability? Do you have those figures?
25 DR. JENSEN: Mr. Chairman, I suspect that

1 with a great deal of difficulty I could get them,
2 but I do not have them here today. I'm sorry.
3 MARK SCHNEIDER: Do you have a feel for
4 it? Is the Native American population pretty much
5 representative of the non-Native American
6 population in terms of being in the spectrum of
7 special education, or are Native Americans more
8 oriented toward one label in special education?
9 DR. JENSEN: Mr. Chairman and Mr.
10 Schneider -- this is just a guess. My guess would
11 be that there would be a pretty good spectrum among
12 Native American children just like there are among
13 other children. So I would not expect that there
14 would be a high particular incidence, you know, in
15 particular handicapping conditions. That would
16 just be my guess. I don't have the data to support
17 that. Sorry.
18 BRYCE STREIBEL: Audrey.
19 AUDREY HENDERSON-NOCHO: On one of your
20 charts you said Native American and other. What
21 does other constitute?
22 DR. JENSEN: Everything else.
23 AUDREY HENDERSON-NOCHO: Minorities?
24 DR. JENSEN: No. Just Native American
25 and all other children.

1 AUDREY HENDERSON-NOCHO: Okay.

2 BRYCE STREIBEL: Betty.

3 BETTY MILLS: Maybe Carol Jean asked the
4 same question. I just want to ask it again. One
5 of the charges being made is that there's a
6 cultural bias, so that when you get a Native
7 American child that, say, comes into the system who
8 may not have -- just simply doesn't test out well
9 because of the cultural disadvantage, that they're
10 just sort of slid off into special education when
11 maybe what they need is tutoring or something to
12 bring them up. They are not handicapped under the
13 normal sense that we are talking about, they are
14 not -- don't fall into any of that grade line of
15 categories that you have.

16 Do you see that happening? And if so,
17 what is being done to correct cultural biases, if
18 that's the problem?

19 DR. JENSEN: Well, Mr. Chairman and Ms.
20 Mills -- I'll give you my assessment, I guess. I
21 think it's conceivable and I believe that there is
22 a cultural bias in testing instruments and among
23 people, perhaps. I think our people probably make
24 every effort to avoid that cultural bias when
25 children are placed into special programs.

1 I'll be the first to admit that, you
2 know, when you got three times as many Native
3 Americans in special education programs as you
4 would expect from the statistics, that there is
5 something that maybe needs to be looked at.
6 And as to what we're doing about it, you
7 know, I think that we have some programs. Some of
8 the people here today represent those programs that
9 we have in our school district to kind of sensitize
10 our staff, try to sensitize our people, to the fact
11 that there may be cultural differences, background
12 differences, and so on, that may account for it,
13 rather than an innate potential or innate ability.
14 I think we've got a way to go on that, but I think
15 we're making some kind of progress. That's all I
16 can say. I'm sorry.
17 BRYCE STREIBEL: Bill.
18 WILLIAM MULDROW: Dr. Jensen, in light of
19 the large disparity on promotion of the Native
20 American students in the special education program,
21 do you have any plans or is there anything in work
22 to determine what this disparity results from? You
23 say you're not aware of what causes it, but it
24 seems like a rather alarming kind of a statistic to
25 me and I wonder if there's any plan to determine

1 specifically what that reason is.
2 DR. JENSEN: Well, I suspect, Mr.
3 Chairman and Mr. Muldrow, it's like anything else,
4 maybe we have not -- until I looked at these
5 numbers, I'm not sure that we were aware of the
6 discrepancy that probably occurred.
7 I'm not aware of a particular plan that
8 is, you know, in place to address it, but I suspect
9 that now that, you know, we're aware of it, we'll
10 try to find out what the -- what the reason is. So
11 the answer to your question specifically is no, I'm
12 not aware of any specific plans that are in place
13 to do that, but I suspect they will be looked at.
14 WILLIAM MULDROW: Has the Office of Civil
15 Rights or the Department of Education had any
16 contact with your school district in terms of doing
17 compliance reviews or investigating complaints?
18 Have you had any complaints from Native Americans
19 about placement in the special education program
20 that you're aware of?
21 DR. JENSEN: Not that have gotten to my
22 level.
23 WILLIAM MULDROW: The Office of Civil
24 Rights has not done any compliance reviews with
25 your school?

1 DR. JENSEN: No.

2 BRYCE STREIBEL: Lowell, I don't perceive
3 to be all that knowledgeable in your school system,
4 but in the whys and the wherefores on the
5 questioning of Bill here, but I can recall several
6 -- on several occasions when the legislative
7 committees had hearings and had input from your
8 staff and you and your system and in visiting your
9 campus and listening to parents.

10 Your system attracts those people, and
11 for good reason, and you're bound to have a higher
12 percentage because your offering attracts them.
13 And I think that has to be one of the obvious
14 reasons you -- this percentage exists here. Your
15 reputation is known.

16 And we, like I said, visited with parents
17 that made some major moves. I'm talking
18 occupational wise. It isn't easy to just pick up
19 and leave your job and come into Bismarck because
20 the Bismarck School System has a good program for
21 the child. They have to relocate his parents and
22 get new jobs and, nonetheless, they did it. And I
23 -- I think that the better job you do and continue
24 to do, that percentage is likely to go up.

25 DR. JENSEN: Mr. Chairman, it seems to me

1 that what we're talking about here today -- and I
2 don't recall who specifically asked the question,
3 maybe Ms. Larsen -- but it has to do with whether
4 the diagnoses are done properly or not. And it
5 seems to me that that's the bottom line that we are
6 talking about.
7 On the one hand, it's conceivable that we
8 could be placing children, Native American
9 children, into special education programs because
10 of cultural bias. It's conceivable that, you know,
11 for the wrong reasons they could be placed into
12 special education programs.
13 I suspect it's also conceivable that
14 maybe the particular mix of Native American
15 youngsters does indeed have the handicapping
16 conditions that we say they do.
17 And so I think that as I go back, what
18 we're going to have to do is to take a look at the
19 procedures that we have in place for diagnosing our
20 children's problems and make absolutely certain
21 that we put them in the right places, in the right
22 programs. So that's what I'm learning from this.
23 BRYCE STREIBEL: Proximity to Native
24 Indian population, too?
25 DR. JENSEN: Yes.

1 BRYCE STREIBEL: Bill?
2 WILLIAM MULDROW: Do you have any -- what
3 is the procedure for placing -- is there a
4 committee that screens students for placement? Who
5 makes the decision?
6 DR. JENSEN: Well, Mr. Chairman and Mr.
7 Muldrow, what happens, I think, is pretty standard
8 across the country and across this state, and
9 that's that children's needs are diagnosed by an
10 IEP team and they're placed into programs because a
11 team of people believe that they belong in a
12 certain program. So you'll have a parent, you'll
13 have a principal or administrator, you'll have
14 special education personnel, you'll have teachers.
15 You'll have a number of people serving on these
16 teams.
17 WILLIAM MULDROW: Parents are a part of
18 that team then?
19 DR. JENSEN: Yes.
20 WILLIAM MULDROW: The parent of a child
21 that's going to be placed in the program is in on
22 the decision about the child?
23 DR. JENSEN: Yeah. As a matter of fact,
24 Mr. Chairman and Mr. Muldrow, I think the parents'
25 wishes are taken into consideration very strongly.

1 There are times when parents do not wish to have
2 their children diagnosed as having a handicapping
3 condition. And so until the parent actually comes
4 to the conclusion that, yes, this child is
5 handicapped in such and such a way, we probably
6 would not be placing them into the program.
7 WILLIAM MULDROW: We've had information
8 this morning that it's often difficult to get
9 Indian parents involved in committees and groups
10 like this. Have you had pretty good success in
11 that, apparently?
12 DR.JENSEN: Well, to tell you the truth,
13 Mr. Chairman and Mr. Muldrow, I don't work with
14 that on a day-to-day basis. I know that we have
15 difficulty getting people involved generally,
16 particularly, you know, in some of the programs
17 that we're talking about. I don't know whether
18 it's more difficult to get Native American
19 parents. I just don't have a response to that.
20 WILLIAM MULDROW: Do you have any
21 statistics on involvement of Native American
22 faculty, both in your general teaching faculty and
23 then in the special education programs?
24 DR. JENSEN: I do not have -- if you're
25 thinking, Mr. Chairman and Mr. Muldrow, with

1 respect to numbers of teaching staff who are Native
2 American? Is that what you're asking for?
3 WILLIAM MULDROW: Yes.
4 DR. JENSEN: I don't have that with me.
5 I suspect it could be -- I don't think we routinely
6 keep that kind of information. I suspect it could
7 be dug out.
8 WILLIAM MULDROW: One more question. Do
9 you know if there's any -- in terms of this
10 possible bias, cultural bias, in assigning
11 students, do your teams, or whoever is responsible
12 for making the decision, have any special training
13 or sensitivity training to help to guard against
14 such a bias, that you know of?
15 DR. JENSEN: I'm not aware of whether
16 they do or do not. I'm sorry. What you're finding
17 in my answers is that I'm the superintendent and we
18 have a lot of people doing these things at other
19 levels. I don't want to give the wrong answer, so
20 I'd rather not until I know for sure. I'm sorry.
21 BRYCE STREIBEL: Dr. Jensen, I think we
22 have to move on to the next item on the agenda. We
23 thank you for coming.
24 DR. JENSEN: You're certainly welcome.
25 BRYCE STREIBEL: Now we go back to the

1 one p.m. item on our agenda, and I guess Bernadene
2 Young Bird is here.
3 I suppose you wondered what happened. We
4 just kind of skipped over you temporarily and now
5 we'd like to have you present your case.
6 BERNADENE YOUNG BIRD: Thank you. Good
7 afternoon. I'm an enrolled member of the Three
8 Affiliated Tribes, the Mandan Hidatsa and Arikara.
9 I've been a resident of the reservation for most of
10 my life. I spent eight years away at a boarding
11 school, at the Wahpeton Indian School. I also
12 attended universities and colleges for about six
13 years of my life.
14 But most of the work that I've done and
15 my experiences relate to the reservation areas, but
16 much of what I have to say, I think, could and
17 would apply to some of the other reservations
18 here. There are four located in North Dakota. In
19 addition, what I have to say probably also could be
20 -- relate to the children in urban settings.
21 I am a parent, of course, and I am an
22 elementary teacher. I've been a learning
23 disabilities teacher. I've been a Bureau of Indian
24 Affairs education specialist. I have been the
25 Three Affiliated Tribes educational person for the

1 exceptional ed program for one year -- actually,
2 two years. One part of it was acting in another
3 capacity. I've been just recently hired as the
4 Tribal Education Department administrator for our
5 tribe, the very first, in fact, for our tribe.
6 The Three Affiliated Tribes have
7 administered and supported many educational
8 programs in the past. One of the first that I'd
9 like to just comment on briefly is the Fort
10 Berthold Community College, which is located in New
11 Town. It is the largest community on our
12 reservation and most of the education services and
13 human services are located in this -- what I
14 consider the hub of our reservation.
15 They have also supported the Three
16 Affiliated Tribes headstart, which consists of six
17 centers at this time and approximately a hundred
18 students. These centers are situated in different
19 areas of our reservation. I'm going to go into a
20 little bit of the numbers later on regarding
21 headstart.
22 Other agencies and programs are operating
23 under tribal administration. One is the Higher
24 Education Grant Program and also Johnson O'Malley.
25 The contracting of many of these operations have

1 been made to take over the operations of the Bureau
2 of Indian Affairs.
3 And you may be familiar with Indian
4 contracting where tribes assume the responsibility
5 for self determination in certain areas that they
6 have not taken or have been allowed to take
7 responsibility for. One of them, obviously, is
8 education.
9 And currently our tribe now operates all
10 BIA functions for education. They have taken on an
11 awesome responsibility of working directly with
12 state and federal government in assuring that every
13 child and adult has a quality opportunity and
14 appropriate opportunity for education and to be a
15 citizen not only as a state citizen but also as a
16 tribal citizen, which is what has currently been
17 lacking in our educational experience. And I have
18 12 plus 6 years, you know, to back that statement.
19 In addition, we have a responsibility as
20 a tribal ed department -- and I think it's
21 important to make you aware of this -- that we have
22 to ensure that our educational experiences
23 encompass a part that's not handled right now by
24 the state or the federal government, and that is an
25 opportunity to renew, to regain, and strengthen our

1 tribal and cultural heritage.
2 This will be accomplished, hopefully,
3 with tribal ed department developing a tribal
4 mission statement -- we'll talk a little bit about
5 that more -- a tribal mission statement for
6 education, development of standards, tribal codes,
7 hopefully soon a tribal curriculum. We need to
8 re-establish some of our inherent and traditional
9 educational methods for the best education for our
10 children.
11 So much more is needed to rebuild the
12 culture, the spiritual, and tribal identity that
13 we've lost, all through and eroded by federal
14 government and, unfortunately, the state
15 governments also. These are all policies that have
16 been set up for that -- for that purpose.
17 And therefore, I think we need to have a
18 cohesive and united effort to re-establish the
19 knowledge and respect of the cultures, the Indian
20 nations, the treaties that made these -- this
21 possible in terms of keeping our identity as a
22 tribal nation. Only then, I think, can we realize
23 that Indian children and adults, disabled and
24 non-disabled, would receive a quality education,
25 much less an appropriate education, in this state

1 and here in this entire country.
2 I appreciate this opportunity today to
3 provide a statement regarding the current status in
4 providing disabled children on our reservation the
5 kind of services that we have on our reservations.
6 I want to give you a general overview of
7 current levels of services, enrollments, and some
8 issues and concerns that I have gathered from our
9 reservation. And I also, as I said, feel that many
10 of the issues pertain to some of the other tribal
11 groups on our -- in our state.
12 I obtained input from our headstart,
13 early childhood tracking project, the five schools
14 that reside within the boundaries of our
15 reservation, local and state service providers,
16 both tribal and county services.
17 Although we've been -- we've begun an
18 effort to obtain some evaluative type of
19 information from parents and directly from
20 students, that is an area that still remains a big
21 concern for us. We need to develop that area. We
22 don't get that kind of input that we need to from
23 the people who actually receive the services. So I
24 feel it's an area of concern for us as a tribe and
25 also for the state.

1 The Fort Berthold Reservation is located
2 in western North Dakota. And the total area within
3 the boundaries of our reservation is approximately
4 one million acres. The reservation occupies
5 sections of six counties.
6 Lake Sakakawea, which is formed by the
7 Garrison Dam, meanders through the reservation and
8 splits it into five parts, and it is connected by
9 only one bridge. And probably, if you've ever been
10 around New Town, it's the narrowest bridge,
11 probably, in the country and people get a little
12 frightened of it. And so you may not even get to
13 our administration building because it's on the
14 other side of the bridge. It also is connected
15 with our road system, which consists of county,
16 state, and BIA roads.
17 The total Indian population for our area
18 is approximately 3,500 people. We're a very small
19 based tribal group. However, you can see the
20 geographic factor is a big concern for us.
21 The Fort Berthold Reservation is divided
22 into six political subdivisions called segments,
23 and it's pretty much in line with the way the
24 reservation is geographically separated anyway.
25 They are referred to as the Mandaree Segment, the

1 New Town and Little Shell Segment, the Twin Buttes
2 Segment, the Whiteshield Segment, the Four Bears
3 Segment, and Parshall and Lucky Mound Segment.
4 There's a school in each of these
5 segments except Four Bears, whose residents can
6 attend either the Mandaree or the New Town School
7 District.
8 The major market areas located near our
9 reservation are about a hundred miles away for some
10 of these segments. The two local business
11 districts of New Town and Parshall are anywhere
12 from 30 to hundred miles away from some of our
13 segments.
14 Other concerns, besides educational
15 concerns and geographical concerns, include the
16 high unemployment that we find on our reservation,
17 the need for industries, the housing concerns and
18 health concerns, to name a few. And the high
19 alcoholism rates would fall under the health
20 concerns.
21 There are five schools located within the
22 boundaries of the reservation, as I indicated. And
23 I want to give you just a little breakdown on how
24 those are set up and that will give you an idea of
25 some of the prevalency rates for our disabled

1 children.

2 We have 675 children in the New Town

3 school. 439 of those children are Indian

4 children. They comprise 65 percent of the

5 population. The total special ed count for that

6 school is 92. Indian children comprise 80.

7 The breakdown on those children in

8 preschool: There are 8 children, all 8 are Indian;

9 LD, there are 42 children, 33 are Indian; there are

10 37 in speech, 3 -- I'm sorry -- 34 are Indian;

11 there are 4 EMH children and 1 is Indian.

12 In Parshall, we have 358 children. 107

13 are Indian. 30 percent of the student body is

14 Indian. The total special ed enrollment there is

15 60. 27 are Indian children. The percent there

16 would be 20 -- I'm sorry, 45 percent Indian. Their

17 preschool consists of, I believe, headstart

18 children and they did not give me a number for

19 that. The LD children, there are 18, and 4 are

20 Indian. Of speech, there are 36 -- I mean 26, and

21 9 are Indian. And there are 14 children that have

22 both handicapping conditions, LD and speech, and

23 all 14 are Indian.

24 Mandaree has 232 children. All of those

25 children are Indian children. They have a total

1 enrollment of special ed children of 31.
2 Whiteshield has 159. All children there are Indian
3 children. Twenty-five are special ed children.
4 Twin Buttes is the smallest district with 33
5 children, and 7 are enrolled in special ed.
6 The special education enrollment, as you
7 can see, ranges from 13 percent to 21 percent in
8 the Bureau-funded schools of Mandaree, Twin Buttes,
9 and Whiteshield.
10 The comparison of Indian and non-Indian
11 in special education enrollment for New Town is 87
12 percent in terms of a general population, or
13 general enrollment rather, and in special education
14 the rate is -- let me backtrack there. A
15 comparison of Indian and non-Indian special
16 education enrollment for New Town is 12 non-Indian
17 and 80 Indian children, which is 87 percent
18 Indian. And the general enrollment, if you want to
19 compare that, there are 236 non-Indian and 439
20 Indian children. And so when you compare them in
21 general enrollment, they comprise 65 percent of the
22 student body. There is a difference there of 22
23 percent between general enrollment and then their
24 special ed enrollment.
25 For Parshall, it is 33 non-Indian and 27

1 Indian, which is 45 percent, as I indicated.
2 Indian special ed students and general enrollment
3 is at 251 and non-Indian at 107. So that's at 30
4 percent. So they both appear to have an
5 overrepresentation in their schools.
6 Each school is served by the state
7 multidistrict special education unit, which they
8 chose to contract with. We have three within our
9 reservation. Wilmac serves the Mandaree school and
10 Wilmac -- the Wilmac office is in Williston, which
11 is over a hundred miles away from Mandaree. Souris
12 Valley office is in Minot. They serve Whiteshield,
13 Parshall, and New Town. And they're anywhere from
14 a hundred miles to 70 miles away. West River is
15 located in Dickinson, in the southwestern part of
16 our state, about 60 miles away from the school they
17 serve, Twin Buttes.
18 Mandaree, Whiteshield and Twin Buttes pay
19 for these contracts through Bureau funding. The
20 two schools of New Town and Parshall do not receive
21 any Bureau funding.
22 The majority of our children are
23 identified, as you can see, in learning disabled or
24 speech and language impaired. I didn't give you
25 the breakdown on Mandaree, Whiteshield, and Twin

1 Buttes, but the breakdown is for just the two
2 areas, LD and speech. There's only one EMH child
3 being served on the reservation that I am aware
4 of. There are several multi-handicapped children
5 in residential settings and we do have two older
6 children, TMH and ED, in residential settings.
7 Current needs addressed by these schools
8 include the following: One, facilities. We are in
9 need of adequate space for everything from parent
10 meetings and assessments, for small group or
11 individual work. There are no such things.
12 All special ed programs work in one room,
13 and so you have sometimes three or four groups
14 going -- three adults and a number of children --
15 in one room. I believe that a few of our schools,
16 possibly New Town, is not as pressed for space. We
17 have access concerns regarding our mobile units and
18 other buildings outside of the main building.
19 Personnel is another area. We have need
20 for EMH, LD, speech, school psychologists, physical
21 therapy, OT, and probably, because we have so many
22 paraprofessionals and aides to do the work of
23 certified people, that we need a very good training
24 program for these people.
25 The reason why that occurs is we are

1 short all of these certified people. And so what
2 the multidistrict units do is they hire then the
3 paraprofessional or an aide from the community
4 there. And they're supervised from maybe one day a
5 week to twice a month, or however they got it set
6 up.
7 Training is another area -- oh, back to
8 personnel. The other thing there is we have a
9 severe need for preschool handicapped teachers
10 also, and even individuals with CDA's or child care
11 certificates and that type of thing. We have very
12 little trained people at home with that kind of
13 background. So that's another area we're looking
14 at, besides the specialist and special ed, because
15 we have a very, very great concern for the birth
16 through five children.
17 Training is the next area that I want to
18 address concerns about, at a different number of
19 levels, parents and community. There is a need for
20 awarement and a sensitivity towards and advocacy
21 for special education programs. I feel that there
22 needs to be a very serious effort on our part, the
23 schools and at governmental and administrative
24 levels, to get some powerful advocacy skills out
25 there for our people.

1 They are part of the -- I guess now that
2 I'm involved with it, you're seeing it, because
3 it's very uncomfortable for many of the parents.
4 Because this is a very complex process when you are
5 trying to identify -- well, first identify them and
6 then the assessment portion.
7 And I was going to try not to do this to
8 you by doing the EMH, LD, ED type of thing where,
9 you know, I'm not always sure if that's understood
10 by people what I'm talking about. But as we get
11 into the educationeez -- and we really intimidate
12 parents, I feel, in this process anyway. And I
13 think that the advocacy skills is a real critical
14 need, not only for the parents but the children.
15 There's a real stigma, even in this day and age,
16 regarding special education.
17 As I said, paraprofessional and aides,
18 critical need there. Certified staff, this is the
19 regular teaching staff. They need many skills
20 regarding culture, sensitivity to culture. In
21 addition, they need more enhancement of knowledge
22 regarding modifying lessons, new teaching
23 techniques, and alternative methods to effective
24 teaching. This also coincides with certified
25 special ed staff. So I'm talking all the way

1 through.

2 And administration is another one.

3 There's a critical need to inform them so they can

4 advocate for those programs. It is not fair to

5 leave special ed issues to special ed people. It's

6 the same thing with Indian issues left to Indian

7 staff.

8 Our staff, we only have in the whole

9 reservation, I believe, two certified Indian

10 people, and the rest are all non-Indian people.

11 And I think that, in order for them to be more

12 sensitive, to be more effective, they have to do

13 some things, they have to be knowledgeable, they

14 have to be aware, and they cannot isolate

15 themselves.

16 Administrative and school board members

17 should be on top of special education issues. They

18 should be able to tell you what's what in that

19 program and if there's progress. And if there

20 isn't, what can we do about it? I don't think it's

21 the business of just special ed or just the Indian

22 people.

23 The next area is assessment. Of course,

24 it's a given. When I heard the question earlier

25 regarding, you know, the concern about maybe we're

1 misdiagnosing and misplacing, to me, that is a
2 given. I believe that they are out there.
3 And we are always constantly recommending
4 to the schools to vamp up their assessment, because
5 right now there are no local norm tests for our
6 children. We utilize the formal tests that are
7 available and hope that they have some people that
8 are trained in these multi school districts that
9 will ask more questions beyond the formal testing.
10 There is a need there for more informal
11 assessment.
12 There is a need for more time for these
13 certified personnel that come out one day, evaluate
14 our child and leave, to work with parents, work
15 with staff, visit the students and interview and
16 observe in other situations, other than a test
17 situation. School psychologists are infamous for
18 that. That goes across the board when you have to
19 pull in assessment people from a hundred miles
20 away.
21 There's a definite need for researching
22 Native American children in the state of North
23 Dakota. I believe there's virtually none unless
24 it's done by specific agencies. The state itself
25 has not taken that responsibility and that

1 commitment to develop that for the state. That is
2 a real need.
3 Health issues also are a concern to our
4 schools, people in the community. Often times
5 children have other needs. Even after you identify
6 them, we think we've got it educationally handled,
7 but there are other needs. Assessment needs for
8 FAS and FAE was one that was mentioned.
9 The simple matter of glasses. We've had
10 a psychologist come out and assess children, and
11 then at the multidistrict meeting --
12 multidisciplinary meeting find out that the child
13 needed glasses. And so that invalidates
14 everything. But there needs to be a comprehensive
15 effort in looking at all of the needs. And health
16 has been a weak area in our schools.
17 Data base is another. I think you've had
18 several good examples today of the lack of
19 knowledge in terms of specific issues that deal
20 with Native American children. I have been very
21 frustrated with that, when I was teaching in the
22 system, not only at my school but also at the state
23 level. There was nowhere you could go for data to
24 determine if you had made any progress or had not.
25 And so, consequently, you developed your own data

1 and -- but it was specific to your needs. There is
2 nothing available. There's a real good need for a
3 bank of information for educators in this state.
4 Funding. Obviously, being a good
5 administrator, I must mention that. There is
6 currently a multitude of funding sources for our
7 schools. However, it is not adequate. And I don't
8 want to go into the amounts of that. Suffice it to
9 say it is not adequate.
10 We have need for facilities, as I said.
11 You all know what the cost of that would be.
12 Obviously, most school don't have that kind of
13 money lying around to renovate and improve
14 facilities.
15 Equipment needs. Often times, if there's
16 some special equipment, it's needed for just one
17 child. We can't get that. We may be able to rent
18 or whatever, but that's the school. And we have
19 the problem of: Well, can we deal with that at
20 home then? What are they going to have at home if
21 it's specialized equipment that they need at home
22 also? The funding, therefore, is an issue.
23 Institutional residential services is
24 another concern. Many children are placed in a
25 residential setting, and we are very concerned

1 about the effectiveness of doing that. We need
2 local resources for that.
3 Sometimes they're sent out of state
4 even. So even if we could have them in the state,
5 it would be helpful. Those that are available are
6 -- they have waiting lists, I'm sure, and are long
7 for some of the incidence area, such as the
8 severely emotionally disturbed and -- and those
9 that just have some special needs that are to be
10 considered socially, that need assistance in their
11 social and home life.
12 Coordination of services is another with
13 institutional and residential concerns. Children
14 are sent away and there is no connection back to
15 the home or the family. There's a real need to
16 develop comprehensive services there, a
17 coordination between the facility and the home.
18 And finally, we need a forum in our --
19 for our tribes. We're working on that. But also
20 the state has a need for a forum where we can
21 address some of the issues we're talking about
22 today. I don't know, you know, what the role of
23 the commission such as yours is to make and help us
24 develop, but I think that the responsibility lies
25 here. We need to have some way to have a meeting

1 of minds and find some ways that we can work
2 together.
3 We do receive some support also from the
4 BIA personnel, but this is from South Dakota. And
5 occasionally when there's an emergency, we do get
6 help from a co-op in Pierre.
7 Another area that I would like to address
8 as the concern is the birth through five that I
9 stated earlier. The services currently are not
10 comprehensive. There are over 600 children birth
11 through five on our reservation. Headstart
12 provides services for 10 percent of their
13 enrollment. And that enrollment, however, is only
14 a hundred. They're limited to a hundred. After
15 January, this will increase to 160. But that still
16 remains 60 children that they're able to serve.
17 None of our school districts provide
18 early childhood services. New Town is the only one
19 and theirs was specifically set up for preschool
20 handicapped. And like I said, eight are served
21 there and they're all Indian.
22 The headstart also collaborates in a
23 screening effort for three to four years old, but
24 usually that's, again, about 250 each spring. We
25 have many more. We're working on getting school

1 districts and other agencies to be responsible to
2 try to find and work with the remaining
3 population. All schools do assist the headstart,
4 however, in providing speech and language
5 services.
6 The personnel needs still exist for
7 certified preschool handicapped teachers, of
8 course, at all school centers. Paraprofessionals
9 are also used by the multidistricts to serve those
10 headstarts, and so they're very concerned that they
11 don't have the certified help for children.
12 Other concerns include center based
13 services. Often times when they do get the
14 services at the school, they must transport them to
15 the school. The services do not come to them.
16 There's a need for mental health workers at all
17 levels, and headstart is not an exception. We need
18 assistance with the health area also. Assessment,
19 FAS, and other health needs.
20 There is a common misconception that
21 Indian Health Service provides for all of our needs
22 and that the Bureau of Indian Affairs also provides
23 for all of our needs. That is not the case. I
24 think it is important to state, for the state of
25 North Dakota, because sometimes that is an

1 assumption. And services often stop at the
2 reservation boarder. And with more collaboration
3 and more information sharing, more co-ops, I think
4 that that will begin to be not a method for the
5 state to service Indian reservations.
6 The past year, with the help of
7 reservation-based personnel and effort, another
8 area we're looking at, in the birth through two
9 area, was to have something in place for them. And
10 the North Dakota Early Childhood Tracking Project
11 was one of the ways we did that.
12 And I don't know if anyone has spoken on
13 that today, but we support and hand-fed on the
14 reservation. That was established by the State of
15 North Dakota to track and monitor children birth
16 through two and birth through five in some areas to
17 monitor high risk and at risk children.
18 And much to the State's credit, they have
19 established reservation-based teams. This is a
20 very good thing for the State of North Dakota.
21 Most of the time they set them up in county areas
22 or their regional human service areas. This is one
23 of the first times, that I'm aware, that they
24 actually set something up based on a reservation.
25 And they also provided to us our tracking

1 coordinator, who's housed at the Bismarck office,
2 Sydney Shanley, who supports and assists us in
3 maintaining this program.
4 However, with four reservations, each
5 with unique situations and factors which cannot be
6 taken into account -- which have to be taken into
7 account, I should say, we have to look at the
8 special needs that this particular project needs.
9 And we did look at it and we did assist
10 by applying for BIA funds. Tribal BIA special ed
11 personnel applied for the funds to develop and
12 supplement a component to assist these
13 reservation-based teams. This primarily consisted
14 of hiring local personnel to initiate referrals and
15 do follow-up with parents and to be the local
16 contacts for parents.
17 Once again, you have a case where it is
18 not adequate to have your service people sitting in
19 Bismarck a hundred miles away. It is not
20 appropriate to have a parent that's concerned about
21 something and has no one to call or to see if
22 they're not local. So this was the concern. This
23 is the way it was structured by our
24 reservation-based people.
25 The children on the tracking team

1 increased from 40 to 197. I think that's important
2 to note. Once we did supplement this program, we
3 were having a difficult time getting referrals.
4 And the whole process is based on getting
5 referrals.
6 In addition, we have had more referrals
7 to the infant development program. Before that,
8 there were virtually no Indian children being
9 serviced by infant development program. Again,
10 they were housed far off from the reservation.
11 This has at least, in the last six months,
12 generated eight referrals, and some of them have
13 been placed in infant development program. So
14 consequently, that -- we're happy to see that
15 children that need services are getting them.
16 Unfortunately, there's also a downside to
17 everything, and the tracking system has had some
18 precarious funding problems. And I would ask that
19 the State of North Dakota ensure something in terms
20 of funding stability for efforts like this. There
21 is a concern that the funding will not be -- not
22 remain stable. And I would like to emphasize that
23 this effort has to be maintained. They may not be
24 able to see the success right away, but successes
25 are there already and we have proven it.

1 And I'm extremely concerned that we don't
2 let this particular project go because we have many
3 areas to expand on. We have, as I said, a training
4 component we want to develop. We have to increase
5 direct services to these families. Because once we
6 find them, it's not enough to just have them on the
7 tracking system. There has to be other services to
8 provide to them.
9 This is the general overview of some of
10 the services that occur and some of the concerns
11 that we have. Once again, I feel that a
12 partnership is needed to assess the needs on
13 reservations and to develop action plans.
14 Again, it's not enough just to say, well,
15 these are the needs. We must take very vigorous
16 action, aggressive action, to address some of
17 these. And that means state commitment, state
18 funds, and other resources. We can't just give lip
19 service anymore if we're going to progress.
20 There are many resources available and
21 we're grateful for that, but we have a lot of miles
22 yet to travel, I feel, and everything from staff to
23 funding to facilities and so on. But as I've
24 indicated, I feel that, you know, we have a chance
25 and an effort to see lots of success in this area.

1 And I'm certainly optimistic.
2 There are many other kinds of stats I
3 could give you in regard to Indian populations
4 regarding the high rates of disabilities in the
5 adult area, but as I understand, you're focusing on
6 the students, birth through 21.
7 But we do have a lot of adult issues also
8 that need to be addressed. And I will be
9 submitting something in writing, and I'll probably
10 include that portion in that because I'm not sure
11 how much more time I have here. I see you're
12 looking at your watch.
13 BRYCE STREIBEL: Well, thank you. We are
14 running under some time constraints, and the Chair
15 would suggest that maybe we limit the time for
16 questioning, as much as we've gone over 15 minutes
17 on the presentation and the allowable ten minutes
18 questioning has been used up plus. Unless there's
19 any member of the committee that has a question
20 that --
21 BERNADENE YOUNG BIRD: Are you including
22 the prior presenter also?
23 BRYCE STREIBEL: We set up 25 minutes for
24 each presentation.
25 BERNADENE YOUNG BIRD: He went 45.

1 BRYCE STREIBEL: We thank you very much.
2 BERNADENE YOUNG BIRD: Thank you.
3 BRYCE STREIBEL: At this time, before I
4 -- I want to turn the chair over to Betty Mills.
5 I have to leave for a funeral, not today, but I
6 have to pick up my wife and travel quite some
7 distance yet today. I'm sorry that I have to bow
8 out to the proceedings at this time and I apologize
9 to the committee.
10 And I want to thank Bill and Malee and
11 your staff for all that you've done. I can't
12 repeat enough the wonderful background work you
13 have done and how much it's added to the hearing.
14 And so, Betty, the chair is yours.
15 BETTY MILLS: Our next presenter is David
16 Gipp, president of United Tribes Technical
17 College.
18 DAVID GIPP: I want to thank the North
19 Dakota Commission and the U.S. Civil Rights
20 Commission as well for the opportunity to submit
21 our remarks today here. As indicated, my name is
22 David Gipp and I am the president of the United
23 Tribes Technical College.
24 And I will make our presentation
25 relatively short, plus or minus some of the

1 introductory remarks I'd like to make about United
2 Tribes and some of the remarks relative to the
3 basic four points that I'd like to make in the
4 statement we have before you today.
5 United Tribes, for those of you who are
6 not familiar, is certainly a technical college and
7 it's been in existence since 1969 and been in
8 continuous operation. And we serve a multitude of
9 tribes from throughout the region, certainly North
10 Dakota, but up to 15 different states and sometimes
11 as high as 40 different tribes.
12 And we serve adults, we serve children
13 out there as well, on our 105-acre campus just on
14 the south end of Bismarck. And so we really do
15 serve all facets of the family as well as the
16 Indian adult themselves.
17 And so the age range of our students are
18 basically from age zero to as high as age 50 or
19 possibly more on occasion. But the average age of
20 our adult student is right now around about the age
21 of 22, 23 years old. In 1969, the average age of
22 our adult student was about closer to 38 years old
23 in age.
24 But we serve families, as I mentioned.
25 We have our own day-care centers, we have our own

1 nursery, our own preschool, and our own K through 8
2 elementary school known as the Theodore Jamerson
3 Elementary School.
4 So there are a number of things that we
5 work with when it comes to the range of education.
6 Special education is one of those areas. By and
7 large we work, though, in the postsecondary
8 development when it comes to our adult students.
9 And the average total population at United Tribes
10 is roughly 400, counting children and adults on our
11 campus.
12 The other part of that coin, however, is
13 that United Tribes is not just a technical
14 college. We don't just offer the adult
15 certificates and the two-year certificates and
16 two-year degrees. We also work with our tribes
17 directly here in North Dakota and up to a
18 seven-state region where we provide technical
19 assistance to school districts, to tribal councils,
20 to Bureau of Indian Affairs schools, public
21 schools, contract schools, and we work with
22 colleges and universities as well, in providing
23 technical assistance in the area of Indian
24 education, and we've done so since 1981.
25 And so we have a small core of staff that

1 do a series of different types of seminars and
2 workshops outside of just the immediate campus
3 situation. So we are very definitely a resource
4 arm to Indian communities and those who work with
5 Native American populations in the region and, on
6 occasion, throughout the United States.
7 As an example of some of the other kinds
8 of work that our staff have done over the years, we
9 have our own American Indian curriculum development
10 project, for example, and our own Indian adult
11 education curriculum. And we've distributed that
12 to probably close to a thousand different school
13 districts throughout the United States, Canada, and
14 inclusive of Alaska. We also do other kinds of
15 work in the area of economic and business
16 development.
17 But I point those things out because the
18 role of United Tribes is very much intra-tribal in
19 nature, not only among our student population, but
20 as a resource arm by and for the tribes that we
21 serve and by and for the tribes that own United
22 Tribes.
23 To make it more clear, we are owned by
24 all of the North Dakota tribes here in the region,
25 and that includes, of course, the Three Affiliated

1 Tribes at Fort Berthold, the Standing Rock Sioux
2 based out of Fort Yates, North Dakota, the Sisseton
3 Wahpeton Sioux of the Lake Traverse Indian
4 Reservation down on the Sisseton, South Dakota
5 side, the Devils Lake Sioux up at Fort Totten, and
6 the Turtle Mountain band of Chippewa based out of
7 Belcourt, North Dakota. Those are our historic
8 owners.
9 And the people that sit on our board are
10 the elected tribal officials. The tribal chairmens
11 and usually one other selected person from the
12 tribal council sit on our 10-member board of
13 directors. And as a rule, they meet monthly.
14 So the great concern is about, of course,
15 the issues that are on our campus and the service
16 that we provide to our students, but also other
17 issues that deal with all of our tribes
18 intra-tribally.
19 To get to the point, we are very active
20 in the role of serving as facilitator and augmenter
21 of the early childhood infant tracking program out
22 of the State of North Dakota and we are a holder of
23 a contract and a grant through the Bureau of Indian
24 Affairs to begin and initiate the infant tracking
25 programs for the first time in the state of North

1 Dakota. And those age levels go from age zero up
2 to age five.
3 That is the program that I believe Miss
4 Young Bird was referring to a little earlier and
5 some of the other witnesses have talked about
6 earlier in their discussions with you today.
7 That project is basically beginning to
8 wind down. It's out of money and it will cease to
9 exist as an intra-tribal network. What it has
10 enabled the Indian reservations to do is to begin
11 identifying those age populations I just mentioned,
12 roughly since about the past March or so of this
13 past year.
14 And it was roughly about a hundred and
15 forty thousand dollars that was made available so
16 that the Indian reservations or the Indian tribes
17 could hire infant tracking assistance to begin to
18 identify these age levels that I talked about for
19 the very first time, in cooperation, by the way,
20 with the North Dakota State Department of Public
21 Instruction, the Bureau of Indian Affairs, as I
22 already mentioned, and the intra-tribal network
23 that we developed through United Tribes here. But
24 it has allowed each of the tribes to begin to take
25 a real role in the identification of the children

1 that are in need in this area.
2 So I guess that's the key and critical
3 thing that I'll point out. And I will get back to
4 that in my remarks. That just, I think, lends the
5 issue of what our commitment is in this area of
6 education.
7 The institution, of course, as I
8 mentioned, serves as a critical point for this
9 tracking program. And we will soon have our annual
10 report issued here on the results of our initial
11 findings.
12 These kinds of activities put the college
13 in a position to understand current practice in
14 special education. Our experience has led to the
15 conclusion that there are three immediate concerns
16 -- and actually, there is a fourth one which I
17 will outline to you.
18 First, we are concerned that we do not
19 have methods to determine whether Indian children
20 who appear to require special education are placed
21 in programs without due regard to social and
22 cultural differences or factors.
23 Second, we are concerned that there are
24 so few Indian professionals available to work with
25 Indian children who are identified as requiring

1 special education. And I think you've heard ample
2 testimony about the lack of professionals. I'll
3 comment a bit on each of these a little later on.
4 Third, we are concerned that programs for
5 prevention such as the current early childhood
6 tracking program have to struggle for funding.
7 Programs such as this one need more state
8 commitment and need to be expanded so that they
9 become treatment programs as well, regardless of
10 the fact that -- I already mentioned -- that
11 there's been a good deal of cooperation on this new
12 and beginning kind of program.
13 And fourth -- and I'll add this to our
14 written testimony -- we need to develop a system at
15 the tribal and local school levels where there are
16 Indian populations. We have to develop a system
17 particularly where the tribe has responsibilities
18 as a unit of government.
19 Currently, I would have to say there is
20 really no effective system in place to provide the
21 kind of support in this area of education. It is
22 all highly developmental and there's really no
23 short-term, much less long-term, kind of plan laid
24 out there to provide all of the logistical services
25 so that children can receive those effective

1 services.

2 As to the first concern, at least some

3 Indian students appear to have been identified as

4 requiring special education without attempts to

5 rule out social and cultural reasons.

6 A diagnosis of a learning disability is a

7 serious matter. Learning disability implies

8 problems with the brain or nervous system which are

9 serious and permanent and prevent the child from

10 learning at least some things.

11 Labeling children early places them in a

12 handicapped category. If the identification is

13 made without proper regard for social and cultural

14 factors, the diagnosis is clearly wrong. There are

15 many implications to such a diagnosis, including

16 effect on self concept and the development of a

17 dependent attitude.

18 Indian children seem to be

19 overrepresented in special education programs in

20 the state, as witnessed by the kind of information

21 that was given to you just before me by

22 Superintendent Lowell Jensen from the Bismarck

23 School District. It does not seem realistic to

24 think that there is any reason why the

25 participating of Indian children in special

1 education programs is two or three times as high as
2 that of non-Indian children in those same
3 categories.
4 One explanation of this condition is that
5 at least some of these children are identified
6 because of social and cultural factors. Before a
7 child is identified for a special education
8 program, social and cultural factors are supposed
9 to be ruled out as causes of problems. It would
10 appear that this is not a widespread practice.
11 It is very difficult to factor social and
12 cultural causes out. A strategy to improve this
13 situation would be to identify an Indian
14 organization and a community to conduct studies to
15 improve identification processes.
16 Such studies should involve an analysis
17 of tests currently in use for identifying students
18 for cultural bias. It should also include the
19 development of instruments and other methods for
20 ruling out social and cultural causes, something
21 that has been completely overlooked in the area of
22 education, particularly in this state, and I should
23 mention it is an issue throughout the nation.
24 As to our second concern regarding Indian
25 professionals and resources, these same cultural

1 factors can prevent the teacher who does not
2 understand them from working effectively with
3 Indian children. It does not seem to make much
4 difference whether the programs are operated by
5 Indian schools or are public schools in the state.
6 The kinds of activities engaged in are the same and
7 do not seem to take culture into account.
8 There is considerable evidence to support
9 the idea that Indian children have learning styles
10 that differ significantly from those of mainstream
11 children. Indian teaching personnel should have a
12 better chance of recognizing these style
13 differences and developing activities that better
14 serve Indian children.
15 One major problem is that there are very
16 few Indians who are trained as teachers of the
17 learning disabled or of those with other problems
18 requiring special education. Funding for programs
19 to train such teachers is urgently needed, as well
20 as developing a system on our own reservations for
21 the kinds of tribal codes and the kinds of
22 technical assistance to allow our own systems to
23 begin to be developed, including those standards
24 that were referred to earlier today.
25 Third, prevention. Learning disability,

1 as noted above, is defined as stemming from brain
2 or neurological disorders. Certain conditions,
3 including nutrition and other environmental
4 factors, are known to increase the risk of such
5 disorder. Programs such as the early childhood
6 tracking program are designed to identify children
7 who are at risk for these factors. The program has
8 a hand-to-mouth existence and is currently facing
9 financial difficulty again.
10 We understand the state has given us
11 about a 30-day assistance of funds so that we can
12 extend the use of our infant tracking assistance on
13 the Indian reservation. I just got that word
14 earlier today. As of the 20th of December, the
15 infant tracking assistants were to be laid out, and
16 yesterday I was successful, along with the support
17 of those from the Indian reservations, in getting a
18 $2500 grant from the Leach Foundation from our own
19 local area here.
20 But I point those out. Resources are
21 limited. They are short term. And I just point
22 out the fact that we have a program that's going to
23 die, literally, on the vine.
24 A good share of the work of project
25 administration is just to find money to continue.

1 A valuable data base is being developed in this
2 program and it needs to continue.
3 A second problem with this program is
4 that, since financial difficulty is so prevalent,
5 it cannot intervene when it identifies a child at
6 risk. All that can be done is to transfer or to
7 refer these children to existing agencies. The
8 result is a spotty service. The program could be
9 far more effective if the resources were available
10 to continue to identify children at risk and to
11 develop the ability to intervene to prevent
12 development of problems.
13 Those, Madam Chairman, are the key
14 remarks that I have regarding the areas of concern,
15 those four basic areas. And I would be willing to
16 make further comment if there would be questions or
17 comments. Thank you very much.
18 BETTY MILLS: Does anybody have a
19 question?
20 MALEE CRAFT: I have a question. Mr.
21 Gipp, in reference to one of your four points that
22 you made, you talked about the American Indian
23 curriculum project. Is that project -- is the
24 State of North Dakota looking at that project?
25 What's happening? We heard today testimony about

1 curriculum, a little bit about curriculum, and that
2 needs to be looked at. What's going on in North
3 Dakota in reference to that?
4 DAVID GIPP: I think the most recent
5 development in the area of Native American
6 curriculum was the so-called Centennial Curriculum,
7 which was developed for the hundred celebration for
8 the State of North Dakota.
9 By and large -- and it was, by the way,
10 made available, as I was told, to every school
11 district that wanted it in the state of North
12 Dakota. We have our own curriculum and it is at
13 the elementary level, and we have an adult one.
14 But by and large, I think that there
15 needs to be a great renewal in the area of
16 curriculum development, particularly in the area of
17 Indian affairs or tribal issues. I think that that
18 is one in which North Dakota could play a more
19 significant leadership role. Let's put it that
20 way.
21 BETTY MILLS: Carol Jean.
22 CAROL LARSEN: Mr. Gipp, is your facility
23 used as a resource for teacher education, even
24 particularly in the schools that are closest to --
25 around you?

1 DAVID GIPP: In the area of teacher
2 training, you're referring to -- no, not at this
3 point. We have some limited kinds of things that
4 are going on.
5 I believe Turtle Mountain Community
6 College is doing a program with the University of
7 North Dakota, but it is not a very large program,
8 and that is largely because teacher training
9 programs in this country, since about the late
10 '70s, early '80s, have literally died. There's
11 been a lack of emphasis from federal policy and
12 even state policy throughout the United States.
13 And when we were producing teachers, if
14 you will -- I hate to use that term -- but our
15 largest output of Indian teachers really began in
16 this state historically, as a very first beginning,
17 in about 1970, thereabouts. And it went on up the
18 line in terms of production of teachers into the
19 late '70s, and then has since dissipated, simply
20 because there are no real incentive programs
21 specifically designed in this case for American
22 Indians.
23 There needs to be a great linkage
24 provided between the two-year colleges -- and I'm
25 speaking of the tribal colleges on each of the five

1 or six reservations that we're familiar with in
2 this region -- and the four-year institution. Not
3 the linkage there that existed even 10, 15 years
4 ago.
5 AUDREY HENDERSON-NOCHO: Mr. Gipp, you
6 talked about the number of -- you didn't talk about
7 the number of children you track. It's from zero
8 to five years of age. What are the numbers on
9 that? Do you have that available?
10 DAVID GIPP: Of the children that -- as I
11 understand, that have been identified at risk,
12 there's about 623 out of this project right now.
13 And those are from the age of zero to age five. We
14 -- my understanding is the ages zero to two are
15 referred for services to the North Dakota
16 Department of Human Services, and those ages three
17 to five are taken care of principally by the local
18 school district in terms of follow up of services.
19 So what we do in tracking, or what our
20 staff at each of the Indian reservations through
21 the tribal government or tribal education
22 departments do, is basically identify this number
23 as at risk. But the next step is getting those
24 services and consistent kinds of services.
25 AUDREY HENDERSON-NOCHO: I have two other

1 additional questions. You talked about the money
2 was -- you've got some extensions here by two other
3 agencies. What was the overall cost for conducting
4 this program?
5 DAVID GIPP: The total cost of this per
6 annum -- and that's with six positions as well as
7 the other kinds of resources that are necessary,
8 travel, for example -- I believe it's about a
9 hundred and forty thousand dollars. I don't know
10 that we actually spent a hundred and forty thousand
11 dollars. Probably coming closer to a hundred and
12 thirty. That provides for six tracking
13 specialists, some part-time coordination, a high
14 degree of travel throughout the rural reservation
15 areas.
16 AUDREY HENDERSON-NOCHO: These six
17 specialists and part-time individuals, what was the
18 ratio of Native American people who implement this
19 program?
20 DAVID GIPP: The staffing, you mean?
21 They're a hundred percent Indian. Let's put it
22 that way. And I should add that we've had to kind
23 of put this together very much in the sense that,
24 while we've had that kind of staffing fund for the
25 tracking program itself, I had to lend special

1 kinds of notes of appreciate from the Department of
2 Public Instruction for lending, in effect, what we
3 would call, from our perspective, an unpaid
4 coordinator to assist us with the project, that
5 being Sydney Shanley with DPI. And the other part
6 of that analysis is Dr. Rousey from Minot State
7 University.
8 So the project itself really does
9 represent a very coordinated, cooperative kind of
10 effort between -- let me put it this way -- state
11 tribal and intra-tribal and federal network.
12 That's really what it represents.
13 From that perspective, we consider it
14 very good. Because too often we're talking about
15 agencies that don't listen or talk to each other
16 and may be doing, in fact, the same things and
17 simply don't get their resources together.
18 Nevertheless, the point is that this kind of
19 project is the kind of thing that's going to be
20 allowed to evaporate.
21 AUDREY HENDERSON-NOCHO: One last
22 question. The teachers that are going out and
23 administering this program and others, you talk
24 about there was a lack of incentive there for them
25 to continue on. Do you feel that perhaps maybe

1 they've been inadvertently discriminated because
2 maybe there weren't any hiring incentives? What is
3 it?
4 DAVID GIPP: You're speaking -- I'm not
5 sure I understood the question.
6 AUDREY HENDERSON-NOCHO: There's a lack
7 of number of individuals out there. You had your
8 concerns up here and it said training and funding.
9 Right?
10 DAVID GIPP: The lack of professionals,
11 you mean?
12 AUDREY HENDERSON-NOCHO: Right.
13 DAVID GIPP: Yes, yes. Uh-huh. I guess
14 my belief is that you are not going to get
15 professionals, Indian professionals that is, into
16 any field unless there are specific programs to
17 develop that kind of talent. That's been my
18 experience.
19 I've worked with, for example, the in-med
20 program at the University of North Dakota.
21 Throughout that program, we've produced over half
22 of the American Indian doctors in this nation, out
23 of the University of North Dakota, and it's because
24 of in-med. Let's put it that way.
25 I'm getting away from your specific

1 question. But the point is, unless you have
2 specifically directed kinds of programs targeted to
3 produce professionals in this area of special
4 education, and unless you make concerted efforts to
5 get those kinds of people, whether we're talking at
6 the paraprofessional level as well as the four-year
7 or upper degree or graduate levels of education,
8 you're not going to have them.
9 I listened to a particular agency this
10 morning talk about the fact that they have no
11 American Indians on staff. And I will say this: I
12 don't doubt that that agency isn't doing a great
13 job. I don't doubt it for one minute. And it is
14 not frequent for me to come up and criticize
15 another agency, but I will tell you this much. If
16 we cannot put American Indians into some of these
17 areas, we're not going to get to that population.
18 I think that's one of the reasons why
19 this early childhood tracking program is working,
20 is because we're using Indian people and we're
21 using it on their own power. Let's put it that
22 way, whether we're talking paraprofessionals or
23 professional kinds of levels of services. But we
24 don't have them. We literally don't have these
25 people.

1 Special education is just that, a highly
2 specialized field. And we need more Indian
3 professionals across the board, through the form of
4 teacher training programs and so forth.
5 Excuse me. I didn't mean to digress too
6 far from your question.
7 MARK SCHNEIDER: Dr. Gipp, the early
8 childhood tracking system, that was all BIA
9 discretionary funds; is that right?
10 DAVID GIPP: That's correct. It was a
11 discretionary program.
12 MARK SCHNEIDER: And those funds are
13 gone; is that right?
14 DAVID GIPP: That essentially is what
15 will happen -- my understanding is that the Indian
16 tribes will receive some money. I am not, at this
17 point, appraised of how sufficient and just exactly
18 what they will be able to do on a direct funding
19 basis at this point in time. The point is, it
20 appears to me, that there's going to be at least
21 some initial lapses here.
22 MARK SCHNEIDER: This may be terribly
23 naive of me, but have you contacted the North
24 Dakota Indian Affairs Commission? They're supposed
25 to act as the liaison between federal, state, and

1 local agencies and provide, I would think, a
2 situation to help your program.
3 DAVID GIPP: Well, we were just
4 discussing this, this project, with the Indian
5 Affairs commissioner, Miss Painte, just earlier
6 this afternoon over lunch. It's one of the reasons
7 I got back a little bit late. So she's well
8 appraised of it. We certainly need that kind of
9 help. But I will tell you this much: The Indian
10 Affairs Commission doesn't have the money. The
11 other departments do. But we appreciate the help,
12 though.
13 MARK SCHNEIDER: Thank you, Doctor.
14 BETTY MILLS: Are there any further
15 questions?
16 WILLIAM MULDROW: Thank you very much for
17 such a concise presentation. You covered a lot of
18 the points and questions that have been raised here
19 this morning.
20 One of the points of contention in our
21 question seems to be that there's a danger of
22 misdiagnosis of learning disabled children who are
23 put in special education programs perhaps because
24 of cultural or other kinds of bias. And there
25 seems to be a dearth of emphasis of programs aimed

1 at correcting this possible deficiency.
2 Your college, it would seem to me, would
3 be in an ideal position to address this problem,
4 and yet, in your curriculum and the courses that
5 you offer, I don't see anything that deals with
6 this. And I wonder if that might not be a void or
7 something that you might consider filling --
8 DAVID GIPP: Well, if you're seeing we
9 don't have an American Indian studies project
10 program in that sense of the word, we do have
11 projects and courses that are in those areas, and
12 you may not have seen those in the catalog.
13 The other issue, though, is that we are
14 not a non-Indian university or college. I'm not
15 sure that we're going to probably set up an
16 American Indian studies program, in that sense of
17 the word, as, say, UND would view that sort of
18 thing. But we do have some of our curriculum which
19 addresses those areas, by the way, as part of our
20 project -- or part of our programs.
21 WILLIAM MULDROW: For example, would your
22 college be able to provide an in-service training
23 program for teachers in the Bismarck Public School
24 system?
25 DAVID GIPP: Oh, yeah. Definitely.

1 WILLIAM MULDROW: If you set up
2 something, it might be very useful.
3 DAVID GIPP: Some of them range from the
4 basic issues of managing to policy decisions that
5 -- we're doing work with training school boards.
6 Maybe the Bismarck school board needs a good
7 training course on American Indians, and on other
8 cultures, by the way. Not a bad idea, if that
9 would be the suggestion.
10 Sometimes many of the groups we deal with
11 simply don't realize or recognize many of their own
12 shortcomings or the needs they have. It's easy to
13 pick out the needs that are real obvious.
14 But the point -- to answer your question,
15 yes. We do have professional staff, American
16 Indian and non-Indian, that are on our faculty and
17 on our resource staff that can provide those kinds
18 of services, and we do so, as I mentioned, up to a
19 seven-state area.
20 BETTY MILLS: Are there any further
21 questions of Mr. Gipp?
22 (No response.)
23 BETTY MILLS: Thank you very much.
24 DAVID GIPP: Thank you very much. I
25 appreciate your time.

1 BETTY MILLS: Dr. Davis has already
2 testified and Dr. Mundy won't be here, which puts
3 us through to -- I would like to take up one more
4 person before the break, if we could.
5 Thank you for coming. This is Teresa
6 Delorme, who is the coordinator for Race and
7 National Origin in the North Dakota Department of
8 Public Instruction. Welcome.
9 TERESA DELORME: Thank you. Hello,
10 members of the commission. I want to add to that,
11 that I enjoy my work with the department
12 tremendously.
13 I've been asked by Malee Craft to provide
14 testimony relative to the placement of American
15 Indian students in the special education programs.
16 This request was made because I served as an
17 educator of American Indian children for many
18 years.
19 I began my career in elementary education
20 as a paraprofessional in the late '70s with the
21 Belcourt school system here in the Turtle Mountain
22 Indian Reservation in North Dakota, which is my
23 home community. While working in this capacity, I
24 attended school evenings and earned a Bachelor's
25 degree in elementary education in 1977. Since

1 then, I've taught American Indian students in
2 grades 1 through 12 and have served as an
3 elementary principal for eight years in various
4 schools.
5 I give you this background so that you
6 have an understanding of the extent of my
7 experience, because much of what I say today has --
8 I have no statistics to substantiate. This is
9 based on observation and discussions with other
10 professionals in the field.
11 I've spent the last 20 years of my life
12 in elementary and secondary schools working with
13 Indian children and with some non-Indian children.
14 During my years as an educator in the elementary
15 schools, I witnessed the placement of a number of
16 American Indian students in special education
17 programs. Often students who were placed in the
18 programs were students who were doing poorly in
19 reading and language arts.
20 Teachers of these students usually
21 indicated that they had exhausted their resources
22 and were still unsuccessful in helping the students
23 to achieve a grade level. Recommended alternative
24 methods and materials did not seem to have a
25 significant impact on the achievement of these

1 students.

2 There are no statistics available, that

3 I'm aware of, regarding the percentage of American

4 Indian students placed in special education

5 programs compared to other groups of students.

6 However, close observation and informal

7 comparisons, meeting with other people, indicates

8 such placement is at a much higher level for

9 American Indian students than for other groups.

10 While educators seem to be unable to

11 pinpoint a specific cause for the lack of success

12 in reading and language art areas for so many

13 American Indian students, speculation centers

14 around language development concerns.

15 There are beliefs and practices inherent

16 in the culture and language of American Indians who

17 have continued to have what some would consider an

18 adverse effect on the development of communication

19 skills. I say "what some would consider." We

20 often do not consider that to be an adverse

21 effect. We often consider it to be different.

22 Traditionally, many American Indian youth

23 have been raised in family structures that value

24 silence and place some restriction on the young

25 relative to participation in adult conversations.

1 And this is something that I've not only
2 experienced, but also have observed.
3 In addition, the transition from native
4 language speaking to English speaking has had some
5 effects, the result of which is referred to as
6 "reservation English" or "Indian English". By
7 whatever name, the language characteristics of
8 American Indians continues to hamper their
9 communication skills development.
10 During the early preschool years, all
11 aspects of American Indian children's development
12 keeps pace with those of their white counterparts.
13 This rapid growth continues on into the primary
14 grades. Near the end of the second grade or
15 beginning of third grade, a crossover effect
16 occurs.
17 As the average American Indian child
18 continues to progress through the school system, he
19 or she continues to lose ground academically. The
20 curriculum area in which this is most evident is in
21 the language arts area. Language development is
22 considered the primary factor that contributes to
23 this phenomenon and is viewed as the reason for
24 poor performance in other curriculum areas.
25 Historically, large percentages of the

1 American Indian student population have done poorly
2 in language arts area on standardized test
3 results. They often do not progress beyond the
4 intermediate level in the acquisition of
5 communication skills. When these groups of people
6 reach adulthood and become parents, they become the
7 model for their children.
8 Ideally, children should learn as much
9 from their parents at home as they are learning in
10 school through interactions with parents and other
11 adults. However, by third or fourth grade, many
12 American children, American Indian children, have
13 reached a level of language skill development that
14 is nearly equal to that of their parents.
15 As a result, opportunities in the home
16 for the acquisition of language skills are
17 decreased significantly and the students must rely
18 primarily upon schools for the language skills
19 acquisition. Thus, a cyclical process has been
20 created as based not upon the American Indian's
21 ability to learn, but upon the bizarre recent
22 educational history of the American Indian.
23 And I say "recent" because there's always
24 been an educational system in place. However, I'm
25 not going to bore you with the Indian education

1 history of the last hundred years or so. We're all
2 aware of what's happened with the American Indian
3 child in history.
4 The American Indian population has
5 continued to make progress academically. And I
6 would add here that it's amazing that, in many
7 cases, a tribe's culture and language has been
8 taken away without anything to replace it for a
9 period of time. It's amazing that our young
10 people, our Indian communities, have done so well
11 academically.
12 We're always being criticized for not
13 having done well. However, we have done extremely
14 well considering the adversity with which we've
15 been faced.
16 Many educators fail to take into account
17 the fact that, while language skills have continued
18 to improve in the American Indian community, the
19 dominant society has also continued to develop
20 skills at a rapid pace. As a result, the American
21 Indian student population continues to perform
22 below norm and is always playing a game of
23 catch-up. Consequently, those students who score
24 significantly below national norms are at a risk of
25 being placed in special education programs because

1 they seem to fit the learning disabilities criteria
2 or pattern.
3 If education programs serving the
4 American Indian youth are to have a significant
5 impact on student achievement, in-depth assessment
6 and program development must occur in the language
7 area, as well as other areas, but now the main
8 concern is the language area.
9 I use the term "language" in a general
10 sense to ensure that it's understood to mean more
11 than reading and language arts content areas.
12 Language is necessary and it infiltrates every part
13 of our lives. Therefore, I use it in the broad
14 sense.
15 We need to determine which of the present
16 practices are truly effective in achieving goals in
17 the acquisition of language/skills. We must then
18 develop programs designed specifically for the
19 purpose of addressing these goals in a systematic
20 way.
21 I really hesitated to say "develop
22 programs" because we have been developing programs
23 for ever and one program often replaces another.
24 The impact probably is usually not much better
25 success rate, doesn't seem to increase much.

1 Therefore, I do hesitate to use "develop
2 programs".
3 However, the kind of developing I'm
4 talking about means really assessing, not putting
5 aside a lump of money and saying: Hurry up, you
6 got two months to assess. Now you got two more
7 months to develop a program, and just let's hurry
8 up and do something because we've got a problem and
9 somebody says we have to deal with it.
10 I mean really take the time and put in
11 the effort to develop something that's really based
12 upon the needs of the students we're serving.
13 There's much more than that that can be
14 said and explored in this particular area.
15 However, time limitations prevent a more in-depth
16 review.
17 It is my hope that this exercise, what
18 we're doing here today, is only the initial step in
19 the process that will serve to guide us in
20 achieving desired results. Thank you.
21 If there are any questions, I'd be happy
22 to make an effort to answer them.
23 BETTY MILLS: Any questions?
24 JOHN OLSON: Teresa, looking at your
25 resume here that we were provided, you state that

1 your office does receive information concerning
2 discrimination in special education programs?
3 TERESA DELORME: It's open to it. I'm
4 not saying it does. But I would respond to those
5 kinds of concerns or issues.
6 JOHN OLSON: I don't doubt that the
7 assumption is valid that -- even the statistics
8 bear out the fact that Native American children in
9 special education programs are two or three times
10 higher than non-Indian children, which does suggest
11 that there's misdiagnosis. I think I can agree
12 with that.
13 But I think that it would be important to
14 determine whether or not there have been special
15 instances in North Dakota where complaints or
16 misdiagnoses have been discovered. Are you aware
17 of any specific complaints or any specific
18 instances where misdiagnosis has been the case for
19 Native American children?
20 TERESA DELORME: No, Sir, I am not. And
21 I would venture to guess -- and now I'm really
22 guessing -- that that would be primarily because
23 people aren't knowledgeable enough in that field to
24 know that they do have some type of recourse if
25 they feel the child has been misplaced -- not

1 misplaced but displaced, however you term that.
2 JOHN OLSON: Maybe somebody else could
3 address that, too.
4 (Unidentified person in audience
5 raises hand.)
6 JOHN OLSON: Okay. We have one.
7 UNIDENTIFIED SPEAKER: You want me to
8 address it right now?
9 JOHN OLSON: Are you going to be
10 presenting?
11 UNIDENTIFIED SPEAKER: (Nods head.)
12 BETTY MILLS: Let's wait till she's at
13 the podium. Bill, you had a question.
14 WILLIAM MULDROW: Okay. Just to follow
15 up a little bit on that. If a parent were to
16 complain that his or her child had been misplaced
17 in a special education program, what route would
18 they follow to get the kind of recourse --
19 TERESA DELORME: Well, I know of one case
20 where a parent or guardian has contacted our office
21 and they were referred on to the Office of Civil
22 Rights, although that person had already taken the
23 initiative and gone ahead and done that.
24 But I have found -- it's been my very
25 brief experience -- I've been with the department

1 for three months and I've only fielded one call
2 regarding this particular concern. And it's been
3 my experience that when I made an attempt to
4 contact personnel at the school, that some were
5 reluctant to discuss it because they felt that they
6 would want to wait for a formal hearing, or
7 whatever. So my response to them, then, is to help
8 them make the right connection, so to speak, with
9 the Office of Civil Rights.
10 WILLIAM MULDROW: What are your specific
11 responsibilities as coordinator for Race and
12 National Origin? Is that your correct title?
13 TERESA DELORME: Right.
14 WILLIAM MULDROW: What are your
15 responsibilities?
16 TERESA DELORME: First of all, I am
17 responsible for fielding calls or responding to
18 issues or cases concerning students who have been
19 maybe placed inappropriately, students of race or
20 national origin who have been placed in programs
21 that are inappropriate because of language
22 problems, their inability to maybe use the
23 language, whatever. Anything relating to
24 language.
25 I also provide multi-cultural education

1 in-service training for school districts around the
2 state. And upon request, I will go into school
3 systems and work with teachers who would like some
4 help in the classroom, who would like to have
5 someone come in and observe, provide feedback, and
6 just basically do demonstration teaching, if that
7 be what they want.
8 WILLIAM MULDROW: As you heard -- or
9 maybe you haven't heard -- but statistics presented
10 by your school district show a wide disparity, a
11 disproportionate placement of Indian students in
12 special education programs, not just a little bit,
13 but a lot. Has there been any effort to determine
14 the reason for this, specific reason? You
15 mentioned some speculation that -- of why this is,
16 but has there been any study or effort to determine
17 precisely what the cause of this is?
18 TERESA DELORME: Again, there's been much
19 speculation, and that's why I make the
20 recommendation of an in-depth assessment. There
21 needs to be that effort. And however long it takes
22 -- I'm saying we cannot just say: Well, here's a
23 lump of money. Go in and do an assessment. Give
24 me some results. You have --
25 WILLIAM MULDROW: Who would be

1 responsible for doing that, your recommendations?
2 TERESA DELORME: I would believe that we
3 would have to look at a combination of
4 organizations or offices or whatever. I believe
5 the Office of Indian Education, Department of
6 Public Instruction, the Bureau of Indian Affairs
7 Education Department, local schools. It has -- or
8 regional. It has to be a concerted effort.
9 There's no one entity that should be
10 responsible for such an undertaking, because this
11 is not just a problem that's prevalent only in the
12 state of North Dakota. That's a problem that is
13 being addressed or discussed across the nation
14 regarding --
15 WILLIAM MULDROW: So you do not feel it
16 would be worthwhile for the Bismarck Public School
17 system to undertake such a study of their own
18 situation?
19 TERESA DELORME: I'm not saying that. I
20 think every school district has the responsibility
21 to address the needs of their youth. But when
22 you're talking about the state of North Dakota and
23 all of those entities that serve Indian students,
24 then we're talking about a much broader group of
25 people or organization that would undertake that

1 task. If you're talking about specific districts
2 addressing those needs, they all should be.
3 MALEE CRAFT: I have a question. Teresa,
4 you mentioned a multi-cultural training. And
5 earlier today it's been mentioned a couple of times
6 that, I guess, teachers, certified teachers, are
7 required to take a course, a couple of courses, in
8 multi-cultural education or whatever.
9 TERESA DELORME: Indian studies.
10 MALEE CRAFT: Indian studies or
11 whatever. One, do you know exactly what the
12 requirements are for teachers, how many hours or
13 whatever? And two, in your training that you
14 provide, is it on a request basis?
15 TERESA DELORME: Yes.
16 MALEE CRAFT: How much do you do? What
17 is the multitude of training or how much do you do?
18 TERESA DELORME: I have offered my
19 services to the school districts across the state
20 and it's upon request. And it's usually a one hour
21 in-service that's not for credit unless the
22 district has made arrangements to provide that
23 training for credit.
24 As far as the requirement from the
25 Department of Public Instruction for Indian

1 studies, I'm not sure of the number of semester
2 hours. What is it? Three?
3 UNIDENTIFIED SPEAKER: Two semester,
4 three quarter.
5 TERESA DELORME: Okay. Two semester,
6 three quarter.
7 MALEE CRAFT: In your -- another
8 question. In your multi-cultural training that
9 you've given, can you -- I don't know if you can
10 quantify it. Let's say of all the school districts
11 in the state, have you done it for all of them?
12 Are you a popularity out there and how many people
13 want to take access of your training?
14 TERESA DELORME: I've been in this
15 position for three months. And to date, I've done
16 one and it was with the girl scouts in the Grand
17 Forks area. However, I'm being scheduled in --
18 I've been scheduled to do four up to this point,
19 and I have several other people who are wanting to
20 have me scheduled into their schools, but they're
21 looking at dates where we can work together to get
22 those kinds of things done.
23 I anticipate -- most of the calls have
24 been in the past month, so I anticipate that by the
25 end of this school year I will be getting many more

1 requests to do that sort of thing. They are aware
2 of the service now that is available and school
3 districts enjoy having that kind of service
4 provided at no cost to them. I anticipate the
5 number of requests.
6 BETTY MILLS: John?
7 JOHN OLSON: Thank you. I have a
8 question. You know, when we talk about special
9 education, we're talking about a number of
10 different programs. We agree to that. And I'm
11 just taking a look at Lowell Jensen's list of
12 programs for the Bismarck district.
13 TERESA DELORME: I didn't see that.
14 JOHN OLSON: My question really relates
15 to each one of those programs and where do you
16 think that the possibility or the potential for
17 misdiagnosis is either great or less, depending on
18 the program. And I'm just going to read them off
19 to you because I think -- I think it's important to
20 find out, among all these programs, where the
21 potential to misdiagnose these -- of Native
22 American children would be greatest.
23 We have, in Bismarck: Educable mentally
24 handicapped -- that's one program -- trainable
25 mentally handicapped, severely multiply

1 handicapped, physically handicapped, emotionally
2 disturbed, learning disabilities -- I think that's
3 one of the largest.
4 TERESA DELORME: That's the one.
5 JOHN OLSON: -- speech impaired, hearing
6 impaired, visually impaired. So are you in
7 agreement, then, that really we're looking at
8 learning disability?
9 TERESA DELORME: We're looking at
10 learning disabilities, because when you look at
11 test results related to the language development
12 factor, that's where you see students scoring much
13 lower. And so it gives you that -- that -- the up
14 and down graph type of effect. When they score
15 very low in the language area in general, there's
16 -- that's when there's greater chance to be placed
17 in that.
18 JOHN OLSON: What about speech
19 impairment? Is there a potential for placing
20 Native American children in speech impairment
21 programs?
22 TERESA DELORME: There is a potential.
23 JOHN OLSON: But that's not a concern to
24 you?
25 TERESA DELORME: The experiences that

1 I've had working with the special education
2 programs that I've worked with have been good in
3 the sense that -- at Turtle Mountain, for example,
4 they have an outstanding special education unit and
5 have become very much aware of those concerns and
6 are much more guarded in how they respond to test
7 results and all of the various forms of assessment
8 that are being used. But I would guess that that
9 might be a cause for concern, depending upon the
10 location and the background of the people involved
11 in making those decisions.
12 JOHN OLSON: So learning disabilities and
13 maybe speech impairment, of the programs I've
14 listed, are the two areas. Chances are that
15 emotionally disturbed would not be that --
16 TERESA DELORME: No.
17 JOHN OLSON: -- much of a concern?
18 TERESA DELORME: I wouldn't see that.
19 Now, someone else might have a different perception
20 on that, but I wouldn't see that as being a major
21 cause for concern.
22 MALEE CRAFT: One more question. Teresa,
23 looking back or going back over the background you
24 gave us about your experiences, what would be your
25 opinion or recommendations that you might have as

1 far as how North Dakota might bridge the gap of the
2 number of teachers, Indian teachers, that are
3 working in the system, or the lack of the number,
4 the small number? Would you have recommendations
5 on how that number could be increased, based upon
6 your experience as a teacher?
7 TERESA DELORME: That takes some
8 thought. What was successful at Belcourt and what
9 -- as far as the numbers that we have at the
10 elementary level -- we do have a high number of
11 local people who are professional educators -- was
12 the site-based education programs where you
13 contract or work out an agreement with a university
14 or college to provide the training on-site where
15 people are employed and can attend courses or
16 schooling at night.
17 It was successful for me and successful
18 for everyone who was a part of our program. We had
19 a very low dropout rate in our teacher education
20 program, and I think it was because people were
21 able to be with their families, they were able to
22 work during the day and still go to school and get
23 the degree. And when you send people away and you
24 remove them from their communities with a lack of
25 funding, you're almost spelling failure before you

1 even start.

2 It was successful at Belcourt. And I do

3 believe some of the other reservation people were

4 able to participate in those programs, and where

5 they did, it was successful. I really believe that

6 that is probably the best way to address that

7 concern.

8 BETTY MILLS: Any other questions?

9 (No response.)

10 BETTY MILLS: If not, Teresa, thank you.

11 TERESA DELORME: Thank you for your time.

12 BETTY MILLS: And I think we'll take a

13 ten minute break now. We'll be back here at 20

14 after.

15 (A recess was taken from 3:10 p.m.

16 to 3:23 p.m.)

17 BETTY MILLS: I'd like to call the

18 session back. Our next speaker is Dr. Gary

19 Gronberg, who is director of special education and

20 school improvement with the North Dakota Department

21 of Public Instruction.

22 BRENDA OAS: Madam Chairman and members

23 of the committee, my name is Brenda Oas. I'm an

24 assistant director of special education at the

25 North Dakota Department of Public Instruction. My

1 responsibilities include acting as the department's
2 contact person in issues concerning students
3 identified as specific learning disabled since that
4 is my area of special education and training and
5 experience.
6 And a number of the issues that, I guess,
7 have been raised are relative to services for those
8 students, that I have been asked to report, I
9 guess, in place of Dr. Gronberg. I also supervise
10 the early childhood tracking system and would be
11 able to answer specific questions on that topic as
12 well.
13 The responsibilities of the Special
14 Education Division of the Department of Public
15 Instruction include prescription of rules and
16 regulations for special education in the state,
17 assisting school districts in development and
18 administration of special education programs
19 statewide, establishing standards, and providing
20 for approval or certification of schools, teachers,
21 and facilities.
22 We provide assistance to the 31 special
23 education units in North Dakota. These units are
24 predominantly multidistrict, cooperative
25 intermediate education units that are made up from

1 two to 30 local school districts.
2 We do have seven school districts that
3 are classified as a single district unit. Those
4 would be -- like the Bismarck public schools would
5 be a single district special education unit as
6 well. These single district units range in size
7 from a total school population of 150 to 10,500
8 students. That would be the total school
9 population, not special education population.
10 North Dakota's special education services
11 are then provided through these 31 special
12 education units on a categorical basis. And that
13 means based on those categories in Public Law
14 94-142.
15 Our agency is very aware that we have
16 some problems in special education services to
17 Native American students. These problems are not
18 borne out in the data that is collected by our
19 office.
20 For example, we do an annual child count
21 under Public Law 94-142 and that data is collected
22 on December 1st. Part of the complication, I
23 think, in collecting that information -- it's
24 probably been mentioned by some of our other
25 representatives -- that some of the data -- or that

1 the data we collect is based on children who are
2 enrolled in public schools.
3 There also is data on children who are
4 enrolled in Bureau of Indian Affairs or tribal
5 schools, and we do not collect that information
6 since that would be duplication of funds that are
7 based on that child count to those school
8 districts.
9 So we know that our child count
10 information is only partial and also because we
11 have only begun to collect data based on race since
12 the 1990-91 school year.
13 At the end of the school year report that
14 was completed at the end of the '90-91 school year,
15 it indicated that -- and there was a problem with
16 that as well because only 82 percent of the special
17 education units were providing data to us
18 -- that 5.7 percent of the students ages 5 through
19 21 who were receiving special education and related
20 services were Native Americans.
21 And so that data is really very
22 comparable to the percentage of Native American
23 children in the schools statewide and so that
24 doesn't raise a great deal of concern. Those would
25 be data that we'd really expect to see, that that

1 percentage would be comparable for the Native
2 American population.
3 What is significant, I think, is when we
4 ask personnel in individual school districts,
5 particularly in reservation situations, what
6 percent of the total school population is in
7 special education services, the response is really
8 quite different than those earlier data would
9 reflect. Estimates have ranged from 13 to 30
10 percent in the schools that I have specifically
11 asked for that information. Most of these students
12 are placed in learning disability services, based
13 on the reviews that I've been involved in.
14 When special education personnel are
15 questioned about this data, they typically indicate
16 to us concerns about this overrepresentation of
17 Native American students in special education
18 programs because a substantial number of the
19 students are known to be questionable placements.
20 And that's also on the part of the
21 special educators. Special educators are involved
22 in those placements. It's typical that they will
23 then go on to describe the lack of more appropriate
24 services within the schools to address the needs of
25 these students.

1 I think an example may be helpful. Our
2 office conducted a scheduled compliance monitoring
3 visit, in compliance with Public Law 94-142, to a
4 single district reservation program that serves
5 grades 9 through 12 only in mid November. When we
6 interviewed the special education director during
7 that particular visit, she stated that the list of
8 students in special education services was about 13
9 percent of the total school population. When you
10 look statewide, our percentages are under 10. So
11 we're talking about a higher percentage of students
12 in special education.
13 Of the 20 students who were in that
14 particular program, 6 were fairly easily
15 distinguished as meeting criteria under one of the
16 federal categories of handicapping conditions. Of
17 those remaining students, the other 14 in this
18 case, the director judged that 4 would probably be
19 most appropriately identified as socially
20 maladjusted or conduct disordered. Neither of
21 those categories are under Public Law 94-142. So
22 they do have some needs. That's the point, I
23 guess, I'm trying to make.
24 Five were identified as fetal alcohol
25 syndrome students and were questionable to fit

1 under any one of the categories of 94-142. In
2 other words, they didn't exactly meet the criteria
3 for learning disabilities, nor did they meet the
4 criteria for emotionally disturbance, nor did they
5 meet the criteria for other health impaired, and so
6 on.
7 Three of the students had significant
8 environmental concerns that would probably rule out
9 a disability. Environmental concerns were such
10 that they may have made the student look as though
11 he or she were functioning as a student with a
12 disability, but in fact you could look at the
13 nature of the environmental concern and say these
14 are very significant and probably are the reason
15 why the student is having these kinds of
16 difficulties in the educational system.
17 All of the students, all 20 of the
18 students in question, had significant remedial
19 education needs. Of the total group, 3 had serious
20 school attendance problems -- and when I say
21 serious school attendance problems, I'm talking
22 about more than 30 days that they had been absent
23 since the beginning of this current school year --
24 and 5 of the total group had entered chemical abuse
25 treatment at some time during the current school

1 year. So there were some additional factors that
2 kind of played on these other situations that were
3 concerns for the students.
4 Two of the students had been placed at
5 other locations, meaning at other school districts
6 or other state programs, and were questionable as
7 to having a disability, as to whether or not they
8 had a disability or not.
9 In reviewing the files, assessment data
10 gave indication that all of the 20 students
11 appeared to be learning disabled, when you look at
12 the paperwork that was done, but without much
13 consideration for the various exclusions that are
14 included in the determination guidelines for
15 learning disabilities.
16 Those exclusions include things like
17 looking at other disabilities, whether they have
18 vision or hearing impairments, for example,
19 language differences that may make the student look
20 as though they have a disability but, in fact, that
21 may not be the case, or whether they have
22 environmental, cultural, or economic disadvantage
23 that may make the student look as though they have
24 a learning disability.
25 These difficulties in non-discriminatory

1 assessment procedures are evident in
2 non-reservation school districts as well, but
3 particularly when we're talking about Native
4 American students. And I think those difficulties
5 are evident there because the percentage of Native
6 American students is very small, so they're not
7 nearly as noticeable when you look at total
8 numbers. Bismarck may be the exception. I'm not
9 sure.
10 We tend to get two types of responses, or
11 so it seems, in those off-reservation districts
12 that are dealing with assessment of Native American
13 students. And from my reading of the literature,
14 this is not a typical national -- you tend to get
15 people not acknowledging at all that the student is
16 Native American and may have some cultural factors
17 or language factors that may be creating problems,
18 which is essentially kind of being blind to the
19 fact that the student is Native American, or you
20 may get a statement that because the student is
21 Native American, nothing further will be done. And
22 so it may short-circuit the process as well. So we
23 tend to get those two extremes and then people that
24 fall somewhere in the middle.
25 In looking across the state, we have

1 identified the need for personnel training on
2 non-discriminatory assessment procedures. These
3 are addressed in our state guidelines for
4 identification of students with significant
5 learning disabilities, for example, but personnel
6 continue to be reluctant to weigh the effect,
7 particularly of the clause that states you must
8 look at environmental, economic, and cultural
9 disadvantage.
10 They get very nervous when we say this
11 looks like there may be some environmental factors
12 in this situation that should be ruled out, should
13 -- you know, the evidence should be weighed in
14 light of the information that indicates a
15 handicapping condition. Because if, in fact,
16 environmental factors are really what is the cause
17 for the situation, the student then should not be
18 placed in special education.
19 We will be addressing the assessment and
20 revised guidelines of assessment during the 1992-93
21 school year. We've taken that on as a major target
22 area, not specifically because of the
23 non-discriminatory assessment issue, but just
24 because that whole area needs to be looked at,
25 what's happening in the process of selected

1 individual assessment for students. We also hope,
2 though, that those procedures will address some of
3 the factors in non-discriminatory assessment.
4 I think several people have already
5 mentioned that we have another complicating factor
6 for North Dakota schools, and that is problems with
7 recruitment and retention of personnel in
8 reservation schools. There's particularly a
9 problem with recruiting and retaining Native
10 American teachers. But I think beyond that, just
11 the issue of staff turnover on reservation schools
12 is a very significant issue.
13 We tend to have a greater number of
14 personnel who are there on a temporary approval
15 basis who have not completed all of the training
16 required, and so they are less qualified, by virtue
17 of both their training and experience, in meeting
18 needs of children who are identified as special
19 education.
20 And what that factors into, I think, is
21 the difficulties in the non-discriminatory
22 assessment issue as well, because people who are
23 less qualified certainly will have more difficulty
24 in carrying out something that is very complex.
25 We do have a couple of bright spots, I

1 think, in attempting to address these issues. One
2 is a discretionary project that our office did --
3 it was actually -- the project was initiated by the
4 Turtle Mountain special education unit.
5 And that included development of a system
6 for curriculum based assessments, which would be
7 for -- where non-discriminatory assessment issues
8 are a factor, would be a much better way to look at
9 students in terms of identifying whether, in fact,
10 they have special education type needs or whether
11 they're normal remedial -- I don't know if there's
12 such a thing as normal remedial needs, but remedial
13 needs that are not special education related.
14 And another part of that project was
15 renorming some of the norm reference tests on the
16 local Native American student population. It's
17 very typical that Native American students are a
18 very small segment, if they're represented at all,
19 in national norming samples for most of the testing
20 instruments that are developed.
21 And the results of this particular
22 project, I think, are particularly important,
23 certainly to the Turtle Mountain special education
24 unit, but to the state as a whole, I think, as we
25 look at addressing cultural factors and

1 assessments.

2 A second bright spot I think a number of

3 people have already talked about is our development

4 of a statewide tracking system for young children

5 who are at risk for developmental delays. These

6 are not children who are identified as being in

7 special education services, but they're identified

8 as having some risk factors that may indicate that

9 they may have some difficulties at a later time or

10 that putting risk factors together may complicate

11 in -- or result in them looking as though they are

12 handicapped when they reach school age.

13 Several people have indicated we have a

14 coordinator hired through the Department of Public

15 Instruction. Funding for that position is a

16 combined project between the Department of Human

17 Services and the Department of Public Instruction.

18 That coordinator serves the four reservations and

19 has been instrumental in putting together

20 interagency groups at the local reservation level

21 to begin to address some of the needs of young

22 children ages birth through five and their

23 families.

24 This work of the interagency groups at

25 the local level has included the tracking effort,

1 which is really monitoring the development of young
2 children to find out when developmental delays may
3 occur and then taking action as soon as those
4 delays occur to get them into services.
5 It has also provided a vehicle for
6 coordinating existing services on the reservation.
7 I think it's important to make a special note of
8 that. I can't say enough, I don't think, about the
9 value of interagency collaboration. This is true
10 off the reservation, but definitely is true on the
11 reservation.
12 I'm not sure how familiar members of the
13 committee would be with the complications in
14 looking at a service system that has county
15 services, tribal service, state services, federal
16 services, that, in some cases, have overlapping
17 responsibilities. I think what tends to happen is
18 that -- and I think this is true -- I can say this
19 is true for public school districts as well as for
20 many of the other agencies -- they tend to look at,
21 well, the BIA must be providing that service, so
22 therefore, we don't have to worry about it, when in
23 fact there may in fact be sort of a overlap or it
24 may be unclear as to who's actually covering that
25 particular service area. So that interagency

1 effort has been very, very valuable and we intend
2 to have that continue.
3 One of the important, I guess, outcomes
4 of that whole interagency effort has been to help
5 us identify where the gaps are in the service
6 system for young children and families on the
7 reservations. And so I think that's been a very
8 significant component of that, to target where
9 those are.
10 One of the other significant outcomes, I
11 think, of the tracking system -- and I say this
12 will be rather than is, because we're still in the
13 process of gutting together our data management
14 system, but the data management system that we are
15 developing will give us data that tells us numbers
16 of children who are at risk, the reason they were
17 identified as being at risk, the current services
18 they're receiving, and their unmet needs.
19 State and tribal policy makers will be
20 able to use this information for prioritizing needs
21 and targeting areas for intervention and
22 improvement of current services. So that data
23 piece is very, very critical.
24 Because of the work of the tracking
25 project and the information that's been carried

1 back to the state level, we're currently looking
2 into the cultural competence of agency services.
3 And I think several people have already mentioned
4 this. Some of the agency services do not
5 acknowledge important aspects of Native American
6 culture which results in unequal access to
7 services.
8 We see this need in the general public as
9 well. Only a small percentage of the people in
10 North Dakota, I think, are truly sensitized to the
11 needs and issues that are faced by our Native
12 Americans.
13 I thank this committee very much for the
14 opportunity to present to you some information that
15 we are very concerned about, and would be willing
16 to answer any questions that you may have.
17 BETTY MILLS: Thank you. Do we have some
18 questions?
19 WILLIAM MULDROW: How do you pronounce
20 your name?
21 BRENDA OAS: Oas.
22 WILLIAM MULDROW: Is it Dr. Oas?
23 BRENDA OAS: No.
24 WILLIAM MULDROW: Would you clarify what
25 you mean by reservation schools? Is that a BIA

1 school, or is that a school only for Indian
2 students, or does it include white students?
3 BRENDA OAS: The schools that we have
4 most contact with on the reservations are public
5 schools. They're on the reservations. Typically,
6 because we're special education services and those
7 services are also provided in sort of an almost
8 parallel basis by the Bureau of Indian Affairs, we
9 wouldn't have as much contact with those school
10 programs as we do with the public schools. So what
11 I'm typically referring to are public schools,
12 although there are both.
13 WILLIAM MULDROW: Are they mostly Indian
14 schools then? The students are mostly Indian?
15 BRENDA OAS: Yes.
16 WILLIAM MULDROW: Are they all together
17 Indian?
18 BRENDA OAS: The predominant population
19 is Native American.
20 WILLIAM MULDROW: What did you mean when
21 you said that because a student is Native American,
22 consideration of a need for special education
23 essentially goes no further? What did you mean by
24 that?
25 BRENDA OAS: I think sometimes people get

1 very nervous about discrimination kinds of issues
2 and will stop looking at the student. And I don't
3 think -- this doesn't happen, I don't believe, on
4 the schools on the reservation, but in schools that
5 are off reservation, sometimes they will get very
6 nervous about the whole -- all the issues connected
7 with discrimination and will say: We don't want to
8 deal with it at all if the student is Native
9 American.
10 There probably are some other factors
11 here that need to be looked at, but we're going to
12 stop the whole process because -- and sort of rule
13 out the special education. They may end up in a
14 remedial program such as Chapter One. I think
15 there's a tendency to do that, to error on that
16 extreme end as well.
17 WILLIAM MULDROW: Raises a red flag so
18 they say: We're not going to put him in special
19 education because we might be criticized, or
20 something like --
21 BRENDA OAS: Yes.
22 WILLIAM MULDROW: I don't want to
23 monopolize on the time, but is there -- is there
24 extra funding provided for Native American students
25 who go into special education? Is that an

1 incentive -- is that an extra incentive to place
2 Native American students in special education
3 programs, because of the extra funding which might
4 be received for those students?
5 BRENDA OAS: My impression -- I'll give
6 you that -- rather than the -- rather than it being
7 a funding issue -- and I think someone brought up
8 the issue about discrimination of students in
9 special education regarding misdiagnosis. I think
10 we need to understand issues surrounding
11 misdiagnosis and particular in the learning
12 disabilities area because, as I understand it,
13 Native American students tend to be, at least as we
14 look at the data nationally, more often placed in
15 learning disabilities services than some of the
16 other programs.
17 In learning disabilities, it's a little
18 different issue than if you're talking about
19 programs for the retarded. We have parents whose
20 children -- who are diagnosed as attention deficit
21 hyperactive disorder -- who want to get their
22 children in learning disability services. And so
23 rather than there being sort of a group of people
24 trying to escape from those services, there's a
25 group of people trying to get in.

1 So we have a little different situation
2 as it relates to discrimination. People are less
3 apt to say to us: The school evaluated my child
4 and determined them to be learning disabled, but I
5 have lots of problems with that. Most people will
6 recognize this child has remedial needs and will
7 say: I'd very much like to have them receive
8 services.
9 So there's not the stigma in diagnosing
10 in the learning disabilities area as there is in
11 some of the other disability conditions. We tend
12 to not see people trying to get out of the program,
13 rather than -- we see them trying to get in. So
14 that -- I'm not sure if I answered your question,
15 but I think that's a significant part of that.
16 WILLIAM MULDROW: Okay. What did you
17 mean by some of the services do not acknowledge
18 important aspects of the Native American culture
19 which results in unequal access to services? What
20 kind of services were you referring to?
21 BRENDA OAS: The best example I can think
22 of right now, because this is something, I guess,
23 that came up as a result of the tracking system,
24 the current service delivery system for birth to
25 two programs for children with disabilities

1 provided through the Department of Human Services
2 is a home based service delivery model where they
3 would go into the home and provide the services.
4 They also have sort of a different stance
5 in terms of identification of children. Because'
6 it's with the Department of Human Services, they
7 tend to operate on sort of the basis that people
8 need to request service in order to access them,
9 whereas I think education, special education in
10 particular, tends to be far more proactive where we
11 try to do everything we can to get that child and
12 family into services.
13 The Department of Human Services stance
14 is more to wait until someone requests the
15 service. And because we have sort of a difference
16 in how we operate, we're probably in a position to
17 judge what they're doing in terms of their
18 services.
19 That particular mode of operation does
20 not work very well for families on reservations.
21 The likelihood of their going in and requesting a
22 service from a regional human service center is not
23 very great. They would tend to go more to
24 services, I think, on the reservation.
25 Also, the fact of bringing a white person

1 from off the reservation who lives in Devils Lake
2 or somewhere else into their home to deliver
3 services to their child is something that they're
4 not going to just jump at the chance to do.
5 And so I think that particular mode of
6 service delivery doesn't work very well on the
7 reservations. And I think that that means there is
8 unequal access. It's not a very palatable way to
9 deliver service for those families. And so I think
10 they're not accessing the service in some cases
11 because of that.
12 BETTY MILLS: I have a question. Do you
13 have any suggestions as to how more Native American
14 teachers could be recruited to work in the field?
15 This subject has come up over and over again.
16 BRENDA OAS: Probably -- I don't have
17 anything new. We do have a personnel preparation
18 grant whose funds come from the U.S. Department of
19 Education. And I'm not sure that our colleagues
20 who are here from the reservation know this, but if
21 they have an individual apply to us and they're
22 going to be serving a reservation school, they're
23 almost a shoo-in in terms of getting some
24 additional funding for training.
25 The problem with that is all of our

1 training institutions require them to travel. And
2 we have the same problem for people who are in very
3 rural and remote areas of our state. So I think if
4 there is a way to deliver services on the
5 reservation, as Teresa had indicated to you, that's
6 far preferable to having to go off site and receive
7 services in a -- a great distance.
8 Also, I think some of the training
9 programs are probably not as attuned to some of the
10 cultural factors and those kinds of things, some of
11 the issues that would help support students while
12 they attend school.
13 We have another project -- this is
14 digressing a little -- called -- it's a governor's
15 school for gifted and talented students in math and
16 science. It's here at NDSU. And at a governor's
17 school conference that I attended, that was a very
18 important issue in terms of how to support students
19 who are of minority culture who are attending
20 programs where the majority of the individuals are
21 going to be from a majority culture and how to
22 provide for their needs so they don't feel so
23 uncomfortable in that situation. I think some
24 specific supportive programs would be very
25 beneficial if they are going to go off campus -- or

1 on campus. Excuse me.

2 I'm not sure what the presenters -- the

3 information the presenters gave you this morning,

4 but I know that Minot State University had explored

5 the idea of sort of a -- almost a feeder system

6 where you train individuals on the reservation to

7 be paraprofessionals and then, as they complete a

8 competency training program, they can use those

9 credits that they may have earned from that program

10 to go on and finish a degree at a four-year

11 institution. So if there are some ways, I think,

12 that would provide those kinds of incentives, that

13 would be very helpful.

14 JOHN OLSON: Brenda, one of the

15 suggestions made to us when we decided to undertake

16 this study was that there was an economic incentive

17 in placing Native American children in special

18 education programs. In other words, if you get --

19 crudely spoken -- get the body count up, you get

20 more money into the school district. Can you

21 comment on that?

22 BRENDA OAS: From my experience, I'm not

23 so sure that it's the funding issues. It's the

24 incredible needs. As I've indicated to you, those

25 20 students that we looked at, they have very

1 complex needs and schools need to provide some kind
2 of remedial services and, yes, special education
3 type funding to provide some kind of remedial
4 service.
5 I think most people make the decision
6 based on the individual child case. In fact,
7 here's this child who needs certain kinds of things
8 and here is this program that provides a very
9 supportive service. This individual teacher will
10 work with the child, in many cases, on an
11 individual basis, will take them under their wings,
12 will advocate for them on their behalf in regular
13 education, and so on.
14 So that may be an issue in some places.
15 I guess from the perspective that I've dealt with,
16 it's been basically on the part of regular
17 education and special education teachers and
18 administrators talking about the fact that the kids
19 have very significant needs.
20 My own concerns with how that is
21 addressed, by placing the children in special
22 education, we're not really addressing many of
23 their needs. For a child who comes from an
24 environmental disadvantaged situation and may have
25 problems with chemical abuse, to place him in

1 special education services isn't really meeting the
2 broader mental health kind of concerns that the
3 child has. It may be providing sort of a Band-Aid
4 measure for the time being as the child experiences
5 difficulties because of those other problems in the
6 school situation.
7 The point -- the example that I was
8 talking about earlier where I said I was in a
9 school district in November, we had a case that the
10 principal had sent a student to the special
11 education director's office, to a resource room
12 situation, and that the student had just come out
13 of the State Industrial School -- and, obviously,
14 this is a student who has needs and so forth -- and
15 had immediately placed the child in the resource
16 room, even though the child had not been identified
17 nor had they received any paperwork or whatever.
18 But it was for the fact that the student
19 needed some mentoring at that particular point in
20 time, someone to really keep track of his case and
21 assure that his transition into the total
22 educational system was a positive and relatively
23 painless experience.
24 So I think, at least from my perspective
25 -- I'm not speaking on behalf of some of the

1 administrators who may be making decisions, as you
2 said, to get the numbers up so they can receive
3 more funds -- but I think that most of the time
4 it's looking at the student's needs and the fact
5 that they are significant and really need to be
6 addressed.
7 BETTY MILLS: Any other questions?
8 WILLIAM MULDROW: One more. How would
9 you characterize the involvement of the parents of
10 Indian students in the placement of their children
11 in special education programs, both on the
12 reservation and off the reservation?
13 BRENDA OAS: That's a difficult
14 question. It's sort of the same issue that I
15 talked about with unequal access to services. I
16 think that those of us who are part of the majority
17 culture don't always understand how frightening it
18 may be for the families to come to the school and
19 to sit through a meeting.
20 It's something that's very foreign to
21 them. They may not have had that kind of
22 experience in their background. School may have
23 been a very difficult situation for them.
24 So I think -- I think that if you look at
25 just the data, it's probably going to indicate that

1 we have a hard time involving families. But I
2 think that it's probably -- the issues go far
3 beyond that, that -- I'm not sure how to phrase
4 this, but maybe it's that we're not doing the right
5 things to help them become involved.
6 It's true that most parents are very
7 concerned about their children and see education as
8 a fairly positive way for them to get ahead. And
9 so I think that they have their children's best
10 interests at heart, but overcoming their own
11 anxieties about being involved in the education
12 process may be just too difficult for them.
13 JOHN OLSON: Well Brenda, I guess I'm
14 trying to go over your testimony here.
15 Essentially, I think what you're suggesting to me
16 is that you don't really see a real problem with
17 misdiagnoses.
18 BRENDA OAS: We see a real problem with
19 misdiagnoses. You can't look at misdiagnosis by
20 itself. You have to look at it within the whole
21 picture of the school culture and say that yes, we
22 have a significant number of children who have
23 remedial needs, whether they're educational or
24 whether they're mental health, or just a whole
25 bunch of different areas where we need to look at

1 that.

2 I think special education is one place

3 where this is showing up. I think that's probably

4 true in Chapter One services and maybe bilingual

5 services. I'm not positive.

6 I think it's far more complicated than

7 just saying misdiagnoses in special education.

8 Right now they're being misdiagnosed, because on

9 paper they look like they qualify.

10 JOHN OLSON: But you say the students

11 need remedial instruction.

12 BRENDA OAS: They do need remedial

13 instruction.

14 JOHN OLSON: So they meet the test of

15 being diagnosed as learning disabled? Or what are

16 you saying? I don't understand.

17 BRENDA OAS: They are misdiagnosed

18 because people are not adhering to procedures for

19 non-discriminatory assessment. If you take away

20 the non-discriminatory procedures, on paper they

21 look like they qualify for learning disability

22 services.

23 Learning disabilities is a very complex

24 area to diagnose. You have to look at a

25 discrepancy between ability and achievement, and

1 that means you have to have very good test data on
2 which to base some of your decisions, plus you also
3 have to look at a whole range of other things. You
4 need to look at cultural, economic, environmental.
5 You have to look at all of that stuff together.
6 And --
7 JOHN OLSON: I understand that. But what
8 are you saying? Are you saying that those children
9 should not -- some of these children should not be
10 in those programs?
11 BRENDA OAS: Right.
12 JOHN OLSON: Where should they be?
13 BRENDA OAS: They should be in some kind
14 of a comprehensive remedial program. Some of them
15 should be receiving mental health kinds of
16 services.
17 JOHN OLSON: So it's the services that
18 are not being offered to them. It's not
19 necessarily the diagnosis that they -- something is
20 wrong. They do have some learning disability and
21 they need some instruction.
22 BRENDA OAS: Yes.
23 JOHN OLSON: That's different than
24 placing a Native American child in a learning
25 disability program where he should be

1 mainstreamed --

2 BRENDA OAS: Right.

3 JOHN OLSON: -- into the classroom.

4 BRENDA OAS: Or should have some

5 appropriate services to meet whatever those

6 interfering factors are for the child.

7 WILLIAM MULDROW: So you're suggesting

8 that students are placed in special education

9 because the other services are not available for

10 them or not -- they have no other place to put

11 them?

12 BRENDA OAS: That's what we've been told.

13 JOHN OLSON: Or personnel, Native

14 American personnel, would be a much better avenue

15 to deal with some of these issues?

16 BRENDA OAS: Native American personnel,

17 probably better trained personnel. Because as I

18 indicated, we have people who have minimal training

19 in many cases that are serving Native American

20 schools. They may initiate or may be involved in a

21 tutoring training program, which means that they

22 probably will take two or three summers to complete

23 their full training.

24 They're in that program. They complete

25 their full training and now have three years of

1 experience and they leave, because they look at
2 another school district and they're fully qualified
3 and they can easily get a job there. We have many
4 special education vacancies where people move on.
5 We have a lack of supply for the demand. So it's a
6 complex problem.
7 JOHN OLSON: I guess I'm just whipping a
8 dead horse here, but the child is still going to be
9 labeled learning disabled?
10 BRENDA OAS: Right. That is a problem.
11 JOHN OLSON: So in essence then, in the
12 broad category of LD or learning disabled, you're
13 not misdiagnosing. What you're doing is you are
14 placing children in some programs where they should
15 be in others. You're saying, at the very minimum,
16 they need remedial instruction.
17 BRENDA OAS: Right. They need remedial
18 instruction. For many of them, placement in
19 learning disability services is maybe not the
20 appropriate set of services to meet their
21 instructional needs. They may need to be, as you
22 mentioned, in a mainstream class situation with
23 some supportive services through Chapter One or
24 some other kind of program.
25 Placing them in learning disability

1 services, for one thing, doesn't address always the
2 exact needs that the student has. They may be far
3 more involved than just the learning disabilities
4 services, which would look at a problem in reading,
5 for example.
6 They may have a chemical abuse problem,
7 they may have some environmental factors that need
8 to be addressed. They need a far more
9 comprehensive program. And if they're not, in
10 fact, learning disabled, they are also taking away
11 services from someone who is.
12 JOHN OLSON: One more question. I guess
13 this is just the way I would look at it. For a
14 child who -- let's say a non-Indian child where
15 there's no cultural or communication barriers,
16 those kinds of things. If that kind of a child was
17 misdiagnosed and placed in the remedial program or
18 learning disabilities program, the teacher, I
19 assume, would very soon find out that that child
20 was not placed correctly. You would agree with
21 that?
22 BRENDA OAS: In most cases, you'll find
23 that fairly quickly.
24 JOHN OLSON: But the Native American
25 child, because of those cultural things that exist,

1 that child may just simply continue on in a program
2 where there's no place else to place him or her?
3 BRENDA OAS: Yes.
4 JOHN OLSON: So it's a matter of
5 programming that becomes the issue at that point?
6 BRENDA OAS: Yes. Services are a very
7 complex part of the issue. I think that there are
8 -- there's a need for far greater diversity. Just
9 in looking at the students in that particular
10 school that I was talking about, we said at the end
11 of the exit interview: There's a need for some
12 kind of comprehensive mental health service in your
13 school because of the nature of the needs of the
14 students. So there is a need, definitely, for some
15 other kinds of services.
16 The other factor I think relates to
17 placement of those children in a service program
18 that may provide quite a high quality level of
19 remedial services and may not be exactly what the
20 child needs.
21 It's hard to convey that because the --
22 the difference -- remedial instruction for learning
23 disabilities students and for students, for
24 example, who receive Chapter One services because
25 they're disadvantaged may, on the surface, not look

1 to be all that different from one another. But in
2 reality, the reasons that the child is in the
3 service may be quite different.
4 The neurological processing problems that
5 are the basis of learning disabilities are probably
6 not going to be indicated for a child who is in
7 Chapter One services, for example. So you're
8 providing services based on the notion that the
9 child has a neurological processing problem when,
10 in fact, they don't. The services aren't really a
11 good match for the needs.
12 BETTY MILLS: Thank you very much,
13 Brenda. Our next speaker is Dr. Clarence Bina,
14 who's director of special projects for the North
15 Dakota Department of Public Instruction.
16 CLARENCE BINA: Thank you. Madam
17 Chairman, we have with us Cheryl Kulas, who's the
18 director of Indian Education in the Department of
19 Public Instruction. And we have discussed with
20 Malee Craft, and during the break with Director
21 Muldrow, that perhaps you would have time for
22 Director Kulas at this time, and if there is no
23 more time, I'll just leave my testimony with you
24 since I do have copies for you all. Would you
25 defer to us?

1 BETTY MILLS: Sure.

2 CLARENCE BINA: Director Cheryl Kulas.
3 She's the director of Indian Education at the
4 Department of Public Instruction.

5 I know you're terribly capable of
6 introducing yourself. I'm sorry.

7 CHERYL KULAS: That's Dr. Bina's
8 Toastmaster background.

9 (Laughter.)

10 WILLIAM MULDROW: Can you spell your name
11 for the record?

12 CHERYL KULAS: K-U-L-A-S, Cheryl with a
13 "C", C-H-E-R-Y-L.

14 Good afternoon, Madam Chairman and
15 members of the commission. My name is Cheryl Kulas
16 and I am the director of Indian Education in the
17 Department of Public Instruction.

18 The Indian Education Unit, NDPI, is a
19 newly established unit and administers, in addition
20 to Indian Education, the Bilingual Education Grant
21 and the Emergency Immigrant Grant, funded by the
22 U.S. Office of Bilingual Education and Minority
23 Language Affairs, OBEMLA. Mari Rasmussen,
24 coordinator for Bilingual Education, and Barbara
25 Owens, administrative secretary, comprise the unit

1 staff.

2 Prior to the acceptance of the position

3 of director for Indian Education as of September of

4 this year -- I am new to the position -- I have

5 served in the capacity as coordinator for bilingual

6 education, NDPI, and coordinator for Race and

7 National Origin in the Special Projects Unit.

8 The purpose of my testimony today is to

9 share with you North Dakota Department of Public

10 Instruction's initiatives relative to American

11 Indian education, and I have added in relation to

12 civil rights desegregation, since that is the

13 subject of this hearing.

14 For several years, the North Dakota

15 Department of Public Instruction has recognized the

16 need to guide the instructional process to address

17 the educational equity needs of the North Dakota

18 Indian learner. The department has conducted needs

19 assessments.

20 And I would point out to you a special

21 report, "The Impact of Multicultural or Indian

22 Education Courses on the Classroom Instruction of

23 Teachers in North Dakota."

24 In 1989, the department undertook a study

25 of all of the preservice education sources, Indian

1 study course, requirements that was passed by the
2 State in 1977. Of all the teachers that have taken
3 the course since 1977 -- excuse me, from 1981 to
4 1985, there were approximately 1,580-some teachers
5 participating in the course, who had taken the
6 course since the law was implemented, and the
7 survey assessed approximately 710 respondents
8 responded to the course.
9 The results of that course indicated that
10 a number of approximately 91 -- and I don't want to
11 get sidetracked in quoting statistics to you, but I
12 would make a copy of this available to the
13 Commission. I think it's significant that an
14 overwhelming number of teachers in the state of
15 North Dakota do not teach to or understand or teach
16 to multicultural education or Indian study courses
17 -- excuse me -- issues in the classroom. They do
18 not have books available.
19 I think the study itself really points
20 out some of the third generation desegregation
21 issues that we begin to talk about. And I will
22 simply reference this document for your
23 information.
24 One of the several other attempts to
25 provide timely and accurate information to address

1 the needs of Indian students in the state of North
2 Dakota, in addition to this document that was
3 referenced earlier, was the North Dakota Centennial
4 Curriculum, which was disseminated to all the
5 school districts in the state of North Dakota.
6 The Department of Public Instruction,
7 under the auspices of Indian Education, also
8 sponsored an institute for 1989 and 1990 -- excuse
9 me -- and 1991 for teachers of Native American
10 students. In addition, DPI has also worked
11 collectively to deal with ongoing workshops,
12 in-service education, in-service education and
13 pre-service education courses for teachers in North
14 Dakota, as well as on-site visitations to school
15 districts, parents, and educational agencies.
16 Most significantly, the department has
17 re-established the directorship of Indian Education
18 and established a separate education unit within
19 DPI to address the needs of Indian learned.
20 Of the many needs that have been
21 expressed regarding Indian education in North
22 Dakota, one is the collection of appropriate data
23 by race, by gender, by sex. In the past, this has
24 not been a comprehensive type of a data collection
25 that has been needed. It's been identified as a

1 need, but in the past the department has collected
2 selected data, but not by race, by gender, by sex,
3 by grade level.
4 The augmentation of state and local data
5 to create an accurate picture of the inequities
6 which persist in terms of desegregation is an
7 initiative which the Department of Public
8 Instruction has expressed considerable and general
9 concern. The Department's Office of Management
10 Information and Research is currently in the
11 process of revising the definition and procedures
12 used for collecting and reporting student data.
13 A Data Collection and Reporting Committee
14 has been established to assist us and in the
15 identification of data elements to be included in
16 an electronic student database. Some of the
17 elements to be identified are indicated in an
18 attachment to the testimony that I will provide to
19 you.
20 But that -- primarily, that data elements
21 will include race and ethnicity of students,
22 primary home language, limited English proficiency
23 status, LEP instruction start date and end date,
24 special education evaluation status, Chapter One
25 eligibility, attendance data, absenteeism data,

1 disciplinary action, withdrawal, dropout and
2 truancy status, and end of year status.
3 We feel that with the implementation of
4 this student data base within DPI with every school
5 district in the state will begin to help us
6 identify some of the inequities that seem to be
7 pervasive in the issues affecting American Indian
8 student populations and minority student population
9 statewide.
10 Two issues seem to be apparent and in
11 need of review and clarification if the cause of
12 Indian student placement in special education,
13 ability grouping, and those problems occasioned by
14 desegregation are to be advanced.
15 In your memorandum of agreements that OCR
16 sent out -- and I will reference -- I think that's
17 the policy statement of 1991, I believe it was of
18 October -- there is a need to address the numerous
19 Title VI and Section 504 issues related to the
20 placement of limited English proficient students in
21 special ed programs.
22 While your September 17th, 1991 OCR
23 Policy Update on Schools' Obligations Toward
24 National Origin Minority Students With
25 Limited-English Proficiency provides an overall

1 policy on this issue, it lacks a clearly defined
2 policy and guidelines, which I believe should be
3 forthcoming from the Office of Civil Rights.
4 If we are in fact to impact the issues
5 that have been mentioned by the Department's
6 Special Education Unit, Brenda Oas, if we are to
7 begin to address those issues in a definitive
8 statement between all of those categories that were
9 mentioned earlier, speech impairment, EMR, EMH, the
10 developmental delays -- and I think it's in the
11 area of developmental delays -- then there needs to
12 be a strict structural policy guideline that is
13 developed and made available and required
14 enforcement to school districts, if we are, in
15 fact, going to make an impact on the issues of
16 Indian education.
17 One other issue. Over the past year, the
18 North Dakota Department of Public Instruction has
19 jointly sponsored hearings on the North Dakota
20 Indian reservations and in two large public school
21 districts in the state. Significant testimony and
22 attention during these hearings focused on the
23 relationship of American Indian education and
24 racial desegregation. The topic of Indian
25 education and desegregation is of special

1 importance to the enhancement of equitable
2 educational outcomes for American Indian students
3 within public schooling in general.
4 That was -- this issue of the general
5 public schooling nature, the lack of understanding
6 by school districts of the implication of culture
7 and the implication of language, is an area that I
8 think the OCR should address in some further
9 structural framework. I understand at this point
10 that there is not -- while there is an OCR review
11 process that the regional offices undertake when
12 they will conduct compliance hearings, there is not
13 a standard procedure that SEA, the state education
14 equity staff, has when they work with school
15 districts in assessing not only curriculum, teacher
16 behaviors, teacher instruction. I think that it is
17 an area that OCR needs to spend considerable
18 research and time in developing appropriate OCR
19 race equity review process.
20 When I refer to the use of equitable
21 educational outcomes, I am not referring to
22 equitable educational opportunities, because the
23 preponderance of evidence supporting many of the
24 issues and recommendations formulated by a very
25 recent report -- and I say very recent -- and this

1 report is the "Indian Nations at Risk: An
2 Educational Strategy for Action," was recently
3 released by the Department of Education. This
4 report was released as of December 3rd, 1991. And
5 by this report, I think we must now view Indian
6 education and -- we must look at Indian education
7 in light of public school desegregation issues in
8 the context of third generation problems.
9 These third generation problems might be
10 described as those persistent barriers to
11 integration and equity or the attainment of equal
12 educational outcomes. I am not saying equal
13 educational opportunities because the issue of
14 access has already been addressed. What we are not
15 seeing, again, is equal educational outcomes in
16 achievement.
17 I think if we address the issue of --
18 when we talk about physical integration and a
19 reasonable level of equal access by students, there
20 exists that differential achievement of students
21 and the subtle additudinal and structural elements
22 that limit equal opportunity.
23 There is a need to face these issues and
24 a growing problem, I think, in all of education
25 across the United States; the lack of a variety of

1 instructional methods that meet culturally
2 different living styles, a lack of an awareness of
3 student learning styles, differing world views that
4 students bring to the classroom. And I speak not
5 only of Indian education, but of students who are
6 culturally and linguistically different and what
7 they bring to the classroom. These are evolving
8 manifestations of racism and sexism.
9 I think that earlier Brenda Oas had
10 mentioned that I think our school districts are
11 really very ill prepared to deal with these kinds
12 of issues. In North Dakota, when we talk about the
13 issues of racism, it immediately puts up a sign.
14 It's a language that's not spoken in the
15 classrooms. We don't talk about racism as a rule.
16 I think we need to begin to start talking
17 about the subtle forms of racism that --
18 non-intentional racism, a lack of knowledge, a lack
19 of information, and I think that it is behooving
20 upon the Department of Education and the Office of
21 Civil Rights to develop an in-house OCR review
22 process -- I mentioned that earlier -- is needed by
23 SEA staff and an appropriate compliance procedure
24 that LEA staff, local education agency staff, need
25 to have available to them.

1 Within the ensuing years, I believe that
2 that is a procedure that -- it was started back in
3 the 1970's and subsequently has lapsed. School
4 districts do not understand the laws and the -- the
5 current laws that are presented to them.
6 And -- in addition, I think there are a
7 number of other issues that have been addressed
8 that I would briefly like to address that have been
9 brought forward by many of the other people
10 presenting testimony today.
11 The lack of funding. This report, the
12 "Indian Nations at Risk," really specifies that
13 most of the school districts, the Indian school
14 districts in the state of North Dakota, are really
15 suffering from a lack of funding, and yet we
16 sometimes will deal with the issues of inequitable
17 funding. When you have a need for equitable
18 outcome, you will have a differing need to put
19 extra resources into these Native communities to
20 make them -- to provide the appropriate type of
21 programming. So it is in addition to support some
22 of the programming.
23 The quality of service provided has been
24 an issue that's been addressed. The level of
25 training and appropriate assessment is, I think,

1 one of the greatest issues affecting school
2 districts; level of training and appropriate
3 assessment and appropriate assessment to deal with
4 culturally and linguistically different students.
5 There's been an overreliance on
6 achievement scores and lack of use of culturally
7 relevant and availability of culturally relevant
8 assessments.
9 Personnel shortages, particularly in the
10 mental health profession and making them available
11 in the classrooms is an issue. The recruitment and
12 retention of personnel in schools and minority
13 teachers affecting Indian education.
14 At this time, I would like to stop and
15 would like to thank you for the opportunity to
16 provide this testimony and would welcome any
17 questions if you would have any.
18 BETTY MILLS: Carol.
19 CAROL JEAN LARSEN: The issue -- your
20 last couple of sentences you said there's a lack of
21 something culturally appropriate assessment. Are
22 there the tools, the instruments, to do culturally
23 appropriate assessments at this time?
24 CHERYL KULAS: I think that there are --
25 the picture of assessment, I think, has been

1 changing in education across the United States and
2 more often now teachers have been encouraged to use
3 alternative methods of assessment, such as
4 portfolios with students. I don't think it is
5 being done in the capacity and at the depth.
6 But there are very limited norming
7 samples. I think one of the individuals mentioned
8 that Turtle Mountain is, in fact, doing that. That
9 is one of the recommendations that has gone forward
10 to the U.S. Office of Education, to be provided
11 resources to provide appropriate norm samples.
12 But no, I don't think there is available
13 that kind of information.
14 WILLIAM MULDROW: Are the two reports you
15 referred to available to us?
16 CHERYL KULAS: This one has just been
17 released by the U.S. Office of Education and they
18 sent one to the state office. I will request one.
19 I would think that all of the OCR offices will get
20 one, but I will make one available.
21 WILLIAM MULDROW: What about the other
22 thing?
23 CHERYL KULAS: Yes, I will make that one
24 available as well.
25 MALEE CRAFT: I have a question. Can you

1 tell me what -- someone had mentioned, I was
2 talking to, certification for special ed teachers,
3 and I guess a concern that the individual had is
4 that there are many Indian people who don't have
5 the funding to get the required special
6 certification that's needed to teach in special
7 ed.
8 One: Can you tell me if that's accurate,
9 you know, if there is additional certification that
10 is required by the State of North Dakota? And if
11 so, is the Department of Public Instruction -- or
12 is there anything in place or is there anything
13 that the Department of Public Instruction is
14 thinking about doing to try to bridge that gap to
15 get more teachers?
16 CHERYL KULAS: Yes. In addition to the
17 initiative or the resources that Brenda Oas had
18 mentioned earlier, the department -- excuse me --
19 the unit, certification unit within DPI, has a
20 program and funding -- this past year has secured
21 funding to recruit Native American teachers.
22 I think the extent -- the problems that
23 are associated with that is the extent to which --
24 how that's implemented in the recruitment and the
25 training process. It's not an alternative form of

1 certification. So you have to look at it -- that
2 would be a long-term effort.
3 Your first question, you mentioned the
4 requirement for special ed certification. That --
5 it's not my area. I don't know. I can't respond
6 to that.
7 BETTY MILLS: There's been much -- many
8 people have referred to a problem with languages
9 when it comes to identifying problems with Native
10 American students. Where is the impact of the
11 bilingual program on this, or isn't it?
12 CHERYL KULAS: I think the bilingual
13 programs in the past, as they have been funded by
14 the U.S. Office of the Bilingual Education, have
15 been primarily transitional bilingual education
16 programs and those programs were designed to
17 provide instruction in language one, the Native
18 language, while building English language skills.
19 Earlier, Teresa Delorme mentioned that
20 the type of language that's now being spoken in the
21 communities, I think, is a reservation type of
22 English. It's non-standard English. And most of
23 the programs, the bilingual education programs, are
24 beginning to address Native language issues. And I
25 think it's -- the research supports that students

1 that have been brought up in their native languages
2 will achieve if they have both native language and
3 English language instruction.
4 But right now I think the issue really --
5 the issues really are that -- because I think much
6 of the language has been lost and what is there is
7 non-standard type of English. I don't think the
8 bilingual programs have been effective or will be
9 effective until such time as there is some means to
10 deal with the student's home language and the
11 influence of the home language, plus strong English
12 language instruction. And I think that has to deal
13 with language spoken in the home as well.
14 BETTY MILLS: Thank you.
15 CHERYL KULAS: I think there's only one
16 program in the state of all the bilingual programs
17 that truly is a bilingual native language
18 instruction program. All the rest are English
19 language assistance programs. And I think the
20 majority of them deal with, again, remediation in
21 some cases and some with culture, but not
22 specifically in language.
23 BETTY MILLS: Are there any other
24 questions?
25 AUDREY HENDERSON-NOCHO: Ms. Kulas, you

1 mentioned that you were the former director of
2 bilingual education. Can you tell me, on average,
3 how many workshops you did in that position?
4 CHERYL KULAS: Over the past -- let's see
5 -- past several years, most of the work that we've
6 been involved with in terms of bilingual education
7 have been a series of conferences that have been
8 sponsored for all teachers in the state in English
9 language -- well, we covered ESL methodology as far
10 as Native language instruction compliance to the
11 law. I'd say, on the average, those workshops --
12 excuse me -- those conferences were attended by one
13 to 200 teachers sponsored annually, two or three
14 times -- twice a year and then a number of
15 workshops.
16 More so -- I guess more recently much of
17 the work that I did was involved with multicultural
18 education and workshops working with Job Service
19 and in selected school districts on cultural
20 awareness, cultural sensitivity issues of
21 multicultural education. Bilingual education, it
22 was just a variety. I couldn't answer that right
23 off, what the number would be.
24 AUDREY HENDERSON-NOCHO: Okay. You
25 mentioned that the Centennial Project, that

1 curriculum, that wasn't mandatory for instructors
2 to follow. I mean, it wasn't etched in stone that
3 they had to follow it. Are you finding that it is
4 in use today? And if it is, where is it
5 predominantly used?
6 CHERYL KULAS: The Centennial curriculum,
7 I think the shortcoming of that, although I thought
8 it was a very good document, the fact that one was
9 sent per school district and we have so many
10 teachers and so many classrooms, that the funding,
11 I think, was not of the type that could regenerate
12 itself. And so I think it's limited in its use
13 because of its availability.
14 Currently -- and I did not address that
15 -- but the department has issued a request for a
16 proposal to develop a cultural-based curriculum
17 which would be infused in the state curriculum
18 guidelines in North Dakota. And it is a 5 --
19 excuse me -- probably a 4- to 5-year project.
20 Last year the state legislature
21 appropriated a sum of money to develop a
22 curriculum, and our office has been heavily
23 involved -- well, we are responsible for the
24 development of that curriculum. We are currently
25 looking for a curriculum specialist to assist in

1 the development of that curriculum.
2 That will be available to every school
3 district and will be a part of the state's
4 guidelines when it is completed. And it will be
5 developed in conjunction with the reservations --
6 the reservation communities, elders, teachers,
7 educators, individuals in the community.
8 And it is, I think, a tremendous
9 initiative because it will be something that will
10 be part and parcel of North Dakota's curriculum.
11 It has a lot to do with promoting the self esteem
12 of kids.
13 AUDREY HENDERSON-NOCHO: One last
14 question. So the instructors throughout the state
15 are aware that there is curriculum out there. Do
16 they choose not to use it? What's your opinion why
17 they're not using it? I mean it's there.
18 CHERYL KULAS: If I would postulate to
19 you, if you were an educator, if -- if I said to
20 you I would like you to teach about the Tet Offense
21 or I'd like you to teach about Cambodian culture,
22 how would you feel as a teacher? Would you be able
23 to teach it?
24 AUDREY HENDERSON-NOCHO: I'd do the best
25 I can and research it. That would be me.

1 CHERYL KULAS: First of all, the lack of
2 availability. Number two, I think the fear of
3 using -- the fear of it. First of all, if it's not
4 there, you're not going to use it. Second of all,
5 until you feel comfortable and teachers are made to
6 feel comfortable using a curriculum, I think that
7 it's not going to happen.
8 When we talk about the subtle forms of
9 racism, I don't think it's intentional racism. I
10 think it's a fear, a fear. Teachers are afraid to
11 teach it, if they were required to do so. But I
12 think it's a matter of posture.
13 I think that across this country we're
14 beginning to have to deal with the issue of
15 multicultural education. I think it's not only an
16 issue that not only North Dakota is facing, but
17 every school district in the United States is
18 having to deal with. How do we teach multicultural
19 education?
20 And until such time as those students are
21 visibly evident, not only in the curriculum but can
22 see themselves, then I think we can begin to start
23 addressing some of those issues of self esteem and
24 some of those issues that are occasioned by
25 desegregation.

1 I think it's an area that needs to be
2 built in strategically and structurally within
3 local and political frame work, within not only the
4 Department of Public Instruction but in laws
5 affecting education across the United States.
6 AUDREY HENDERSON-NOCHO: So what you're
7 saying is that, you know, you can perform all these
8 workshops and seminars for these instructors from
9 here until eternity, but until the number of
10 individuals in the classroom increase, then they'll
11 feel comfortable to --
12 CHERYL KULAS: I'm not understanding.
13 Would you rephrase your question?
14 AUDREY HENDERSON-NOCHO: I guess I'm
15 confused about your comment. When is it going to
16 be time that these instructors feel comfortable to
17 infuse this curriculum on the individuals in the
18 class? When are they going to feel comfortable
19 with their knowledge? Isn't that the purpose that
20 they go in and get their training? Isn't that the
21 purpose why they go to workshops?
22 CHERYL KULAS: Well, if we're going to
23 talk about the need for preservice education, I
24 think, at the college level -- and I think there's
25 an area that we need to begin to look at as well if

1 we're going to talk about teachers coming out of
2 institutions of higher education who are very ill
3 prepared to deal with issues of culture.
4 I think it is an issue. It's an issue
5 that NACTE is dealing with, National Accreditation
6 of Colleges for Teachers of Education. I think
7 it's -- NACTE's standards need to be revised to
8 deal with issues of learning styles at the
9 preservice education level.
10 We in North Dakota and the Department of
11 Public Instruction primarily deal with in-service
12 education, not preservice education. That is a
13 responsibility of the Institution of Higher
14 Education. I think it's sorely lacking in terms of
15 cultural instruction, ethnic studies. And I think
16 that's an area that certainly NACTE needs to be --
17 to address, as well as institutions of higher
18 education.
19 AUDREY HENDERSON-NOCHO: Thank you.
20 BETTY MILLS: Are there other questions?
21 (No response.)
22 BETTY MILLS: If not, we thank you very
23 much.
24 CAROL LARSEN: Madam Chair, I do need to
25 be excused. Thank you.

1 BETTY MILLS: Our last presenter is Ramon
2 Villareal, who is the director of the Compliance
3 and Enforcement Division, Office for Civil Rights,
4 the U.S. Department of Education.
5 RAMON VILLAREAL: Good afternoon. I'm
6 Ramon Villareal with the Office for Civil Rights in
7 Denver, currently the division director for
8 Compliance and Enforcement. And I'd like to give
9 you a quick overview of the office nationally and
10 then regionally, going into some of the things of
11 how we operate, some of the things that we do, some
12 of the things that we probably should be doing,
13 some areas that I think we'll address, possibly
14 some of the needs that have been expressed here
15 this afternoon, and possibly some suggestions on
16 how I think this type of organization, and possibly
17 others, could help us in doing a better job with
18 what we should be doing.
19 Currently, we have ten regional offices.
20 Ours used to be the smallest, but in February we
21 hope to become maybe third from last. Our regular
22 region, Region 8, encompasses North Dakota, South
23 Dakota, Wyoming, Montana, Utah, and Colorado. We
24 have been investigating complaints of
25 discrimination in Arizona for well over a year. We

1 covered Nevada for approximately six months, and
2 now we have officially received jurisdiction for
3 New Mexico and Arizona. So we have an eight-state
4 region.
5 I have a staff of approximately 20 and we
6 cover this broad region and a whole lot of
7 complaints. I can't give you an exact number now
8 because they come in bunches of four and five,
9 sometimes even ten at a time. Our caseload is
10 increasing on a daily basis, our staff is not.
11 Basically, the Office of Civil Rights
12 covers the jurisdictions that prohibit
13 discrimination on the basis of race, national
14 origin, sex, mental and physical handicap, and
15 aging services. Not aging employment. That's
16 still EDOC.
17 Our operation principally consists of
18 investigation of complaints of discrimination, and,
19 when we have time, which is not often, we also do
20 some of our self-initiated activities, which are
21 reviews. They're investigations of school
22 districts that we target, based on information from
23 the community, based on other data that we have
24 where there may be compliance problems.
25 The assistant secretary for Civil Rights

1 set forth in 1991 some priority issues that we try
2 to address in our review activities. And one was
3 equal opportunities for national origin minority
4 and Native American students who are limited
5 English proficient. That was number one. And I'm
6 not sure that they were in order of priority, but
7 that was one that we wanted to address because
8 certainly it was an interest of ours.
9 Ability grouping that results in
10 segregation on the basis of racial and national
11 origin also was another one that we looked at. And
12 there were others, including responsibility of
13 school systems to provide equal education
14 opportunities to pregnant students. And these were
15 the '91 priority issues that the assistant
16 secretary identified and that the regions attempted
17 to incorporate into their review of the program.
18 When the president and the governors put
19 out the America 2,000 goals, one of the goals was
20 the high school graduation rate will increase at
21 least 90 percent. And we saw that there was some
22 implication certainly for review activities. If
23 minority students continue to be pushed out, then
24 it seems to us that the graduation rate is never
25 going to reach 90 percent, not when you're talking

1 dropout rates that are almost that high.
2 One of the other goals was that U.S.
3 students would be the first in the world in science
4 and mathematics achievement. Well, in the fiscal
5 year 1992 priority issues set forth by the
6 assistant secretary, we have, I believe, some
7 issues that also relate to that goal. For 1992, we
8 have over-inclusion of minority students in special
9 educational classes, which I believe should be a
10 priority, we have also student transfer and school
11 assignment practices that result in the illegal
12 resegregation of minority students, and
13 discrimination on the basis of race and national
14 origin of student discipline. Certainly we believe
15 that student discipline is related to the dropout
16 rates.
17 Last year, we were able to conduct one
18 review for Native American students that are
19 limited English proficient. We targeted a school
20 district in the Four Corners area where there's a
21 significant population of Navaho students. We
22 conducted that review and we just issued our letter
23 of findings, I believe, last week. It was a long
24 and arduous process.
25 Our findings, our correspondence, on that

1 was all referred to headquarters for review. As a
2 result of our review, I believe there's a little
3 rethinking about policy and certainly about the
4 procedures of how we handle these reviews.
5 Two of the reviews that we did last year
6 dealt with ability, and these reviews also are
7 extremely difficult, time consuming, take a lot of
8 staff time, a lot of statistical manipulations,
9 very difficult reviews. This year we hope to
10 initiate several more reviews, but with the
11 increasing complaint load, that may not be
12 feasible.
13 Now, certainly one of the areas that I
14 see as a priority area is the over-inclusion of
15 minority students in special education classes.
16 That's a topic that's been addressed previously by
17 other organizations and certainly by this one. I'd
18 like to share with you some of the shortcomings
19 that I think exist in our data gathering and
20 provide some of the reasons why it's probably not
21 feasible for us to get very far into this area.
22 One is that the civil rights survey, our
23 forms 101 to 102, do gather data that is sometimes
24 useful and it's a good effort. Primarily, I think
25 it causes school districts to take a quick look at

1 themselves and kind of look at their profile. It
2 does not help our office in particular to a great
3 extent. The lack of data certainly is one of the
4 major factors. The availability of data, but the
5 inaccuracy of it, is also another factor.
6 When the survey is taken, which is
7 usually in the fall, it is due back to headquarters
8 the following winter, which would be, say, from
9 October, due in December, and then usually gets in
10 by January. There's about a one-year delay in
11 analyzing the data by the contractor in doing
12 whatever statistical manipulations they're going to
13 do to rein the data and in providing regional
14 offices with pretty much a summary of the data and
15 the analysis. And so that if we were to target
16 review sites based on current data, it's actually
17 over a year old. In fact, it may be two years old
18 by the time we actually contact a recipient. So
19 the processing lag is a definite problem with us.
20 The coverage, I think, is probably more
21 important. My understanding is that this is a
22 stratified random sample, and I am not really sure
23 as to how the sites are selected. In the past, we
24 have been able to suggest that certain school
25 districts be included. This has not been part of

1 the survey for the last two or three surveys, as I
2 recall. This may still be a possibility.
3 But typically, the focus seems to be on
4 urban districts, not necessarily a willful
5 exclusion of rural areas, but the larger districts
6 seem to get more attention. So that in a state
7 like North Dakota, Montana, other states in our
8 region, there are many, many school districts that
9 warrant someone's attention, but they're not
10 included in the survey. And if we base our review
11 activity on survey data, we have very little or
12 nothing to go on in many cases.
13 So we depend, to a large extent, on input
14 from the community, on the compliance activities in
15 the past, and other sources of data. And with
16 regard to minority students and special education,
17 we don't really have a whole lot. Of the limited
18 English proficient students, special education is a
19 major concern, but not a major activity.
20 And based primarily on that, my review of
21 some of these forms in the past causes me to have
22 second thoughts about a whole lot of school
23 districts where six minority students are listed on
24 the form in special education -- the number itself
25 doesn't present much of a problem, but when it's 50

1 percent of the minority population of that district
2 or that particular school, it does raise some
3 questions in my mind.
4 And I believe that in the special
5 education presentation there were some thoughts
6 given about placement of minority students in
7 special education and there was some mention of
8 speech therapy. And that seems to be one of the
9 areas where we find what may be outlandish numbers
10 of minority children, at least listed there.
11 It would seem to me that if some of these
12 minority students are limited English proficient,
13 there should be other language assistance programs
14 available, not necessarily speech therapy. I'm not
15 sure that that's the problem nor the solution.
16 Okay. The assistance needed then would
17 be from groups such as this group, that if there
18 was data that can be gathered -- and I think Dr.
19 Kulas alluded to that -- that better -- more
20 accurate data, more comprehensive data, is being
21 gathered, that would certainly assist all of these
22 agencies.
23 I think it would assist the state
24 education agency themselves, but it would be a boom
25 to us. We would have something that is accurate,

1 up-to-date, and that would enable us to address
2 more current problems. As it is, it seems that
3 we're investigating history rather than current
4 events.
5 Then better and more productive
6 relationships with other federal agencies, I think,
7 also would assist us and possibly would assist
8 you. I think it would assist the states. It's
9 somewhat disconcerting, I think, to many school
10 districts or other recipients that three federal
11 agencies are involved in a case, in a particular
12 situation.
13 And part of it might be avoidable, part
14 of it we cannot avoid. We are mandated to
15 investigate complaints of discrimination within our
16 jurisdiction, but there is some overlap. I think
17 memoranda of understanding, perhaps with the BIA,
18 might assist us, and I think it would to a great
19 extent in North Dakota. It might in other states
20 that have BIA contract schools.
21 We have a major problem establishing
22 jurisdiction with many of these schools. If
23 they're BIA contract schools, the policy thus far
24 is that we do not have jurisdiction and should not
25 interfere. And I think that creates a hardship on

1 some of the clients we could serve.
2 I think the relationships with state
3 education agencies in our region, I believe, are
4 good. They have been good for several years. I
5 think they can still improve, but I think we
6 continue to strive in that direction of improving
7 relationships.
8 We have taken that tact also with other
9 federal agencies, but they sometimes are bound,
10 like we are, that the legislation doesn't provide a
11 lot of leeway for them. If they have jurisdiction,
12 they must do certain things, just like we must do
13 certain things.
14 I'm not sure I really need to get into a
15 whole lot of the other things, the mechanics of
16 it. But sort of in a nutshell, that's what we do
17 and how we do it and kind of why we do it. And I
18 think I could possibly respond to some of the
19 questions that my comments may have generated.
20 BETTY MILLS: Anybody have a question?
21 Bill has a question.
22 WILLIAM MULDROW: Yes, thank you. That's
23 very helpful. I'd like to make a couple of
24 observations based upon what you said and have you
25 react to them.

1 It's my understanding that you --
2 compliance reviews really are kind of second
3 priority. You are burdened with investigating
4 individual complaints, and as you have time and
5 staff, you conduct compliance reviews.
6 It would seem to me that maybe the order
7 should be reversed, that compliance reviews would
8 alleviate a lot of individual complaints and would
9 be a more efficient approach to general problems,
10 than starting with investigating individual
11 complaints as the first priority.
12 RAMON VILLAREAL: Well, it might be
13 surprising, but I tend to agree with you for
14 several reasons, because one is that, on a
15 proactive stance like that where we target
16 recipients for review, we pretty much set up the
17 perimeters of the investigation. When we're going
18 to look at specific things, it's a more focused
19 investigation. When we're dealing with complaints,
20 we're dealing with what the complainant has said.
21 The complainant, in essence, sets up the
22 investigation for us.
23 But the other factors involved in that
24 are that, if we select a major target for a review,
25 depending on what we find, or even if we find

1 nothing, just the attention that we paid to that
2 one district is enough to cause other districts in
3 that state, and certainly in that immediate area,
4 to do some self-evaluation of their own. I think
5 the ripple effect from the review is far in excess
6 to what we can get on maybe even ten complaints in
7 the same area.
8 So I certainly agree with that. And it's
9 not that my staff and I, or our office, or possibly
10 even our agency, would not prefer to do that.
11 Since we got out from under the Adams
12 Order several years ago, the only thing that
13 changed was the court no longer reviews our
14 actions, but we're still under the scrutiny of all
15 the advocacy groups that caused the Adams Order.
16 They have an overwhelming influence on the
17 assistant secretary and on Congress and on others,
18 and they're still looking over our shoulders and
19 they're, in essence, still calling the shots. And
20 so complaints must still be handled within the
21 established time frames. And it doesn't really
22 matter that the judge is not counting the days.
23 Someone else is.
24 But if we had a more balanced program,
25 such that we could maybe put aside several

1 complaints and do more reviews, I think yes, the
2 benefits to all would increase.
3 WILLIAM MULDROW: I think you indicated,
4 at least within recent times, there has not been a
5 compliance review in North Dakota, that your
6 resources have been focused elsewhere, and that
7 priority is given to urban areas rather than to
8 rural areas, which I take North Dakota would be a
9 rural area.
10 RAMON VILLAREAL: Yes. And that's not
11 necessarily our focus. That's pretty much the
12 national push, based on the data they gather and
13 all the other things.
14 WILLIAM MULDROW: I would submit that
15 perhaps the greatest need might be in some of the
16 rural areas such as North Dakota, which are remote
17 from your office and the other federal agencies
18 which -- they're not under the spotlight, so to
19 speak, of the proximity of your office and the
20 national media and that sort of thing.
21 And our experience just here today, the
22 information we've gotten, there are some gross
23 disparities in the number of Indian students in
24 special education programs in some of the
25 districts, which you have indicated also in your --

1 it just seems a little unfair to -- and then the
2 other thing is -- I mean rural people, especially
3 Indian people, I mean it's just, you know, an
4 isolated rural area in which they live. They are
5 so remote from any kind of communication with your
6 office, for example, any understanding of how to go
7 about complaining, or even that this avenue is
8 available.
9 So I guess I'm putting out a plea or at
10 least a question as to why it wouldn't be just as
11 important to do things in rural areas as in urban
12 areas.
13 RAMON VILLAREAL: I think in this region
14 we serve a population that tends to not complain as
15 much as possibly other populations do. And since a
16 lot of our activity is generated by complaints,
17 that may be one of the reasons that we are not --
18 WILLIAM MULDROW: Is it they don't
19 complain because they don't know how to complain --
20 RAMON VILLAREAL: I think that's part of
21 it. Maybe it's a cultural trait that you just
22 don't complain much.
23 WILLIAM MULDROW: So if they don't
24 complain, they're really left out of the complaint
25 process --

1 RAMON VILLAREAL: They're not in the
2 spotlight.
3 WILLIAM MULDROW: -- as the last review
4 process, they're left out?
5 RAMON VILLAREAL: Yes -- no. The last
6 series of reviews that we did in North Dakota were
7 in higher education, post secondary education, and
8 did address Native Americans, but not in terms of
9 special education at the elementary and secondary
10 level. Again, that's based on what I just noted,
11 what are the priorities of the assistant secretary,
12 because that pretty well guides our activities.
13 WILLIAM MULDROW: The other big
14 frustration is statistics. We're frustrated
15 because there don't seem to be any uniform
16 statistics in North Dakota, you know. Some
17 districts maintain statistics on how many Native
18 Americans are in special ed, but many of them
19 don't. There's no uniform categories or
20 statistics.
21 You're suggesting that we may help
22 provide some of that data, but -- and we're
23 frustrated ourselves. It would seem to me that you
24 are in a position to require the compilation of
25 this data and that requirement would put the burden

1 on the districts to do it. And even if you did not
2 have time to follow through on disparities, that
3 the publication or the gathering of this
4 information would itself point to needs that might
5 be cleared up by the responsible bodies if they
6 were brought to light.
7 We don't have the power to make everybody
8 give us information. Nobody's going to do that
9 just at our request. But I would -- don't you have
10 the power to do that, even if you don't have the
11 staff to really follow through on --
12 RAMON VILLAREAL: I think that's an
13 excellent point. The survey instruments have been,
14 I think, improved. They do ask for additional data
15 that would be helpful to us. We have not yet seen
16 the results of that. But even with an improved
17 document, the coverage is not broad enough.
18 And I think that's what you're speaking
19 to, that we should really cover more districts. I
20 don't know that we could do a 100 percent sample,
21 but certainly we could increase it. And it would
22 not be the same school district every year, but at
23 least in a 3- or 5-year cycle, each district would
24 know that they're going to be looked at. And I
25 think that might be a better approach than what we

1 have now.

2 But I have noted that data gathering

3 should be required in more districts and to look

4 into that. Certainly we'll make that as a

5 suggestion to the assistant secretary's level and

6 see what we can do with it.

7 It's not peculiar to North Dakota. I

8 don't know of any state that has really adequate

9 data. In fact, when I used to call a lot of the

10 districts about their survey data, the typical

11 answer was: Oh, does that look like a problem?

12 Let me look at that again. And it was always:

13 Well, we miscopied some numbers, or there were

14 other errors, or whatever. Maybe it was a

15 deliberate distortion. I don't know. But I know

16 that when you relate back to almost any recipient

17 that it may indicate a serious compliance problem,

18 usually they'll give you more accurate data.

19 WILLIAM MULDROW: Are those data

20 available to the public that you collected?

21 RAMON VILLAREAL: Normally they are not,

22 although I think they would be, at least the

23 summary and the analysis portion, since it's

24 handled through an outside contractor.

25 If someone had a particular district that

1 they wanted to request data from, we might be able
2 to do it. There's certain things with the Privacy
3 Act. But the summary does not identify usually by
4 district. It's state type totals by issue, such as
5 Title 9, single, sex, physical education,
6 over-inclusion, and other things. But it's not
7 traceable back to a particular district. It does
8 at least preserve that privacy.
9 BETTY MILLS: Are there any other
10 questions?
11 WILLIAM MULDROW: Let me ask one more.
12 Have you done anything in the way of trying to make
13 North Dakota residents aware of your services and
14 your jurisdictional responsibility so that people
15 know what recourse they have?
16 RAMON VILLAREAL: Yes, but not recently.
17 We used to do more out-reach activities, more
18 technical assistance, more meetings with community
19 groups. And for about three to four years our
20 travel was severely curtailed and we sort of quit
21 doing that.
22 There has been more of an emphasis on
23 that recently. And I think as soon as the budget
24 is stabilized a little more, we'll receive a
25 go-ahead to start doing more of those activities.

1 We've kind of done it, but again, it was an
2 adjunct, not the primary purpose of our travel.
3 When I have a group of investigators on a
4 investigative team somewhere, I try to make it a
5 point for them to be available for community
6 meetings, to meet with other people, advocacy
7 groups, whatever, while they're on site. And even
8 if it's one investigator on one case, if they're in
9 the capitol city, try to at least have them pay a
10 courtesy visit to the state education office to
11 stay in touch with people that way.
12 And when we do these, that's one of the
13 items, is that we ask the recipient: Please let
14 the folks in your area know that we are conducting
15 a review, and if anyone needs to talk to us, we
16 will be available. If you can make an office, a
17 room, a facility available for their use in the
18 evening, we'll be happy to meet with whomever.
19 And then we also put out the word through
20 other means, because we know the recipient is not
21 necessarily going to reach everyone.
22 So we do make some efforts, but not like
23 we used to years ago. And I'm hoping that that
24 will improve after the first of the year.
25 BETTY MILLS: If there are no further

1 questions, we thank you very much.
2 RAMON VILLAREAL: Thank you.
3 BETTY MILLS: This closes this particular
4 section of the hearing. We will begin an open
5 session for people who wish to testify, but we're
6 going to give our reporter a five-minute break
7 first.
8 (A recess was taken from 5:00 p.m.
9 to 5:09 p.m.)
10 BETTY MILLS: We'll call this back into
11 session. We have one person who would like to
12 testify, Mr. Leland R. Davis, who is going to
13 introduce himself. Welcome.
14 LELAND DAVIS: Thank you. Members of the
15 committee, Chair, I guess I would just like to
16 thank you for the opportunity to respond to what's
17 happened here today. I didn't think I would have
18 that opportunity. So in listening to some of the
19 things that have gone on today --
20 WILLIAM MULDROW: Mr. Davis, could you
21 give us your position, your title, or who you work
22 for, your address?
23 LELAND DAVIS: Yeah. I work for Turtle
24 Mountain Community School Specialized Education
25 Unit. I'm also, I guess, a former instructor at

1 Turtle Mountain Community College. I have five
2 years of teaching experience there, seven years on
3 the board with the special ed unit in Belcourt.
4 The front lines, as they say.
5 Okay. Some of the things that I, you
6 know, take a note of here as the day has gone on --
7 and I guess I would just kind of like to reiterate
8 those kinds of things -- are the fact that numbers
9 are increasing in the special education area, not
10 only nationwide perhaps, but especially so in our
11 area. We have --
12 WILLIAM MULDROW: Before you -- is the
13 Turtle Mountain Community School a reservation
14 school? Is it a public school?
15 LELAND DAVIS: It's the agency of the
16 Turtle Mountain Indian Reservation. Right.
17 Okay. With numbers once again, we have
18 had an increase of population on our reservation in
19 the past ten years of approximately 25 percent. A
20 lot of these are families that have come in from
21 outside and thereby increasing the numbers in our
22 school system, thereby increasing the numbers of
23 those students in special education. So the impact
24 of that and the impact that it's had on our
25 facilities, not to mention the student --

1 teacher-to-student ratio that's involved as well,
2 has also put some stress in that area.
3 Okay. I guess one of the things that
4 we've been hearing about all day long here is the
5 fact of over-identification. And I guess working
6 in the area, sometimes I question special ed as
7 being a dumping ground.
8 A lot of times, knowing the past history
9 of special ed, there never was, in the earliest
10 stages, after the introduction of 94-142, a real
11 cohesiveness between regular ed and special ed.
12 And sometimes that has, you know, been a problem in
13 our school system. We have not seen eye to eye on
14 certain issues.
15 But once again, sometimes we get children
16 in special ed who maybe we feel regular education
17 teachers could have done more with. Okay?
18 And normally that's done with the step
19 one process that we have in place whereby, if
20 there's a student who's referred, that student will
21 go to the step one process, which is a team that
22 takes a look at the student's concerns, addresses,
23 supposedly, the concerns, and makes recommendations
24 that try to help the student. And then if that
25 process does not work successfully, then those

1 students then become property, I guess, or referred
2 to special education. Sometimes I don't think that
3 process works the way it should work.
4 Okay. Once again, you know, there are
5 the social, cultural, economic types of things
6 that, you know, you have to look at with regards to
7 children in special education. And I really
8 question, you know, students -- and this goes back
9 to the over-identification again of students who
10 end up in our program.
11 You know, we have the "slow learners" in
12 the school systems and how those students end up
13 sometimes in our special ed programs because there
14 are not other places for those students in the
15 school system. One thing I -- I guess that's an
16 area that needs to be looked into further. More
17 services, I guess, are needed in that way.
18 This is kind of a problem that is
19 increasingly becoming more and more difficult on
20 the reservation, and that's the issue of
21 dysfunctional families, or maybe it's just that
22 we're starting to talk about it more. Maybe the
23 problem's always been there.
24 But we have a lot of alcoholism on the
25 reservation. And with this alcoholism, you get

1 fetal alcohol syndrome, you get fetal alcohol
2 effect, and how those students end up in special
3 education.
4 I guess a concern that I have goes back a
5 little bit with our tribal government and how they
6 view this. In my opinion, they don't seemingly
7 want to address that as a problem in our
8 community. Sure we have drug and alcohol
9 counselors or people that work in that area, but
10 the actual issue of alcoholism in the school
11 systems is kind of taboo in a sense. They don't
12 want to talk about it.
13 Some other things that we've come in
14 recent contact with are some diagnoses that are
15 being made by psychiatrists who we end up sending
16 students to for evaluations. We have students who
17 have been diagnosed as conduct disorder, behavioral
18 problems in general, and these are students who get
19 put into "the ED program." That is a program for
20 emotionally disturbed students.
21 Okay. So, you know, the label of ED and
22 how it fits according to those individuals is, I
23 think, something that needs to be looked at. A lot
24 of states will have EDBD type of label. North
25 Dakota is strictly ED, and yet we have all these

1 students that get dumped into the ED program.
2 Okay. Once again, the concern as a dumping
3 ground.
4 In addition to that, we have ADD, and
5 that's another area that is becoming more and more
6 discussed. You know, we have students who have
7 been diagnosed as attention deficit disorder and,
8 through psychiatric care and the doctor's
9 recommendations, have been asked to take
10 medications to help them with their concentration
11 in the school setting, and yet we don't get
12 compliance with parents and other people to do
13 this. And so we are at odds with people in the
14 community because those people then, in turn, run
15 to our tribal council. The tribal council, you
16 know, before they check with us, a lot of times
17 will take the side of the parent. And they really
18 don't know what's at issue here because, first of
19 all, they don't have access to the information. So
20 that's a problem.
21 Another concern that, you know, I think
22 needs to be looked at is the fact that simply
23 because of the socioeconomic status and the fact
24 that we have the alcoholism rate that we do, a lot
25 of personal needs are not being met. And it's very

1 hard for people to focus on educational needs when
2 simple things, such as food and shelter and other
3 things of that issue or those types of issues, are
4 going unmet. So that's another issue that needs to
5 be looked at.
6 School then becomes a low priority and,
7 of course, students drop out. And I think, you
8 know, working as a counselor, the biggest incidence
9 that I see tends to happen between the transition
10 from the 8th to the 9th grade. A lot of students
11 in the middle school setting, 6th, 7th and 8th
12 grade, are unable to make that transition to the
13 high school for various reasons, and thereby, you
14 know, we see fairly high dropout rate between
15 freshmen and sophomores, because maybe in earlier
16 grades these students were passed on because of
17 social promotions and then the different type of
18 setting that is in place at the high school,
19 there's no social promotions that exist up there.
20 So we have that problem.
21 I guess placement, you know, with regards
22 to special education and those students who are
23 diagnosed as FAS or FAE. You know, I think once
24 again we need more programs on the reservations in
25 way of prevention and treatment; not just

1 prevention, but treatment as well.
2 Currently, we have one person in the
3 state who is a Native American drug and alcohol
4 counselor. And, you know, more are needed. It's
5 just simply not meeting the needs of the people.
6 Fortunately, that person is on our reservation and
7 we're lucky to have him.
8 Tribal recognition, once again, of
9 alcoholism, I think, is an issue that really needs
10 to be addressed, because a lot of these students,
11 because of the FAS and FAE, are students that we
12 are seeing in our special ed programs.
13 Assessment is another issue that I would
14 like to take a stab at here. There's different, it
15 seems, standards for diagnosing students for
16 placement into special ed programs. We have a
17 special ed unit that sits adjacent to us on our
18 reservation and, you know, the tools or the
19 instruments they use for diagnosis into their
20 programs versus those that we use are different.
21 For instance, federal says that we have
22 to use a psycho-educational battery of tests to
23 place students. The Peace Garden Special Ed Unit
24 that sits adjacent to us doesn't use that type of
25 diagnosis to place students into their programs.

1 I guess another issue along those lines
2 is the fact that a lot of times the treatment of
3 the Native American students in the Peace Garden
4 Special Ed Unit and how they're treated and how
5 services are not provided and how those students
6 end up coming to us in our school district and the
7 fact that federal people say that we can't turn
8 those students down because they're Native
9 American, so we draw a lot of students from outside
10 of our area into our program because we have the
11 programs, and the fact that that is overburdening
12 our staff.
13 You know, we have in our office and my
14 coworkers, there's four of us and a secretary and
15 we're -- five of us and the psychologist is gone
16 now, so that leaves four of us. And the numbers
17 are increasing. So the demands on us, the stress,
18 the burnout is a real problem. And, you know, how
19 do we deal with that? I think more monies need to
20 be set aside to have more people hired in these
21 areas.
22 And, you know, that gets us into another
23 area. I guess, you know, when you look at teachers
24 or people who work in the education system, you
25 have to sit back and wonder, you know: What's

1 going on? But if you're looking at, I think,
2 finding more people to enter into the area of
3 special education, you have to look at a lot of
4 issues.
5 North Dakota, first of all, sits on the
6 bottom of the totem pole, 49th out of 50 states,
7 with regards to the payment they pay educators in
8 the state, and yet they have one of the highest
9 standards in the nation for what they expect of
10 their teachers. You know, that's a tough situation
11 to be in, because typically what happens is other
12 states come into our state and recruit our teachers
13 and our teachers leave the state, thereby, you
14 know, leaving us short. And that's a real
15 problem.
16 So I think, you know, if that's the case,
17 then we need to create incentives to keep people
18 here so that, you know, we don't lose them to other
19 states, which brings another issue up.
20 JOHN OLSON: Excuse me. Somebody once
21 said that keeping teachers' salaries low while the
22 standards are way up high is probably a good idea
23 because it works. I know that's a terrible
24 statement to make.
25 (Laughter.)

1 JOHN OLSON: Kind of lighten this up a
2 little bit here.
3 (Laughter.)
4 LELAND DAVIS: Okay. Let's get into the
5 area of, for instance, on-site training of
6 teachers, as Dr. Delorme talked about earlier. I
7 agree that we do need more of that. There's no
8 doubt about it that we need more people in the
9 area.
10 But I also believe that if we are going
11 to do that, that the regimen those teachers go
12 through be of the same standards that other
13 teachers go through across the country, that we not
14 provide programs that kind of slide people in the
15 door just because they're Native Americans. I
16 don't think putting substandard people into those
17 places is going to really help any of the kids in
18 this situation.
19 So whether it's administrators or
20 teachers themselves, I feel that, you know, if
21 we're going to allow those programs -- or create
22 those programs, that they be of the same regimen or
23 the same standards that anybody else has.
24 Okay. The issue of school psychologists
25 is another area. As far as I know, there are not

1 very many school psychologists, Native American
2 school psychologists, in the country. If my memory
3 serves me correct, there are less than ten in the
4 nation. We need more of those types of people. We
5 need programs to entice people to get into that
6 area, because there is a need for that, not just
7 here in North Dakota but across the country.
8 I guess I'd like to get back to the issue
9 of dropouts. You know, because of the fact that so
10 many students don't make that transition from the
11 middle school to the high school, we lose them.
12 And there becomes an issue here of, for
13 instance, state law versus tribal law. Our state
14 says that at the age of 16 we will, with consent of
15 a parent, allow a student to drop out of school.
16 Our tribal law states that that age limit is 18.
17 There seems to be a lot of inconsistency
18 in how our tribal court deals with the dropout
19 issue in the school systems. They will allow some
20 students at 16 to drop out and there's others they
21 will not allow to drop out, period. Why that is,
22 you know, I think is an issue that needs to be
23 looked at.
24 It kind of scares me to think, as much as
25 I'd like to see it happen, that if the tribal

1 government with self determination wants to take
2 over the education system in the country, and you
3 look at the fact -- at least on our tribal council,
4 we have four people that, I believe, haven't
5 finished high school and four that have gone on to
6 college, that I don't know that I want those people
7 making those kind of decisions for kids, because
8 they don't know what education is really about.
9 I think if we're going to have tribal
10 governments involved in, you know, education, that
11 I think we need to set standards for those types of
12 people to sit in that type of government position.
13 Earlier, too, we talked about unmet needs
14 and how maybe we could better meet those needs. As
15 you might be aware, in 1964 the Mental Centers Act
16 was passed whereby the institutionalization was the
17 object or the goal to get people out of
18 institutions, and then thereby the goal was then to
19 create more outpatient types of facilities in the
20 state of North Dakota as well as across the
21 country, to provide those services to people who
22 need them.
23 And the institutions did shut down.
24 However, the United States government failed to
25 provide the facilities, the mental health

1 facilities, that they said they were going to
2 build. And so those types of services, I think,
3 are something that we could use more of.
4 IHS, Indian Health Services, in Belcourt,
5 North Dakota, used to have five people on board
6 that they used to be able to provide those services
7 to our community. As people left those positions,
8 they shut down or failed to re-advertise them and
9 thereby reduced the staff, and thereby we have less
10 positions now and, as I told you earlier with the
11 increase in the population, we have more of a need
12 than we used to have for these services. I think
13 IHS needs to help us out with that type of thing on
14 the reservation.
15 Also, too, with the issue of education,
16 higher ed, as it exists, basically allows for the
17 payment of education for up to a four-year
18 program. There are, however, special programs that
19 do exist, but education doesn't seem to be one of
20 them.
21 And a lot of special education course
22 work requires graduate level course work. Where do
23 students get the monies to get that kind of
24 education? You know, I think we need to look at
25 the fact that a lot of special education areas do

1 require that graduate level course work and that we
2 need to find more monies to, once again, entice
3 those people.
4 JOHN OLSON: Mr. Davis, how much longer
5 is your presentation, because I have a couple of
6 questions I want to ask you?
7 LELAND DAVIS: You can fire away.
8 JOHN OLSON: Are you done?
9 LELAND DAVIS: Yeah.
10 JOHN OLSON: Are you a special education
11 instructor as well as a counselor?
12 LELAND DAVIS: No. I am a counselor for
13 the special education department of the Turtle
14 Mountain Community Special Education.
15 JOHN OLSON: Are you familiar with the
16 special assessment forms that were used in your
17 district, the assessment forms the special
18 education program used for examining a student for
19 need?
20 LELAND DAVIS: Yes, I am.
21 JOHN OLSON: What kind of a form is
22 that? Is that a multi-page form? What does it
23 look like? I've never seen one.
24 LELAND DAVIS: Well, it's not in
25 particular a form. What it is, is, if I'm

1 understanding you right --
2 JOHN OLSON: A checklist?
3 LELAND DAVIS: Well, there's a
4 psycho-educational battery of tests that are
5 administered to a student. And based on the
6 results of those tests, the determination, along
7 with the multidisciplinary team -- with the
8 multidisciplinary team is made. An example would
9 be, for instance, the WISC-R or the
10 Woodcock-Johnson, things of that nature.
11 JOHN OLSON: Okay. Thank you.
12 AUDREY HENDERSON-NOCHO: You kept
13 indicating that there's an increase of the
14 population back on the reservation. That increase,
15 is it due to the individuals not being able to
16 mainstream into urban America, or is it the lack of
17 services that are not provided out in urban
18 America? Or what is the reason?
19 LELAND DAVIS: Personally, I don't know
20 of all the situations that exist for that, but what
21 we are seeing, I think, with the high unemployment
22 rates, the fact that people, I think, are able to
23 maybe exist because of extended families more
24 easily or readily on the reservation. A lot of
25 people come back because it's home. That's what

1 they've known as home and people just come back for
2 that reason. They know that somebody is probably
3 more than willing to help them out, where they
4 might not have that family support and those kinds
5 of things in the city.
6 AUDREY HENDERSON-NOCHO: You mentioned
7 about the dumping ground. Of the 25 percent of the
8 population that's coming back, any of those
9 families that have children learning disabled?
10 LELAND DAVIS: Definitely.
11 AUDREY HENDERSON-NOCHO: I mean, were
12 they just labeled or were those tests conducted on
13 those individuals?
14 LELAND DAVIS: Some of those come in
15 already diagnosed and others we have diagnosed as
16 they've been entered into our system.
17 AUDREY HENDERSON-NOCHO: That's something
18 that's beyond your control, that the 25 percent
19 come back, and they are technically "accurately"
20 put in there as learning disabled. Is that right?
21 LELAND DAVIS: As far as I know.
22 AUDREY HENDERSON-NOCHO: Okay. What's BD
23 mean?
24 LELAND DAVIS: Behavioral disorder.
25 AUDREY HENDERSON-NOCHO: Okay.

1 BETTY MILLS: We have somebody else to
2 testify, so we thank you very much.
3 LELAND DAVIS: Okay. Thank you.
4 BETTY MILLS: Mr. Ken Billingsley, would
5 you introduce yourself, tell us what you do, and
6 give us your address?
7 KEN BILLINGSLEY: Thank you. I'm sorry
8 for coming in late. I didn't even know about the
9 meeting until I got a call at three o'clock this
10 afternoon.
11 My name is Ken Billingsley. I'm a tribal
12 councilman for the Standing Rock Sioux Tribe at
13 Fort Yates, North Dakota. I'm also a educator for
14 the Title 7 Program at the public school, Fort
15 Yates Public School.
16 We're running into a problem. I think
17 it's a problem. I sat on the school board, also,
18 for the Bureau of Indian Affairs School. And we
19 have a large number of special education children
20 in our school system, and we've got limited
21 dollars, as I'm sure you've heard throughout the
22 day, for special ed.
23 But what we got is a unique situation, as
24 I told Mr. Muldrow in the back. I've got a
25 question and I would like to have it answered to

1 take back to our school board. We have teachers'
2 aides working with our kids that are trying to
3 mainstream our special education children into the
4 regular classroom setting. With the limited amount
5 of qualified certified special ed teachers, they
6 have aides within the classroom all day with these
7 children.
8 What I'm asking is: Is that legal? To
9 me, it's not right. If I had my child in special
10 education, I would not want an aide working with
11 the children all day because they are not certified
12 and they're not getting the adequate education that
13 I believe they deserve and the special time and
14 training. These aides do not have this. So I
15 guess that's my first question.
16 BETTY MILLS: I'm not sure that you're
17 asking the right board.
18 KEN BILLINGSLEY: I understand that. I
19 just came up here today to see what -- I wish I
20 would have --
21 WILLIAM MULDROW: That's the only
22 instruction they get is from these aides?
23 KEN BILLINGSLEY: Well, they get an hour
24 a day with the special ed teacher. What I'm saying
25 is the aides are with them all day long in a little

1 area and they're confined to a little area of
2 classroom space. They have the regular sized
3 classroom, but it's a little cubicle. And this is
4 where they stay all day. They don't get to
5 intermingle with the regular class children. And
6 that's a problem we have to solve locally, I think,
7 also, but I don't feel it's right.
8 As this man that was just up here, we do
9 have problems on the reservation, as well as
10 throughout the United States, of alcohol. I've
11 been an educator for 12 years now, and if we don't
12 do something about this, every one of our teachers
13 within the classroom is going to have some type of
14 special education degree to even be a certified
15 teacher.
16 And it's a problem that we have to solve,
17 but -- again, I apologize for not being up here. I
18 didn't know about it. I'm also the chairman of the
19 HEW Committee, health, education, and welfare. If
20 I would have been informed about this, I would have
21 been here all day. I really apologize on my behalf
22 for not being here. We had some people here from
23 the tribe. I understand that they left early this
24 afternoon, and that's when I was called to come up
25 if I wanted to testify.

1 BETTY MILLS: We appreciate you being
2 here now. One of the -- would it be all right if
3 we ask you some questions?
4 KEN BILLINGSLEY: You bet.
5 BETTY MILLS: One of the points that seem
6 to come up over and over again is that children are
7 -- Native American children are identified as
8 being -- as being -- are put in special education
9 when that may not be the place they belong, but
10 then they carry that label with them.
11 KEN BILLINGSLEY: Yes, they do.
12 BETTY MILLS: Do you think that is true
13 also in your school system on Standing Rock?
14 KEN BILLINGSLEY: Most definitely. Once
15 they're labeled special ed, they do not get out of
16 that category. I asked the question of our special
17 education director for the Bureau of Indian Affairs
18 if the kids ever got out of this category, and she
19 said yes, we test them, and we test every three
20 years, and no kids have advanced out of this.
21 I haven't seen their testing results, and
22 I'm going to ask to see them. I don't think that
23 they can test out with aides working with them.
24 They're not educated. Some of them go to school
25 for -- maybe they have a couple of years of

1 education experience, but not as a certified
2 teacher to have the proper training. So no, they
3 are labeled and that's where they stay.
4 WILLIAM MULDROW: What's the process by
5 which they're put into special education classes?
6 KEN BILLINGSLEY: I believe they're
7 referred by the teachers and then the team
8 psychologist and the special education teacher,
9 they do an evaluation; a referral process first and
10 then an evaluation is conducted. And I don't know
11 the steps beyond that, how they're rated so they're
12 labeled as special ed.
13 WILLIAM MULDROW: Your students are
14 mostly Indian?
15 KEN BILLINGSLEY: Yes, Sir.
16 WILLIAM MULDROW: How about the
17 evaluation team?
18 KEN BILLINGSLEY: Mostly non-Indian.
19 WILLIAM MULDROW: Mostly non-Indian.
20 What are the implications of this? Do you feel
21 that children placed in special education are
22 sometimes misdiagnosed and falsely labeled as
23 special education --
24 KEN BILLINGSLEY: I wouldn't want to
25 stick my neck out. I don't want to incriminate

1 myself on the teachers that are there.
2 WILLIAM MULDROW: Once they get into
3 special education, the track record is that they
4 stay there?
5 KEN BILLINGSLEY: Yes, they are. And we
6 do need more role models. We have the Indian
7 educators out there, but we just don't seem to get
8 them.
9 WILLIAM MULDROW: You feel the
10 instruction that they get is not up to par because
11 the teachers or the aides are not qualified to
12 really deal with their problems?
13 KEN BILLINGSLEY: That's correct.
14 AUDREY HENDERSON-NOCHO: Are those aides
15 non-Indian?
16 KEN BILLINGSLEY: The majority of the
17 non-certified staff is Indian. More or less tokens
18 in the school is what it amounts to.
19 AUDREY HENDERSON-NOCHO: So these
20 teachers that are for the learning disabled kids
21 are all non-Indian?
22 KEN BILLINGSLEY: Yes. The majority of
23 them are, yes. They come from up here. We only
24 live about 70 miles south of here.
25 AUDREY HENDERSON-NOCHO: Where are the

1 Indian teachers at?

2 KEN BILLINGSLEY: They're around, but

3 they just can't get into the system.

4 AUDREY HENDERSON-NOCHO: Why can't they

5 get into the system?

6 KEN BILLINGSLEY: That's a good

7 question. Because of the school board and the

8 Bureau politics, I guess.

9 AUDREY HENDERSON-NOCHO: Is there some

10 magic knowledge that they have to have to get in?

11 KEN BILLINGSLEY: No, I don't believe

12 so. They just have to be certified with the

13 credentials. If you graduate from college, you

14 should be eligible for a job. But it's the hiring

15 practice. We have teachers in the Bureau system

16 that have been there for 30 years. They're

17 fossilized.

18 (Laughter.)

19 KEN BILLINGSLEY: They're grandfathered

20 in.

21 AUDREY HENDERSON-NOCHO: Okay.

22 WILLIAM MULDROW: Is the administration

23 of your school entirely within the BIA, or does the

24 North Dakota Department of Public Instruction have

25 anything to do with this?

1 KEN BILLINGSLEY: The only thing that the
2 Bureau schools have to get is the North Central
3 Accreditation for the State of North Dakota. The
4 Bureau handles their own education. We get dollars
5 from the Bureau of Indian Affairs.
6 AUDREY HENDERSON-NOCHO: Do you know what
7 your numbers are for the learning disabled kids?
8 KEN BILLINGSLEY: Boy, right off the top
9 of my head, I would say it's 107 out of, like, 245
10 kids in our BIA elementary.
11 WILLIAM MULDROW: A hundred and seven are
12 in special education.
13 KEN BILLINGSLEY: That's pretty close to
14 50 percent.
15 AUDREY HENDERSON-NOCHO: Oh my. And are
16 they tracked? Do you know?
17 KEN BILLINGSLEY: Yes, they are.
18 AUDREY HENDERSON-NOCHO: Is that from
19 kindergarten to high school?
20 KEN BILLINGSLEY: Yeah. There's a
21 preschool evaluation that's done when they're three
22 years old on these kids, and that's sometimes when
23 they're labeled, as early as three years old, with
24 a learning disability. I don't understand how you
25 can label a child that's only three years old with

1 a learning disability.

2 AUDREY HENDERSON-NOCHO: This gentleman

3 here was saying that the 8th and 9th grade is the

4 transition period. Are you finding that's the

5 transition period?

6 KEN BILLINGSLEY: Yes. We do need to do

7 something about our schools. We put our 7th and

8 8th graders in with the freshmen through 12th grade

9 seniors, and it's very tough for them to go from a

10 contained classroom to an open setting like that,

11 going from class to class to class. The transition

12 is very hard for them.

13 AUDREY HENDERSON-NOCHO: 50 percent?

14 KEN BILLINGSLEY: Yes.

15 MALEE CRAFT: You indicate you're an

16 educator. What role do you play in education?

17 KEN BILLINGSLEY: I'm the Title 7

18 instructor. I teach the language and culture of

19 the Standing Rock Sioux -- the Lakota Tribes,

20 Lakota and Dakota.

21 MALEE CRAFT: Have you taught any of that

22 to the teachers?

23 KEN BILLINGSLEY: We tried to, but when

24 you have non-Native American teachers, they're very

25 reluctant to get involved with our people. They

1 don't even live on the reservations, the teachers.
2 They commute back and forth from Bismarck and
3 Mandan down there every day.
4 MALEE CRAFT: Is there -- so am I correct
5 in assuming that the school that you're involved
6 in, there's no procedure to have the teachers
7 oriented? It's not a part of the --
8 KEN BILLINGSLEY: I don't see that at
9 this point in time, no. They have some critical
10 elements that they have to follow to get a merit
11 increase or things within their salary scale. And
12 one of them that I've been pushing for, and a few
13 of the other board members, is that they have to
14 take some type of cultural and traditional classes
15 that we have offered through our community college
16 that is located at Fort Yates.
17 MALEE CRAFT: You're advocating that?
18 KEN BILLINGSLEY: Yes, I am.
19 MALEE CRAFT: That's not in place?
20 KEN BILLINGSLEY: It's not in place right
21 at this point in time. But it's very important for
22 these teachers to understand the background that
23 our children come from. We have disrupted
24 families. A large majority of our children come
25 from single families, raised by the mother alone.

1 It's a different situation on reservations.
2 MALEE CRAFT: Do you have any firsthand
3 experience of a student or can you give us an
4 example of a student that might have been put in
5 special ed that shouldn't have been?
6 KEN BILLINGSLEY: Yeah, I can give an
7 example. So they can have a eligible basketball
8 player become eligible because he does not fulfill
9 his grades in high school, so they put him in
10 special ed, because you don't have to have a
11 regular GPA in special ed. Just so he could be
12 eligible for basketball. They're labeled like
13 that.
14 AUDREY HENDERSON-NOCHO: Is that
15 rampant? Do they do that a lot?
16 KEN BILLINGSLEY: Well, last year was the
17 first time I had heard about it, because the kid
18 was just failing in all classes and -- a good
19 basketball player, but threw him in special ed
20 classes so he could be eligible to play in sports.
21 AUDREY HENDERSON-NOCHO: They almost did
22 that to me, but I refused.
23 KEN BILLINGSLEY: See, that's the thing.
24 Parents have to consent to this. Sports is a big
25 deal to our children, as well as to any other

1 children. And if they can see their kids be
2 eligible for sports, they say that's a tool to keep
3 them in school, which it is. But what comes
4 first: Academics or sports? And the parents
5 consent to this, they sign off on it. They should
6 know better, but it just happens.
7 BETTY MILLS: It has been suggested that
8 one of the reasons to put students in special ed is
9 that the school gets more money for special
10 education students than they do just for the
11 regular school. Is that true in your school?
12 KEN BILLINGSLEY: I wouldn't care to
13 comment on that. I don't know, to -- to be very
14 truthful, I don't know the answer to that
15 question. It would be nice, but that's -- they
16 could think that, the administrators. We have all
17 non-Native administrators. We've had that for
18 years and years in our school. They could do
19 that. I don't know. They need to be more closely
20 watched for that by the school board.
21 AUDREY HENDERSON-NOCHO: Is your
22 principal Native American?
23 KEN BILLINGSLEY: No, he's not. We have
24 one in elementary school that is. She's a Native
25 American enrolled member. But the rest of the

1 administrators are non-Natives.

2 AUDREY HENDERSON-NOCHO: How many

3 students do you have?

4 KEN BILLINGSLEY: We have a population of

5 about 1500 children. And we've got a Catholic

6 school, we've got two elementary schools, we've got

7 two junior highs and two high schools.

8 BETTY MILLS: Two high schools?

9 KEN BILLINGSLEY: Yes.

10 BETTY MILLS: Separate?

11 KEN BILLINGSLEY: Separate. A public

12 school and a Bureau school. We're trying the best

13 that we can to get the schools back together. It's

14 crazy. There's no sense in that. The elementary

15 schools are fine, but the high schools being apart

16 like that, it's really a detriment to the

17 community.

18 AUDREY HENDERSON-NOCHO: You're having

19 two different styles of education --

20 KEN BILLINGSLEY: Yes.

21 AUDREY HENDERSON-NOCHO: -- administered?

22 KEN BILLINGSLEY: Right. We have a

23 public school, which follows the North Dakota

24 guidelines, and then we have the Bureau school who

25 has their own guidelines.

1 AUDREY HENDERSON-NOCHO: Do you know if
2 the North Dakota school is implementing any Native
3 American curriculum?
4 KEN BILLINGSLEY: Yes. The bilingual
5 program that I work for, Title 7, is a federal
6 program, and we do implement culture, tradition,
7 values, language, everything.
8 WILLIAM MULDROW: What determines which
9 school students go to?
10 KEN BILLINGSLEY: Well, the -- they go to
11 the Bureau school, the majority of them.
12 WILLIAM MULDROW: By choice?
13 KEN BILLINGSLEY: By choice.
14 WILLIAM MULDROW: They can choose to go
15 to either?
16 KEN BILLINGSLEY: Either place. They can
17 go anywhere.
18 MALEE CRAFT: Do you have transferring
19 back and forth between --
20 KEN BILLINGSLEY: That's a very bad
21 problem that we have right now. We tried to work
22 it out where they cannot do that, but it happens.
23 It's beyond our control. You can't deny a child an
24 education. If they don't pass out at the other
25 school, they'll transfer over. If they don't pass

1 at the public school, they'll try to get out. They
2 try to beat the system. They've been getting away
3 with it for years, but we're trying to curb that
4 problem now.
5 MALEE CRAFT: Do you know whether the two
6 high schools have coordination? Let's say you got
7 a child in special ed that's in the BIA school and
8 they drop out and transfer to your school. Is
9 there coordination to make sure that child shows up
10 and that they don't show up three weeks later?
11 KEN BILLINGSLEY: Yeah. It's a pretty
12 small community. We can control that. But
13 sometimes the Bureau, when they get their funding
14 by head count or by the eyesight formula, the
15 monies do not transfer over with the child. So it
16 puts a burden on the public schools. Vice versa:
17 If the public school gets their money, they
18 transfer to the Bureau school, that money does not
19 follow them.
20 But the public school does have a good
21 working relation with the Special Ed Department of
22 North Dakota and we get good services. The Bureau
23 school is what, I guess, I'm here to bring
24 testimony about today.
25 AUDREY HENDERSON-NOCHO: What happens to

1 the kids that drop out that were labeled learning
2 disabled? Do you know?
3 KEN BILLINGSLEY: Basically, just lost in
4 the shuffle. They're never brought back into the
5 system. If they drop out, they're just gone. It's
6 a sad, sad sight. Because as you can see the
7 numbers that I've given to you, there are lots and
8 lots of these special needs children identified.
9 BETTY MILLS: Anybody else with
10 questions?
11 (No response.)
12 BETTY MILLS: If not, we thank you very
13 much --
14 KEN BILLINGSLEY: I thank you very much
15 for your time.
16 BETTY MILLS: -- for driving all the way
17 up here to talk to us. That closes this hearing.
18 We thank all of you for participating and members
19 of the counsel and staff. Thank you.
20 (Adjourned at 5:49 p.m.,
21 the same day.)
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23
24
25

CERTIFICATE OF COURT REPORTER

I, ELIZABETH A. HULM, a Registered Professional Court Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing 317 pages contain an accurate transcription of my shorthand notes then and there taken.

DATED in Bismarck, North Dakota, this 27th day of December, 1991.

Elizabeth A. Hulm

ELIZABETH A. HULM
Registered Professional Reporter

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