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Tuesday
October 9, 1979

Part V

Department of the Interior

Bureau of Indian Affairs

Indian Education; Policies and Transfer
of Functions

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 31a

Indian Education Policies

October 2, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.**ACTION:** Final rule.

SUMMARY: Beginning on page 29832 of the May 22, 1979, *Federal Register* (44 FR 29832), there was published a notice of proposed rulemaking to add a new Part 31a to Chapter 1, Subchapter E, of Title 25 of the Code of Federal Regulations. Part 31a, Indian Education Policies, prescribes the policies for the administration of all BIA education programs including the operation of the BIA school system. These changes are required by sections 1130 and 1133 of the Education Amendments of 1978 (Pub. L. 95-561; 25 U.S.C. 2010 and 2013).

EFFECTIVE DATE: November 8, 1979.**FOR FURTHER INFORMATION CONTACT:**

Rick C. Lavis, Deputy Assistant Secretary, Department of the Interior, 18th and C Streets, NW., Washington, D.C. (202) 343-7163.

SUPPLEMENTARY INFORMATION: The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and redelegated to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Task Force on Indian Education Policies, constituted by the Assistant Secretary—Indian Affairs to oversee the preparation of these regulations, received fifty-eight (58) comments on the proposed regulations, four of which were totally supportive, fourteen of which were general or dealt with other issues having no specific reference to policies, and forty of which were substantive.

A. General

A number of typographical and punctuation errors were corrected. Definitions were added for "consultation," "early childhood education," "exceptional education programs," "Indian organization" and "Tribal organization." The Task Force's definition of "consultation" was modified to eliminate the consent element which it recommended since it is a consultation process rather than an "advise and consent" situation which legally pertains. The definition of "Indian Tribe" or "Tribe" has been

modified to make it accord with the definition in sec. 1139 (10) of Pub. L. 95-561.

A number of Tribes, particularly in Nebraska and in the Northwest, and several agencies expressed serious concern over the omission of specific policies regarding public schools. The Task Force discussed this issue at great length prior to first publication and again, in considering the comments. We recognize that our authority is limited in prescribing policies for public schools since they are governed by state laws and by locally elected school boards. Yet, we are also anxious to reassert the responsibility of the states for education and encourage the involvement of Indian people in public education.

B. Comments Adopted

1. As a result of some confusion over the applicability of these policies to Tribally operated contract schools, several minor changes were made in Section 31a.1. Several commentors wanted to delete the phrase that made contract school compliance optional so as to maintain uniform accountability in all schools. However, we believe this requirement would be in conflict with the prerogatives established in Pub. L. 93-638 as well as with the language regarding standards in Section 1121(e) of Pub. L. 95-561 which states:

"(e) The Secretary, through contracting procedures, shall assist school boards of contract schools in the implementation of the standards established under Subsection (b) and (c), if the school boards request that such standards, in part or in whole, be implemented. The Secretary shall not refuse to enter into a contract with respect to any contract school on the basis of failure to meet such standards. At the request of a contract school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (b) and (c) to take into account the needs of the Indian children and the contract school."

We assume that the legislative intent was that the same options would apply to policies.

§ 31a.1 Purpose and Scope read:

"The purpose of this Part is to state that policies to be followed by all schools and education programs under the jurisdiction of the Bureau of Indian Affairs. Contract schools operated by Indian Tribes or Alaska Native entities may develop their independent policies or may adhere to these, if they so choose. The adherence to the appropriate policies shall reflect the best interests of the student, the Federal government, the tribes and Alaska

Native entities, and shall be based on educationally sound judgment."

We revised the second sentence to reinforce the accountability inherent in a contract as follows:

"Contract schools operated by Indian tribes or Alaska Native entities may develop their independent policies, consistent with contractual obligations, or adhere to these."

2. Several commentors, including a field solicitor, were concerned with paragraph 31a.4(f) Religious Freedom, either because of "church-state" interference due to the use of the term "promote" or because of some tribes' not wanting schools involved in religious and cultural matters which they consider private. We inserted the phrase "... consistent with Tribal and Alaska Native entities' wishes ..." to address the issue of privacy and believe the American Indian Religious Freedom Act which was already referenced adequately addresses the matter of "church-state" conflict.

It was pointed out that in paragraph 31a.4(g), Tribal Rights Regarding Governing Bodies and Planning, we had said:

"Develop with the consent and consultation of tribes and Alaska Native entities a plan to include ..." The commentors argued that, in the case of multi-tribal post-secondary schools, it would be impossible to get the consent of all tribes and thus result in discouraging or slowing down planning and policy making. We agreed and deleted the "consent" phrase.

3. In paragraph 31a.4(h), Multilingual Education, there were several suggestions. One commentor felt the programs and materials should not be used at tribal discretion but should be mandatory. The Task Force disagreed in that at least a few tribes believe the native language should only be taught in the home. One tribe wanted the term changed to "bilingual" since only the native language and English were involved. The Task Force cited cases of students with Spanish, English and Indian language or more than one Indian language and English and chose not to change it. However, we did add "school boards" at the end to read:

"... which school boards, Tribes and Alaska Native entities may use at their discretion."

4. Paragraph 31a.4(i) read:

"Choice of School. Afford Indian and Alaska Native students' the opportunity to attend local day schools and other schools of choice and the option to attend boarding schools when the students, parents, and tribe or Alaska Native village determine it is in the student's best interest except that,

residential schools shall not be used as substitutes for providing adequate social services to Indian and Alaska Native families." This evoked many comments. Some did not believe the tribe should be involved in the decision as to where a student attended school. One felt the regulation implied the student alone could decide, e.g. a 3rd grader. Several expressed concerns that an open choice of school would make it impossible for schools to plan adequately, (budgets, construction, etc.). The clause—"except that residential schools shall not be used as substitutes for providing adequate social services to—families" was interpreted by one commentator to mean school social services such as counseling and clothing rather than family services. The language was revised to read:

"Choice of School. Afford Indian and Alaska Native students the opportunity to attend local day schools and other schools of choice and the option to attend boarding schools when the student and parent or guardian determine it is in the student's best interest and consistent with the provisions of the Indian Child Welfare Act of 1978 (Pub. L. 95-608) except that, residential schools shall not be used as substitutes for providing adequate local family social services. Each school shall establish its attendance area in cooperation with neighboring schools."

Paragraph 31a.4(i), Choice of School, just discussed above, deals with the option of attending local public schools. We have added the following italicized phrase to paragraph 31a.4(k)(3) Advocacy and Coordination, to emphasize specific program areas:

"(k) Advocacy and Coordination.

"(1) Serve as an advocate for Indian Tribes and Alaska Native entities in education matters before the Federal, state and local governments.

"(2) Assume an assertive role in coordinating comprehensive support for Indian and Alaska Native students internally and from other agencies in education, mental and physical health, juvenile justice, job training, including apprenticeship programs and other related Federal, state and local program services.

"(3) Serve as an advocate and carry out responsibilities for Indian and Alaska Native students in public and other non-Bureau operated schools consistent with the wishes of the appropriate Indian tribes and Alaska Native entities, particularly in regard to Impact Aid (Pub. L. 81-874), Johnson O'Malley and all Elementary and Secondary Education Act programs."

5. Paragraph 31a.4(1) read:

"Student Assessment. Establish and maintain a program of research and development to provide accurate and culturally specific assessment instruments to measure student performance in cooperation with, and at the option of, tribes and Alaska Natives."

One commentator's view was that student assessment is critical and should not be left to the option of tribes.

The Task Force agreed and deleted that phrase to make the subsection now read:

"(1) Student Assessment. Establish and maintain a program of research and development to provide accurate and culturally specific assessment instruments to measure student performance in cooperation with tribes and Alaska Native entities."

6. It was pointed out by a field solicitor that in paragraph 31a.4(q) of the proposed regulations the requirement that tribes be notified of even pending legal opinions would put the Solicitor's Office or Attorney General in an untenable position, since pending or proposed opinions are often not reflective of final opinions and publicizing them could have very undesirable results. The Task Force agreed and added the following italicized phrase.

"(q) Tribal Notification and Involvement and Program Flexibility. (1) Notify Indian Tribes and Alaska Native entities of pending or final Federal legislation, appropriations, Solicitor's and Attorney General's opinions, and court decisions affecting Indian and Alaska Native education for the purposes of information and consultation providing them ready access at the local level to all evaluations, data, records, reports, and other relevant information, consistent with the provisions of the Privacy and Freedom of Information Acts."

7. Paragraph 31a.4(t) Alternative, Innovative and Exemplary Programs, received the comment that it was fine to encourage such programs, but without adequate money to develop and operate them, it was meaningless. This concern was voiced repeatedly, not just in reference to this policy, but to early childhood, community school use, equity funding, etc. The Task Force recognized this discrepancy, but wants the Bureau's policies to reflect the ideal world, not the real world of limited appropriations. We did add the italicized language:

"(t) Alternative, Innovative and Exemplary Programs. Vigorously encourage and support alternative, innovative and exemplary programs reflecting tribal or Alaska Native village specific learning styles, including but

not limited to, parent-based early childhood education programs, adult and vocational technical education, library and media services, special education including programs for handicapped, gifted, and talented students, summer programs, and career development."

8. Paragraph 31a.4(w), Equal Opportunity, was amended by adding the italicized phrase at the end to alleviate several commentators concerns:

"(w) Equal Opportunity. Establish and enforce policies and practices to guarantee equal opportunity and open access to all Indian and Alaska Native students in all matters relating to their education programs, consistent with the provisions of the Privacy and Freedom of Information Acts."

9. Comments on paragraph 31a.4(x) raised the concern that Bureau contracting also needs improved accountability and the italicized material was added:

"(x) Accountability, Evaluation and MIS. (1) Enforce a strict standard of fiscal, programmatic and contract accountability to the tribes and Alaska Native entities and assist them in the development of their own standards of accountability and carry out annual evaluations of all Bureau-operated or funded education programs."

10. Paragraph 31a.4(y) read:

"(y) Accreditation. Encourage and assist all Bureau and contract schools to attain appropriate State, Regional, Tribal or National accreditation."

Several people, particularly educators, felt that accreditation should be required, not just encouraged, so as to provide the highest quality education. The Task Force agreed in concept, but felt this might be too stringent, especially for new schools. It was decided that this policy should be reconsidered within one year after the educational standards are established to determine if such a requirement should be enforced. A new subsection was added to read:

"(2) Assist and promote the establishment of Indian regional and/or national accrediting associations for all levels of Indian Education."

11. Paragraph 31a.4(z), Eligibility for Services received considerable comment. It read:

"(z) Eligibility for Services. Serve Indian and Alaska Native students who are recognized by the Secretary of the Interior as eligible for Federal services, because of their status as Indians or Alaska Natives, whose Indian blood quantum is $\frac{1}{4}$ degree or more.

Several tribes favored the $\frac{1}{4}$ degree blood quantum requirement; most did not. It was realized by the Task Force

that the Appropriations Act language is what limits the Bureau from providing services to those of less than $\frac{1}{4}$ degree Indian blood. Although the Task Force proposed to change the language, the Solicitor's office advised the language in the proposed regulations is legally required.

We had overlooked the need to make an exception in eligibility for children of BIA personnel in isolated locations. The subsection was revised to read:

"(z) Eligibility for Services. Serve Indian and Alaska Native Students who are recognized by the Secretary of the Interior as eligible for Federal services, because of their status as Indians or Alaska Natives, whose Indian blood quantum is $\frac{1}{4}$ degree or more. In the absence of other available facilities, children of non-Indian Bureau personnel or other non-eligibles may be served subject to the provisions of 25 U.S.C. 288 and 289."

12. The final proposed policy dealt with the need for evaluating the implementation of the law and read:

"§ 31a.5 Evaluation of implementation of Pub. L. 95-561.

"The Director, Office of Indian Education Programs will develop guidelines for evaluating all functional and programmatic responsibilities associated with Title XI of the Education Amendments of 1978 (Pub. L. 95-561)."

One concerned commentator felt that good policies might just stay on paper if there were no built-in accountability and proposed rather lengthy language to provide for an affirmative action plan and a report to Congress on implementation progress. The Task Force agreed. The added language is italicized below: "§ 31a.5 Evaluation of implementation of Pub. L. 95-561.

The Director, Office Indian Education Programs, will develop guidelines for evaluating all functional and programmatic responsibilities associated with Title XI of the Education Amendments of 1978 (Pub. L. 95-561), and in the January 1, 1981 report, as provided in Sec. 1136 of Pub. L. 95-561, include a statement of the specific progress toward implementing these policies."

C. Comments Not Adopted

In addition to the comments and revisions already discussed, a number of other suggestions were made with respect to the proposed regulations which the Task Force chose not to incorporate.

1. One commentator felt the Mission Statement should more strongly emphasize the special obligations towards Indians which the United States

has undertaken and recommended adding the following italicized language to § 31a.3:

"Recognizing the special rights of Indian tribes and Alaska Native entities *which have arisen from the historical relationships between them and the United States, the special duties and obligations which the United States has assumed toward them and their members* and the unique government-to-government relationship of Indian tribes and Alaska Native villages as evidenced by the United States Constitution, United States Supreme Court decisions, treaties, federal statutes, and executive orders . . ." While the Task Force had no real objection to the proposed addition, they decided it would add extra words without really strengthening the statement and opted not to adopt the change.

2. One commentator suggested that in paragraph 32.4(x), Accountability, Evaluation and MIS, the word "statistical" be deleted in reference to the information provided by the management information system since, in fact, not all the information the MIS would provide would be statistical. In consultation with the MIS Task Force, it was decided not to make the change, for although it was technically true, the word "statistical" was being used in a broad sense. Another commentator recommended that the BIA "follow through" on the MIS implementation. We agree.

3. A number of recommendations were made regarding school board composition, voting procedures, etc. We believe these issues will be adequately addressed in the School Board regulations.

4. A Bureau employee requested more specificity on the direction of education programs by education personnel and on how construction policies would be carried out. We believe the implementation procedures do not properly belong in Policies and will be addressed by the Functions Task Force, Bureau manuals, etc. This same issue was raised in regard to accounting procedures, student transfers, facilities for early childhood programs, responsibility for determining what an innovative or exemplary program is, and procedures for Tribal input into decision making. Again, the Task Force on Policies believes that procedural matters need to be treated separately.

5. A BIA school board pointed out a problem with paragraph 31a.4(a)(1), Policy Making, which reads:

"Assure that no new policy shall be established nor any existing policy changed or modified without

consultation with affected Tribes and Alaska Native Government entities."

They believe that requiring . . . "consultation with affected Tribes . . ." could become an excuse for never changing any policies since the procedure would be so tedious. The Task Force acknowledged this as a potential problem if such consultation were carried to an extreme degree, but chose to leave the requirement as written.

6. One commentator wrote that the requirement of paragraph 31a.4(1) pertaining to a program of research should be carried out by Indian researchers. The Task Force did not adopt this change, believing that such a decision should be left to tribes.

7. Two groups requested that language be added throughout the regulations to apply specifically to education of the handicapped, in regard to both programs and facilities. This was considered. However, regulations are currently being written to govern the implementation of P.L. 94-142 in Bureau and tribally contracted schools and are scheduled for publication in September. We have been assured that these will address all the specific concerns of the commentators.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary authors of this document were members of Task Force No. 9 which was established to develop the regulations headed by Ms. Elizabeth Holmgren, Office of Indian Education Programs, Washington, D.C. (202) 343-3151 and Ms. Patricia Locke, National Tribal Chairman's Association, Boulder, Colorado, (303) 447-0701.

Subchapter E of Chapter 1 of Title 25 of the Code of Federal Regulations is amended by the addition of a new part to read as follows:

PART 31a—INDIAN EDUCATION POLICIES

Sec.

- 31a.1 Purpose and scope.
- 31a.2 Definitions.
- 31a.3 Mission statement.
- 31a.4 Policies.
- 31a.5 Evaluation of implementation of Pub. L. 95-561.

Authority.—Sec. 1130 and 1133 of Title XI of the Education Amendments of 1978 (92 Stat. 2143, 2321 and 2325, Pub. L. 95-561; 25 U.S.C. 2010 and 2013).

§ 31a.1 Purpose and scope.

The purpose of this Part is to state the policies to be followed by all schools and education programs under the

jurisdiction of the Bureau of Indian Affairs. Contract schools operated by Indian Tribes or Alaska Native entities may develop their independent policies, consistent with contractual obligations, or adhere to these. The adherence to the appropriate policies shall reflect the best interests of the student, the Federal government, the Tribes and Alaska Native entities, and shall be based on educationally sound judgment.

§ 31a.2 Definitions.

As used in this Part, the term:

(a) "Agency School Board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Director in consultation with the affected Tribes or Alaska Native entities except that, in agencies serving a single school, the school board of such school shall fulfill these duties.

(b) "Alaska Native" means an Indian, Eskimo, or Aleut who is a member of an Alaska Native entity.

(c) "Alaska Native Entity" means any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(d) "Alaska Native Village" means any Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 689; 43 U.S.C. 1602 (c)).

(e) "Boarding School", hereinafter referred to as "residential school", means a Bureau school offering residential care and support services as well as an academic program.

(f) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(g) "Consultation" means a conferring process with Tribes, Alaska Native entities, and Tribal organizations on a periodic and systematic basis in which the Bureau and Department officials listen to and give effect, to the extent they can, to the views of these entities.

(h) "Contract School" means a school (other than a public school) which is Tribally operated and aided by a financial assistance contract with the Bureau.

(i) "Day School" means a Bureau school offering an academic program and certain support services such as counseling, food, transportation, etc., but excluding residential care.

(j) "Director" means the Director, Office of Indian Education Programs, Bureau of Indian Affairs.

(k) "Early Childhood Education" means comprehensive education

activities with continuity of educational approach for children ages 0-8 years and their families, appropriate for their age, development, language and culture which supplement and support usual family responsibilities for child growth and development. They are coordinated with, but do not supplant, existing educational, health, nutritional, social and other necessary services.

(l) "Exceptional Education Programs" mean the provision of services to those children who are identified as handicapped and have been found to meet the criteria of handicapped as defined in Pub. L. 94-142, and programs for gifted and talented students.

(m) "Indian" means a member of an Indian Tribe.

(n) "Indian Organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian Tribe or Tribes, or a majority of whose members are members of federally recognized Indian Tribes.

(o) "Indian Tribe" or "Tribe" means any Indian Tribe, band, nation, rancheria, pueblo, colony, or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(p) "Local school board", when used with respect to a Bureau school, means a body chosen in accordance with the laws of the Tribe or Alaska Native entity to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different Tribes or Alaska Native entities the members shall be appointed by the governing bodies of the Tribes and entities affected; and, the number of such members shall be determined by the Director in consultation with the affected Tribes and entities.

(q) "Post-Secondary" education means any education program beyond the age of compulsory education, including higher education, career, vocational, and technical.

(r) "Tribal Organization" means an organization composed of or duly representing Tribal governments which may be national or regional in scope and function.

§ 31a.3 Mission statement.

Recognizing the special rights of Indian Tribes and Alaska Native entities and the unique government-to-government relationship of Indian Tribes and Alaska Native villages with the Federal Government as affirmed by the United States Constitution, United States Supreme Court decisions,

treaties, Federal statutes, and Executive Orders, and as set out in the Congressional declaration in sections 2 and 3 of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2203; 25 U.S.C. 450 and 450a), it is the responsibility and goal of the Federal government to provide comprehensive education programs and services for Indians and Alaska Natives. As acknowledged in section 5 of the Indian Child Welfare Act of 1978 (Pub. L. 95-608; 92 Stat. 3069; 25 U.S.C. 1901), in the Federal Government's protection and preservation of Indian Tribes and Alaska Native villages and their resources, there is no resource more vital to such Tribes and villages than their young people and the Federal Government has a direct interest, as trustee, in protecting Indian and Alaska Native children, including their education. The mission of the Bureau of Indian Affairs, Office of Indian Education Programs, is to provide quality education opportunities from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being in keeping with the wide diversity of Indian Tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and Tribal or Alaska Native village contexts.

§ 31a.4 Policies.

In carrying out its Education mission, the Assistant Secretary for Indian Affairs through the Director shall:

(a) *Policy making.* (1) Assure that no new policy shall be established nor any existing policy changed or modified without consultation with affected Tribes and Alaska Native Government entities.

(2) Be guided in policy formulation and funding priorities, including the proposing and awarding of contracts and grants, by periodic and systematic consultation with governing bodies of Tribes and Alaska Native entities.

(3) Ensure that Indian Tribes and Alaska Native entities fully exercise self-determination and control in planning, priority-setting, development, management, operation, staffing and evaluation in all aspects of the education process.

(4) Ensure that each agency or local school board shall be authorized and empowered to function as the policy making body for the school, consistent with the authority granted by the tribes or Alaska Native entity(ies) served by the school(s).

(b) *Student rights.* Ensure the constitutional, statutory, civil and human rights of all Indian and Alaska Native students, and respect the role of Tribal judicial systems where appropriate including, for example, ensuring that students have the right to be free from cruel and unusual punishment and that all disciplinary procedures shall be consistent with appropriate customs and practices of the appropriate Indian Tribe or Alaska Native village.

(c) *Equity funding.* Assure that resources for all education programs are equitably distributed for the benefit of all Indian and Alaska Native students, taking into account special educational needs where they exist, as further described in Part 31h of this Subchapter.

(d) *Direction of programs.* Ensure that the education function be structured in such a manner that all matters relating to the operation of education programs be administered by or be under the direction of education personnel.

(e) *Respect for family.* Promote, respect and defend the cohesiveness and integrity of the family, and Tribal and Alaska Native community, as they relate to the educational and social prerogatives of the Tribes and Alaska Native entities.

(f) *Religious freedom.* Promote and respect the right to cultural practices and religious freedom for all students, consistent with Tribal and Alaska Native entities' wishes and with the provisions of the American Indian Religious Freedom Act (92 Stat. 469; Pub. L. 95-341; 42 U.S.C. 1996)

(g) *Tribal rights regarding governing bodies and planning.*

(1) Develop in consultation with Tribes and Alaska Native entities a plan to include their direct involvement in short and long-range planning of Bureau operated post-secondary schools through the formation of policy making governing boards.

(2) Encourage and defend the right of the Tribes and Alaska Native entities to govern their own internal affairs in all matters relating to education, and their right to determine the equitable and appropriate composition of governing boards at Bureau off-reservation and post-secondary schools.

(h) *Multilingual education.* Provide for a comprehensive multicultural and multilingual educational program including the production and use of instructional materials, culturally appropriate methodologies and teaching and learning strategies that will reinforce, preserve and maintain Indian and Alaska Native languages, cultures, and histories which school boards,

Tribes and Alaska Native entities may utilize at their discretion.

(i) *Choice of school.* Afford Indian and Alaska Native students the opportunity to attend local day schools and other schools of choice and the option to attend boarding schools when the student and parent or guardian determine it is in the student's best interest and consistent with the provisions of the Indian Child Welfare Act of 1978 (Pub. L. 95-608) except that, residential schools shall not be used as substitutes for providing adequate local family social services. Each school shall establish its attendance area in cooperation with neighboring schools.

(j) *Tribal education plans.* Assist Tribes and Alaska Native entities at their request in the development of Departments of Education, education codes, and comprehensive education plans.

(k) *Advocacy and coordination.* (1) Serve as an advocate for Indian Tribes and Alaska Native entities in education matters before the Federal, State and local governments.

(2) Assume an assertive role in coordinating comprehensive support for Indian and Alaska Native students internally and from other agencies in education, mental and physical health, juvenile justice, job training, including apprenticeship programs and other related Federal, State and local programs and services.

(3) Serve as an advocate and carry out responsibilities for Indian and Alaska Native students in public and other non-Bureau operated schools consistent with the wishes of the appropriate Indian Tribes and Alaska Native entities, particularly in regard to Impact Aid (Pub. L. 81-874), Johnson-O'Malley, and all Elementary and Secondary Education Act programs.

(l) *Student assessment.* Establish and maintain a program of research and development to provide accurate and culturally specific assessment instruments to measure student performance in cooperation with Tribes and Alaska Native entities.

(m) *Recruitment of Indians.* Adopt procedures to insure that qualified Indian and Alaska Native educators are recruited for positions appropriate to their cultural background and qualifications.

(n) *Priorities in contracts and grants.* Provide financial support through contracts, grants or other funding mechanisms with first priority given to the Tribes and Alaska Native entities, Tribal organizations, Tribally controlled community colleges, and Indian or Alaska Native professional or technical assistance organizations which have the

sanction of the benefitting Tribes and Alaska Native entities.

(o) *Community school concept.* Promote the community school concept by encouraging year around multi-use of educational facilities, equipment and services for Tribal, Alaska Native village, and community development.

(p) *Education close to home.* Provide day and residential educational services as close to an Indian or Alaska Native student's home as possible, except when a student elects to attend a school elsewhere for specialized curricular offerings or services.

(q) *Tribal notification and involvement and program flexibility.* (1) Notify Indian Tribes and Alaska Native entities of proposed, pending or final Federal legislation, appropriations, Solicitor's and Attorney General's opinions and court decisions affecting Indian and Alaska Native education for the purposes of information and consultation, providing them ready access at the local level to all evaluations, data records, reports and other relevant information, consistent with the provisions of the Privacy and Freedom of Information Acts.

(2) Implement rules, regulations, procedures, practices, and standards to insure flexibility in the exercise of local Tribal or Alaska Native village options, and provide for input in periodic reviews, evaluations, and revisions to meet changing needs and circumstances.

(r) *Career and Higher Education.* (1) Ensure to the extent possible that all students who choose to pursue career and post-secondary education, including but not limited to, undergraduate and graduate programs, or preparation for skilled trades, receive adequate academic or other preparation, at the schools of their choice, assuring that students are provided adequate support services to enable them to meet their educational goals.

(2) Extend to Tribes and Alaska Native entities the prerogative of determining those critical professions and fields of study in post-secondary education which are of the highest priority to meet their economic and cultural goals.

(s) *Planning, maintenance and use of facilities.* (1) Ensure that the needs of the students and Tribal or Alaska Native community will receive first priority in the planning, design, construction, operation and maintenance of Bureau schools and residential facilities, rather than other considerations, such as ease of maintenance, and that these facilities assure a supportive environment for learning, living and recreation.

(2) Maintain all school and residential facilities to meet appropriate Tribal, State or Federal safety, health and child care standards. If a conflict exists in these standards, the Federal standard shall be followed; in the absence of a Federal standard, the Tribal standard shall be followed. In case of conflict, any such Tribal health or safety standards shall be no greater than any otherwise applicable State standard.

(t) *Alternative, innovative and exemplary programs.* Vigorously encourage and support alternative, innovative and exemplary programs reflecting Tribal or Alaska Native village specific learning styles, including but not limited to, parent-based early childhood education programs, adult and vocational technical education, library and media services, special education including programs for handicapped, gifted and talented students, summer programs, and career development.

(u) *Training.* Provide support and technical assistance at all levels for the training of duly sanctioned Tribal and Alaska Native education representatives involved in educational decisionmaking, including pre-service and in-service training for educators.

(v) *Tribally controlled community colleges.* Assist Tribes and Alaska Natives in their planning, designing, construction, operation and maintenance of Tribally controlled community colleges, consistent with all appropriate legislation. (See Part 33 of this Subchapter.)

(w) *Equal opportunity.* Establish and enforce policies and practices to guarantee equal opportunity and open access to all Indian and Alaska Native students in all matters relating to their education programs consistent with the provisions of the Privacy and Freedom of Information Acts.

(x) *Accountability, evaluation of MIS.*

(1) Enforce a strict standard of fiscal, programmatic and contract accountability to the Tribes and Alaska Native entities and assist them in the development of their own standards of accountability and carry out annual evaluations of all Bureau-operated or funded education programs.

(2) Provide and make available a computerized management information system which will provide statistical information such as, but not limited to, student enrollment, curriculum, staff, facilities, student assessments and related educational information.

(y) *Accreditation.* (1) Encourage and assist all Bureau and contract schools to attain appropriate State, regional, Tribal or national accreditation.

(2) Assist and promote the establishment of Indian regional and/or national accrediting associations for all levels of Indian Education.

(z) *Eligibility for services.* Serve Indian and Alaska Native students who are recognized by the Secretary of the Interior as eligible for Federal services, because of their status as Indians or Alaska Natives, whose Indian blood quantum is $\frac{1}{4}$ degree or more. In the absence of other available facilities, children of non-Indian Bureau personnel or other non-eligibles may be served subject to the provisions of 25 U.S.C. 288 and 289.

(aa) *Appropriations.* Aggressively seek sufficient appropriations to carry out all policies herein established subject to the president's budget and the Department's budgetary process.

§ 31a.5 Evaluation of Implementation of Pub. L. 95-561.

The Director, Office Indian Education Programs will develop guidelines for evaluating all functional and programmatic responsibilities associated with Title XI of the Education Amendments of 1978 (Pub. L. 95-561), and in the January 1, 1981 annual report, as provided in section 1136, of Pub. L. 95-561 include a statement of the specific program toward implementing these policies.

Rick C. Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-31086 Filed 10-5-79; 8:45 am]

BILLING CODE 4310-02-M

25 CFR Part 31b

Transfer of Indian Education Functions

October 2, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: Beginning on page 29834 of the May 22, 1979, *Federal Register* (44 FR 29834), there was published a notice of proposed rulemaking to add a new Part 31b to Chapter 1, Subchapter E, of Title 25 of the Code of Regulations. Part 31b, Transfer of Indian Education Functions, changes the line authority for the administration of the education program and functions of the Bureau of Indian Affairs and prescribes regulations to be followed in transferring control over Agency and Area education functions from the Commissioner of Indian Affairs to the Director, Office of Indian Education Programs and his/her subordinates. These changes are required by sections 1126 and 1127 of

the Education Amendments of 1978 (Pub. L. 95-561; 25 U.S.C. 2006).

EFFECTIVE DATE: November 8, 1979.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (202) 343-7163.

SUPPLEMENTARY INFORMATION: The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and redelegated to the Assistant Secretary for Indian Affairs by 209 DM 8.

On May 22, 1979, the Bureau of Indian Affairs published a proposed rule on the Transfer of Indian Education Functions from the control of the Commissioner of Indian Affairs to the Director, Office of Indian Education Programs with further redelegations to the Area Education Directors, to the Agency Superintendents for Education, or Presidents of a Bureau of Indian Affairs post-secondary institution. The public was invited to offer comments on the proposed rule document on or before June 21, 1979. Numerous public comments were received. Each of the comments was carefully reviewed and evaluated by Task Force No. 4, constituted by the Assistant Secretary—Indian Affairs to oversee the preparation of these regulations. The comments were then categorized and either adopted or not adopted according to the evaluation made by the Task Force.

A. Comments Adopted

1. In the Table of Contents for Part 31b, § 31b.5 was changed from "Area Education Program Functions" to read "Area Education Functions". Section 31b.6 was also changed from "Agency Education Programs Functions" to read "Agency Education Functions". These changes were made to clarify the content areas involved.

2. "Early Childhood" definition in § 31b.1 paragraph (b) is changed to read "0 to 5 years old" so that Kindergarten is included within the designation of early childhood education.

3. The term "Kindergarten" is moved from § 31b.1 paragraph (c) to § 31b.1(b) as Kindergarten is widely accepted as early childhood education.

4. The definition of "Post-Secondary" in § 31b.1 paragraph (f) is re-defined to include all programs provided for persons past the age for compulsory education.

5. "Adult Education" as previously defined in § 31b.1 paragraph (d) is eliminated from the proposed

regulations and included in the definition for "Post-Secondary" in § 31b.1 paragraph (f).

6. The term "Agency" is added to the definitions under § 31b.1 paragraph (a) to clarify its use in the body of the regulation Part.

7. The phrase "Personnel Directly and Substantially Involved in Education" is defined in Section 31b.1 paragraph (e) to provide clarity for its use in the Regulation.

8. The term "Operating Level", as used in the proposed regulation, appeared to be too vague to many readers. Therefore, "Operating Level" is defined in § 31b.1(d) to clarify its meaning further.

9. In § 31b.2 paragraph (d) the word "directly" is removed. This deletion provides the Director the flexibility consistent with his/her authority to re-delegate functions to appropriate levels of administration and control.

10. Section 31b.2 paragraph (c) is amended to specify the kinds of services to be provided and their recipients.

11. Section 31b.2 paragraph (e) is revised to substitute the word "include" in place of "be limited" to clarify the text. Also, the modifying word "education" is inserted before "contract operations" to clarify the procurement service more exactly. And, the final sentence is deleted from "The . . . Manual," as it is considered irrelevant to the context of the paragraph on Area Office functions. The substance of the deleted sentence is included in § 31b.2 paragraph (d) as a function of the Director, Office of Indian Education Programs.

12. The heading of § 31b.5 is changed to read "Area Education Functions".

13. Section 31b.5 is amended by adding the word "Education" prior to "Contract operations" to be more specific in the language.

14. The heading § 31b.6 is changed to read "Agency Education Functions."

15. Additional clarifying language is added to § 31b.6 to ensure that those functions described as Area responsibilities and currently operated at the Agency level shall continue to provide educational services at the Agency level. Section 31b.6 is further extended by adding "25 CFR Part 31a" after the term "Exceptional Education Programs."

16. Section 31b.7 paragraph (b)(1)(iii) is rewritten to eliminate vagueness in the final regulations with regards to the Education Office Director. Section 31b.7 paragraph (b)(1) is also modified to include BIA post-secondary institutional personnel.

17. Section 31b.7 paragraph (b)(2)(i) is deleted from its present placement and

placed under § 31b.7 paragraph (a) as addition (3) with the same text. Modification and change in this section places authority to effect coordination of support services at the proper level in the Assistant Secretary's Office.

18. Section 31b.9 is amended to substitute the phrase "prepare and promulgate" in place of "draft" where the latter word first appears. This change was made to define more strongly the role and responsibility of the Education Office Director under this part. Also, the word "prepared" is substituted for "drafted" in the section for the same reason.

B. Comments Not Adopted

1. One commenter felt contracted education programs should continue to be a part of the trust functions of the BIA. The Bureau feels the regulations do not alter the BIA trust function responsibility.

2. Several comments were received expressing a desire for tribal review and approval of changes. This tribal concern is addressed in § 31a.4 of Part 31a of this Subchapter.

3. Some of the comments received regarding changes in definitions were not considered due to lack of clarity in the proposed language changes, and due to lack of justification. The Bureau feels that all unchanged definitions are necessary and are clearly written.

4. One commentator asked for a clarification of the relationship of Assistant Area Directors for Education to Area Office Directors. The Bureau describes this relationship in § 31b.2(d).

5. Two commentators requested further delineation and clarification of the functions of the Agency Superintendent for education. The Bureau feels the Superintendent's function is adequately defined in §§ 31b.2(c), and 31b.7(b)(1)(ii) and §§ 31b.4 and 31b.6. More detailed delineation of the role of the Agency Superintendent for education will be provided in the Bureau of Indian Affairs Manual (BIAM).

6. Several comments were received regarding the need to describe the function of the Office of Indian Education Programs. It is the Bureau's position that this function is currently described in §§ 31b.7(2)(b), 31b.2(b,c&d), and §§ 31b.4 and 31b.9.

7. One commentator feels the wording in Section 31b.2 needs to be more understandable. The Bureau feels this Section is clear, as written. The same commentator requested more specific language regarding the supervision of program operations. This request was not considered on the basis that this type of detail will be provided in the

Bureau of Indian Affairs Manual (BIAM).

8. There were several comments suggesting Area and Agency offices be given sufficient flexibility to develop innovative programs for Indian children. The Bureau provides for this flexibility as described in § 31a.4 paragraph (t) of Part 31a and § 31b.4 of this Part.

9. One commentator recommended that Special Education responsibilities be assigned either to an Area or Agency office and that administrative responsibilities for these programs be specified in the Bureau of Indian Affairs Manual. The Bureau disagrees with these comments on the basis that redelegation of education program responsibilities, including Special Education, is already permitted in the regulations. Sections 31b.2, 31b.5, and 31b.6 require the Department of the Interior to provide full educational services to the handicapped in accordance with Pub. L. 94-142.

10. One commentator expressed a conflict in language between § 31h.54 paragraph (b) and § 31b.2 paragraph (e) as they relate to contract operations. The Bureau does not feel these paragraphs are in conflict since § 31h.54 paragraph (b) refers specifically to the appointment of entitlement and not to contracts in general.

11. A comment requested the Assistant Secretary—Indian Affairs delegate functions to other than the Director of Indian Education Programs. This comment was rejected since it is contrary to the language in Pub. L. 95-561.

12. Several comments were received concerning the retention of the Area Education Office as proposed in the regulations under § 31b.5. Comments ranged from elimination of the Area function to complete agreement with the function as proposed. More comments were received favoring the retention of the Area Office. No action is taken by the Bureau to eliminate the Area Office function, since this is a management prerogative of the Bureau of Indian Affairs.

13. One commentator wanted the function of the Area Office to include the authority to supervise, monitor, and evaluate Agency education offices and school programs. The Bureau feels that the flexibility to consider this language is provided in the proposed regulations. Therefore, the specific language proposed by this commentator was not considered.

14. One commentator recommended that Higher Education, Adult Education, and Johnson-O'Malley for contracted schools be delegated to the Agency level. The Bureau has delegated the responsibility

of those functions to the Area level primarily for those Agencies lacking adequate education personnel. Those Agencies currently administering those programs will continue to operate. Further, the Director, Office of Indian Education Programs, under § 31b.7(b) shall review periodically Area Office education activities to determine when appropriate redelegation of Higher Education, Adult Education, and/or Johnson-O'Malley program administration can be made to the Agency level.

15. One commentator recommended that the Area and Agency Offices be given the flexibility to develop innovative vocational, special and bilingual programs for Indian children. The Bureau feels that this particular recommendation is addressed in § 31a.4.

16. The Navajo Area Office recommended that the Bureau establish and implement direct line authority which will parallel the established Navajo Tribal line authority; that line of authority being from the Director, Office of Indian Education Programs to the Assistant Director of Education, Navajo Area Office to the five Agency School Superintendents. The Bureau feels that this is adequately addressed under § 31b.7.

17. One commentator proposed that § 31b.5 be amended to include the responsibility for assuring that schools meet accreditation standards. The Bureau feels that § 31b.7(b)(ii) adequately addresses this concern.

18. One commentator recommended that the regulations for § 31b.6 be reworded so as to delineate specific responsibility of the Agency to the schools. The commentator felt that there was a need to separate the Agency and schools responsibility for personnel and for programs. The Bureau believes that § 31b.7 accomplishes this, and will be further supplemented by the Bureau of Indian Affairs Manual (BIAM).

19. Navajo Area Office recommended that peripheral dormitory operations should be deleted from the Agencies and included under Area Education functions. The Bureau feels that § 31b.6, as rewritten, adequately addresses this issue.

20. One commentator recommended that the functions of the Office of Indian Education Programs be defined. It is the opinion of the Bureau that the functions of the Office are clearly defined in § 31b.7(b).

21. Comments were received addressing the issue of direct control from the Office of Indian Education Programs to individual school's local school boards. These comments reflected the opinion that Area and

Agency Offices should have technical assistance functions only. The Bureau feels that these recommendations would only broaden an already extended span of control.

22. One commentator expressed the concern that the Navajo Area Food Service is the only service that serves more than one area. The Bureau feels that this concern is addressed under § 31b.5.

23. One commentator recommended that the words "serving more than one Agency" should be included following "where no education personnel are assigned, contract operations, ". The Bureau rejects this additional language as those words are already included following "contract operations, and those education programs. . ."

24. One commentator suggested that a phrase be added specifying that the implementing procedures be completed at the earliest practicable time and in no event later than six months from the issuance of these rules. The Bureau had included that language in the original proposed rules; such language was subsequently stricken as being too restrictive.

25. One comment was received suggesting that the personnel function be under the Director, Office of Indian Education Programs. This comment was not considered as personnel is a support service to the entire Bureau operation. The provision of support services for education is described in § 31b.7(a)(3), and § 31b.9.

The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The primary authors of this document are Richard Whitesell and Suzy Erlich, Co-Chairpersons, Pub. L. 95-561 Implementation Task Force No. 4 (406) 676-4700—Whitesell or (202) 638-2287—Erlich.

Subchapter E of Chapter 1, Title 25 of the Code of Federal Regulations is amended by the addition of a new part to read as follows:

PART 31b—TRANSFER OF INDIAN EDUCATION FUNCTIONS

Sec.

- 31b.1 Definitions.
- 31b.2 Policy.
- 31b.3 Delegation of authority.
- 31b.4 Redelegation of authority.
- 31b.5 Area Education functions.
- 31b.6 Agency Education functions.
- 31b.7 Implementing procedures.
- 31b.8 Realignment of Area and Agency Offices.
- 31b.9 Development of procedures.
- 31b.10 Issuance of procedures.

Authority: Sec. 1126 Pub. L. 95-561, Education Amendments of 1978 (92 Stat. 2143, 2391; 25 U.S.C. 2006).

§ 31 b.1 Definitions

(a) "Agency" means that organizational unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian Tribes.

(b) "Early Childhood" means education activities serving the 0 to 8 year old child, including pre-natal, child care, kindergarten, homebase, homebound, and special education programs.

(c) "Elementary and Secondary Education" means those programs serving the child from grade one through grade twelve.

(d) "Operating Level" means the organizational level at which direct educational services are performed.

(e) "Personnel Directly and Substantially Involved" means those persons who provide services which affect the operation of Indian education programs, including (but not limited to) school or institution custodial or maintenance personnel, and whose services for Indian education programs require the expenditure of at least 51 percent of the employee's working time.

(f) "Post-Secondary" means education programs that are provided for persons past the age for compulsory education to include continuing education, higher education, undergraduate and graduate, career and adult education. As used in this Act, the term Post-Secondary shall include those Bureau of Indian Affairs programs operated at Southwestern Indian Polytechnic Institute, the Institute of American Indian Arts, and Haskell Indian Junior College, and those operated at Tribally controlled community colleges under Pub. L. 95-471.

§ 31b.2 Policy.

It is the policy of the Department of the Interior that:

(a) Indian control of Indian affairs in all matters relating to education shall be facilitated.

(b) Authority to perform education functions shall be delegated directly from the Assistant Secretary—Indian Affairs to the Director, Office of Indian Education Programs.

(c) Administrative authority shall be compatible with program authorities; and, both shall be delegated to the operating level to assure efficient and effective delivery of education services to Indian children, youth, and adults.

(d) The Director, Office of Indian Education Programs shall supervise the operation of Indian education program

personnel at the Arena, Agency, and the three Bureau of Indian Affairs post-secondary institutions.

(e) Indian Education program functions to be performed at the Area office level shall include those dealing with higher education, Johnson-O'Malley aid to non-Bureau schools, off-reservation boarding schools, those education program operations serving tribes from more than one Agency except those at the three post-secondary institutions, on-reservation education functions located at an Agency where no educational personnel are assigned, education contract operations, and adult education.

§ 31b.3 Delegation of authority.

The administrative and programmatic authorities of the Assistant Secretary—Indian Affairs pertaining to Indian education functions shall not be delegated to other than the Director, Office of Indian Education Programs. The Assistant Secretary shall publish delegations of authority to the Director in the Bureau of Indian Affairs Manual after the effective date of these regulations.

§ 31b.4 Redelegating authority.

The authorities of the Assistant Secretary—Indian Affairs as delegated to the Director, Office of Indian Education Programs may be redelegated by the Director to a Bureau of Indian Affairs Agency Superintendent for Education, to a Bureau Area Education Programs Director, or to a President of a Bureau of Indian Affairs post-secondary education institution.

§ 31b.5 Area education functions.

A Bureau Area Education Programs Director shall perform those Bureau of Indian Affairs education functions related to Johnson-O'Malley aid to non-Bureau schools, higher education, Bureau peripheral dormitories, adult education, off-reservation residential schools, on-reservation functions located at an Agency where no education personnel are assigned, education contract operations, and those education program operations serving Tribes from more than one Agency, except those of the Bureau's post-secondary institutions.

§ 31b.6 Agency education functions.

A Bureau Agency Superintendent for Education shall perform those education functions related to elementary and secondary education, early childhood education, peripheral dormitories which have been supervised prior to Pub. L. 95-561, and exceptional education programs as defined in 25 CFR Part 31a.

This Section shall not be construed to remove higher education, adult education and/or Johnson-O'Malley programs currently administered at the Agency level. Further, the Director under the authority of § 31b.4 will periodically review Area programs such as higher education, adult education, and Johnson-O'Malley for consideration to assign to Agency level administration.

§ 31b.7 Implementing procedures.

(a) The Assistant Secretary—Indian Affairs shall:

(1) Implement the transfer for Indian education functions from the jurisdiction of Agency Superintendents and Area Office Directors to the Director, Office of Indian Education Programs.

(2) Modify existing descriptions of positions for Area Office Directors, Agency Superintendents, and all other personnel directly and substantially involved with the provisions of education services by the Bureau of Indian Affairs.

(b) The Director, Office of Indian Education Programs shall:

(1) For Area, Agency, and Bureau of Indian Affairs postsecondary institutional personnel:

(i) Properly list the duties of each employee required to perform functions redelegated by the Director;

(ii) Define the responsibilities for monitoring and evaluating education programs; and

(iii) Exercise supervision of these employees.

(3) Define responsibilities for employees providing technical and coordinating assistance for support services to the Director, Office of Indian Education Programs and his/her subordinates, including procurement, contracting, personnel, and other administrative support areas.

§ 31b.8 Realignment of area and agency offices.

The Assistant Secretary—Indian Affairs shall implement Bureau of Indian Affairs Area Office and Agency Office reorganizations required to structure these offices consistent with education program activities to be undertaken at those levels.

§ 31b.9 Development of procedures.

The Director, Office of Indian Education Programs shall prepare and promulgate procedures to govern the provision of support services by the Bureau of Indian Affairs for the education function. These procedures shall be consistent with existing laws, regulations, Executive Orders, and Departmental policies governing administrative support services. These

provisions shall be prepared in consultation with those personnel within the Bureau of Indian Affairs who are responsible to the Commissioner of Indian Affairs for providing support services.

§ 31b.10 Issuance of procedures.

The Assistant Secretary—Indian Affairs, directly or through the Commissioner of Indian Affairs, shall issue procedures in the Bureau of Indian Affairs Manual governing the provision of support services to the Bureau's Education Office function.

Rick C. Lavis,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-31087 Filed 10-5-79; 8:45]

BILLING CODE 4310-02-M

Issue Paper

Draft

Issue: There currently exists a vacancy on the Navajo and Hopi Indian Relocation Commission. This vacancy could be filled with an Indian.

Background: The Navajo and Hopi Indian Relocation Commission was established as an independent entity of the Executive Branch in 1974 by P.L. 93-531. The purposes of the Commission are to prepare and submit to Congress a relocation plan and subsequently to relocate those Hopi and Navajo Indians living on lands as partitioned to the other tribe by the Federal mediator in 1978. The relocation plan has been completed and became effective in July 1981. Implementation of the plan was begun and completion of relocation is scheduled for July of 1986.

The Commission, with offices in Flagstaff, Arizona, comprised of three (3) members appointed by the Secretary of the Interior. Section 12(e) provides that a government employee can serve on the Commission. A chairman and vice-chairman are elected by the Commission from among the three (3) members.

get tribal affiliation,
Since its creation in 1974, the Commission has had one Indian member. ~~He~~ He has since resigned to pursue other endeavors. The Commission currently has two members, Mr. Hawley Atkinson, Chairman, and Ms. Sandra Massetto. Mr. Roger Lewis has recently resigned, creating the present vacancy.

- Pros:
1. The Hopi and Navajo Tribes would have an opportunity to express their choices for the position.
 2. A Commissioner acceptable to both tribes is possible.
 3. A Commissioner with a genuine interest in the problem could possibly be seated.
 4. Gives this Administration an opportunity to display a commitment to tribal involvement in Indian affairs.

- Cons:
1. The Hopi and Navajo Tribes may not agree on an appointee.
 2. The field for selection is narrowed when limited to considering Indian candidates only.

Recommendation:

*Draft
uncredited*

Issue Paper

Issue: Should the President issue an Executive Order adopting the policy that all Federal departments will do business with Indians of Federally recognized tribes through their tribal governments?

Background: In 1975, Congress passed the Indian Self-Determination and Education Assistance Act. It found that "the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government." The Act required that the Bureau of Indian Affairs and the Indian Health Service make grants to tribes to strengthen their governments and contract with tribal governments to take over the delivery of Federal programs to tribal members.

An Executive Order could be issued directing other Federal departments to grant and contract their Indian programs to tribal governments to the extent their particular legislation allows. For services rendered to non-Indian citizens of states and local governments the Federal agencies generally grant and contract to the state or local government. ✓

- Pros:**
1. Granting and contracting with tribal governments by other Federal agencies will strengthen the tribes. It is they who should be assuming the responsibility for their citizens. They are the governments closest to the people and know their needs best.
 2. All those well-considered reasons for enacting the Indian Self-Determination Act together with the now seven years of experience in administering it apply to the question of granting and contracting by other Federal departments.
 3. Indian reservations are small. It is not in the interest of strengthening tribal governments to have large sums of money going into institutions which compete with the tribal governments still in their infancy insofar as governing is concerned.
 4. The tribal governments could then weigh, balance and prioritize this funding with other available tribal funds.
 5. This method of doing business could be permanent or interim should a transfer of Indian programs from other Federal agencies be accomplished.

Cons: Special interest groups in education, housing and economic development would oppose.

Recommendation:

Issue Paper

*Draft -
unrevised*

Issue: Should one of the United States Commissioners to the International Pacific Salmon Fisheries be selected from Indian tribes with reserved and federally protected fishing rights to harvest up to 50% of the sockeye and pink salmon that are regulated by the International Pacific Salmon Fisheries Commission (IPSFC)?

Background: In 1937 the United States and Canada agreed to a convention for the protection, preservation, and extension of the sockeye salmon fishery of the Fraser River system. (50 Stat. 1355) In 1957 the convention was amended by protocol to include pink salmon as well as sockeye. (8 U.S.T. 1058) The convention established the commission consisting of three American and three Canadian commissioners authorized to supervise the fishery and implement the convention's twin goals: sufficient escapement of salmon to assure perpetuation of the race and an equal division of the harvestable catch between Canadians and American fishermen. The convention has been fully implemented by domestic legislation (16 U.S.C. 776, et seq.) The President designated the National Marine Fisheries Service to enforce the provisions of the convention.

The three United States commissioners are selected by and serve at the pleasure of the President. Presently the United States commissioners are: Bert Larkins, Regional Director of the National Marine Fisheries Service; Rowland Schmitt, Director of the Washington Department of Fisheries; and William G. Saletic, executive with the Peter Pan Seafoods, Inc. None of the United States commissioners is responsible to or charged expressly with the duty of ensuring that Indian treaty rights effectively implemented by the IPSFC.

Indian tribes in the Pacific North West have treaty fishing rights which provide them the right to harvest up to 50% of the United States share of the returning sockeye and pink salmon regulated by the IPSFC. This right has been affirmed by the United States Supreme Court. The treaty reserved rights also reserved to tribes significant management responsibilities to act in concert with state and federal agencies to protect the resource. These management responsibilities have been recognized by federal courts and the United States has provided both financial and technical assistance to assist and develop tribal management capability.

The IPSFC failed in the past to protect and implement the domestic Indian treaty fishing rights even though Indian treaty rights do not conflict with the United States obligations under the 1937 convention; therefore, in 1977 the United States exempted Indian fishing from direct IPSFC jurisdiction so long as the Indians fish pursuant to Interior Department regulations. Thereafter treaty

Indian fishing for sockeye and pink salmon otherwise under the jurisdiction of the IPSFC has been by the Department of the Interior and tribal regulation consistent with Interior regulations. This change has not violated United States obligations to Canada and has provided tribes with more fishing opportunity consistent with their reserved treaty rights. It could be possible to return authority to the IPSFC if that body were more responsive to treaty fishing rights.

The Washington Department of Fisheries and private user groups have repeatedly violated federally protected reserved rights. "The state's extraordinary machinations in resisting the decree (that protected Indian treaty rights) have forced the district courts to take over a large share of the management of the State's fishery in order to enforce its decree. Except for some desegregation cases . . . the district court has faced the most concerted official and private efforts to frustrate a decree of a federal court witnessed this century." Puget Sound Gillnetters Assoc. v. District Court, 573 F. 2d 1123, 1126, (9th Cir. 1978) It is unlikely that either the state or private user group commissioners to the IPSFC will adequately protect the federally protected interests of the treaty tribes.

- Pros: 1. The tribes own the single largest interest in the fishery in the United States. Tribes that have treaty protected rights to harvest up to 50% of the harvestable surplus would obtain fair representation on that body charged with regulating the fishery.
2. While the Tribes are governmental units they are the only such presence representing the full spectrum of United States interests on the fishery, and they represent these interests from the Federal perspective better than any other, including NMFS. We would expect that broad based support for tribal representatives would be there from the entire industry. They know the tribes will represent United State interests.

A tribal commissioner would be more compatible with the participation of the Washington Department of Fisheries and the National Marine Fisheries Service, as like those agencies, tribes are governmental rather than proprietary, charged with representing broad segments of the population for enforcing specific federal law and policy.

3. A tribal commissioner would make it more likely that direct federal involvement to implement Indian treaty fishing rights would be unnecessary thus reducing the federal role and related expenses.

4. A tribal commissioner is consistent with federal policy implementing the Magnuson Fishery Conservation and Management Act. A tribal representative is a voting member of the Pacific Fishery Management Council, the body that proposes regulations on ocean salmon fishing off the coasts of Washington, Oregon, and California.

- Cons:
1. Tribal representation would disrupt the existing power structure and interpersonal relationships that are present in the management of the fishery.
 2. Non-treaty fishing interests who now have both a state and private representative on the IPSFC would likely object to the loss of either.
 3. The state and user groups consistently fail to acknowledge the status of tribes as governments, preferring to classify them as "just another user group."
 4. Canada may resent stronger recognition of United States Indian treaty rights because that might inadvertently put more pressure on the Canadian government to respect rights of Canadian Indians.

Issue Paper

Issue: Should one of the United States Commissioners to the International Pacific Salmon Fisheries Commission be selected from Indian tribes with reserved and federally protected fishing rights to harvest up to 50% of the United States share of the sockeye and pink salmon that are regulated by the Commission (IPSFC)?

Background: In 1937 the United States and Canada agreed to a convention for the protection, preservation, and extension of the sockeye salmon fishery of the Fraser River system. (50 Stat.1355) In 1957 the convention was amended by protocol to include pink salmon as well as sockeye. (8 U.S.T. 1058) The convention established the commission consisting of three American and three Canadian commissioners authorized to supervise the fishery and implement the convention's twin goals: sufficient escapement of salmon to assure perpetuation of the race and an equal division of the harvestable catch between Canadian and American fishermen. The convention has been fully implemented by domestic legislation (16 U.S.C. 776, et seq.) The President designated the National Marine Fisheries Service to enforce the convention.

The three United States commissioners are selected by and serve at the pleasure of the President. Currently the United States commissioners are: Bert Larkins, Regional Director of the National Marine Fisheries Service, Rowland Schmitt, Director of the Washington Department of Fisheries; and William G. Saletic, executive with the Peter Pan Seafoods, Inc. None of the United States commissioners is responsible to or charged expressly with the duty of ensuring that Indian treaty rights are effectively implemented by the IPSFC.

Indian tribes in the Pacific Northwest have treaty fishing rights which provide them the right to harvest up to 50% of the United States share of the returning sockeye and pink salmon regulated by the IPSFC. This right has been affirmed by the United States Supreme Court. The treaty also reserved to tribes significant management responsibilities to act in concert with state and federal agencies to protect the resource. These management responsibilities have been recognized by federal courts and the United States has provided both financial and technical assistance to assist and develop tribal management capability.

Pursuant to Article VI of the Convention, the United States through the Department of state has since 1977 exempted Indian fishing from direct IPSFC jurisdiction so long as the Indians fish pursuant to Interior Department regulations. Treaty Indian fishing for sockeye and pink salmon otherwise under the jurisdiction of the IPSFC has been by the Department of the Interior and by tribal regulation consistent with Interior regulations. The Interior regulations are prepared in consultation with the Department of Commerce in accordance with a Memorandum of Understanding executed between the two Departments. This procedure has not violated United States obligations to Canada and has provided tribes with fishing opportunity consistent with their reserved treaty rights. It could be possible to return authority over Indian treaty fishing to the IPSFC if that body regulated the fishery in a manner which adequately implemented Indian treaty rights. Adequate implementation of Indian treaty fishing rights by the IPSFC would appear to be more likely if one of the United States commissioners were a tribal representative.

- Pros:
1. The tribes own the single largest interest in the fishery in the United States. Tribes that have treaty protected rights to harvest up to 50% of the United States share of the harvestable surplus would obtain fair representation on that body charged with regulating the fishery.
 2. While the tribes are governmental units they are the only such presence representing the full spectrum of United States interests on the fishery, and they represent these interests from the Federal perspective better than any other, including NMFS. We would expect that broad based support for tribal representatives would be there from the entire industry. They know the tribes will represent United States interests.
 3. A tribal commissioner would be more compatible with the participation of the Washington Department of Fisheries and the National Marine Fisheries Service, as like those agencies, tribes are governmental rather than proprietary, charged with representing broad segments of the population for enforcing specific federal law and policy.

3. A tribal commissioner would make it more likely that direct federal involvement to implement Indian treaty fishing rights would be unnecessary thus reducing the federal role and related expenses.
4. A tribal commissioner is consistent with federal policy implementing the Magnuson Fishery Conservation and Management Act. A tribal representative is a voting member of the Pacific Fishery Management Council, the body that proposes regulations on ocean salmon fishing off the coasts of Washington, Oregon, and California.

- Cons:
1. Tribal representation would disrupt the existing power structure and interpersonal relationships that are present in the management of the fishery.
 2. Non-treaty fishing interests who now have both a state and private representative on the IPSFC would likely object to the loss of either.
 3. The state and user groups consistently fail to acknowledge the status of tribes as governments, preferring to classify them as "just another user group."
 4. Canada may resent stronger recognition of United States Indian treaty rights because that might inadvertently put more pressure on the Canadian government with respect to its internal policies regarding fishing by Canadian Indians.

Bill —

This is initial draft —
should be finished w/
revised over the weekend

Issue Paper

Draft

Issue: Presently citizens of the United States do not observe collectively a "Native American Day." *Should the Administration support current legislation to designate a "Native American Day?"*

Background: Native Americans have made important contributions to the cultural and social history of our Nation. Native Americans are assuming an ever increasing role in their own economic lives as well as on that of the Nation.

On April 1, 1982, Senate Joint Resolution 184 was introduced and cosponsored by 28 Senators. The resolution was subsequently passed and referred to the House Post Office and Civil Service Committee, designating January 28, 1983, as "Native American Day." *Sen comments in the Cong. Records, Sen Inouye expresses the hope that the date will be a perpetual*

On April 20, 1982, House Joint Resolution 459 was introduced with approximately 161 cosponsors. H.J. Res. 459, authorizing the President to proclaim May 13, 1982, as "American Indian Day," is still pending in the House Post Office and Civil Service Committee.

Enactment of the subject Joint Resolution would provide national recognition for a group of Americans whose contributions, culture, and heritage are an intrinsic part of this Country. There have been many efforts to promote a National Indian Day or a Native American Awareness Week, and some States and cities now have such observances.

One of the first proponents of an American Indian Day was Dr. Arthur C. Parker, a Seneca Indian, who was the Director of the Museum of Arts and Sciences, Rochester, New York. He persuaded the Boys Scouts of America to set aside a day for the "First Americans," and for three years they adopted such a day. In 1915, the annual Congress of the American Indian Association held at Lawrence, Kansas, formally approved the plan. It directed its President, the Reverend Sherman Coolidge, an Arapahoe Indian, to call upon the Country to observe such a day. He issued a proclamation on September 28, 1915, which declared the second Saturday of each May as an American Indian Day. The proclamation also contained the first formal appeal for recognition of Indians as citizens.

The year before this proclamation was issued, Red Fox James, a Blackfeet, rode through many States seeking approval for the celebration of a day in honor of American Indians. He later presented the endorsements of 24 state governors to the White House on December 14, 1915.

The first American Indian Day was observed on the second Saturday in May 1916, when the Governor of New York fixed that day for a State observance. Several States celebrated the fourth Friday in September as American Indian Day. In Illinois, for example, it became that day by legislative enactment in 1919. In Massachusetts, in accordance with a law passed in 1935, the Governor issued a proclamation designating the day that will become American Indian Day for each year.

designation of Congress will not have to renew the date and "Native American Day" annually.

was established

d ✓

In October 1976, Federal legislation was enacted proclaiming the week of October 10-16, 1976, as Native American Awareness Week.

For the past three years, the Governor of Oklahoma has proclaimed a week in October as "Native American Awareness Week" in that State. In July 1976, the Mayor of Los Angeles issued a similar proclamation and called upon the citizens of the city to observe the week of October 10 through 16, 1976, "with appropriate ceremonies and activities." We understand that such observances have been held in the cities of Oklahoma City, Oklahoma, San Francisco, California, and Nassau Bay, Texas.

Indian contributions to American society, both in times of war and peace, have been largely overlooked by historians. It is not generally recognized that the patriotism shown by more than 8,000 Indian servicemen in World War I (the majority by voluntary enlistment) was one of the main factors which influenced Congress to pass the Indian Citizenship Act of 1924.

In World War II, more than 25,000 Indian men and women served in the Armed Forces, fighting on all fronts in Europe and Asia and winning (according to an incomplete count) 71 awards of the Air Medal, 51 of the Silver Star, 47 of the Bronze Star, 34 of the Distinguished Flying Cross, and two of the Congressional Medal of Honor.

One of the better known Indian exploits was that of American Indian soldiers and Marines in both World Wars who used their native languages as battlefield codes which the enemy could not break. One group, the Navajo "Code Talkers," participated in the July 3, 1976, Bicentennial Parade in Washington, D.C.

Lesser-known contributions of Indian people include, among others, active participation in the Revolutionary War between 1777 and 1784 by members of the Passamaquoddy Tribe. This military contribution was recognized by the United States Court of Appeals for the First Circuit, in Passamaquoddy, et al, v. Morton, et al., 388 F. Supp. 649, 667 (D.Me., 1975).

The form of the government of the Six Nations of the Iroquois Confederacy set a major example for the American people during the time of the creation of our own Government. The working example of such a "confederacy," where tribes elected a headman or chief who was, individually, their master, and collectively, their servant, contributed to the American adoption of government with the consent of the governed.

historically
factual?

Pros: The National observance of an annual "Native American Day" will provide recognition of the contributions ~~American~~ ^{Native American} ~~Indians~~ have made to our country.

Cons: No substantive cons. on concept. However, ramifications of designation "Native American Day" versus

Recommendation: ~~to American Indian Day~~ ^{it should be considered as}
 Option Recommendation ^{it changes scope of constituency.}

Option 1: Support S.J. Res. 184 designating Jan. 28, 1983, as "Native American Day."

Option 2: Support S.J. Res. 184 amendment to designate Jan. 28 (as suggested by ~~Senate~~ ^{Senators} in attached Cong. Record insert) as perpetual "Native American Day."

Option 3: Support H.J. Res. 459 authorizing the President to support May 13 (1982) as "American Indian Day."

Recommendation:

domestic environment for U.S. high technology industries. Foreign governments are increasingly restricting access to their markets and distorting trade and investment through government intervention. The purpose of the bill is to obtain maximum openness in international high technology trade and investment, and to strengthen the international trading system. (Sec. 2.)

The act authorizes the President to negotiate and enter into agreements directed at opening foreign markets. Openness is measured with reference to such nonexclusive factors as competition in more open markets, structural barriers facing U.S. companies, "national treatment," and structural advantages enjoyed by foreign industries. (Secs. 3 and 9.)

International agreements could include commitments to reduce or eliminate tariff and nontariff barriers—including an acceleration to 1982 of the tariff rates agreed to for 1987—a national treatment commitment, a commitment not to discourage procurement of U.S. high technology products, and other commitments insuring access for U.S. companies to projects involving financial and scientific cooperation. In order to carry out these agreements, the President may modify tariff treatment, make commitments to change U.S. laws, regulations, and policies as necessary, and submit to Congress proposed changes in U.S. laws. (Sec. 3.)

The President will determine on a continuing basis whether any major developed or newly industrialized country has failed to take actions to provide national treatment for U.S. exports and investments. National treatment is defined as treatment with respect to establishment, taxation and financial benefits, government-procurement, and participation in research and development and government sponsored programs, no less favorable than that accorded to nationals of the foreign country. The President will consult with any such nation, and should consultations fail to rectify the situation, will consider actions under existing trade agreements and U.S. law, as necessary and appropriate. (Secs. 4 and 7.)

The act contains a number of monitoring and reporting requirements. Any foreign government measures or industrial policies that distort trade and investment flows and adversely affect the U.S. high technology sector are to be reported to Congress annually by the Secretary of Commerce, working together with the Special Trade Representative and the High Technology Industry Advisory Committee; a committee of industry representatives established by this legislation. (Sec. 9.) This report is also to outline the steps the administration is taking, or plans to take, to remedy the effects of sales at less than fair value, subsidization, or other unreasonable practices. (Sec. 5.)

The President is directed to promptly consider acting under existing trade agreements or legislation, in response to any foreign industrial policies or measures which significantly distort trade and investment flows, may result in subsidization of sales at less than fair value, and cause or threaten to cause material injury to any U.S. high technology industry, and is authorized to enter into agreements to eliminate those measures or offset their effects. (Sec. 5.)

Monitoring of the act's implementation will be conducted by the Secretary of Commerce, who will report annually to the President, describing trade and investment levels, competitive conditions and market conditions. (Sec. 6.) The U.S. Trade Representative and the Secretary of Commerce will report annually to the President on foreign practices which they consider to be violations of U.S. international agreements or which are unjustifiable or discriminatory and a burden or restriction on U.S. high technology products, services, or investments, and the President will consider taking action under the Trade Agreement Act of 1979, to reduce or eliminate those measures. (Sec. 7.)

By Mr. SPECTER:

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week"; to the Committee on the Judiciary.

LUPUS AWARENESS WEEK

Mr. SPECTER. Mr. President, I introduce a joint resolution to designate the week of October 19 through October 25, 1982, as "Lupus Awareness Week." Congressman CHARLES F. DOUGHERTY of Philadelphia has already introduced House Joint Resolution 411 for this same purpose.

Most people are not familiar with lupus, neither the seriousness nor incidence of this disease. Unfortunately, it is little known mainly because even now its diagnosis is difficult and sometimes uncertain.

It is estimated that more than 500,000 Americans suffer with lupus. This makes lupus more prevalent than more familiar diseases such as muscular dystrophy, cystic fibrosis, rheumatic fever, pernicious anemia, Hodgkin's disease, and leukemia. In spite of the progress made in the treatment of lupus, more than 5,000 patients die of it each year.

Lupus is a chronic inflammatory disease affecting connective tissue. It may affect only the skin in some people; in others it may affect virtually any organ in the body, including the skin, joints, kidneys, brain, lungs, heart, blood, and immune system. Lupus can be present in varying degrees of severity, from mild to severe; in some victims the systemic form may be fatal.

The lack of awareness on the part of the general public and, in some cases,

even on the part of the medical profession, creates a major problem as the disease is often misdiagnosed or diagnosed too late, when the damage the patient is irreversible.

This is why an increased level of awareness developed through "Lupus Awareness Week" is so important to help overcome this disease.

Mr. President, I ask that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. Res. 183

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

By Mr. INOUE (for himself
Mr. ABDNOR, Mr. ANDREWS, Mr. BAUCUS, Mr. BOREN, Mr. BOSCH WITZ, Mr. BURDICK, Mr. CANNON, Mr. COHEN, Mr. DE CONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. GORTON, Mr. HATFIELD, Mr. HAYAKAWA, Mr. LAXALT, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. PROXMIRE, Mr. RIEGLE, Mr. STEVENS, Mr. SYMMS, and Mr. WALLOP):

S.J. Res. 184. Joint resolution to designate January 28, 1983, as "Native American Day"; to the Committee on the Judiciary.

NATIVE AMERICAN DAY

Mr. INOUE. Mr. President, together with 27 cosponsors, I am introducing today a joint resolution designating January 28, 1983, as "Native American Day". The resolution calls on all government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. President, our culture and our history have been greatly enriched by the contributions of native Americans to an extent which I think may not be understood by many of our citizens. Much of what we take for granted in everyday life originated with our country's first inhabitants.

It is highly appropriate, and indeed well overdue, that a national day be designated to recognize past and present contributions by native Americans. It is my hope that this day will be particularly observed in our schools so that American children may grow up with a broader understanding of their heritage. While we now seek the designation of "Native American Day" for only the coming year, it is also my hope that the significance of the occasion will lead to a perpetual designation which will not require annual renewal by Congress. There is no national day at present to honor native

Americans. Several States have set aside one day or another to honor American Indians. The fourth Friday in September, for example, is recognized by several States because of its importance to many Indians. There have been efforts in recent years to obtain recognition for this even by Congress as a whole. We go a step further here in proposing a national day which will honor all native Americans throughout the United States. The date proposed is not occupied by other native American day celebrations but is chosen because it is free of competition for the attention of our schools.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 184

Whereas Native Americans have made important contributions to the cultural and social history of the Nation; and

Whereas Native Americans are now assuming a greater role in the economic life of the Nation; and

Whereas it is appropriate to extend recognition to Native Americans for their achievements as citizens of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1983 is hereby designated as "Native American Day". The President is authorized and requested to issue a proclamation calling upon all government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

By Mr. DOLE (for himself, Mr. HUDDLESTON, Mr. JEPSEN, and Mr. BOREN):

S.J. Res. 183. A joint resolution to establish a national policy on exports of U.S.-produced food and food products; to the Committee on Banking, Housing, and Urban Affairs.

U.S. AGRICULTURAL TRADE POLICY

● Mr. DOLE. Mr. President, I am today introducing a joint resolution for the consideration of the Senate which will affirm the opposition of Congress to any suspension of agricultural trade short of the most extreme circumstances. An identical resolution is being offered by Congressman FOLEY in the House of Representatives.

Mr. President, Agricultural trade policy is too vital to U.S. farmers and to our national interest to be perceived in any way as a partisan issue. Consequently, I am pleased that Senators HUDDLESTON and BOREN as well as the distinguished Senator from Iowa, Senator JEPSEN, have agreed to cosponsor this resolution. I understand that the companion resolution in the House is being cosponsored by Congressman FINDLEY.

A COMPLIMENT TO THE PRESIDENT'S SPEECH

Mr. President, I would hope that this joint resolution will be seen as a natural complement to the strong and positive statement which President

Reagan made to the American Agricultural Editors' Association on March 22. In his remarks, the President ruled out the use of trade embargoes except in extreme situations and only when we have the cooperation of other trading nations. This resolution will put Congress on the record with the President in opposing self-defeating disruptions in farm exports.

Mr. President, I ask that the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 185

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas, the United States has historically been the world's greatest exporter of food and food products benefiting American farmers, the economy of the United States, and the people of the world;

Whereas, in the past 9 years, the stop and go export actions of the United States Government relating to U.S.-produced food and food products have threatened the reputation of the United States as a reliable supplier;

Whereas, these actions have not proved effective and have caused a climate of uncertainty with respect to the reliability of the United States as an exporter of food and food products;

Whereas, it is necessary to establish a clear policy with regard to exports of food and food products for the benefit of United States farmers, those who market our crops, and those who buy U.S.-produced food and food products at home and abroad; And,

Whereas, President Reagan on March 22, 1982, declared he will not use farm exports as an instrument of foreign policy except in extreme situations and as part of a broader embargo: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that as a national policy the United States Government should not interrupt the commercial export of food and food products, except as a part of a general embargo and in the most extreme circumstances that justify the united support of the free world community, including the active cooperation of the major trading nations of the world needed to make any such embargo effective.●

By Mr. DOLE (for himself, Mr. ANDREWS, Mr. BAUCUS, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. COHEN, Mr. DIXON, Mr. GORTON, Mr. GRASSLEY, Mr. HATCH, Mr. JEPSEN, Mr. LEXALT, Mr. LUGAR, Mr. MATSUNAGA, Mr. MITCHELL, Mr. NICKLES, Mr. PERCY, Mr. QUAYLE, Mr. RANDOLPH, Mr. SARBANES, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP and Mr. WEICKER):

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; to the Committee on the Judiciary.

NATIONAL CYSTIC FIBROSIS WEEK

● Mr. DOLE. Mr. President, this year, along with 25 of my colleagues, I am

introducing a resolution designating September 19-25, 1982, as "National Cystic Fibrosis Week." I take great pride in introducing this resolution, which, although simple in concept, will have a radiating effect that will touch the lives of thousands of infants, children, and young adults throughout this country who suffer the daily realities of living in the shadow of cystic fibrosis.

At this time in medical history, there is no known cure for the disease. However, medical progress has occurred in treatment techniques and research toward a cure. Advances in medications, therapy, and diagnostic procedures have extended the life expectancy of people with cystic fibrosis from 10 years to 21 years of age. Over the years, many of us have had the opportunity to vote for legislation supporting the research that brought about these advances. This research must continue, but progress in this area will be possible only if resources are made available through public and private support.

I feel a responsibility to the young people whose lives have been limited by cystic fibrosis to continue the good work initiated 2 years ago with passage of a similar resolution, and I have continued this annual tradition. By designating a special week in 1982 to generate public awareness of the special problems and needs of those afflicted with CF, as well as their families, we can greatly help to bring their message to the forefront of the public's attention. It is only through public education, which will lead to an improved understanding of the implications of CF, that we can realize the dream of eventually conquering this terrible disease, which cuts young lives short before they ever have a chance to reach full adult potential.

Mr. President, I think that it is important to be aware of the realities that CF victims have to cope with on a daily basis. The pain and trauma that they experience is serious in itself, but the impact on the families is equally devastating in financial as well as emotional terms.

Mr. President, I congratulate the Cystic Fibrosis Foundation on its tremendous efforts to generate awareness concerning the implications of CF. This organization has done much to promote support for research which will hopefully someday lead to a cure for cystic fibrosis.●

ADDITIONAL COSPONSORS

S. 178

At the request of Mr. DURENBERGER, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 178, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing

97TH CONGRESS
2D SESSION

H. J. RES. 459

Authorizing the President to proclaim May 3, 1982, as "American Indian Day".

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1982

Ms. FIEDLER (for herself, Mr. AU COIN, Mr. BAFALIS, Mr. BEDELL, Mr. BAILEY of Missouri, Mr. BLILEY, Mr. BEREUTER, Mr. BROWN of Colorado, Mr. BEARD, Mr. BENEDICT, Mr. BROOMFIELD, Mr. BETHUNE, Mr. CRAIG, Mr. CORCORAN, Mr. JAMES K. COYNE, Mr. COATS, Mr. COLLINS of Texas, Mr. CAERMAN, Mr. CONABLE, Mr. CLAUSEN, Mr. CARNEY, Mr. CHAPPIE, Mrs. COLLINS of Illinois, Mr. DUNCAN, Mr. ROBERT W. DANIEL, JR., Mr. DE NARDIS, Mr. DOUGHERTY, Mr. DAN DANIEL, Mr. DE LA GARZA, Mr. DWYER, Mr. DONNELLY, Mr. DANNEMEYER, Mr. DE LUGO, Mr. DREIER, Mr. DELLUMS, Mr. DAUB, Mr. EDWARDS of Alabama, Mr. EMERSON, Mr. ERDAHL, Mr. ENGLISH, Mr. EVANS of Iowa, Mr. ECKART, Mr. FAZIO, Mr. FORD of Michigan, Mr. FORSYTHE, Mrs. FENWICK, Mr. FLORIO, Mr. FRENZEL, Mr. FISH, Mr. FIELDS, Mr. FUQUA, Mr. GRAY, Mr. GREGG, Mr. GINGRICH, Mr. GREEN, Mr. GILMAN, Mr. GONZALEZ, Mr. HUNTER, Mr. HERTEL, Mr. HYDE, Mr. HAWKINS, Mr. HUBBARD, Mrs. HOLT, Mr. HOLLENBECK, Mr. HOPKINS, Mrs. HECKLER, Mr. JEFFORDS, Mr. JOHNSTON, Mr. JEFFRIES, Mr. KOGOVSEK, Mr. KINDNESS, Mr. LELAND, Mr. LEVITAS, Mr. LOEFFLER, Mr. LOTT, Mr. LIVINGSTON, Mr. LAGOMARSINO, Mr. LUNGREEN, Mr. LEWIS, Mr. LUJAN, Mr. LOWRY of Washington, Mr. MONTGOMERY, Mr. MILLER of Ohio, Mr. MCCOLLUM, Mr. MOORHEAD, Mr. MCGRATH, Mr. MINETA, Mr. MCCLORY, Mr. MITCHELL of New York, Mr. MARTIN of North Carolina, Mr. MOLINARI, Mr. MINISH, Mr. MICHEL, Mr. MILLER of California, Mr. MADIGAN, Mr. MARKEY, Mr. NELLIGAN, Mr. OXLEY, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PURSELL, Mr. PERKINS, Mr. PANETTA, Mr. PAUL, Mr. PETEL, Mr. PORTER, Mr. PARRIS, Mr. QUILLEN, Mr. ROTH, Mr. REGULA, Mr. RHODES, Mr. RITTER, Mr. RANGEL, Mr. ROEMER, Mr. ROBERTS of South Dakota, Mr. ROBERTS of Kansas, Mr. ROGERS, Mr. ROBINSON, Mrs. ROUKEMA, Mr. SANTINI, Mr. STANGELAND, Mr. SHAMANSKY, Mr. SKEEN, Mr. SABO, Mr. STANTON of Ohio, Mr. STENHOLM, Mr. SHAW, Mr. SMITH of New Jersey, Mr. SMITH of Alabama, Mr. SMITH of Oregon, Mr. SPENCE, Mrs. SCHNEIDER, Mr. SHUSTER, Mrs. SNOWE, Mr. TAUZIN, Mr. VANDER JAGT, Mr. WEISS, Mr. WOLPE, Mr. WALKER, Mr. WOLF, Mr. WINN, Mr. WAMPLER, Mr. WEBER of Ohio, Mr. WEBER of Minnesota, Mr. WORTLEY, Mr. WHITEHURST, Mr. WIRTH, Mr. YOUNG of Florida, Mr. DORNAN of California, Mr. DYMALLY, Mr. THOMAS,

Mr. GRISHAM, Mr. MATSUI, Mr. JOHN L. BURTON, Mr. PASHAYAN, Mr. LOWERY of California, Mr. ROUSSELOT, and Mr. STATON of West Virginia) introduced the following joint resolution; which was referred to the Committee on Post Office and Civil Service

JOINT RESOLUTION

Authorizing the President to proclaim May 13, 1982, as
"American Indian Day".

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*
- 3 That the President of the United States is authorized and
- 4 requested to issue a proclamation designating May 13, 1982,
- 5 as "American Indian Day", and calling upon the people of
- 6 the United States to observe such day with appropriate cere-
- 7 monies and activities.

97TH CONGRESS

2D SESSION

S. J. RES. 184

To designate January 28, 1983, as "Native American Day".

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, FEBRUARY 22), 1982

Mr. INOUE (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. BAUCUS, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CANNON, Mr. COHEN, Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. GORTON, Mr. HATFIELD, Mr. HAYAKAWA, Mr. LAXALT, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. PROXMIRE, Mr. RIEGLE, Mr. STEVENS, Mr. SYMMS, and Mr. WALLOP) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

To designate January 28, 1983, as "Native American Day".

Whereas Native Americans have made important contributions to the cultural and social history of the Nation; and

Whereas Native Americans are now assuming a greater role in the economic life of the Nation; and

Whereas it is appropriate to extend recognition to Native Americans for their achievements as citizens of the Nation:

Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
 2 *of the United States of America in Congress assembled,*
 3 That January 28, 1983, is hereby designated as "Native
 4 American Day". The President is authorized and requested
 5 to issue a proclamation calling upon all Government agencies
 6 and people of the United States to observe the day with ap-
 7 propriate programs, ceremonies, and activities.

IN THE SENATE OF THE UNITED STATES

January 1, 1983

Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:
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 Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:
 Mr. [Name] of [State] introduced the following resolution:

JOINT RESOLUTION

To designate January 28, 1983, as "Native American Day."

Whereas the United States is a nation of diverse peoples and cultures;

and whereas the cultural and social history of the United States is

rich and varied, and whereas the contributions of the Native Americans

to the life of the Nation are many and varied;

Therefore, it is the policy of the United States to observe the day

as a day of recognition and appreciation for the contributions of the

Native Americans to the Nation.