

Stevens Rider Effect on Funding for Alaska Schools

The 1994 Appropriations legislation for the Department of the Interior and Related Agencies contained a provision that prohibited the use of funding (excluding Johnson-O'Malley funds) to support the operation of elementary and secondary schools in Alaska.¹ The provision stated:

That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs, other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1994.²

In the House Committee on Appropriations' hearing on this legislation, in an exchange with Rep. Norm Dicks (D-WA), Assistant Secretary of Indian Affairs Dr. Eddie Brown explained the reasoning for this requested language:

We looked at the costs and the precedent that would be set. I think it's important to understand that there is an application process for Alaskan schools wanting to have the Bureau take over that is required by law. As we are all aware, a number of years ago, the education responsibility was taken from the Bureau and given to the State of Alaska. However, another act outlined a process by which schools could re-enter again into the Bureau. We have about 18 applications coming down the pike here in regard to Alaska. Our concern is this: it would exceed \$250 million per school year if all 87 schools were granted a transfer back to the Federal Government. I've visited Alaska and have talked with representatives, Congressional representatives, State representatives, and village and corporation representatives. They are concerned, there is a definite need in education up in Alaska, but I'm not sure the answer is, "Turn it back over to the Bureau and things will be better."³

The following exchange between Rep. Norm Dicks (D-WA) and Dr. John Tippeconnic, Director of the Office of Indian Education Programs, at the House Committee on Appropriations' hearing on this legislation indicates that it was the position of the BIA that the federal government is not obligated to provide for education in Alaska:

Mr. DICKS. Is the State still obligated to provide education for all its citizens, including Alaska natives?

Mr. TIPPECONNIC. Yes.

Mr. DICKS. Is it continuing to do so?

Mr. TIPPECONNIC. Yes.

¹ U.S. Congress, House Committee on Appropriations, Department of the Interior and Related Agencies Appropriations for 1994, hearings, part 8, 103rd Cong., 1st sess. (Washington: GPO, 1993), p. 166.

² Public Law 103-138, 107 Stat. 1379, 1392 (Nov. 11, 1993) (emphasis added).

³ U.S. Congress, House Committee on Appropriations, Department of the Interior and Related Agencies Appropriations for 1994, hearings, part 8, 103rd Cong., 1st sess. (Washington: GPO, 1993), p. 166.

Mr. DICKS. What if anything has changed that would require the Federal Government to provide for education in the State of Alaska now?

Mr. TIPPECONNIC. The Alaska villages, I think, questioned the type and quality of education that they were receiving from the state, and had looked to alternatives. And the alternative that they are looking at is the Bureau.

Mr. DICKS. And your position is you basically don't have the money to do it?

Mr. TIPPECONNIC. We don't have the money to do it right now, that's right.

Mr. DICKS. And you want this language added to the appropriations bill that would prohibit it?

Mr. TIPPECONNIC. Yes, sir.⁴

As a result, annual appropriation legislation for the U.S. Department of the Interior currently includes an administrative provision prohibiting Bureau of Indian Affairs expenditures to support operation of elementary and secondary schools in Alaska (except through the Johnson-O'Malley program).⁵ This rider could be a significant hurdle as Alaska Native entities step up their efforts to assert more control and influence over the education of their students. Therefore, repealing this legislation should be considered as part of a strategy for developing adequately funded education for Alaska Native students considered by Tribal compacting.

However, any repeal of the "Stevens Rider" must protect funding that flows to Alaska Native students through grants under the Alaska Native Education Equity Program. This program was created in the Alaska Native Educational Equity, Support, and Assistance Act, which acknowledges that, "[i]n 1983 . . . Alaska ceased to receive educational funding from the Bureau of Indian Affairs. The Bureau of Indian Education does not operate any schools in Alaska, nor operate or fund Alaska Native education programs," and that the Alaska Native Education Equity Program "supports the Federal trust responsibility of the United States to Alaska Natives."⁶ In short, the purpose of the Alaska Native Education Equity Program is to address the unique educational needs of Alaska Native students and to support supplemental education programs intended to benefit them.⁷ Grants awarded under the program may be used to fund activities such as curriculum development, development and operation of student enrichment programs, literacy services, dropout prevention, and more.

Alaska Native communities have been able to successfully leverage the funds awarded through this program to benefit their students. Accordingly, any repeal or revision of the Stevens rider must ensure

⁴ U.S. Congress, House Committee on Appropriations, Department of the Interior and Related Agencies Appropriations for 1994, hearings, part 8, 103rd Cong., 1st sess. (Washington: GPO, 1993), p. 168.

⁵ See, e.g., P.L. 110-161 (121 Stat. 2113); see also Cassandria Dortch, Cong. Research Serv., RL34205, Indian Elementary-Secondary Education: Programs, Background, and Issues 11 (2020) (citing as an example P.L. 110-161, 121 Stat. 2113).

⁶ 20 U.S.C. § 7542(6).

⁷ 20 U.S.C. § 7543(1); see also *Alaska Native Education*, Department of Education Office of Elementary & Secondary Education, <https://oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/alaska-native-education-equity/>.

that the funding awarded under the Alaska Native Education Equity Program is protected to ensure that such funds continue to benefit Alaska Native students.