TESTIMONY of The Navajo Nation on S. 2688, The Native American Language Act Amendments Act of 2000 Senate Committee on Indian Affairs July 20, 2000

The Navajo Nation is pleased to submit written testimony on S. 2688. The Navajo Nation is very concerned about the accelerating language shift from the Navajo Language to English. The Navajo Nation is spearheading efforts to ensure the survival and perpetuation of the Navajo Language survival and preservation. However, the Navajo Nation realizes these efforts may not be sufficient; Consequently, the Navajo Nation respects the work being done in "language nests" and "language survival schools".

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I. A Proposed Addition

A. Background.

S. 2688 proposes three kinds of language programs: Native American Language Nests, Native American Language Survival Schools, and Demonstration Programs The two demonstration programs are assigned to centers in Hawaii and Alaska.

There are four kinds of "organizations" that can apply for Language Survival Schools and Language Nests: Native American Language Organizations, Native American Language College, Indian tribal government, and consortia of such organizations.

A consortia of such organizations is deleted from applying for Language Nest status. It is replaced by another type of organization: nonprofit organizations that demonstrate the potential to become Native American Language Educational Organizations. This type of nonprofit organization can apply *only* for Language Nests and not for any type of language program outlined in the bill

Thus Native American Language Colleges could apply to operate either a Language Nest for "children aged 6 and under" or a Language Survival School for "students from infancy through grade 12" although primarily for school-age children. As the law is now written, Native American Language Colleges could not apply for an intense Language Survival School-type program at the college level.

The bill incorporates language regarding colleges or universities providing "direct or indirect educational and support services for families of enrolled students on site" (§108(c)(1)(C). The institutions would provide "a program of concurrent and summer college or university education course enrollment for secondary students enrolled in Native American Language Survival Schools" (§108(c)(2)(B).

These institutions might be asked to:

- ◆ Provide "curricula" and "language use in communities" (§108(d)(1 &2).
- ◆ Take part in "providing programs in pre-service and in-service teacher training, staff training, personnel development programs, programs to upgrade teacher and staff skills, and community resource development training that shall include a program component which has as its objective increased Native American language speaking proficiency for teachers and staff" (§108(e)(1).
- ◆ Take part in "special non-degree programs focusing on the use of a Native American language or languages for the education of students. teachers, staff, students, [sic] or families of students (§108(e)(2)(B).
- Provide education of [survival school] "faculty and staff" on "full or partial scholarships and fellowships. . .for professional development" (§108(e)(2)(C).
- ◆ Provide "training in the language and culture associated with a. . . School (§108(e)(2)(D).
- ◆ Provide "train[ing]. . .in the Native American Language Survival school" (§108(e)(3).

The common denominator of all these activities is that they are designed for students, staff, or parents involved with Language Survival Schools. These activities would be initiated by the Language Survival School. With the exception of the two designated "demonstration centers", no college/university would be authorized to offer intense language instruction on its own-under the resources of this bill. The Navajo Nation agrees with this requirement. Where there are Language Nests or Language Survival Schools, colleges should not be offering courses for Language Survival School staff, faculty, or parents.

The Navajo Nation understands the concerns of the bill that colleges work for Language nests and Language Survival Schools. The Navajo Nation has had experiences with colleges that have wanted to implement language programs without tribal government approval. The situation at issue is when there are no Language Nests or Language Survival Schools; or the Language Nests or Language Survival Schools are not involved in intensive college-based language instruction.

The Navajo Nation is concerned about tribes that have no Language Nests and Language Survival Schools. On the Navajo Nation, there are no Language Nests and Language Survival Schools. There are teacher-training programs at Diné College for those who would become

Navajo language teachers in school-based programs. (The Navajo Nation calls for Navajo Language instruction in all grades in all Navajo schools. The Arizona State School Board has made instruction in a "foreign or Native American language" the ninth required subject in the curriculum of all state schools in grades 1-through-8.) Navajo Language fluency is an entrance requirement for participation in the Diné Teacher Education Program There are students who are highly motivated to teach the Navajo language or academic content through Navajo language but who are neither proficient or fluent in the Navajo language. Diné College offers up to 30 hours of different Navajo language courses, however, tthese courses are not designed to lead a limited Navajo speaker to near-native proficiency.

B. The Proposed Addition

The Navajo Nation proposes that this bill add a fourth program, intended for college students who want to 'stop out' a whole school year to develop their mastery of a language for which there are no Language Nests or Language Survival schools. The bill proposes providing Language Nests for "students who are not Native American language speakers but who seek to establish fluency through instruction in a Native American language or to re-establish fluency as descendants of Native American language speakers" (§108(c)(2)(A).

The Navajo Nation understands that one year would not be enough for non-speakers. The Navajo Nation is referring to *limited* Native Language speakers who have reasonable hopes of achieving near-native proficiency in the course of a single school year of intensive language development.

- ◆ The general requirements would be the same as for a Language Survival School: 700 hours of language instruction in the course of a single school year.
- ♦ Colleges/universities could apply for such programs only if there were no Language Nests or Language Survival Schools teaching that language.
- ◆ To be eligible, the college must have been teaching the equivalent of four different semester-long courses in the language for the preceding three years.
- ♦ These could be either tribally-controlled colleges or non-tribally-controlled colleges, although tribally-controlled community colleges would be given preference. Non-tribal colleges would have to gain the support of the tribe whose language they were teaching.
- There would have to be a minimum of 10 students.

There would have to be some measure of student proficiency.

These institutions would have to be able to show that they have access to a sizable pool of native speakers. They would make reasonable efforts to involve students in native language speech-communities beyond the college.

The Navajo Nation requests the sponsors of the S. 2688 and the Senate Committee on Indian Affairs study this proposed addition carefully.

II. Four General Concerns.

The Navajo Nation has four concerns which have grown out of our responses to the details addressed under III (below) of the Navajo Nation's testimony.

A) The Definition of "Native American".

The definition of "Native American" reads: (5) NATIVE AMERICAN.--The term 'Native American' means an Indian, Native Hawaiian, or Native American Pacific Islander.

"Alaskan Native" appears to have been omitted. It was omitted in the definition in the original PL 101-477. Then, as now, there are consequences in the omission. The Navajo Nation feels that this error should be corrected.

B) The Role of Tribal Governments.

There role of tribal governments is a second, more complex problem. The tribal government situation is different in Hawaii; situation is different is Alaska. In the continental United States, there has been a long history of various groups seeking funds for various purposes, say Navajo health, Navajo social services, Navajo education. Some of these groups were well-intentioned, competent, and responsive to communities and tribes. Others were not.

The relationship between tribal governments and the United States government is a government-to-government relationship. Various ways have been found over the years to allow for tribal group or community initiatives but with tribal government approval.

In these amendments, there are three kinds of groups that can apply for contracts/grants...to conduct language survival schools

- ♦ A Native American Language Education Organization;
- A Native American Language College;
- ♦ An Indian tribal government;
- ♦ A consortium of [two or more of] the above.

The "Native American Language Education Organization" definition may or may not be problematic. Such an organization is defined at as (a) governed by a board consisting of speakers of one of more Native American languages; (b) currently providing intense instruction; (c) has provided intense instruction for the last three years.

Regarding the definition of the Native American Language Education Organization:

- (a) This is no doubt intended to deal with Hawaiian realities, this definition seems at once too tight and too loose elsewhere. Too tight: because of language loss, some boards may include some non-speakers. Those who have lost the language are sometimes those most acutely aware of the need for the children to (re-)gain the language. Too loose: the definition doesn't say that the speakers must be speakers of the language the group seeks to teach. The Navajo Nation feels this issue should be issue.
- (b) and (c), it may be that by insisting on both current activity and a three-year track-record
 that groups would already have the approval of their tribe or relevant Native American
 governing group.

The "Native American Language College" is defined at as (a) a tribally controlled college or university, (b) Ka Ilaka 'Ula O Ke'elikolana College, and (c) a college which has the support of an Indian tribal government traditionally affiliated with that Native Language.

Regarding the definition of Native American Language College:

- (a) The Navajo Nation assumes a tribally controlled college to be tribally controlled.
- (b) The Navajo Nation defers to our Hawaiian colleagues' assertion that this is a nativecontrolled organization.

(c) The Navajo Nation wants it explicitly understood that such a college would not just have some vague 'general' approval but the tribe's specific approval of this particular proposal. Where two or more non-tribal colleges/universities might apply for grants to work with the same language, the tribal government should be asked to prioritize these.

Regarding the definition of "tribal government" is, by definition, tribally controlled.

Regarding the fourth group, a consortia of two or more of the above (), the Navajo Nation requests that tribal government approval be required for the consortia group--one that is mentioned only in connection with applications for "language nests".

These are the "nonprofit organizations that demonstrate the potential to become Native American Language Educational Organizations". The Navajo Nation understands what the Hawaiians are trying to accomplish. The Navajo Nation recommends more specific guidellines and minimal characteristics of such organizations established and defined in the definitions section.

Unlike the Native American Language Educational Organizations, these organizations will have no track records. The Navajo would insist that, where there *are* tribal governments, such groups must obtain the approval of the tribe whose language they propose to teach.

C) The 'three + one year' Requirement.

It is hard to conduct either Language Nests or Survival Schools in conventionally-funded programs. Most will be in privately- or alternatively-funded schools. This will severely limit the initiation of such schools among tribal groups that do not have access to private money.

One other alternative might be programs funded under the Health and Human Services Administration for Native American-funded Native American Language Act grants. These are three year grants.

As the law is now written, such schools would not be able to make the 'transition' to becoming a Department of Education funded Native American Language Act school. To meet the definition of a "Native American Language Organization", such a group would have to

◆ (B) be operating a program now and

(C) have done so for the preceding three years. A school that could fund the fourth year might not need Department of Education funds. But a school without some other funds for the fourth year would fail to meet the definition and the program would die.

Unless there are other, compelling, reasons for the three prior year rule, The Navajo Nation recommends changing it to two prior years to allow just such transitions.

D) The Location of Demonstration Centers.

The Navajo Nation notes the location of the two "demonstration centers": one in Hawai'i and the other in Alaska. These are deserving centers. However, the Navajo Nation is concerned about the lack of such a center in the continental United States.

III. Details.

The Navajo Nation has reviewed the text of S. 2688 in considerable details. It has a number of questions and suggestions which, if addressed, would make this a stronger bill.

A) Section 1. Short Title

The Navajo Nation is concerned about the potential confusion between an Health and Human Services Administration Native American program administered Native American Language Act grant program and the proposed Department of Education program. The Navajo Nation recommends this be clarified.

B) Section 2. Purpose

The Navajo Nation is in substantial agreement with this.

C) Section 3. Definitions

(5) NATIVE AMERICAN.--The term Native American' means an Indian, Native Hawaiian, or Native American Pacific Islander.

This matches definition (1) in earlier law as codified at 25 U.S.C. §2902. The Navajo Nation is concerned at the omission of "Alaskan Natives" in the United States Code and in S. 2688. This

is all the more surprising since at Sec 110(a)(2), the bill identifies the "Alaska Native Language Center of the University of Alaska at Fairbanks" as one of two "demonstration programs".

(7) NATIVE AMERICAN LANGUAGE COLLEGE.--The term means--

- (A) a tribally-controlled community college or university
- (B) Ka Ilaka 'Ula O Ke'elikolani College or
- (C) a college applying for a Native American Language Survival School in a Native American language which that college regularly offers as part of its curriculum and which has the support of an Indian tribal government traditionally affiliated with that Native American language.

Regarding (A) and (B), the Navajo Nation is concern that there are no programmatic requirements on tribally-controlled colleges/universities or Ka Ilaka 'Ula O Ke'elikolani College'. These Institutions appear to be considered "Native American Language Colleges" whether or not they offer Native American Language programs.

Regarding (C), this appears to allow any college/university that offers a course in a Native American language--and obtain the support of that tribe to become a Native American Language College. There are probably many colleges/universities that already regularly offer a few native language courses. If colleges/universities qualify so easily but educational organizations do so with considerable difficulty, most of the grants may go to colleges/universities. In time, colleges/universities may not offer Native American languages unless they can get them subsidized by the Native American Language Act. The Navajo Nation recommends increasing the requirements for colleges so that there would be some evidence both of substantial native language instruction to college students and some interest/concern in teaching native languages to children.

- (8) NATIVE AMERICAN LANGUAGE EDUCATIONAL ORGANIZATION.- The Term 'Native American Language Educational Organization' means an organization that--
 - (A) is governed by a board consisting of speakers of 1 or more Native American languages;
 - (B) is currently providing instruction through the use of a Native American language for not less than 10 students for at least 700 hours of instruction per year.

(C) has provided such instruction for at least 10 students annually through a

Native American language for not less than 10 students for at least 700 hours of instruction per year for not less than 3 years prior to applying for a grant under

this Act.

Regarding (A), this definistion is unclear. It could mean that "all members" or "some members" speak a Native American language or any Native American Language or the just Native American language the organization teaches. The Navajo Nation is concerned that while continental colleges/universities require the approval of the tribe whose language they are teaching, organizations do not. This lack of tribal approval might allow an organization with two members of the governing board who claim to speak Native American language other than that taught by the organization to seek Native American Language Educational Organization to seek funds.

Further, the Navajo Nation question whether only speakers serve on the governing board. Ther might be a number of situations where language loss is such that none of the tribal members of the governing board speak the language. Perhaps more relevant criteria would be that a majority of the board be members of the tribal group whose language is being taught. In the continental United States and perhaps Alaska, such programs should be approved by the tribal group--as with the colleges/universities.

Regarding (B), the way in which the organization might meet the 700 hour requirement is vague here. In the Native American Language Nest requirements, the language specifies "20 hours per week and not less than 35 weeks". Perhaps the vagueness in 8 intentional, to allow for instance, intensive programs of 48 hours a week for 15 weeks. The Navajo Nation recommends this be clarified.

Regarding (C), The Navajo Nation poses the same concerns about the "700 hours" stated above about (B). In addition, the Navajo Nation notes that very few programs outside of Hawaii will meet the three prior year requirement. This will benefit mostly existing private Hawaiian programs. They deserve support. They have been doing extremely good work which can serve as an example. However, the Navajo Nation is concerned that by the time that other organizations become eligible, all the available funds will be committed to Hawaii.

- (9) NATIVE AMERICAN LANGUAGE NEST.--The term 'Native American Language Nest' means a . . .program enrolling families with children aged 6 and under. . .
- (10) NATIVE AMERICAN LANGUAGE SURVIVAL SCHOOL.--The term 'Native American Language Survival School' means a. . .program. . .to enroll families eligible for elementary or secondary education. . .

Regading (9) and(10), the Navajo Nation is concerned that Language Nests includes six-year olds and that Survival Schools might families eligible for elementary education. In many cases, five year olds (Kindergardeners) are eligible for elementary education. The Navajo Nation recommends the overlap be clarified.

(13) SECRETARY. The term 'Secretary' means the Secretary of the Department of Education.

The Navajo Nation is unclear where the responsibilities for these activities will be lodged within the Department of Education. The case may be that this is up to the Secretary of Education's discretion. The Navajo Nation recommends this be clairfied.

(14) TRADITIONAL LEADERS.--The term 'traditional leaders' include Native Americans who have special expertise in Native American culture and Native American languages. The Navajo Nation understand the desire to include non-certified people as teachers in such programs. The Navajo Nation is not confident that good "leaders" are necessarily good "teachers". The Navajo Nation recommends using "traditional teachers" rather than "traditional leaders".

At least in the continental United States, there should be some provision for tribes determining who is or is not a language/culture teacher--if tribal governments have some means of determining this. The Navajo Nation does have the means to do so. The Navajo Nation is disturbed when some state or college programs require only a statement from a "tribal elder"--often a relative.

(15) TRIBAL ORGANIZATION.-- The Navajo Nation wonders why it is necessary to define both "Native American Language Education Organization" and "Tribal Organization". The Navajo Nation notes that "tribal organizations" are not included in the list at 108(a). Perhaps, this definition needed elsewhere. The Navajo Nation recommends this be clarified.

D) SECTION 4. Native American Language Survival Schools

<u>Section 108 (a) IN GENERAL</u>.--The Secretary is authorized to provide funds, through grant or contract, to Native American Language Educational Organizations, Native American Language Colleges, Indian tribal governments, or a consortia of such organizations, colleges, or tribal governments. . .

The Navajo Nation recommends that in the continental United States such consortia should either include the tribal government or the approval of the tribal government, or the Indian Nation's whose language is being taught.

<u>Section 108 (b) (1) (A) ELIGIBILITY</u>.--As a condition of receiving funds under section (a) a[n organization]...shall...have at least 3 years experience in operating and administering a. Survival School, a. . .language Nest, or other educational programs in which instruction is conducted in a Native American language. . .

The intent seems to be that the applicants who have not conducted Survival Schools or Language Nests should have at least some experience with a Native Language program. The Navajo Nation supports this provision; otherwise, only a few non-Hawaiian programs would be eligible.

Who would these other applicants be? The definition of "Native American Language Education Organization" excludes most would-be applicants. So that public, contract, grant, and mission schools that have not run 700 hour programs for the last three years would be excluded. This leaves Native American Language Colleges--although few would be running programs for children. That appears to leave Indian tribal governments.

As worded, the requirement for prior programs could be quite minimal. Perhaps some criteria should be included. Some possibilities: some number of students, perhaps at least ten each year; some minimum of instruction, perhaps half an hour or an hour a day for a schoolyear; some indication of continuity, that (most) students receive instruction for more than one year.

<u>Section 108 (c) (1) (B) USES OF FUNDS</u>.-- A. . .School receiving funds under this section shall...provide direct educational services and support services that may also include...support

services for children with special needs; transportation; boarding; food service; teacher and staff housing; purchase of basic materials; adaption of teaching; materials; translation and development; or other appropriate services.

The list includes almost everything needed to conduct a school. The Navajo Nation is concerned about this. This could lead to a situation where an organization asks for funds to fund their total program although they were providing intensive language instruction to as few as 15 students. It could also lead to situations where an organization might be well-funded while comparable organizations would receive nothing. The Nation Nation recommends that the list of direct and support services should be pared down and that direct or support services should be provided only for the students involved in the intensive language instruction.

<u>Section 108 (c) (1) (C) USES OF FUNDS.--</u> A. . .School receiving funds under this section shall...provide direct or indirect educational and support services for the families of enrolled students on site, through colleges, or through other means to increase their knowledge and use of the Native American language and culture. ..

This seems commendable but it should be made clear that this refers *only* to services that directly increase their knowledge and use of the language. Unrelated instruction might be seen as 'payment' of a kind other less-well funded programs could not afford.

<u>Section 108 (c) (2) (A) USES OF FUNDS.</u>--A Native American Language Survival School receiving funds under this section may...include. . .programs for students who are not Native American language speakers but who seek to establish fluency through instruction in a Native American language. . .

Again, this seems commendable. But we're concerned that, funds being scarce, funding significant numbers of non-Native Americans in some programs would reduce the number of funds for Native American students in other programs. There should be some limits on this. For instance, non-Native American students could be included as long as they do not pre-empt Native American students. No class or program would have more non-Native Americans than Native Americans.

<u>Section 108 (c) (2) (C) USES OF FUNDS.</u>--A Native American Language Survival School receiving funds under this section may...provide special support for Native American languages for which there are very few or no remaining Native American language speakers.

Delete either "or no" or add something like "child-speakers". Who could teach a language with no speakers? We are extremely suspicious of efforts to reconstruct languages no longer spoken.

<u>Section 108 (d) (1) CURRICULUM DEVELOPMENT AND COMMUNITY LANGUAGE USE DEVELOPMENT</u>--The Secretary is authorized to provide funds. . .to. . .[organizations] for the purpose of developing...comprehensive curricula. . .

We wonder at this. At the very least, this should be limited to organizations that are actually providing some minimum of services to children. See the suggestions a §108(b) above.

Section 108 (e) TEACHER, STAFF, AND COMMUNITY RESOURCE DEVELOPMENT.--

The Navajo Nation is concerned about this whole section. It's hard to believe that the funds that might be made available could fund all the services listed in §108(c)(1)(B)(i-ix) and §108(e) for more than one program. A program so well funded could never serve as a "demonstration" program. Such a program would not be replicable.

Section 108 (f) ENDOWMENT AND FACILITIES .--

The Navajo Nation is concerned about this whole section. It's hard to believe that the funds that might be made available could fund all the services listed in §108(c)(1)(B)(i-ix) and §108(e) for more than one program. A program so well funded could never serve as a "demonstration" program. Such a program would not be replicable.

E) Native American Language Nests

<u>Section 109 (a) IN GENERAL</u>.--The Secretary is authorized to provide funds. . .to nonprofit organizations that demonstrate the potential for becoming Native American Language Educational Organizations. . .

Such organizations are not defined in Section 3. Definitions. Apparently, the intent is to say that those seeking funds for Language Survival Schools would have to have prior experience. Those seeking funds for Language Nests would not.

Enabling groups to get started is probably commendable. However, there needs to be clarification about what kinds of non-profit groups would be eligible. Non-Native American organizations? Suggestion of how such groups might "demonstrate potential".

Again, in the continental United States, such groups should have the approval of the tribe whose language is to be taught.

<u>Section 109 (b) (1) REQUIREMENTS</u>.--A Native American Language Nest program receiving funds under this section shall...provide instruction and child care through the use of a Native American language or a combination of the English language and a Native American language for at least 10 children for at least 700 hours per year;

This invites abuse. In a worst case scenario, an organization might provide 700 hours of "English language and a Native American language" in which there were only token amounts of the Native Language. This is potentially contrary to the definition of "Native American Language Nest" at §103(9). If this is allowed, the law should specify some allowable minimum amount of time in the Native American language--350-600 hours in nothing but the Native American language But it would be better that any English-language instruction be *in addition* to the 700 hours of native language instruction.

F) Demonstration Programs Regarding Linguistic Assistance

<u>SEC. 110. (a) (1) & (2) DEMONSTRATION PROGRAMS</u>.--The Secretary shall provide funds. . for the establishment of 2 demonstration programs. . . Such demonstration programs shall be established at...Hawaii *and* Alaska.

The Navajo Nation is concerned that neither of the "demonstration centers"--which appear to be resource centers which will also conduct at least one demonstration center--are in the continental United States. It is hard to believe that such centers would be able to provide much assistance to programs in the continental United States.

<u>Section 110. (a) (2) DEMONSTRATION PROGRAMS.--</u>The Secretary shall provide funds. . .for the establishment of 2 demonstration programs. . . Such demonstration programs shall be established at...the Alaska Native Language Center of the University at Fairbanks. . .to conduct a demonstration program. . .and other assistance in. . .language documentation, language preservation. . .

Perhaps we mis-understand. All the activities of the Hawaiian center, with the possible exception of conferences, seem rather closely related to instructing children. The last two activities cited above for the Alaskan center do not.

<u>Section 110 (d) ENDOWMENTS AND FACILITIES.</u>--The demonstration programs authorized to be established under this section may establish endowments for the purpose of furthering their activities relative to the study and preservation of Native American languages, and may use funds to provide of rental, lease, purchase, construction, maintenance, and repair of facilities.

It's unclear whether or not it is intended to use federal funds to establish endowments. This seems to be suggested for Survival Schools at §108(f). While we are certainly not opposed to these demonstration centers seeking outside endowments, we have serious concerns about using federal funds for such.

The Navajo Nation is concerned about the "rental, lease, purchase, construction, maintenance, and repair of facilities." The Navajo Nation believes that providing such funds for some projects would deprive other worthy projects of funds for direct instruction.

IV. Possible Omissions.

A) Operational Details.

The Navajo Nation is concerned about the lack of specificity of where and how this program would be housed within the Department of Education.

B) Allocation of Funds by Program-type.

The Navajo Nation is concerned about the lack of specificity as to what proportion of the funds might be used for the three program-types--and the fourth the fourth the Navajo Nation is proposing. The Navajo Nation is also concerned about the lack of a cap on the amount that could be awarded to specific programs of the various program-types. The Navajo Nation assume that funding will be scarce. Effort needs to be made that as many programs as possible be funded, even if at lower levels.

C) Lessons to be Learned from the Experience.

The Navajo Nation is concerned about the apparent lack of effort to learn from this experience. Perhaps the demonstration centers should attempt to develop some study of what factors seem to make success of such programs more likely?

D) Follow-up.

The Navajo Nation is concerned about the apparent lack of follow up. Organizations may not have the time or the interest to follow-up these students. But the federal government should. Is there any way that the demonstration centers could be asked to gather data on some program students and some comparable students and then--perhaps with funds set aside--follow up these students five and ten years later?