

SUMMARY OF PROPOSED AMENDMENTS TO THE 114TH CONGRESS REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

February 2015

During the 114th Congress reauthorization of the Elementary and Secondary Education Act, the Tribal Colleges and Universities (TCUs) seek inclusion of the following amendments in any bill ultimately enacted.

IMPROVING SUPPORT FOR TEACHERS OF AMERICAN INDIAN STUDENTS

- 1) Indian Country must be included in all national initiatives that create opportunities for the training, recruitment, and retention of teachers. This can only be achieved through set-asides administered by the U.S. Department of Education.
- 2) Tribal Colleges and Universities must be recognized and adequately supported so that they can continue to play a fundamental role in developing a critical mass of educators for Native learners.
- 3) Tribal Colleges and Universities should be the primary training sites for all educators who work with Native learners. The Elementary and Secondary Education Act (ESEA) should include a Tribal teacher preparation initiative for Tribal Colleges and Universities that focuses on educators who are, or are interested in, working in schools that educate a large proportion of Native student.

AMENDMENT. -- Title VII of the Elementary and Secondary Education Act should be amended as follows:

- **Section 7121 – Improvement of Educational Opportunities for Indian Children (20 U.S.C. 7441):** In section 7121(b), strike “Indian institution (Including an Indian institution of higher education)” and insert “a Tribal College or University as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c)”.
- **Section 7122 – Professional Development for Teachers and Education Professionals (20 U.S.C. 7442):**
 - In subsection 7122(b):
 - strike paragraph (1) and insert in lieu thereof: “(1) a Tribal College or University as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c);”
 - in paragraph (4), strike the period and insert in lieu thereof “in consortia with at least one Tribal College or University as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c).”

In subsection 7122(f):

- Insert new paragraph (1) as follows: “(1) shall give priority in making awards to tribally-chartered and federally-chartered institutions of higher education;” and redesignate subsequent paragraphs accordingly;
- In newly redesignated paragraph (2), strike “shall” and insert “may”;
- In newly redesignated paragraph (3), strike “basis of –” and all that follows through “grants.” and insert “basis of the length of any period during which the eligible entity has received a grant or grants.”

AMENDMENTS TO OTHER LAWS:

I. Higher Education Act of 1965

Two technical amendments: (1) to formally remove an unnecessary requirement that the U.S. Department of Education impose a pre-application process to the clearly defined, and therefore strictly limited pool of eligible participants in the Tribal Colleges and Universities Title III-A program (Sec. 316), and (2) to extend for five years the time to expend funds obligated during the initial five year grant period, as is the practice with the HBCU Title III grants.

AMENDMENT (1). -- The Higher Education Act of 1965 is amended as follows:

“Strike Title III-A Sec 316 (d)(1) and redesignate the subparagraphs accordingly.”

Explanation: The requirement is intended to define and narrow the large pool of applicants eligible to compete in the general Title III Strengthening Institutions program. Since 2008, the TCU-Title III program is formula funded and therefore, it is not necessary or relevant to impose the pre-application process in order to be eligible to receive a grant. It is worth noting that the Historically Black Colleges and Universities programs under Title III, which have always been formula funded, are not subject to the pre-application process in order to be eligible to receive a grant under said program. The Department has agreed that this is unnecessary and the requirement has not been imposed, for now. We are now seeking to have the statutory language corrected, so that a change in personnel at the Department of Education will not cause this unnecessary and often confusing step to be revived.

AMENDMENT (2).-- The Higher Education Act of 1965 is amended as follows:

At the end of Title III-A Sec 316(d)(3)(B) insert the following new subparagraph:

“(iii) Use of unexpended funds

Any funds paid to an institution and not expended or used for the purposes for which the funds were paid during the five-year period following the date of the initial grant award, may be carried over and expended during the succeeding five-year period, if such funds were obligated for a purpose for which the funds were paid during the five-year period following the date of the initial grant award.”

Explanation: While having been the regular practice of the Department of Education with regard to the formula funded Title III grants for Historically Black Colleges and Universities (HBCUs), the Department has now decided that it does not have the authority to extend the time for TCU-Title III grant funds to be formally obligated or encumbered beyond the five year limit of the grant. Should those funds remaining not be spent or at least formally obligated by September 30, 2015 the funds will revert to the U.S. Treasury and be lost to the program. AIHEC is working with the Department

to get this apparent misinterpretation of current law fixed before the end of FY 2015. However, this requires a long-term fix to be included in the Higher Education Act, the sooner the better. The language sought is the same as that included in the Title III program for HBCUs, which is the other formula funded Title III program. By adding this same language to the TCUs program, the Department will be afforded the authority and direction needed for time extensions to expend Title III grant funds intended for long-term projects that for many reasons may require additional time to complete.

II. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT & SMITH LEVER ACT

An amendment to provide all designated land-grant institutions eligibility to compete for grant funds administered as Smith Lever 3(d), particularly the Children, Youth, and Families at Risk (CYFAR) program.

AMENDMENT.-- Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (a)(2)(A)(ii) by striking “(as added by section 534(b)(1) of this part)” and inserting “(7 U.S.C. 343(b)(3)) and for programs for children, youth, and families at risk implemented under section 3(d) of such Act (7 U.S.C. 343(d))”

CONFORMING AMENDMENT.-- Section 3(d) of the Act of May 8, 1914 (commonly known as the “Smith-Lever Act”; 7 U.S.C. 343(d)), is amended in the second sentence by inserting “and in the case of programs for children, youth, and families at risk the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)),” before “may compete for”.

Justification: The 1994 Land Grant Institutions need to be recognized as full members of the nation's land grant system. Currently, they are not. Funding for these institutions greatly lags behind the funds afforded programs expressly for the 1862 and 1890 land grant partners. One step toward rectifying this inequity and recognizing the 1994 Institutions as true partners in the land-grant system would be to afford them eligibility to compete for grant funding administered as Smith Lever 3(d) programs, particularly the Children, Youth, and Families at Risk (CYFAR) program.

American Indian/Alaska Native teens suffer the highest rates of suicide in the nation. In some of our tribal communities, suicide among Native youth is nine to 19 times as frequent as among other youth. Native youth have more serious problems with mental disorders, including substance abuse and depression, than other youth, and Native youth are more affected by gang involvement than any other racial group. American Indians also have the highest high school drop-out rates in the nation and some of the highest unemployment and poverty rates as well. Yet, our Native children and youth are the only group in the country essentially excluded from participation in the CYFAR program because 1994 institutions are the only members of the land-grant family that cannot even apply to compete for

CYFAR grants. The CYFAR program “supports comprehensive, intensive, community-based programs developed with active citizen participation in all phases. CYFAR promotes building resiliency and protective factors in youth, families, and communities.” The 34 Tribal Colleges and Universities land grant institutions (1994 institutions) are truly community-based institutions. Our governing boards are majority tribal members and we provide public libraries, tribal archives, career centers, computer labs, community gardens, summer and after school programs, and child and elder care centers to our communities. We are not asking for additional funding, a set-aside or other special treatment, although our children and communities clearly need it. We are simply asking for the right to *compete* for this vitally needed funding and that the prohibition on 1994 Institutions’ participation in CYFAR be removed.

III. MCINTIRE STENNIS ACT OF 1962

An amendment to allow McIntire Stennis funding for 1994 Institutions with baccalaureate degree programs in forestry: This amendment would establish eligibility for Tribal Land-Grant Institutions that offer a bachelor’s degree in forestry, to receive a share of the appropriate state’s McIntire Stennis Act formula funding.

AMENDMENT.— The McIntire Stennis Act of 1962 (16 U.S.C. 582a, et seq. Public Law 87-788) is amended --

In the second sentence of Sec. 2, after “Hatch Act of March 2, 1887 (24 Stat. 440), as amended,” insert “and land-grant colleges established under the Equity in Educational Land-Grant Status Act of 1994, as amended, offering a baccalaureate degree in forestry, “

Justification: In 2008, McIntire Stennis was amended to include Tribal lands in the formula calculation for funding of *state* forestry programs. However, the 1994 institutions, which are the Tribal Land-Grant colleges, were not included in the funding formula, nor were states required to include them in funding distributions. This oversight is significant because 75 percent of Tribal land in the U.S. is either forest or agriculture holding. In response to the severe under-representation of American Indian professionals in the forestry workforce in Montana and across the United States, Salish Kootenai College (SKC) launched a Forestry baccalaureate degree program in 2005. In 2013, SKC became the first tribal college land-grant to join the National Association of University Forest Resource Programs, a consortium of 85 forestry schools, the vast majority of which receive McIntire Stennis funding. However, when SKC recently sought specialty accreditation for its program, the college was told that it was “one forestry researcher short” of the optimum number needed. Participation in the McIntire Stennis program, even with the required 1-1 match, would help SKC secure the researcher it needs to gain accreditation. Yet, it cannot participate in the program. Once again, TCU land-grants are prohibited from participating as full-partners in the land-grant system. And although currently, only SKC has a baccalaureate degree in forestry, considering the wealth of forested land on American Indian reservations, others such programs could arise at the nation’s other Tribal College Land-Grant institutions, to further the effort to grow the Native workforce in this vital area.