

February 23, 2018

Carrie L. Billy  
President & CEO

## MEMBERSHIP:

## ALASKA

Iñisaġvik College

## ARIZONA

Diné College  
Tohono O'odham Community College

## KANSAS

Haskell Indian Nations University

## MICHIGAN

Bay Mills Community College  
Keweenaw Bay Ojibwa Community College  
Saginaw Chippewa Tribal College

## MINNESOTA

Fond du Lac Tribal and Community College  
Leech Lake Tribal College  
Red Lake Nation College  
White Earth Tribal and Community College

## MONTANA

Aaniiih Nakoda College  
Blackfeet Community College  
Chief Dull Knife College  
Little Big Horn College  
Fort Peck Community College  
Salish Kootenai College  
Stone Child College

## NEBRASKA

Little Priest Tribal College  
Nebraska Indian Community College

## NEW MEXICO

Institute of American Indian Arts  
Navajo Technical College  
Southwestern Indian Polytechnic Institute

## NORTH DAKOTA

Cankdeska Cikana Community College  
Nueta Hidatsa Sahnish College  
Sitting Bull College  
Turtle Mountain Community College  
United Tribes Technical College

## OKLAHOMA

College of the Muscogee Nation

## SOUTH DAKOTA

Oglala Lakota College  
Sinte Gleska University  
Sisseton Wahpeton College

## WASHINGTON

Northwest Indian College

## WISCONSIN

College of Menominee Nation  
Lac Courte Oreilles Ojibwa Community College

## WYOMING

Wind River Tribal College

The Honorable Lamar Alexander  
Chairman  
Committee on Health, Education,  
Pension, and Labor  
United States Senate  
Washington, DC 20510The Honorable Patty Murray  
Ranking Member  
Committee on Health, Education,  
Pension, and Labor  
United States Senate  
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray,

On behalf of the 36 Tribal Colleges and Universities (TCUs), which collectively are the American Indian Higher Education Consortium (AIHEC), I am writing to respectfully provide written comments in response to the Committee's February 13, 2018 request for suggestions on the reauthorization of the Higher Education Act of 1965. This letter, and supporting attachments, outline our priorities and recommendations for the Committee's consideration.

**ABOUT TRIBAL COLLEGES AND UNIVERSITIES**

Since 1973, AIHEC has served as the collective voice of the nation's TCUs, advocating on behalf of these unique higher education institutions defined and controlled by their respective tribal nations. Today, 36 Tribal Colleges and Universities operate more than 75 campus sites across 16 states, serving over 130,000 American Indians and Alaska Natives each year in place-based academic and community outreach programs (TCUs serve AI/AN students from a total of 30 states). Nurtured by and in turn nurturing the land, languages, cultures, and the distinct peoples who created them, TCUs are among the most dynamic components of the American higher education system.

The first Tribal College, like all that followed, was established for two reasons: the near complete failure of the U.S. higher education system to address the needs of – or even include – American Indians; and the need to preserve our culture, our language, our lands, our sovereignty – our past and our future. The guiding vision of the Tribal College Movement is an education system founded on traditional knowledge and focused on student achievement and a prosperous future through job creation and community expansion. In short, Nation Building, one student at a time.

**STUDENT ENGAGEMENT & ADVANCEMENT**

**Recognize unique conditions of Tribal Colleges, other community colleges, and their students and ensure that participation in the Federal student loan program is voluntary and flexible.** Mandating loan program participation and tying institutional Title IV eligibility to unrealistic performance metrics for open door institutions that serve a disproportionate number of first generation and low income students must not be included in HEA reauthorization. Either would unnecessarily impede Native and other



low-income students from pursuing, let alone achieving, higher education goals. TCUs, even more so than many community colleges, are among the most affordable institutions in higher education in the country. Currently, only two TCUs participate in federal student loan programs. Some TCUs are beginning to explore the federal loan programs, as more are offering an increasing number of bachelor's and master's degrees. However, TCUs work hard to keep tuition low to allow their students, especially those planning to seek advanced degrees, to graduate without debt. That goal, coupled with two other factors – the socio-economic history and current reality of the communities and students that TCUs serve and limited institutional resources to administer loan programs – have led the vast majority of TCUs to avoid offering federal student loans.

Most TCU students are fiscally poor – they come from reservation communities with some of the highest unemployment rates in the nation. Their families live with **generational** poverty and unemployment. They are often the first in their families to go to college, and most of their families have never had – or even applied for – a bank loan. They come from K-12 schools that have failed them. More than half of all TCU students need developmental education in at least one subject. Some need developmental education in three subjects: 52 percent in reading, 55 percent in writing, 63 percent in math in academic year 2015-16. TCUs are working to turn these statistics around by providing affordable education and training that is founded on our identity and culture as Native people. Our colleges work hard to keep our costs very low. However, with respect to the student loan program, this effort has had a potentially disastrous effect on our institutions: at TCUs, academically high-achieving students often receive somewhat adequate funding from Pell grants and a variety of scholarships. They are used to being poor, so the struggle of not quite having enough is nothing new. But scholarships to supplement grants are not available to all, and it is almost exclusively the academically lower-achieving and transitional TCU students who rely on student loans. These are the students most at risk for defaulting. If a TCU raised its tuition costs to a level more in line with tuition at mainstream institutions, more of the students (the high-achieving students) would have to borrow, thus providing TCUs a “cushion” of students needed to ensure a healthy loan default rate. This is not why our ancestors created our Tribal Colleges, however. Unless the law is changed, most TCUs will continue to keep tuition costs low and opt to stay out of the student loan program entirely.

Even if the issue of need were addressed, the overall small student body size at Tribal Colleges might still create default rate problems if greater flexibility is not more clearly addressed in the law. An example is the situation faced by United Tribes Technical College (UTTC) in Bismarck, North Dakota. Chartered by all four federally recognized Indian tribes in the state to provide vitally needed career and technical programs to American Indians in a centrally located venue, UTTC currently has 462 students. It participated in the student loan program from approximately 2010-2016. At the height of its participation (2012), UTTC had 128 borrowers. Fifty-three of these borrowers subsequently defaulted, for a 41.4 percent default rate. If UTTC had 10,000 borrowers, nearly 3,000 borrowers could default before the college would approach a 30 percent default level.

### **COLLEGE OPPORTUNITY, ACCESS, AND AFFORDABILITY**

As part of the effort to ensure that it will be easier to access, pay for, and complete a two- or four-year college degree or pursue a trade through a vocational/career and technical education program, we urge the Committee to support the following initiatives focused on supporting TCU efforts to keep student costs low:

**Build on past bipartisan accomplishments to improve the affordability and quality of postsecondary education through federal policy.** The purpose of any reauthorization of the Higher Education Act is to enhance the ability of students to *enter* and *complete* postsecondary education. As in every previous reauthorization of the Higher Education Act, the 115<sup>th</sup> Congress should work in a bipartisan manner to strengthen federal support for low-income and underserved students, such as American Indian and Alaska Native students. Legislation currently pending in the House, the PROSPER Act, would reduce federal aid to students by nearly \$15 billion over ten years, according to the Congressional Budget Office. In addition, the bill would limit the ability of parents and graduate students to borrow through affordable loan programs, which costs the federal government money. This budgetary cost is then paid for by eliminating benefits that help low- and middle-income undergraduate students afford college. Proposals such as this should be rejected. Instead, mandatory – and adequate – funding should be allocated to the Pell grant program; student loan forgiveness for public service should be continued and strengthened; dual enrollment and early college high schools should be encouraged; regulatory burdens that increase college costs and divert resources from students should be reduced; financial aid applications should continue to be simplified; teacher preparation, STEM, and student support programs – including TRIO and GEAR UP – at TCUs and other institutions that serve a majority of students who are low-income or first generation students, should be strengthened and expanded; and even further, realistic proposals for tuition-free public postsecondary education – including at Tribal Colleges – should be considered.

Please see AIHEC's *full package of amendments to the Higher Education Act and the Tribally Controlled Colleges and Universities Assistance Act*.

**Modernize the Tribal Colleges and Universities Assistance Act.** The Tribally Controlled Colleges and Universities Assistance Act of 1978 has not been updated in the past 20 years. Working with the Bureau of Indian Education, AIHEC has developed a package of amendments to the Act, which we urge the Committee to include in its legislation to reauthorize the Higher Education Act. Our recommendations, along with justifications, are attached.

**Make TCU Title III, Part F Grants Permanent and Reauthorize TCU Part A Grants.** The TCU Title III-Part F grants are currently slated to sunset in FY 2019, along with Part F programs for HBCUs, HSIs, and other minority serving institutions. For TCUs, the Part F funds have been instrumental in advancing TCU capacity to serve their communities. Loss of this critical funding will cut the TCUs' Title III funding by *more than 50 percent*, which would be disastrous for our colleges and the rural areas in which they are located. We urge the Committee to sustain this vital program. AIHEC has proposed a legislative fix, which is included in our package of *recommended amendments to the Higher Education Act of 1965*. In addition, we urge that the authorization level for section 316 of the Higher Education Act be increased to \$35 million per year due to the growing number of eligible Tribal Colleges and Universities.

**Factors to Consider when Updating and Enhancing an Accountability Framework.** As the Committee considers strategies for an enhanced accountability framework and new accountability standards and data collection, we urge the Committee to acknowledge the uniqueness of institutions of higher education such as Tribal Colleges and Universities. TCUs are among the most accountable institutions of higher education. In 2004 with funding from the Lumina Foundation, AIHEC and the TCUs developed our own comprehensive data collection and accountability system, through which TCUs annually report on more than 120 quantitative and qualitative indicators. AIHEC AIMS (American Indian Measures of Success) measures TCU success and collects relevant data not included in current federal higher education reporting systems. The Committee should consider the AIHEC AIMS model for institutions serving diverse populations. The instrument captures the successes of degree seekers and non-degree seekers alike and gathers statistics on first-time and general population students who are veterans, receive financial aid, or are in need but not eligible for aid, take developmental courses, as well as standard enrollment and graduation. While the indicators capture data on all students, they focus specifically on American Indian and Alaska Native students, a population for which availability of reliable data is limited. Over the past 14 years, AIHEC AIMS has helped build capacity in data collection and accountability at TCUs, and in doing so, strengthened the ability of each TCUs to measure success relevant to each institution's mission, size, and unique needs.

TCUs believe that accountability measures and data collection must track improvements over time, rather than where they are right now, especially when the data is flawed to begin with. This is particularly important for open-access institutions that serve a disproportionate percentage of students who are first-generation, are low income/Pell eligible, and require developmental education. For these institutions, the Committee should consider including or factoring in improvement in graduation and transfer rates and time required for completion. Another factor to consider for institutions such as TCUs is time required for transition from developmental education to degree-granting programs. Finally, any use of earnings data can be problematic for TCUs: American Indian and Alaska Native communities are geographically isolated, lack a manufacturing or economic infrastructure, and suffer some of the highest unemployment rates in the nation.

**Streamline Federal Regulations and Reduce Regulatory Burdens.** We urge the Committee to use this reauthorization of the Higher Education Act to streamline regulatory processes, eliminate ambiguous and unnecessary rules and regulations, and work to ensure that the cost of compliance is proportional to the size of the institution. Accountability is important. However, the number of new regulations and rules imposed on institutions of higher education, including the Department of Labor's 2016 Final Overtime Rule, places a significant and unnecessary burden on already over-taxed TCU staff and administration. Thoughtful simplification of the FAFSA application is important, but we urge that it be accomplished in a manner that ensures that Tribal governments and other public entities are able to access information they need to make financial award decisions without burdening families.

**Repeal the Designation & Funding of So-Called "Native American Serving Institutions-Non Tribal".** In recognition of Tribal Sovereignty, the Committee should repeal Higher Education Act Title III Section 319 that authorizes the Native American Serving Institutions-Non Tribal program. TCUs have a special relationship with the Federal government based on their status as extensions of the federally recognized

Indian Tribes that chartered them. Tribes have signed binding treaties with the Federal government that include certain responsibilities, including education, in exchange for millions of acres of land. The Tribally Controlled Colleges and Universities Assistance Act exists – and Federal resources are allocated to TCUs – because of these treaties and the Federal Trust responsibility. In short, this is solely a political, and not race-based, distinction. Funding of TCUs raises no affirmative action issues. This program, however, does.

### **JOB CREATION & SAFE COMMUNITIES**

To ensure that *all* of America is included in job creation, full-employment, and infrastructure programs put forth by the Committee, the first Americans cannot be forgotten. Tribal Colleges and their rural American Indian/Alaska Native communities need to be specifically included in any new initiatives. In addition:

#### **National E-Rate Program Should Include Tribal Colleges and Other Rural Community Colleges.**

During the Federal Communication Commission's 2014 modernization of the nation's E-rate program, TCUs and other small, under-resourced rural colleges were left out. As place-based institutions, TCUs and rural colleges provide services essential to the economic success of their rural communities, including serving as public meeting venues, childcare and early childhood centers, workforce training facilities, libraries, community fitness/wellness centers, emergency preparedness hubs, and more. These small and under-resourced institutions should be included in the national E-rate program to help ensure rural America's access to reliable Internet services. Currently, TCU annual commodity Internet connectivity costs range from about \$55,000 to nearly \$75,000 per year – in many cases for Internet service that is well below what is needed to effectively support the colleges' programs. While not a large sum, this cost represents a significant financial burden for a poor college that lacks an endowment and adequate funding sources. Participating in the E-rate program would provide significant savings to TCUs, while adding less than \$2 million in annual costs to the program. Although this issue is not specifically addressed in the Higher Education Act, we urge the Committee to consider supporting an amendment to the Telecommunications Act of 1996 to include Tribal Colleges and other rural community colleges as eligible entities within the Schools and Libraries Program under the Universal Service Fund.

**Reauthorize and Fund TCU Capital Improvement Authority (25 U.S.C. 1813).** Although this section of the Tribally Controlled Colleges and Assistance Act has never been funded, we want to ensure that it is not eliminated in the reauthorization of the Higher Education Act. Rather, the 115<sup>th</sup> Congress should be the first in the 40 year history of the Tribal College Act – to fund section 113 (25 U.S.C. 1813) of the TCCUA Act and establish a new infrastructure development program for Tribal Colleges. A key part of the mission of Tribal Colleges is to prepare American Indians, Alaska Natives, and other rural community members to be self-sufficient members of the nation's workforce. For TCUs to realize this goal, they must have the facilities necessary to educate and train their students in a safe environment for 21<sup>st</sup> century jobs. Facilities construction and maintenance are needed at the Tribal Colleges, many of which still operate in donated and abandoned structures. Hazards include leaking roofs, asbestos insulation, exposed and substandard wiring, crumbling foundations, and outdated computer labs. One TCU needs assessment revealed a need of \$120 million per year for at least three years to address current shovel-ready projects and rehabilitation needs at our nation's 36 Tribal Colleges. At least \$360 million of the newly proposed "Public Lands Infrastructure Fund," which would take new revenue from federal energy leasing and development to provide up to \$18 billion to help pay for repairs and improvements at Bureau of Indian Education-funded

schools, national wildlife refuges, and national parks, should be specifically allocated to section 113 of the Tribal College Act (25 U.S.C. 1813).

**Support Local Decision-making in Tribal Education.** Currently, the nation's federally recognized tribes must follow the decision of states in determining what high school equivalency exam will be employed. With the recent changes to the GED test, some tribes whose reservations are located within the boundaries of states that sanction the GED test are interested in using the HiSET or other nationally accepted tests. As sovereign nations, tribes should have the right to decide which exam to use, and states should be required to work with these tribes to develop joint high school equivalency certifications.

**Support for the Priorities of the American Association of Community Colleges and the American Council on Education/Association Principles.** Tribal Colleges and Universities support the priorities and recommendations of the American Association of Community Colleges, and we strongly endorse the principles set forth in the joint letter from our sister associations, led by ACE.

Should you have questions regarding any of these points, please contact AIHEC's Director of Congressional and Federal Relations, Patrese Atine ([patine@aihec.org](mailto:patine@aihec.org)), or AIHEC President & CEO, Carrie Billy ([cbilly@aihec.org](mailto:cbilly@aihec.org)).

Thank you for your serious consideration of our priorities and recommendations as the Committee works to reauthorize the Higher Education Act of 1965.

Sincerely,



David E. Yarlott, Jr.  
Chair, American Indian Higher Education Consortium Board of Directors and  
President, Little Big Horn College

cc: The Honorable Jon Hoeven, Chair  
The Honorable Tom Udall, Vice-Chair  
Senate Committee on Indian Affairs

Attachments:

AIHEC Summary of Proposed Amendments to the Higher Education Act of 1965  
AIHEC Summary of Proposed Amendments to the Tribally Controlled Colleges and Universities Assistance Act