

**TRIBAL COLLEGES & UNIVERSITIES – 1994 LAND-GRANT INSTITUTIONS:
SUMMARY OF PROPOSED AMENDMENTS TO 2023 LEGISLATION TO REAUTHORIZE
THE AGRICULTURE ACT OF 2018 (FARM BILL)**

FEBRUARY 7, 2023

In 1994, Congress enacted the Equity in Educational Land-Grant Status Act, granting tribally controlled colleges and universities long overdue recognition as part of the U.S. Land-grant system. The American Indian Higher Education Consortium (AIHEC), which comprises the 35 1994 Land-grant Institutions (1994 institutions), supports these unique, place-based, and culturally grounded public institutions in realizing their Land-grant missions. To strengthen the 1994 institutions' participation in Land-grant programming, AIHEC respectfully requests the following amendments be included in legislation to reauthorize the Agriculture Act of 2018. Our proposed amendments follow the titles set forth in the Agriculture Act of 2018.

TITLE VI – RURAL DEVELOPMENT

1. New Program: TCU Broadband Service Fund

This amendment is critical to ensure that Indian Country and Tribal higher education continue to build a strong and sustainable bridge across the digital divide.

Amendment Text:

“Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.) is amended by adding at the end of the title the following new section:

“Sec. ----. Tribal College & University Broadband Service Fund.

(a) Definition.—In this section:

Tribal College and University.—The term ‘Tribal College and University’ means an institution cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for and receives funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.), and Diné College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95-471 (25 U.S.C. 640a note).

(b) In General.—The Secretary shall establish a program to be known as the Tribal College and University Broadband Service Fund, under which the Secretary shall provide grants to eligible Tribal Colleges and Universities for the purposes supporting operation and maintenance associated with broadband deployment, campus cyberinfrastructure, information technology equipment and service, and retention and professional development of staff.

(c) Eligibility.—To be eligible to obtain assistance under this section, a Tribal College or University shall submit to the Secretary an application—

(A) that summarizes for the previous three fiscal years data on the capacity and operations and maintenance costs associated with campus and service area broadband deployment, campus cyberinfrastructure, campus information technology equipment and fees, information technology personnel, including professional development, and necessary information technology student support; and

(B) at such time, in such manner, and containing such other information as the Secretary may reasonably require.

- (d) Grants.--Grants to Tribal Colleges and Universities under this section shall be made using the formula set forth in section 533(c)(4) of the Equity in Educational Land-grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) and shall be subject to the same annual reporting and other requirements set forth in section 534 of such Act.

Justification: When the covid-19 pandemic began in the U.S. in March 2020, Tribal Colleges and Universities (TCUs), on average, had the most expensive and slowest internet connectivity, using the oldest equipment, of any other group of U.S. institutions of higher education. Unfortunately for most TCUs, the same holds true today, and in some ways, the situation has grown more dire. With expanded connectivity through covid-19 relief funding, the costs of operating and maintaining a broadband infrastructure in rural American have increased significantly, to unsustainable levels. Some TCUs currently are paying 70 or more times the national average for broadband connectivity. Others are limping along with slower access. IT or cyberinfrastructure needs in Indian Country needs to be addressed in a sustainable manner. Although 30 of the 35 TCUs operate community libraries and serve as community hubs, they are barred from participating in the federal E-rate program. In addition, their operating funding – which has never been appropriated at the authorized level – is inadequate to support growing cyberinfrastructure/ broadband costs. Congress should establish a *permanent TCU Broadband Service Fund* within the existing (and previously under-used) **USDA-Rural Utilities Service Program**. An annual \$40 million set-aside for TCUs, which are the 1994 Land-grant institutions, is needed to cover ongoing equipment costs, maintenance and upkeep, continued infrastructure expansion to a level that, at minimum, meets national connectivity averages for institutions of higher education, connection to state and regional education/research networks, and IT staffing.

TITLE VI – RURAL DEVELOPMENT

SUBTITLE D—ADDITIONAL AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Sec. ----- Tribal College and University Essential Community Facilities: Authorization Extension

Amendment Text:

Section 306(a)(25)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(25)(C)) is amended by striking “2023” and inserting “2028”.

Justification: This amendment extends the authorization of this program.

TITLE VII – RESEARCH, EXTENSION, & RELATED MATTERS

SUBTITLE A - NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

1. New Beginnings for Tribal Students

This amendment will help ensure full participation by 1994 institutions in this scholarship program, which is specifically aimed at American Indian and Alaska Native students. These student compose, on average, 85 percent of all TCU students. Federally recognized Indian tribes and the federal government specifically established TCUs to serve these students.

Amendment Text:

“New Beginnings for Tribal Students.--Subtitle G, section 1450, of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S. Code § 3222e) is amended—

(1) In subsection (b), by adding at the end the following:

“(6) 1994 Institutions.—Paragraphs (4) and (5) shall not apply to 1994 Institutions.”

(2) In subsection (d)--

(A) by striking \$5,000,000 and inserting \$20,000,000; and

(B) by striking “2019 through 2023” and inserting “2024 through 2028”.”

Justification:

The average age of farmers and producers in the U.S. is 60 years of age and continues to rise each year. As a nation, we must do more to increase the number of young people seeking careers in the food and agricultural sciences, including agribusiness, food production, distribution, retailing, the clothing industries, energy and renewable fuels, marketing, finance, and distribution. The need is particularly acute in Indian Country, where 75 percent of the remaining lands are forested or agriculture lands. 1994 institutions, which are the most affordable and accessible education options available to rural American Indians, Alaska Natives and other rural residents can provide relevant, locally and place-based higher and technical/career education to aspiring and beginning farmers throughout Indian Country, particularly in the western U.S. and including Alaska. But with poverty rates nearly two times higher on federally recognized Indian reservations than anywhere else in the country (25.8 percent for AIANs, compared to 14.1 percent nationally), many AIANs who might desire postsecondary education simply cannot afford it. Nearly 80 percent of 1994 institution students receive federal Pell grants. However, this funding does not meet the financial need of our students. A 2019 study by the American Indian College Fund found that of the TCU (1994 institution) students surveyed, 70 percent experienced housing insecurity in the previous year and 29 percent of experienced homelessness. Fifty percent of TCU students reported running short of food in the month prior to the survey, and more than one in three went hungry.

1994 institutions do all they can to help, including offering extremely low tuition, food pantries, and free shuttle services, gas cards, and books. However, as the most poorly funded institutions of higher education in the country (see data below), they cannot provide the full financial support many students need, nor can they meet federally mandated matching requirements. In fact, most federal programs waive matching requirements for 1994 institutions in recognition of the financial challenges facing TCUs, compared to state-support institutions of higher education. Under the New Beginnings program, only four 1994 institutions received awards in year one (4 of 33 awards, or 12 percent), and only one TCU received an award in year two, even though the program was specifically established to serve AIAN students. The primary reason reported for not applying for the program was the inability to meet the 100 percent matching requirement. Granting waivers to or eliminating matching requirements is not uncommon within Land-grant programs. The Agriculture Secretary currently has authority to waive matching requirements for certain 1890 and 1994 programs. Further, in the 2018 Farm Bill reauthorization, Congress established a permanent \$40 million scholarship fund exclusively for 1890 Land-grant institutions with no matching requirement.

NEW: Tribal Agriculture Educational Parity Amendment

This amendment would permanently authorize and support supplemental funding for basic 1994 Land-grant education and research activities, thus helping to ensure sustainability for these underfunded programs.

Amendment Text:

“Subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by adding at the end the following new section--

“Sec. _____. Agriculture Education & Research Enhancement Program for 1994 Institutions.--

- (a) In general.—The Secretary shall make grants to 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) for the purposes of building the agriculture, natural resource, land, STEM, energy, and agribusiness education and research capacity of 1994 institutions.
- (b) Amount of Grant.—Each grant made under this section shall be made using the formula set forth in section 533(c)(4) of the Equity in Educational Land-grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) and shall be distributed by the Secretary as part of the distribution to the 1994 institutions under section 534 of the Act, and subject to the same annual reporting and other requirements set forth in section 534 of such Act.
- (c) Funding.—
 - (1) Mandatory Funding.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$24,000,000 for fiscal year 2024 and each fiscal year thereafter for the purposes set forth in (a). The balance of any annual funds provided under the preceding sentence for a fiscal year that remains unexpended at the end of that fiscal year shall remain available until expended.
 - (2) Discretionary Funding.—In addition to amounts made available under (1), there is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2024 through 2028.
- (d) Allowable Uses. —Funds awarded under this section may be used by 1994 institutions for purposes consistent with the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) and to acquire real property, and acquire, alter, repair, maintain, and operate facilities and relevant equipment necessary for conducting agricultural education and research.
- (e) Administrative Expenses.—Of the funds made available under (c)(1) and (c)(2) for a fiscal year, not more than 4 percent may be used for expenses related to administering the program under this section.
- (f) Additional Amount.—Amounts made available under this section shall be in addition to any other amounts made available to the 1994 Institutions under the Equity in Educational Land-grant Status Act of 1994.”

Justification: According to the Congressional Research Service, “[w]hile land-grant designation gave 1994 Institutions new access to federal funding, this access is more limited than that of 1862 and 1890 Institutions. 1994 Institutions receive fewer federal funds administered by NIFA than 1862 and 1890 Institutions, and they are ineligible for certain grant types available to 1862 and 1890 Institutions. **Whereas the 1862 and 1890 Institutions receive federal capacity funds specific to agricultural research and**

extension, 1994 Institutions do not¹ (emphasis added). This is especially frustrating because 75 percent of what is left of Indian Country in the U.S. is agriculture or forested land. This land could be sustainably used if sufficient support existed for research, education, and training, but much of the land lies fallow.

As stated previously, TCUs are grossly underfunded compared to the members of the Land-grant system, yet much of the land granted to states in 1862 was Tribal land, taken with bloodshed, but without compensation, in most cases. In FY 2023, the 1862 land-grants (state) research program (Hatch Act) received \$265 million; research at the 1890s (19 HBCUs) received \$89 million; and research grants for 1994s (34 TCUs) received \$5 million in competitive funding. For extension programs in FY2023, Congress appropriated \$325 million for the 1862s in formula-driven extension funds; the 1890s received \$72 million, also formula driven; and the 1994s received \$11 million for *competitively* awarded grants. Since FY2017, 1890 extension funding has grown by \$26 million (19 institutions). During that same time, 1994 extension funding grew by \$6.5 million, for 35 institutions. It is time to begin to address the inexcusable inequality.

2. New 1994 Institution Agriculture Education & Research Facilities Improvement Section

This amendment would address the dearth of funding for 1994 Land-grant facilities and equipment.

Amendment Text:

“Subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by adding at the end the following new section--

“Sec. _____. Grants to Upgrade Agriculture and Food Sciences Facilities and Equipment and Support Research on Tribal Lands at 1994 Land-grant Institutions.

(a) Purpose & Uses.—It is the intent of Congress to assist the 1994 Land-grant institutions to—

- (1) Acquire real property and acquire, alter, repair, maintain, and operate facilities and relevant equipment necessary for conducting agricultural and food sciences education, research, and extension activities; and
- (2) Conduct research on traditional foods and plants indigenous to the United States.

(b) Awards. —Grants awarded pursuant to this section shall be made in such amounts and under such reasonable terms and conditions as the Secretary determines necessary to carry out the purposes of this section; provided that if a formula is used to distribute such grants, the Secretary shall use the formula set forth in section 533(c)(4) of the Equity in Educational Land-grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382).

(d) Funding.—

- (1) Mandatory Funding.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$35,000,000 for fiscal year 2024 and each fiscal year thereafter for the purposes set forth in paragraph (a). The balance of any annual funds provided under the preceding sentence for a fiscal year that remains unexpended at the end of that fiscal year shall remain available until expended.
- (2) Discretionary Funding.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out this section \$100,000,000 for each of fiscal years 2024 through 2028.

Justification. A 2021 survey of 1994 institutions conducted by the American Indian Higher Education Consortium revealed a list of chronic facilities-related maintenance and rehabilitation needs, including the

¹ Benson, L.S. (2022). *The U.S. Land-Grant University System: Overview and Role in Agricultural Research* (CRS Report No. R45897). Retrieved from: <https://crsreports.congress.gov/R45897>.

lack of adequate and safe laboratories, classrooms, and other research and education facilities, such as large animal clinical labs. The TCUs have an estimated total need of \$400 million in deferred maintenance and rehabilitation and need \$2.7 billion to fully implement existing master plans. Despite the longstanding need, no stable, significant federal support exists for TCU facilities, and only the two federal 1994 institutions have dedicated facilities construction and maintenance funding. Facilities repairs and upkeep come out of operating budgets, robbing funds from student support, curriculum development, research, and more. A dedicated facilities fund for TCUs in the U.S. Department of Agriculture would help meet the 21st century research and education needs of Tribal Nations and the 1994 institutions.

TITLE VII – RESEARCH, EXTENSION, & RELATED MATTERS
SUBTITLE E – OTHER LAWS

Section _____, Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note)

1. Section 533: Endowment: Authorization Extension.

Amendment Text:

“(a) Endowment for 1994 Institutions.—Section 533(b) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended in the first sentence by striking “1999 through 2023” and inserting “2024 through 2028”.”

Justification: This amendment extends the authorization of this program.

2. Section 535: Institutional Capacity Building Grants: Removing the outdated cap on education program payments (1994 Education Equity Grants Program).

This amendment would bring the 1994 institutions’ education equity payment authorization into the 21 century by removing an outdated and inadequate funding cap and extend program authorization.

Amendment Text:

“(b) Institutional Capacity Building Grants.— Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended as follows:

(1) In subsection (a)(1), by striking “equal to” and inserting in lieu thereof “no less than”; and

(2) In subsections (b)(1) and (c), by striking “1999 through 2023” each place it appears and inserting “2024 through 2028”.”

Justification: Section 535 of the Equity in Educational Land-Grant Status Act provides foundational funding for 1994 land-grant education programs. Ideally, this funding should support a land-grant program director, at least one permanent faculty member and staff, and basic educational programming. AIHEC conducted an analysis of existing land-grant program costs at 1994 institutions, unmet land-grant strategic plan activities and goals, and program costs at other land-grant institutions. The analysis revealed a need of \$500,000 to strategically operate an institution’s land-grant program and foundational agriculture education programming. In recognition of a growing need, Congress currently (FY2023) appropriates nearly \$200,000 per 1994 institution for equity payments. (Until FY 2023, the 1994 institutions received payments of \$150,000 or less annually.) This amendment would align payment authorization with appropriations and

allow for growth to an adequate operating level. In addition, the amendment extends program authorization to 2028.

3. Section 536: Research Grants.

Nearly 30 years after the enactment of the Equity in Educational Land-Grant Status Act of 1994, this set of amendments recognizes both the growing intellectual capacity of 1994 institutions to direct and conduct their own research and impact of decades of inadequate funding on the ability of these institutions to build and operate their own research laboratories and centers.

Amendment Text:

“(c) Research Grants. Section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended as follows:

- (1) In subsection (a), by inserting at the end of the paragraph “and to acquire real property and acquire, alter, and repair facilities and relevant equipment necessary for strengthening the capacity of such institutions to conduct research in the food and agricultural sciences:”
- (2) Striking subsection (b); and
- (3) In subsection (c), by striking “1999 through 2023” in the first sentence and inserting “2024 through 2028”.

Justification:

1994 institutions’ research programs seek to understand and solve problems facing AIAN communities in areas like nutrition; health; the environment; economic and community development; and land and water use. Research that specifically addresses AIAN issues provides the best, science-based foundation for lifting Native communities, while providing models for successfully working with other institutions across the U.S. Ultimately, 1994 research will inform best practices that create more jobs, reduce poverty and increase prosperity in Native communities. 1994 research has been chronically underfunded since its inception in FY2000 and has never been funded at an amount sufficient to build any sustainable institutional capacity. Despite funding challenges, the 1994 institutions are required to partner with an 1862, 1890, or other institution of higher education or USDA facility to receive an award under the program, thus potentially diluting the already inadequate funding.

Eliminating Required Land-grant “Partners” for Research Grants: The 1994 Land-Grant Institutions need to be recognized as full members of the nation’s land grant system. Currently, they are not. Unjustifiable inequities exist between funding and program capacity for 1994 institutions compared to funding and scope for the 1862 and 1890 Land-grant institutions. A small step toward rectifying this inequity and moving 1994 institutions closer to being true partners in the Land-grant system is to afford them the same ability to manage and operate their own research grants and chose when and with whom to partner. Currently, only the 1994 institutions are required to partner with other Land-grant institutions, research institutions, or USDA facilities under their research grant program. This requirement was enacted decades ago, when the 1994 research program was newly established by Congress and TCUs were just beginning to develop research agendas. The requirement served its purpose for 20 years or more. Now, it is time to allow the 1994 institutions the individual freedom to use their judgment, expertise, and network of partners and mentors to continue building their research capacity and working to solve regional, national, and global agriculture, land, and environmental challenges.

Designating construction and facilities upgrades as eligible costs under 1994 research grants: Unlike some other Land-grant institutions, TCUs do have large federal construction/facilities grant programs or forgivable

loan programs. Within USDA, the only dedicated TCU construction program is a \$10 million program for community facilities, which does not include research laboratories or equipment. (Until FY2023, the program was funded at \$5 million/year or less, for all 35 1994 institutions.) This amendment would allow TCUs to use a portion of their research funding for equipment and facilities construction and renovation.

TITLE VII – NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977
SUBTITLE F – OTHER MATTERS

Sec. ____ . Extension Services at 1994 Institutions (Smith-Lever Act, 7. U.S.C. 343(b)(3))

This amendment will allow 1994 institutions to use a portion of their extension grants for facilities and maintenance, thus ensuring program sustainability

Amendment Text:

“Sec. ____ Extension Services at 1994 Institutions.

“Section 3(b) of the Smith-Lever Act (7 U.S.C. 343 (b)(3)) is amended—

(a) In the first sentence, by striking “for the purposes set forth in section 324 of this title.”; and inserting:

“(1) for the purposes set forth in section 342 of this title; and

(2) to acquire real property and acquire, alter, repair, maintain, and operate facilities and relevant equipment necessary to strengthen the capacity of such 1994 institutions to achieve the purposes set forth in section 342 of this title.”

(b) In the second sentence, by striking “shall remain available without fiscal year limitation” and inserting “shall remain available until expended.”

Justification:

The 1994 institutions’ extension programs provide science-based and culturally relevant community education to AIAN populations in areas such as diet, nutrition and health; the environment; economic and community development; and youth development. 1994 extension programs provide remote AIAN communities a local and trusted connection to the wide range of extension services provided by the land-grant cooperative extension system. 1994 extension programs provide the tools and resources that help create more jobs, reduce poverty and increase prosperity in Native communities. Unfortunately, 1994 extension has been chronically underfunded since its initial funding in fiscal year 1997 and has never been funded at an amount sufficient to build any sustainable institutional capacity, much less ensure that the facilities needed to operate programs safely exist.

Designating construction and facilities upgrades as eligible costs under 1994 extension grants: Unlike some other Land-grant institutions, TCUs do have large federal construction/facilities grant programs or forgivable loan programs. Within USDA, the only dedicated TCU construction program is a \$10 million program for community facilities, which does not include research laboratories or equipment. (Until FY2023, the program was funded at \$5 million/year or less, for all 35 1994 institutions.) This amendment would allow TCUs to use a portion of their research funding for equipment and facilities construction and renovation.

Conforming Amendment: The amendment would ensure the text of the section conforms with standard language.