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RECRUITING AND RETAINING MORE QUALIFIED INDIVIDUALS TO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES

DECEMBER 12, 2005.—Ordered to be printed

Mr. MCCAIN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 731]

The Committee on Indian Affairs, to which was referred the bill (S. 731), to recruit and retain more qualified individuals to teach in tribal colleges or universities, having considered the same, reports favorably thereon and recommends that the bill as amended do pass.

PURPOSE

The purpose of S. 731 is to provide recruitment and retention incentives by authorizing forgiveness for up to five years on a graduated basis of certain Federal student loans for qualified faculty who teach at tribal colleges or universities.

BACKGROUND

Tribal Colleges and Universities. In 1968, the Navajo Nation created the first tribally controlled college. In response to the need for higher education opportunities by tribal members and the local communities, several other Indian tribes followed suit. Today, there are 35 tribal colleges and universities located in 13 states. Tribal colleges and universities provide more than just higher education, they also provide high school completion courses, basic remediation courses, job training, college preparatory courses and adult education programs. They also serve other community needs, such as language and cultural preservation.

Funding. The Federal government has repeatedly recognized the unique relationship between the United States and Indian tribes

through treaties, executive orders, laws, and court decisions. As a result of this unique relationship, the Federal government provides funding to tribal colleges and universities. In fact, the majority of funding for tribal colleges and universities is derived from the Federal government.

Federal funding for tribal colleges and universities is distributed on a grant basis, although basic operating funding is calculated on the number of full-time Indian students, and some funding is distributed evenly on a per institution basis. Even though non-Indian students attend tribal colleges and universities, these students are not included in the calculation of operating funds provided by the Federal government. In addition, despite the attendance by non-Indian students, most states do not provide funding to tribal colleges and universities for those students, even though such funding would be available to state schools if those same students attended state schools. Tribal colleges and universities have reported to the Committee that when states do provide funding, it is often minimal. Many of the tribal colleges and universities are located in tribal communities that do not have sufficient resources to fund government operations as well as support tribal colleges.

Unique Challenges. Funding educational services is not the only challenge facing tribal colleges and universities. These schools also experience difficulties in recruiting and retaining qualified faculty. For academic year 1997–1998, it was reported that the average salary at tribal colleges was \$30,241, whereas it was \$45,919 at other public two-year institutions.¹ The most recent data indicates that the average faculty staff size at tribal colleges and universities is 46 with an average annual salary of approximately \$33,500.²

Even for the small staff sizes, tribal colleges and universities face frequent turnover among faculty. Data collected by the American Indian Higher Education Consortium reveals that in 2000–2001, 56% of tribal college and university faculty served for 5 years or less. In 2004, tribal colleges and universities averaged 11.2 new staff, of which 5.4 were newly hired faculty.³

Tribal colleges and universities are often located in rural, remote areas which impact the recruitment and retention efforts. Three tribal colleges or universities are located in 3 of the 5 poorest counties in the United States. In addition to the lower salaries and high turnover, tribal colleges and universities have identified other barriers to recruiting and retaining faculty, including the geographic isolation of reservation communities, the conditions of the reservation such as high poverty and inadequate housing, high workloads, multiple and fluctuating job responsibilities, and limited faculty development.

Despite these challenges, tribal colleges and universities have had tremendous success. It is estimated that approximately 30,000 students representing 250 Federally recognized tribes are enrolled

¹Building Strong Communities Tribal Colleges as Engaged Institutions. Prepared by: American Indian Higher Education Consortium & the Institute for Higher Education Policy, April 2001.

²Integrated Post-secondary Education Data, Faculty Salaries Survey & Employees by Assigned Position, Department of Education, 2004. (Analysis prepared by the American Indian Higher Education Consortium.)

³Integrated Post-secondary Education Data, Fall Staff, Department of Education, 2004. (Analysis prepared by the American Indian Higher Education Consortium.)

at tribal colleges and universities.⁴ Total enrollment at tribal colleges and universities grew by 17 percent from 1997 to 2002.⁵

Recruitment and Retention Incentives in S. 731. Existing law authorizes Federal Perkins student loans to be canceled on a graduated basis for certain full-time teachers, including teachers at public or other nonprofit private elementary and secondary schools; at certain Head Start programs; and at public or other nonprofit elementary and secondary schools which provide special education or other early intervention services. Moreover, full-time nurses or medical technicians providing health care services and certain other individuals are also eligible for a graduated waiver of student loans. S. 731 extends this program to full-time faculty members at tribal colleges and universities.

The Federal Family Education Loan Program (FFEL) governs the Federal Stafford Loan Program, the Federal Parent Loans for Undergraduate Students Program, and the Federal Consolidated Loan Program. Under this program, certain teachers may be eligible for a portion of their FFEL loans to be forgiven. Similarly, this bill would authorize the Secretary of the Department of Education to forgive, on a graduated basis, certain FFEL loans made to students who become full-time faculty members at tribal colleges and universities.

Finally, existing law also authorizes a graduated cancellation of student loans for individuals who have received college degrees in nursing and who agree to serve as a nurse for not less 2 years at a health care facility with a critical shortage of nurses. This bill would authorize nurses who agree to teach as a nursing instructor at a tribal college or university to also be eligible for student loan cancellation on a graduated basis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title of the bill as the “Tribal Colleges and Universities Faculty Loan Forgiveness Act.”

Section 2. Loan repayment or cancellation for individuals who teach in tribal colleges or universities

Subsection (a) authorizes full-time faculty members at tribal colleges or universities to be eligible for the existing Perkins loan repayment program in the Higher Education Act as of academic year 2003–2004.

Subsection (b) authorizes the Secretary of the Department of Education to assume or cancel FFEL or Direct Loans qualified loan amounts on a graduated scale for any new borrowers after the date of enactment of this Act if the borrower is employed as full-time faculty at a tribal college or university and is not in default on the loan to be repaid or canceled. Qualified loan amounts is defined as 15% of the total amount of all loans made, insured, or guaranteed after the date of enactment of this Act for the first or second year of employment; 20% of the total amount of all loans made, insured,

⁴Testimony of the American Indian Higher Education Consortium before the Senate Committee on Indian Affairs, June 16, 2005.

⁵Status and Trends in the Education of American Indians and Alaska Natives, National Center for Education Statistics, Department of Education, 2005.

or guaranteed after the date of enactment of the Act for the third or fourth years; and 30% of such total amount for the fifth year of employment. The Secretary may not, however, repay or cancel more than \$15,000 in the aggregate of such total amount for any student.

For consolidated loans, only that portion that was used to repay a FFEL or Direct Loan shall be eligible for repayment or cancellation. The Secretary is authorized to issue any necessary regulations. In addition, this section shall not be construed as authorizing the refunding of any repayments already made. No borrower may, for the same service, receive a benefit under Section 2 or subtitle D of title I of the National and Community Service Act of 1990.

Section 3. Loan repayment for nursing instructors at tribal colleges or universities

This section authorizes nursing instructors at tribal colleges or universities to be eligible for the existing loan repayment program of the Public Health Service Act.

Section 4. Amounts forgiven not treated as gross income

Any amounts assumed or canceled pursuant to this Act shall not be treated as gross income for Federal income tax purposes.

LEGISLATIVE HISTORY

Similar legislation was first introduced in the 106th Congress. At that time, S. 2978 was introduced on July 27, 2000 by Senator Daschle, for himself, and for Senators Akaka, Baucus, Bingaman, Conrad, Dodd, Johnson, Kennedy, Kerrey, Kohl, and Reid. Senators Leahy and Lieberman became cosponsors on September 6, 2000. The bill was referred to the Committee on Indian Affairs.

Other than adding a section regarding forgiven amounts not treated as gross income, an identical bill was introduced during the 107th Congress. S. 340 was introduced on February 15, 2001 by Senator Daschle, for himself, and for Senators Akaka, Baucus, Bingaman, Conrad, Dodd, Johnson, Kennedy, Leahy, and Reid. Senator Kohl became a cosponsor on March 1, 2001 and Senator Wellstone became a cosponsor on June 5, 2001. The bill was referred to the Committee on Indian Affairs.

During the 108th Congress, S. 378 was introduced on February 12, 2003, by Senator Daschle for himself, and for Senators Baucus, Bingaman, Conrad, Dorgan and Kohl. It was referred to the Committee on Indian Affairs. Senators Johnson and Kohl became cosponsors on February 12, 2003, Senator Akaka became a cosponsor on February 24, 2003, and Senator Dorgan became a cosponsor on March 4, 2003. The bill was referred to the Committee on Indian Affairs.

S. 731 was introduced on April 6, 2005 by Senator Conrad, for himself, and for Senators Bingaman, Burns, Domenici, Dorgan, Johnson, Kohl, and Thune and referred to the Committee on Indian Affairs. Senator McCain became a cosponsor on June 28, 2005. The Committee on Indian Affairs ordered the bill to be reported with an amendment.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTE

On June 29, 2005, in an open business meeting, the Committee ordered the bill to be favorably reported with an amendment to the Senate.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate of the Congressional Budget Office on S. 731 is set forth below:

S. 731—Tribal Colleges and Universities Teacher Loan Forgiveness Act

S. 731 would authorize student loan forgiveness for faculty at tribal colleges and universities. For teachers at these institutions, the bill would specify that the Secretary of Education repay or cancel a certain percentage of their outstanding student loans for each year of teaching (up to five years) with a \$15,000 limit on the total amount of forgiveness. It also would exclude the amounts paid or canceled under this program from gross income for federal income tax purposes. CBO estimates that enacting the bill would result in a negligible amount of direct spending annually until 2015 when the costs would reach \$1 million; spending subject to appropriation would be less than \$500,000 annually for the entire 2006–2015 period. The Joint Committee on Taxation (JCT) estimates the bill would have no impact on revenues.

The bill would authorize the Secretary of Education to repay or cancel 15 percent of the faculty members' loans in each of the first and second full years of teaching, 20 percent in each of the third and fourth years, and 30 percent in the fifth year. The forgiveness would apply to loans under the Federal Family Education Loan program, the William D. Ford Direct Loan program, and the Perkins loan program. These provisions would apply prospectively; only students who take out their first loans after the bill's enactment could potentially take advantage of the program. Based on data on the number of new faculty at tribal colleges and on the borrowing history for new teachers, CBO estimates that over the next decade about 100 new teachers would become eligible under this program.

CBO has reviewed sections 1, 2, and 3 of S. 731 and determined that they contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act; JCT reports that section 4 (the portion of the bill that relates to the income tax treatment of the loan forgiveness) also does not contain any mandates. The bill would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Kalcevic. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has not received any executive communications on S. 731.

REGULATORY AND PAPERWORK IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate require each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 731 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill S. 731, as amended, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and new text is printed in italic):

20 U.S.C. § 1087ee(a)(2) is amended as follows:

Loans shall be canceled under paragraph (1) for service—(H) as a full-time nurse or medical technician providing health care services; **[or]** (I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children—*or as a full-time faculty member at a Tribal College or University as defined in section 316(b).*

20 U.S.C. § 1087ee(a)(3) is amended as follows:

(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—(i) in the case of service described in subparagraph (A), (C), (F), (G), (H), **[or (I)]** *(I) or (J)* of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

20 U.S.C. § 1088 et seq. is amended by adding at the end of Title IV, Part G the following:

SEC. 493C. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

(a) *PROGRAM AUTHORIZED.*—*The Secretary shall carry out a program, through the holder of a loan, of assuming or canceling the obligation to repay a qualified loan amount, in accordance with subsection (b), for any new borrower on or after the date of enactment of the Tribal Colleges and Universities Faculty Loan Forgiveness Act, who—*

(1) has been employed as a full-time faculty member at a Tribal College or University as defined in section 316(b); and

(2) is not in default on a loan for which the borrower seeks repayment or cancellation.

(b) *QUALIFIED LOAN AMOUNTS.*—

(1) PERCENTAGES.—*Subject to paragraph (2), the Secretary shall assume or cancel the obligation to repay under this section—*

(A) 15 percent of the amount of all loans made, insured, or guaranteed after the date of enactment of the Tribal Colleges and Universities Faculty Loan Forgiveness Act to a student under part B or D, for the first or second year of employment described in subsection (a)(1);

(B) 20 percent of such total amount, for the third or fourth year of such employment; and

(C) 30 percent of such total amount, for the fifth year of such employment.

(2) **MAXIMUM.**—The Secretary shall not repay or cancel under this section more than \$15,000 in the aggregate of loans made, insured, or guaranteed under parts B and D for any student.

(3) **TREATMENT OF CONSOLIDATION LOANS.**—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a loan made, insured, or guaranteed under part B or D for a borrower who meets the requirements of subsection (a), as determined in accordance with regulations prescribed by the Secretary.

(c) **REGULATIONS.**—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(d) **EFFECT ON SECTION.**—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(e) **PREVENTION OF DOUBLE BENEFITS.**—No borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(f) **DEFINITION.**—For purposes of this section, the term “year”, when applied to employment as a faculty member means an academic year as defined by the Secretary.

42 U.S.C. § 297n(a)(3) is amended as follows:

(a) **IN GENERAL.**—In the case of any individual—~~[(3)](3)(A)~~ who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years at a health care facility with a critical shortage of nurses; or (B) who is a nursing instructor at a tribally controlled college or university (as such term is defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801), or any institution listed in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note));