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113TH CONGRESS
1ST SESSION

H. R. 2367

To strengthen Indian education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2013

Mr. BEN RAY LUJÁN of New Mexico (for himself, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. RUIZ, and Mr. PEARCE) introduced the following bill; which was referred to the Committee on Education and the Workforce

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A BILL

To strengthen Indian education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Building upon Unique Indian Learning and Development Act''.

SEC. 2. IN-SCHOOL FACILITY INNOVATION PROGRAM CONTEST.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) establish an in-school facility innovation program contest in which institutions of higher edu-

cation, including Tribal Colleges and Universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)), are encouraged to consider solving the problem of how to improve school facilities for tribal schools and schools served by the Bureau of Indian Education for problem-based learning in their coursework and through extracurricular opportunities; and

(2) establish an advisory group for the contest described in paragraph (1) that shall include students enrolled at a Tribal College or University, a representative from the Bureau of Indian Education, and engineering and fiscal advisors.

(b) SUBMISSION OF FINALISTS TO THE INDIAN AFFAIRS COMMITTEE.—The Secretary of the Interior shall submit the finalists to the Committee on Indian Affairs of the Senate.

(c) WINNERS.—The Secretary of the Interior shall—

(1) determine the winners of the program contest conducted under this section; and

(2) award the winners appropriate recognition and reward.

SEC. 3. DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF EDUCATION JOINT OVERSIGHT BOARD.

(a) IN GENERAL.—The Secretary of Education and the Secretary of the Interior shall jointly establish a Department of the Interior and Department of Education Joint Oversight Board, that shall—

(1) be co-chaired by both Departments; and

(2) coordinate technical assistance, resource distribution, and capacity building between the 2 departments on the education of and for Native American students.

(b) INFORMATION TO BE SHARED.—The Joint Oversight Board shall facilitate the communication, collaboration, and coordination between the 2 departments of education policies, access to and eligibility for Federal resources, and budget and school leadership development, and other issues, as appropriate.

SEC. 4. IMPROVE SUPPORT FOR TEACHERS AND ADMINISTRATORS OF NATIVE AMERICAN STUDENTS.

Subpart 2 of part A of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7441 et seq.) is amended by adding at the end the following:

"SEC. 7123. TEACHER AND ADMINISTRATOR PIPELINE FOR TEACHERS AND ADMINISTRATORS OF NATIVE AMERICAN STUDENTS.

"(a) GRANTS AUTHORIZED.—The Secretary shall award grants to eligible entities to enable such entities to create or expand a teacher or administrator, or both, pipeline for teachers and administrators of Native American students.

"(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a local educational agency;

"(2) an institution of higher education;

"(3) a Tribal College or University (as defined in section 316 of the Higher Education Act of 1965); or

"(4) a nonprofit organization.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to Tribal Colleges and Universities (as defined in section 316 of the Higher Education Act of 1965).

"(d) ACTIVITIES.—An eligible entity that receives a grant under this section shall create a program that shall prepare, recruit, and provide continuing education for teachers and administrators of Native American students, in particular for teachers of—

"(1) science, technology, engineering, and mathematics;

"(2) subjects that lead to health professions; and

"(3) green skills and 'middle skills', including electrical, welding, technology, plumbing, and green jobs.

"(e) INCENTIVES FOR TEACHERS AND ADMINISTRATORS.—An eligible entity that receives a grant under this section may provide incentives to teachers and principals who make a commitment to serve high-need, high-poverty, tribal schools, including in the form of scholarships, loan forgiveness, incentive pay, or housing allowances.

"(f) SCHOOL AND COMMUNITY ORIENTATION.—An eligible entity that receives a grant under this section shall develop an evidence-based, culturally based school and community orientation for new teachers and administrators of Native American students.".

SEC. 5. NATIVE AMERICAN STUDENT SUPPORT.

(a) STANDARDS-BASED ASSESSMENTS.—Section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) is amended by adding at the end the following:

"(E) STANDARDS-BASED EDUCATION ASSESSMENTS.—Notwithstanding any other provi-

sion of this Act, a State shall develop standards-based education assessments and classroom lessons to accommodate diverse learning styles, which assessments may be used by the State in place of the general assessments described in subparagraph (A).''.

(b) SUPPORT.—The Secretary of Education shall expand programs for Native American school children—

(1) to provide support for learning in the children's Native language and culture; and

(2) to provide English language instruction.

(c) RESEARCH.—The Comptroller General of the United States shall conduct research on culture- and language-based education to identify the factors that improve education and health outcomes.

(d) NATIVE LANGUAGE TEACHING.—Section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319) is amended by adding at the end the following:

''(m) QUALIFICATIONS FOR NATIVE LANGUAGE TEACHERS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the requirements of subsection (a) for local educational agencies and States with re-

spect to highly qualified teachers, shall not apply to a teacher of a Native language.

"(2) ALTERNATIVE LICENSURE OR CERTIFICATION.—Each State educational agency receiving assistance under this part shall develop an alternative licensure or certification for teachers of a Native language.".

(e) GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.—

(1) DEFINITIONS.—In this subsection:

(A) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration for Native Americans in the Department of Health and Human Services (established under section 803B of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2)).

(B) ELIGIBLE ENTITY.—The term "eligible entity" means any agency or organization that is eligible for financial assistance under section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)).

(2) ESTABLISHMENT OF GRANT PROGRAM.—The Commissioner shall establish a program to pro-

vide eligible entities with grants for the purpose of assisting Native Americans to ensure the survival and continuing vitality of Native American languages.

(3) USE OF AMOUNTS.—

(A) IN GENERAL.—An eligible entity may use amounts received under this subsection to carry out activities that ensure the survival and continuing vitality of Native American languages, including—

(i) the establishment and support of community Native American language projects designed to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

(ii) the establishment of projects that train Native Americans to—

(I) teach a Native American language to others; or

(II) serve as interpreters or translators of a Native American language;

(iii) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

(iv) the establishment or support of a project to train Native Americans to produce or participate in television or radio programs to be broadcast in a Native American language;

(v) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language;

(vi) the purchase of equipment, including audio and video recording equipment, computers, and software, required to carry out a Native American language project; and

(vii)(I) the establishment of Native American language nests, which are site-based educational programs that—

(aa) provide instruction and child care through the use of a Native American language for at least 10 children under the age of 7 for an av-

erage of at least 500 hours per year per student;

(bb) provide classes in a Native American language for parents (or legal guardians) of students enrolled in a Native American language nest (including Native American language-speaking parents); and

(cc) ensure that a Native American language is the dominant medium of instruction in the Native American language nest;

(II) the establishment of Native American language survival schools, which are site-based educational programs for school-age students that—

(aa) provide an average of at least 500 hours of instruction through the use of 1 or more Native American languages for at least 15 students for whom a Native American language survival school is the principal place of instruction;

(bb) develop instructional courses and materials for learning Native

American languages and for instruction through the use of Native American languages;

(cc) provide for teacher training;

(dd) work toward a goal of all students achieving—

(AA) fluency in a Native American language; and

(BB) academic proficiency in mathematics, reading (or language arts), and science; and

(ee) are located in areas that have high numbers or percentages of Native American students; and

(III) the establishment of Native American language restoration programs, which are educational programs that—

(aa) operate at least 1 Native American language program for the community that the educational program serves;

(bb) provide training programs for teachers of Native American languages;

(cc) develop instructional materials for the Native American language restoration programs;

(dd) work toward a goal of increasing proficiency and fluency in at least 1 Native American language; and

(ee) provide instruction in at least 1 Native American language.

(B) NATIVE AMERICAN LANGUAGE RESTORATION PROGRAMS.—An eligible entity carrying out a program described in subparagraph (A)(vii)(III) may use amounts made available under this section to carry out—

(i) Native American language programs, including—

(I) Native American language immersion programs;

(II) Native American language and culture camps;

(III) Native American language programs provided in coordination and cooperation with educational entities;

(IV) Native American language programs provided in coordination and cooperation with institutions of higher education with expertise in the relevant Native language, particularly Tribal Colleges and Universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c));

(V) Native American language programs that use a master-apprentice model of learning languages; and

(VI) Native American language programs provided through a regional program to better serve geographically dispersed students;

(ii) Native American language teacher training programs, including—

(I) training programs in Native American language translation for fluent speakers;

(II) training programs for Native American language teachers; and

(III) training programs for teachers in the use of Native Amer-

ican language materials, tools, and interactive media to teach Native American language; and

(iii) the development of Native American language materials, including books, audio and visual tools, and interactive media programs.

(4) APPLICATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), in awarding a grant under this subsection, the Commissioner shall select applicants from among eligible entities on the basis of applications submitted to the Commissioner at such time, in such form, and containing such information as the Commissioner requires.

(B) REQUIREMENTS.—An application under subparagraph (A) shall include, at a minimum—

(i) a detailed description of the current status of the Native American language to be addressed by the project for which a grant is requested, including a description of existing programs and projects, if any, in support of that language;

(ii) a detailed description of the project for which the grant is requested;

(iii) a statement that the objectives of the project are in accordance with the purposes of this subsection;

(iv) a detailed description of the plan of the applicant to evaluate the project;

(v) if appropriate, an identification of opportunities for the replication or modification of the project for use by other Native Americans;

(vi) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons; and

(vii) in the case of an application for a grant to carry out any purpose specified in paragraph (3)(A)(vii)(III), a certification by the applicant that the applicant has not less than 3 years of experience in operating and administering a Native American language survival school, a Native American language nest, or any other educational program in which instruction

is conducted in a Native American language.

(C) PARTICIPATING ORGANIZATIONS.—If an applicant determines that the objectives of a proposed Native American language project would be accomplished more effectively through a partnership with an educational entity, the applicant shall identify the educational entity as a participating organization in the application.

(5) LIMITATIONS ON FUNDING.—

(A) FEDERAL SHARE.—The Federal share of the total cost of a program under this subsection shall not exceed 80 percent.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the cost of a program under this subsection may be provided in cash or fairly evaluated in-kind contributions, including facilities, equipment, or services.

(ii) SOURCE OF NON-FEDERAL SHARE.—The non-Federal share—

(I) may be provided from any private or non-Federal source; and

(II) may include amounts (including interest) distributed to an Indian tribe—

(aa) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

(bb) from amounts collected and administered by the Federal Government on behalf of an Indian tribe or the members of an Indian tribe; or

(cc) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, including—

(AA) amounts involved in the settlement of land or other judgment claims;

(BB) severance or other royalty payments; or

(CC) payments under the Indian Self-Determina-

tion Act (25 U.S.C. 450f et seq.) or a tribal budget priority system.

(C) DURATION.—

(i) IN GENERAL.—Subject to clause (ii), the Commissioner may make grants made under this subsection on a 1-year, 2-year, or 3-year basis.

(ii) NATIVE AMERICAN LANGUAGE RESTORATION PROGRAM.—The Commissioner shall only make a grant available under paragraph (3)(A)(vii)(III) on a 3-year basis.

(6) ADMINISTRATION.—

(A) EXPERT PANEL.—

(i) IN GENERAL.—Not later than 180 days after date of enactment of this subsection, the Commissioner shall appoint a panel of experts for the purpose of assisting the Commissioner to review—

(I) applications submitted under paragraph (4);

(II) evaluations carried out to comply with paragraph (4)(B)(iv); and

(III) the preservation of products required by paragraph (4)(B)(vi).

(ii) COMPOSITION.—

(I) IN GENERAL.—The panel shall include—

(aa) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

(bb) representatives of national, tribal, and regional organizations that focus on Native American language or Native American cultural research, development, or training; and

(cc) other individuals who are recognized as experts in the area of Native American language.

(II) RECOMMENDATIONS.—The Commissioner shall solicit recommendations for appointments to the panel from Indian tribes and tribal organizations.

(iii) DUTIES.—The duties of the panel shall include—

(I) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this subsection;

(II) reviewing applications received under paragraph (4);

(III) providing to the Commissioner a list of recommendations for the approval of applications in accordance with—

(aa) regulations issued by the Secretary of Health and Human Services; and

(bb) the relative need for the project; and

(IV) reviewing evaluations submitted to comply with paragraph (4)(B)(iv).

(B) PRODUCTS GENERATED BY PROJECTS.—

(i) IN GENERAL.—Subject to clause (ii), for preservation and use in accordance with the responsibilities of the respective organization under Federal law, a copy of any product of a Native American language project for which a grant is made under this subsection—

(I) shall be transmitted—

(aa) to the Institute of American Indian and Alaska Native Culture and Arts Development; and

(bb) to the Tribal Colleges or Universities where the language addressed in the grant program is inherent; and

(II) may be transmitted, at the discretion of the grantee, to national and regional repositories of similar material.

(ii) EXEMPTION.—

(I) IN GENERAL.—In accordance with the Federal recognition of the sovereign authority of each Indian tribe over all aspects of the culture

and language of that Indian tribe and subject to subclause (II), an Indian tribe may make a determination—

(aa) not to transmit a copy of a product under clause (i);

(bb) not to permit the redistribution of a copy of a product transmitted under clause (i); or

(cc) to restrict in any manner the use or redistribution of a copy of a product transmitted under clause (i).

(II) RESTRICTIONS.—Subclause (I) does not authorize an Indian tribe—

(aa) to limit the access of the Commissioner to a product described in clause (i) for purposes of administering this subsection or evaluating the product; or

(bb) to sell a product described in clause (i), or a copy of that product, for profit to the entities referred to in clause (i).

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2014 through 2019.

(f) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 803C of the Native American Programs Act of 1974 (42 U.S.C. 2991b–3) is repealed.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(A) in subsection (a), by striking ''sections 803(d), 803A, 803C, 804, subsection (e) of this section'' and inserting ''sections 803(d), 803A, and 804, subsection (d)'';

(B) in subsection (b), by striking ''other than sections 803(d), 803A, 803C, 804, subsection (e) of this section'' and inserting ''sections 803(d), 803A, and 804, subsection (d)''; and

(C) by striking subsection (e).

SEC. 6. INCREASED ACCESS TO RESOURCES FOR TRIBAL SCHOOLS, SCHOOLS SERVED BY THE BUREAU OF INDIAN EDUCATION, AND NATIVE AMERICAN STUDENTS.

(a) RESERVATION FOR BUREAU-FUNDED SCHOOLS AND PROGRAMS AND SCHOOLS OPERATED BY A TRIBE OR TRIBAL ORGANIZATION.—

(1) IN GENERAL.—The Secretary of Education shall ensure that any program administered by the Department of Education that awards grants, contracts, or other assistance to benefit elementary schools and secondary schools (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) or prekindergarten or early childhood programs, provides a reservation, as described in this subsection, for 1 or more of the following categories of entities, as determined appropriate by the Secretary of Education for each such grant, contract, or assistance program:

(A) Bureau-funded schools (as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)).

(B) Prekindergarten programs or early childhood programs or services operated by a

tribe or Indian organization (as defined in such section).

(C) Elementary schools or secondary schools operated by a tribe or Indian organization (as defined in such section).

(2) AMOUNT OF RESERVATION.—

(A) EXISTING RESERVATION OF FUNDS.—In the case of a grant, contract, or assistance program provided by the Department of Education to benefit elementary schools and secondary schools (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) or prekindergarten or early childhood programs for which funds are reserved for entities described in paragraph (1), or for a group that may include such entities—

(i) if the existing reservation of funds is for an amount that is less than 0.5 percent, the amount of such reservation shall be increased to 0.5 percent; and

(ii) if the existing reservation of funds is for an amount that is equal to or greater than 0.5 percent, the amount of such reservation shall be maintained.

(B) NO EXISTING RESERVATION OF FUNDS.—In the case of a grant, contract, or assistance program provided by the Department of Education to benefit elementary schools and secondary schools (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) or prekindergarten or early childhood programs for which no funds are reserved for the entities described in paragraph (1), the Secretary of Education shall reserve 0.5 percent of such funds for such entities, as determined by the Secretary of Education in accordance with paragraph (1).

(3) USE OF RESERVED FUNDS.—Funds reserved under this section shall be used in accordance with the uses of funds described for each particular grant, contract, or assistance program. In addition to program support, such reserved funds may be used, in an amount determined by the Secretary of Education, for technical assistance or capacity building to ensure that the schools or programs described in paragraph (1) are provided the assistance to compete for such grants, contracts, or other assistance.

(4) EFFECT ON OTHER LAWS.—The Secretary of Education shall carry out this subsection notwithstanding any other provision of law.

(b) SAFE AND HEALTHY SCHOOLS FOR NATIVE AMERICAN STUDENTS.—Subpart 2 of part A of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"SEC. 4131. SAFE AND HEALTHY SCHOOLS FOR NATIVE AMERICAN STUDENTS.

''From funds made available to carry out this subpart, the Secretary shall—

''(1) establish a program to improve school environments and student skill development for healthy choices for Native American students, including—

''(A) prevention regarding—

''(i) alcohol and drug misuse;

''(ii) suicide;

''(iii) violence;

''(iv) pregnancy; and

''(v) obesity;

''(B) nutritious eating programs; and

''(C) anger and conflict management programs;

"(2) establish a program for school dropout prevention for Native American students; and

"(3) collaborate with the Secretary of Agriculture to establish tribal-school specific school gardens and nutrition programs that are within the tribal cultural context.".

SEC. 7. FUNDS FOR IMPACT AID.

In addition to amounts otherwise appropriated to carry out title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), there are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, to carry out such title VIII the following:

(1) $750,000,000 for fiscal year 2014.

(2) $750,000,000 for fiscal year 2015.

(3) $750,000,000 for fiscal year 2016.

SEC. 8. FORWARD FUNDING FOR TRIBAL COLLEGES.

For carrying out the following programs, there are authorized to be appropriated $91,087,500 for fiscal year 2014 which shall become available on July 1, 2014, and shall remain available through September 30, 2015:

(1) Programs under title V of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1861 et seq.).

(2) The Institute of American Indian and Alaska Native Culture and Arts Development established under the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.).

(3) Institutional operations grants for the Haskell Indian Nations University and Southwestern Indian Polytechnic Institute under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act.

(4) Scholarships and adult education and special higher education scholarships under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act.

SEC. 9. DEFINITION OF TRIBAL SCHOOL.

(a) ESEA DEFINITION.—Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) is amended by adding at the end the following:

"(44) TRIBAL SCHOOL.—The term 'tribal school' means—

"(A) a school that is a Bureau-funded school, as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021);

"(B) a prekindergarten program, early childhood program or service, or elementary

school or secondary school, operated by an Indian tribe or tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(C) a school that is located on Indian lands (as defined in section 8013); or

"(D) a school in which a predominance of the students who attend the school are Native American or Alaska Native students, as determined by the Secretary.".

(b) DEFINITION FOR THIS ACT.—In this Act, the term "tribal school" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) (as amended by subsection (a)).

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