

## **Higher Education Amendments of 1992**

[P.L. 102-325; July 23, 1992; 106 Stat. 448]

[As Amended Through P.L. 110-315, Enacted August 14, 2008]

**[Currency:** This publication is a compilation of the text of Public Law 102-325. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>.]

**[Note:** While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

[ Effective Dates and Related Implementation Provisions, Title XIII, and Title XV]

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## **TITLE IV—STUDENT ASSISTANCE**

### **PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION**

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#### **SEC. 410. [20 U.S.C. 1070a note] EFFECTIVE DATES FOR AMENDMENTS TO PART A.**

(a) IN GENERAL.—The changes made in part A of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except—

- (1) as otherwise provided in such part A;
- (2) that the changes made in section 411, relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and
- (3) that the changes in section 413C(a)(2), relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993.

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### **PART B—FEDERAL FAMILY EDUCATION LOANS**

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**SEC. 432. [20 U.S.C. 1078 note] EFFECTIVE DATES FOR AMENDMENTS TO PART B.**

(a) IN GENERAL.—The changes made in part B of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;  
(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b), relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

(9) that the changes made in section 428B(a) with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

(11) that the changes made in section 428C, relating to consolidation loans, shall apply with respect to loans under

such section for which the application is received by an eligible lender on or after January 1, 1993;

(12) that section 428H as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

(13) that the changes made in section 438 shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

(14) that the changes in section 439(d)(1), relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

(15) that the changes in the designation or names of loans or programs under part B is effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

(b) NEW BORROWERS.—For purposes of the section, the term “new borrower” means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act.

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## PART D—FEDERAL DIRECT LOANS

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### SEC. 452. [20 U.S.C. 1087a note] INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on the date of enactment of this Act) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution’s discretion, to such institution’s part E account, part C fund, or subpart 3 of part A fund under the terms and conditions of the appropriate program.

(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on such date) to part E loans, provided that such institution—

- (1) notify the borrower of such conversion;
- (2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and
- (3) provide the borrower in writing with a description of all terms and conditions of the new loan.

## PART E—FEDERAL PERKINS LOANS

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**SEC. 468. [20 U.S.C. 1087dd note] EFFECTIVE DATES FOR AMENDMENTS TO PART E.**

The changes made in part E of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except that—

- (1) the changes in section 463(a)(2)(B), relating to the matching of Federal capital contributions, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993;
- (2) the changes made in section 464(c)(1)(C), relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;
- (3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;
- (4) the changes made in section 467, relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997; and
- (5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment.

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**PART F—NEED ANALYSIS****SEC. 471. [20 U.S.C. 1087kk note] REVISION OF PART F.**

(a)

(b) EFFECTIVE DATE FOR AMENDMENT TO PART F.—The changes made in part F of title IV of the Act by the amendment made by this section shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.

**PART G—GENERAL PROVISIONS**

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**SEC. 498. [20 U.S.C. 1088 note] EFFECTIVE DATES FOR AMENDMENTS TO PART G.**

The changes made in part G of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except that—

- (1) as otherwise provided in such part G;
- (2) the changes in section 481(a), relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;
- (3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

(4) section 484(m)(1), relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

(5) the changes in section 485, relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

(6) the changes in section 488, relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

(7) the changes in section 489, relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.

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## **TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT**

### **SEC. 501. [20 U.S.C. 1108] REVISION OF TITLE V.**

(a)

(b) EXPIRATION DATE.—Effective July 1, 1995, the Alternative Routes to Teacher and Principal Certification and Licensure Act of 1992 (as contained in subpart 2 of part D of title V of this Act) is repealed.

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## **TITLE XIII—INDIAN HIGHER EDUCATION PROGRAMS**

### **PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES**

#### **SEC. 1301. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGES ACT.**

(a) GENERAL AUTHORIZATION.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 (hereafter in this section referred to as the “Act”) (25 U.S.C. 1810(a)) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

(b) ENDOWMENT GRANTS.—Section 306(a) of the Act (25 U.S.C. 1836(a)) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

(c) ECONOMIC DEVELOPMENT.—Section 403 of the Act (25 U.S.C. 1852) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

(d) NAVAJO COMMUNITY COLLEGES.—Section 5(a)(1) of the Navajo Community College Act of 1978 (25 U.S.C. 640c-1(a)(1)) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

## **PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT**

### **SEC. 1311. [25 U.S.C. 3301] SHORT TITLE.**

This part may be cited as the “Higher Education Tribal Grant Authorization Act”.

### **SEC. 1312. [25 U.S.C. 3302] FINDINGS.**

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary education, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government’s continuing trust responsibility to provide education services to American Indian and Alaska Natives.

### **SEC. 1313. [25 U.S.C. 3303] PROGRAM AUTHORITY.**

(a) IN GENERAL.—The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13), make grants to Indian tribes in accordance with the requirements of this part to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) LIMITATION ON SECRETARY’S AUTHORITY.—The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this part that is not expressly authorized by this part.

(c) EFFECT ON FEDERAL RESPONSIBILITIES.—The provisions of this part shall not affect any trust responsibilities of the Federal Government.

(d) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

**SEC. 1314. [25 U.S.C. 3304] QUALIFICATION FOR GRANTS TO TRIBES.**

(a) CONTRACTING TRIBES.—Any Indian tribe that obtains funds for educational purposes similar to those authorized in this part pursuant to contract under the Indian Self-Determination and Education Assistance Act may qualify for a grant under this part by submitting to the Secretary a notice of intent to administer a student assistance program under section 1313. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) NONCONTRACTING TRIBES.—Any Indian tribe that is not eligible to qualify for a grant under this part by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act, as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) TERMINATION OF GRANTS.—

(1) CONTINUING ELIGIBILITY PRESUMED.—An Indian tribe which has qualified under subsection (a) or (b) for a grant under this part for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) CAUSES FOR LOSS OF ELIGIBILITY.—The Secretary may revoke the eligibility of an Indian tribe for a grant under this part if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures deter-

mined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31, United States Code; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this part relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act and in effect on January 20, 1991.

(3) PROCEDURES FOR REVOCATION OF ELIGIBILITY.—The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this part except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act.

#### SEC. 1315. [25 U.S.C. 3305] ALLOCATION OF GRANT FUNDS.

##### (a) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall continue to determine the amount of program funds to be received by each grantee under this part by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

(2) ADMINISTRATIVE COSTS.—In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 1314(a) to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Education Assistance Act, as in effect at the time of application to grants being made.

(3) SINGLE GRANT; SEPARATE ACCOUNTS.—Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) USE OF FUNDS.—Funds provided by grants under this part shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a postsecondary education program (as determined under the contracts applying to the postsecondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638)), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this part, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in section 1315(a)(2).

**SEC. 1316. [25 U.S.C. 3306] LIMITATIONS ON USE OF FUNDS.**

(a) USE FOR RELIGIOUS PURPOSES.—None of the funds made available under this part may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) INTEREST ON FUNDS.—No interest or other income on any funds made available under this part shall be used for any purpose other than those for which such funds may be used.

(c) PAYMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) NEW GRANTEES.—For any tribe for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) INVESTMENT OF FUNDS.—

(1) TREATMENT AS TRIBAL PROPERTY.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken

into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) INVESTMENT REQUIREMENTS.—Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) RECOVERIES.—For the purposes of under recovery and over recovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

**SEC. 1317. [25 U.S.C. 3307] ADMINISTRATIVE PROVISIONS.**

(a) BIENNIAL REPORT.—The Secretary shall submit a biennial report to the Congress on the programs established under this part. Such report shall include—

(1) a description of significant administrative actions taken by the Secretary under this part;

(2) the number of grants made under the authority of this part;

(3) the number of applications denied for such grants and the reasons therefor;

(4) the remedial actions taken to enable applicants to be approved;

(5) the number of students served, by tribe;

(6) statistics on the academic pursuits of the students provided assistance under this part and the average amount of assistance provided; and

(7) such additional information as the Secretary considers significant.

(b) ROLE OF THE DIRECTOR.—Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(d) REGULATIONS.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(e) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act or to a Bureau administered program.

(f) DEFINITIONS.—For the purposes of this part:

- (1) The term “Secretary” means the Secretary of the Interior.
- (2) The terms “Indian” and “Indian tribe” have the same meaning given those terms in sections<sup>1</sup> 4(d) and (e), respectively, of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

## **PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT**

### **SEC. 1321. [25 U.S.C. 3321] SHORT TITLE.**

This part may be cited as the “Critical Needs for Tribal Development Act”.

### **SEC. 1322. [25 U.S.C. 3322] DEFINITIONS.**

As used in this part:

(1) The term “federally funded higher education assistance” means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13).

(2) The term “eligible Indian tribe or tribal organization” means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act or under a grant pursuant to the Higher Education Tribal Grant Authorization Act.

(3) The term “Indian” has the meaning given such term in section 4(d) of the Indian Self Determination and Education Assistance Act (Public Law 93–638, 20 U.S.C. 450b).

### **SEC. 1323. [25 U.S.C. 3323] SERVICE CONDITIONS PERMITTED.**

(a) IN GENERAL.—An eligible Indian tribe or tribal organization may, in accordance with the requirements of this part, require any applicant for federally funded higher education assistance, as a

<sup>1</sup> So in original. Probably should be “section”.

condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 1324.

(b) CRITICAL AREA DESIGNATION.—Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

**SEC. 1324. [25 U.S.C. 3324] CRITICAL AREA SERVICE AGREEMENTS.**

(a) TERMS OF AGREEMENTS.—A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 435(a) of the Higher Education Act of 1965) in an area of critical need, as determined under section 1323, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 1322(b), commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance. If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

**SEC. 1325. [25 U.S.C. 3325] GENERAL PROVISIONS.**

(a) APPLICATION OF EXISTING PROCEDURES.—Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) ADDITIONAL, EXCESS, AND INCREMENTAL COSTS.—The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, ex-

cess, or inducement costs to be associated with grants for critical area service agreements.

## **PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT**

### **SEC. 1331. INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT.**

(a) BOARD OF DIRECTORS.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412) is amended

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[Text as amended printed earlier in this volume.]

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## **TITLE XV—RELATED PROGRAMS AND AMENDMENTS TO OTHER LAWS<sup>2</sup>**

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## **PART E—OLYMPIC SCHOLARSHIPS**

### **SEC. 1543. [20 U.S.C. 1070 note] OLYMPIC SCHOLARSHIPS.**

(a) SCHOLARSHIPS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing postsecondary education at institutions of higher education (as such term is defined in section 481(a) of the Higher Education Act of 1965).

(2) AWARD DETERMINATION.—The amount of the financial assistance provided to an athlete described in paragraph (1) shall be determined in accordance with criteria, and in amounts, specified in the application of the center under subsection (c). Such assistance shall not exceed the athlete's cost of attendance as determined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

(3) INFORMATION ON DISTRIBUTION OF ASSISTANCE.—Each center providing such assistance shall annually report to the Secretary such information as the Secretary may reasonably require on the distribution of such assistance among athletes and institutions of higher education. The Secretary shall compile such reports and submit them to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

<sup>2</sup>Title XIV and parts A through D of title XV were repealed by paragraphs (2) and (3) of section 6(b) of Public Law 105-332.

(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part is available to both full-time and part-time students who are athletes at centers described in subsection (a).

(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years to carry out this section.

(e) DESIGNATION.—Scholarships awarded under this section shall be known as “B.J. Stupak Olympic Scholarships”.

**[Part F (including section 1544) was repealed by section 568(e)(2) of P.L. 103–382, 108 Stat. 4061.]**

**[Part G was repealed by section 1011(1) of P.L. 107–110, 115 Stat. 1986.]**

## PART H—AMENDMENTS TO OTHER LAWS

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[Text as amended printed elsewhere in this and other volumes of this compilation.]

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## PART I—BUY AMERICA

### SEC. 1561. SENSE OF CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of student assistance or other Federal assistance under the Act should, in expanding that assistance, purchase American-made equipment and products.