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SENATE

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TO PROMOTE THE ACADEMIC ACHIEVEMENT OF AMERICAN INDIAN,
ALASKA NATIVE, AND NATIVE HAWAIIAN CHILDREN WITH THE ESTAB-
LISHMENT OF A NATIVE AMERICAN LANGUAGE GRANT PROGRAM

OCTOBER 1, 2014.—Ordered to be printed

Filed, under authority of the order of the Senate of September 18, 2014

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

R E P O R T

[To accompany S. 1948]

The Committee on Indian Affairs, to which was referred the bill (S. 1948) to promote the academic achievement of American Indian, Alaska Native, and Native Hawaiian Children with the establishment of a Native American language grant program, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 1948 is to establish a federal grant program specifically for Native American language immersion programs and to provide for their administration and the collection of data to determine their effectiveness.

BACKGROUND AND HISTORY

History of grant programs supporting Native American languages

In 1990 Congress passed the Native American Languages Act (NALA), which recognizes the unique status of Native American cultures and languages. According to the law, it is U.S. federal policy to “preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages.” Further, NALA declares U.S. federal support for “the use of Native American languages as a medium of instruction.”¹ Congress recognized a number of reasons for encouraging instruction in Native languages, including not only language survival and com-

¹(NALA, 25 U.S.C. 2903).

munity pride, but also improved educational opportunity and increased student achievement.

The Esther Martinez Native American Languages Preservation Act (NALPA), which builds on NALA, was signed into law in December 2006. NALPA further cemented the federal government's policy of supporting the preservation of and continued education in Native American languages. Named after Esther Martinez, a Tewa teacher and storyteller, NALPA bolsters federal support for Native language education by creating and funding programs described below.

Programs supporting Native languages

The promotion and preservation of Native American languages is supported through several different federal programs. NALPA offers assistance to three types of Native language education programs: Language Nests, Survival Schools, and Restoration Programs.

Native language nests are educational programs that provide instruction and childcare to at least 10 children under the age of seven and offer Native language classes to parents. Such programs use Native language as the primary language of instruction and can be offered by private entities (e.g., a daycare center), tribal entities, or public entities (e.g., a public school).

Native language survival schools are similar in concept to Native language nests but have broader objectives. These programs, which must be housed in accredited educational institutions located in regions with high numbers of American Indians, provide a minimum of 500 hours of instruction in at least one Native language to at least 15 students. These schools aim to achieve student fluency in a Native language alongside proficiency in mathematics, science, and language arts. Moreover, survival schools provide for teacher training and develop instructional courses and materials to advance Native language learning and teaching.

Native language restoration programs operate one or more Native language programs and can be offered by private entities, tribal entities, or public entities. In addition to delivering instruction in at least one Native language, these programs provide training to Native language teachers and develop instructional materials for Native language programs. Funds are given to restoration programs for a variety of activities that increase proficiency in at least one Native language, such as language immersion programs, culture camps, Native language teacher training programs, and the development of books and other media.

During the 113th Congress, the Committee has held five hearings on the topic of Indian education. Throughout each hearing, the Committee heard from witnesses on the importance of Native languages and culture to the academic and social success of Native students.

Native language immersion programs are language instruction programs that teach all academic subjects in the Native language, and are often full-day, full-year programs starting from infancy, with many providing post-secondary programs. Additionally, many of these programs require family and community involvement to help integrate the language learning into the full life of the student. Immersion programs are arguably not only the most effective

way to teach a language and create fluent speakers, but language experts maintain that this level of instruction is the best way to ensure the survival of Native languages. While data on the success of immersion programs is limited, there is a growing body of research on how immersion programs can impact tribal identity, academic success, and cultural continuity throughout many tribal communities in Indian Country. Immersion programs are often locally operated and run on minimal budgets, subsidized by a patchwork of federal grants, private donors, and tribal government support. S. 1948 aims at supporting the work of immersion programs throughout the country, and building on their growing record of success for future sustainability.

Competitive grants specifically authorized for Native American language programs are awarded by the following federal agencies:

- Administration for Native Americans (under the Native American Languages Act of 1992);
- Office of Bilingual Education and Minority Languages Affairs (under Title VII, Improving America's Schools Act);
- National Park Service (Keepers of the Treasures program);
- National Endowment for the Humanities (as well as humanities councils in various States)

In the Consolidated Appropriations Act, 2014 (the 2014 Omnibus), the Administration for Native Americans (ANA) program was funded at \$46,520,000, and the President's Fiscal Year 2015 budget requests level funding. The ANA awarded a total of \$13,361,440 of grant funding for Native American language programs: \$8,352,068 for Native Language Preservation and Maintenance and \$5,009,372 for the Ester Martinez Initiative. The Department of Education does not currently fund any Native language educational programs, immersion or otherwise.

Native language immersion

S. 1948 would amend the Elementary and Secondary Education Act (ESEA) of 1965 to authorize the Secretary of Education to award grants to schools and private or tribal nonprofit organizations to develop and maintain, or improve and expand, programs that support the use by schools, from the pre-kindergarten through postsecondary level, of Native American languages as their primary language of instruction. Grant applicants would be required to present the Secretary with specified assurances and demonstrations that the schools they will support have the capacity to provide education primarily through a Native language.

The grants would be administered by the Department of Education. Grantees must support Native American language education and development; develop or refine instructional curricula for the schools they support, including distinctive teaching materials and activities; fund training opportunities for school staff that strengthen the overall language and academic goals of their schools; and engage in other activities that promote Native language education and development. The grant program would be authorized for five years.

There are significant cognitive, psychological, and academic benefits that result from Native American language immersion programs. Issues of culture, language, cognition, community, and socialization are central to learning. Success in school and life and

ensuring Native children reach the highest levels of academic performance require this kind of comprehensive and culturally relevant support. Supporting Native language instruction helps ensure that Native children will meet the requirements of a multicultural and multilingual world while also preserving the integrity of Native linguistic traditions.

LEGISLATIVE HISTORY

S. 1948 was introduced on January 16, 2014, by Chairman Jon Tester (D–MT), along with Senators Max Baucus (D–MT), Mark Begich (D–AK), Tim Johnson (D–SD), and Brian Schatz (D–HI) as original cosponsors. Senators Tom Udall (D–NM), Lisa Murkowski (R–AK), Heidi Heitkamp (D–ND), John Walsh (D–MT), and Martin Heinrich (D–NM) were added later as cosponsors. The bill was referred to the Committee on Indian Affairs. On June 18, 2014, the committee held a hearing on the bill. On July 30, 2014, the committee met at a business meeting to consider the bill. One amendment was offered and adopted, and the bill, as amended, was ordered to be reported favorably to the Senate by voice vote.

H.R. 4214, an identical House companion bill, was introduced by Congressman Tom Cole (R–OK) on March 12, 2014. Congressmen Betty McCollum (D–MN), Howard McKeon (R–CA) and Michael Simpson (R–ID) were added later as cosponsors. The bill was referred to the Committee on Education and the Workforce, Subcommittee on Early Childhood, Elementary, and Secondary Education.

SUMMARY OF AMENDMENT

At a Committee business meeting held on July 30, 2014, Chairman Tester offered an amendment in the nature of a substitute, which was agreed to. The provisions are detailed below:

Eligibility requirements

The amendment altered Section 3 of S. 1948 (which would amend Title VII of the Elementary and Secondary Education Act of 1965) to clarify that Tribal Colleges and Universities, tribal education agencies, and tribes are “eligible entities.” These groups were added at the request of several tribes and stakeholders to ensure eligibility and access to all immersion programs.

The amendment also expanded eligibility to schools or programs that offer multiple programs and/or languages. This language was intended to make the legislation inclusive of all eligible immersion programs throughout the country.

Data collection

The amendment also clarified Section 3 (which would amend Title VII of the Elementary and Secondary Education Act of 1965) to address that attendance and matriculation data will be collected to determine best practices of the schooling and that the grant authorizes eligible entities to develop a Native language alignment plan to create or refine assessments of student proficiency on State or tribally developed academic standards. The amendment did not change the bill’s intent; rather, it clarified ambivalent language and established a pathway for addressing some of the more nuanced technical aspects of Native language programs that exist

within the public school system, where programs have the capacity and where appropriate.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Section 1. Short title

Section 1 states that the Act may be cited as the “Native Language Immersion Student Achievement Act.”

Section 2. Findings

Section 2 sets forth the findings that motivate the legislation.

Section 3. Amendments to Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401, et seq.)

Section (a) establishes the purposes of the section: (1) to establish a grant program to support immersion instruction in Native American languages; and (2) to further integrate into federal policy support for Native language immersion education.

Section (b) provides that the Secretary of Education may award grants to “eligible entities” (defined as tribes, Tribal Colleges or Universities, tribal education agencies, schools, or private or tribal, nonprofit organizations) providing prekindergarten through post-secondary educative offerings. Eligible grantees are identified as schools and private or tribal non-profit organizations equipped with a plan to create and sustain—or improve and enhance—programs employing Native language immersion as the primary mode of instruction throughout the curriculum. Schools or programs that offer multiple programs and/or languages are also eligible under the Act.

Section (c) sets forth the requirements of the application process for potential grantees. Applications must include the name of the Native American language of instruction; number of students enrolled at the institution; number of present hours for instruction; status of school (tribal, public, indigenous language schooling research and cooperative, etc.); statement of compliance with proficiency requirements of applicable law and that the school provides assessment of student use of the Native language; and list of instructors, staff, administrators, contractors, or subcontractors at school and their qualifications to instruct in the Native language. Additionally, this section mandates that attendance and matriculation data will be collected to determine best practices of the schooling and that the grant authorizes eligible entities to develop a Native language alignment plan to create or refine assessments of student proficiency on State or tribally developed academic standards.

Section (d) requires that the Secretary shall determine the amount and length of each grant, that she will do so to ensure as much as possible the diversity of languages of instruction, and require that eligible entities present a plan to improve high school graduation rates, college attainment, and career readiness resulting from Native language instruction.

Section (e) clarifies which activities the grants are authorized to fund. These activities include the support of Native language and development; development or refinement of instructional curricula; funding for training opportunities for teachers as appropriate staff in the furtherance of the immersion program; and other activities to promote Native language education and development.

Section (f) mandates that each grantee provide an annual report to the Secretary.

Section (g) authorizes \$5,000,000 for fiscal year 2015 and authorizes that funding may be appropriated for fiscal years 2016, 2017, 2018, and 2019.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated August 19, 2014, was prepared for S. 1948.

AUGUST 19, 2014.

Honorable JON TESTER,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1948, the Native Language Immersion Student Achievement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Humphrey.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1948—The Native Language Immersion Achievement Act

Summary: S. 1948 would amend the Elementary and Secondary Education Act of 1965 (commonly referred to as No Child Left Behind) to create a grant program that supports schools that use Native American languages as the primary language of instruction. The bill would authorize the appropriation of \$5 million for fiscal year 2015 and such sums as may be necessary for fiscal years 2016 through 2019. That authorization would automatically be extended for one additional year by the General Education Provisions Act.

Estimated cost to the Government: As shown in the following table, CBO estimates that S. 1948 would authorize the appropriation of about \$25 million over the 2015–2019 period and that implementing the bill would cost \$20 million over the same period, assuming the appropriation of the necessary amounts. For this estimate, CBO assumes that spending will follow historical patterns. The costs of the legislation fall within budget function 500 (education, training, employment, and social services).

	By fiscal year in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	5	5	5	5	5	26
Estimated Outlays	*	4	5	5	5	20

Notes: Components do not sum to totals because of rounding.
* = less than \$500,000.

Pay-as-You-Go considerations: Enacting the bill would have no effect on direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Estimated impact on the private sector: S. 1948 contains no intergovernmental or private-sector mandates as defined in the Un-

funded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Justin Humphrey.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires 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. 1948 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

While it is not Department policy to officially support pending legislation, the Committee did work with the Department of Education in drafting and amending this legislation. The Department did express an understanding of the urgency to preserve and revitalize Native languages and support for the overall goals of the legislation.

CHANGES IN EXISTING LAW (CORDON RULE)

On July 30, 2014, the Committee on Indian Affairs unanimously approved a motion by Chairman Tester to waive the Cordon Rule. Thus, in the opinion of the committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.