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AMENDING THE NATIVE AMERICAN PROGRAMS ACT OF 1974 TO PROVIDE
FLEXIBILITY AND REAUTHORIZATION TO ENSURE THE SURVIVAL AND
CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES

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. 2299]

The Committee on Indian Affairs, to which was referred the bill (S. 2299) to amend the Native American Programs Act of 1974 to reauthorize a provision to ensure the survival and continuing vitality of Native American languages, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 2299 is to provide additional flexibility for and the reauthorization of the Esther Martinez Native Languages Preservation Act grant program, which is administered by the Administration for Native Americans in the U.S. Department of Health and Human Services.

BACKGROUND AND HISTORY

History of key federal laws 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.”¹ Further, NALA declares U.S. federal support for “the use

¹(Native American Languages Act of 1990 [NALA], 25 U.S.C. 2903).

of Native American languages as a medium of instruction”.² Congress recognized a number of reasons for encouraging instruction in Native languages, including not only language survival and community pride, but also improved educational opportunity and increased student achievement.

The Esther Martinez Native American Languages Preservation Act (NALPA), amended NALA, was signed into law in December 2006. Named after Ms. Esther Martinez, a Tewa teacher and storyteller, NALPA bolsters Federal support for Native language education by creating and funding the following programs:

Native American language nests are educational programs that provide instruction and childcare to at least 10 children under the age of 7 and offer Native language classes to parents. Such programs use Native American language as the primary language of instruction. Native language survival schools are similar to language nests but have broader objectives.

Located in regions with high numbers of Native Americans, these schools provide a minimum of 500 hours of instruction in at least one Native American language to at least 15 students. These schools aim to achieve student fluency in a Native American 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 American language learning and teaching.

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

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

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).

PRESERVATION AND MAINTENANCE AND THE ESTHER MARTINEZ INITIATIVE GRANT PROGRAM

The Native American Languages Act of 1992 established the Preservation and Maintenance (P&M) grant program within the Native American Programs Act of 1974 to ensure the survival of

²(NALA, 25 U.S.C. 2903).

Native American languages. The Native American languages grant program was last reauthorized by Congress through the Esther Martinez Native American Languages Preservation Act (Public Law 109–394) in 2006; the authorization expired in 2012. This Act not only reauthorized the Native American language grant program and expanded the program to also include the Esther Martinez Initiative (EMI) to support and strengthen Native American language immersion programs, including language nests, language survival schools, and language restoration programs.

The Department of Health and Human Services (HHS) houses the Administration for Native Americans (ANA) which administers grant funding under the Native American Programs Act of 1974. Language maintenance grant funding provides opportunities for grantees to assess, plan, develop, and implement projects to ensure the survival and continuing vitality of native languages. ANA has also formed a Native Languages Workgroup to ensure the program is meeting ANA goals and providing technical assistance to grantees and potential grantees.

In the FY 2014 Omnibus, the ANA was funded at \$46,520,000, and the President's Fiscal Year 2015 budget requested level funding. In the Senate's Fiscal Year 2014 HHS budget report on ANA programming, appropriators included language to have a set-aside of \$12 million for Native American language preservation activities, including no less than \$4 million for language immersion programs. In fiscal year 2013, ANA awarded a total of \$13,361,440 of grant funding for Native American language—\$8,352,068 Preservation and Maintenance and \$5,009,372 for the Ester Martinez Initiative. Fifty-nine language programs throughout Indian Country were funded in the last reauthorization.

In the 2012 report on the Impact and Effectiveness of Administration for Native American Projects, out of the 63 total language grantees, ANA evaluated 22 language projects from across Indian Country. The 2012 impact data showed that from these 22 projects a total of 178 language teachers were trained in teaching native languages; 2,340 youth had increased their ability to speak a Native language or achieved fluency; and 2,586 adults had increased their ability to speak a Native language or achieved fluency.

IMPROVEMENTS TO THE CURRENT GRANT PROGRAM

Duration of grants

During a June 18, 2014, Senate Committee on Indian Affairs hearing, ANA stated that based on grantee interviews, there is a general sentiment to increase the duration of language grants up to a five-year basis. ANA testified that by expanding its authority to increase the duration of awards, projects will become more sustainable and yield increased results. P&M grants are currently awarded on a one-, two-, and three-year basis and EMI grants are awarded on a three-year basis. S. 2299 alters § 803C(e)(2) of the Native American Program Act of 1974 to extend Native language grants up to a five-year basis.

The ANA has done preliminary analysis on the effects that this change would have on the number of grant awards made each year. ANA expects that there will not be a significant decrease in total number of grants active each year, but there will be a shift from

new project awards to awards for continuing projects. ANA awards, on average, 16 new P&M grants each year, with about 40 total active at any given time. New P&M grant awards would be expected to drop by 20–30 percent or by two to five projects. ANA awards on average roughly six EMI grants per year and has around 18 active EMI grants at any given time. New EMI grant awards would be expected to drop 20–40 percent or about one to three projects. ANA’s analysis on project duration found that as the duration of the project increased, the impact of the project significantly increased. ANA believes that increasing the duration of years will increase the number of individuals achieving fluency, the number of teachers trained, and the chances of a project’s sustainability.

Language nests and survival school student minimums

During a June 18, 2014, Committee on Indian Affairs hearing, the ANA stated that grantees have requested that the criteria for student minimums be lowered. By lowering the requirement for language nests from 10 to 5 students and for survival schools from 15 to 10 students, the ANA testified that more projects would be eligible in lower-populated and remote areas. This bill would amend § 803C(b)(7) of the Native American Program Act of 1974 to lower the requirement for the minimum number of children in language nests from 10 to 5 children and lower requirement for the minimum number of children in survival schools from 15 to 10 children.

LEGISLATIVE HISTORY

S. 2299 was introduced on May 7, 2014, by Senator Tim Johnson (D–SD), along with Senators Lisa Murkowski (R–AK), Mark Begich (D–AK), Al Franken (D–MN), Martin Heinrich (D–NM), Mazie Hirono (D–HI), Angus King (I–ME), Brian Schatz (D–HI), Jon Tester (D–MT), and Tom Udall (D–NM) as original cosponsors. Senator John Walsh (D–MT) later signed on as a cosponsor. The bill was referred to the Committee on Indian Affairs. On June 18, 2014, committee held a hearing on the bill. On July 30, 2014, the committee met at a business meeting to consider the bill. Two amendments were offered and adopted, and the bill, as amended, was ordered to be favorably reported to the Senate by voice vote.

There is a similar bill in the House of Representatives—H.R. 726. The bill was introduced on February 14, 2013, by Congressman Ben Ray Lujan (D–NM), with Congressmen Colleen Hanabusa (D–HI), Betty McCollum (D–MN), James Moran (D–VA), Gloria Negrete McLeod (D–CA), Stevan Pearce (R–NM), Lucille Roybal-Allard (D–CA) and Louise McIntosh Slaughter (D–NY) as original cosponsors. Congressmen Raúl Grijalva (D–AZ), Ed Pastor (D–AZ) and Raul Ruiz (D–CA) were later added as cosponsors. The bill was referred to the Committee on Education and the Workforce. It was later referred to the Subcommittee on Higher Education and Workforce Training.

SUMMARY OF AMENDMENT

Senator Johnson of South Dakota filed two amendments, which were agreed to. The first was an amendment in the nature of a substitute and made the following changes:

Duration of grants

During a June 18, 2014, Senate Committee on Indian Affairs hearing, the Administration for Native Americans (ANA) stated that based on grantee interviews, there is a general sentiment to increase the duration of language grants up to a five-year basis. ANA testified that by expanding its authority to increase the duration of awards, projects will become more sustainable and yield increased results. Preservation and Maintenance (P&M) grants are currently awarded on a one-, two-, and 3-year basis and Esther Martinez Immersion (EMI) grants are awarded on a three-year basis. This amendment altered § 803C(e)(2) of the Native American Program Act of 1974 to permit grants a life of three, four or five years and would eliminate the three-year requirement.

ANA has done preliminary analysis on the effects that this change would have on the number of grant awards made each year. ANA expects that there will not be a significant decrease in total number of grants active each year, but there will be a shift from new project awards to awards for continuing projects. ANA awards on average 16 new P&M grants each year, with about 40 total active at any given time. New P&M grant awards would be expected to drop by 20–30 percent, or by two to five projects. ANA awards on average roughly six EMI grants per year and has around 18 active EMI grants at any given time. New EMI grant awards would be expected to drop 20–40 percent, or about one to three projects. ANA’s analysis on project duration found that as the duration of the project increased, the impact of the project significantly increased. ANA believes that increasing the duration of years will increase the number of individuals achieving fluency, the number of teachers trained, and the chances of a project’s sustainability.

Language nests and survival school student minimums

During a June 18, 2014, Senate Committee on Indian Affairs hearing, ANA stated that grantees have requested that the criteria for student minimums be lowered. By lowering the requirement for language nests from 10 to 5 students and for survival schools from 15 to 10 students, ANA believes that more projects would be eligible in lower populated and remote areas. This amendment altered § 803C(b)(7) of the Native American Program Act of 1974 to lower the minimum number of children in language nests from 10 to 5 children and lower the minimum number of children in survival schools from 15 to 10 children.

The second amendment simply updated the title of the bill to reflect the changes above. Amendments to the title must be done separately from a substitute amendment.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Section 1. Short title

Section 1 sets forth the short title of the bill as the “Native American Languages Reauthorization Act of 2014.”

Section 2. Native American languages grant program

Section 2 changes the current requirement for the minimum number of enrollees in the survival schools from 15 to 10 students and language nests from 10 to 5 students. It further amends the

length of the P&M grants from three years to allowing the grant to be for three, four, and five year durations as well as changing the duration of the EMI grants from three years to three, four, and five years.

Section 3. Reauthorization of the Native American languages program

Section 3 reauthorizes § 816(e) of the Native American Programs Act of 1974 (42 U.S.C. 2992d(e)) from 2015 to 2019.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated August 27, 2014, was prepared for S. 2299.

AUGUST 27, 2014.

Hon. 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. 2299, the Native American Languages Reauthorization Act of 2014.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 2299—Native American Languages Reauthorization Act of 2014

Summary: S. 2299 would authorize through 2019 a grant program to preserve Native American languages. CBO estimates that implementing the legislation would cost \$17 million over the 2015–2019 period, assuming appropriation of the necessary amounts.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

S. 2299 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2299 is shown in the following table. The costs of this 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	4	4	4	5	5	22
Estimated Outlays	*	4	4	4	4	17

Note: * = less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that S. 2299 will be enacted around the beginning of fiscal year 2015 and that the estimated amounts will be appropriated for each fiscal year.

Estimated outlays are based on historical spending patterns for the Native languages program.

The legislation would authorize the Native American Language Preservation and Maintenance grant program through 2019. Specifically, it would authorize the appropriation of such sums as may be necessary to carry out the program and would establish a period of availability for those grants of five years. It also would allow grant recipients to serve fewer children per grant than previously authorized.

The authorization of the Native languages program expired at the end of fiscal year 2012. However, the Congress has continued to appropriate funds including about \$4 million in 2014 for grants under that program. Assuming continued appropriations at that level and adjusting for anticipated inflation, CBO estimates that implementing S. 2299 would cost \$17 million over the 2015–2019 period.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 2299 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Tribal agencies would benefit from grants authorized in the bill for ensuring the survival and continuing vitality of Native American languages.

Estimate prepared by: Federal Costs: Elizabeth Cove Delisle; Impact on State, Local, and Tribal Governments: J'nell L. Blanco; Impact on the Private Sector: Tristan Hanon.

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 that 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. 2299 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 2299.

CHANGES IN EXISTING LAW

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.