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TO ESTABLISH A NATIVE AMERICAN LANGUAGE RESOURCE CENTER IN FURTHERANCE OF THE POLICY SET FORTH IN THE NATIVE AMERICAN LANGUAGE ACT

DECEMBER 2, 2021.—Ordered to be printed

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

R E P O R T

[To accompany S. 989]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 989) to establish a Native American language resource center in furtherance of the policy set forth in the Native American Languages Act, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE

This bill is intended to provide federal support for the establishment and operation of one or more Native American language resource centers in furtherance of the policies set forth in the *Native American Languages Act (NALA) of 1990*.^{1 2 3}

¹Pub. L. 101-447 (1990); LEANNE HINTON, *Federal Language Policy and Indigenous Languages in the United States*, in THE GREEN BOOK OF LANGUAGE REVITALIZATION IN PRACTICE 39-44 (Leanne Hinton and Ken Hale eds., 2001) (summarizing the history of federal policy regarding the Indigenous languages of the United States).

²ROBERT D. ARNOLD, . . . *To Help Assure the Survival and Continuing Vitality of Native American Languages*, THE GREEN BOOK OF LANGUAGE REVITALIZATION IN PRACTICE 45-48 (Leanne Hinton and Ken Hale eds., 2001) (providing a first-hand perspective on the passage of NALA by a member of Senate staff).

³See, S. Rep. 101-371 101st Cong. 2nd Sess. (describing the need for a change in federal policy regarding Native American Languages). *NALA addresses recommendations made in COMMISSION ON LANGUAGE LEARNING OF THE AMERICAN ACADEMY OF ARTS & SCIENCES, AMERICA'S LANGUAGES: INVESTING IN LANGUAGE EDUCATION FOR THE 21ST CENTURY X* (2017) (calling for "tar-

Continued

BACKGROUND AND NEED FOR LEGISLATION

The federal government supports language education through a variety of grants and programs, including the U.S. Department of Education’s language resource center (LRC) grant program.⁴ This program, authorized through Title VI of the *Higher Education Act*, awards four-year competitive grants to institutions of higher education (IHEs) or consortia of IHEs to establish and operate national language resource centers that improve the capacity to teach and learn foreign languages effectively.⁵

With enactment of the NALA, Congress acknowledged that the United States has a responsibility to act together with Native American communities to ensure the survival of their languages.^{6,7} Congress has since undertaken substantial work to uphold the principles set out in NALA and support Native American community-led initiatives to maintain and revitalize those communities’ languages.⁸

However, Native American language communities do not currently benefit from the U.S. Department of Education’s LRC grant program.⁹ Several Native American language education experts testified before the Committee that the omission of Native American language communities from the benefits and resources offered by the LRC grant program left Native American languages at a disadvantage.¹⁰ Ms. Leslie Harper, President of the National Coalition of Native American Language Schools and Programs, stated:

Native American languages are being left behind. We do not yet have an opportunity to do what the national Language Resource Centers are doing for foreign languages. Designing Native American Language Resource Centers as partnerships be-

geted support and programming for Native American Languages as defined in the Native American Languages Act”.

⁴ See <https://www.nflrc.org/> (last visited Nov. 19, 2021).

⁵ The *Modern Language Association* periodically publishes data on the number of institutions offering non-English languages in the United States and enrollments in those languages. None of the 15 languages taught in the largest number of universities or with the largest number of students is a Native American language. Of some 65 Native American languages reportedly offered by 125 universities and colleges, 15 were not taught during the 2016 fall semester when the latest data was collected. This is in contrast to the number of institutions teaching Chinese (791), German (987), French (1,479) and Spanish (2,101), all language for which foreign countries provide language study support for American students.

⁶ Pub. L. 101–447 § 102(1), 25 U.S.C. § 2901(1).

⁷ On November 15, 2021 the Departments of the Interior, Education, and Health & Human Services launched a multi-agency initiative to protect and preserve Native languages that recognizes over 150 years of language assimilation perpetuated against American Indian, Alaska Native and Native Hawaiian children. See <https://www.ed.gov/news/press-releases/departments-interior-education-and-health-human-services-launch-multi-agency-initiative-protect-and-preserve-native-languages> (last visited Dec. 2, 2021).

⁸ See e.g., Native American Languages Act of 1992, Pub. L. No. 102–524 (1992); Esther Martinez Native American Languages Preservation Act of 2006, Pub. L. No. 109–394 (2006); Native American and Alaska Native language immersion schools and program, 20 U.S.C. § 7453 (2015); and, Esther Martinez Native American Languages Programs Reauthorization Act, Pub. L. No. 116–101 (2019). Congress also provides annual and emergency supplemental funding to support the various Native American languages grant programs. For example, in FY 2021 Congress appropriated \$13.6 million to Native American language programs at the Administration for Native Americans (Pub. L. No. 117–2 § 11004) and \$20 million in emergency COVID–19 supplemental funding for Native American languages (Pub. L. No. 117–2 § 11004 (2021)).

⁹ Nor do Native American languages benefit from language learning support found in other countries. For example, *France*, *Spain*, and other countries including geopolitical competitors like the Peoples Republic of China and Russia have active programs promoting their languages on a global scale.

¹⁰ Oversight Hearing on Examining the COVID–19 Response in Native Communities: Native Languages One Year Later, Hearing Before the S. Comm. on Indian Affairs, 117th Cong. (May 26, 2021) (statements of Leslie Harper, Pres., Nat’l Coalition of Native American Language Schools and Programs, Ka’iulani Laehā, CEO, ‘Aha Pūnana Leo, & Bernadette Alvanna-Stimpire, Chair, Alaska Native Language Preservation & Advisory Council).

tween skilled local practitioners, universities, and Tribal Colleges will bring resources together to support language revitalization in the intensive work that I believe is sorely needed.¹¹

SUMMARY OF THE BILL

This bill authorizes \$3,000,000 per year for the Secretary of Education to make a grant to, or enter into a contract to establish, operate, and staff one or more Native American language resource and training centers with IHEs, a consortium of IHEs, or a consortium of IHEs and other entities with unique responsibilities for Native American languages. The bill further requires Native American Language Resource Centers supported by the U.S. Department of Education program to serve as a resource to support Native American language use, revitalization, and instruction through a list of required activities.¹²

SECTION-BY-SECTION ANALYSIS OF S. 989, AS AMENDED

Section 1—Short title

This section sets forth the short title as the Native American Language Resource Center Act of 2021.

Section 2—Native American Language Resource Centers

Section 2(a) states the purpose of the bill is to further align the resources provided by the U.S. Department of Education with the policies set forth in the NALA through establishment of a program within the agency to support one or more Native American language resource centers.

Section 2(b) authorizes the Secretary of Education to initiate a grant program to establish a Native American language resource center, staffed by Native American language speakers, individuals with Native American language education experience, and other relevant expertise.

Section 2(c) delineates Native American language resource center mandatory activities: to improve the capacity to teach and learn Native American languages; further Native American language use and acquisition; promote the rights and freedom of Native Americans to develop their indigenous languages in furtherance of the policies of NALA and the U.S. trust responsibility; address the effects of past discrimination and ongoing inequities experienced by Native American language speakers;¹³ support the revitalization and reclamation of Native American languages; and support the use of Native American languages as a medium of instruction for

¹¹*Id.*

¹²The Native American Language Resource Center Act aligns with the needs descriptions and recommendations relative to Native American languages contained in, COMMISSION ON LANGUAGE LEARNING OF THE AMERICAN ACADEMY OF ARTS & SCIENCES, AMERICA'S LANGUAGES: INVESTING IN LANGUAGE EDUCATION FOR THE 21ST CENTURY (2017).

¹³Since 1993 there have been provisions in the Elementary and Secondary Education (ESE) Act that build from NALA. For example, the definition of Native Americans and Native American languages and the definition of English language learning in the ESE is based on section 8 of NALA. Additionally sections 3127 and 3124 that provide for use of Native American languages as the medium of education, assessment and other protections have not been fully implemented by the U.S. Department of Education and other federal and state educational entities. The establishment of a Native American language resource center would provide assistance to those educational entities in meeting the requirements and intent of those legal provisions.

a wide variety of age levels, academic content areas, and types of schools.¹⁴

Section 2(d) delineates optional activities of a Native American language resource center: to encourage parity in treatment for the use of Native American languages and other world languages within educational systems;¹⁵ support the development of education metrics aligned with the Native American language of instruction; provide federal resources, technical assistance, distance learning curricula, training and technologies, and share promising practices in the use and revitalization of indigenous languages; provide teacher preparation programming for the teaching of, and through, Native American languages, including through appropriate alternative pathways to teacher certification; and the operation of intensive summer institutes and other intensive programs to train Native American language speakers to provide professional development, and to improve Native American language instruction through preservice and in-service language training.

Section 2(e) defines key terms by statutory reference to the Elementary and Secondary Education Act of 1965, the Higher Education of 1965, and the Native American Language Act of 1990. The term “eligible entity” is defined as an institution of higher education with dedicated expertise in Native American language and culture education, an entity within an institution of higher education, or a consortium of at least one or more such institution or entity.

Section 2(f) authorizes appropriations of \$3,000,000 for each fiscal year to carry out the Native American language resource center grant or contract created by this section.

LEGISLATIVE HISTORY

On March 25, 2021, Senators Schatz and Smith introduced S. 989, the *Native American Language Resource Center Act*. The Senate referred the bill to the Committee on the same day. The Committee held an oversight and legislative hearing where it considered the bill on May 26, 2021. The Committee then held a duly called business meeting to consider two bills, including S. 989, on August 4, 2021. Prior to the business meeting, Chairman Schatz filed an amendment in the nature of a substitute to S. 989 to make technical corrections and clarify congressional intent. The Committee adopted the amendment by voice vote and ordered S. 989, as amended, reported favorably also by voice vote. On August 5, 2021, Vice Chair Murkowski joined S. 989 as a co-sponsor.

U.S. Representatives Young, Leger Fernandez, Cleaver, Eshoo, Gallego, Garcia of Texas, Kahele, Kilmer, Maloney, Moore, O’Halloran and Price along with Delegate Sablan introduced H.R.

¹⁴ ALLISON M. DUSSIAS, *WAGING WAR WITH WORDS: NATIVE AMERICANS’ CONTINUING STRUGGLE AGAINST THE SUPPRESSION OF THEIR LANGUAGES* (1999) (detailing the historic suppression of Native American languages by the federal government as well as efforts by Native Americans to sustain their languages).

¹⁵ See e.g., Jonah S. Berger et al., *Language Requirement Changes Pave Way for Harvard Students Seeking Credit for Native Languages*, *The Harvard Crimson* (Jan. 22, 2019) (describing how Native American students have had an extremely difficult time convincing universities to comply with sections 104(7) and (8) of Pub. L. 101-447), available at <https://www.thecrimson.com/article/2019/1/22/new-language-requirement-native-languages/> (last visited Dec. 2, 2021). A National Native American language resource center has the potential to advocate for such students and to assist universities in developing policies and procedures in support of Native American language speaking Native American students.

2271, an identical companion bill, on March 26, 2021. The House of Representatives referred the bill to the Committee on Education and Labor that same day; no further action has been taken.

116th Congress. On August 6, 2020, Senators Schatz, Udall, and Warren introduced S. 4510, a predecessor bill to S. 989. The Senate referred the bill to the Committee, but the Committee took no further action on the legislation prior to the conclusion of the 116th Congress.

U.S. Representatives Haaland, Young, Case, Cleaver, Cook, Eshoo, Gallego, Garcia of Texas, Kilmer, Lee of California, Lieu, Lowenthal, Luján, Maloney, Moore, O'Halleran, and Price, along with Delegate Norton, introduced H.R. 8729, an identical companion bill to S. 4510 on November 5, 2020. The House of Representatives referred the bill to the Committee on Education and Labor that same day. Representatives Ocasio-Cortez, Brownley, and Blumenauer later joined the bill as co-sponsors. However, the Committee on Education and Labor took no further action on the legislation prior to the conclusion of the 116th Congress.

COST AND BUDGETARY CONSIDERATIONS

S. 989, Native American Language Resource Center Act of 2021			
As ordered reported by the Senate Committee on Indian Affairs on August 4, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	11	26
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000			

S. 989 would authorize the appropriation of \$3 million for fiscal year 2022 and each year thereafter for the Department of Education to make grants to or enter into contracts with organizations to operate Native American language resource and training centers. Based on the historical spending patterns of similar programs, CBO estimates that implementing S. 989 would cost \$11 million over the 2022–2026 period, assuming appropriation of the authorized amounts.

The costs of the legislation, detailed in Table 1, fall within budget function 500 (education, training, employment, and social services).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 989

	By fiscal year, millions of dollars—					
	2022	2023	2024	2025	2026	2022– 2026
Authorization	3	3	3	3	3	15
Estimated Outlays	*	2	3	3	3	11

* = between zero and \$500,000.

The CBO staff contact for this estimate is Justin Humphrey. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of 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. 989 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 989.

CHANGES IN EXISTING LAW

On February 11, 2021, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

