

114TH CONGRESS  
2D SESSION

# H. R. 4390

To amend and reform the Johnson-O'Malley Act to award contracts to certain tribal organizations, Indian corporations, school districts, States, and consortia of tribal organizations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2016

Ms. MCCOLLUM (for herself, Mr. COLE, Mr. HUFFMAN, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend and reform the Johnson-O'Malley Act to award contracts to certain tribal organizations, Indian corporations, school districts, States, and consortia of tribal organizations, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Johnson-O'Malley Sup-  
5       plemental Indian Education Program Modernization Act”.

1 **SEC. 2. SUPPLEMENTAL INDIAN EDUCATION PROGRAM**  
2 **MODERNIZATION.**

3 The Act of April 16, 1934 (25 U.S.C. 452 et seq.)  
4 (commonly known as the “Johnson-O’Malley Act”), is  
5 amended by adding at the end the following:

6 **“SEC. 7. SUPPLEMENTAL INDIAN EDUCATION PROGRAM**  
7 **MODERNIZATION.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ELEMENTARY SCHOOL.—The term ‘ele-  
10 mentary school’ has the meaning given the term in  
11 section 8101 of the Elementary and Secondary Edu-  
12 cation Act of 1965.

13 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
14 tity’ means an entity that educates or serves Indian  
15 students and is—

16 “(A) a tribal organization;

17 “(B) an Indian corporation;

18 “(C) a school district;

19 “(D) a State; or

20 “(E) a consortium of tribal organizations.

21 “(3) ELIGIBLE INDIAN STUDENT.—The term  
22 ‘eligible Indian student’ means an Indian student  
23 who is eligible under section 273.12 of title 25, Code  
24 of Federal Regulations (or any corresponding similar  
25 regulation or ruling).

1           “(4) INDIAN TRIBE.—The term ‘Indian tribe’  
2       has the meaning given the term in section 4 of the  
3       Indian Self-Determination and Education Assistance  
4       Act (25 U.S.C. 450b).

5           “(5) SECONDARY SCHOOL.—The term ‘sec-  
6       ondary school’ has the meaning given the term in  
7       section 8101 of the Elementary and Secondary Edu-  
8       cation Act of 1965.

9           “(6) SECRETARY.—The term ‘Secretary’ means  
10      the Secretary of the Interior, acting through the As-  
11      sistant Secretary for Indian Affairs.

12          “(7) TRIBAL COLLEGE OR UNIVERSITY.—The  
13      term ‘Tribal College or University’ has the meaning  
14      given the term in section 316(b) of the Higher Edu-  
15      cation Act of 1965 (20 U.S.C. 1059c(b)).

16          “(b) ESTABLISHMENT.—The Secretary, in coordina-  
17      tion with the Director of the Bureau of Indian Education,  
18      shall establish a program to enter into contracts and to  
19      monitor and review contractual obligations with eligible  
20      entities to provide educational benefits to eligible Indian  
21      students.

22          “(c) USES OF FUNDS.—An eligible entity that enters  
23      into a contract under subsection (b) shall use the funds  
24      available under the contract for the educational benefit of  
25      eligible Indian students—

1 “(1) to establish and carry out programs, or to  
2 expand and carry out programs in existence before  
3 the period of time covered by the contract, to pro-  
4 vide—

5 “(A) remedial instruction, counseling, and  
6 cultural programs;

7 “(B) courses related to science, technology,  
8 engineering, and mathematics;

9 “(C) school supplies and other items that  
10 enable students to participate in curricular and  
11 extra-curricular programs; or

12 “(D) activities that were available to In-  
13 dian students under contracts entered into  
14 under this Act before October 1, 2012;

15 “(2) to establish targeted, culturally sensitive,  
16 dropout prevention activities; and

17 “(3) to purchase equipment to facilitate—

18 “(A) training for professional trade skills;

19 and

20 “(B) intensified college preparation pro-  
21 grams.

22 “(d) COMPUTATION OF AWARDS.—

23 “(1) IN GENERAL.—Except as provided in para-  
24 graph (3), the Secretary shall base the amount that  
25 an eligible entity receives under a contract entered

1 into under subsection (b) for any fiscal year on the  
2 number of eligible Indian students of the eligible en-  
3 tity, as determined by the Secretary under para-  
4 graph (2).

5 “(2) DETERMINATION OF NUMBER OF ELIGI-  
6 BLE INDIAN STUDENTS.—

7 “(A) IN GENERAL.—The Secretary shall  
8 determine the number of eligible Indian stu-  
9 dents of an eligible entity in accordance with  
10 this paragraph.

11 “(B) INITIAL DETERMINATION.—Not later  
12 than 1 year after the date of enactment of this  
13 section, the Secretary shall publish a report de-  
14 scribing the number of potentially eligible In-  
15 dian students of each eligible entity, using data  
16 described in subparagraph (D) from, as deter-  
17 mined by the Secretary, the most applicable, ac-  
18 curate, and current of—

19 “(i) the Bureau of the Census; or

20 “(ii) the National Center for Edu-  
21 cation Statistics.

22 “(C) RECONCILIATION.—After publishing  
23 the report under subparagraph (B), the Sec-  
24 retary, in coordination with the Director of the  
25 Bureau of Indian Education, shall consult with

1 entities party to a contract under subsection

2 (b)—

3 “(i) to establish a process to reconcile  
4 the data described in the report published  
5 under subparagraph (B) with—

6 “(I) data described in subpara-  
7 graph (D) of entities party to a con-  
8 tract under subsection (b); and

9 “(II) tribal enrollment informa-  
10 tion; and

11 “(ii) to determine an accurate number  
12 of eligible Indian students of each eligible  
13 entity.

14 “(D) DATA USE.—

15 “(i) IN GENERAL.—Subject to clause  
16 (ii), the Secretary shall use data from not  
17 earlier than the fiscal year preceding the  
18 fiscal year for which an eligible entity is  
19 applying for a contract under subsection  
20 (b) to determine the number of eligible In-  
21 dian students.

22 “(ii) NEW CONTRACTORS.—To deter-  
23 mine the number of eligible Indian stu-  
24 dents of an entity party to a contract  
25 under subsection (b) that the Secretary

1           recognized as an eligible entity during or  
2           after fiscal year 2012, the Secretary shall,  
3           for the first year of the period of time cov-  
4           ered by the contract, use data of the school  
5           districts served by the entity for the fiscal  
6           year for which the entity is applying for a  
7           contract under subsection (b).

8           “(3) HOLD HARMLESS.—An eligible entity that  
9           educates or serves eligible Indian students attending  
10          a public school that has been afforded supplemental  
11          services under a contract under this Act that took  
12          effect during or before fiscal year 1995 shall receive  
13          an amount under a contract entered into under sub-  
14          section (b) equal to or greater than the amount that  
15          the eligible entity would have received under the con-  
16          tract entered into under this Act during or before  
17          fiscal year 1995, for a period of time ending not  
18          sooner than 2 years after the date of enactment of  
19          this section.

20          “(4) FUNDING REFORM.—The Secretary shall  
21          submit to Congress recommendations for legislation  
22          to provide resources to restore the amount of funds  
23          available through contracts under this Act per In-  
24          dian student to the amount of funds available

1 through contracts under this Act per Indian student  
2 during fiscal year 1995.

3 “(e) ADDITIONAL CONSIDERATIONS.—

4 “(1) GEOGRAPHIC COVERAGE AND ENHANCED  
5 PARTICIPATION.—In entering into contracts under  
6 subsection (b), the Secretary shall, to the maximum  
7 extent practicable, ensure—

8 “(A) full geographic coverage; and

9 “(B) the full participation of eligible enti-  
10 ties.

11 “(2) INCREASED PARTICIPATION OF ELIGIBLE  
12 ENTITIES.—To the maximum extent practicable, the  
13 Secretary shall—

14 “(A) contact and consult with Indian  
15 tribes and school districts with significant popu-  
16 lations of eligible Indian students that have not  
17 previously contracted under this Act; and

18 “(B) determine the interest in and eligi-  
19 bility for administering services under this Act  
20 of the Indian tribes and school districts de-  
21 scribed in subparagraph (A).

22 “(3) COMPLEMENTARY PROGRAM PARTICI-  
23 PANTS.—In entering into contracts under subsection  
24 (b), the Secretary may give preference to a consor-  
25 tium of tribal organizations, including a consortium

1 of tribal organizations that includes a Tribal College  
2 or University, to encourage as many students and  
3 professionals as possible to benefit from the program  
4 established under subsection (b).

5 “(f) ANNUAL REPORT.—The Secretary shall include  
6 in the budget request of the Department of the Interior  
7 for each fiscal year an annual assessment of the program  
8 established under subsection (b).

9 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated to the Secretary such  
11 sums as are necessary to carry out this section.”.

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