

all the money he made from those sales was donated to the Salvation Army.

Don was not just a small-business owner, but also an important part of our community. He helped people struggling to find employment and supported people coming out of jail trying to start a new life.

Everyone who knew him at the family restaurant described him as more than a boss, but everybody's friend. He loved to spend time with his family and in his neighborhood, and he loved to listen to polka music.

Before opening the restaurant, he served in the U.S. Army. His commitment to our country will always be remembered.

Mid-Michigan lost a great friend and a bright spirit this week. The entire State of Michigan, the Bay City community, and I, personally, will miss him.

Thank you, Don, for everything you have done.

Mr. Speaker, I ask that the House join me in a brief moment of silence in Don's memory.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARTON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or votes objected to under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

#### JOHNSON-O'MALLEY SUPPLEMENTAL INDIAN EDUCATION PROGRAM MODERNIZATION ACT

Mr. ESTES of Kansas. Mr. Speaker, I move to suspend the rules and pass the bill (S. 943) to direct the Secretary of the Interior to conduct an accurate comprehensive student count for the purposes of calculating formula allocations for programs under the Johnson-O'Malley Act, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 943

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Johnson-O'Malley Supplemental Indian Education Program Modernization Act".

#### SEC. 2. INDIAN EDUCATION PROGRAM STUDENT COUNT UPDATE.

The Act of April 16, 1934 (25 U.S.C. 5342 et seq.) (commonly referred to as the Johnson-O'Malley Act) is amended by adding at the end the following:

#### "SEC. 7. COMPUTATION OF STUDENT COUNT.

"(a) DEFINITIONS.—For the purposes of this Act, the following definitions apply:

"(1) CONTRACTING PARTY.—The term 'contracting party' means an entity that has a contract through a program authorized under this Act.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that is eligible to apply for a contract for a supplemental or operational support program under this Act, as outlined in section 1.

"(3) EXISTING CONTRACTING PARTY.—The term 'existing contracting party' means a contracting party that has a contract under this Act that is in effect on the date of enactment of the JOM Modernization Act.

"(4) JOM MODERNIZATION ACT.—The term 'JOM Modernization Act' means the Johnson-O'Malley Supplemental Indian Education Program Modernization Act.

"(5) NEW CONTRACTING PARTY.—The term 'new contracting party' means an entity that enters into a contract under this Act after the date of enactment of the JOM Modernization Act.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(b) DETERMINATION OF THE NUMBER OF ELIGIBLE INDIAN STUDENTS.—

"(1) INITIAL DETERMINATIONS.—

"(A) IN GENERAL.—The Secretary shall make an initial determination of the number of eligible Indian students served or potentially served by each eligible entity in accordance with subparagraph (B).

"(B) PROCESS FOR MAKING THE INITIAL DETERMINATION.—

"(i) PRELIMINARY REPORT.—Not later than 180 days after the date of enactment of the JOM Modernization Act, the Secretary shall publish a preliminary report describing the number of eligible Indian students served or potentially served by each eligible entity, using the most applicable and accurate data (as determined by the Secretary in consultation with eligible entities) from the fiscal year preceding the fiscal year for which the initial determination is to be made from—

"(I) the Bureau of the Census;

"(II) the National Center for Education Statistics; or

"(III) the Office of Indian Education of the Department of Education.

"(ii) DATA RECONCILIATION.—To improve the accuracy of the preliminary report described in clause (i) prior to publishing, the Secretary shall reconcile the data described in the preliminary report with—

"(I) each existing contracting party's data regarding the number of eligible Indian students served by the existing contracting party for the fiscal year preceding the fiscal year for which the initial determination is made; and

"(II) identifiable tribal enrollment information.

"(iii) COMMENT PERIOD.—After publishing the preliminary report under clause (i) in accordance with clause (ii), the Secretary shall establish a 60-day comment period to gain feedback about the preliminary report from eligible entities, which the Secretary shall take into consideration in preparing the final report described in clause (iv).

"(iv) FINAL REPORT.—Not later than 120 days after concluding the consultation described in clause (iii), the Secretary shall publish a final report on the initial determination of the number of eligible Indian students served or potentially served by each eligible entity, including justification for not including any feedback gained during such consultation, if applicable.

"(2) SUBSEQUENT ACADEMIC YEARS.—For each academic year following the fiscal year for which an initial determination is made under paragraph (1) to determine the number of eligible Indian students served or potentially served by a contracting party, the Secretary shall determine the number of eligible Indian students served by the contracting party based on the reported eligible Indian student count numbers identified through

the reporting process described in subsection (c).

"(c) CONTRACTING PARTY STUDENT COUNT REPORTING COMPLIANCE.—

"(1) IN GENERAL.—For each academic year following the fiscal year for which an initial determination is made under subsection (b) to determine the number of eligible Indian students served or potentially served by a contracting party, the contracting party shall submit to the Secretary a report describing the number of eligible Indian students who were served using amounts allocated to such party under this Act during the previous fiscal year. The report shall also include an accounting of the amounts and purposes for which the contract funds were expended.

"(2) FAILURE TO COMPLY.—A contracting party that fails to submit a report under paragraph (1) shall receive no amounts under this Act for the fiscal year following the academic year for which the report should have been submitted.

"(3) NOTICE.—The Secretary shall provide contracting parties with timely information relating to—

"(A) initial and final reporting deadlines; and

"(B) the consequences of failure to comply outlined in paragraph (2).

"(4) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Bureau of Indian Education, shall provide technical assistance and training on compliance with the reporting requirements of this subsection to contracting parties.

"(d) ANNUAL REPORT.—

"(1) IN GENERAL.—The Secretary shall prepare an annual report, including the most recent determination of the number of eligible Indian students served by each contracting party, recommendations on appropriate funding levels for the program based on such determination, and an assessment of the contracts under this Act that the Secretary—

"(A) may include in the budget request of the Department of the Interior for each fiscal year;

"(B) shall submit to—

"(i) the Committee on Indian Affairs of the Senate;

"(ii) the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations of the Senate;

"(iii) the Committee on Education and the Workforce of the House of Representatives; and

"(iv) the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations of the House of Representatives; and

"(C) shall make publicly available.

"(2) MANNER OF PREPARATION.—The Secretary shall prepare the report under paragraph (1) in a manner so as to prevent or minimize new administrative burdens on contracting parties receiving funds under this Act.

"(e) HOLD HARMLESS.—

"(1) INITIAL HOLD HARMLESS.—

"(A) IN GENERAL.—Except as provided under subparagraph (B) and subject to subparagraphs (C) and (D), for a fiscal year, an existing contracting party shall not receive an amount under this Act that is less than the amount that such existing contracting party received under this Act for the fiscal year preceding the date of enactment of the JOM Modernization Act.

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—An existing contracting party shall receive an amount under this Act for a fiscal year that is less than the amount that the existing contracting party received under this Act for the fiscal year preceding

the date of enactment of the JOM Modernization Act, if 1 or more of the following conditions is met:

“(I) FAILURE TO REPORT.—The existing contracting party failed to submit a complete report described in subsection (c) that was most recently due from the date of the determination.

“(II) VIOLATIONS OF CONTRACT OR LAW.—The Secretary has found that the existing contracting party has violated the terms of a contract entered into under this Act or has otherwise violated Federal law.

“(III) STUDENT COUNT DECREASE.—The number of eligible Indian students reported by such existing contracting party under subsection (c) has decreased below the number of eligible Indian students served by the existing contracting party in the fiscal year preceding the date of enactment of the JOM Modernization Act.

“(ii) AMOUNT OF FUNDING REDUCTION FOR EXISTING CONTRACTING PARTIES REPORTING DECREASED STUDENT COUNTS.—A reduction in an amount pursuant to clause (i)(III) shall not be done in such a manner that the existing contracting party receives an amount of funding per eligible Indian student that is less than the amount of funding per eligible Indian student such party received for the fiscal year preceding the date of enactment of the JOM Modernization Act.

“(C) RATABLE REDUCTIONS IN APPROPRIATIONS.—If the funds available under this Act for a fiscal year are insufficient to pay the full amounts that all existing contracting parties are eligible to receive under subparagraph (A) for the fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

“(D) SUNSET.—This paragraph shall cease to be effective 4 years after the date of enactment of the JOM Modernization Act.

“(2) MAXIMUM DECREASE AFTER 4 YEARS.—Beginning 4 years after the date of enactment of the JOM Modernization Act, no contracting party shall receive for a fiscal year more than a 10 percent decrease in funding per eligible Indian student from the previous fiscal year.

“(f) FUNDING ALLOCATION AND REFORM.—

“(1) FUNDING REFORM.—The Secretary may make recommendations for legislation to increase the amount of funds available per eligible Indian student through contracts under this Act to equal to or greater than the amount of funds that were available per eligible Indian student through contracts under this Act for fiscal year 1995, and attempt to identify additional sources of funding that do not reallocate existing funds otherwise utilized by Indian students served—

“(A) by the Bureau of Indian Education; or  
“(B) under title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.).

“(2) INCREASES IN PROGRAM FUNDING.—

“(A) IN GENERAL.—Subject to subsection (e) and subparagraph (B), for any fiscal year for which the amount appropriated to carry out this Act exceeds the amount appropriated to carry out this Act for the preceding fiscal year, the excess amounts shall—

“(i) be allocated only to those contracting parties that did not receive their full per student funding allocation for the previous fiscal year; and

“(ii) be allocated first to new contracting parties that did not receive their full per student funding allocation for the previous fiscal year.

“(B) PARITY IN FUNDING.—Subparagraph (A) shall have no effect after the first fiscal year for which each contracting party receives their full per student funding allocation.

“(g) INCREASED GEOGRAPHICAL AND TRIBAL PARTICIPATION IN THE JOHNSON-O'MALLEY SUPPLEMENTARY EDUCATION PROGRAM.—To

the maximum extent practicable, the Secretary shall consult with Indian tribes and contact State educational agencies, local educational agencies, and Alaska Native organizations that have not previously entered into a contract under this Act—

“(1) to determine the interest of the Indian tribes, State educational agencies, local educational agencies, and Alaska Native organizations, in entering into such contracts; and  
“(2) to share information relating to the process for entering into a contract under this Act.

“(h) RULEMAKING.—

“(1) IN GENERAL.—Not later than one year after the date of enactment of the JOM Modernization Act, the Secretary, acting through the Director of the Bureau of Indian Education, shall undertake and complete a rulemaking process, following the provisions of subchapter II of chapter 5 of title 5, United States Code, to—

“(A) determine how the regulatory definition of ‘eligible Indian student’ may be revised to clarify eligibility requirements for contracting parties under this Act;

“(B) determine, as necessary, how the funding formula described in section 273.31 of title 25, Code of Federal Regulations (as in effect on the day before the date of enactment of the JOM Modernization Act) may be clarified and revised to ensure full participation of contracting parties and provide clarity on the funding process under this Act; and

“(C) otherwise reconcile and modernize the rules to comport with the activities of the contracting parties under this Act as of the date of enactment of the JOM Modernization Act.

“(2) REPORT.—Not later than 30 days after the date the rulemaking under paragraph (1) is complete, the Secretary shall submit a report to Congress describing the results of such rulemaking and necessary recommendations to ensure the full implementation of such rulemaking.

“(i) STUDENT PRIVACY.—The Secretary shall ensure that data is collected and each report is prepared under this section in a manner that protects the rights of eligible Indian students in accordance with section 444 of the General Education Provisions Act (commonly referred to as the Family Educational Rights and Privacy Act of 1974) (20 U.S.C. 1232g).

“(j) GAO REPORT.—Not later than 18 months after the final report described in subsection (b)(1)(B)(iv) is published, the Comptroller General shall—

“(1) conduct a review of the implementation of this section during the preceding two-year period, including any factors impacting—

“(A) the accuracy of the determinations of the number of eligible Indian students under this section;

“(B) the communication between the Bureau of Indian Education and contracting parties; and

“(C) the efforts by the Bureau of Indian Education to ensure accurate and sufficient distribution of funding for Indian students;

“(2) submit a report describing the results of the review under paragraph (1) to—

“(A) the Committee on Indian Affairs of the Senate;

“(B) the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations of the Senate;

“(C) the Subcommittee on Indian, Insular and Alaska Native Affairs of the Committee on Natural Resources of the House of Representatives; and

“(D) the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations of the House of Representatives; and

“(3) make such report publicly available.

“(k) EFFECT.—Nothing in this section—

“(1) creates a new program or duplicates program activities under this Act; or

“(2) replaces or diminishes the effect of regulations to carry out this Act existing on the day before the date of enactment of the JOM Modernization Act, unless expressly provided in this section.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. ESTES) and the gentleman from Arizona (Mr. GRIJALVA) each will control 20 minutes.

The Chair recognizes the gentleman from Kansas.

#### GENERAL LEAVE

Mr. ESTES of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 943.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. ESTES of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 943, the Johnson-O'Malley Supplemental Indian Education Program Modernization Act.

The Johnson-O'Malley Program was first established in 1934 to support the unique educational needs of American Indian students. Through the program, Native students have access to tutoring, Native language classes, cultural activities, afterschool programming, books and supplies, and other programs and items to support their educational pursuits.

For American Indian students, this program could be a lifeline. The Johnson-O'Malley Program has the ability to make the difference in a student's life, and it is essential that we take strides to make this program as efficient and effective as possible. As it turns out, there is much work to be done.

The Bureau of Indian Education contracts with Tribes, Tribal organizations, and sometimes States and public school districts to distribute program funds. The Johnson-O'Malley Act stipulates that funds be distributed to contractors based on the count of American Indian students and average per-pupil operating costs. The formula makes sense, except for the fact that the most recent student counts are from 1995.

After the 1995 freeze, the BIE ceased collecting student data and all information regarding Johnson-O'Malley projects and program outcomes. This has allowed contractors to collect funds based on data from over 20 years old. This kind of program mismanagement deprives students of educational opportunity in schools where student populations have grown and wastes taxpayer dollars in schools where student counts have declined.

Since fiscal year 2012, Congress has directed the BIE to count the actual

number of students who are eligible for and participating in the Johnson-O'Malley Program and recommend a methodology to distribute funds in the future. Yet, to date, the BIE has not conducted an accurate student count.

S. 943 amends the Johnson-O'Malley Act to require the Department of the Interior to update its count of students who are served by the Johnson-O'Malley Program each year. The legislation strengthens program accountability and oversight by requiring program contractors to report the amounts and purposes for which funds are spent. This will provide sufficient information to conduct the necessary oversight of the program.

The bill also directs program facilitators to submit an annual program assessment report to Congress, and establishes a consultation process between the Secretary of the Interior and Tribal schools so that students may be better served.

We owe it to Native students to make this well-intentioned program as effective as it can be, and I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of S. 943, the Johnson-O'Malley Supplemental Indian Education Program Modernization Act.

The abysmal conditions and status of education attainment and achievement of American Indian children and students continues. This educational gap for American Indian students continues to lag behind all other students in this country.

This bill would require the Department of the Interior to annually update the count of American Indian and Alaska Native students so the Department can more accurately distribute Johnson-O'Malley funds which supplement Indian education. The bill would also require grantees to report how funds are being used, helping to ensure Federal dollars support Native students' education.

The Federal Government has a responsibility to provide parity in resources to Native education. Currently, the Department is prevented from updating the count because of an effort, from over 20 years ago, to cut spending through the use of block grants.

Congress, at the time, determined one way to reduce funding for Indian education was to freeze efforts to count the number of Native students. As a result, the Department of the Interior continues to use the 1994 number of 272,000 Native students, even though it is estimated, based on Census reports, that there are now more than 750,000 Native students. This policy is just another in a long list of the second-class treatment of American Indians by our government.

I want to thank my colleague, BETTY MCCOLLUM, for introducing this version of the legislation and my Republican

colleagues, TOM COLE and DON YOUNG, for providing bipartisan support. My hope is that the passage of this bill is a first step, however small it may be, to righting a wrong to American Indian students.

Mr. Speaker, I urge my colleagues to support S. 943, and I yield back the balance of my time.

Mr. ESTES of Kansas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as I mentioned, the last official count of eligible students was conducted in 1995, which determined that there were nearly 272,000 American Indian students who were qualified for the Johnson-O'Malley Program. However, in 2017, the Congressional Budget Office estimated that there were an additional 80,000 students who would qualify. Clearly, this bill is needed and overdue.

Currently, the program receives \$14.9 million, annually, in funding. Modernization of this act will cost an estimated \$13 million over the next 4 years. This is an important investment in the future of our country, and those students deserve our support.

This legislation improves and strengthens the Johnson-O'Malley Program, and I urge my colleagues to support S. 943.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. ESTES) that the House suspend the rules and pass the bill, S. 943, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### ADVANCED NUCLEAR FUEL AVAILABILITY ACT

Mr. FLORES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6140) to require the Secretary of Energy to establish and carry out a program to support the availability of HA-LEU for domestic commercial use, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6140

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Advanced Nuclear Fuel Availability Act".

##### SEC. 2. PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out, through the Office of Nuclear Energy, a program to support the availability of HA-LEU for domestic commercial use.

(b) PROGRAM ELEMENTS.—In carrying out the program under subsection (a), the Secretary—

(1) may provide financial assistance to assist commercial entities to design and license transportation packages for HA-LEU,

including canisters for metal, gas, and other HA-LEU compositions;

(2) shall, to the extent practicable—

(A) by January 1, 2021, have commercial entities submit such transportation package designs to the Commission for certification by the Commission under part 71 of title 10, Code of Federal Regulations; and

(B) encourage the Commission to have such transportation package designs so certified by the Commission by January 1, 2023;

(3) not later than January 1, 2020, shall submit to Congress a report on the Department's uranium inventory that may be available to be processed to HA-LEU for purposes of such program, which may not include any uranium allocated by the Secretary for use in support of the atomic energy defense activities of the National Nuclear Security Administration;

(4) not later than one year after the date of enactment of this Act, and biennially thereafter through September 30, 2025, shall conduct a survey of stakeholders to estimate the quantity of HA-LEU necessary for domestic commercial use for each of the five subsequent years;

(5) shall assess options available for the Secretary to acquire HA-LEU for such program, including an assessment, for each such option, of the cost and amount of time required;

(6) shall establish a consortium, which may include entities involved in any stage of the nuclear fuel cycle, to partner with the Department to support the availability of HA-LEU for domestic commercial use, including by—

(A) providing information to the Secretary for purposes of surveys conducted under paragraph (4); and

(B) purchasing HA-LEU made available to members of the consortium by the Secretary under the program;

(7) shall, prior to acquiring HA-LEU under paragraph (8), in coordination with the consortium established pursuant to paragraph (6), develop a schedule for cost recovery of HA-LEU made available to members of the consortium pursuant to paragraph (8);

(8) may, beginning not later than 3 years after the establishment of a consortium under paragraph (6), acquire HA-LEU, in order, to the extent practicable, to make such HA-LEU available to members of the consortium beginning not later than January 1, 2025, in amounts that are consistent, to the extent practicable, with the quantities estimated under the surveys conducted under paragraph (4); and

(9) shall develop, in consultation with the Commission, criticality benchmark data to assist the Commission in—

(A) the licensing and regulation of category II spent nuclear material fuel fabrication and enrichment facilities under part 70 of title 10, Code of Federal Regulations; and

(B) certification of transportation packages under part 71 of title 10, Code of Federal Regulations.

(C) APPLICABILITY OF USEC PRIVATIZATION ACT.—The requirements of subparagraphs (A) and (C) of section 3112(d)(2) of the USEC Privatization Act (42 U.S.C. 2297h-10(d)(2)) shall apply to a sale or transfer of HA-LEU by the Secretary to a member of the consortium under this section.

(d) FUNDING.—

(1) TRANSPORTATION PACKAGE DESIGN.—

(A) COST SHARE.—The Secretary shall ensure that not less than 20 percent of the costs of design and license activities carried out pursuant to subsection (b)(1) are paid by a non-Federal entity.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (b)(1)—

(i) \$1,500,000 for fiscal year 2019;