

**RESOLUTION OF THE GOVERNING BODY OF  
THE THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD RESERVATION**

**WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

**WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

**WHEREAS,** The Tribal Business Council of the Three Affiliated Tribes pledges their individual and unified support and commitment to the enrolled K-12 students of Fort Berthold; and

**WHEREAS,** The Sovereign Status of the Three Affiliated Tribes Indian Nation is acknowledged by the United States when, as equals, these Nations signed the 1851 Fort Laramie Treaty.

The Aboriginal Government Status of Indian Nations recognized in treaties and congressional agreements signed by the U.S. Government and Indian Tribes, caused the U.S. Supreme Court to rule that Indian Tribes-Possess a "Status Higher Than That Of The States".

**WHEREAS,** The authority of the Three Affiliated Tribes to regulate every aspect of Education on behalf of our tribal members is explicitly affirmed by Federal Law.

A) PUBLIC LAW 100-297 is pertinent: "In carrying out its education mission the Secretary for Indian Affairs through the director shall... Insure that Indian Tribes and Alaska Native entities fully exercise Self-Determination and control in planning, priority setting, development, management, operation, staffing and evaluation in all aspects of the Education Process".

(P.L. 100-297, Title V, Sec. 5106.)

"In carrying out its Education Mission the Secretary for Indian Affairs through the Director shall... encourage and defend the Right Of The Tribes and Alaska Native entities to Govern their internal affairs in all matters relating to Education".

**WHEREAS,** We rely on the protection of the United States Congress which body has "The power and duty of exercising a fostering care and protection whether within or without the limits of a state." (United States V Sandoval, 231 U.S. 28 1913) and the legal guarantees for advocacy in Public Law 100-297 on behalf of the Federally Recognized Tribes which guarantees that the Assistant Secretary of the U.S. Department of Interior "shall serve as an advocate for Indian Tribes's and Alaska Native entities in Education Matters before the Federal, State and local governments".

In light of these doctrines, Supreme Court decisions and laws, the reciprocities inherent in the Nation-to-Nation relationships and the good will and integrity of the states, we declare that these policies of the Three Affiliated Tribe's students wherever they may reside.

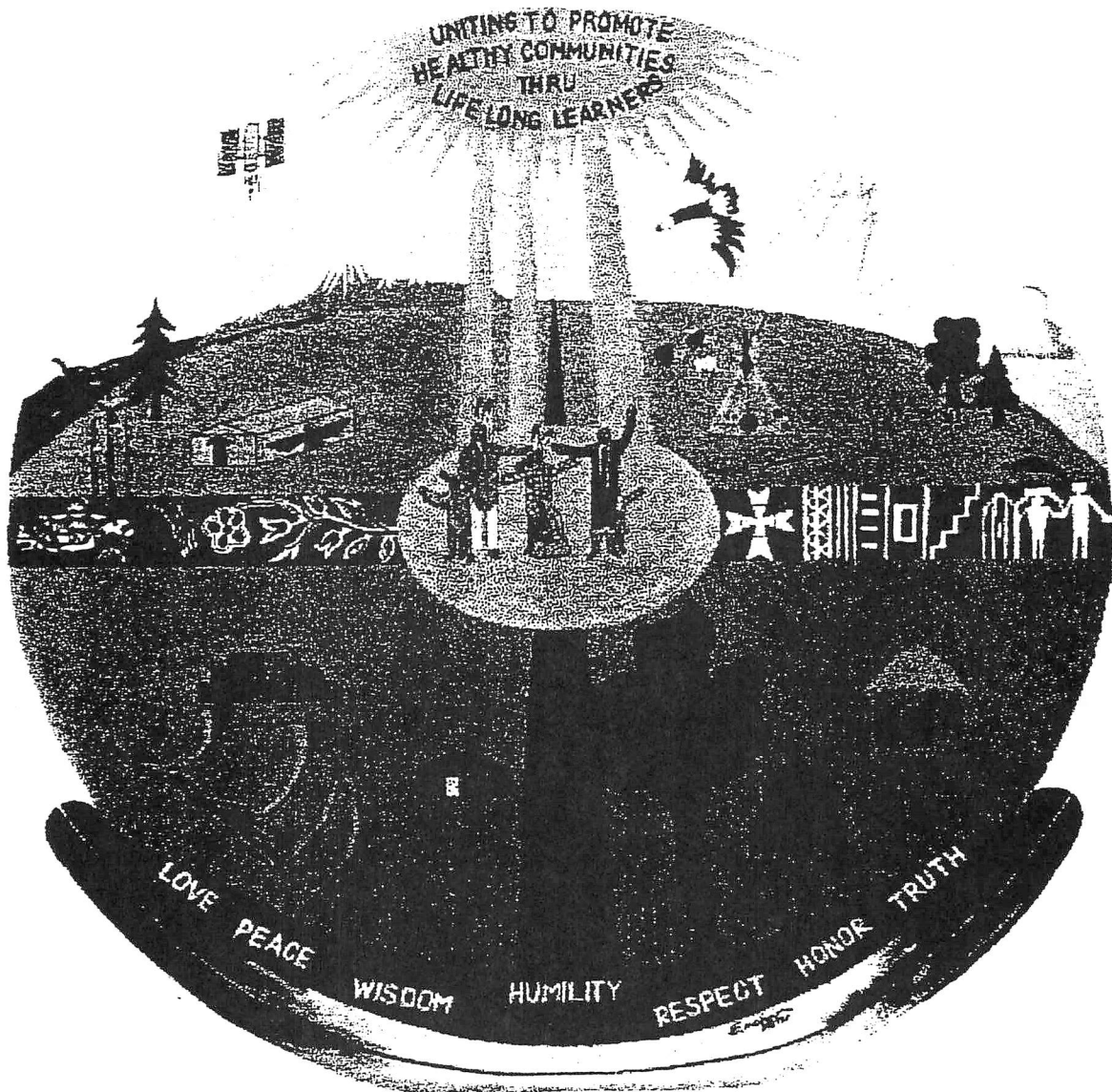
**WHEREAS,** Public Law 100-297, Title V, Part 8, Section 5203, Items No. 2 and 4 states that Congress...declares that the major goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of education services...and affirms the reality of the special and unique educational needs of Indian people...These may be met through a Grant process"; and

**WHEREAS,** Public Law 100-297, Title V, Part A & B provides for grants for the operation and administration of tribally controlled schools by tribal organizations in a manner which provides for greater Self-Determination, true local control, more realistic, financial conditions without diminution of Federal Responsibility; and

**WHEREAS,** Public Law 93-638, provides for contracting of non-education related Bureau of Indian Affairs functions; and

**NOW, THEREFORE, BE IT RESOLVED,** That the Tribal Business Council hereby supports Amendments to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) and the Briefing Paper on Reauthorization of PL. 95-561 and PL. 100-297.

OFFICE OF INDIAN EDUCATION PROGRAMS



HR2 Recommended Legislative  
Changes to P.L. 95-561 as amended

**Amendments to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.):**

Changes are being proposed to the Tribally Controlled Schools Act of 1988 to provide for more oversight of the grant school program. Some of these changes are significant in that we are proposing to:

- Implement regulations to address retrocession and reassumption;
- Provide that only tribes are eligible to grant education programs to provide for more tribal involvement
- Develop a more efficient process to retrocede a grant when grantees violate statutes;
- Implement penalties for committing fraud, embezzlement, etc..

The following are the proposed amendments to address these issues.

**Page 2:**

Section 2503 (a)(1) is changed to read: The Secretary shall provide grants to Indian tribes and boards of education for off-reservation boarding schools. Indian tribes may elect to subgrant to a local school board or Indian organization, for such tribes that..

Impact: This changes who is an eligible applicant. This will require tribes to be the grantees instead of tribal organizations. This will make it easier to work with tribes in managing the education programs that affect their tribal members. Presently, the system only recognizes grantees as those who the Bureau can work with, which excludes the tribal governing bodies from being involved. This will be controversial with existing tribal organizations that presently grant with the Bureau for school operations.

**Page 2:**

Section 2503(b) is amended to add: The Federal tort claims act shall apply to grants issued under the Act. For the purposes of FTCA coverage, employees of the grant program shall be treated as federal employees. Provided, however, that the FTCA coverage is not extended to subcontractors or other parties or entities whom the grantee has any type of contractual relationship or agreement. It is further provided that grant schools operating a program on the federal grant school property, which is not authorized by the Director, Office of Indian Education Programs, waives its right to Federal Tort Claims Act coverage or application.

Impact: This provides tort claims coverage for legitimate grantees but excludes those schools operating education programs not approved by the Bureau. This has been a problem at grant schools operating state Charter School programs or other programs such as small businesses.

**Page 3:**

Section 2503(f) is amended by adding to the section the following: Each grant issued pursuant to this Act shall provide that if the tribe's or tribal organization's performance under the grant involves (1) the violation of the rights or endangerment of the health,

safety or welfare of any persons; or (2) a violation of any applicable federal law, the Secretary may, under regulations prescribed by him pursuant to this Act and after providing the grantee with notice and hearing to such tribe or tribal organization, rescind such grant, in whole or in part, and assume or reassume control or operation of the program, if the Secretary finds that (1) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to property transferred under the grant; and (3) such threat arises from the failure of the grantee to fulfill the requirements of the grant. In such cases the Secretary shall provide the tribal organization with a hearing on the record within 30 days or such later date as the grantee agrees. The Secretary may decline to enter into a new grant and retain control of the education program until such time as he is satisfied that the violations giving rise to the reassumption have been corrected and procedures put in place to ensure that such violations are not likely to occur in the future. In any hearing or appeal under this section, the Secretary shall have the burden of proof to establish the validity of the grounds for reassuming the grant. Although the Secretary has the burden of demonstrating the grounds for reassumption, such burden does not void any other applicable burdens under law.

Impact: This provides for the Bureau to assume operation of a school if there is found wrongdoing or a threat to the safety to people or property. This section would only be used in extreme cases however; it would permit the reassumption of a grant program quickly where there is an emergency situation. Presently the Bureau does not have the means to reassume a grant without a long arduous process.

**Page 4:**

Section 2504 is amended by changing (B) (4) to read: (a)(2) the common rule specified in 43 CFR 12 will apply .....

Impact: This makes it possible to declare a grantee a high-risk grantee if there are violations of statute or regulation. The Bureau would be permitted to disburse funds on an as needed basis and provide oversight until the grant is operating in an approved manner.

**Page 5:**

Section 2505 is amended by changing (b)(2) (c) (ii) to read: bookkeeping and accounting, *including property accountability procedures,*

Impact: Requires grant schools to also account for property purchased with grant funds.

**Page 6:**

Section ~~2506~~ is amended by changing (b)(2) to read: an audit under the Single Audit Act of 1984 (31 U.S. C. 7501 et seq.) to include in the audit report any findings of exceptions pursuant to 2503 (a)(3) and 2507 (b)(2) of this act and that grantee procurement and accountability of property are the responsibility of the approved programs.

Impact: Requires auditors to report findings in specific areas such as the education program and investments. These are the two areas where the major exceptions are found when audits are done.

**Page 6:**

Section 2506 is amended by changing (2)(A)(I) to read: the timeframe and progression of events that led to the revocation or reassumption determination, and...

Impact: This provides more specificity to what is meant by specific deficiencies.

**Page 6:**

Section 2506 is amended by adding a new (c) to read: An officer, director, agent, employee of connected in any capacity with, any recipient of a grant or subgrant under this act, embezzles, willfully misapplies, steals, or obtains by fraud any money, funds asset, or property which are the subject of such grant or subgrant shall be fined not more than \$50,000 or imprisoned for not more than ten years, or both. If the amount in reference to this section does not exceed \$100, he shall be fined not more than \$1000 or imprisoned nor more than one year, or both.

Impact: This new part addresses penalties for fraud, embezzlement, etc. There have been instances when employees have embezzled funds or misappropriated funds at grant schools. We believe this will spell out the penalties for all grantees to be aware of when they enter into grants with the federal government.

**Page 7:**

Section 2507 (a)(1)(A) is amended by changing this part to read..July 15 of each year in an amount equal to seventy-five percent of the amount...

Impact: This provides more up front operating capital for schools when they start the school term and is synonymous with language in PL. 95-561. Schools require a larger infusion of funds at the beginning of school to acquire materials, classroom supplies, etc.

**Page 7:**

Section 2507 (a)(3) is changed to read:...not later than December 15 of the fiscal year, except that operations and maintenance funds shall be forward funded and be available for obligations no later than July 15 and December 15 of each year.

Impact: This changes the date for availability of funds from December 1 to December 15, and includes operation and maintenance funds which are an integral part of school operations. Operation and maintenance funds have not been included in the initial distribution because only ISEP is covered under the existing legislation. The past practice for distributing funds has been that the second distribution has gone out closer to December 15 due to ISEP appeals.

**Page 7:**

Section 2507 (a)(6) is amended to add and read: In cases where the 75% of previous years' funding is greater than the amount the school is eligible to receive, the grantee shall return the amount it was overfunded.

Impact: This provides a mechanism to capture funds which have been disbursed. Presently there is no method to do this other than a Bill of Collection.

**Page 7:**

Section 2507 (b)(1) is changed to read: ...tribe or tribal organizations, shall be expended on educational purposes and direct school board expenses as approved by the board of education but shall remain the property of the...

Impact: This requires investments and interest earned to be used for educational purposes only. This past year some schools have used these funds on gambling, bingo halls, tribal businesses, personal loans, etc.

**Page 7:**

Section 2508 (a) is changed to read: Only sections under 450(e) and (I) under the Self-Determination and Education Assistance Act shall apply to grants awarded under this authority.

Impact: These two sections provide for fair labor and wage standards to be provided by the grantee and for continued federal employee benefits when a school is granted.

**Page 7/8:**

Section 2508 (b)(1) is changed to read: .....in lieu of such contract. The Secretary may negotiate with the contractor to update information contained in the contract document and to issue general provisions and special conditions applicable to programs under this authority.

Impact: This provides a means for the Bureau to work with existing 638 contractors, which there are few, to implement PL 100-297 provisions in their existing contracts.

**Page 8:**

Section 2508 (d)(1) is changed to read: ...shall be entitled to transfer vested title of Bureau facilities to carry out programs approved under this authority, and transfer of existing equipment, supplies, and materials.

Impact: This clarifies what transfer of vested title means. Some grantees are confused about how they can use buildings, equipment, etc. when they assume control of federal property.

**Page 8:**

Section 2508 (d)(2) is changed to read: funding for improvements, alterations, replacement, and code compliance in facilities where programs approved under this

authority is carried out shall be the responsibility of the federal government, but shall not preclude joint funding in partnership with tribes.

Impact: This clarifies that the federal government is responsible for alterations or code compliance of federal building being used by a grantee. This section also declares that the Bureau will work with tribal governments to share costs for facilities improvements.

**Page 8:**

Section 2508 (e) is changed to read:...shall be handled under the provisions of 25 CFR Part 2, Appeals of Administrative Actions.

Impact: Currently retrocession is handled under the 638 provisions. This takes needless time to process. This amendment would provide a process where the tribe would appeal to the Education Line Officer, which could be appealed to the Director of the Office of Indian Education Programs, and then to District court. This would streamline the appeals process considerably. This is especially important because we are working with schools which have a ten month program and it is necessary to resolve issues in the same school year.

**Page 8:**

Section 2510 is changed to read: The Secretary shall within 180 days issue regulations relating to the duties assigned to the Secretary under this Chapter and shall include regulations for monitoring and oversight of both the fiscal and programmatic operation of a grant school. These regulations shall have the effect of law and are not subject to negotiated rule making.

Impact: This makes it possible for the Secretary to develop regulations which have heretofore not been allowed under the statute. We believe it is necessary to develop some implementing regulations, especially for the retrocession and reassumption process.

**Page 9:**

Section 2511 is changed by adding (8) to read: The term Vested Title, with respect to real property means use and occupancy. Ownership remains with the federal government.

Impact: Defines what "vested title" means in section 2508(d)(I).

**Briefing Paper on Reauthorization of PL. 95-561 and PL. 100-297.**

PL 95-561 and PL. 100-297 are being reauthorized this year, along with the Elementary and Secondary Education Act. Congress has started to review education legislation and has requested our views specifically on these two pieces of legislation. We have developed our views and are recommending amendments.

The following are our recommendations for amending P.L. 95-561

- 1) Facilitate granting of ORBS Schools.
- 2) Strengthens Tribal Control of Education.
- 3) Prohibits transfer of unsafe facilities
- 4) Therapeutic dorm funding in ISEP
- 5) Schools Board hold back to local school Board not NISBA/NASBA.
- 6) Adjust current finances for inflation
  - School Boards
  - Obligation of school funds
  - Non Competitive purchases
- 7) School enhancements
  - a) minimum standards (State standards floor)
  - b) mission support systems
  - c) MIS Extension
  - d)
- 8) Cooperation Agreements
  - Service of equal value
  - Reaffirm funding solely for ISEP students only
- 9) Education contract systems
  - 1) Requires minutes of school Board actions
  - 2) 30 days notification rather than 60
    - requires Administrative review Process



- 10) Extends 561 systems to Post Secondary and Central Office, except PSS  
Pessidents: CO Dir-Deputy Director; personal officer,  
Elevates Post Secondary Broad of Regents to schools Board status

The following are our recommendations for amending PL 100-297 (Grants Authorized)

- Strengthen the government to government relationship between the Bureau of Indian Affairs and Indian tribes.
- Implement stronger oversight of all Bureau funded schools.
- Implement current statute provisions.
- Improve the quality of education programs at all levels within the Office of Indian Education Programs
- Strengthen Audits
- Implement statutory language to address retrocession and reassumption
- Develop a more efficient process to retrocede a grant when grantees violate statutes
- Implement statutory penalties for committing fraud, embezzlement, etc.

The following are our recommendations for amending PL 95-561.

1. **§2503(a)(1) is changed to read:** The Secretary shall provide grants to Indian tribes and boards of education for off-reservation boarding schools. Indian tribes may elect to subgrant to a local school board or Indian organization, for such tribes that...

**Impact:** This changes who is an eligible applicant. This will require tribes to be the grantees instead of tribal organizations. This will make it easier to work with tribes in managing the educational programs affecting their tribal members. Presently, the system only recognizes grantees as those who the Bureau can work with, which excludes tribal governing bodies from being involved. This will be controversial with existing tribal organizations that presently grant with the Bureau for school operations.

2. **§2503(b) is amended to add:** The Federal tort claims act shall apply to grants issued under the Act. For the purposes of FTCA coverage, employees of the grant program shall be treated as federal employees. Provided, however, that the FTCA coverage is not extended to subcontractors or other parties or entities whom the grantee has any type of contractual relationship or agreement. It is further provided that grant schools operating a program on the federal grant school property, which is not authorized by the Director, Office of Indian Education Programs, waives its right to Federal

Tort Claims Act coverage or application.

**Impact:** This provides tort claim coverage for legitimate grantees but excludes those schools operating education programs not approved by the Bureau. This has been a problem at grant schools operating state Charter School programs or other programs such as small businesses.

3. **§2503(f) is amended by adding to the section the following:** Each grant issued pursuant to this Act shall provide that if the tribe's or tribal organization's performance under the grant involves (1) the violation of the rights of endangerment of the health, safety or welfare of any persons; or (2) a violation of any applicable federal law, the Secretary may, under regulations prescribed by him pursuant to this Act, and after providing the grantee with notice and hearing to such tribe or tribal organization, rescind such grant, in whole or in part, and assume or reassume control or operation of the program, if the Secretary finds that (1) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to property transferred under the grant; and (3) such threat arises from the failure of the grantee to fulfill the requirements of the grant. In such cases the Secretary shall provide the tribal organization a hearing on the record within 30 days or such later date as the grantee agrees. The Secretary may decline to enter into a new grant and retain control of the educational program until time such as he is satisfied that the violations giving rise to the reassumption have been corrected and procedures put in place to ensure that such violations are not likely to occur in the future. In any hearing or appeal under this section, the Secretary shall have the burden of proof to establish the validity of the grounds for reassuming the grant. Although the Secretary has the burden of demonstrating the grounds for reassumption, such burden does not void any other applicable burdens under law.

**Impact:** This provides for the Bureau to assume operation of a school if there is found wrongdoing or a threat to the safety of people or property. This section would only be used in extreme cases however, it would permit the reassumption of a grant program quickly where there is an emergency situation. Presently the Bureau does not have the means to reassume a grant without a long arduous process.

4. **§2504 is amended by changing (B)(4) to read:** (a)(2) the common rule specified in 43 CFR 12 will apply.....

**Impact:** This makes it possible to declare a grantee a high-risk grantee if there are violations of statute or regulation. The Bureau would be permitted to disburse funds on an as needed basis and provide oversight until the grant is operating in an approved manner.

5. **§2505 is amended by changing (b)(2)(c)(ii) to read:** bookkeeping and accounting, *including property accountability procedures,*

**Impact:** Requires grant schools to also account for property purchased with grant funds.

6. **§2506 is amended by changing (b)(2) to read:** an audit report under the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.) To include in the audit report any findings of exceptions pursuant to §§2503 (a)(3) and 2507 (b)(2) of this Act and that grantee procurement and accountability of

property are the responsibility of the approved programs.

**Impact:** Requires auditors to report findings in specific areas such as the education program and investments. These are the two areas where major exceptions are found when audits are performed.

7. **§2506 is amended by changing (2)(A)(I) to read:** the time frame and progression of events that led to the revocation or reassumption determination, and...

**Impact:** This provides more specificity to what is meant by specific deficiencies.

8. **§2506 is amended by adding a new © to read:** An officer, director, agent, employee who is connected in any capacity with, any recipient of a grant or subgrant under this Act, embezzles, willfully misapplies, steals, or obtains by fraud any money, funds, asset, or property which are the subject of such grant or subgrant shall be fined not more than \$50,000 or imprisoned for not more than ten years, or both. If the amount in reference to this section does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

**Impact:** This new part addresses penalties for fraud, embezzlement, etc. There have been instances when employees have embezzled funds or misappropriated funds at grant schools. We believe this will spell out the penalties for all grantees of which to be aware when they enter into grants with the Federal government.

9. **§2507(a)(1)(A) is amended by changing this part to read:** July 15 of each year in an amount equal to seventy-five percent of the amount...

**Impact:** This provides more up-front operating capital for schools when they start the school term and is synonymous with language in Pub. L. 95-561. Schools require a larger infusion of funds at the beginning of school to acquire materials, classroom supplies, etc.

10. **§2507 (a)(3) is changed to read:** not later than December 15 of the fiscal year, except that operations and maintenance funds shall be forward funded and be made available for obligations no later than July 15 and December 15 of each year.

**Impact:** This changes the date of availability of funds from December 1 to December 15, and includes operation and maintenance funds which are an integral part of school operations. Operation and maintenance funds have not been included in the initial distribution because only ISEP is covered under the existing legislation. The past practice for distributing funds has been that the second distribution has gone out closer to December 15 due to ISEP appeals.

11. **§2507(a)(6) is amended to read:** In cases where the 75% of previous years' funding is greater than the amount the school is eligible to receive, the grantee shall return the amount it was over funded.

**Impact:** This provides a mechanism to capture funds which have been disbursed. Presently there is no method to do this other than to issue a Bill for Collection.

**12. §2507 (b)(1) is changed to read:** tribe or tribal organizations, shall be expended on educational purposes and direct school board expenses as approved by the board of education but shall remain the property of the...

**Impact:** this requires investments and interest earned to be used for educational purposes only. This past year some schools have used these funds on gambling, bingo halls, tribal businesses, personal loans, etc.

**13. §2508 (a) is changed to read:** Only sections under 450(e) and (I) under the Self-Determination and Educational Assistance Act shall apply to grants awarded under this authority.

**Impact:** These two sections provide for fair labor and wage standards to be provided by the grantee and for continued federal employee benefits when a school is granted.

**14. §2508 (b)(1) is changed to read:** in lieu of such contract. The Secretary may negotiate with the contractor to update information contained in the contract document and to issue general provisions and special conditions applicable to programs under this authority.

**Impact:** This provides a means for the Bureau to work with existing Pub. L. 93-638 contractors, which are few, to implement Pub. L. 100-297 provisions in their existing contracts.

**15. §2508 (d)(1) is changed to read:** shall be entitled to transfer vested title of Bureau facilities to carry out programs approved under this authority, and transfer of existing equipment, supplies, and materials.

**Impact:** This clarifies what transfer of vested title means. Some grantees are confused about how they can use buildings, equipment, etc. when they assume control of federal property.

**16. §2508 (d)(2) is changed to read:** funding for improvements, alterations, replacement, and code compliance in facilities where programs approved under this authority is carried out shall be the responsibility of the federal government, but shall not preclude joint funding in partnership with tribes.

**Impact:** This clarifies that the federal government is responsible for alterations or code compliance of federal buildings being used by a grantee. This section also declares that the Bureau will work with tribal government to share costs for facilities improvements.

**17. §2508 (e) is changed to read:** shall be handled under the provisions of 25 CFR Part 2, Appeals of administrative Actions.

**Impact:** Currently retrocession is handled under the provisions of Pub. L. 93-638. This takes needless time to process. This amendment would provide a process where the tribes would appeal to the Education Line Officer, which could then be appealed to the Director, Office of Indian Education Programs, and then to District Court. This would streamline the appeals process

considerably. This is especially important because we are working with schools which have a ten month program and it is necessary to resolve issues in the same school year.

**18. §2510 is changed to read:** The Secretary shall within 180 days issue regulations relating to the duties assigned to the Secretary under this Chapter and shall include regulations for monitoring and oversight of both the fiscal and programmatic operation for a grant school. These regulations shall have the effect of law *and are not subject to negotiated rule-making.*

**Impact:** This makes it possible for the Secretary to develop regulations which have heretofore not been allowed under the statute. We believe it is necessary to develop some implementing regulations, especially for the retrocession and reassumption process.

**19. §2511 is changed by adding (8) to read:** The term "Vested Title", with respect to real property means use and occupancy. Ownership remains with the federal government.

**Impact:** Defines what "vested title" means in section 2508 (d)(I)

**20. §25 U.S.C. 450 c(F) Audits Changed to Read:** Should be amended to allow up to three years after the close of a school year for the recovery of questionable or unallowable cost. Under the current law's audit requirements, a school's expenditures are not audited until two Fiscal years after the initial grant award and two years after each succeeding school year. To be effective in overseeing the expenditure of Federal funds, auditing should be completed within six months after the close of the school year in which funds are expended. Any questionable costs that are not justified should be identified and precipitate a reduction in the following year's grant by that amount, or reimbursement to the cognizant agency. However, our audit process is somewhat convoluted as our law requires that the audits be conducted in accordance with the Single Agency Audit Act. This Act *limits to one year the recoup of questionable or unallowable costs.* Therefore, we suggest this change in the statute to require the audit of a grant *at the close of each school year.* Audits should be the responsibility of the affected Tribe(s) with technical assistance provided by the Bureau of Indian Affairs, Office of Indian Education Programs at the request of the Tribe(s).

**Impact:** Strengthen Audit Requirements by requiring more frequent reporting and providing evaluative substance.

Again we would further suggest that the legislation be amended to eliminate the current relationship of the Secretary with local school boards and to establish that relationship, for the purpose of grant/contract schools, with the affected Tribe(s), in keeping with our covenant of a Government-to-Government relationship with Indian Nations. (See item 1. Above) This shift in relationships will serve to strengthen the local control of Indian Nations and thus further strengthen tribal sovereignty. Indian Nations should be encouraged to manage their internal affairs with regard to providing educational opportunities to their citizens.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 20<sup>th</sup> day of March, 2000; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 2 members opposed, 1 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 20<sup>th</sup> day of March, 2000.

Daylon Spotted Bear  
Secretary, Tribal Business Council

ATTEST:

[Signature]  
Chairman, Tribal Business Council