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SENATE

{ REPORT  
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A BILL TO ESTABLISH A PROGRAM FOR TRIBAL COLLEGES AND UNIVERSITIES WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND TO AMEND THE NATIVE AMERICAN PROGRAMS ACT OF 1974 TO AUTHORIZE THE PROVISION OF GRANTS AND COOPERATIVE AGREEMENTS TO TRIBAL COLLEGES AND UNIVERSITIES, AND FOR OTHER PURPOSES

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OCTOBER 1 (legislative day, SEPTEMBER 17), 2008.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1779]

The Committee on Indian Affairs, to which was referred the bill (S. 1779) to establish a program for tribal colleges and universities to authorize the provision of grants to, and cooperative agreements with, tribal colleges and universities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### PURPOSE

S. 1779, Through Higher Education, Promoting the Advancement of Tribal Health Act, (THE PATH Act) seeks to assist tribal colleges and universities in strengthening Indian communities by providing health promotion and disease prevention education, outreach, and workforce development programs, including program implementation, research and capacity-building.

#### BACKGROUND

A primary goal of providing Federal support for higher education is to ensure social and economic self-sufficiency and growth for all residents of the United States. Social and economic underdevelopment is a significant obstacle to the self-sufficiency of Indian communities and families. Research has demonstrated that higher education is a primary method of achieving economic and social development for Indian communities.

Tribal colleges and universities are institutions of higher education created by Indians for Indians residing primarily on rural and isolated Indian reservations. Unfortunately, they often are unable to access the general system of higher education in the United

States. Due to chronic under-funding, tribal colleges and universities have limited resources to establish programs that help address the perennial health challenges that rural Indian communities face.

#### GENERAL PRINCIPLES

Lack of accessible health-related education and training opportunities remains a problem for American Indians and Alaska Natives, and results in fewer American Indians and Alaska Natives in the health-related workforce of the United States. Tribal colleges and universities remain the most poorly-funded institutions of higher education in the United States, yet, as engaged institutions, tribal colleges and universities serve as catalysts for positive change in Indian communities. Tribal colleges and universities with nursing programs train hundreds of students to hold critically-needed professional and management positions in the Indian Health Service, tribal health organizations, and private and community agencies serving rural Indian populations.

To the extent that tribal colleges and universities are able, these institutions are addressing the many societal challenges faced by Indian communities. Tribal colleges and universities offer critically-needed education and outreach programs, including: community health fairs, HIV-AIDS education programs, diabetes education programs, nutritional and obesity programs including community garden programs, substance abuse prevention programs, youth-at-risk programs, parenting classes, and child and elder care services.

Due to chronic lack of operational and targeted program funding, tribal colleges and universities have limited resources available to address the perennial health challenges of rural Indian communities in their programs.

The underlying goal of tribal colleges and universities is to improve the lives of Indians through higher education and to assist Indians in achieving self-sufficiency. Tribal colleges and universities offer a variety of social services for students and community members and often serve as community centers, libraries, tribal archives, career and business centers, economic development centers, public meeting places, and childcare and wellness centers.

Tribal colleges and universities and their students contribute significantly to the economic and social health of Indian communities. Tribal colleges and universities have been more successful than any other institution of higher education in educating and helping to retain Indians in high-need fields, such as nursing and teaching. Data from 2005 indicates that approximately half of all graduates of tribal colleges and universities pursue advanced education and of those graduates, more than 86 percent pursue bachelor's degrees. Individuals, including Indians with a bachelor's or advanced degree(s) earn almost four times as much as individuals who do not graduate from high school and more than two times as much as individuals with high school diplomas.

Of the 155 indigenous languages spoken in the United States as of the date of enactment of this Act, 135 are spoken only by Indian elders. Language and culture are at the heart of the mission of each tribal college and university. Tribal colleges and universities play a strong leadership role in American Indian language immersion and are responsible for the majority of the approximately 50

American Indian language immersion programs in the United States. Despite the proven success and importance of American Indian language preservation and vitalization efforts of tribal colleges and universities, only minimal Federal and private sector resources are available to support these activities.

#### SECTION-BY-SECTION ANALYSIS

The provisions of S. 1779 are the result of the Committee's consultation with Indian tribes, and discussions with the American Indian Higher Education Consortium, National Indian Health Board, National Indian Education Association, National Congress of American Indians, and Pathways Into Health. The bill establishes a program for tribal colleges and universities within the Department of Health and Human Services and the Department of Labor to authorize the provision of grants to, and cooperative agreements with, tribal colleges and universities, and for other purposes.

A goal of this bill is to provide more opportunities for tribal colleges and universities to offer health-related education and training to address the need for more American Indian and Alaska Native health professionals while advancing the language and culture of American Indian and Alaska Native communities. THE PATH Act will also enable the tribal colleges and universities to work in partnership with relevant Indian tribes to implement community-based programs for health promotion and disease prevention educational needs.

This inclusive partnership is particularly beneficial in coordinating multiple communities or tribes that are served by a tribal college or university. For example, the United Tribes Technical College in North Dakota, the Salish Kootenai College in Montana, Haskell Indian Nations University in Lawrence, Kansas, and the Southwestern Indian Polytechnic Institute in Santa Fe, New Mexico, all serve multiple tribes. In addition, the Ilisagvik College in Barrow, Alaska provides educational opportunities for the Northern Slope region of Alaska, also serving multiple tribes.

Through THE PATH Act, these tribal colleges and universities may enter into a partnership with multiple tribes, thereby expanding the opportunities to address these health educational needs. The Committee intends THE PATH Act to be expansively interpreted in fulfilling the purposes and goals of this Act.

#### TITLE I—THROUGH HIGHER EDUCATION: PROMOTING THE ADVANCEMENT OF TRIBAL HEALTH

##### *Section 101. Short title; table of contents*

This section provides the short title to the legislation "Through Higher Education: Promoting the Advancement of Tribal Health Act of 2008."

##### *Sec. 102. Congressional findings and purpose*

This section states the following findings. Indians lack representation in the health-related workforce. Tribal colleges and universities (TCUs) are the most poorly funded higher education institutions despite their being the best catalyst for positive change. Tribal colleges and universities with nursing programs train hundreds of critically-needed leadership and health management positions

within Indian Country. To the extent they are able; TCUs are addressing the societal needs of Indian Country. Tribal colleges and universities offer a number of critically needed health education and outreach programs. Due to chronic under-funding, TCUs have limited resources to meet the perennial educational needs of tribal communities.

The purpose of this act is to assist TCUs to strengthen Indian communities through the provision of health promotion and disease prevention education, outreach and work-force development programs, including program implementation, research and capacity-building.

*Sec. 103. Definitions*

For the purposes of this Title, the term “Secretary” refers to the Secretary of Health and Human Services, “Deputy Assistant Secretary” means the Deputy Assistant Secretary for Minority Health within the Office of Public Health and Science. For the purposes of this Title, “Director” means the Director of the National Institutes of Health and the term “Indian”, is as described in the Indian Health Care Improvement Act. Under this Title, “Tribal College or University” is as defined in Titles I and II the Tribally Controlled College or University Assistance Act, and those listed in the Equity in Educational Land-Grant Status Act of 1994.

*Sec. 104. Administration by coordinating officer*

This section designates the Deputy Assistant Secretary for Minority Health to serve as the coordinating officer. Additionally, it directs the Secretary to appoint adequate staff to assist the Secretary and provide technical assistance. The section also requires the Secretary, within 180 days of enactment, to develop and implement a formal Memorandum of Understanding with the American Indian Higher Education Consortium (AIHEC) to ensure American Indian communities participate equitably and, to provide technical assistance to TCUs.

*Sec. 105. Community-based health and wellness fairs*

This section authorizes appropriations for and directs the Secretary to establish a program to provide grants to, or offer to enter into cooperative agreements with tribal colleges to carry out annual, community-based, and culturally relevant health and wellness fairs at TCUs.

*Sec. 106. Health promotion and disease prevention targeted programs*

This section authorizes and directs the Secretary to establish a program to provide grants to, or offer to enter into cooperative agreements with TCUs to carry out activities to improve and expand the capacity of TCUs, including activities relating to health promotion and disease prevention education and the elimination of health disparities in tribal communities. It also requires the Secretary to approve applications on a competitive basis and ensure maximum and equitable distribution among eligible TCUs. This section states that in order to be eligible, a TCU shall submit an application to the Secretary in a reasonable time and manner that includes a 5-year plan for meeting the needs identified in this Act.

It requires the Secretary to streamline the application process to the extent practicable. Finally, this section allows Tribal colleges and universities to use grant funds or cooperative agreements to develop and carry out promotion and prevention education activities to address areas such as: diabetes, injury prevention, substance abuse, HIV–AIDS, emerging issues, obesity and nutrition.

*Sec. 107. Development and expansion of public health professional degree programs*

This section authorizes and directs the Secretary to establish a program to provide grants to TCUs for developing curricula, individual courses, and degree and in-service programs for health-related professions. It requires a TCU to submit an application in a manner that is timely and reasonable, as determined by the Secretary. This section also requires the application to include a 5-year plan for increasing the number of Indians in the U.S. health workforce. And finally, this section requires the Secretary to ensure a streamlined process for TCUs to apply and the Department to approve applications.

*Sec. 108 Tribal College and University Rural Health Equity Endowment Fund*

This section appropriates funds to establish the “Tribal College and University Rural Health Equity Endowment Fund” or, “Fund” and requires the Secretary to invest money in the Fund in interest-bearing obligations of the United States. This section also directs the Secretary of the Treasury to transfer interest income from that year to the Secretary at the end of each fiscal year. Section 108 requires one percent of the annual interest be used to pay the administrative expenses to carry out this section. It also requires the Secretary to distribute 60 percent of the interest income to TCUs on pro rata basis, based on the proportion of an institution’s Indian student count compared to the Indian student count of all TCUs for that year. Finally, this section requires the remaining 40 percent to be distributed in equal amounts to each eligible TCU which shall be used to enhance their rural health-related program at said institution.

*Sec. 109. Offices of sponsored programs*

Section 109 authorizes and directs the Secretary to establish a program to provide grants to TCUs to establish and maintain offices of sponsored programs. Sponsored programs include: pre- and post-grant award programs for research, data collection, and analysis to ensure proper documentation and compliance with applicable regulations; programs to advance specific institutional grant application procedures and processes through coordination of external funding and faculty, staff and financial officers; programs to assist in negotiations with Federal funding sources; programs to provide liaisons with Federal counterparts to train and assist college staff with grant management and compliance; programs which coordinate partnerships between TCUs, Federal agencies and the private sector and; programs to assist in consultation with Federal agencies to identify and propose solutions to obstacles relating to grant applications.

This section requires a tribal college to submit an application in a manner that is reasonable and timely, determined by the Secretary. It also requires the application to include a 5-year strategy for carrying out a sponsored program, including performance indicators that will be evaluated. Additionally, the Secretary is required to provide money for each approved application in an amount equal to the quotient obtained by dividing the total amount made available for the year by the number of successful grant applications. Finally, section 109 requires that each tribal college, that receives a grant from 2010–2018, submit a report describing the program’s success, measured by the performance indicators identified in the application.

*Sec. 110. Health promotion and disease prevention research programs*

Section 110 authorizes and requires the Secretary to establish a program to provide grants to or enter into cooperative agreements with TCUs to conduct research relating to health promotion and disease prevention. It also requires that such grants and cooperative agreements be awarded on a competitive basis, be for no more than 3 years, and no less than \$150,000/year. Under this section, grants or agreements for undergraduate research experience may not be for more than 1 year and not less than \$10,000/year. This section also requires a tribal college to submit an application for these programs in a manner that is timely and reasonable, determined by the Secretary. Additionally, the Secretary is required to streamline the application and approval process, to the extent practicable. Section 110 also establishes that these programs are intended for research on culturally relevant and innovative health promotion and disease prevention strategies; epidemiological research on the health status of Indians and; undergraduate research experience programs as TCUs determine appropriate.

TITLE II—ADVANCING TRIBES THROUGH TRIBAL COLLEGES AND UNIVERSITIES

*Sec. 201. Short title*

This section provides the short title to Title II: Advancing Tribes Through Tribal Colleges and Universities.

*Sec. 202. Findings*

This section lists the following findings. The primary goal of Federal support for higher education is to ensure social self-sufficiency and growth. Social and economic underdevelopment is a fundamental obstacle to self-sufficiency in Indian Country. Higher education is a primary method of achieving social and economic development in Indian Country. Tribal colleges and universities are higher education institutions created by Indians for Indians, historically excluded from mainstream higher education.

The goals of tribal colleges are to improve Indian lives through higher education and achieve Indian self-sufficiency. Tribal colleges and universities often serve as community centers, libraries, tribal archives, career and business centers, economic development centers, public meeting places, and childcare and wellness centers.

Tribal colleges and universities and their students contribute significantly to the economic and social health of tribal communities. Tribal colleges have been the most successful institution to educate Indians in high-tech fields, such as nursing and teaching. Half of all graduates pursue advanced education, including 86% pursuing a bachelor's degree. Indians with bachelor's or advanced degrees earn almost 4 times as much as Indians without a high school education and twice as much as Indians with only a high school education.

Of the 155 indigenous languages spoken in the United States, 135 are spoken only by Indian elders. Language and culture are at the heart of the mission of each tribal college. Tribal colleges and universities play a strong leadership role in American Indian language immersion and are responsible for the majority of the 50 immersion programs. Despite the proven success of language programs, only minimal Federal and private sector resources are available to support activities.

*Sec. 203. Native prosperity programs at tribal colleges and universities*

Section 203 amends section 166 of the Workforce Investment Act of 1998 (29 U.S.C. 2911) to add "(k) NATIVE PROSPERITY PROGRAMS AT TRIBAL COLLEGES AND UNIVERSITIES". It requires the Secretary to establish the Native Prosperity Program to provide grants to or enter into cooperative grants with tribal colleges to promote economic development, entrepreneurship, community development, and sound fiscal leadership in Indian communities. Under this section, the Secretary is required to provide grants on a competitive basis and grants are limited to not more than five years, unless the Secretary determines that the TCU has performed successfully throughout the previous 5-year term. In that case, the Secretary may award another three years on a non-competitive basis.

Section 203 also requires a TCU to submit an application in a manner that is timely and reasonable, as determined by the Secretary. This application must include a 5-year plan pursuant to the cooperative agreement. Under this section the application must identify the population served and the employment needs of the community, in addition to a description of how the program will strengthen the economic development potential of the population or contribute to the development of high-quality local and community services. Additionally, the application should also include a description of the services to be provided and include performance measures.

Finally, this section allows the TCU to use a grant or agreement under this section to carry out activities including micro-enterprise development, business development and administration courses and degree programs, and entrepreneurship programs; municipality planning and administration and, executive leadership training and the Secretary to enter into cooperative agreements with the American Indian Higher Education Consortium.

*Sec. 204. Definitions*

In this section, for the purpose of this Title "Secretary" means the Secretary of the Department of Labor.

Section 204 amends the Workforce Investment Act by adding at the end that "Tribal College or University" means an institution

that is eligible to receive funds under the Tribally Controlled College or University Assistance Act of 1978, Dine College and any of the 1994 Institutions listed in the Equity in Educational Land-Grant Status Act of 1994.

#### LEGISLATIVE HISTORY

On July 12, 2007, Senator Tester introduced S. 1779, Through Higher Education, Promoting the Advancement of Tribal Health Act, (THE PATH Act). Senator Dorgan was an original cosponsor. Senators Baucus and Bingaman were added as cosponsors on April 17, 2008. Senator Johnson was added as a cosponsor on April 29, 2008.

The Committee held an open business meeting on April 24, 2008, at which it voted to favorably report S. 1779, with an amendment in the nature of a substitute, to the full Senate with a recommendation that the bill do pass.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On April 24, 2008, the Committee on Indian Affairs convened a business meeting to consider S. 1779 and other measures, and voted to have the bill, with an amendment in the nature of a substitute, favorably reported to the full Senate, with recommendation that the bill do pass.

#### COST AND BUDGETARY CONSIDERATIONS

The following cost estimate for S. 1779, as provided by the Congressional Budget Office, is set forth below:

#### *S. 1779—Tribal Health Promotion and Tribal Colleges and Universities Advancement Act of 2007*

Summary: S. 1779 would authorize the appropriation of \$51 million annually over the 2009–2017 period for grants to tribal colleges and universities for a variety of disease prevention and health promotion activities. CBO estimates that implementing S. 1779 would have discretionary costs of \$189 million over the 2009–2013 period and \$444 million over the 2009–2018 period, assuming appropriation of the authorized amounts. CBO also estimates that enacting the bill would increase direct spending by \$4 million over the 2009–2013 period and \$18 million over the 2009–2018 period.

S. 1779 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. 1779 is shown in the following table. The cost of this legislation falls within budget function 550 (health).

	By fiscal year in millions of dollars—											2009– 2013	2009– 2018	
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018				
CHANGES IN SPENDING SUBJECT TO APPROPRIATION														
Grants to Tribal Colleges and Universities to Prevent Disease and Promote Health:														
Authorization Level .....	51	51	51	51	51	51	51	51	51	51	0	257	462	
Estimated Outlays .....	3	38	47	51	51	51	51	51	51	49	189	444		



	By fiscal year in millions of dollars—												
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009– 2013	2009– 2018	
CHANGES IN DIRECT SPENDING													
Tribal College and University Rural Health Equity En- dowment Fund:													
Estimated Budget Au- thority .....	0	1	1	2	2	3	3	3	4	0	6	19	
Estimated Outlays .....	0	0	1	1	2	2	2	3	3	4	4	18	

Basis of estimate: For this estimate, CBO assumes that S. 1779 will be enacted in late 2008 and implemented in 2009, that the authorized amounts will be provided for each year, and that spending will follow historical patterns for similar programs.

*Spending subject to appropriation*

S. 1779 would authorize the appropriation of specified amounts for grants to tribal colleges and universities for a variety of disease prevention and health promotion activities. The bill would direct the Secretary of Health and Human Services (HHS) to provide grants to promote community-based health and wellness fairs, health promotion and disease prevention programs, construction and renovation of community wellness centers, and development and expansion of public health professional degree programs in public health. The bill also would establish within HHS the Office on Tribal College and University Programs to administer the programs authorized by the bill and coordinate activities relating to tribal colleges and universities. Based on historical spending patterns for grants to minority institutions of higher education, CBO estimates that implementing these provisions would cost \$189 million over the 2009–2013 period and \$444 million over the 2009–2018 period.

*Direct spending*

S. 1779 would direct the Secretary of the Treasury to establish the Tribal College and University Rural Health Equity Endowment Fund. The bill would appropriate \$9 million per year to the fund for fiscal years 2009 through 2017 and would direct the Secretary of the Treasury to invest the amounts in interest-bearing obligations of the United States. On the last day of each fiscal year, the bill would direct the Secretary of the Treasury to transfer the interest earned on the amounts in the fund to the Secretary of HHS, who in turn would be directed to distribute the funds to tribal colleges and universities for the purpose of establishing endowments for training programs for health care professionals. CBO estimates that direct spending from these endowments would be \$4 million over the 2009–2013 period and \$18 million over the 2009–2018 period.

Intergovernmental and private-sector impact: S. 1779 contains no intergovernmental or private-sector mandates as defined in the UMRA. Tribal governments and entities, including tribal colleges and universities, would benefit from the grant programs authorized in the bill.

Estimate prepared by: Federal Costs: Robert Stewart; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: MarDestinee Perez.

Estimate approved by: Keith Fontenot, Deputy Assistant Director for Health and Human Resources, Budget Analysis Division.

#### EXECUTIVE COMMUNICATIONS

The Committee has received no written communications from the Executive Branch regarding S. 1779.

#### 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 evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee has concluded that the regulatory and paperwork impacts of S. 1779 should be de minimis.

#### CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1779, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new language to be added in italic, existing law to which no change is proposed shown in roman):

#### **SEC. 166 [29 U.S.C 2911] NATIVE AMERICAN PROGRAMS.**

##### (a) PURPOSE.—

(1) IN GENERAL.—The purpose of this section is to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

##### (b) DEFINITIONS.—As used in this section:

(1) ALASKA NATIVE.—The term “Alaska Native” means a Native as such term is defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms “Native Hawaiian” and “Native Hawaiian organization” have the meanings given such terms in section 7207 of the Native Hawaiian Education Act.

(4) TRIBAL COLLEGE OR UNIVERSITY.—The term “tribal college or university” means—

(A) an institution that is eligible to receive funds under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*);

(B) Dine College; and

(C) any 1 of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 *note*; Public Law 103–382)).

(c) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) EXCEPTION.—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under subsection (c) shall be used for—

(i) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(ii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under this section.

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program

plan that describes a 2-year strategy for meeting the needs of Indian, Alaska Native, or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

- (1) be consistent with the purpose of this section;
- (2) identify the population to be served;
- (3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;
- (4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and
- (5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

- (1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or
- (2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under subparagraph (B), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, partici-

pation and protection of workers and participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 189(i)(4)(B).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

(6) AGREEMENT FOR CERTAIN FEDERALLY RECOGNIZED INDIAN TRIBES TO TRANSFER FUNDS TO THE PROGRAM.—A federally recognized Indian tribe that administers funds provided under this section and funds provided by more than one State under other sections of this title may enter into an agreement with the Secretary and the Governors of the affected States to

transfer the funds provided by the States to the program administered by the tribe under this section.

(i) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants, contracts, and cooperative agreements entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(j) ASSISTANCE TO AMERICAN SAMOANS IN HAWAII.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to American Samoans who reside in Hawaii for the co-location of federally funded and State-funded workforce investment activities.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 such sums as may be necessary to carry out this subsection.

(k) NATIVE PROSPERITY PROGRAMS AT TCUS.—

(1) ESTABLISHMENT.—*The Secretary shall establish a program, to be known as the ‘TCU Native Prosperity Program’, under which the Secretary shall provide grants to, or offer to enter into cooperative agreements with, eligible tribal colleges and universities to promote economic development, entrepreneurship, community development, and sound fiscal leadership in Indian communities.*

(2) REQUIREMENTS.—

(A) IN GENERAL.—*Except as provided in subparagraph*

(B)—

*(i) the Secretary shall provide grants and offer to enter into cooperative agreements under paragraph (1) on a competitive basis; and*

*(ii) the term of a grant or cooperative agreement under paragraph (1) shall be 5 years.*

(B) EXCEPTION.—*If the Secretary determines that a tribal college or university that receives a grant or enters into a cooperative agreement under this subsection has performed satisfactorily throughout the initial 5-year term of the grant or cooperative agreement under subparagraph (A)(ii)—*

*(i) the tribal college or university may submit to the Secretary an application to extend the grant or cooperative agreement, as applicable, for a period of not more than 3 additional years; and*

*(ii) the Secretary may waive the competitiveness requirement of subparagraph (A)(i) with respect to the application.*

(3) APPLICATION.—

(A) IN GENERAL.—*To be eligible to receive a grant or enter into a cooperative agreement under this subsection, a tribal college or university shall submit to the Secretary an application at such time and in such manner as the Secretary may reasonably require.*

(B) PROGRAM PLAN.—

*(i) IN GENERAL.—An application under subparagraph (A) shall include a plan for the program proposed to be carried out by the eligible tribal college or*

university using the grant or pursuant to the cooperative agreement, as applicable.

(ii) *INCLUSIONS.*—A program plan under subparagraph (A) shall include—

(I) a description of a 5-year plan for the applicable tribal college or university, developed in consultation with, and approved by, each relevant Indian tribe, through which the tribal college or university will work collaboratively to meet the needs of Indians or Alaska Natives, as appropriate, in the area served by the tribal college or university;

(II) an identification of the population to be served by the tribal college or university;

(III) an identification of the education and employment needs of that population and a description of the manner in which the program will—

(aa) strengthen the economic development potential of the population; or

(bb) contribute to the development of high-quality local and community services;

(IV) a description of the services to be provided under the program, including the manner in which the services will be integrated with other appropriate activities to minimize duplication of services; and

(V) a description, to be prepared in consultation with the Secretary, of the performance measures to be used to assess the performance of the tribal college or university in carrying out the program.

(iii) *REQUIREMENT.*—A program plan shall be consistent with the purposes of this section, as determined by the Secretary.

(4) *ACTIVITIES.*—A tribal college or university that receives a grant or enters into a cooperative agreement under this subsection may use the grant or cooperative agreement to carry out activities, including—

(A) microenterprise development;

(B) business development and administration courses and degree programs;

(C) entrepreneurship programs;

(D) municipality planning and administration courses, degree programs, and in-service training; and

(E) executive leadership training in economic development, planning, and emerging management issues.

(5) *TECHNICAL ASSISTANCE.*—To ensure that tribal colleges and universities receive timely, equitable, and culturally relevant technical assistance, the Secretary may enter into any cooperative agreement the Secretary determines to be necessary with the American Indian Higher Education Consortium.

(6) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this subsection \$12,000,000 for each of fiscal years 2009 through 2012.