

105TH CONGRESS
1ST SESSION

S. 1095

To enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 1997

Mr. ROBERTS (for himself, Mr. BINGAMAN, Mr. BROWNBACK, Mr. CAMPBELL, Mr. DOMENICI, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haskell Indian Nations
5 University and Southwestern Indian Polytechnic Institute
6 Administrative Systems Act of 1997”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds that—

1 (1) the provision of culturally sensitive curricula
 2 for higher education programs at Haskell Indian
 3 Nations University and the Southwestern Indian
 4 Polytechnic Institute is consistent with the commit-
 5 ment of the Federal Government to the fulfillment
 6 of treaty obligations to Indian tribes through the
 7 principle of self-determination and the use of Fed-
 8 eral resources; and

9 (2) giving a greater degree of autonomy to
 10 those institutions, while maintaining them as an in-
 11 tegral part of the Bureau of Indian Affairs, will fa-
 12 cilitate—

13 (A) the transition of Haskell Indian Na-
 14 tions University to a 4-year university; and

15 (B) the administration and improvement of
 16 the academic program of the Southwestern In-
 17 dian Polytechnic Institute.

18 **SEC. 3. DEFINITIONS.**

19 For purposes of this Act—

20 (1) **HASKELL INDIAN NATIONS UNIVERSITY.**—
 21 The term “Haskell Indian Nations University”
 22 means Haskell Indian Nations University, located in
 23 Lawrence, Kansas.

24 (2) **SOUTHWESTERN INDIAN POLYTECHNIC IN-**
 25 **STITUTE.**—The term “Southwestern Indian Poly-

1 technic Institute” means the Southwestern Indian
2 Polytechnic Institute, located in Albuquerque, New
3 Mexico.

4 (3) RESPECTIVE INSTITUTIONS, ETC.—The
5 terms “respective institutions” and “institutions to
6 which this Act applies” mean Haskell Indian Na-
7 tions University and the Southwestern Indian Poly-
8 technic Institute.

9 (4) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 **SEC. 4. PERSONNEL MANAGEMENT.**

12 (a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE
13 LAWS.—Chapters 51, 53, and 63 of title 5, United States
14 Code (relating to classification, pay, and leave, respec-
15 tively) and the provisions of such title relating to the ap-
16 pointment, performance evaluation, promotion, and re-
17 moval of civil service employees shall not apply to appli-
18 cants for employment with, employees of, or positions in
19 or under either of the institutions to which this Act ap-
20 plies.

21 (b) ALTERNATIVE PERSONNEL MANAGEMENT PRO-
22 VISIONS.—

23 (1) IN GENERAL.—The president of each of the
24 respective institutions shall by regulation prescribe
25 such personnel management provisions as may be

1 necessary, in the interest of effective administration,
2 to replace the provisions of law that are inapplicable
3 with respect to such institution by reason of sub-
4 section (a).

5 (2) PROCEDURAL REQUIREMENTS.—Regula-
6 tions under this subsection—

7 (A) shall be prescribed in consultation with
8 the board of regents (or, if none, the governing
9 body) of the institution involved and other ap-
10 propriate representative bodies;

11 (B) shall be subject to the requirements of
12 subsections (b) through (e) of section 553 of
13 title 5, United States Code; and

14 (C) shall not take effect except with the
15 prior written approval of the Secretary.

16 (c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—
17 Under the regulations prescribed for an institution under
18 this section—

19 (1) no rate of basic pay may, at any time, ex-
20 ceed—

21 (A) in the case of an employee who would
22 otherwise be subject to the General Schedule,
23 the maximum rate of basic pay then currently
24 payable for grade GS–15 of the General Sched-
25 ular (including any amount payable under sec-

1 tion 5304 of title 5, United States Code, or
2 other similar authority for the locality involved);
3 or

4 (B) in the case of an employee who would
5 otherwise be subject to subchapter IV of chap-
6 ter 53 of title 5, United States Code (relating
7 to prevailing rate systems), the maximum rate
8 of basic pay which (but for this section) would
9 then otherwise be currently payable under the
10 wage schedule covering such employee;

11 (2) section 5307 of title 5, United States Code
12 (relating to limitation on certain payments) shall
13 apply, subject to such definitional and other modi-
14 fications as may be necessary in the context of the
15 applicable alternative personnel management provi-
16 sions under this section;

17 (3) procedures shall be established for the rapid
18 and equitable resolution of grievances;

19 (4) no employee may be discharged without no-
20 tice of the reasons therefor and opportunity for a
21 hearing under procedures that comport with the re-
22 quirements of due process, except that this para-
23 graph shall not apply in the case of an employee
24 serving a probationary or trial period under an ini-
25 tial appointment; and

1 (5) employees serving for a period specified in
2 or determinable under an employment agreement
3 shall, except as otherwise provided in the agreement,
4 be notified at least 30 days before the end of such
5 period as to whether their employment agreement
6 will be renewed.

7 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be considered to affect the applicability of—

9 (1) any provision of law providing for—

10 (A) equal employment opportunity;

11 (B) Indian preference; or

12 (C) veterans' preference;

13 (2) any provision of chapter 23 of title 5, Unit-
14 ed States Code, or any other provision of such title,
15 relating to merit system principles or prohibited per-
16 sonnel practices; or

17 (3) chapter 71 of title 5, United States Code,
18 relating to labor-management and employee rela-
19 tions.

20 (e) LABOR-MANAGEMENT PROVISIONS.—

21 (1) COLLECTIVE-BARGAINING AGREEMENTS.—

22 Any collective-bargaining agreement in effect on the
23 day before the applicable effective date under sub-
24 section (f)(1) shall continue to be recognized by the

1 institution involved until altered or amended pursu-
2 ant to law.

3 (2) EXCLUSIVE REPRESENTATIVE.—Nothing in
4 this Act shall affect the right of any labor organiza-
5 tion to be accorded (or to continue to be accorded)
6 recognition as the exclusive representative of any
7 unit of employees.

8 (3) OTHER PROVISIONS.—Matters made subject
9 to regulation under this section shall not be subject
10 to collective bargaining.

11 (f) EFFECTIVE DATE.—

12 (1) ALTERNATIVE PERSONNEL MANAGEMENT
13 PROVISIONS.—Any alternative personnel manage-
14 ment provisions under this section shall take effect
15 on such date as may be specified in the regulations
16 applicable with respect to the institution involved,
17 except that in no event shall the date specified be
18 later than 1 year after the date of the enactment of
19 this Act.

20 (2) PROVISIONS MADE INAPPLICABLE BY THIS
21 SECTION.—Subsection (a) shall, with respect to an
22 institution, take effect as of the effective date speci-
23 fied with respect to such institution under paragraph
24 (1).

25 (g) APPLICABILITY.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the alternative personnel
3 management provisions under this section shall
4 apply with respect to all applicants for employment
5 with, all employees of, and all positions in or under
6 the institution involved.

7 (2) CURRENT EMPLOYEES NOT COVERED EX-
8 CEPT PURSUANT TO A VOLUNTARY ELECTION.—

9 (A) IN GENERAL.—An employee serving
10 with an institution on the day before the appli-
11 cable effective date under subsection (f)(1) shall
12 not be subject to such institution’s alternative
13 personnel management provisions (and shall in-
14 stead, for purposes of such institution, be treat-
15 ed in the same way as if this section had not
16 been enacted, notwithstanding subsection (a))
17 unless, before the end of the 5-year period be-
18 ginning on such effective date, such employee
19 elects to be covered by such provisions.

20 (B) PROCEDURES.—An election under this
21 paragraph shall be made in such form and in
22 such manner as may be required under the reg-
23 ulations, and shall be irrevocable.

24 (3) TRANSITION PROVISIONS.—

1 (A) PROVISIONS RELATING TO ANNUAL
2 AND SICK LEAVE.—Any individual who—

3 (i) makes an election under paragraph
4 (2), or

5 (ii) on or after the applicable effective
6 date under subsection (f)(1), is trans-
7 ferred, promoted, or reappointed, without a
8 break in service of 3 days or longer, to a
9 position within an institution to which this
10 Act applies from a position with the Fed-
11 eral Government or the government of the
12 District of Columbia,

13 shall be credited, for the purpose of the leave
14 system provided under regulations prescribed
15 under this section, in conformance with the re-
16 quirements of section 6308 of title 5, United
17 States Code, with the annual and sick leave to
18 such individual's credit immediately before the
19 effective date of such election, transfer, pro-
20 motion, or reappointment, as the case may be.

21 (B) LIQUIDATION OF REMAINING LEAVE
22 UPON TERMINATION.—

23 (i) ANNUAL LEAVE.—Upon termi-
24 nation of employment with an institution
25 to which this Act applies, any annual leave

1 remaining to the credit of an individual
2 within the purview of this section shall be
3 liquidated in accordance with section
4 5551(a) and section 6306 of title 5, United
5 States Code.

6 (ii) SICK LEAVE.—Upon termination
7 of employment with an institution to which
8 this Act applies, any sick leave remaining
9 to the credit of an individual within the
10 purview of this section shall be creditable
11 for civil service retirement purposes in ac-
12 cordance with section 8339(m) of title 5,
13 United States Code, except that leave
14 earned or accrued under regulations pre-
15 scribed under this section shall not be so
16 creditable.

17 (C) TRANSFER OF REMAINING LEAVE
18 UPON TRANSFER, PROMOTION, OR REEMPLOY-
19 MENT.—In the case of an employee of an insti-
20 tution to which this Act applies who is trans-
21 ferred, promoted, or reappointed, without a
22 break in service of 3 days or longer, to a posi-
23 tion in the Federal Government (or the govern-
24 ment of the District of Columbia) under a dif-
25 ferent leave system, any leave remaining to the

1 credit of that individual which was earned or
2 credited under the regulations prescribed under
3 this section shall be transferred to such individ-
4 ual's credit in the employing agency on an ad-
5 justed basis in accordance with section 6308 of
6 title 5, United States Code.

7 (4) WORK-STUDY.—Nothing in this section
8 shall be considered to apply with respect to a work-
9 study student, as defined by the president of the in-
10 stitution involved, in writing.

11 **SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.**

12 The Secretary shall, to the maximum extent consist-
13 ent with applicable law and subject to the availability of
14 appropriations therefor, delegate to the president of each
15 of the respective institutions procurement and contracting
16 authority with respect to the conduct of the administrative
17 functions of such institution.

18 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to each of
20 the respective institutions for fiscal year 1998, and for
21 each fiscal year thereafter—

22 (1) the amount of funds made available by ap-
23 propriations as operations funding for the adminis-
24 tration of such institution for fiscal year 1997; and

1 (2) such additional sums as may be necessary
2 for the operation of such institution pursuant to this
3 Act.

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