

108TH CONGRESS
2D SESSION

S. 2539

To amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2004

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

A BILL

To amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, 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 **TITLE I—TRIBAL COLLEGES AND**
4 **UNIVERSITIES**

5 **SEC. 101. TRIBALLY CONTROLLED COLLEGE OR UNIVER-**
6 **SITY ACT OF 1978.**

7 (a) FORMULA.—Section 108(a)(2) of the Tribally
8 Controlled College or University Assistance Act of 1978

1 (25 U.S.C. 1808) is amended by striking “\$6,000” and
2 inserting “\$8,000”.

3 (b) TITLE I REAUTHORIZATION.—Section 110(a) of
4 the Tribally Controlled College or University Assistance
5 Act of 1978 (25 U.S.C. 1810(a)) is amended—

6 (1) in paragraphs (1), (2), (3), and (4), by
7 striking “1999” and inserting “2004”;

8 (2) in paragraphs (1), (2), and (3), by striking
9 “4 succeeding” and inserting “5 succeeding”;

10 (3) in paragraph (2), by striking
11 “\$40,000,000” and inserting “\$55,000,000”;

12 (4) in paragraph (3), by striking
13 “\$10,000,000” and inserting “\$20,000,000”; and

14 (5) in paragraph (4), by striking “succeeding
15 4” and inserting “5 succeeding”.

16 (c) TITLE III REAUTHORIZATION.—Section 306(a) of
17 the Tribally Controlled College or University Assistance
18 Act of 1978 (25 U.S.C. 1836(a)) is amended—

19 (1) by striking “1999” and inserting “2004”;
20 and

21 (2) by striking “4 succeeding” and inserting “5
22 succeeding”.

23 (d) TITLE IV REAUTHORIZATION.—Section 403 of
24 the Tribal Economic Development and Technology Re-

1 lated Education Assistance Act of 1990 (25 U.S.C. 1852)
2 is amended—

3 (1) by striking “\$2,000,000 for fiscal year
4 1999” and inserting “\$5,000,000 for fiscal year
5 2004”; and

6 (2) by striking “4 succeeding” and inserting “5
7 succeeding”.

8 (e) CLARIFICATION OF THE DEFINITION OF NA-
9 TIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the
10 Tribally Controlled College or University Assistance Act
11 of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking
12 “in the field of Indian education” and inserting “in the
13 field of Tribal Colleges and Universities and Indian higher
14 education”.

15 (f) INDIAN STUDENT COUNT.—Section 2(a) of the
16 Tribally Controlled College or University Assistance Act
17 (25 U.S.C. 1801(a)) is amended—

18 (1) by redesignating paragraphs (7) and (8) as
19 paragraphs (8) and (9), respectively; and

20 (2) by inserting after paragraph (6) the fol-
21 lowing:

22 “(7) ‘Indian student’ means a person who is—

23 “(A) a member of an Indian tribe; or

24 “(B) a biological child of a member of an

25 Indian tribe, living or deceased;”.

1 (g) CONTINUING EDUCATION.—Section 2(b) of the
 2 Tribally Controlled College or University Assistance Act
 3 (25 U.S.C. 1801(b)) is amended by striking paragraph (5)
 4 and inserting the following:

5 “(5) DETERMINATION OF CREDITS.—Eligible
 6 credits earned in a continuing education program—

7 “(A) shall be determined as 1 credit for
 8 every 10 contact hours in the case of an institu-
 9 tion on a quarter system, or 15 contact hours
 10 in the case of an institution on a semester sys-
 11 tem, of participation in an organized continuing
 12 education experience under responsible sponsor-
 13 ship, capable direction, and qualified instruc-
 14 tion, as described in the criteria established by
 15 the International Association for Continuing
 16 Education and Training; and

17 “(B) shall be limited to 10 percent of the
 18 Indian student count of a tribally controlled col-
 19 lege or university.”.

20 (h) ACCREDITATION REQUIREMENT.—Section 103 of
 21 the Tribally Controlled College or University Assistance
 22 Act (25 U.S.C. 1804) is amended—

23 (1) in paragraph (2), by striking “and” at the
 24 end;

1 “(3) TRIBAL COLLEGE OR UNIVERSITY.—

2 “(A) IN GENERAL.—The term ‘Tribal Col-
3 lege or University’ means an institution that
4 meets the definition of tribally controlled college
5 or university in section 2 of the Tribally Con-
6 trolled College or University Assistance Act of
7 1978 (25 U.S.C. 1801).

8 “(B) INCLUSIONS.—The term ‘Tribal Col-
9 lege or University’ includes Bay Mills Commu-
10 nity College; Blackfeet Community College;
11 Cankdeska Cikana Community College; Chief
12 Dull Knife College; College of Menominee Na-
13 tion; Crownpoint Institute of Technology; Dine
14 College; D–Q University; Fond Du Lac Tribal
15 and Community College; Fort Belknap College;
16 Fort Berthold Community College; Fort Peck
17 Community College; Haskell Indian Nations
18 University; Institute of American Indian and
19 Alaska Native Culture and Arts Development;
20 Lac Courte Oreilles Ojibwa Community College;
21 Leech Lake Tribal College; Little Big Horn
22 College; Little Priest Tribal College; Nebraska
23 Indian Community College; Northwest Indian
24 College; Oglala Lakota College; Saginaw Chip-
25 pewa Tribal College; Salish Kootenai College; Si

1 Tanka University-Eagle Butte Campus; Sinte
2 Gleska University; Sisseton Wahpeton Commu-
3 nity College; Sitting Bull College; Southwestern
4 Indian Polytechnic Institute; Stone Child Col-
5 lege; Tohono O’odham Community College;
6 Turtle Mountain Community College; United
7 Tribes Technical College; and White Earth
8 Tribal and Community College.”.

9 (b) DISTANCE LEARNING.—Section 316(c)(2) of the
10 Higher Education Act of 1965 (20 U.S.C. 1059c(c)(2))
11 is amended—

12 (1) in subparagraph (B), by inserting before
13 the semicolon at the end the following: “and the ac-
14 quisition of real property adjacent to the campus of
15 the institution on which to construct such facilities”;

16 (2) in subparagraph (K), by striking “and” at
17 the end;

18 (3) by redesignating subparagraph (L) as sub-
19 paragraph (M); and

20 (4) by inserting after subparagraph (K) the fol-
21 lowing:

22 “(L) developing or improving facilities for
23 Internet use or other distance learning aca-
24 demic instruction capabilities; and”.

1 (c) APPLICATION, PLAN, AND ALLOCATION.—Section
2 316 of the Higher Education Act of 1965 (20 U.S.C.
3 1059c) is amended by striking subsection (d) and insert-
4 ing the following:

5 “(d) APPLICATION, PLAN, AND ALLOCATION.—

6 “(1) INSTITUTIONAL ELIGIBILITY.—To be eligi-
7 ble to receive assistance under this section, a Tribal
8 College or University shall be an eligible institution
9 under section 312(b).

10 “(2) APPLICATION.—

11 “(A) IN GENERAL.—A Tribal College or
12 University desiring to receive assistance under
13 this section shall submit an application to the
14 Secretary at such time, and in such manner, as
15 the Secretary may reasonably require.

16 “(B) STREAMLINED PROCESS.—The Sec-
17 retary shall establish application requirements
18 in such a manner as to simplify and streamline
19 the process for applying for grants.

20 “(3) ALLOCATIONS TO INSTITUTIONS.—

21 “(A) CONSTRUCTION GRANTS.—

22 “(i) IN GENERAL.—Of the amount ap-
23 propriated to carry out this section for any
24 fiscal year, the Secretary shall reserve 30
25 percent for the purpose of awarding 1-year

1 grants of not less than \$1,000,000 to ad-
2 dress construction, maintenance, and ren-
3 ovation needs at eligible institutions.

4 “(ii) PREFERENCE.—In providing
5 grants under clause (i), the Secretary shall
6 give preference to eligible institutions that
7 have not yet received an award under this
8 section.

9 “(B) ALLOTMENT OF REMAINING
10 FUNDS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), the Secretary shall dis-
13 tribute the remaining funds appropriated
14 for any fiscal year to each eligible institu-
15 tion as follows:

16 “(I) 60 percent of the remaining
17 appropriated funds shall be distrib-
18 uted among the eligible Tribal Col-
19 leges and Universities pro rata basis,
20 based on the respective Indian student
21 counts (as defined in section 2(a) of
22 the Tribally Controlled College or
23 University Assistance Act of 1978 (25
24 U.S.C. 1801(a)) of the Tribal Colleges
25 and Universities; and

1 “(II) the remaining 40 percent
2 shall be distributed in equal shares to
3 eligible Tribal Colleges and Univer-
4 sities.

5 “(ii) MINIMUM GRANT.—The amount
6 distributed to a Tribal College or Univer-
7 sity under clause (i) shall not be less than
8 \$500,000.

9 “(4) SPECIAL RULES.—

10 “(A) CONCURRENT FUNDING.—For the
11 purposes of this part, no Tribal College or Uni-
12 versity that is eligible for and receives funds
13 under this section shall concurrently receive
14 funds under other provisions of this part or
15 part B.

16 “(B) EXEMPTION.—Section 313(d) shall
17 not apply to institutions that are eligible to re-
18 ceive funds under this section.”.

19 **SEC. 103. LOAN REPAYMENT OR CANCELLATION FOR INDI-**
20 **VIDUALS WHO TEACH IN TRIBAL COLLEGES**
21 **OR UNIVERSITIES.**

22 (a) PERKINS LOANS.—

23 (1) AMENDMENT.—Section 465(a) of the High-
24 er Education Act of 1965 (20 U.S.C. 1087ee(a)) is
25 amended—

- 1 (A) in paragraph (2)—
- 2 (i) in subparagraph (H), by striking
- 3 “or” at the end;
- 4 (ii) in subparagraph (I), by striking
- 5 the period at the end and inserting “; or”;
- 6 and
- 7 (iii) by adding at the end the fol-
- 8 lowing:
- 9 “(J) as a full-time teacher at a Tribal Col-
- 10 lege or University (as defined in section
- 11 316(b)).”; and
- 12 (B) in paragraph (3)(A)(i), by striking “or
- 13 (I)” and inserting “(I), or (J)”.
- 14 (2) EFFECTIVE DATE.—The amendments made
- 15 by paragraph (1) shall be effective for service per-
- 16 formed during academic year 1998–1999 and suc-
- 17 ceeding academic years, notwithstanding any con-
- 18 trary provision of the promissory note under which
- 19 a loan under part E of title IV of the Higher Edu-
- 20 cation Act of 1965 (20 U.S.C. 1087aa et seq.) was
- 21 made.
- 22 (b) FFEL AND DIRECT LOANS.—Part G of title IV
- 23 of the Higher Education Act of 1965 (20 U.S.C. 1088
- 24 et seq.) is amended by adding at the end the following:

1 **“SEC. 493. LOAN REPAYMENT OR CANCELLATION FOR INDI-**
2 **VIDUALS WHO TEACH IN TRIBAL COLLEGES**
3 **OR UNIVERSITIES.**

4 “(a) DEFINITION OF YEAR.—In this section, the
5 term ‘year’, as applied to employment as a teacher, means
6 an academic year (as defined by the Secretary).

7 “(b) PROGRAM.—The Secretary shall carry out a pro-
8 gram, through the holder of a loan, of assuming or can-
9 celing the obligation to repay a qualified loan amount, in
10 accordance with subsection (c), for any new borrower on
11 or after the date of enactment of this section, who—

12 “(1) has been employed as a full-time teacher
13 at a Tribal College or University (as defined in sec-
14 tion 316(b)); and

15 “(2) is not in default on a loan for which the
16 borrower seeks repayment or cancellation.

17 “(c) QUALIFIED LOAN AMOUNTS.—

18 “(1) PERCENTAGES.—Subject to paragraph (2),
19 the Secretary shall assume or cancel the obligation
20 to repay under this section—

21 “(A) 15 percent of the amount of all loans
22 made, insured, or guaranteed after the date of
23 enactment of this section to a student under
24 part B or D, for the first or second year of em-
25 ployment described in subsection (b)(1);

1 “(B) 20 percent of such total amount, for
2 the third or fourth year of such employment;
3 and

4 “(C) 30 percent of such total amount, for
5 the fifth year of such employment.

6 “(2) MAXIMUM.—The Secretary shall not repay
7 or cancel under this section more than \$15,000 in
8 the aggregate of loans made, insured, or guaranteed
9 under parts B and D for any student.

10 “(3) TREATMENT OF CONSOLIDATION LOANS.—
11 A loan amount for a loan made under section 428C
12 may be a qualified loan amount for the purposes of
13 this subsection only to the extent that the loan
14 amount was used to repay a loan made, insured, or
15 guaranteed under part B or D for a borrower who
16 meets the requirements of subsection (b), as deter-
17 mined in accordance with regulations promulgated
18 by the Secretary.

19 “(d) REGULATIONS.—The Secretary may promulgate
20 such regulations as are necessary to carry out this section.

21 “(e) EFFECT OF SECTION.—Nothing in this section
22 authorizes any refunding of any repayment of a loan.

23 “(f) PREVENTION OF DOUBLE BENEFITS.—No bor-
24 rower may, for the same service, receive a benefit under
25 both this section and subtitle D of title I of the National

1 and Community Service Act of 1990 (42 U.S.C. 12571
2 et seq.).”.

3 (c) AMOUNTS FORGIVEN NOT TREATED AS GROSS
4 INCOME.—Rules similar to the rules under section 108(f)
5 of the Internal Revenue Code of 1986 shall apply to the
6 amount of any loan that is assumed or canceled under this
7 section.

8 **TITLE II—NAVAJO HIGHER** 9 **EDUCATION**

10 **SEC. 201. SHORT TITLE.**

11 This title may be cited as the “Navajo Nation Higher
12 Education Act of 2004”.

13 **SEC. 202. CONGRESSIONAL FINDINGS.**

14 Congress finds that—

15 (1) the Treaty of 1868 between the United
16 States of America and the Navajo Tribe of Indians
17 (15 Stat. 667) provides for the education of the citi-
18 zens of the Navajo Nation;

19 (2) in 1998, the Navajo Nation created and
20 chartered the Navajo Community College by Resolu-
21 tion CN-95-68 as a wholly owned educational entity
22 of the Navajo Nation;

23 (3) in 1971, Congress enacted the Navajo Com-
24 munity College Act (25 U.S.C. 640a et seq.);

1 (4) in 1997, the Navajo Nation officially
2 changed the name of the Navajo Community College
3 to Diné College by Resolution CAP-35-97;

4 (5) the purpose of Diné College is to provide
5 educational opportunities to the Navajo people and
6 others in areas important to the economic and social
7 development of the Navajo Nation;

8 (6) the mission of Diné College is to apply the
9 principles of Sa'ah Naaghí Bik'eh Hózhóón (Diné
10 Philosophy) to advance student learning through
11 training of the mind and heart—

12 (A) through Nitshkees (Thinking), Nahat
13 (Planning), Iin (Living), and Sihasin (Assur-
14 ance);

15 (B) in study of the Diné language, history,
16 philosophy, and culture;

17 (C) in preparation for further studies and
18 employment in a multicultural and technological
19 world; and

20 (D) in fostering social responsibility, com-
21 munity service, and scholarly research that con-
22 tribute to the social, economic, and cultural
23 well-being of the Navajo Nation;

1 (7) the United States has a trust and treaty re-
 2 sponsibility to the Navajo Nation to provide for the
 3 educational opportunities for Navajo people;

4 (8) significant portions of the infrastructure of
 5 the College are dilapidated and pose a serious health
 6 and safety risk to students, employees and the pub-
 7 lic; and

8 (9) the purposes and intent of this Act—

9 (A) are consistent with—

10 (i) Executive Order 13270 (3 C.F.R.
 11 242 (2002); relating to tribal colleges and
 12 universities)); and

13 (ii) Executive Order 13336 (69 Fed.
 14 Reg. 25295; relating to American Indian
 15 and Alaska Native education), issued on
 16 April 30, 2004; and

17 (B) fulfill the responsibility of the United
 18 States to serve the education needs of the Nav-
 19 ajo people.

20 **SEC. 203. DEFINITIONS.**

21 In this title:

22 (1) COLLEGE.—The term “College” means
 23 Diné College.

24 (2) COSTS OF OPERATION AND MAINTEN-
 25 NANCE.—The term “operation and maintenance”

1 means all costs and expenses associated with the
2 customary daily operation of the College and nec-
3 essary maintenance costs.

4 (3) INFRASTRUCTURE.—

5 (A) IN GENERAL.—The term “infrastruc-
6 ture” means College buildings, water and sewer
7 facilities, roads, foundation, information tech-
8 nology, and telecommunications.

9 (B) INCLUSIONS.—The term “infrastruc-
10 ture” includes—

11 (i) classrooms; and

12 (ii) external structures, such as walk-
13 ways.

14 (4) NATION.—The term “Nation” means the
15 Navajo Nation.

16 (5) RENOVATIONS AND REPAIRS.—The term
17 “renovations and repairs” means modernization and
18 improvements to the infrastructure.

19 (6) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 **SEC. 204. REAUTHORIZATION OF DINÉ COLLEGE.**

22 Congress authorizes the College to receive all Federal
23 funding and resources under this Act and other laws for
24 the operation, improvement, and growth of the College, in-
25 cluding—

1 (1) provision of programs of higher education
2 for citizens of the Nation and others;

3 (2) provision of vocational and technical edu-
4 cation for citizens of the Nation and others;

5 (3) preservation and protection of the Navajo
6 language, philosophy, and culture for citizens of the
7 Nation and others;

8 (4) provision of employment and training op-
9 portunities to Navajo communities and people;

10 (5) provision of economic development and com-
11 munity outreach for Navajo communities and people;
12 and

13 (6) provision of a safe learning, working, and
14 living environment for students, employees, and the
15 public.

16 **SEC. 205. FACILITIES AND CAPITAL PROJECTS.**

17 The College may expend money received under sec-
18 tion 209(c) to undertake all renovations and repairs to the
19 infrastructure of the College, as identified by a strategic
20 plan approved by the College and submitted to the Sec-
21 retary.

22 **SEC. 206. STATUS OF FUNDS.**

23 Funds provided to the College under this title may
24 be treated as non-Federal, private funds of the College for
25 purposes of any provision of Federal law that requires that

1 non-Federal or private funds of the College be used in a
2 project for a specific purpose.

3 **SEC. 207. SURVEY, STUDY, AND REPORT.**

4 (a) REPORT.—The Secretary shall—

5 (1) conduct a detailed study of all capital
6 projects and facility needs of the College; and

7 (2) submit to Congress a report that —

8 (A) describes the results of the study not
9 later than October 31, 2009; and

10 (B) includes detailed recommendations of
11 the Secretary and any recommendations or
12 views submitted by the College and the Nation.

13 (b) ADMINISTRATIVE EXPENSES.—Funds to carry
14 out this section may be drawn from general administrative
15 appropriations to the Secretary.

16 **SEC. 208. CONTINUING ELIGIBILITY FOR OTHER FEDERAL**
17 **FUNDS.**

18 Except as explicitly provided for in other Federal law,
19 nothing in this Act precludes the eligibility of the College
20 to received Federal funding and resources under any pro-
21 gram authorized under—

22 (1) the Higher Education Act of 1965 (20
23 U.S.C. 1001 et seq.); and

1 (2) the Equity in Educational Land Grant Sta-
2 tus Act (title V, part C, of Public Law 103–382; 7
3 U.S.C. 301 note); or

4 (3) any other applicable program for the benefit
5 of institutions of higher education, community col-
6 leges, or postsecondary educational institutions.

7 **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There are authorized to be appro-
9 priated for each fiscal year such amounts as are necessary
10 to pay the costs of operation and maintenance.

11 (b) BUDGET PLACEMENT.—The Secretary shall fund
12 the costs of operation and maintenance of the College sep-
13 arately from tribal colleges and universities recognized and
14 funded by the Tribally Controlled College or University
15 Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

16 (c) FACILITIES AND CAPITAL PROJECTS.—

17 (1) IN GENERAL.—In addition to amounts
18 made available under subsection (a), there are au-
19 thorized to be appropriated to carry out section 205
20 \$15,000,000 for each of fiscal years 2005 through
21 2009.

22 (2) AGENCIES.—Amounts made available under
23 paragraph (1) may be funded through any 1 or more
24 of—

25 (A) the Department of the Interior;

- 1 (B) the Department of Education;
- 2 (C) the Department of Health and Human
- 3 Services;
- 4 (D) the Department of Housing and
- 5 Urban Development;
- 6 (E) the Department of Commerce;
- 7 (F) the Environmental Protection Agency;
- 8 (G) the Department of Veterans Affairs;
- 9 (H) the Department of Agriculture;
- 10 (I) the Department of Homeland Security;
- 11 (J) the Department of Defense;
- 12 (K) the Department of Labor; and
- 13 (L) the Department of Transportation.

14 **SEC. 210. REPEAL OF NAVAJO COMMUNITY COLLEGE ACT.**

15 This Act supersedes the Navajo Community College
16 Act (25 U.S.C. 640a et seq.).

