

104TH CONGRESS
2D SESSION

S. 2117

To enhance the administrative authority of the president of Haskell Indian Nations University, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1996

Mrs. KASSEBAUM (for herself 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 president of Haskell Indian Nations University, 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 Administrative Systems Act of 1996”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) the provision of culturally sensitive curricula
9 for higher education programs at Haskell Indian
10 Nations University is consistent with the commit-

1 ment of the Federal Government to the fulfillment
2 of treaty obligations to Indian tribes through the
3 principle of self-determination and the use of Fed-
4 eral resources; and

5 (2) giving a greater degree of autonomy to Has-
6 kell Indian Nations University, while maintaining
7 the university as an integral part of the Bureau of
8 Indian Affairs, will facilitate the transition of the
9 university to a 4-year university.

10 **SEC. 3. DEFINITIONS.**

11 For purposes of this Act the following definitions
12 shall apply:

13 (1) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 (2) UNIVERSITY.—The term “Haskell Indian
16 Nations University” or “university” means the Has-
17 kell Indian Nations University, located in Lawrence,
18 Kansas.

19 **SEC. 4. PERSONNEL MANAGEMENT.**

20 (a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE
21 LAWS.—Chapters 51, 53, and 63 of title 5, United States
22 Code (relating to classification, pay, and leave, respec-
23 tively) and the provisions of such title relating to the ap-
24 pointment, performance evaluation, promotion, and re-
25 moval of civil service employees shall not apply to appli-

1 cants for employment with, employees of, or positions in
 2 or under the university.

3 (b) ALTERNATIVE PERSONNEL MANAGEMENT PRO-
 4 VISIONS.—

5 (1) IN GENERAL.—The president of the univer-
 6 sity shall by regulation prescribe such personnel
 7 management provisions as may be necessary, in
 8 order to ensure the effective administration of the
 9 university, to replace the provisions of law that are
 10 inapplicable with respect to the university by reason
 11 of subsection (a).

12 (2) PROCEDURAL REQUIREMENTS.—The regu-
 13 lations prescribed under this subsection shall—

14 (A) be prescribed in consultation with the
 15 board of regents of the university and other ap-
 16 propriate representative bodies;

17 (B) be subject to the requirements of sub-
 18 sections (b) through (e) of section 553 of title
 19 5, United States Code; and

20 (C) not take effect without the prior writ-
 21 ten approval of the Secretary.

22 (c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—
 23 Under the regulations prescribed under this subsection—

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

1 (A) in the case of an employee who would
2 otherwise be subject to the General Schedule,
3 the maximum rate of basic pay then currently
4 payable for grade GS-15 of the General Sched-
5 ule (including any amount payable under sec-
6 tion 5304 of title 5, United States Code, or
7 other similar authority for the locality involved);
8 or

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

16 (2) the limitation under section 5307 of title 5,
17 United States Code (relating to limitation on certain
18 payments) shall apply, subject to such definitional
19 and other modifications as may be necessary in the
20 context of the alternative personnel management
21 provisions established under this section;

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

24 (4) no university employee may be discharged
25 without notice of the reasons therefor and oppor-

1 tunity for a hearing under procedures that comport
2 with the requirements of due process, except that
3 this paragraph shall not apply in the case of an em-
4 ployee serving a probationary or trial period under
5 an initial appointment; and

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

12 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be considered to affect—

14 (1) the applicability of any provision of law pro-
15 viding for—

16 (A) equal employment opportunity;

17 (B) Indian preference; or

18 (C) veterans' preference; or

19 (2) the eligibility of any individual to partici-
20 pate in any retirement system, any program under
21 which any health insurance or life insurance is af-
22 farded, or any program under which unemployment
23 benefits are afforded, with respect to Federal em-
24 ployees.

25 (e) LABOR-MANAGEMENT PROVISIONS.—

1 (1) COLLECTIVE-BARGAINING AGREEMENTS.—
2 Any collective-bargaining agreement in effect on the
3 day before the effective date specified under sub-
4 section (f)(1) shall continue to be recognized by the
5 university until altered or amended pursuant to law.

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

11 (3) OTHER PROVISIONS.—Matters made subject
12 to regulation under this section shall not be subject
13 to collective bargaining, except in the case of any
14 matter under chapter 63 of title 5, United States
15 Code (relating to leave).

16 (f) EFFECTIVE DATE.—

17 (1) ALTERNATIVE PERSONNEL MANAGEMENT
18 PROVISIONS.—The alternative personnel manage-
19 ment provisions under this section shall take effect
20 on such date as may be specified in the regulations,
21 except that such date may not be later than 1 year
22 after the date of the enactment of this Act.

23 (2) PROVISIONS MADE INAPPLICABLE BY THIS
24 SECTION.—Subsection (a) shall take effect on the
25 date specified under paragraph (1).

1 (g) APPLICABILITY.—

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

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

10 (A) IN GENERAL.—A university employee
11 serving on the day before the effective date
12 specified under subsection (f)(1) shall not be
13 subject to the alternative personnel manage-
14 ment provisions under this section (and shall
15 instead, for all purposes, be treated in the same
16 way as if this section had not been enacted,
17 notwithstanding subsection (a)) unless, before
18 the end of the 5-year period beginning on such
19 effective date, such employee elects to be cov-
20 ered by such provisions.

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

25 (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 effective date spec-
6 ified 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 university position from a non-university
10 position with the Federal Government or
11 the government of the District of Colum-
12 bia,

13 shall be credited, for the purpose of the leave
14 system provided under regulations prescribed
15 under this section, with the annual and sick
16 leave to such individual's credit immediately be-
17 fore the effective date of such election, transfer,
18 promotion, or reappointment, as the case may
19 be.

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

22 (i) ANNUAL LEAVE.—Upon termi-
23 nation of employment with the university,
24 any annual leave remaining to the credit of
25 an individual within the purview of this

1 section shall be liquidated in accordance
2 with section 5551(a) and section 6306 of
3 title 5, United States Code, except that
4 leave earned or accrued under regulations
5 prescribed under this section shall not be
6 so liquidated.

7 (ii) SICK LEAVE.—Upon termination
8 of employment with the university, any
9 sick leave remaining to the credit of an in-
10 dividual within the purview of this section
11 shall be creditable for civil service retire-
12 ment purposes in accordance with section
13 8339(m) of title 5, United States Code, ex-
14 cept that leave earned or accrued under
15 regulations prescribed under this section
16 shall not be so creditable.

17 (C) TRANSFER OF REMAINING LEAVE
18 UPON TRANSFER, PROMOTION, OR REEMPLOY-
19 MENT.—In the case of any university employee
20 who is transferred, promoted, or reappointed,
21 without a break in service of 3 days or longer,
22 to a position in the Federal Government (or the
23 government of the District of Columbia) under
24 a different leave system, any remaining leave to
25 the credit of that individual earned or credited

1 under the regulations prescribed under this sec-
2 tion shall be transferred to such individual's
3 credit in the employing agency on an adjusted
4 basis in accordance with regulations which shall
5 be prescribed by the Office of Personnel Man-
6 agement.

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
10 university 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 the
15 university procurement and contracting authority with re-
16 spect to the conduct of the administrative functions of the
17 university.

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

19 There are authorized to be appropriated for fiscal
20 year 1997, and for each fiscal year thereafter—

21 (1) the amount of funds made available by ap-
22 propriations as operations funding for the adminis-
23 tration of the university for fiscal year 1996; and

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

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