

105TH CONGRESS  
1ST SESSION

# H. R. 1337

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1997

Mr. SNOWBARGER (for himself, Mr. SCHIFF, Mr. MORAN of Kansas, Mr. TLAHRT, and Mr. RYUN) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

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

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

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

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

20 **SEC. 3. DEFINITIONS.**

21 For purposes of this Act—

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

1           (2) SOUTHWESTERN INDIAN POLYTECHNIC IN-  
2           STITUTE.—The term “Southwestern Indian Poly-  
3           technic Institute” means the Southwestern Indian  
4           Polytechnic Institute, located in Albuquerque, New  
5           Mexico.

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

11          (4) SECRETARY.—The term “Secretary” means  
12          the Secretary of the Interior.

13 **SEC. 4. PERSONNEL MANAGEMENT.**

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

23          (b) ALTERNATIVE PERSONNEL MANAGEMENT PRO-  
24          VISIONS.—

1           (1) IN GENERAL.—The president of each of the  
2           respective institutions shall by regulation prescribe  
3           such personnel management provisions as may be  
4           necessary, in the interest of effective administration,  
5           to replace the provisions of law that are inapplicable  
6           with respect to such institution by reason of sub-  
7           section (a).

8           (2) PROCEDURAL REQUIREMENTS.—Regula-  
9           tions under this subsection—

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

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

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

19           (c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—  
20           Under the regulations prescribed for an institution under  
21           this section—

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

24                           (A) in the case of an employee who would  
25                           otherwise be subject to the General Schedule,

1 the maximum rate of basic pay then currently  
2 payable for grade GS-15 of the General Sched-  
3 ule (including any amount payable under sec-  
4 tion 5304 of title 5, United States Code, or  
5 other similar authority for the locality involved);  
6 or

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

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

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

22 (4) no employee may be discharged without no-  
23 tice of the reasons therefor and opportunity for a  
24 hearing under procedures that comport with the re-  
25 quirements of due process, except that this para-

1 graph shall not apply in the case of an employee  
2 serving a probationary or trial period under an ini-  
3 tial appointment; and

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

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

12 (1) any provision of law providing for—

13 (A) equal employment opportunity;

14 (B) Indian preference; or

15 (C) veterans' preference;

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

20 (3) chapter 71 of title 5, United States Code,  
21 relating to labor-management and employee rela-  
22 tions.

23 (e) LABOR-MANAGEMENT PROVISIONS.—

24 (1) COLLECTIVE-BARGAINING AGREEMENTS.—

25 Any collective-bargaining agreement in effect on the

1 day before the applicable effective date under sub-  
2 section (f)(1) shall continue to be recognized by the  
3 institution involved until altered or amended pursu-  
4 ant to law.

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

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

13 (f) EFFECTIVE DATE.—

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

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

1       fied with respect to such institution under paragraph  
2       (1).

3       (g) APPLICABILITY.—

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

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

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

23           (B) PROCEDURES.—An election under this  
24       paragraph shall be made in such form and in



1 such manner as may be required under the reg-  
2 ulations, and shall be irrevocable.

3 (3) TRANSITION PROVISIONS.—

4 (A) PROVISIONS RELATING TO ANNUAL  
5 AND SICK LEAVE.—Any individual who—

6 (i) makes an election under paragraph  
7 (2), or

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

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

24 (B) LIQUIDATION OF REMAINING LEAVE  
25 UPON TERMINATION.—

1 (i) ANNUAL LEAVE.—Upon termi-  
2 nation of employment with an institution  
3 to which this Act applies, any annual leave  
4 remaining to the credit of an individual  
5 within the purview of this section shall be  
6 liquidated in accordance with section  
7 5551(a) and section 6306 of title 5, United  
8 States Code.

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

20 (C) TRANSFER OF REMAINING LEAVE  
21 UPON TRANSFER, PROMOTION, OR REEMPLOY-  
22 MENT.—In the case of an employee of an insti-  
23 tution to which this Act applies who is trans-  
24 ferred, promoted, or reappointed, without a  
25 break in service of 3 days or longer, to a posi-

1           tion in the Federal Government (or the govern-  
2           ment of the District of Columbia) under a dif-  
3           ferent leave system, any leave remaining to the  
4           credit of that individual which was earned or  
5           credited under the regulations prescribed under  
6           this section shall be transferred to such individ-  
7           ual's credit in the employing agency on an ad-  
8           justed basis in accordance with section 6308 of  
9           title 5, United States Code.

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

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

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

21 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

22           There are authorized to be appropriated to each of  
23           the respective institutions for fiscal year 1998, and for  
24           each fiscal year thereafter—

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

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

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