

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4259

To allow Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute each to conduct a demonstration project to test the feasibility and desirability of new personnel management policies and procedures, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1998

Mr. SNOWBARGER 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 allow Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute each to conduct a demonstration project to test the feasibility and desirability of new personnel management policies and procedures, 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 1998”.

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; APPLICABILITY.**

21 (a) DEFINITIONS.—For purposes of this Act:

22 (1) SECRETARY.—The term “Secretary” means  
23 the Secretary of the Interior.

24 (2) EMPLOYEE.—The term “employee”, with  
25 respect to an institution named in subsection (b),

1 means an individual employed in or under such insti-  
2 tution.

3 (3) ELIGIBLE.—The term “eligible” means an  
4 individual who has qualified for appointment in the  
5 institution involved and whose name has been en-  
6 tered on the appropriate register or list of eligibles.

7 (4) DEMONSTRATION PROJECT.—The term  
8 “demonstration project” means a project conducted  
9 by or under the supervision of an institution named  
10 in subsection (b) to determine whether specified  
11 changes in personnel management policies or proce-  
12 dures would result in improved personnel manage-  
13 ment.

14 (b) APPLICABILITY.—This Act applies to—

15 (1) Haskell Indian Nations University, located  
16 in Lawrence, Kansas; and

17 (2) Southwestern Indian Polytechnic Institute,  
18 located in Albuquerque, New Mexico.

19 **SEC. 4. AUTHORITY.**

20 (a) IN GENERAL.—Each institution named in section  
21 3(b) may conduct a demonstration project in accordance  
22 with the provisions of this Act. The conducting of any such  
23 demonstration project shall not be limited by any lack of  
24 specific authority under title 5, United States Code, to  
25 take the action contemplated, or by any provision of such

1 title or any rule or regulation prescribed under such title  
2 which is inconsistent with the action, including any provi-  
3 sion of law, rule, or regulation relating to—

4           (1) the methods of establishing qualification re-  
5           quirements for, recruitment for, and appointment to  
6           positions;

7           (2) the methods of classifying positions and  
8           compensating employees;

9           (3) the methods of assigning, reassigning, or  
10          promoting employees;

11          (4) the methods of disciplining employees;

12          (5) the methods of providing incentives to em-  
13          ployees, including the provision of group or individ-  
14          ual incentive bonuses or pay;

15          (6) the hours of work per day or per week;

16          (7) the methods of involving employees, labor  
17          organizations, and employee organizations in person-  
18          nel decisions; and

19          (8) the methods of reducing overall staff and  
20          grade levels.

21          (b) CONSULTATION AND OTHER REQUIREMENTS.—

22 Before commencing a demonstration project under this  
23 Act, the president of the institution involved shall—

24           (1) in consultation with the board of regents of  
25           the institution and such other persons or representa-

1       tive bodies as the president considers appropriate,  
2       develop a plan for such project which identifies—

3               (A) the purposes of the project;

4               (B) the types of employees or eligibles to  
5       be included (categorized by occupational series,  
6       grade, or organizational unit);

7               (C) the number of employees or eligibles to  
8       be included (in the aggregate and by category);

9               (D) the methodology;

10              (E) the duration;

11              (F) the training to be provided;

12              (G) the anticipated costs;

13              (H) the methodology and criteria for eval-  
14       uation, consistent with subsection (f);

15              (I) a specific description of any aspect of  
16       the project for which there is a lack of specific  
17       authority; and

18              (J) a specific citation to any provision of  
19       law, rule, or regulation which, if not waived,  
20       would prohibit the conducting of the project, or  
21       any part of the project as proposed;

22              (2) publish the plan in the Federal Register;

23              (3) submit the plan so published to public hear-  
24       ing;

1 (4) at least 180 days before the date on which  
2 the proposed project is to commence, provide notifi-  
3 cation of such project to—

4 (A) employees likely to be affected by the  
5 project; and

6 (B) each House of Congress;

7 (5) at least 90 days before the date on which  
8 the proposed project is to commence, provide each  
9 House of Congress with a report setting forth the  
10 final version of the plan; and

11 (6) at least 60 days before the date on which  
12 the proposed project is to commence, inform all em-  
13 ployees as to the final version of the plan, including  
14 all information relevant to the making of an election  
15 under subsection (h)(2)(A).

16 (c) LIMITATIONS.—No demonstration project under  
17 this Act may—

18 (1) provide for a waiver of—

19 (A) any provision of law, rule, or regula-  
20 tion providing for—

21 (i) equal employment opportunity;

22 (ii) Indian preference; or

23 (iii) veterans' preference;

24 (B) any provision of chapter 23 of title 5,  
25 United States Code, or any other provision of

1 such title relating to merit system principles or  
2 prohibited personnel practices, or any rule or  
3 regulation prescribed under authority of any  
4 such provision; or

5 (C) any provision of subchapter II or III of  
6 chapter 73 of title 5, United States Code, or  
7 any rule or regulation prescribed under author-  
8 ity of any such provision;

9 (2) impose any duty to engage in collective bar-  
10 gaining with respect to—

11 (A) classification of positions; or

12 (B) pay, benefits, or any other form of  
13 compensation; or

14 (3) provide that any employee be required to  
15 pay dues or fees of any kind to a labor organization  
16 as a condition of employment.

17 (d) COMMENCEMENT AND TERMINATION DATES.—

18 Each demonstration project under this Act—

19 (1) shall commence within 2 years after the  
20 date of enactment of this Act; and

21 (2) shall terminate by the end of the 5-year pe-  
22 riod beginning on the date on which such project  
23 commences, except that the project may continue be-  
24 yond the end of such 5-year period—

1 (A) to the extent necessary to validate the  
2 results of the project; and

3 (B) to the extent provided for under sub-  
4 section (h)(2)(B).

5 (e) DISCRETIONARY AUTHORITY TO TERMINATE.—

6 A demonstration project under this Act may be terminated  
7 by the Secretary or the president of the institution in-  
8 volved if either determines that the project creates a sub-  
9 stantial hardship on, or is not in the best interests of, the  
10 institution and its educational goals.

11 (f) EVALUATION.—

12 (1) IN GENERAL.—The Secretary shall provide  
13 for an evaluation of the results of each demonstra-  
14 tion project under this Act and its impact on im-  
15 proving public management.

16 (2) INFORMATION.—Upon request of the Sec-  
17 retary, an institution named in section 3(b) shall co-  
18 operate with and assist the Secretary, to the extent  
19 practicable, in any evaluation undertaken under this  
20 subsection and provide the Secretary with requested  
21 information and reports relating to the conducting of  
22 its demonstration project.

23 (g) ROLE OF THE OFFICE OF PERSONNEL MANAGE-  
24 MENT.—Upon request of the Secretary or the president  
25 of an institution named in section 3(b), the Office of Per-



1 sonnel Management shall furnish information or technical  
2 advice on the design, operation, or evaluation, or any other  
3 aspect of a demonstration project under this Act.

4 (h) APPLICABILITY.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, all applicants for employ-  
7 ment with, all eligibles and employees of, and all po-  
8 sitions in or under an institution named in section  
9 3(b) shall be subject to inclusion in a demonstration  
10 project under this Act.

11 (2) PROVISIONS RELATING TO CERTAIN BENE-  
12 FITS.—

13 (A) OPTION FOR CERTAIN INDIVIDUALS TO  
14 REMAIN UNDER CURRENT LAW GOVERNING  
15 CERTAIN BENEFITS.—

16 (i) ELIGIBLE INDIVIDUALS.—This  
17 subparagraph applies in the case of any in-  
18 dividual who, as of the day before the date  
19 on which a demonstration project under  
20 this Act is to commence at an institution—

21 (I) is an employee of such insti-  
22 tution; and

23 (II) if benefits under subchapter  
24 III of chapter 83 or chapter 84 of  
25 title 5, United States Code, are to be

1 affected, has completed at least 1 year  
2 of Government service (whether with  
3 such institution or otherwise), but  
4 taking into account only civilian serv-  
5 ice creditable under subchapter III of  
6 chapter 83 or chapter 84 of such title.

7 (ii) OPTION.—If a demonstration  
8 project is to include changes to any bene-  
9 fits under subpart G of part III of title 5,  
10 United States Code, an employee described  
11 in clause (i) shall be afforded an election  
12 not to become subject to such demonstra-  
13 tion project, to the extent those benefits  
14 are involved (and to instead remain subject  
15 to the provisions of such subpart G as if  
16 this Act had not been enacted).

17 (B) CONTINUATION OF CERTAIN ALTER-  
18 NATIVE BENEFIT SYSTEMS AFTER DEMONSTRA-  
19 TION PROJECT TERMINATES FOR PERSONS BE-  
20 COMING SUBJECT THERETO UNDER THE  
21 PROJECT.—Notwithstanding any other provi-  
22 sion of this Act, the termination of a dem-  
23 onstration project shall not, in the case of an  
24 employee who becomes subject to a system of  
25 alternative benefits under this Act (in lieu of

1 benefits that would otherwise be determined  
2 under subpart G of part III of title 5, United  
3 States Code), have the effect of terminating—

4 (i) any rights accrued by that individ-  
5 ual under the system of alternative benefits  
6 involved; or

7 (ii) the system under which those al-  
8 ternative benefits are afforded, to the ex-  
9 tent continuation of such system beyond  
10 the termination date is provided for under  
11 the terms of the demonstration project (as  
12 in effect on the termination date).

13 (3) TRANSITION PROVISIONS.—

14 (A) RETENTION OF ANNUAL AND SICK  
15 LEAVE ACCRUED BEFORE BECOMING SUBJECT  
16 TO DEMONSTRATION PROJECT.—Any individual  
17 becoming subject to a demonstration project  
18 under this Act shall, in a manner consistent  
19 with the requirements of section 6308 of title 5,  
20 United States Code, be credited with any an-  
21 nual leave and any sick leave standing to such  
22 individual's credit immediately before becoming  
23 subject to the project.

24 (B) PROVISIONS RELATING TO CREDIT FOR  
25 LEAVE UPON SEPARATING WHILE THE DEM-

1           ONSTRATION PROJECT IS STILL ONGOING.—Any  
2           demonstration project under this Act shall in-  
3           clude provisions consistent with the following:

4                   (i) LUMP-SUM CREDIT FOR ANNUAL  
5                   LEAVE.—In the case of any individual who,  
6                   at the time of becoming subject to the  
7                   demonstration project, has any leave for  
8                   which a lump-sum payment might be paid  
9                   under subchapter VI of chapter 55 of title  
10                  5, United States Code, such individual  
11                  shall, if such individual separates from  
12                  service (in the circumstances described in  
13                  section 5551 or 5552 of such title 5, as ap-  
14                  plicable) while the demonstration project is  
15                  still ongoing, be entitled to a lump-sum  
16                  payment under such section 5551 or 5552  
17                  (as applicable) based on the amount of  
18                  leave standing to such individual's credit at  
19                  the time such individual became subject to  
20                  the demonstration project or the amount of  
21                  leave standing to such individual's credit at  
22                  the time of separation, whichever is less.

23                  (ii) RETIREMENT CREDIT FOR SICK  
24                  LEAVE.—In the case of any individual who,  
25                  at the time of becoming subject to the

1 demonstration project, has any sick leave  
2 which would be creditable under section  
3 8339(m) of title 5, United States Code  
4 (had such individual then separated from  
5 service), any sick leave standing to such in-  
6 dividual's credit at the time of separation  
7 shall, if separation occurs while the dem-  
8 onstration project is still ongoing, be so  
9 creditable, but only to the extent that it  
10 does not exceed the amount of creditable  
11 sick leave that stood to such individual's  
12 credit at the time such individual became  
13 subject to the demonstration project.

14 (C) TRANSFER OF LEAVE REMAINING  
15 UPON TRANSFER TO ANOTHER AGENCY.—In the  
16 case of any employee who becomes subject to  
17 the demonstration project and is subsequently  
18 transferred or otherwise appointed (without a  
19 break in service of 3 days or longer) to another  
20 position in the Federal Government or the gov-  
21 ernment of the District of Columbia under a  
22 different leave system (whether while the  
23 project is still ongoing or otherwise), any leave  
24 remaining to the credit of that individual which  
25 was earned or credited under the demonstration

1 project shall be transferred to such individual's  
2 credit in the new employing agency on an ad-  
3 justed basis under regulations prescribed under  
4 section 6308 of title 5, United States Code. Any  
5 such regulations shall be prescribed taking into  
6 account the provisions of subparagraph (B).

7 (D) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement  
8 in effect on the day before a demonstration  
9 project under this Act commences shall con-  
10 tinue to be recognized by the institution in-  
11 volved until the earlier of—  
12

13 (i) the date occurring 3 years after  
14 the commencement date of the project;

15 (ii) the date as of which the agree-  
16 ment is scheduled to expire (disregarding  
17 any option to renew); or

18 (iii) such date as may be determined  
19 by mutual agreement of the parties.

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

21 The Secretary shall, to the maximum extent consist-  
22 ent with applicable law and subject to the availability of  
23 appropriations therefor, delegate to the presidents of the  
24 respective institutions named in section 3(b) procurement

1 and contracting authority with respect to the conduct of  
2 the administrative functions of such institution.

3 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated, for fiscal  
5 year 1999, and each fiscal year thereafter, to each of the  
6 respective institutions named in section 3(b)—

7 (1) the amount of funds made available by ap-  
8 propriations as operations funding for the adminis-  
9 tration of such institution for fiscal year 1998; and

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

13 **SEC. 7. REGULATIONS.**

14 The president of each institution named in section  
15 3(b) may, in consultation with the appropriate entities (re-  
16 ferred to in section 4(b)(1)), prescribe any regulations nec-  
17 essary to carry out this Act.

18 **SEC. 8. LEGISLATION TO MAKE CHANGES PERMANENT.**

19 Not later than 6 months before the date on which  
20 a demonstration project under this Act is scheduled to ex-  
21 pire, the institution conducting such demonstration  
22 project shall submit to each House of Congress—

23 (1) recommendations as to whether or not the  
24 changes under such project should be continued or  
25 made permanent; and

- 1           (2) proposed legislation for any changes in law
- 2           necessary to carry out any such recommendations.

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