

105TH CONGRESS
2^D SESSION

H. R. 4259

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, OCTOBER 2), 1998

Received

AN ACT

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”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds that—

9 (1) the provision of culturally sensitive curricula
10 for higher education programs at Haskell Indian
11 Nations University and the Southwestern Indian
12 Polytechnic Institute is consistent with the commit-
13 ment of the Federal Government to the fulfillment
14 of treaty obligations to Indian tribes through the
15 principle of self-determination and the use of Fed-
16 eral resources; and

17 (2) giving a greater degree of autonomy to
18 those institutions, while maintaining them as an in-
19 tegral part of the Bureau of Indian Affairs, will fa-
20 cilitate—

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

23 (B) the administration and improvement of
24 the academic program of the Southwestern In-
25 dian Polytechnic Institute.

1 **SEC. 3. DEFINITIONS; APPLICABILITY.**

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

3 (1) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (2) EMPLOYEE.—The term “employee”, with
6 respect to an institution named in subsection (b),
7 means an individual employed in or under such insti-
8 tution.

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

13 (4) DEMONSTRATION PROJECT.—The term
14 “demonstration project” means a project conducted
15 by or under the supervision of an institution named
16 in subsection (b) to determine whether specified
17 changes in personnel management policies or proce-
18 dures would result in improved personnel manage-
19 ment.

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

21 (1) Haskell Indian Nations University, located
22 in Lawrence, Kansas; and

23 (2) Southwestern Indian Polytechnic Institute,
24 located in Albuquerque, New Mexico.

1 **SEC. 4. AUTHORITY.**

2 (a) IN GENERAL.—Each institution named in section
3 3(b) may conduct a demonstration project in accordance
4 with the provisions of this Act. The conducting of any such
5 demonstration project shall not be limited by any lack of
6 specific authority under title 5, United States Code, to
7 take the action contemplated, or by any provision of such
8 title or any rule or regulation prescribed under such title
9 which is inconsistent with the action, including any provi-
10 sion of law, rule, or regulation relating to—

11 (1) the methods of establishing qualification re-
12 quirements for, recruitment for, and appointment to
13 positions;

14 (2) the methods of classifying positions and
15 compensating employees;

16 (3) the methods of assigning, reassigning, or
17 promoting employees;

18 (4) the methods of disciplining employees;

19 (5) the methods of providing incentives to em-
20 ployees, including the provision of group or individ-
21 ual incentive bonuses or pay;

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

23 (7) the methods of involving employees, labor
24 organizations, and employee organizations in person-
25 nel decisions; and

1 (8) the methods of reducing overall staff and
2 grade levels.

3 (b) CONSULTATION AND OTHER REQUIREMENTS.—

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

6 (1) in consultation with the board of regents of
7 the institution and such other persons or representa-
8 tive bodies as the president considers appropriate,
9 develop a plan for such project which identifies—

10 (A) the purposes of the project;

11 (B) the types of employees or eligibles to
12 be included (categorized by occupational series,
13 grade, or organizational unit);

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

16 (D) the methodology;

17 (E) the duration;

18 (F) the training to be provided;

19 (G) the anticipated costs;

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

22 (I) a specific description of any aspect of
23 the project for which there is a lack of specific
24 authority; and

1 (J) a specific citation to any provision of
2 law, rule, or regulation which, if not waived,
3 would prohibit the conducting of the project, or
4 any part of the project as proposed;

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

6 (3) submit the plan so published to public hear-
7 ing;

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

11 (A) employees likely to be affected by the
12 project; and

13 (B) each House of Congress;

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

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

23 (c) LIMITATIONS.—No demonstration project under
24 this Act may—

25 (1) provide for a waiver of—

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

3 (i) equal employment opportunity;

4 (ii) Indian preference; or

5 (iii) veterans' preference;

6 (B) any provision of chapter 23 of title 5,
7 United States Code, or any other provision of
8 such title relating to merit system principles or
9 prohibited personnel practices, or any rule or
10 regulation prescribed under authority of any
11 such provision; or

12 (C) any provision of subchapter II or III of
13 chapter 73 of title 5, United States Code, or
14 any rule or regulation prescribed under author-
15 ity of any such provision;

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

18 (A) classification of positions; or

19 (B) pay, benefits, or any other form of
20 compensation; or

21 (3) provide that any employee be required to
22 pay dues or fees of any kind to a labor organization
23 as a condition of employment.

24 (d) COMMENCEMENT AND TERMINATION DATES.—

25 Each demonstration project under this Act—

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

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

7 (A) to the extent necessary to validate the
8 results of the project; and

9 (B) to the extent provided for under sub-
10 section (h)(2)(B).

11 (e) DISCRETIONARY AUTHORITY TO TERMINATE.—

12 A demonstration project under this Act may be terminated
13 by the Secretary or the president of the institution in-
14 volved if either determines that the project creates a sub-
15 stantial hardship on, or is not in the best interests of, the
16 institution and its educational goals.

17 (f) EVALUATION.—

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

22 (2) INFORMATION.—Upon request of the Sec-
23 retary, an institution named in section 3(b) shall co-
24 operate with and assist the Secretary, to the extent
25 practicable, in any evaluation undertaken under this

1 subsection and provide the Secretary with requested
2 information and reports relating to the conducting of
3 its demonstration project.

4 (g) ROLE OF THE OFFICE OF PERSONNEL MANAGE-
5 MENT.—Upon request of the Secretary or the president
6 of an institution named in section 3(b), the Office of Per-
7 sonnel Management shall furnish information or technical
8 advice on the design, operation, or evaluation, or any other
9 aspect of a demonstration project under this Act.

10 (h) APPLICABILITY.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, all applicants for employ-
13 ment with, all eligibles and employees of, and all po-
14 sitions in or under an institution named in section
15 3(b) shall be subject to inclusion in a demonstration
16 project under this Act.

17 (2) PROVISIONS RELATING TO CERTAIN BENE-
18 FITS.—

19 (A) OPTION FOR CERTAIN INDIVIDUALS TO
20 REMAIN UNDER CURRENT LAW GOVERNING
21 CERTAIN BENEFITS.—

22 (i) ELIGIBLE INDIVIDUALS.—This
23 subparagraph applies in the case of any in-
24 dividual who, as of the day before the date

1 on which a demonstration project under
2 this Act is to commence at an institution—

3 (I) is an employee of such insti-
4 tution; and

5 (II) if benefits under subchapter
6 III of chapter 83 or chapter 84 of
7 title 5, United States Code, are to be
8 affected, has completed at least 1 year
9 of Government service (whether with
10 such institution or otherwise), but
11 taking into account only civilian serv-
12 ice creditable under subchapter III of
13 chapter 83 or chapter 84 of such title.

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

24 (B) CONTINUATION OF CERTAIN ALTER-
25 NATIVE BENEFIT SYSTEMS AFTER DEMONSTRA-

1 TION PROJECT TERMINATES FOR PERSONS BE-
2 COMING SUBJECT THERETO UNDER THE
3 PROJECT.—Notwithstanding any other provi-
4 sion of this Act, the termination of a dem-
5 onstration project shall not, in the case of an
6 employee who becomes subject to a system of
7 alternative benefits under this Act (in lieu of
8 benefits that would otherwise be determined
9 under subpart G of part III of title 5, United
10 States Code), have the effect of terminating—

11 (i) any rights accrued by that individ-
12 ual under the system of alternative benefits
13 involved; or

14 (ii) the system under which those al-
15 ternative benefits are afforded, to the ex-
16 tent continuation of such system beyond
17 the termination date is provided for under
18 the terms of the demonstration project (as
19 in effect on the termination date).

20 (3) TRANSITION PROVISIONS.—

21 (A) RETENTION OF ANNUAL AND SICK
22 LEAVE ACCRUED BEFORE BECOMING SUBJECT
23 TO DEMONSTRATION PROJECT.—Any individual
24 becoming subject to a demonstration project
25 under this Act shall, in a manner consistent

1 with the requirements of section 6308 of title 5,
2 United States Code, be credited with any an-
3 nual leave and any sick leave standing to such
4 individual's credit immediately before becoming
5 subject to the project.

6 (B) PROVISIONS RELATING TO CREDIT FOR
7 LEAVE UPON SEPARATING WHILE THE DEM-
8 ONSTRATION PROJECT IS STILL ONGOING.—Any
9 demonstration project under this Act shall in-
10 clude provisions consistent with the following:

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

1 the time such individual became subject to
2 the demonstration project or the amount of
3 leave standing to such individual's credit at
4 the time of separation, whichever is less.

5 (ii) RETIREMENT CREDIT FOR SICK
6 LEAVE.—In the case of any individual who,
7 at the time of becoming subject to the
8 demonstration project, has any sick leave
9 which would be creditable under section
10 8339(m) of title 5, United States Code
11 (had such individual then separated from
12 service), any sick leave standing to such in-
13 dividual's credit at the time of separation
14 shall, if separation occurs while the dem-
15 onstration project is still ongoing, be so
16 creditable, but only to the extent that it
17 does not exceed the amount of creditable
18 sick leave that stood to such individual's
19 credit at the time such individual became
20 subject to the demonstration project.

21 (C) TRANSFER OF LEAVE REMAINING
22 UPON TRANSFER TO ANOTHER AGENCY.—In the
23 case of any employee who becomes subject to
24 the demonstration project and is subsequently
25 transferred or otherwise appointed (without a

1 break in service of 3 days or longer) to another
2 position in the Federal Government or the gov-
3 ernment of the District of Columbia under a
4 different leave system (whether while the
5 project is still ongoing or otherwise), any leave
6 remaining to the credit of that individual which
7 was earned or credited under the demonstration
8 project shall be transferred to such individual's
9 credit in the new employing agency on an ad-
10 justed basis under regulations prescribed under
11 section 6308 of title 5, United States Code. Any
12 such regulations shall be prescribed taking into
13 account the provisions of subparagraph (B).

14 (D) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement
15 in effect on the day before a demonstration
16 project under this Act commences shall con-
17 tinue to be recognized by the institution in-
18 volved until the earlier of—
19

20 (i) the date occurring 3 years after
21 the commencement date of the project;

22 (ii) the date as of which the agree-
23 ment is scheduled to expire (disregarding
24 any option to renew); or

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

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

4 The Secretary shall, to the maximum extent consist-
5 ent with applicable law and subject to the availability of
6 appropriations therefor, delegate to the presidents of the
7 respective institutions named in section 3(b) procurement
8 and contracting authority with respect to the conduct of
9 the administrative functions of such institution.

10 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

20 **SEC. 7. REGULATIONS.**

21 The president of each institution named in section
22 3(b) may, in consultation with the appropriate entities (re-
23 ferred to in section 4(b)(1)), prescribe any regulations nec-
24 essary to carry out this Act.

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

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

6 (1) recommendations as to whether or not the
7 changes under such project should be continued or
8 made permanent; and

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

Passed the House of Representatives October 6,
1998.

Attest:

ROBIN H. CARLE,

Clerk.