

108TH CONGRESS
2D SESSION

S. 2172

To make technical amendments to the provisions of the Indian Self-Determination and Education Assistance Act relating to contract support costs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2004

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To make technical amendments to the provisions of the Indian Self-Determination and Education Assistance Act relating to contract support costs, 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 “Tribal Contract Sup-
5 port Cost Technical Amendments of 2004”.

1 **SEC. 2. AMENDMENT DETAILING CALCULATION AND PAY-**
2 **MENT OF CONTRACT SUPPORT COSTS.**

3 The Indian Self-Determination and Education Assist-
4 ance Act is amended by inserting after section 106 (25
5 U.S.C. 450j–1) the following:

6 **“SEC. 106A. CONTRACT SUPPORT COSTS.**

7 **“(a) OTHER FEDERAL AGENCIES.—**

8 **“(1) IN GENERAL.—**Except as otherwise pro-
9 vided by law, an Indian tribe or tribal organization
10 administering a contract or compact under this Act
11 shall be entitled to recover its full indirect costs as-
12 sociated with any other Federal funding received by
13 the Indian tribe or tribal organization in accordance
14 with an indirect cost rate agreement between the In-
15 dian tribe or tribal organization and the appropriate
16 Federal agency.

17 **“(2) NO ENTITLEMENT.—**The right of recovery
18 under paragraph (1) does not confer on an Indian
19 tribe or tribal organization an entitlement to be paid
20 additional amounts associated with other Federal
21 funding described in that paragraph.

22 **“(b) ALLOWABLE USES OF FUNDS.—**

23 **“(1) DEFINITION OF SECRETARY.—**In this sub-
24 section, the term ‘Secretary’ means the Secretary or
25 head of any Federal agency providing funds to an
26 Indian tribe or tribal organization.

1 “(2) USE OF FUNDS.—Notwithstanding any
 2 other provision of law (including a regulation), an
 3 Indian tribe or tribal organization that is admin-
 4 istering a contract or compact under this Act and
 5 that employs an indirect cost pool that includes
 6 funds paid under this Act and other Federal funds
 7 shall be entitled to use or expend all Federal funds
 8 in the indirect cost pool of the Indian tribe or tribal
 9 organization without the approval of the Secretary
 10 in the same manner as is permitted under section
 11 106(j).”.

12 **SEC. 3. AMENDMENTS CLARIFYING CONTRACT SUPPORT**
 13 **COST ENTITLEMENT.**

14 (a) AMOUNT OF CONTRACTS.—Section 105(c)(1) of
 15 the Indian Self-Determination and Education Assistance
 16 Act (25 U.S.C. 450j(c)(1)) is amended by striking the sec-
 17 ond sentence.

18 (b) REDUCTIONS AND INCREASES.—Section 106(b)
 19 of the Indian Self-Determination and Education Assist-
 20 ance Act (25 U.S.C. 450j–1(b)) is amended in the matter
 21 following paragraph (5)—

22 (1) by striking “the provision of funds under
 23 this Act is subject to the availability of appropria-
 24 tions and”; and

1 (2) by adding at the end the following: “In any
2 case in which contract support costs are not pro-
3 vided for, there are authorized to be appropriated
4 such sums as are necessary to pay those costs.”.

5 (c) CONTRACT MODEL.—Subsection (c) of section
6 108 of the Indian Self-Determination and Education As-
7 sistance Act (25 U.S.C. 450l(c)) is amended in section
8 1(b)(4) of the model contract set forth in that subsection
9 by striking “Subject to the availability of appropriations,
10 the” and inserting “The”.

11 (d) APPLICABILITY TO AGREEMENTS WITH THE
12 SECRETARY OF THE INTERIOR.—Section 408 of the In-
13 dian Self-Determination and Education Assistance Act
14 (25 U.S.C. 458hh) is amended by inserting before the pe-
15 riod at the end the following: “(including such sums as
16 are necessary to pay contract support costs, when not oth-
17 erwise provided for)”.

18 (e) APPLICABILITY TO AGREEMENTS WITH THE SEC-
19 RETARY OF HEALTH AND HUMAN SERVICES.—Section
20 519 of the Indian Self-Determination and Education As-
21 sistance Act (25 U.S.C. 458aaa–18) is amended—

22 (1) in subsection (b), by striking “the provision
23 of funds under this title shall be subject to the avail-
24 ability of appropriations” and inserting “the provi-
25 sion of funds under this title (excluding contract

1 support costs) shall be subject to the availability of
2 appropriations”; and

3 (2) by adding at the end the following:

4 “(c) NECESSARY CONTRACT SUPPORT COSTS.—In
5 any case in which contract support costs are not provided
6 for, there are authorized to be appropriated such sums as
7 are necessary to pay those costs.”.

8 **SEC. 4. EFFECT ON OTHER LAW.**

9 (a) IN GENERAL.—Except as provided in subsection
10 (b), this Act and the amendments made by this Act super-
11 sede any conflicting provisions of law (including any con-
12 flicting regulations) in effect on the day before the date
13 of enactment of this Act.

14 (b) EXCEPTION.—Nothing in this Act shall be con-
15 strued to alter in any manner the ruling of the United
16 States Court of Appeals for the Federal Circuit rendered
17 on July 2, 2003, in *Thompson v. Cherokee Nation*, 334
18 F.3d 1075 (July 3, 2003).

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