

113TH CONGRESS
1ST SESSION

S. 765

To help provide relief to State education budgets during a recovering economy, to help fulfill the Federal mandate to provide higher educational opportunities for Native American Indians, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2013

Mr. BENNET (for himself, Mr. FRANKEN, Ms. KLOBUCHAR, Mr. UDALL of Colorado, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To help provide relief to State education budgets during a recovering economy, to help fulfill the Federal mandate to provide higher educational opportunities for Native American Indians, 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 “Native American In-
5 dian Education Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) Nontribal colleges that serve Native Amer-
2 ican Indian students have a valuable supplemental
3 role to that provided by tribally controlled commu-
4 nity colleges in making available educational oppor-
5 tunities to Native American Indian students.

6 (2) Some 4-year colleges serve Native American
7 Indian students by providing tuition-free education,
8 with the support of the State in which the institu-
9 tions are located, as mandated by Federal statute, to
10 hundreds of Native American Indian students in ful-
11 fillment of a condition under which the United
12 States provided land and facilities for colleges to a
13 State or college.

14 (3) The value of the Native American Indian
15 student tuition waiver benefits contributed by these
16 colleges and the States that support them today far
17 exceeds the value of the original grant of land and
18 facilities.

19 (4) The ongoing financial burden of meeting
20 this Federal mandate to provide tuition-free edu-
21 cation to Native American Indian students is no
22 longer equitably shared among the States and col-
23 leges because it does not distinguish between Native
24 American Indian students who are residents of the
25 State or of another State.

1 (5) In fiscal year 2012, the State of Colorado
2 paid approximately \$13,000,000 in tuition fees to
3 support the education of Native American Indian
4 students at Fort Lewis College in Colorado. In the
5 State of Minnesota, the University of Minnesota
6 waived \$2,600,000 in tuition for Native American
7 Indian students in fiscal year 2012.

8 (6) Native American Indian student tuition
9 waiver benefits are now at risk of being terminated
10 by severe budget constraints being experienced by
11 these colleges and the States which support them.

12 (b) PURPOSE.—It is the purpose of this Act to ensure
13 that Federal funding is provided in order to relieve con-
14 strained State education budgets and to support and sus-
15 tain the longstanding Federal mandate requiring colleges
16 and States to waive, in certain circumstances, tuition
17 charges for Native American Indian students admitted to
18 an undergraduate college program, including the waiver
19 of tuition charges for Native American Indian students
20 who are not residents of the State in which the college
21 is located.

22 **SEC. 3. STATE RELIEF FROM FEDERAL MANDATE.**

23 Part A of title III of the Higher Education Act of
24 1965 (20 U.S.C. 1057 et seq.) is amended by inserting
25 after section 319 the following:

1 **“SEC. 319A. STATE RELIEF FROM FEDERAL HIGHER EDU-**
2 **CATION MANDATE.**

3 “(a) AMOUNT OF PAYMENT.—

4 “(1) IN GENERAL.—Subject to paragraphs (2)
5 and (3), for fiscal year 2014 and each succeeding
6 fiscal year, the Secretary shall pay to any eligible
7 college an amount equal to the charges for tuition
8 for such year for all Native American Indian stu-
9 dents who—

10 “(A) are not residents of the State in
11 which the college is located; and

12 “(B) are enrolled in the college for the aca-
13 demic year ending before the beginning of such
14 fiscal year.

15 “(2) ELIGIBLE COLLEGES.—For purposes of
16 this section, an eligible college is any institution of
17 higher education serving Native American Indian
18 students that provides tuition-free education as man-
19 dated by Federal statute, with the support of the
20 State in which it is located, to Native American In-
21 dian students in fulfillment of a condition under
22 which the college or State received its original grant
23 of land and facilities from the United States.

24 “(3) LIMITATION.—The amount paid to any eli-
25 gible college for each fiscal year under paragraph (1)
26 may not exceed the amount equal to the charges for

1 tuition for all Native American Indian students of
2 that college who were not residents of the State in
3 which the college is located and who were enrolled
4 in the college for academic year 2012–2013.

5 “(b) TREATMENT OF PAYMENT.—Any amounts re-
6 ceived by an eligible college under this section shall be
7 treated as a reimbursement from the State in which the
8 college is located, and shall be considered as provided in
9 fulfillment of any Federal mandate upon the State to
10 admit Native American Indian students free of charge of
11 tuition.

12 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to relieve any State from any man-
14 date the State may have under Federal law to reimburse
15 a college for each academic year—

16 “(1) with respect to Native American Indian
17 students enrolled in the college who are not residents
18 of the State in which the college is located, any
19 amount of charges for tuition for such students for
20 such academic year that exceeds the amount re-
21 ceived under this section for such academic year;
22 and

23 “(2) with respect to Native American Indian
24 students enrolled in the college who are residents of
25 the State in which the college is located, an amount

1 equal to the charges for tuition for such students for
2 such academic year.

3 “(d) DEFINITION OF NATIVE AMERICAN INDIAN
4 STUDENTS.—In this section, the term ‘Native American
5 Indian students’ includes reference to the term ‘Indian pu-
6 pils’ as that term has been utilized in Federal statutes
7 imposing a mandate upon any college or State to provide
8 tuition-free education to Native American Indian students
9 in fulfillment of a condition under which the college or
10 State received its original grant of land and facilities from
11 the United States.”.

12 **SEC. 4. OFFSET.**

13 (a) IN GENERAL.—Notwithstanding any other provi-
14 sion of law, \$15,000,000 in appropriated discretionary
15 funds are hereby rescinded, on a pro rata basis, by ac-
16 count, from all available unobligated funds.

17 (b) IMPLEMENTATION.—The Director of the Office of
18 Management and Budget shall determine and identify
19 from which appropriation accounts the rescission under
20 subsection (a) shall apply and the amount of such rescis-
21 sion that shall apply to each such account. Not later than
22 60 days after the date of enactment of this Act, the Direc-
23 tor of the Office of Management and Budget shall submit
24 a report to the Secretary of the Treasury and Congress

1 of the accounts and amounts determined and identified for
2 rescission under the preceding sentence.

3 (c) EXCEPTION.—This section shall not apply to the
4 unobligated funds of the Department of Defense, the De-
5 partment of Veterans Affairs, or the Department of Edu-
6 cation, or any unobligated funds available to the Depart-
7 ment of the Interior for the postsecondary education of
8 Native American Indian students.

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