

- (A) tribal codes and sentencing guidelines;
- (B) inter-tribal courts and appellate systems;
- (C) tribal probation services, diversion programs, and alternative sentencing provisions;
- (D) tribal juvenile services and multi-disciplinary protocols for child physical and sexual abuse; and
- (E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

**(b) Consultation**

In carrying out this section, the Attorney General may consult with the Office of Tribal Justice and any other appropriate tribal or Federal officials.

**(c) Regulations**

The Attorney General may promulgate such regulations and guidelines as may be necessary to carry out this subchapter.

**(d) Authorization of appropriations**

For purposes of carrying out the activities under this section, there are authorized to be appropriated such sums as are necessary for fiscal years 2000 through 2004.

(Pub. L. 106-559, title II, §201, Dec. 21, 2000, 114 Stat. 2781.)

**CHAPTER 39—AMERICAN INDIAN AGRICULTURAL RESOURCE MANAGEMENT**

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**§ 3701. Findings**

The Congress finds and declares that—

- (1) the United States and Indian tribes have a government to government relationship;
- (2) the United States has a trust responsibility to protect, conserve, utilize, and manage

Indian agricultural lands consistent with its fiduciary obligation and its unique relationship with Indian tribes;

(3) Indian agricultural lands are renewable and manageable natural resources which are vital to the economic, social, and cultural welfare of many Indian tribes and their members; and

(4) development and management of Indian agricultural lands in accordance with integrated resource management plans will ensure proper management of Indian agricultural lands and will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(Pub. L. 103-177, §2, Dec. 3, 1993, 107 Stat. 2011.)

**SHORT TITLE**

Section 1 of Pub. L. 103-177 provided that: "This Act [enacting this chapter] may be cited as the 'American Indian Agricultural Resource Management Act'."

**§ 3702. Purposes**

The purposes of this chapter are to—

(1) carry out the trust responsibility of the United States and promote the self-determination of Indian tribes by providing for the management of Indian agricultural lands and related renewable resources in a manner consistent with identified tribal goals and priorities for conservation, multiple use, and sustained yield;

(2) authorize the Secretary to take part in the management of Indian agricultural lands, with the participation of the beneficial owners of the land, in a manner consistent with the trust responsibility of the Secretary and with the objectives of the beneficial owners;

(3) provide for the development and management of Indian agricultural lands; and

(4) increase the educational and training opportunities available to Indian people and communities in the practical, technical, and professional aspects of agriculture and land management to improve the expertise and technical abilities of Indian tribes and their members.

(Pub. L. 103-177, §3, Dec. 3, 1993, 107 Stat. 2011.)

**§ 3703. Definitions**

For the purposes of this chapter:

(1) The term "Indian agricultural lands" means Indian land, including farmland and rangeland, but excluding Indian forest land, that is used for the production of agricultural products, and Indian lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been conducted.

(2) The term "agricultural product" means—  
 (A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock, including cattle, sheep, goats, horses, buffalo, swine, reindeer, fowl, or other animal specifically raised and utilized for food or fiber or as beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes; and

(D) other marketable or traditionally used materials authorized for removal from Indian agricultural lands.

(3) The term “agricultural resource” means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, human resources, natural and physical attributes, and man-made developments, which together comprise the agricultural community; and

(B) all the benefits derived from Indian agricultural lands and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, aesthetic, and other traditional values of agriculture.

(4) The term “agricultural resource management plan” means a plan developed under section 3711(b) of this title.

(5) The term “Bureau” means the Bureau of Indian Affairs of the Department of the Interior.

(6) The term “farmland” means Indian land excluding Indian forest land that is used for production of food, feed, fiber, forage and seed oil crops, or other agricultural products, and may be either dryland, irrigated, or irrigated pasture.

(7) The term “Indian forest land” means forest land as defined in section 3103(3) of this title.

(8) The term “Indian” means an individual who is a member of an Indian tribe.

(9) The term “Indian land” means land that is—

(A) held in trust by the United States for an Indian tribe; or

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation.

(10) The term “Indian tribe” means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) The term “integrated resource management plan” means the plan developed pursuant to the process used by tribal governments to assess available resources and to provide identified holistic management objectives that include quality of life, production goals and landscape descriptions of all designated resources that may include (but not be limited to) water, fish, wildlife, forestry, agriculture, minerals, and recreation, as well as community and municipal resources, and may include any previously adopted tribal codes and plans related to such resources.

(12) The term “land management activity” means all activities, accomplished in support

of the management of Indian agricultural lands, including (but not limited to)—

(A) preparation of soil and range inventories, farmland and rangeland management plans, and monitoring programs to evaluate management plans;

(B) agricultural lands and on-farm irrigation delivery system development, and the application of state of the art, soil and range conservation management techniques to restore and ensure the productive potential of Indian lands;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, and vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use, carrying capacities, and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study, including direct assistance to tribally-controlled community colleges in developing and implementing curriculum for vocational, technical, and professional course work.

(13) The term “Indian landowner” means the Indian or Indian tribe that—

(A) owns such Indian land, or

(B) is the beneficiary of the trust under which such Indian land is held by the United States.

(14) The term “rangeland” means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs, half-shrubs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed as native vegetation.

(15) The term “Secretary” means the Secretary of the Interior.

(Pub. L. 103-177, §4, Dec. 3, 1993, 107 Stat. 2012.)

#### REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (10), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

#### SUBCHAPTER I—RANGELAND AND FARMLAND ENHANCEMENT

### §3711. Management of Indian rangelands and farmlands

#### (a) Management objectives

Consistent with the provisions of the Indian Self-Determination and Education Assistance

Act [25 U.S.C. 450 et seq.], the Secretary shall provide for the management of Indian agricultural lands to achieve the following objectives:

(1) To protect, conserve, utilize, and maintain the highest productive potential on Indian agricultural lands through the application of sound conservation practices and techniques. These practices and techniques shall be applied to planning, development, inventorying, classification, and management of agricultural resources.

(2) To increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources on Indian lands.

(3) To manage agricultural resources consistent with integrated resource management plans in order to protect and maintain other values such as wildlife, fisheries, cultural resources, recreation and to regulate water runoff and minimize soil erosion.

(4) To enable Indian farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training, and education in conservation practices, management and economics of agribusiness, sources and use of credit and marketing of agricultural products, and other applicable subject areas.

(5) To develop Indian agricultural lands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities.

(6) To assist trust and restricted Indian landowners in leasing their agricultural lands for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

**(b) Indian agricultural resource management planning program**

(1) To meet the management objectives of this section, a 10-year Indian agriculture resource management and monitoring plan shall be developed and implemented as follows:

(A) Pursuant to a self-determination contract or self-governance compact, an Indian tribe may develop or implement an Indian agriculture resource plan. Subject to the provisions of subparagraph (C), the tribe shall have broad discretion in designing and carrying out the planning process.

(B) If a tribe chooses not to contract the development or implementation of the plan, the Secretary shall develop or implement, as appropriate, the plan in close consultation with the affected tribe.

(C) Whether developed directly by the tribe or by the Secretary, the plan shall—

(i) determine available agriculture resources;

(ii) identify specific tribal agricultural resource goals and objectives;

(iii) establish management objectives for the resources;

(iv) define critical values of the Indian tribe and its members and provide identified holistic management objectives;

(v) identify actions to be taken to reach established objectives;

(vi) be developed through public meetings;

(vii) use the public meeting records, existing survey documents, reports, and other research from Federal agencies, tribal community colleges, and land grant universities; and

(viii) be completed within three years of the initiation of activity to establish the plan.

(2) Indian agriculture resource management plans developed and approved under this section shall govern the management and administration of Indian agricultural resources and Indian agricultural lands by the Bureau and the Indian tribal government.

(Pub. L. 103-177, title I, §101, Dec. 3, 1993, 107 Stat. 2014.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 3712. Indian participation in land management activities**

**(a) Tribal recognition**

The Secretary shall conduct all land management activities on Indian agricultural land in accordance with goals and objectives set forth in the approved agricultural resource management plan, in an integrated resource management plan, and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States.

**(b) Tribal laws**

Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws and ordinances pertaining to Indian agricultural lands, including laws regulating the environment and historic or cultural preservation, and laws or ordinances adopted by the tribal government to regulate land use or other activities under tribal jurisdiction. The Secretary shall—

(1) provide assistance in the enforcement of such tribal laws;

(2) provide notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon the request of an Indian tribe, require appropriate Federal officials to appear in tribal forums.

**(c) Waiver of regulations**

In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of the agricultural resource management plan provided for in section 3711 of this title, or with a tribal law, the Secretary may waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with his general trust responsibility under Federal law.

**(d) Sovereign immunity**

This section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

(Pub. L. 103-177, title I, §102, Dec. 3, 1993, 107 Stat. 2015.)

**§ 3713. Indian agricultural lands trespass****(a) Civil penalties; regulations**

Not later than one year after December 3, 1993, the Secretary shall issue regulations that—

(1) establish civil penalties for the commission of trespass on Indian agricultural lands, which provide for—

(A) collection of the value of the products illegally used or removed plus a penalty of double their values;

(B) collection of the costs associated with damage to the Indian agricultural lands caused by the act of trespass; and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility within the Department of the Interior for the detection and investigation of Indian agricultural lands trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

**(b) Treatment of proceeds**

The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of agricultural products from the Indian agricultural lands upon which such trespass occurred.

**(c) Concurrent jurisdiction**

Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) of this section shall have concurrent jurisdiction with the United States to enforce the provisions of this section and the regulations promulgated thereunder. The Bureau and other agencies of the Federal Government shall, at the request of the tribal government, defer to tribal prosecutions of Indian agricultural land trespass cases. Tribal court judgments regarding agricultural trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section. Nothing in this chapter shall be construed to diminish the sovereign authority of Indian tribes with respect to trespass.

(Pub. L. 103-177, title I, §103, Dec. 3, 1993, 107 Stat. 2015.)

**§ 3714. Assessment of Indian agricultural management programs****(a) Assessment**

Within six months after December 3, 1993, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-

Federal entity knowledgeable in agricultural management on Federal and private lands to conduct an independent assessment of Indian agricultural land management and practices. Such assessment shall be national in scope and shall include a comparative analysis of Federal investment and management efforts for Indian trust and restricted agricultural lands as compared to federally-owned lands managed by other Federal agencies or instrumentalities and as compared to federally-served private lands.

**(b) Purposes**

The purposes of the assessment shall be—

(1) to establish a comprehensive assessment of the improvement, funding, and development needs for all Indian agricultural lands;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau; and

(3) to identify any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs generally available to the public at large.

**(c) Implementation**

Within one year after December 3, 1993, the Secretary shall provide the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section and shall file a final report with the Congress not later than 18 months after December 3, 1993.

(Pub. L. 103-177, title I, §104, Dec. 3, 1993, 107 Stat. 2016.)

**CHANGE OF NAME**

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Subcommittee on Native American Affairs changed to Subcommittee on Native American and Insular Affairs.

**§ 3715. Leasing of Indian agricultural lands****(a) Authority of Secretary**

The Secretary is authorized to—

(1) approve any agricultural lease or permit with (A) a tenure of up to 10 years, or (B) a tenure longer than 10 years but not to exceed 25 years unless authorized by other Federal law, when such longer tenure is determined by the Secretary to be in the best interest of the Indian landowners and when such lease or permit requires substantial investment in the development of the lands or crops by the lessee; and

(2) lease or permit agricultural lands to the highest responsible bidder at rates less than the Federal appraisal after satisfactorily advertising such lands for lease, when, in the opinion of the Secretary, such action would be in the best interest of the Indian landowner.

**(b) Authority of tribe**

When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agricultural leases and permits so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary;

(3) shall provide for posting of other collateral or security in lieu of surety or other bonds;

(4) when such tribal resolution sets forth a tribal definition of what constitutes “highly fractionated undivided heirship lands” and adopts an alternative plan for providing notice to owners, may waive or modify any general notice requirement of Federal law and proceed to negotiate and lease or permit such highly fractionated undivided interest heirship lands in conformity with tribal law in order to prevent waste, reduce idle land acreage, and ensure income; and

(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body.

**(c) Rights of individual landowners**

(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.

(2)(A) The owners of a majority interest in any trust or restricted land are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land if the terms of the lease provide such minority interests with not less than fair market value for such land.

(B) For the purposes of subparagraph (A), a majority interest in trust or restricted land is an interest greater than 50 percent of the legal or beneficial title.

(3) The provisions of subsection (b) of this section shall not apply to a parcel of trust or restricted land if the owners of at least 50 percent of the legal or beneficial interest in such land file with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

(Pub. L. 103-177, title I, §105, Dec. 3, 1993, 107 Stat. 2017; Pub. L. 103-435, §12(a), Nov. 2, 1994, 108 Stat. 4572.)

## AMENDMENTS

1994—Subsec. (b)(5). Pub. L. 103-435, §12(a)(1), added par. (5).

Subsec. (c)(1). Pub. L. 103-435, §12(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee in the legal or beneficial use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.”

SUBCHAPTER II—EDUCATION IN  
AGRICULTURE MANAGEMENT**§ 3731. Indian and Alaska Native agriculture management education assistance programs****(a) Agricultural resources intern program**

(1) Notwithstanding the provisions of title 5 governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau or other appropriate office or bureau within the Department of the Interior at least 20 agricultural resources intern positions for Indian and Alaska Native students enrolled in an agriculture study program. Such positions shall be in addition to the forester intern positions authorized in section 3113(a) of this title.

(2) For purposes of this subsection—

(A) the term “agricultural resources intern” means an Indian who—

(i) is attending an approved postsecondary school in a full-time agriculture or related field, and

(ii) is appointed to one of the agricultural resources intern positions established under paragraph (1);

(B) the term “agricultural resources intern positions” means positions established pursuant to paragraph (1) for agricultural resources interns; and

(C) the term “agriculture study program” includes (but is not limited to) agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, geographic information systems, horticulture, range management, soil science, and veterinary science.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees, and living expenses incurred by an agricultural resources intern while attending an approved postsecondary or graduate school in a full-time agricultural study program.

(4) An agricultural resources intern shall be required to enter into an obligated service agreement with the Secretary to serve as an employee in a professional agriculture or natural resources position with the Department of the Interior or other Federal agency or an Indian tribe for one year for each year of education for which the Secretary pays the intern’s educational costs under paragraph (3).

(5) An agricultural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern’s obligated service agreement under paragraph (4).

**(b) Cooperative education program**

(1) The Secretary shall maintain, through the Bureau, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional agricultural or related positions with the

Bureau or other Federal agency providing Indian agricultural or related services.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on December 3, 1993, pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and Southwestern Indian Polytechnic Institute programs can be met through local program work at participating tribally controlled community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets, and other subjects of importance in agricultural pursuits.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian agricultural management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, and fees of an Indian student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in an agricultural resource related activity with the Bureau, or other Federal agency providing agricultural or related services to Indians or Indian tribes, or an Indian tribe for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

#### (c) Scholarship program

(1) The Secretary may grant scholarships to Indians enrolled in accredited agriculture related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipients course of study, with—

(A) the Bureau or other agency of the Federal Government providing agriculture or natural resource related services to Indians or Indian tribes;

(B) an agriculture or related program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; or

(C) a tribal agriculture or related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited post secondary<sup>1</sup> or graduate institution.

#### (d) Educational outreach

The Secretary shall conduct, through the Bureau, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, an agricultural resource education outreach program for Indian youth to explain and stimulate interest in all aspects of management and careers in Indian agriculture and natural resources.

#### (e) Adequacy of programs

The Secretary shall administer the programs described in this section until a sufficient number of Indians are trained to ensure that there is an adequate number of qualified, professional Indian agricultural resource managers to manage the Bureau agricultural resource programs and programs maintained by or for Indian tribes.

(Pub. L. 103-177, title II, §201, Dec. 3, 1993, 107 Stat. 2018.)

#### REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2)(B), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

HASKELL INDIAN NATIONS UNIVERSITY AND SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE ADMINISTRATIVE SYSTEMS

Pub. L. 105-337, Oct. 31, 1998, 112 Stat. 3171, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998’.

“SEC. 2. FINDINGS.

“The Congress finds that—

<sup>1</sup> So in original. Probably should be “postsecondary”.

“(1) the provision of culturally sensitive curricula for higher education programs at Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and

“(2) giving a greater degree of autonomy to those institutions, while maintaining them as an integral part of the Bureau of Indian Affairs, will facilitate—

“(A) the transition of Haskell Indian Nations University to a 4-year university; and

“(B) the administration and improvement of the academic program of the Southwestern Indian Polytechnic Institute.

### “SEC. 3. DEFINITIONS; APPLICABILITY.

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

“(1) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“(2) EMPLOYEE.—The term ‘employee’, with respect to an institution named in subsection (b), means an individual employed in or under such institution.

“(3) ELIGIBLE.—The term ‘eligible’ means an individual who has qualified for appointment in the institution involved and whose name has been entered on the appropriate register or list of eligibles.

“(4) DEMONSTRATION PROJECT.—The term ‘demonstration project’ means a project conducted by or under the supervision of an institution named in subsection (b) to determine whether specified changes in personnel management policies or procedures would result in improved personnel management.

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

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

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

### “SEC. 4. AUTHORITY.

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

“(1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;

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

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

“(4) the methods of disciplining employees;

“(5) the methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay;

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

“(7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and

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

“(b) CONSULTATION AND OTHER REQUIREMENTS.—Before commencing a demonstration project under this Act, the president of the institution involved shall—

“(1) in consultation with the board of regents of the institution and such other persons or representative bodies as the president considers appropriate, develop a plan for such project which identifies—

“(A) the purposes of the project;

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

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

“(D) the methodology;

“(E) the duration;

“(F) the training to be provided;

“(G) the anticipated costs;

“(H) the methodology and criteria for evaluation, consistent with subsection (f);

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

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

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

“(3) submit the plan so published to public hearing;

“(4) at least 180 days before the date on which the proposed project is to commence, provide notification of such project to—

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

“(B) each House of Congress;

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

“(6) at least 60 days before the date on which the proposed project is to commence, inform all employees as to the final version of the plan, including all information relevant to the making of an election under subsection (h)(2)(A).

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

“(1) provide for a waiver of—

“(A) any provision of law, rule, or regulation providing for—

“(i) equal employment opportunity;

“(ii) Indian preference; or

“(iii) veterans’ preference;

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

“(C) any provision of subchapter II or III of chapter 73 of title 5, United States Code, or any rule or regulation prescribed under authority of any such provision;

“(2) impose any duty to engage in collective bargaining with respect to—

“(A) classification of positions; or

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

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

“(d) COMMENCEMENT AND TERMINATION DATES.—Each demonstration project under this Act—

“(1) shall commence within 2 years after the date of enactment of this Act [Oct. 31, 1998]; and

“(2) shall terminate by the end of the 5-year period beginning on the date on which such project commences, except that the project may continue beyond the end of such 5-year period—

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

“(B) to the extent provided for under subsection (h)(2)(B).

“(e) DISCRETIONARY AUTHORITY TO TERMINATE.—A demonstration project under this Act may be terminated by the Secretary or the president of the institution involved if either determines that the project creates a substantial hardship on, or is not in the best interests of, the institution and its educational goals.

“(f) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall provide for an evaluation of the results of each demonstration project under this Act and its impact on improving public management.

“(2) INFORMATION.—Upon request of the Secretary, an institution named in section 3(b) shall cooperate

with and assist the Secretary, to the extent practicable, in any evaluation undertaken under this subsection and provide the Secretary with requested information and reports relating to the conducting of its demonstration project.

“(g) **ROLE OF THE OFFICE OF PERSONNEL MANAGEMENT.**—Upon request of the Secretary or the president of an institution named in section 3(b), the Office of Personnel Management shall furnish information or technical advice on the design, operation, or evaluation, or any other aspect of a demonstration project under this Act.

“(h) **APPLICABILITY.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, all applicants for employment with, all eligibles and employees of, and all positions in or under an institution named in section 3(b) shall be subject to inclusion in a demonstration project under this Act.

“(2) **PROVISIONS RELATING TO CERTAIN BENEFITS.**—

“(A) **OPTION FOR CERTAIN INDIVIDUALS TO REMAIN UNDER CURRENT LAW GOVERNING CERTAIN BENEFITS.**—

“(i) **ELIGIBLE INDIVIDUALS.**—This subparagraph applies in the case of any individual who, as of the day before the date on which a demonstration project under this Act is to commence at an institution—

“(I) is an employee of such institution; and

“(II) if benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, are to be affected, has completed at least 1 year of Government service (whether with such institution or otherwise), but taking into account only civilian service creditable under subchapter III of chapter 83 or chapter 84 of such title.

“(ii) **OPTION.**—If a demonstration project is to include changes to any benefits under subpart G of part III of title 5, United States Code, an employee described in clause (i) shall be afforded an election not to become subject to such demonstration project, to the extent those benefits are involved (and to instead remain subject to the provisions of such subpart G as if this Act had not been enacted).

“(B) **CONTINUATION OF CERTAIN ALTERNATIVE BENEFIT SYSTEMS AFTER DEMONSTRATION PROJECT TERMINATES FOR PERSONS BECOMING SUBJECT THERETO UNDER THE PROJECT.**—Notwithstanding any other provision of this Act, the termination of a demonstration project shall not, in the case of any employee who becomes subject to a system of alternative benefits under this Act (in lieu of benefits that would otherwise be determined under subpart G of part III of title 5, United States Code), have the effect of terminating—

“(i) any rights accrued by that individual under the system of alternative benefits involved; or

“(ii) the system under which those alternative benefits are afforded, to the extent continuation of such system beyond the termination date is provided for under the terms of the demonstration project (as in effect on the termination date).

“(3) **TRANSITION PROVISIONS.**—

“(A) **RETENTION OF ANNUAL AND SICK LEAVE ACCRUED BEFORE BECOMING SUBJECT TO DEMONSTRATION PROJECT.**—Any individual becoming subject to a demonstration project under this Act shall, in a manner consistent with the requirements of section 6308 of title 5, United States Code, be credited with any annual leave and any sick leave standing to such individual's credit immediately before becoming subject to the project.

“(B) **PROVISIONS RELATING TO CREDIT FOR LEAVE UPON SEPARATING WHILE THE DEMONSTRATION PROJECT IS STILL ONGOING.**—Any demonstration project under this Act shall include provisions consistent with the following:

“(i) **LUMP-SUM CREDIT FOR ANNUAL LEAVE.**—In the case of any individual who, at the time of be-

coming subject to the demonstration project, has any leave for which a lump-sum payment might be paid under subchapter VI of chapter 55 of title 5, United States Code, such individual shall, if such individual separates from service (in the circumstances described in section 5551 or 5552 of such title 5, as applicable) while the demonstration project is still ongoing, be entitled to a lump-sum payment under such section 5551 or 5552 (as applicable) based on the amount of leave standing to such individual's credit at the time such individual became subject to the demonstration project or the amount of leave standing to such individual's credit at the time of separation, whichever is less.

“(ii) **RETIREMENT CREDIT FOR SICK LEAVE.**—In the case of any individual who, at the time of becoming subject to the demonstration project, has any sick leave which would be creditable under section 8339(m) of title 5, United States Code (had such individual then separated from service), any sick leave standing to such individual's credit at the time of separation shall, if separation occurs while the demonstration project is still ongoing, be so creditable, but only to the extent that it does not exceed the amount of creditable sick leave that stood to such individual's credit at the time such individual became subject to the demonstration project.

“(C) **TRANSFER OF LEAVE REMAINING UPON TRANSFER TO ANOTHER AGENCY.**—In the case of any employee who becomes subject to the demonstration project and is subsequently transferred or otherwise appointed (without a break in service of 3 days or longer) to another position in the Federal Government or the government of the District of Columbia under a different leave system (whether while the project is still ongoing or otherwise), any leave remaining to the credit of that individual which was earned or credited under the demonstration project shall be transferred to such individual's credit in the new employing agency on an adjusted basis under regulations prescribed under section 6308 of title 5, United States Code. Any such regulations shall be prescribed taking into account the provisions of subparagraph (B).

“(D) **COLLECTIVE-BARGAINING AGREEMENTS.**—Any collective-bargaining agreement in effect on the day before a demonstration project under this Act commences shall continue to be recognized by the institution involved until the earlier of—

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

“(ii) the date as of which the agreement is scheduled to expire (disregarding any option to renew); or

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

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

“The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations therefor, delegate to the presidents of the respective institutions named in section 3(b) procurement and contracting authority with respect to the conduct of the administrative functions of such institution.

“**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

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

“(1) the amount of funds made available by appropriations as operations funding for the administration of such institution for fiscal year 1998; and

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

“**SEC. 7. REGULATIONS.**

“The president of each institution named in section 3(b) may, in consultation with the appropriate entities



(referred to in section 4(b)(1)), prescribe any regulations necessary to carry out this Act.

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

“Not later than 6 months before the date on which a demonstration project under this Act is scheduled to expire, the institution conducting such demonstration project shall submit to each House of Congress—

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

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

**§ 3732. Postgraduation recruitment, education and training programs**

**(a) Assumption of loans**

The Secretary shall establish and maintain a program to attract Indian professionals who are graduates of a course of postsecondary or graduate education for employment in either the Bureau agriculture or related programs or, subject to the approval of the tribe, in tribal agriculture or related programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian professionals in exchange for the assumption by the Secretary of the outstanding student loans of the employee. The period of employment shall be determined by the amount of the loan that is assumed.

**(b) Postgraduate intergovernmental internships**

For the purposes of training, skill development and orientation of Indian and Federal agricultural management personnel, and the enhancement of tribal and Bureau agricultural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal and Indian agricultural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau and Indian agricultural resource employees in the agricultural resource related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of agricultural resource personnel from the other Department of the Interior agencies within the Bureau, and, with the consent of the tribe, within tribal agricultural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau and, with the consent of the tribe, within a tribal agricultural resource program of other agricultural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian agricultural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

**(c) Continuing education and training**

The Secretary shall maintain a program within the Trust Services Division of the Bureau for Indian agricultural resource personnel which shall provide for—

(1) orientation training for Bureau agricultural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical agricultural resource education for Bureau and Indian agricultural resource personnel; and

(3) development training of Indian agricultural resource personnel in agricultural resource based enterprises and marketing.

(Pub. L. 103–177, title II, §202, Dec. 3, 1993, 107 Stat. 2020.)

**§ 3733. Cooperative agreement between Department of the Interior and Indian tribes**

**(a) Cooperative agreements**

(1)(A) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary may negotiate and enter into cooperative agreements with Indian tribes to—

(i) engage in cooperative manpower and job training,

(ii) develop and publish cooperative agricultural education and resource planning materials, and

(iii) perform land and facility improvements and other activities related to land and natural resource management and development.

(B) The Secretary may enter into these agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In cooperative agreements entered into under paragraph (1), the Secretary may advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31 relating to the advance of public moneys.

**(b) Supervision**

In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of sections 2671 through 2680 of title 28 and sections 8101 through 8193 of title 5.

**(c) Savings clause**

Nothing in this chapter shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

(Pub. L. 103–177, title II, §203, Dec. 3, 1993, 107 Stat. 2021.)

**§ 3734. Obligated service; breach of contract**

**(a) Obligated service**

Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this subchapter,

the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

**(b) Breach of contract; repayment**

Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury.

(Pub. L. 103-177, title II, §204, Dec. 3, 1993, 107 Stat. 2022.)

SUBCHAPTER III—GENERAL PROVISIONS

**§ 3741. Regulations**

Except as otherwise provided by this chapter, the Secretary shall promulgate final regulations for the implementation of this chapter within 24 months after December 3, 1993. All regulations promulgated pursuant to this chapter shall be developed by the Secretary with the participation of the affected Indian tribes.

(Pub. L. 103-177, title III, §301, Dec. 3, 1993, 107 Stat. 2022.)

**§ 3742. Trust responsibility**

Nothing in this chapter shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

(Pub. L. 103-177, title III, §302, Dec. 3, 1993, 107 Stat. 2022.)

**§ 3743. Severability**

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this chapter shall not be affected thereby.

(Pub. L. 103-177, title III, §303, Dec. 3, 1993, 107 Stat. 2022.)

**§ 3744. Federal, State and local authority**

**(a) Disclaimer**

Nothing in this chapter shall be construed to supersede or limit the authority of Federal, State or local agencies otherwise authorized by law to provide services to Indians.

**(b) Duplication of services**

The Secretary shall work with all appropriate Federal departments and agencies to avoid duplication of programs and services currently available to Indian tribes and landowners from other sources.

(Pub. L. 103-177, title III, §304, Dec. 3, 1993, 107 Stat. 2022.)

**§ 3745. Authorization of appropriations**

**(a) General authorization**

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter.

**(b) Funding source**

The activities required under subchapter II of this chapter may only be funded from appropriations made pursuant to this chapter. To the greatest extent possible, such activities shall be coordinated with activities funded from other sources.

(Pub. L. 103-177, title III, §305, Dec. 3, 1993, 107 Stat. 2023.)

**§ 3746. Tribal immunity**

Nothing in this chapter shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.

(Pub. L. 103-177, title III, §306, as added Pub. L. 103-435, §12(b), Nov. 2, 1994, 108 Stat. 4572.)

**CHAPTER 40—INDIAN DAMS SAFETY**

Sec.	
3801.	Findings.
3802.	Definitions.
3803.	Dam Safety Maintenance and Repair Program.
3804.	Authorization of appropriations.

**§ 3801. Findings**

The Congress finds that—

(1) the Secretary of the Interior has identified 53 dams on Indian lands that present a threat to human life in the event of a failure;

(2) because of inadequate attention in the past to problems stemming from structural deficiencies and regular maintenance requirements for dams operated by the Bureau of Indian Affairs, unsafe Bureau dams continue to pose an imminent threat to people and property;

(3) many Bureau dams have maintenance deficiencies regardless of their current safety condition classification and the deficiencies must be corrected to avoid future threats to human life and property;

(4) safe working dams on Indian lands are necessary to supply irrigation water, to provide flood control, to provide water for municipal, industrial, domestic, livestock, and recreation uses, and for fish and wildlife habitats; and

(5) it is necessary to institute a regular dam maintenance and repair program, utilizing the expertise in the Bureau, Indian tribes, and other Federal agencies.

(Pub. L. 103-302, §2, Aug. 23, 1994, 108 Stat. 1560.)

SHORT TITLE

Section 1 of Pub. L. 103-302 provided that: "This Act [enacting this chapter] may be cited as the 'Indian Dams Safety Act of 1994'."

**§ 3802. Definitions**

As used in this chapter: