

Public Law 99-89
99th Congress

An Act

To amend title XI of the Education Amendments of 1978, relating to Indian education programs.

Aug. 15, 1985
[H.R. 2908]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) **SHORT TITLE.**—This Act may be cited as the “Indian Education Technical Amendments Act of 1985”.

(b) **REFERENCE.**—References in this Act to “the Act” refer to the Education Amendments of 1978.

Indian
Education
Technical
Amendments
Act of 1985.
25 USC 2001
note.

SEC. 2. STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

(a) **ESTABLISHMENT OF STANDARDS.**—Section 1121(d) of the Act (25 U.S.C. 2001(d)) is amended—

98 Stat. 2391.

(1) by striking out “thereafter” in the second sentence and inserting in lieu thereof “, within 60 days thereafter,”; and

(2) by adding at the end thereof the following new sentences: “Such revised standards shall be established by the Secretary unless such standards are specifically rejected by the Secretary for good cause and the Secretary notifies each affected tribe and local school board in writing of such rejection. Such rejection shall be final and not reviewable.”

(b) **IMPLEMENTATION OF STANDARDS.**—Section 1121(e) of the Act is amended—

98 Stat. 2392.

(1) by striking out “Within two years” and all that follows through “Education Assistance Act” in paragraph (2) and inserting in lieu thereof the following: “Within two years after the date of enactment of the Indian Education Technical Amendments Act of 1985, or two years after the date of the initial contract for the provision of educational services under the Indian Self-Determination and Education Assistance Act, whichever is later,”;

25 USC 450 note.

(2) by adding at the end of paragraph (2) the following: “The Secretary shall not rescind or fail to renew a contract because of this paragraph until at least one year after notifying the school of a failure to comply. During such one-year period, the Secretary shall render technical assistance to aid the school to comply.”; and

Contracts.

(3) by striking out paragraph (3) and inserting in lieu thereof the following:

“(3) Within one year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, the Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract schools. Such standards shall yield data results comparable to those used by Bureau schools.”.

Contracts.

98 Stat. 2392.
25 USC 2001.
98 Stat. 2392.

(c) **PERSONNEL ACTIONS.**—Section 1121(f) of the Act is amended by striking out the last sentence.

(d) **CLOSING, CONSOLIDATION, AND CURTAILMENT.**—Section 1121(g) of the Act is amended—

Schools and
colleges.

(1) in paragraph (1), by striking out “no school operated by the Bureau of Indian Affairs on January 1, 1984, may be closed or its program curtailed” and inserting in lieu thereof “no school or peripheral dormitory operated by the Bureau of Indian Affairs on or after the date of enactment of the Indian Education Technical Amendments Act of 1985 may be closed or consolidated or have its program substantially curtailed”;

(2) by adding at the end of such paragraph the following new sentence: “The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.”;

(3) in paragraph (2) by striking out “closing or consolidation” and inserting in lieu thereof “closing, consolidation, or substantial curtailment”; and

(4) by striking out paragraphs (3), (4), and (5) and inserting in lieu thereof the following:

“(3) Such standards and procedures shall require that whenever closure, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed effective date. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

Federal
Register,
publication.

Report.

“(4) The Secretary shall make a report to Congress, the affected tribe, and the designated local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to insure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.”

Study.

SEC. 3. SCHOOL BOUNDARIES.

Section 1124(b) of the Act is amended to read as follows:

“(b) On or after the date of enactment of the Indian Education Technical Amendments Act of 1985, no attendance area shall be changed or established with respect to any such school unless the

98 Stat. 2393.
25 USC 2004.

tribal governing body or the local school board (if so designated by the tribal governing body) has been (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs.”.

SEC. 4. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

(a) **COORDINATION.**—Section 1126(b) of the Act (25 U.S.C. 2006(b)) is amended by striking out the second and third sentences and inserting in lieu thereof the following: “The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education, except that the Secretary shall review the applications for the new school starts which were filed with the Bureau before October 1, 1984, under the rules and guidelines in effect on the date the application was filed. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.”.

98 Stat. 2393.

Contracts.

(b) **FACILITIES.**—Section 1126(d) of the Act is amended—

98 Stat. 2394.

(1) in paragraph (1), by striking out “and” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “; and”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) including a 5-year plan for capital improvements.”;

(2) by striking out the second sentence of paragraph (2);

(3) by striking out “the allocation” in paragraph (2)(C) and inserting in lieu thereof “a notice of an allocation”;

(4) in paragraph (2), by striking out “and” at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) a system for the conduct of routine preventive maintenance.”;

(5) by striking out “expended or transferred” in the next to last sentence of paragraph (2) and inserting in lieu thereof “authorized for expenditure”;

(6) by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(7) in paragraph (3), as so redesignated, by striking out “Indian Education Amendments of 1984” and inserting in lieu thereof “Indian Education Technical Amendments Act of 1985”.

SEC. 5. ALLOTMENT FORMULA.

(a) **SPECIAL COST FACTORS.**—Section 1128(a)(2) of the Act (25 U.S.C. 2008(a)(2)) is amended—

98 Stat. 2394.

(1) by inserting “and” at the end of subparagraph (G);

(2) by striking out “and” at the end of subparagraph (H); and

(3) by striking out subparagraph (I).

(b) **SEPARATE FUND FOR EMPLOYEE COSTS.**—Section 1128(e) of the Act is amended to read as follows:

98 Stat. 2395.
25 USC 2008.

“(e) Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.”.

SEC. 6. UNIFORM DIRECT FUNDING AND SUPPORT.

(a) **AVAILABILITY OF APPROPRIATIONS.**—Section 1129(a) of the Act (25 U.S.C. 2009(a)) is amended—

98 Stat. 2395.

(1) by striking out “this section” each place it appears and inserting in lieu thereof “section 1128”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by adding at the end of paragraph (1) the following new sentence: “Amounts appropriated for distribution under this section may be made available under paragraph (2) or under paragraph (3), as provided in the appropriation Act.”;

(4) by inserting after paragraph (1) the following new paragraph:

Ante, p. 381.

“(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1128, amounts appropriated in the appropriations Act for any fiscal year shall become available for obligation by the affected schools on October 1 of the fiscal year for which they are appropriated without further action by the Secretary, and shall remain available through six months of the succeeding fiscal year. In order to effect the transition to the advance funding method of distribution described in the preceding sentence, there are authorized to be appropriated, in an appropriations Act or Acts for the same fiscal year, two separate appropriations for such allotments, the first of which shall not be subject to the preceding sentence.

“(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

“(i) publish, on July 1 preceding the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1128 of 75 per centum of such appropriations, based on the school’s student count for the preceding academic year; and

“(ii) publish no later than November 1 of the fiscal year for which funds are appropriated the allotments to be made from the remaining 25 per centum, adjusted to reflect actual student count, such funds to be immediately available for obligation by the affected schools.”;

(5) by striking out “Notwithstanding any law” in paragraph (4) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof “Pursuant to guidelines established by the Assistant Secretary, notwithstanding any law”;

(6) by striking out “expend no more than 10 percent” in such paragraph and inserting in lieu thereof “expend no more than \$25,000 annually”; and

(7) by striking out “with or” in such paragraph.

(b) **USE OF SELF-DETERMINATION GRANTS.**—Section 1129(c) of the Act is amended—

98 Stat. 2396.

(1) by striking out “shall institute a program” and inserting in lieu thereof “may approve applications”; and

(2) by inserting before the period at the end thereof the following: "from funds appropriated pursuant to section 104(a) of such Act".

SEC. 7. ANNUAL REPORTING.

Section 1136(b) of the Act (25 U.S.C. 2016(b)) is amended by striking out "the Bureau, the Office, and".

98 Stat. 2397.

SEC. 8. VOLUNTARY SERVICES.

Section 1140 of the Act (25 U.S.C. 2020) is amended—

98 Stat. 2398.

(1) by striking out "an officer or employee of the Bureau or the Office" and inserting in lieu thereof "the Secretary";

(2) by striking out "and contract"; and

(3) by adding the following at the end thereof: "An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code."

5 USC 8101 *et seq.*; 28 USC 2671 *et seq.*

SEC. 9. ADDITIONAL TECHNICAL AMENDMENTS.

(a) **REDESIGNATION AND REPEAL.**—The Act is further amended—

(1) by redesignating sections 1141 and 1142 as (as added by the Education Amendments of 1984) as sections 1140A and 1140B, respectively; and

98 Stat. 2398.
25 USC 2021, 2022.

(2) by striking section 1143 (as added by such Amendments).

98 Stat. 2398.

(b) **PRORATION OF PAY.**—Section 1140A(a) of the Act (as so redesignated) is amended—

25 USC 2023.

(1) by inserting "including laws relating to dual compensation," after "provision of law,"; and

25 USC 2021.

(2) by inserting ", including benefits under unemployment or other Federal or federally-assisted programs," after "pay or benefits".

(c) **EXTRACURRICULAR ACTIVITIES.**—Section 1140B of the Act (as so redesignated) is amended—

25 USC 2022.

(1) by striking out "Secretary shall provide" in subsection (a) and inserting in lieu thereof "Secretary may provide, for each Bureau area,";

(2) by striking out subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 10. EFFECTIVE DATES.

25 USC 2001 note.

(a) **IN GENERAL.**—Except as provided in subsection (b) but notwithstanding any other provision of law, the amendments made by this Act and by the Indian Education Amendments of 1984 to title XI of the Education Amendments of 1978 shall be effective on the date of

98 Stat. 2391.
25 USC 2001 note.

enactment of this Act and shall apply with respect to any expenditure of funds for the operation or support of Bureau of Indian Affairs schools and Indian controlled contract schools for school years beginning after August 1, 1985.

98 Stat.
2393-2395.
25 USC 2006,
2008, 2009.

(b) EXCEPTION.—The amendments made by sections 504, 505, and 506 of the Indian Education Amendments of 1984 shall be effective on October 1, 1985.

Approved August 15, 1985.

LEGISLATIVE HISTORY—H.R. 2908 (S. 1398):

HOUSE REPORT No. 99-231 (Comm. on Education and Labor).
SENATE REPORT No. 99-116 accompanying S. 1398 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 131 (1985):
July 29, considered and passed House.
July 30, considered and passed Senate.