

**Tribally Controlled Colleges and Universities Assistance Act
of 1978**

[P.L. 95-471]

[As Amended Through P.L. 110-315, Enacted August 14, 2008]

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

SECTION 1. [25 U.S.C. 1801 note] SHORT TITLE.

This Act may be cited as the “Tribally Controlled Colleges and
Universities Assistance Act of 1978”.

DEFINITIONS

SEC. 2. [25 U.S.C. 1801] (a) For purposes of this Act, the
term—

(1) “Indian” means a person who is a member of an Indian
tribe;

(2) “Indian tribe” means any Indian tribe, band, nation, or
other organized group or community, including any Alaskan
Native village or regional or village corporation as defined in
or established pursuant to the Alaskan Native Claims Settle-
ment Act, which is recognized as eligible for the special pro-
grams and services provided by the United States to Indians
because of their status as Indians;

(3) “Secretary”, unless otherwise designated, means the
Secretary of the Interior;

(4) “tribally controlled college or university” means an in-
stitution of higher education which is formally controlled, or
has been formally sanctioned, or chartered, by the governing
body of an Indian tribe or tribes, except that no more than one
such institution shall be recognized with respect to any such
tribe;

(5) “institution of higher education” means an institution
of higher education as defined by section 101 of the Higher
Education Act of 1965, except that clause (2) of such section
shall not be applicable and the reference to Secretary in clause
(5)(A) of such section shall be deemed to refer to the Secretary
of the Interior;

(6) “national Indian organization” means an organization
which the Secretary finds is nationally based, represents a sub-
stantial Indian constituency, and has expertise in the fields of
tribally controlled colleges and universities and Indian higher
education;

(7) “Indian student” means a student who is—

(A) a member of an Indian tribe; or

(B) a biological child of a member of an Indian tribe,
living or deceased;

(8) "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled college or university, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve; and

(9) "satisfactory progress toward a degree or certificate" has the meaning given to such term by the institution at which the student is enrolled.

(b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to subsection (a)(8):

(1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.

(2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

(4) Indian students earning credits in any continuing education program of a tribally controlled college or university shall be included in determining the sum of all credit hours.

(5) Eligible credits earned in a continuing education program—

(A) shall be determined as one credit for every ten contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

(B) shall be limited to ten percent of the Indian student count of a tribally controlled college or university.

TITLE I—TRIBALLY CONTROLLED COLLEGES OR UNIVERSITIES

PURPOSE

SEC. 101. [25 U.S.C. 1802] It is the purpose of this title to provide grants for the operation and improvement of tribally controlled colleges or universities to insure continued and expanded educational opportunities for Indian students, and to allow for the im-

provement and expansion of the physical resources of such institutions.

GRANTS AUTHORIZED

SEC. 102. [25 U.S.C. 1803] (a) The Secretary shall, subject to appropriations, make grants pursuant to this title to tribally controlled colleges or universities to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray, at the determination of the tribally controlled college or university, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the the college or university. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. [25 U.S.C. 1804] To be eligible for assistance under this title, a tribally controlled college or university must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians;

(3) if in operation for more than one year, has students a majority of whom are Indians; and

(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

(B) according to such an agency or association, is making reasonable progress toward accreditation.

PLANNING GRANTS

SEC. 104. [25 U.S.C. 1804a] (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities (1) to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled colleges or universities, or (2) to determine the need and potential for the establishment of such colleges or universities.

(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than \$15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.

SEC. 105. [25 U.S.C. 1805] TECHNICAL ASSISTANCE CONTRACTS.**(a) TECHNICAL ASSISTANCE.—**

(1) **IN GENERAL.**—The Secretary shall provide, upon request from a tribally controlled college or university which is receiving funds under section 108, technical assistance either directly or through contract.

(2) **DESIGNATED ORGANIZATION.**—The Secretary shall require that a contract for technical assistance under paragraph (1) shall be awarded to an organization designated by the tribally controlled college or university to be assisted.

(b) EFFECT OF SECTION.—No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

ELIGIBILITY STUDIES

SEC. 106. [25 U.S.C. 1806] (a) The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a eligibility study to determine whether there is justification to encourage and maintain a tribally controlled college or university, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 5 per centum of the funds appropriated to carry out section 107 for such fiscal year.

GRANTS TO TRIBALLY CONTROLLED COLLEGES OR UNIVERSITIES

SEC. 107. [25 U.S.C. 1807] (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges or universities. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a eligibility study has been conducted under section 106 and it has been found that the applying college or university will service a reasonable student population.

(b) The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to sup-

port a tribally controlled college or university. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

AMOUNT OF GRANTS

SEC. 108. [25 U.S.C. 1808] (a) REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled college or university having an application approved by the Secretary an amount equal to the product obtained by multiplying—

(A) the Indian student count at such college or university during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(8); and

(B) \$8,000, as adjusted annually for inflation.

(2) EXCEPTION.—The amount of a grant under paragraph (1) shall not exceed an amount equal to the total cost of the education program provided by the applicable tribally controlled college or university.

(b)(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.

(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled college or university and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled college or university and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled college or university under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled college or

university by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(4) Funds provided under this title may only be invested by the tribally controlled college or university in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

(c)(1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled colleges or universities.

(d) Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98–192.

EFFECT ON OTHER PROGRAMS

SEC. 109. [25 U.S.C. 1809] (a) Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college or university to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b)(1) The amount of any grant for which tribally controlled colleges or universities are eligible under section 108 shall not be altered because of funds allocated to any such colleges or universities from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(2) No tribally controlled college or university shall be denied funds appropriated under such Act of November 2, 1921, because of the funds it receives under this Act.

(3) No tribally controlled college or university for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(c) For the purposes of sections 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act.

(c)¹ Notwithstanding any other provision of law, funds provided under this title to the tribally controlled college or university may be treated as non-Federal law which requires that non-Federal or private funds of the college or university be used in a project or for a specific purpose.

APPROPRIATION AUTHORIZATION

SEC. 110. [25 U.S.C. 1810] (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105, \$3,200,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) There is authorized to be appropriated for the purpose of carrying out section 107, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(3) There is authorized to be appropriated for the purpose of carrying out sections 112(b) and 113, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 2009 and for each of the five succeeding fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the tribally controlled colleges or universities being designated as its own certifying agency.

(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).

GRANT ADJUSTMENTS

SEC. 111. [25 U.S.C. 1811] (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

¹So in law. Section 901(e) of Public Law 105-244 (Oct. 7, 1998; 112 Stat. 1829), redesignated subsection (d) as subsection (c). Therefore, there are two subsections designated as subsection (c).

- (i) the per capita payment for the preceding fiscal year; and
- (ii) the applicant's projected Indian student count for the academic year for which payment is being made;
- in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and
- (C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—
- (i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and
- (ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).
- (2) For purposes of paragraph (1) of this subsection, the term "per capita payment" for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled colleges or universities under section 107 for such fiscal year by the sum of the Indian student counts of such colleges or universities for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.
- (b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A), the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.
- (2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.
- (3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1983, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.
- (c) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received

funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for allocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 107(a) of this title.

REPORT ON FACILITIES

SEC. 112. [25 U.S.C. 1812] (a) The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled colleges or universities. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after the date of enactment of the Tribally Controlled Community College Assistance Amendments of 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled community colleges or universities under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

(b) The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

(c)(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges or universities that receive funding under this Act or the Navajo Community College Act.

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled colleges or universities.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

(d) For the purposes of this section, the term “reconstruction” has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).

CONSTRUCTION OF NEW FACILITIES

SEC. 113. [25 U.S.C. 1813] (a) With respect to any tribally controlled college or university for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

(b) In order to be eligible for a grant under this section, a tribally controlled college or university—

(1) must be a current recipient of grants under section 105 or 107, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 101 of the Higher Education Act of 1965, except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college or university will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled college or university shall be required to expend more than \$400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled college or university may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled college or university which demonstrates that neither such college or university nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college or university to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal gov-

ernment in furtherance of the general welfare of the community served by the tribal government, title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under the Act of November 2, 1921 (25 U.S.C. 13)) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

(f) For the purposes of this section—

(1) the term “construction” includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(2)(B))); and

(2) the term “academic facilities” has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(1)).

MISCELLANEOUS PROVISIONS

SEC. 114. [25 U.S.C. 1814] (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

RULES AND REGULATIONS²

SEC. 115. [25 U.S.C. 1815] (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

²Public Law 98–192 (97 Stat. 1343), which reauthorized and amended the Act, included the following section:

“SEC. 15. In promulgating regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.”

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

* * * * *

TITLE III—TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ENDOWMENT PROGRAM

PURPOSE

SEC. 301. [25 U.S.C. 1831] It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled colleges or universities.

ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

SEC. 302. [25 U.S.C. 1832] (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled colleges or universities which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college or university shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college or university shall be eligible for such a grant for a fiscal year if such college or university has been awarded a grant under section 331 of the Higher Education Act of 1965 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled college or university shall be made unless such college or university enters into an agreement with the Secretary which—

(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 331(c) of the Higher Education Act of 1965, except that for purposes of this paragraph, the term “trust fund” means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 306;

(B) a capital contribution by such college or university in an amount (or of a value) equal to half of the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college or university withdraws any capital contribution made by that college or

university, an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal shall be withdrawn and returned to the Secretary for reallocation to other colleges or universities;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college or university, including a description of record-keeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

USE OF FUNDS

SEC. 303. [25 U.S.C. 1833] Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled college or university may be periodically withdrawn and used, at the discretion of such college or university, to defray any expenses associated with the operation of such college or university, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

COMPLIANCE WITH MATCHING REQUIREMENT

SEC. 304. [25 U.S.C. 1834] For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled college or university may use funds which are available from any private or tribal source. Any real or personal property received by a tribally controlled college or university as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college or university as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college or university, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.

ALLOCATION OF FUNDS

SEC. 305. [25 U.S.C. 1835] (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled college or university which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to twice the value of the property or the amount which such college or university demonstrates has been placed within the control of, or irrevocably committed to the use of, the college or university and is available for deposit as a capital contribution of that college or university in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college or university for any fiscal year shall not exceed \$750,000.

(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled college or university an amount equal to twice the value of the property or the amount demonstrated by such college or university pursuant to subsection (a), then the amount of the allocation to each such college or university shall be ratably reduced.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. [25 U.S.C. 1836] (a) There are authorized to be appropriated to carry out the provisions of this title, \$10,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

TITLE IV—TRIBAL ECONOMIC DEVELOPMENT

SEC. 401. [25 U.S.C. 1801 note] SHORT TITLE.

This title may be cited as the “Tribal Economic Development and Technology Related Education Assistance Act of 1990”.

SEC. 402. [25 U.S.C. 1851] GRANTS AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled colleges or universities which receive grants under either this Act or the Navajo Community College Act for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a grant under this subsection shall include at least the following activities:

(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resource needs.

(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

(3) The conduct of vocational courses, including administrative expenses and student support services.

(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

(b) AMOUNT AND DURATION.—The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

(c) APPLICATIONS.—Institutions which receive funds under other titles of this Act or the Navajo Community College Act may apply for grants under this title either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this part.

SEC. 403. [25 U.S.C. 1852] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this title, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

TITLE V—TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS

SEC. 501. [25 U.S.C. 1861] DEFINITION OF TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTION.

In this title, the term “tribally controlled postsecondary career and technical institution” has the meaning given the term in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302).

SEC. 502. [25 U.S.C. 1862] TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations, for fiscal year 2009 and each fiscal year thereafter, the Secretary shall—

(1) subject to subsection (b), select two tribally controlled postsecondary career and technical institutions to receive assistance under this title; and

(2) provide funding to the selected tribally controlled postsecondary career and technical institutions to pay the costs (including institutional support costs) of operating postsecondary career and technical education programs for Indian students at the tribally controlled postsecondary career and technical institutions.

(b) SELECTION OF CERTAIN INSTITUTIONS.—

(1) REQUIREMENT.—For each fiscal year during which the Secretary determines that a tribally controlled postsecondary career and technical institution described in paragraph (2) meets the definition referred to in section 501, the Secretary shall select that tribally controlled postsecondary career and technical institution under subsection (a)(1) to receive funding under this section.

(2) INSTITUTIONS.—The two tribally controlled postsecondary career and technical institutions referred to in paragraph (1) are—

(A) the United Tribes Technical College; and

(B) the Navajo Technical College.

(c) METHOD OF PAYMENT.—For each applicable fiscal year, the Secretary shall provide funding under this section to each tribally controlled postsecondary career and technical institution selected

for the fiscal year under subsection (a)(1) in a lump sum payment for the fiscal year.

(d) DISTRIBUTION.—

(1) IN GENERAL.—For fiscal year 2009 and each fiscal year thereafter, of amounts made available pursuant to section 504, the Secretary shall distribute to each tribally controlled postsecondary career and technical institution selected for the fiscal year under subsection (a)(1) an amount equal to the greater of—

(A) the total amount appropriated for the tribally controlled postsecondary career and technical institution for fiscal year 2006; or

(B) the total amount appropriated for the tribally controlled postsecondary career and technical institution for fiscal year 2008.

(2) EXCESS AMOUNTS.—If, for any fiscal year, the amount made available pursuant to section 504 exceeds the sum of the amounts required to be distributed under paragraph (1) to the tribally controlled postsecondary career and technical institutions selected for the fiscal year under subsection (a)(1), the Secretary shall distribute to each tribally controlled postsecondary career and technical institution selected for that fiscal year a portion of the excess amount, to be determined by—

(A) dividing the excess amount by the aggregate Indian student count (as defined in section 117(h) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2327(h)) of such institutions for the prior academic year; and

(B) multiplying the quotient described in subparagraph (A) by the Indian student count of each such institution for the prior academic year.

SEC. 503. [25 U.S.C. 1863] APPLICABILITY OF OTHER LAWS.

(a) IN GENERAL.—Paragraphs (4) and (8) of subsection (a), and subsection (b), of section 2, sections 105, 108, 111, 112 and 113, and titles II, III, and IV shall not apply to this title.

(b) INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE.—Funds made available pursuant to this title shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(c) ELECTION TO RECEIVE.—A tribally controlled postsecondary career and technical institution selected for a fiscal year under section 502(b) may elect to receive funds pursuant to section 502 in accordance with an agreement between the tribally controlled postsecondary career and technical institution and the Secretary under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) if the agreement is in existence on the date of enactment of the Higher Education Opportunity Act.

(d) OTHER ASSISTANCE.—Eligibility for, or receipt of, assistance under this title shall not preclude the eligibility of a tribally controlled postsecondary career and technical institution to receive Federal financial assistance under—

(1) any program under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

(2) any program under the Carl D. Perkins Career and Technical Education Act of 2006; or

(3) any other applicable program under which a benefit is provided for—

(A) institutions of higher education;

(B) community colleges; or

(C) postsecondary educational institutions.

SEC. 504. [25 U.S.C. 1864] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for fiscal year 2009 and each fiscal year thereafter to carry out this title.