



The Tribally Controlled Community Colleges Act of 1978 : an expansion of federal Indian trust responsibility
by Janine Pease-Windy Boy

A thesis submitted in partial fulfillment of the requirements for the degree of Doctor of Education
Montana State University
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Abstract:

This study of the Tribally Controlled Community Colleges Assistance Act development was performed to examine the American Indian constituent influence on the legal antecedents, events and strategies that effected this policy formation.

Historical and policy antecedents were studied to reveal the context of events and laws that impacted the tribal colleges bill. A literature review and a study of Indian Affairs by American Indian historians elicited the American Indian voice about and in American Indian history and policy. Primary source documents and participant interviews revealed the constituent role and perspective of the American Indian Higher Education Consortium, the United States Congress and the national Indian organizations. From this primary source study, a chronology of legislative events was comprised. A policy analysis framework was applied to the documents and interview content to understand the tribal colleges' strategies of policy estimation and selection.

Major legal precedents exist in the Navajo Community College Act of 1968 and the Indian Self-Determination Act of 1975. Secondary law precedents were the Snyder Act of 1923, the Indian Education Act of 1972, and the Higher Education Act of 1965. The Tribally Controlled Community Colleges Assistance Act of 1978 provided per student operational support, based on a tribal charter and a majority Indian student body and governing board. Tribal colleges' effective partnership with Congressional committees forged the legislation, despite persistent opposition from the federal Departments of the Interior and Education and objections from the national Indian organizations. The American Indian Higher Education Consortium exhibited complex knowledgeability of the structures and procedures, by the estimation and selection strategies that effected the policy enactment.

The tribal colleges consortium was the influential American Indian constituent that effected federal legislation and therefore the expansion of the special trust relationship that exists between the federal government and Indian nations. The tribal colleges consortium exhibited remarkable unity of purpose through a long and arduous journey to the legislative enactment and final grant awards. As effective policy managers, the tribal college leaders defied the odds and achieved a monumental feat, the expansion of the federal Indian trust relationship to include the tribal colleges support.

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ACT OF 1978: AN EXPANSION OF FEDERAL
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by

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A thesis submitted in partial fulfillment
of the requirements for the degree

of

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This thesis has been read by each member of the graduate committee and has been found to be satisfactory regarding content, English usage, format, citations, bibliographic style, and consistency, and is ready for submission to the College of Graduate Studies.

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Date April 20, 1994

This work is dedicated to loved ones. I acknowledge the support and love I have received from my husband, John Pretty On Top, and my two children, Roses and Vernon Windy Boy, whose present and future I honor. My parents, Benjamin and Margery Pease, are both lifelong career educators. From their teachings and example I am compelled to understand and serve.

VITA

Janine Pease-Windy Boy is a member of the Crow Tribe of Indians of Montana. She has served as president of Little Big Horn College (Crow Agency, Montana), the tribally chartered college of the Crow Tribe for the past twelve years. Since completion of her undergraduate degree in anthropology and sociology at Central Washington University in 1970, Ms. Pease-Windy Boy has held adult and higher education positions in Washington, Arizona and Montana. Beginning in 1982, Pease-Windy Boy has been a board member of the American Indian Higher Education Consortium (AIHEC) and was Consortium president from 1983 to 1985. Pease-Windy Boy offered lead AIHEC testimony in Congress committee hearings from 1983 to 1991.

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TABLE OF CONTENTS

	Page
ABSTRACT	xiv
1. INTRODUCTION	1
Purpose of the Study	1
Study Methods and Procedures	2
Research Questions	2
Primary Sources	3
Review of the Literature	5
Tribal Colleges	5
Federal Tribal College Policy	6
American Indian Education Policy	6
Historical Antecedents, 1950-1975	7
Definition of Terms	8
Organization of the Study	9
Significance of the Study	10
Bibliography	13
Books	13
Dissertations	14
Periodicals	15
2. AMERICAN INDIAN RELATIONS WITH THE FEDERAL GOVERNMENT: A CONTEXTUAL STUDY	16
Introduction	16
Sovereignty and the Federal Trust Relationship	16
The 1950's and Indian Termination	19
Assimilation as Key Policy	19
Congress and Committee Reorganization	20
Termination of the Federal Trust	21
Intertribal Coalitions and Termination Resistance	21
Indian Comment on Federal Termination Policy	23
Mainstream Critics of Termination	23
Education in a Termination Era	24

TABLE OF CONTENTS--Continued

	Page
The 1960's: Great Society/New Frontier	25
American Indian Community Identity	25
Scholars and Urban Alliances	26
The National Congress of American Indians	27
National Indian Youth Council	28
Termination Still a Preoccupation	28
Indian Concerns Contrast Black American Concerns	29
Contradiction Inside the Federal Administration	29
Poverty Programs Create Change	30
Data From Crucial Research	32
Presidential Statements	33
Congressional Role in Indian Education in the 1960's	33
A Comprehensive Approach to Indian Education	34
Indian Controlled Education	35
The Sixties in Summary	36
The Legacy of the Sixties	37
The Decade of the 1970's, Indian Self-Determination	38
Overview of the Seventies	38
Counter Currents of Federal Policy	39
The Indian Community	40
The Nixon Administration	42
The Indian Self-Determination Act in Theory and Practice	43
Indian Perspectives on Self-Determination	45
Congress Enacts Key Indian Education Legislation	46
Higher Education and American Indians	48
Public Backlash	49
The 95th Congress	50
Indian Perspective on the Carter White House	51
The Seventies in Review	52
Crucial Elements of Indian Policy	52
Bibliography	54
Books	54
Dissertations	55
Interviews	55
Periodicals	56

TABLE OF CONTENTS--Continued

	Page
3. EVENTS LEADING TO THE PASSAGE OF THE TRIBAL COLLEGES LEGISLATION	58
Introduction	58
The American Indian Higher Education Consortium	59
Tribal College Funding from the Higher Education Act	65
Snyder Act Funds	66
Indian Self-Determination	68
Tribal Colleges Propose Title II Amendment	69
Tribal Colleges Gain Congressional Support	70
Study Provision Contracted to Consortium	70
Colleges Offer Technical Amendments	71
1976, A Year of Unresolved Issues	73
Important Progress in the 95th Congress	75
The Tribal Colleges Bill in the Senate	76
The House Subcommittee on Indian Education	78
White House and Executive Branch Responds	81
The House Report and Congressional Intent	83
Rules and Regulations and Appropriations	85
Colleges Meet the Feasibility Test	86
Conclusion	88
Appendices	90
Bibliography	91
AIHEC Documents	91
Books	93
Congressional Correspondence	93
Congressional Documents	94
Dissertations	94
Federal Executive Branch Documents	94
Higher Education Documents	95
Interviews	96
National Indian Organizations Documents	96
Periodicals	98
U.S. Government Documents	98

TABLE OF CONTENTS--Continued

	Page
4. THE PROCESS OF POLICY DEVELOPMENT: ESTIMATION AND SELECTION	99
Introduction	99
Indian Policy and the Context of the 1970's	101
The Indian Community in the 1970's	101
Nixon and Indian Self-Determination	102
The Congress and Indian Self-Determination	102
Indian Control in Education	104
Tribal Colleges and Tribal Control	105
The 1970's and Indian Higher Education Policy	107
The 1970's in Summary	107
Policy Development Process: Estimation	108
The Policy Process	108
Estimation and Policy Development	109
Estimation Process Surveyed	110
Root Causes	111
Time is Important	112
Unintended Consequences	114
Response Speed	118
Institutional Structures	119
Complexity Reduction	121
Issue Papers	122
Estimation in Summary	124
Policy Development Process: Selection	125
Selection Process Surveyed	125
Selection	125
The Unforeseen Occupies Inordinate Time	127
Task of Context	128
Points of Leverage	132
Reliable and Trusted Information	134
Personalities	135
Culturally Derived Values	138
Reduce to the Basic Issues	140
Selection in Summary	141

TABLE OF CONTENTS--Continued

	Page
Bibliography	142
AIHEC Documents	142
Books: Indian Policy and Indian Education	144
Books: Policy Development	144
Congressional Correspondence	144
Congressional Documents	145
Dissertations	145
Federal Executive Branch Documents	146
Higher Education Documents	147
Interviews	147
National Indian Organizations Documents	148
Periodicals	149
U.S. Government Documents	149
5. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS FOR FURTHER STUDY	150
Summary	150
Major Historical and Policy Antecedents	150
The Tribally Controlled Community Colleges Assistance Act of 1978	152
Events Leading to the Passage of the Tribal Colleges Act	154
Constituents in the Tribal Colleges Policy Development	159
The Tribal Colleges	159
Congressional Leaders	161
National Indian Organizations	162
Tribal Government	162
The Higher Education Sector	163
The Federal Executive Branch	164
The Role of the American Indian Higher Education Consortium	164
Conclusions	165
The Effective Policy Manager	165
Competing Constituent Perspectives and the Influential Policy Manager	166
The 1970's American Civil Rights Context	167
Culturally Derived Values and Leadership	168

TABLE OF CONTENTS--Continued

	Page
Tribal and Academic Identity Among Derived Values	169
Higher Education as a Preferred Life Quality	170
Context of the Task	172
Tribal Colleges Act, a Tribally Based Initiative	173
Recommendations for Further Study	174
Other Grassroots Legislative Advocates	174
Policy Analysis Framework	175
Future Tribal College Policy Development	175
The 95th Congress and Other Indian Organizations	176
APPENDICES	177
Appendix A--Biographies of Significant Contributors to Tribal Colleges Legislation	178
Introduction	178
Abdnor, James	179
Abourezk, James	179
Atcity, Thomas	180
Baldy, Steve	180
Belgarde, Larry	181
Blouin, Michael T.	181
Bordeaux, Lionel	183
Burdick, Quentin	184
Chisholm, Shirley	184
Clifford, Leroy	185
Demmert, William	185
Echohawk, Lucille	186
Falling, Leroy	187
Ford, William	187
Forkenbrock, John	188
Franklin, Yvonne	189
Gipp, David	189
Gerard, Forest	190
Hanley, Joy	190
Hena, Jim	191
Horse, Ella M.	192
Horse, Perry	192

TABLE OF CONTENTS--Continued

	Page
Howard, Phyllis	193
Jackson, Henry M.	193
Juneau, Carol	194
Kildee, Dale	194
Lavis, Rick	195
Locke, Patricia	195
Lovesee, Alan	197
Meeds, Lloyd	198
Nichols, Richard	198
Pressler, Larry	199
Quie, Albert	199
Risling, David	200
Scheirbeck, Helen	200
Shanley, James	201
Shortbull, Thomas	202
Tiger, Georgiana	202
Tirrell, John	203
Wynde, Yvonne	203
Bibliography	205
 Appendix B--List of Presidents, Tribally Controlled Community Colleges	 210
 Appendix C--Staff Members, American Indian Higher Education Consortium	 212
 Appendix D--Presidents, American Indian Higher Education Consortium	 213
 Appendix E--List of Participants: Tribally Controlled Colleges Act Consortium and Tribal Colleges	 214
 Appendix F--Legislative History of the Tribally Controlled Community Colleges Assistance Act of 1978	 220

ABSTRACT

This study of the Tribally Controlled Community Colleges Assistance Act development was performed to examine the American Indian constituent influence on the legal antecedents, events and strategies that effected this policy formation.

Historical and policy antecedents were studied to reveal the context of events and laws that impacted the tribal colleges bill. A literature review and a study of Indian Affairs by American Indian historians elicited the American Indian voice about and in American Indian history and policy. Primary source documents and participant interviews revealed the constituent role and perspective of the American Indian Higher Education Consortium, the United States Congress and the national Indian organizations. From this primary source study, a chronology of legislative events was comprised. A policy analysis framework was applied to the documents and interview content to understand the tribal colleges' strategies of policy estimation and selection.

Major legal precedents exist in the Navajo Community College Act of 1968 and the Indian Self-Determination Act of 1975. Secondary law precedents were the Snyder Act of 1923, the Indian Education Act of 1972, and the Higher Education Act of 1965. The Tribally Controlled Community Colleges Assistance Act of 1978 provided per student operational support, based on a tribal charter and a majority Indian student body and governing board. Tribal colleges' effective partnership with Congressional committees forged the legislation, despite persistent opposition from the federal Departments of the Interior and Education and objections from the national Indian organizations. The American Indian Higher Education Consortium exhibited complex knowledgeability of the structures and procedures, by the estimation and selection strategies that effected the policy enactment.

The tribal colleges consortium was the influential American Indian constituent that effected federal legislation and therefore the expansion of the special trust relationship that exists between the federal government and Indian nations. The tribal colleges consortium exhibited remarkable unity of purpose through a long and arduous journey to the legislative enactment and final grant awards. As effective policy managers, the tribal college leaders defied the odds and achieved a monumental feat, the expansion of the federal Indian trust relationship to include the tribal colleges support.

CHAPTER 1

INTRODUCTION

Purpose of the Study

The purpose of this study was to review and articulate the American Indian constituent voices in shaping the policy that has become the Tribally Controlled Community Colleges Assistance Act. Two central research questions guided this study: What was the American Indian voice in the policy formation that became the Tribally Controlled Community Colleges Assistance Act of 1978, and what antecedents, events and constituents impacted the act development and its policy elements from draft to passage? These questions delineated aspects of the central questions:

1. What major American Indian historical and policy antecedents shaped the 1970's legislative environment for the tribal colleges act and its policy elements?
2. What is the Tribally Controlled Community Colleges Assistance Act and which events impacted its development from draft in 1971 to passage in 1978?

3. Which constituent groups and individuals shaped the tribal colleges legislation? Why were American Indian constituents more influential in the policy formation than most other interested sectors?
4. What policy elements were considered in the formative process of the tribal colleges legislation and why were they tied to key constituent groups?
5. What conclusions about tribal college policy can be made from the analysis of antecedent history and policy, key constituent groups and formative policy elements?

Findings based on this inquiry informed the investigator about tribal college policy formation in light of American Indian constituent strength and three decades of antecedent policy weight bearing on the act. There was evident a delineated body of policy that essentially comprises the federal tribal college policy.

Study Methods and Procedures

Research Questions

The research questions posed began the process of the study. The questions were answered empirically in the review of the documentation, of both a primary and secondary nature, i.e., primary sources are firsthand letters or interviews and secondary sources are books or articles that study those original

documents (Fischer 1970-13). Each question was constructed to provide open-ended inquiry and yet be operational as the study progressed (Fischer 1970-38). The research questions were derived from the central question: What was the American Indian voice in the policy formation that became the Tribally Controlled Community Colleges Assistance Act of 1978? The methods that were employed in this research were selected to acquire a pertinent set of facts, directly aligned with the purpose of this study.

Primary Sources

This inquiry reviewed and examined data from the following primary sources. Tribal college related information was acquired through archival research in the tribal college consortium archival collection at Oglala Lakota College in Kyle, South Dakota. This research concerned the records maintained by the tribal colleges and their consortium leadership. The records included hearing testimony, meeting minutes, phone records, position papers, correspondence both internal and external, draft bills, telegrams and publications. The records were analyzed through the policy development functions of estimation and selection in order to clarify the nature of the consortium policy development efforts.

Interviews with leaders of national Indian organizations, national higher education organizations, tribal colleges, the consortium and congressional committees were conducted by the author in the course of the research. The key study questions guided the naturalistic interviews, with attention to oral views as

memory provides. The six individuals interviewed were chosen for their membership among various constituent groups and their significant contribution. Participant roles in the tribal colleges act legislation are described in the appendices, beginning on page 177. The archival and interview sources were key to the essential question regarding the American Indian perspective and contribution in this study's purpose. The consistent set of pertinent questions elicited perspectives from interviewees that clarified and enhanced the study content.

The interviews were conducted at a time and place to insure a comfortable setting that encouraged interviewees to provide an accurate oral history from their unique perspective (Deloria 1978-89). The investigator relied on more than the written record, listening to perspectives from actual participants that reveal different viewpoints (Iverson 1978-140). The interview process derived the "raw material of history and support for its interpretation" (Washburn 1978-22). In acquiring a sense of American Indian sights and sounds--perspective, the investigator sought to emphasize American Indian history and policy from the American Indian point of view, in contrast to a history which relies solely on formal and standard written sources, usually governmental in nature, and reflecting the views of the dominant culture (Washburn 1978-22). The investigator attempted a scholarship that is a "double vision: about the people of another time and from their own eyes" (Vecsey 1978-125).

The literature review for this research examined areas of previous study to help avoid unnecessary duplication and inform the investigator of results from research efforts already performed. Journal articles, dissertations, historical works and legislative and executive documents germane to Indian education policy were examined. A second emphasis in the literature review was an historic study for contextual information. This assisted in the identification of historic and policy antecedents which impinged on the problem. This contextual awareness expanded the investigator's capacity for interpretation, explanation and evaluation as appropriate to the period of this study.

Review of the Literature

Tribal Colleges

The tribal colleges have been studied primarily by a small number of scholars writing dissertations. A growing number of works have addressed specific qualities or aspects of tribal colleges. Badwound (1990) studied organizational styles and Atwell (1988) analyzed student learning styles. McDonald (1981) researched accreditation as compared to a non-Indian institution. House (1974) analyzed the history of Navajo Community College. Mohatt (1981) studied Sinte Gleska College of the Rosebud Sioux of South Dakota. Stein (1988) chose to study tribal college development during the first ten years, 1968-1978. Belgarde (1993) analyzed funding dependencies and their effects on two tribal colleges. The Stein study provided important background to the legislation and the American

Indian Higher Education Consortium (the tribal colleges consortium). However, it is clear from this literature review that a study of the federal tribal college policy, P.L 95-471, had not been conducted.

Federal Tribal College Policy

The study of federal tribal college policy was extremely limited. Olivas published several journal articles that chronicled the legislation development. He critiqued the law and its effectiveness in supporting tribal colleges. The Olivas work relied heavily on congressional records, attributing the policy development to constituents in the legislative and executive branches of the federal government (Olivas 1980, 1982, 1990). The study expanded this work as it relied on the tribal college documents and oral interviews of participants as well as usual sources of data from the public record. Further, the investigator examined historical and policy antecedents crucial to the tribal college law development.

American Indian Education Policy

The literature on American Indian education policy focuses mainly on the elementary and secondary school levels. Prior to the tribal colleges legislation, no such federal involvement existed at the postsecondary level. A limited number of journal articles exist that specialize on a single facet of Indian education policy, such as Ramirez (1987) on exceptional children and Reyhner (1989) on school-aged bilingual education. The Kennedy Study of 1969 was the most comprehensive governmental study of Indian education policy, and was of value

for trends in elementary and secondary policy. The Education Commission of the States examined Indian education policy in 1980 and focused on local and parental control issues. A small number of dissertations have investigated this topic and as such are critical sources of data pertaining to this study. These include Scheirbeck's (1980) work on education, public policy and the American Indian and the Senese (1980) study of the Indian self-help trends 1940-1975. A focal text was authored by Szasz (1988), American Indian Education: An Historical Perspective. All of these sources informed the investigator regarding general Indian education policy, especially as elements traced to elements in the tribal college act.

Historical Antecedents, 1950-1975

A study of the eras antecedent to 1978 commenced with the year 1950. The federal attempts to terminate Indian reservations and the tribes' unique tie to the federal government compelled Indian inception of tribal control as a concept in tribal programs and Indian education. A crucial work on termination is Burt's (1981) work, Tribalism in Crisis, which focuses on the entire 15-year termination era. Comparable works on the New Frontier, Great Society and Nixon eras relating to Indian policy included Forbes' Nixon and the Indians (1981) and Philp's study Indian Self-Rule: First-Hand Account of Indian-White Relations from Roosevelt to Reagan (1986).

Additionally, the investigator relied on comprehensive American Indian history works, of which only various segments were relevant to the scope of this

study. Classic texts on American Indian history and policy included Prucha (1962), Spicer (1969), Tyler (1973), Washburn (1974) and Canby (1981). The actual Indian related legislation passed by the Congress during this 25-year period were reviewed. Historic works authored by McNickle (1959) and Deloria (1970) were examples of Indian historians' perspectives on this period. Indian policy understandings, perspectives and participation were key in this investigation. Indian policy elements traced to elements that exist as part of the tribal colleges act.

Definition of Terms

1. American Indian and Indian are used to mean the members of federally recognized tribes who are eligible to receive services from the Secretary of the Interior.
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 Settlement Act, which receives services provided by the United States to Indians because of their status as Indians.
3. Tribally controlled community college means an institution 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.

4. Indian country is defined (18 U.S.C. §1151) as

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state.

5. Institution of higher education means an institution of higher education as defined by section 12-1 (2) of the Higher Education Act of 1965.

Organization of the Study

Chapter 2. The second chapter, "American Indian Relations With the Federal Government, a Contextual Study," investigated the Indian community, Indian and Indian Education Policy, acts of Congress and the federal executive branch during three decades, the 1950's, the 1960's and the 1970's. The contextual study revealed legal and historic precedents generated in the rich environment of American Indian affairs. The chapter sets the historical and policy stage for the tribal colleges movement and the legislative developments initiated by the American Indian Higher Education Consortium.

Chapter 3. The "Events Leading to the Passage of the Tribal Colleges Legislation," chapter 3, describes the journey a two-paragraph tribal colleges amendment took through Congress, from 1973 to 1980. In a chronology of events, the author investigates the initiatives of Senators and Congressman and their positions of support or opposition. The interaction of constituents shows the

progression of issues that prompted debate and bill draft changes. National Indian organizations' involvement is described to elicit the importance of tribal control and commitment to the tribal colleges concept. The consortium's integral role in legislative development threads through this chapter from the bill's inception to passage, from the writing of rules and regulations, performance of feasibility studies and award of the first grant under the new law.

Chapter 4. To analyze the effective influence of the American Indian Higher Education Consortium on the development of the Tribally Controlled Community Colleges Assistance Act, the author compared the consortium policy development strategies with those described by Gary Brewer and Peter deLeon in Foundations of Policy Analysis. From this policy development literature, a useful set of terms was applied to the significant consortium documents. The policy estimation process delineates the consortium strategies for problem investigation and thoughtful assessment of policy options and alternatives. The policy selection process study reveals the consortium's political efforts to generate and select viable and acceptable policy alternatives. This section particularly documents the partnership of the consortium with the House committee staff to achieve a consensus through compromise and balance of interests in the tribal colleges bill.

Significance of the Study

The significance of this study lies in the delineation of federal policy as exists in the Tribally Controlled Community Colleges Assistance Act of 1978.

From this date of study, this body of policy had existed only 15 years. Studies in American Indian education history and policy existed; however, the policies that comprise federal tribal college policy had not been identified or delineated.

The tribal colleges legislation was the singular federal law that pertained to tribal colleges. As such, it comprised the sum of federal tribal college policy. An analysis of tribal college policy development may benefit students and practitioners in several ways. First, historical and policy antecedents found in Indian education policy and Indian policy in general may provide baseline parameters for future policy development or further legislative initiatives. Second, data reviewed delineated the nature of participation and influence brought by constituents of American Indian tribal college leaders, tribal leaders, higher education leaders, and Congressional delegations. These constituent positions revealed potential sources of policy interest and bias that impacts future policy development. Finally, the policy elements in the law are articulated for improved understanding. For these reasons, research on the law and the policy development may inform students and practitioners to the field of American Indian higher education.

Sources for the study were chosen to document American Indian involvement and their influence in the act formulation. Use of primary source documents and participant interviews illuminated the American Indian point of view. Primary archival material combined with interviews with key informants to comprise the American Indian voice in policy formation. Antecedents, events and constituents that impacted the draft to passage were woven into the analysis to

elicit an enhanced view of the period 1950 to 1980, with a sense of place in American Indian history.

The investigator and American Indian higher educators have access to this emergent policy information, for use in present policy understandings and for future policy development.

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CHAPTER 2

AMERICAN INDIAN RELATIONS WITH THE
FEDERAL GOVERNMENT: A CONTEXTUAL STUDYIntroduction

The tribal colleges legislation in Congress must be understood in the context of events in Indian country and the American society. Sovereignty is the fundamental element of federal Indian policy. Based on treaties, the federal government has a trust relationship with recognized American Indian tribes. Each American President and United States Congress has approached the trust relationship in a distinctive manner. American Indian organizations and leaders have pursued legislation and objectives in an environment of varying policies. The tribal colleges legislation was born into an inheritance from three crucial eras, denoted by decades: The Termination Era, the 1950's; The New Frontier and Great Society Era, the 1960's; and the Self-Determination Era, the 1970's.

Sovereignty and the Federal Trust Relationship

The American legal system recognizes American Indian tribes as sovereigns (Canby 1981-63). This recognition is inherited from European predecessors in

North American land colonization. European countries subjected North American people and lands to the discoverers claim and colonization called the "Right of Discovery" (Tyler 1973-91). During the four century colonial period, the Spanish, Dutch, English and French agreed that American Indians were people with inherent rights to land and government (Tyler 1973-18). As a result, colonial powers took tribal lands through mutual agreements, usually by purchase, exchange or lawful wars (Tyler 1973-18). This agreement or treaty duly recognized tribal rights (Canby 1981-63). The United States acquired European legal concepts, and by 1890 had made treaties 800 times with sovereign American Indian tribes (Tyler 1973-19). The treaties establish a base for continued relationship between the tribes and the United States Government.

The treaties were confirmation of and recognition of tribes as sovereigns. Tribal histories and archaeological evidence confirm thousands of years' residency by American Indian people in North America. Sovereign tribes or nations are characterized by longevity, independence and continuity (Tyler 1973-10). Tribal histories attribute life's breath and place location to the Creator (Wilkinson 1988-6). Over time, the nation/tribe acquires consent and shared powers derived from its membership (Kickingbird 1988-1). The peoples' inherent power and independence may take the form of laws and their enforcement (Canby 1981-65; Kickingbird 1988-5). The long-term, continuous and shared power and independence binds the people together as a nation (Wilkinson 1988-5). Tribal sovereignty is an inherent quality, through supreme shared power and independence.

The treaties obligate federal protection of tribal lands, resources and self-government (Kickingbird 1988-27). These rights were clarified in Georgia v. Worcester, 1832, where the U.S. Supreme Court termed this status "domestic dependent nations" (Canby 1981-14). The federal Department of the Interior, Bureau of Indian Affairs, is the primary agency responsible for treaty rights protection (Kickingbird 1988-19). This protective role is legally known as trust responsibility. The Secretary of the Interior and subordinate agency, the Bureau of Indian Affairs (BIA), exercise broad discretionary powers in this trust relationship, even though tribal self-government makes and enforces laws (Kickingbird 1988-28; Wilkinson 1988-5). While the sovereign status precludes State interference in tribal matters, tribes are subject to the plenary power of Congress (Canby 1981-66). The federal trust responsibility and relationship that characterizes American Indian sovereign status bears further redefinition relative to Interior Department leadership and administration.

Congressional plenary power has defined and redefined American Indian nationhood in vacillating patterns (Scheirbeck 1981-215). Each Congress and the presidency have intruded and modified the breadth and depth of tribal sovereignty (Canby 1981-66). This plenary power of Congress is coupled with the federal trust responsibility to tribes and comprises a distinct legal rationale for the unique and special federal services to American Indian tribes and their members (Scheirbeck 1981-213). For example, the Snyder Act of 1923 with 41 Titles has been the legal authority for most of the BIA services provided to Indian tribes (Kickingbird

1988-26). The Indian Civil Rights Act of 1968 afforded the Bill of Rights protections to America's tribes, all of whom were previously exempted. The treaty based government-to-government relationship has formed and altered the face of tribal nationhood, constraining or expanding sovereign powers.

The 1950's and Indian Termination

Assimilation as Key Policy

America's return to routine life after World War II placed a renewed emphasis on assimilation when it came to Indian affairs (Senese 1984-14). This time, the assimilative strategy took the form of relocating thousands of reservation Indians from their homelands to urban industrial job settings. As early as 1948, a major relocation effort had begun with the Navajo people, and gradually included many other tribes across the country (Senese 1984-15). The Truman administration found a cooperative Congress that supported relocation with substantial dollars; assimilation had fiscal support (Burt 1982-7). Initially, it was called the Navajo/Hopi Marshall Plan and from 1946 to 1958 several thousand Arizona tribal members were relocated.

What was relocation? The process was administered by the Bureau of Indian Affairs. The BIA offered Indian adults bus fares and job locations (usually in unskilled industrial positions) and one month's rent (often on the wrong side of town). In practice, the Bureau of Indian Affairs pulsed or shifted funds among the

city relocation sites, and created seriously interrupted services to American Indian relocatees. The Bureau of Indian Affairs invested funds and services inconsistently, leaving relocatees stranded and without service (Burt 1982-7). Indian relocation moved thousands of surplus Indian people from their homelands on reservations to individual placements in western and midwestern urban locations (Burt 1982-7).

Congress and Committee Reorganization

The Legislative Reorganization Act of 1946 consolidated multiple western economic interests into one Committee structure in the Congress, named Interior and Insular Affairs. Both the Senate and the House committees then dealt with mines, lands, territories, reclamation and Indian Affairs (Burt 1982-5; Scheirbeck 1981-132). This realignment of duties diluted the committee time and influence dedicated to Indian Affairs among all the additional and competing land and economic interests. In this competitive environment, termination met little opposition, and was an acceptable direction for Indian policy. Congress emphasized a type of New Deal tribal development that mainstreamed the individual Indian person into American society (Forbes 1964-124). The Congressional committees generally viewed federal trusteeship as a failure. In both deliberation and action, these Committees overtly curtailed trusteeship over Indian property (Fey and McNickle 1973-103).

Termination of the Federal Trust

The Indian termination philosophy was carried out in a two-pronged approach. Two measures that wielded major impact on tribes were House Concurrent Resolutions 280 and 108. State jurisdiction of reservations was legislated in HCR 280, altering tribal jurisdiction and limiting tribal governmental powers. HCR 108 unilaterally ended trusteeship with several Indian tribes and their reservations. Burt noted that fee patents (land leaving trust status and therefore taxable) more than doubled during this period (Burt 1982-60).

Individualism and assimilation were keys to termination philosophy (Forbes 1964-124). Termination called on the federal government to get out of the Indian business as rapidly as possible (Scheirbeck 1981-352). The idea that drove the relocation policy was that the assimilated Indian was an individual citizen, not a member of an Indian tribe or nation. Termination thought effectively reduced American Indian cultural heritage and tribal existence to little more than arts, crafts and memories of a distant heritage (Burt 1982-83). The practice of termination reduced Indian community and Indian tribe to meaninglessness; and treaty conditions were immaterial. The overriding importance of termination was to promote individual American Indian citizen self-sufficiency (Spicer 1969-297).

Intertribal Coalitions and Termination Resistance

The Indian participation in World War II expanded the number of issues viewed-as important by the Indian community. Fey and McNickle record that

25,000 Indians served in the World War II, and that the returning veterans were globally aware in a new and expansive way. More than ever, they were aware of and understood their rights as U.S. citizens (Fey and McNickle 1973-183). For many, the military years built acquaintances with members of other Indian tribes. Significant intertribal dialogue led to common issues identification. Heightened awareness from the war experience and a newly found common ground served as a foundation for a new national Indian organization, the National Congress of American Indians or NCAI (Senese 1984-26). The unilateral termination of Indian reservations by Congress was a pivotal motivation for intertribal American Indian coalitions. Building on the intertribal acquaintances begun during the war experience, Indian tribes now found a common foe in termination. The common experience and threat of termination cemented the rationale for nationally-based organizations. The fledgling National Congress of American Indians gained enormous strength through the members' unanimous opposition to termination. The effects of termination policy were assessed as detribalism and disorganizational (McNickle 1973-107, 113).

Resistance to termination and relocation ran deep among all NCAI member tribes and their members. Fear of termination grew to such a degree that some tribes abandoned planning and programs because they demonstrated to the federal government elementary levels of expertise or self-sufficiency. Ironically, Indian tribal expertise or self-sufficiency had often targeted a tribe for termination (Fey and McNickle 1970-113 & 236). Articulate Indian leaders demanded tribal

consent, consultation and control as preconditions to any federal termination considerations. The tribes demanded a halt to all such unilateral Congressional acts.

Indian Comment on Federal Termination Policy

Indian leadership included scholars, tribal chairpersons and intertribal or regional leaders. Paul Jones of the Navajo Nation proposed expansive education reform for Indian children and adults (Spicer 1969-296). Vine Deloria, Senior, a Standing Rock Sioux Episcopal cleric, suggested a major plan for modernization in a mission context (Burt 1982-85). The NCAI leaders and president Joseph Gary (a Nez Perce Indian) demanded solid spokesperson presence in many forum levels, particularly in the U.S. Congress (Senese 1984-26). Burt (1982-58) commented in Tribalism in Crisis that more Native Americans openly rejected assimilation and began to look to their common heritage as a source of strength and ideology. Individual Indian relocatees returned home to the reservation at a rate of 30% in the first three months of placement, thereby demonstrating/protesting their objections to the relocation policy.

Mainstream Critics of Termination

Critics of the federal termination policy arose from various quarters. A former New Deal Indian Commissioner, John Collier, called on the BIA's Indian Commissioner John Myers to "recognize this fantasy and join the real world." During the War years, Myers had served as head of the Japanese relocation

program. A University of Minnesota study called Indian land depletion due to termination of Indian status as oppositional to the urgent employment needs of Indian people on reservations (Fey and McNickle 1970-183,202). The Montana State Legislature encouraged the federal government to recognize the trust responsibility required by Indian treaties (Burt 1982-85). The burgeoning number of critics amassed testimony and data in Congressional oversight hearings. The growing Democratic majority in both the Senate and House listened intently during two years of oversight hearings on Indian termination. Indian voices joined with varied mainstream critics and the Indian policy of termination began to erode.

Education in a Termination Era

Termination policy had its effect on the education of Indian children. School construction was reduced to only temporary measures; quonset huts and trailer houses became common school facilities for Indian children (Burt 1982-52). Indian Commissioner Myers appointed a commission on Indian education named the Bunison Commission. The Commission assessment and final recommendations proposed a phase out of education from the BIA functions. The BIA goals emphasized a de-Indianized or White emphasis with the published rationale that "those children with a White education would succeed in American life" (Senese 1984-23, 25). Among the BIA budget allocations, the highest funding priorities were in support for relocation and urban placement centers, not schools

(Scheirbeck 1981-134). The dollar prioritization of relocation was an expensive trade-off for Indian school construction and an effective curriculum.

The 1960's: Great Society/New Frontier

American Indian Community Identity

American Indian identity achieved a distinctive community definition in the 1960's. Indian people conceptualized this identity as the right to live a Native life style. The Indian community was vital for the preservation of past Indian cultural patterns blended with useful Euro-American traits that fit (McNickle 1973-6, 7). Intertribal forums of the 1950's had created an expanded consciousness between Indian tribes and communities. The American Indian tribes' leaders took their cues from each other, adeptly mixing past fragments with present demands to acquire an operational Indian life style (McNickle 1972-15, 17).

The federal policy of termination deeply affected Indian peoples' concept of the future (Deloria 1970-80). They shared an immediate past and termination had pressed Native tribes into self-defensive strategies. The tribes had covered miles of common ground through the 1950's experience. What had been interactive forums for discussion became radically altered, proactive and united Indian organizations (Commission 1981-3). The transformation was characterized as intensified activism, political participation and even revolt (Council 1971-297; McNickle 1973-viii). The new coalitions generated a new nationalism among tribes, fueled by the explosive memories of termination. For example, a North

Dakota tribal coalition established the United Tribes Educational Technical Center, a comprehensive institution that provided training, political activism and legal advice (Shanley interview 1993-39). At its height, the fear of termination empowered some organizations and severely compromised others.

Scholars and Urban Alliances

The intertribal coalitions went beyond tribal governmental organizations like the NCAI. Native American scholars from all tribes convened to examine American Indian history in school textbooks. The American Indian Historical Association President Rupert Costo underscored the need for visibility, fairness and accuracy in representing American Indian history in school texts (Deloria 1970-25; Demmert interview 1994-9).

From the federal relocation policy of transporting Indian individuals to major urban locations, American Indian numbers swelled in urban areas. Indian relocatees chartered and incorporated activist centers (U.S. Civil Rights Commission 1981-4). The Indian urban centers organized around a common identity as Indian people and actively sought resources to meet the social and health needs of the relocated individuals and their families. In the national forum, tribal governments were joined by these newly formed urban Indian organizations; the Indian voice was strengthened.

These Indian coalitions sought security and recognition for Indian tribes and communities. The Indian self-image maintained aspects of a separate and

distinct Indian culture and history. Of the federal government, they held expectations of good faith, adequate funding and reciprocity (McNickle 1973-122). Two key tenets were defined: treaties with American Indian tribes were eternal and the land was mother, not money (Deloria 1970-25). Shared values and expectations of the Indian-federal relationship served to further broaden the common intertribal agenda and strengthen American Indian nationalism.

The National Congress of American Indians

The NCAI was the formidable and the premiere intergovernmental coalition of the 1960's. The representative assembly of the Congress adopted tribal development on Indian terms as the organizational purpose. A delicate power balance existed between the Indian tribes of the Northwest and the Dakotas (Deloria 1970-27). With scholarly assistance from University of Chicago sociologist Sol Tax, 460 Congress members authored the historic Declaration of Indian Purpose of 1961 (Spicer 1969-69). The declaration repudiated a coercive federal government and paternalism. Demands were made for good faith in intergovernmental relations, adequate funding for tribal development efforts and a sense of intergovernmental reciprocity. Most importantly, the declaration affirmed American Indian tribal values as inviolable (McNickle 1973-122).

National Indian Youth Council

A series of Colorado based summer seminars catalyzed youthful militants who formed the National Indian Youth Council, the NIYC. The post-college Indian members vented outrage with elder complacency in Indian communities (Fey and McNickle 1970-243; Shanley interview 1993-42). This outrage was coupled with the general disenchantment of American minority youth (Shanley interview 1993-39). Short-term and maximum effect projects were the focus of the NIYC projects (Deloria 1970-24). Key NIYC spokesperson Gerald Wilkinson called on Indian communities to seek American Indian survival, not assimilation survival (Council 1971-298). The Council urged tribal governments to abandon gradualism (Deloria 1970-24). The Council members marched with American civil rights leader Martin Luther King at the Selma March (Fey and McNickle 1970-243). The NIYC comprised the lone American Indian representation in the American civil rights movement.

Termination Still a Preoccupation

Termination continued as a constant threat to Indian communities in the sixties. Throughout Indian country, tribal self-defense received the undivided attention of most Indian tribal governments (Deloria 1970-14). No energy was spared for other causes. Aside from the NIYC, Indian participation in the civil rights movement was only incidental (Scheirbeck 1980-36). Tribal legal status and cultural aspects proved to be problematic between American minority groups and

American Indians. Black American issues dominated federal government programming and left only superficial attention for the issues critical to Indian people (Deloria 1970-179).

Indian Concerns Contrast Black American Concerns

The historic and Indian-authored Declaration of Indian Purpose lauded separate and distinctive Indian communities; the Black American concerns with racial integration were conceptually contrasting to the Indian position. American Indians interpreted the Black American demand for equality to mean the same (Deloria 1970-179). For American Indians, the termination threats overshadowed the civil rights movement. The national agenda for civil rights had little to do with American Indian life. Native language, culture, identity and the federal relationship opposed the principles of the American civil rights movement (Demmert interview 1993-4).

Contradiction Inside the Federal Administration

New federal policies swept American minorities during the sixties, but life on Indian reservations stayed essentially the same (McNickle 1970-vii). The Department of the Interior, BIA, regulations were rigid and promoted the termination of Indian reservations (Senese 1984-27). The paternalistic federal government continued to relocate Indian adults to urban areas at a rapid pace. In contrast to the Department of the Interior, Bureau of Indian Affairs, The Kennedy

Administration's New Frontier architecture pledged tribal consent before any change in tribal status (Forbes 1964-127). Themes of citizenship and comprehensive education were growing in this decade (Forbes 1964-129; Haymond 1982-105). The sixties were a political shift from termination to a more cooperative Indian federal relationship (Shanley interview 1993-39). The Presidential declarations adopted a tribal consent posture. In contrast, the federal bureaucratic regulations carried out paternalism and rigidity.

Poverty Programs Create Change

Indian relations with the federal government were critically altered outside the Interior Department. The Johnson presidency and his Great Society programs created the federal Office of Economic Opportunity (OEO). The OEO programs promoted local experimentation in community development and decision-making (Deloria 1970-233). Tribal groups were the recipients of community based grants from the Office of Economic Opportunity like Upward Bound and Headstart as well as some adult and college education programs (Forkenbrock interview 1993-2; Senese 1984-27). The federal War on Poverty provided support for technical assistance to Indian tribes and financial support for Indian designed projects (Deloria 1970-21, 209; U.S. Civil Rights Commission 1981-6). Meanwhile, the Department of the Interior continued to relocate American Indian people and threaten termination of Indian reservations (Deloria 1970-40).

The Indian Americans experienced new vistas with local assessment, prioritization, control, organization and information access. The Economic Development Administration based grantee eligibility on Indian tribes' participation and control in grant design and management and introduced Native people to what they could accomplish (Deloria 1970-233; Fey and McNickle 1970-247; Gipp interview 1993-17). Sixty Indian Community Action Programs were founded on a sovereignty theme and included community councils and program consolidation (Fey and McNickle 1970-248; Scheirbeck 1970-186). Teacher Corps was an important professional development program on many Indian reservations (Gipp interview 1993-17). Cultural orientation was a common element in community council deliberations and projects (Haymond 1982-108). The War on Poverty introduced and required tribal design, control, management and review of projects with a cultural orientation.

The Office of Economic Opportunity had an American Indian component, the Office of Native American Programs, or ONAP. Jim Wilson, an Oglala Lakota originally from Pine Ridge, South Dakota, was a staff member who programmed 1969 year-end surplus funds into graduate education programs. He chose the universities by their willingness to manage graduate studies for Indian educators. Wilson contracted programs at Harvard, Penn State, Arizona State University and the University of Minnesota (Demmert interview 1993-11; Shanley interview 1993-39). The graduate programs developed an influential cohort of articulate and

well educated Indian educators who contributed significantly to founding national and tribal educational organizations (Demmert interview 1993-11).

Data From Crucial Research

The Kennedy/Johnson administrations commissioned an unprecedented body of research about American Indians, by federal executive departments outside the Interior Department. In new locations, the research on Indian people revised the profile of Indian communities. Massive manpower studies were funded by the Department of Labor. A Department of Labor report extolled "Indian courage despite poverty and remarkable lack of acquisitiveness" (Fey and McNickle 1970-248; McNickle 1970). The Office of Economic Opportunity assessed Indian education and skill levels and discovered pronounced under education and lack of skills (Fey and McNickle 1970-245). The Community Action Program (of OEO) reported that Indian tribes were not in the mainstream (Scheirbeck 1980-364). The Indian community councils performed their own research and assessment in a variety of issue areas. Needs statements and planning activities were common phases of Community Action program models (Deloria 1970-233). In Congress, the Kennedy Commission on Indian Education assessed and documented the American Indian education failures (Locke interview 1993-2; Senese 1984-26; Shanley interview 1993-17). Unprecedented review and research outside the Interior Department acquired reliable labor and

educational data that made a fundamental difference to Indian communities (Deloria 1970-232).

Presidential Statements

Presidential statements indicated a heightened positive involvement in Indian affairs and a serious reexamination of respective federal Indian policy. President John F. Kennedy referred to Indian policy changes and their negative effects on Indian development (Deloria 1970-21). President Lyndon Johnson affirmed Indian rights to choice and self-determination (U.S. Civil Rights Commission 1981-6). Some analysts called these presidential positions more New Deal ideas, but Deloria disputed that point. The key and fundamental difference he noted was the control of local Indian people in program consolidation and community council organization (Deloria 1970-232; Scheirbeck 1980-186). Johnson's statement on Indian policy represented a policy shift and recognized "respect, dignity and uniqueness; affirms rights and Indian choice; prefers partnership not paternalism" (McNickle 1973-124). The presidential policy positions of choice, self-determination, rights recognition and partnership were impressive policy gains for Indian people (Haymond 1982-134).

Congressional Role in Indian Education in the 1960's

Congressional research initiatives gave critical visibility to Indian education statistics (Haymond 1982-113; Fey and McNickle 1970-245). The Senate

Education and Labor Committee established a study Commission on Indian education, chaired by Senator Robert Kennedy and later Edward Kennedy. The Commission Report, issued in 1969, indicted federal Indian education as a major failure of policy (Committee 1969-IX). The failure was measured in "statistics that show disgrace . . . and are a stain on our national conscience" (Committee 1969-X, XI). The Commission Report or Kennedy Report urged the nation to renew commitments and reinvest efforts with energy (Committee 1969-XI). Indian Education: A National Tragedy--A National Challenge identified the BIA rigidity and calcification. The federal government and Indian tribes were urged to embrace change and place a national priority of excellence in Indian education (Committee 1969-XIII and X; Gipp interview 1993-17). The Commission or Kennedy Report proposed a major shift in policy, namely, that of Indian parental and community involvement and control of Indian education (Committee Report 1969-X; Gipp interview 1993-17).

A Comprehensive Approach to Indian Education

Indian education was approached in a comprehensive manner during this decade (Scheirbeck 1980-35). The Office of Native American Programs (OEO) stimulated education activities for all age groups of American Indians, from early childhood education through college scholarship support. Headstart (early childhood education), Upward Bound (high school dropout prevention), and bilingual education premiered with the Great Society (Scheirbeck 1980-167). The

Navajo Education Department received school and college support in a crash program of liberal appropriations, cultural orientation and community control (Chavers 1984-39; Forbes 1964-130; Haymond 1968-108, 130). The federal policy shift from Indian influence to Indian choice and control in education was demonstrated in tribal and Indian community controlled schools and colleges (Demmert interview 1993-12). Upward Bound enrolled 1200 Indian students in 1968 and the BIA funded 2,046 college scholarships in 1966. "More progress was made from 1961 to the present in (Indian) education than from 1619 to 1961" (Haymond 1982-v).

Indian Controlled Education

Indian control of schools and colleges was demonstrated by the Navajo people at Rough Rock Demonstration School and at Navajo Community College, both founded in 1968 (Fey and McNickle 1970-239, 249). The Navajo Community College Act of 1968 was a major step in Indian law, toward control in Indian education (Demmert interview 1993-9). Navajo Community College leader Robert Roessel attributed this initiative to Navajo pride and strength of culture (Fey and McNickle 1970-239). Direct tribal control established a college mission that affirmed the two worlds of experience, the Navajo and the mainstream (Haymond 1982-130). Rough Rock Demonstration School was community and parent controlled and utilized an English-as-a-second-language approach

(McNickle 1970-120). With strong cultural elements in the curriculum, the school was a nationally known prototype (Haymond 1982-105, 134).

The Sixties in Summary

Upon careful examination, Scheirbeck found only incidental American Indian presence and participation in the American Civil Rights movement. Despite this insignificant Indian involvement, American Indian communities and tribes qualified for programs that responded to the Civil Rights cause. The federal poverty programs were by circumstance of economic need both existent and effective throughout Indian country. The Bureau of Indian Affairs were rigid and paternalistic and carried out the termination policy. Outside the BIA and Department of the Interior, the Labor, Education and Health Departments promoted community councils, local decision-making and information acquisition. Education received comprehensive treatment through model tribal and Indian controlled schools and colleges, along with Headstart, Upward Bound and bilingual education. This decade was distinctive in policy development, for it went beyond previous themes of citizenship and training toward parental/community involvement and control. Cultural orientation and locally performed research were critical elements in the federal programs of this decade. Both Presidential and Congressional initiatives significantly altered Indian policy with long lasting effects on Indian Education.

The Legacy of the Sixties

The War on Poverty of the 1960's infused huge amounts of funding into comprehensive Indian programming. More important than money, it established shared decision-making and visible/required Indian participation in the planning and implementation of programs (Forbes 1981-17, 19, 44; Haymond 1982-14). The Indian community consciousness was a determination to be free and to exercise an Indian nationalism (Forbes 1981-19, 20). The Indian reservation communities were represented most strongly by the National Congress of American Indians and the National Tribal Chairman's Association. The tribal and NCAI leaders saw federal responsibility fragmentation among executive departments as a threat to the trust relationship, and a potential dilution of resources (Philp 1986-258, 229, 257).

The more militant Indian nationalism movement was evident in the Six Confederated Nations (of New York State), in the American Indian Movement (largely urban center based) and in the National Indian Youth Council (college educated reservation-based Indian people) (Forbes 1981-17, 19). Resistance leaders cited conditions of frustration, ignorance and powerlessness in Indian communities and blamed "Old Guard Leadership" (Forbes 1981-1, 22).

Articulate and active American Indian leadership from both reservation and urban environments performed crucial roles in making the 1970's Indian Affairs a decade of initiative and action in areas of tribal and Indian control of programs.

The Decade of the 1970's, Indian Self-Determination

Overview of the Seventies

The Nixon Presidential Address on Indian Policy opened the decade of the 1970's. The speech included self-determination without termination, and tribal autonomy without loss of community (Scheirbeck 1980-203; Forbes 1981-5). Senese viewed this era as one of growing Indian control with a new series of problems, while Forbes concluded that the Indian policy stayed the same with no distinguishable differences between lawmakers, whether they were Democrat or Republican (Forbes 1981-122; Senese 1986-163). Georgiana Tiger, Blackfoot Indian and former National Congress of American Indian staff member, characterized the Democrats as "hands on education" and the Republicans as "hands off education" (Tiger interview 1993-35).

Crucial pieces of legislation passed during the Nixon era, most particularly the Indian Education Act of 1972 and the Indian Self-Determination and Educational Assistance Act of 1975 (Forbes 1981-38; Ramirez 1987-47). The U.S. Civil Rights Commission reported in 1981 that policy on Indians was unclear during the Carter years, and that an interstate anti-Indian backlash movement was active in opposing Indian legislation (U.S. Civil Rights Commission 1981-9, 12; Tiger interview 1993-35). Coalitions among Indian communities and the Congress effectively promoted the Indian Health Care Improvement Act, the Indian Child Welfare Act of 1978 and the Tribally Controlled Community Colleges Assistance

Act of 1978 (U.S. Civil Rights Commission 1981-60). In the 95th Congress, the House Advisory Group on Indian Education of the House Education and Labor Committee and the American Indian Policy Review Commission studied and documented federal Indian education policy and Indian policy in general (Forkenbrock interview 1993-15; Scheirbeck 1980-208, 209; U.S. Civil Rights Commission 1981-13).

Counter Currents of Federal Policy

The 1960's had a pronounced countercurrent of control in Indian policy. The War on Poverty programs placed Indian people effectively in control of social and education programs. The Bureau of Indian Affairs persisted with strong bureaucratic rigidity and paternalism (Gipp interview 1993-19; Tiger interview 1993-34). The reservation-based Indian people had suffered severe membership losses to the urban relocation programs, but had strengthened decision-making skills and acquired an understanding of self-government and program control (Shanley interview 1993-42). Relocated Indian people had created new social and political organizations in the American cities. As never before, reservation Indian tribes competed fiercely with the Indian urban centers for the prominent status in the federal executive branches, for funding resources and respective status.

Despite the diverse federal approaches to Indian programs, the tribes and urban centers had built solid and effective coalitions, and had acquired a strong and united organization in the National Congress of American Indians. While the

civil rights movement of the 1960's changed the face of American society forever, American Indian people neither participated nor vested expectation in this movement. The irony of their lack of involvement was their subsequent eligibility for and benefit from the massive War on Poverty structures and programs. This swirl of cross currents surrounded American Indian policy, with education at its core.

The Indian Community

The war on poverty programs promoted competition among Indian groups, whether urban or reservation communities (Forbes 1981-46). The reservation leadership wanted special if not exclusive respect and federal service, based on treaty or trust obligations with the federal government (Forbes 1981-48; Locke interview 1993-6). The National Tribal Chairman's Association and the National Congress of American Indians articulated their stance on trust obligations. The NCAI and NTCA were aligned with the Bureau of Indian Affairs and openly discredited the urban based and militant resistance movement (Forbes 1981-18). For example, the NCAI elected a key Nixon Interior Department appointee as their President in 1972. This also reflected the nature of Secretary of Interior Hickel's appointments and their acceptability to the NCAI leaders (Forbes 1981-36). The NCAI emphasized a platform that included Indian preference in BIA hiring, program excellence, and cultural renewal (Reyhner 1989-3; Forbes 1981-

40). The annual conventions generated supportive resolutions, especially on legislative issues (Locke interview 1993-5; Tiger interview 1993-34).

In contrast to the reservation-based NCAI, the militant American Indian spokespersons criticized the BIA and the effects of the federal system on Indian people. The National Indian Youth Council's Clyde Warrior contended that Indian people needed education and experience for competent decision-making, and that most American Indians lacked basic life experiences (Forbes 1981-22). The American Indian Press Association head Richard LaCourse, a Colville Indian, assessed governmental resource protection as token, even in its best form (Forbes 1981-39). The youthful voices united in the Council defined assimilation as synonymous with termination (Thomas 1984-154). The struggle for fishing and hunting rights at Pit River in California, the Six Nations pursuit of national recognition at the World Court in Geneva, the D.Q. University takeover of an abandoned army installation in Davis, California and the occupation of Alcatraz Island were all key incidents of American Indian resistance and militancy during this decade. The American Indian Movement (AIM) takeover of the rural church and trading post in Wounded Knee, South Dakota in 1972 and the AIM cross-country protest march, Trail of Broken Treaties, further impacted the stature of American Indians and their issues in the media, as well as with Congress and the Presidency (Forbes 1981-1; Shanley interview 1993-40).

The Nixon Administration

The Nixon administration era began with an historic speech on Indian self-determination. Nixon's five-point plan for Indian Affairs included tribal control of education (Forbes 1981-64). Self-determination was a Nixon headline rhetoric. Nixon's staffing for Indian Affairs was made by Interior Secretary Walter Hickel. Hickel hired Indian people in top level administrative positions. This unprecedented Indian hiring was officially supported by the National Congress of American Indians (Forbes 1981-35, 39; Gipp 1993-18).

The top level Indian appointments and a strong conservationist stance were Hickel's downfall with the Republican voters. Nixon fired Hickel in November of 1971, after only a year in office. The Hickel replacement, Rogers Morton had a thin commitment to self-determination and immediately suspended travel privileges for virtually all high level Indian appointees. Soon, old guard non-Indian BIA administrators replaced the Hickel Indian appointees (Forbes 1981-42).

Hickel's Indian Commissioner Louis Bruce survived the Morton suspensions but was dealt a substantial blow to his effectiveness with the appointment of John Crow, an assistant. Crow's purpose was to erode the Hickel brand of self-determination (Philp 1986-214). Sandy McNabb, Acting Commissioner of Indian Affairs recalled "after that a number of people came to Washington, D.C. . . . wanting to make a citizen's arrest on John Crow for failing to carry out his duties, . . . there was a great deal of turmoil." Indian leaders were

frustrated and disenchanted with the drastic change in the Nixon administrative direction (Philp 1986-213).

The Indian Self-Determination Act
in Theory and Practice

The concept of tribal control, fully developed in the 1960's, became the pliant rhetoric of the Nixon administration. Part of the principle of self-determination became a Congressional Act, the Indian Self-Determination and Educational Assistance Act of 1975, P.L. 93-638 (Senese 1986-154). Tribal independence and sovereignty were promoted by the 1970's Indian self-determination concept (Forckenbrock interview 1993-4; Gipp interview 1993-17; Shanley interview 1993-40). The strongest Senate support for Indian self-determination came from Senators Henry Jackson of Washington State and James Abourezk of South Dakota. Abourezk was a one-term senator whose campaign intent was to transform the Indian federal relationship (Shanley interview 1993-40).

In practice, the Indian Self-Determination Act regulated tribal contracting for services that were generally provided by the BIA or Indian Health Service (Senese 1986-153). The requirements provided contract standard entry requirements and decline requirements of BIA (Senese 1986-159). Tribes had to meet specific conditions or provide evidence of personnel and program capabilities to enter into the P.L. 93-638 contracts. When the BIA declined to contract a service with a tribe, their specifications or reasons for declining were detailed and

often difficult for tribes to realistically achieve. The entry requirements were more like the Request for Proposals, and tribes could only contract if they met the requirements. Indian tribes could contract BIA administered Indian social services or reservation soil conservation programs, or perhaps Indian Health Service health clinics or land conservation services, and exercise some control if contracted. The BIA imposed entry requirements diminished the tribal control over contracts and services because the entry requirements were modeled (following requirements) after the predecessor BIA or Indian Health Services programs (Senese 1986-154).

During oversight hearings on P. L. 93-638, Robert Trepp, a Creek tribal official from Oklahoma stated: "638 is not to be confused with self-determination although it does allow us to operate programs that have been run by the federal government and it increases our management capacities" (Philp 1986-251). Indian professor of Native American Studies Jack Forbes (University of California - Davis) called reservations under the new law "self-administered colonies," despite the theoretical meaning of self-determination (Forbes 1981-123). Helen Scheirbeck, Lumby Indian educator, described self-determination as "a method for letting Indians decide their own methods of assimilation" (Scheirbeck 1980-38). Guy Senese, Education Professor at Northern Illinois University and former administrator in Navajo contract schools observed: "Self-determination brought a new era of control for some, and for others delivered a new series of problems" (Senese 1986-163).

Indian Perspectives on Self-Determination

The NCAI President Joseph De La Cruz, Quinault, reflected that contracts under the Self-Determination Act required a substantial cash flow. Tribes often waited months for BIA to reimburse program costs (Philp 1986-258). Robert Roessel of Navajo education stated that contracting under 638 was only for the strongest and the fearless, due to time uncertainties in late payments (Senese 1986-156). An administrator from the Navajo Contract School of Rock Point agonized that 638 contracts could only be conducted "at the price of anxiety, insecurity and low morale." Blackfeet Chairman Earl Old Person remembered "we were not given the opportunity to make policy or develop and utilize our own resources" (Philp 1986-252). Although contracting was possible under 638, funding availability was always an issue. Old Person expressed the frustration that "tribal leaders today are trying to work hard with contracting under P.L. 93-638, but once they set program priorities, they are told there is not enough money to go around . . . then they receive criticism and it is not their fault" (Philp 1986-253). The Tribal ability to contract was enhanced by 93-638, and tribes could plan, implement and evaluate previously federal functions (Philp 1986-251). Administrative complications caused and promoted late payments, funding shortages and significant frustration.

The BIA administration of the self-determination act demonstrated bureaucratic self-preservation. The contracting record indicated that tribes experienced compromised control due to the BIA discretionary power in

contracting regulations (Senese 1986-154). Dillon Platero, Navajo Education Director, stated that "the BIA infrastructure was diametrically opposed to self-determination" (Senese 1986-156). The Senese review indicated that the BIA tightened entry requirements, reduced turndown reasons, and broadened the definition of trust responsibility (areas that could not be contracted) (Senese 1986-162). While local and tribal control were exercised in some limited areas, the extent of control was seriously constrained. The administrative intransigence of the BIA took the form of changed priorities, heightened entry requirements, and expanded trust and reduced funding levels. In the final analysis, The Self-Determination Act was a significant contracting authority for tribes, but it had not altered BIA discretion and power in Indian programs (Senese 1986-158). On its face, the act appeared revolutionary, but in practice, the BIA had made the contracting process more like a county mosquito district than a sovereign tribal administration (Forbes 1981-120). Senese observed that while the law offered tribes an appearance of flexible long-range policy, the control element was mostly rhetoric and an illusion of control (Senese 1986-153, 154, 163).

Congress Enacts Key Indian Education Legislation

A Congressional reform effort in the early 1970's, carried out by the Bolling Commission, placed authorizing jurisdiction for Indian education with the House Education and Labor Committee and oversight jurisdiction with the Senate Select Committee on Indian Affairs.

The House Education and Labor Committee Chairman, Congressman Perkins of Kentucky, formed the Advisory Study Group for Indian Education or the ASGIE. The Group was headed by Iowa Democratic Congressman Michael Blouin and Minnesota Republican Congressman Al Quie. Together, the ASGIE leadership conducted an unprecedented number of field hearings, observations, site visits and interviews all over Indian country. Their field investigations comprised a remarkable field-based Indian education data base and effective connections to field-based expertise (Forkenbrock 1993-12).

Elements of tribal and community control of education were partially obtained during the 1970's. The self-determination discussion in Congress brought Indian education to the front of the Congressional agenda (Forkenbrock 1993-1). In addition to the school contracting acquired through the P.L. 93-638, the Congress enacted the Indian Education Act of 1972, Public Law 92-318. The Indian Education Act broadened the definition of Indian to include non-federally recognized tribes (200 tribal communities and non-enrolled urban Indian children) (Scheirbeck 1980-193).

The Indian Education Act funded cultural studies instruction, tutoring, and counseling for school-aged children, and was funded on a student entitlement basis. The funds were granted to public schools serving Indian children and community based non-profit corporations. Indian parent committee planning, review and program implementation was a fundamental grant requirement (Scheirbeck 1980-198; Senese 1986-153). Among several subsections or parts, the

act provided Indian teacher training support, language and culture demonstration projects, undergraduate and graduate degree fellowships and adult education projects (Demmert interview 1993-14; Ramirez 1987-48; Reyhner 1989-3). The crucial elements of the act effectively required parental involvement and control of these supplemental educational funds, and recognized the special and unique educational needs of Indian children.

Higher Education and American Indians

The federal financial aid provided to economically disadvantaged students, Title IV of the Higher Education Act, dramatically increased Indian participation in higher education (Haymond 1982-14; Shanley interview 1993-14; Tiger interview 1993-35). Sixteen tribally controlled colleges became operational during the self-determination era (Haymond 1982-11, 132).

Sixteen tribally chartered colleges were existent during the 1970's. Through the federal Higher Education Act of 1965, Developing and Strengthening Institutions, Title III, and the Fund for the Improvement of Postsecondary Education tribal colleges collaborated with nearby postsecondary institutions to serve their tribal higher education needs.

A coalition of tribal colleges, the American Indian Higher Education Consortium, was chartered in Denver in 1973. With a focus on operational resource development, the colleges established a presence in testimony to Congress during hearings on the bill for self-determination contracting (Haymond

1982-132). Language in the enacted Indian Education Assistance Act mandated the BIA to study tribal colleges, a study contracted to the tribal colleges consortium, the American Indian Higher Education Consortium (Gipp interview 1993-25; P.L. 93-638).

The House Advisory Group on Indian Education of the House Education and Labor Committee held field hearings and visited tribal colleges and schools throughout Indian country (Forkenbrock interview 1993-12; Scheirbeck 1980-209). The Congressionally mandated 1977 Indian Policy Review Commission Report reviewed all federal Indian policy, and educational policy recommendations included parental and tribal control in Indian education.

Public Backlash

The proactivity in Indian urban and reservation communities in the 1970's did not go unnoticed. An extensive backlash was existent among non-Indian neighbors, particularly in checkerboarded land status areas on reservations (Indian owned land alongside non-Indian owned land) (U.S. Civil Rights Commission 1981-7; Tiger interview 1993-36). The backlash was an interstate phenomenon that coalesced and pressured all governmental levels on fundamental concepts. After a near election loss due largely to Indian constituents who failed to vote, Washington State Congressman Lloyd Meeds abandoned his previous pro-Indian stance and joined the backlash. Meeds proposed federal legislation to limit tribal jurisdiction and buyout tribal fishing rights (Gipp interview 1993-30; Tiger

interview 1993-36; U.S. Civil Rights Commission 1981-11). The interstate backlash coalition challenged the American Civil Liberties Union (ACLU) to issue a definition of Indian status. The ACLU issued a statement: "The separate treatment of Indian groups was rationally based on a national policy to uphold treaties" (U.S. Civil Rights Commission 1981-13). For the Indian people, the loss of the Meeds pro-Indian leadership in the House was a setback. The white backlash was powerful and effective.

The 95th Congress

The 95th Congress was an eventful one for American Indian tribes (U.S. Civil Rights Commission 1981-13). Senator Abourezk and the Senate Select Committee on Indian Affairs conducted a major analysis of Indian policy. In 1976, Congress mandated the American Indian Policy Review Commission (Forkenbrock 1993-15). This Commission, AIPRC, examined the historical and legal relationship of the Congress to Indians and proposed policy revision and programs formation (Philp 1986-305). Additionally, Congress passed the Indian Health Care Act that enhanced available health services to Indian people in 1976. In yet another important area Congress enacted the Indian Child Welfare Act which protected Indian children's wrongful placement in foster or adoptive homes (Philp 1986-306). None of these laws were within the BIA authority for operation. In higher education, The Tribally Controlled Community Colleges Assistance Act of 1978 supported tribal colleges operations. From child welfare to higher

education, the 95th Congress was proactive in Indian Affairs and highly interactive with Indian Americans.

Indian Perspective on the Carter
White House

The Carter Administration had no policy commitment on Indian Affairs. Edward Johnson, Paiute tribal representative to the National Congress of American Indians stated, "Carter never had a comprehensive policy on Indians; he demonstrated low interest overall" (Philp 1986-329). NCAI President Joe De La Cruz, Quinault, recalled he assembled a distinguished group of experts on Indian Affairs and Carter just didn't show up (Philp 1986-312). LaDonna Harris, Comanche and President of American Indians for Opportunity, said about Carter: "He co-opted advocacy groups through hiring them at low level positions" (Philp 1986-223). The extensive Office of Economic Opportunity met its demise during the Carter Administration. Alfonso Ortiz, Pueblo Indian professor at the University of New Mexico, termed this demise "benign neglect" (Philp 1986-220). In contrast, however, James Shanley, former Standing Rock Community College president recalled the unique and supportive leadership of Carter's Commissioner of Education, Dr. Ernest Boyer. Boyer demonstrated a commitment to Indian preference when hiring professional leadership for the Office of Indian Education (Shanley interview 1993-51).

The Seventies in Review

The decade of the 1970's was an accelerated period for Congressional collaboration with the American Indian. Legislation proliferated in areas of Indian Affairs. This legislation impacted the Indian community, and particularly strengthened policy elements of Indian control in general programming and in education. The proactive Indian leaders, both reservation and urban, were articulate, outspoken and even militant. However, the interstate public backlash against Indian rights to self-government pressured Congressional delegations to limit Indian jurisdiction. The Nixon Interior Department responded to Indian activism with rigidity and bureaucratic constraints, while the President himself spoke of self-determination and Indian control. Even though the Carter White House was disorganized and unresponsive to Indian concerns, the new tribal governments' contracting of BIA and Indian health services significantly expanded the principle elements of Indian policy.

Crucial Elements of Indian Policy

The historical precedents in Indian policy contained crucial and formative building blocks for the tribal colleges law development:

1. Federally recognized Indian tribes achieved a self-defensive posture which permeated all their objectives and actions.
2. The experience of urban relocation created a defined difference in the terms "Indian community" and "Indian tribe."

3. The higher education opportunity through the federal financial aid for economically disadvantaged college students expanded Indian participation in higher education.
4. The National Congress of American Indians was strong and the prominent voice in federal Indian policy. Other policy constituents were the National Tribal Chairmen's Association, the National Indian Youth Council and the American Indian Movement.
5. The self-determination movement in the Indian tribes, although not synonymous with the Self-Determination Act, established clear definitions of tribal control.
6. Community development and control were principles of policy established through the programs of the Office of Economic Opportunity, outside the Bureau of Indian Affairs.

These aspects of legal and historic precedent comprised an environment of established understandings and relationships between the federal government and Indian tribes. The tribal colleges entered this context in search of federal resources.

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CHAPTER 3
EVENTS LEADING TO THE PASSAGE
OF THE TRIBAL COLLEGES LEGISLATION

Introduction

The Tribally Controlled Community Colleges Assistance Act of 1978 became law with President Carter's signature on October 17, 1978. The law had been heard and debated in committees of both Houses of Congress and in the national Indian organizations' annual and quarterly meetings. The Consortium of tribal colleges, the American Indian Higher Education Consortium (AIHEC), designed and refined American Indian higher education policy, to net the legislation that funded their member colleges with reliable operational resources. The short two-paragraph amendment presented by the consortium in November 1974 to the U.S. Senate Select Committee on Indian Affairs was on a long and interesting journey to the finished work of the Congress. The final law was 12 pages in length and contained many sections and new policy elements that defined and decided the shape and conditions of tribally controlled colleges. The House of Representatives passed H.R. 9158 on November 4, 1977; the U.S. Senate passed S. 1215 on September 26, 1978.

This chapter follows the legislation development from the formation of the American Indian Higher Education Consortium, to the Senate Oversight hearings in 1976, to the House Committee on Education and Labor initiatives in 1977 and 1978, to the national Indian organizations' reactions to the proposed bill, and to passage and signing. The line of events has been reconstructed through the chronological frame provided by archival documents. The documents from all constituents have been analyzed, and the interviews with participants have been woven into the text to provide a first person perspective to the narrative. Special emphasis has been given to the American Indian first person voices.

The American Indian Higher Education Consortium

The consortium of tribal colleges was organized in October of 1972 by six of the institutions: Sinte Gleska College (Rosebud, SD), Oglala Sioux Community College (Pine Ridge, SD), Turtle Mountain Community College (Belcourt, ND), Standing Rock Community College (Fort Yates, ND), Navajo Community College (Tsaile, AZ), and Hehaka Sapa College of D.Q. University (Davis, CA). The meeting was convened by David Risling (Hupa Tribe) of D.Q. University, Gerald One Feather (Oglala Lakota Tribe) of Oglala Sioux Community College, Helen Scheirbeck (Lumbi Tribe) of the U.S. Department of Health, Education and Welfare--Office of Education, and Patricia Locke (Standing Rock Hunkpapa Lakota Tribe) of the Western Interstate Commission on Higher Education in Denver (Stein 1988-180).

The consortium members originally met in Washington, D.C. in the Office of Education, and they identified accessible operational dollars for their colleges' development. The need for operational support was an imperative for their continued institutions' survival. In large part, the consortium was born out of political necessity. Among the five common traits of the tribal colleges, recalled by AIHEC leaders Risling and One Feather, the fourth trait was the most compelling, the chronic under financing and funding unpredictability that negatively affected all of their institutions. Former consortium executive director David Gipp termed the legislation "our central driving force" (Gipp interview 1993-25; Shanley interview 1993-44). Those common traits were recounted by AIHEC leaders (Stein 1988-180):

1. They were located on or near Indian reservations which were isolated geographically and culturally.
2. The Institutions had Indian boards of regents or directors with a majority of Indian administrators and faculty.
3. Indian student bodies were small, serving a student population ranging from 75 to 800.
4. They suffered from chronic under financing and funding unpredictability, affecting their institutions.
5. Student bodies and the Indian communities surrounding the institutions were demonstrably from the lowest income areas in the United States.

The initial meeting of the colleges provided two major decisions: first, the name of the organization, the American Indian Higher Education Consortium, and, second, the need to develop an application for AIHEC resources to Title III, Developing and Strengthening Institutions, of the Higher Education Act, administered by the U.S. Office of Education.

The Title III proposal was drafted during the consortium's second meeting in Phoenix. Gerald One Feather of Oglala Sioux Community College was elected the first president of the consortium. Navajo Community College staff member Gerald Brown (Salish Kootenai Oglala Sioux tribal member) was selected to assist the proposal writing process and to serve as acting director of the consortium. The members designated Navajo Community College as the sponsor of the Title III project, for NCC was the eldest tribal college and was the preeminent model for the movement (Stein 1988-182). For the funding of Title III to the Consortium, Navajo Community College served as the chief holder for the project and essentially the new consortium (Gipp interview 1993-21).

The American Indian Higher Education Consortium incorporated as a non-profit corporation in June of 1973 in Denver, Colorado. Shortly thereafter, the funding notification for Title III funding from the Higher Education Act was received from the U.S. Office of Education. The assigned program officer was Frances Kelly. Kelly had helped AIHEC acquire eligibility for a minority institutions consortium status. None of the tribal colleges had achieved accreditation, and Kelly arranged the conditions acceptable for funding. The

conditions included qualifying Navajo Community College as the host or grantee institution. Two assisting institutions were assigned to the consortium: The Native American Law Institute of Boulder and the Western Interstate Commission on Higher Education of Denver (Gipp interview 1993-22; Locke interview 1993-7).

The consortium board of directors was comprised of the college presidents and board chairpersons. The board chose as their guiding priorities: accreditation agency development, financial and institutional resources development, human resources development, an American Indian Education data bank development, and an American Indian Curriculum Development Program. In September 1973, the consortium board met in Davis, California at D.Q. University and selected their first executive director, David M. Gipp, a Standing Rock Hunkpapa Lakota, along with other staff, Cletus Satpauhoodle, Larry Dennison, Perry Horse, Wilhelmina Fredericks and Barbara Walking Stick (AIHEC Board Minutes, September 1973).

Unbeknownst to the consortium board, the Title III project officer Kelly had arranged the grant contingent on two assisting institutions: The Institute of Indian Law of Boulder, Colorado and the Western Interstate Commission on Higher Education (WICHE) of Boulder, Colorado. These two institutions were to assist the colleges in structural development (Gipp interview 1993-24; Locke interview 1993-7). This funding contingency was unacceptable to the consortium board, and the board assigned their new consortium leader David Gipp to reduce or eliminate these relationships (Gipp interview 1993-23). The WICHE

representative was Patricia Locke, a Standing Rock Hunkpapa Lakota of South Dakota (Locke interview 1993-3). Locke held tenaciously to the assisting institution role through her close association with Title III officer Kelly (Locke interview 1993-7; Gipp interview 1993-22). Over the ensuing two years, the consortium and Locke struggled over the intention of the consortium. The eventual separation contributed to a long-term animosity between the consortium and Locke (Forkenbrock interview 1993-10; Gipp interview 1993-23; Shanley interview 1993-49).

The Consortium board members were strong and well educated Indian leaders. Former House Education and Labor staff assistant John Forkenbrock described the colleges' grassroots leadership as "non-conformists, academic and not afraid" (Forkenbrock interview 1993-13). The Consortium board and staff were young, energetic and committed to the development of their colleges (Tiger interview 1993-35). Remarkably, they made themselves knowledgeable of complex Congressional procedures, despite their non-elected status in the legislative environment (Tiger interview 1993-36; Shanley interview 1993-53). The leadership shared a sense of education as a conduit to freedom, and they were all formally and well educated (Shanley interview 1993-42). Despite discouragement from federal agencies' officials, the consortium leadership persisted with their legislative request. Gipp recalled "if we had listened and accepted, we would have been beaten" (Gipp interview 1993-19).

AIHEC gained an excellent reputation among higher education educators and in the United States Congress through the quality of service of professional staff members that represented the consortium, and the work of the board members (Forkenbrock interview 1993-16). The colleges were directly involved in all consortium aspects, and particularly profited from the programs in human resource and curriculum development. The consortium organization was a cohesive unit that brought the member colleges together through many difficult years of struggle (Gipp interview 1989; Stein 1988-184).

The consortium's common denominator was the need to develop college operational resources. Reliable and predictable funding sources for tribal colleges' operational support were in short supply. This constant threat to the general well being of the young AIHEC member institutions dominated the first ten years of their experiences. The legislative process virtually overrode other areas of mutual interest and development for the tribal colleges. In 1974, the second board president, Lionel Bordeaux, and the consortium executive director David Gipp began a significant series of visits to the nation's capital to identify and develop federal support for the tribal colleges (Gipp interview 1989; Stein 1988-184).

Tribal College Funding from the Higher Education Act

As new and not yet accredited community colleges, all of the consortium colleges had affiliated with well-established colleges or universities in their respective regions or states. The affiliations typically involved shared transcribing and subcontracted instruction delivered on the reservation. To support these fledgling institutions, the cooperating, well-established institutions had sought operational funding (Gipp interview 1993-21). The most common source of funding was Title III of the Higher Education Act, Developing and Strengthening Institutions, administered by the U.S. Office of Education. Several campuses found the Fund for the Improvement of Postsecondary Education helpful (Gipp interview 1993-21; Locke interview 1993-4). These multi-year grants were awarded to the cooperating or senior (and accredited) institutions and often entirely supported the tribal colleges' operations. While Title III funds were integral to the tribal colleges' operations, the grants were short-term, seldom extending beyond five years. Worse, the grants were competitive, being scored according to criteria which included need, along with many other measures to determine quality. The short-term and discretionary nature of these grants made them unreliable and unpredictable (AIHEC testimony, November 1974).

The consortium issued a position paper on Title III funding to the tribal colleges in the search for a legislative site for potential amendment (Demmert interview 1993-9). Case statements on the tribal colleges' experiences with this

uncertain and tenuous funding source were detailed in this 1973 document. The colleges recounted that they had only become eligible for Title III funding under a waiver of the eligibility criteria (AIHEC prospectus, December 1974). The consortium paper found the Title III criteria were biased to serve and develop the historically black colleges and universities. AIHEC analyzed the allocation of funds to Indian institutions, and found a disproportionately low allocation to American Indian institutions or tribal colleges. The tribal colleges required greater autonomy than the typical Title III bilateral relationship made possible (Gipp interview 1993-21). Their issue paper indicated a high degree of Title III program officer insensitivity toward Indian institutions. Title III was not a reliable source of college operational funds, due to the waiver provision, insensitive program officers, and the disproportionate funds allocation between the tribal colleges and the historically black colleges and universities (AIHEC testimony, April 1975). The consortium's bleak examination of Title III compounded the negative treatment tribal colleges experienced from Title III program officers. Title III and the Higher Education Act just was not the place for the tribal colleges amendment (Gipp interview 1993-21).

Snyder Act Funds

Four tribal colleges received Bureau of Indian Affairs funds through the authority of the Snyder Act of 1923, the federal law that authorized virtually all Indian programs. These four tribes and their tribal colleges designated categorical

BIA higher education funding within the local BIA agency budget (Gipp interview 1993-19). Through proper and timely funds designation, the colleges contracted with the BIA for higher education and adult education services. In January 1973, Sinte Gleska College and Oglala Sioux Community College received notice of Snyder Act suspension. Despite their specific and timely funds designation (often three years prior to the fiscal year), the BIA Central office in Washington, D.C. declined to continue funding those colleges. The remaining two colleges, Turtle Mountain Community College and Navajo Community College, continued to receive Snyder Act funds. The funds suspension placed Sinte Gleska College and Oglala Sioux Community College in serious jeopardy. BIA Snyder Act funding had become inaccessible and now a second source was uncertain and unreliable (AIHEC Snyder Act position paper, 1975).

Former Standing Rock Community College president James Shanley reflected on the BIA's rigid and paternalistic administration of the Snyder Act resources (Shanley interview 1993-44).

The Snyder Act monies demonstrated a couple of things: first, that the federal sources could be used for tribal government's priorities; and second, that the BIA had the legislative authority to create or support model organizations like tribal colleges; and finally, that the BIA did not want autonomous organizations and jerked the funds back and forth each year to prove their dislike.

The Snyder Act authorized virtually all the federal services and programs administered by the BIA to American Indians. Clearly, BIA applied a bias to the purposes and priorities that fit under that priority. Because of the apparent broad

authority of the Snyder Act in Indian programs, AIHEC requested direct tribal college appropriations in the federal budget from the House Subcommittee on Interior Appropriations. Gipp recalled, "Lionel Bordeaux and I attended that markup session and in just 30 seconds, our numbers in the budget were simply passed over -- nothing!" (Gipp interview 1993-19). The consortium concluded by 1974 that the Snyder Act was not a feasible place for the tribal colleges amendment.

Indian Self-Determination

The Indian Self-Determination Bill and Act dominated and preoccupied the federal Indian legislative environment of the 1970's (Gipp interview 1993-16). The National Congress of American Indians, the oldest and most effective coalition of tribes, had dedicated many years to the formulation of an acceptable concept of Indian self-determination that could translate into tribal contracting and control of programs. Many tribal governments had requested greater latitude of choice and control in general Indian affairs programming. South Dakota Senator James Abourezk campaigned and won his Senate seat in Indian country with the promise to transform the federal Indian relationship. He dedicated his one term in office to the Indian Self-Determination Act (Shanley interview 1993-51).

President Nixon moved forward with legislation, along with bipartisan allies in Congress, to draft the Indian Self-Determination Act of 1975. For the American

Indian tribes, the issues of tribal independence and sovereignty were preeminent in all meetings in the 1970's (Forckenbrock interview 1993-4; Gipp interview 1993-17; Shanley interview 1993-40). The draft contained a Title II for tribal contracting of BIA schools on or near the reservations. The policy concept included the tribal contracting of educational services, kindergarten through twelfth grade (Forbes 1981-38).

Tribal Colleges Propose Title II Amendment

The tribal colleges determined that the Indian Self-Determination Act, Title II, was an appropriate place in federal policy expansion for an amendment to fund tribally controlled colleges (Gipp interview 1993-25). Lionel Bordeaux, president of the consortium and Sinte Gleska College in Rosebud, SD, testified before the Senate committee hearing in May of 1974. Bordeaux's testimony detailed the chronic under financing of tribal colleges, and discussed the important mission of the tribal colleges in their tribal communities. In addition to the submission of prepared testimony, the consortium obtained the professional assistance of Helen Scheirbeck, a Lumby educator who had worked for Senator Sam Irvin of North Carolina (AIHEC prospectus, December 1974; Gipp interview 1993-33). The consortium "Prospectus on Tribal College Funding," authored by Scheirbeck, examined the federal educational authorities for potential legislative locations for tribal colleges funding (AIHEC testimony, May 1974).

Tribal Colleges Gain Congressional Support

South Dakota Senator Young supported a tribal colleges amendment to the Indian Self-Determination and Educational Assistance Act, S. 1017, during 1974. Senators Kennedy of Massachusetts and Jackson of Washington State responded to the consortium testimony by AIHEC President Bordeaux (Young letter, March 1974). Kennedy and Jackson recognized the tribal colleges needs, but concluded the time for amendment of a substantive provision for funds was too short. Instead, Senator Jackson afforded the colleges a study provision and assigned the responsibility to the Secretary of the Interior, Bureau of Indian Affairs (Jackson letter, April 1974). The Indian Self-Determination Act was enacted in January of 1975, with the tribal colleges study provision in Title II (Public Law 93-638).

Study Provision Contracted to Consortium

The Bureau of Indian Affairs awarded a sole source contract to the consortium for the study of the tribal colleges (Gipp interview 1993-25). Even before the contract award, AIHEC instituted a data collection system in December of 1974, in anticipation of the information and data collection required. Consortium staff members Perry Horse and Twila Martin implemented the design through consultation with tribal college officials and extensive cooperation with member colleges (Gipp interview 1993-26). Following hours of hard work in each

local tribal college, the consortium submitted a complete study to the Bureau of Indian Affairs in May 1975, even though the BIA did not officially accept the study (AIHEC Report to Congress, January 1976). The Senate Select Committee on Indian Affairs conducted oversight hearings on the Indian Self-Determination Act in September 1975, and the consortium submitted the six-volume study with their testimony. The study established an extensive and reliable record of the tribal colleges that significantly affected the consortium legislative efforts (Gipp interview 1993-25). Although the BIA would not officially submit the contracted study to Congress, the BIA acknowledged the existence of the consortium study in testimony before the Senate Select Committee for Indian Affairs in 1975 (AIHEC testimony, September 1975).

Colleges Offer Technical Amendments

Newly enacted federal law routinely enters a period of refinement and revision, and the Senate Select Committee on Indian Affairs called oversight hearings for technical amendments to the Indian Self-Determination Act of 1975 in March 1976. The consortium had acquired a sponsor for the tribal college amendment, now offered by Senator James Abourezk (S. 2634 by Abourezk, November 1975). The consortium relied heavily on the rapport Lionel Bordeaux had with Senator Abourezk of the Committee (Gipp interview 1993-22). The bill was filed in November of 1975. The ten-page "Indian Postsecondary Educational Assistance Act of 1975" included a three-year authorization, a facilities survey,

installment payments, equitable distribution of funds, and listed eligibility criteria for tribal colleges' participation (AIHEC summary, March 1976).

Just 12 days before the Senate hearings, Patricia Locke of the Western Interstate Commission on Higher Education distributed a position paper on American Indian higher education and the Indian colleges bill. Locke, a Hunkpapa Lakota, distributed the paper to numerous federal executive and legislative branch offices as well as to Indian tribes and national Indian organizations. Locke charged that the tribal colleges bill undermined tribal sovereignty and self-determination. Locke further questioned the federal role in tribal institutional support, Indian colleges' potential proliferation, the naming of specific colleges in the legislation and the exclusivity of the tribal college concept approach (Locke testimony, March 1976).

In the oversight hearing, tribal colleges' opposition testimony was delivered by the Secretary of Health, Education and Welfare, the U.S. Office of Education, the U.S. Office of Indian Education, the Secretary of the Interior, the Assistant Secretary of the Interior for Indian Affairs, and the Western Interstate Commission on Higher Education (Thompson testimony, March 1976; Mattheis testimony, March 1976; Locke testimony, March 1976). The tribal colleges bill was an opposition target for almost every organization and office in Washington, D.C. including some tribes and national Indian organizations.

Those who supported the bill included the National Congress of American Indians, president Chuck Trimble (an Oglala Sioux tribal member), the American

Association of Community and Junior Colleges, and of course the American Indian Higher Education Consortium (Gipp interview 1993-19; Locke testimony, March 1976; Califano testimony, March 1976; Interior testimony, March 1976; AIHEC testimony, March 1976; AIHEC summary letter, March 1976).

1976, A Year of Unresolved Issues

The consortium authored numerous position papers, testimony, and information documents during the rest of 1976, especially after the March Senate hearings. Progress toward a legislative authority for tribal college operational support slowed nearly to a halt. The context of the Indian Self-Determination policy was complicated and presented formidable obstacles for the tribal colleges. The Indian tribes had a full year of contention with the BIA over the new contracting authority leading up to the oversight hearings. The contentious atmosphere caught the tribal colleges with a new Indian education idea on deeply contested ground (Gipp interview 1993-17).

Former consortium executive director David Gipp recalled the environment. "Due to constituent competition, we found our early strategy to amend 638 politically unfeasible" (Gipp interview 1993-17). The oversight hearings in the Senate were a volatile and unkind environment for the tribal colleges. Former House Education and Labor Committee staff member John Forkenbrock reflected, "The timing was just too fast after 638, another phase, just too fast" (Forkenbrock interview 1993-14).

Without hesitation, the consortium explored another legislative option, an amendment to the U.S. Omnibus Education Act. This strategy was supported by Senator Kennedy's staff and most especially consortium member D.Q. University (AIHEC phone transcript, July 1976).

But the tribal colleges were a policy paradox. On the one hand, the tribal colleges were an exercise of Indian self-determination under federal Indian Law. On the other hand, the tribal colleges were institutions of higher education by the definition of the federal higher education law. The policy contexts of Indian law and higher education law were in divergent policy fields. In 1976, the tribal colleges were at a stalemate over which federal executive department would be their policy and administrative home. Among consortium members, the policy environments of Education and Interior were equally supported in 1976. During June and July, the consortium took several straw ballots on Education versus Interior administration. Finally, in July of 1976, the issue came to closure when the primary Congressional proponent for the Department of Education position, Senator Edward Kennedy, declined to lend his support. In a two-hour long teleconference the consortium acquired this understanding, and the issue never came to a vote again. The Department of the Interior became the administrative home (AIHEC phone transcript, July 1976; Gipp interview 1993-20).

The National Congress of American Indians met in the Fall of 1976 in Salt Lake City. At this meeting, Locke submitted a resolution to the assembly on the tribal colleges bill, and served as chairman of the education committee. The NCAI

deliberated issues in committee, with committee hearing and eventual committee action. The issues became resolutions that came to the Congress floor for vote. The NCAI resolution on the tribal colleges generally supported the tribal colleges concept, but complained that the Indian Colleges Bill seriously undermined tribal sovereignty (Gipp interview 1993-22; NCAI resolution, October 1976).

Also, in the Fall of 1976, Jimmy Carter was elected to the White House. By December, the tribal colleges consortium had written and submitted a position paper to the White House transition teams with regard to Indian colleges needs and the Indian Colleges Bill (AIHEC position paper, December 1976; AIHEC information paper, 1976).

Important Progress in the 95th Congress

The events of the 95th Congress were crucial to the life of the tribal colleges, for the United States Senate passed the tribal colleges bill in November 1977 and the House of Representatives passed the bill in September of 1978. The 1977 version of the tribal colleges bill offered by Senator Abourezk had formulated eligibility criteria to replace the names of specific tribal colleges. These criteria addressed the tribal control and sovereignty protection provisions brought forward by the NCAI and NTCA. These criteria required a tribal charter, an all Indian governing board, a majority Indian student body and accreditation standards (E. Horse letter, June 1977; Abourezk letter, March 1977). In the House of Representatives, new leadership in the House Advisory Group on Indian

Education sought field-based solutions in Indian higher education and provided an important base for support of the tribal colleges (Forkenbrock interview 1993-12).

The Tribal Colleges Bill in the Senate

The United States Senate Select Committee on Indian Affairs assigned a legislative analyst to verify the tribal colleges' needs and funding issues. Newly appointed Interior Secretary Cecil Andrus testified in July, with a changed position to deferment from the previous administration's opposition. Secretary Andrus acknowledged that "the Office of Management and Budget has no objections." The Carter transition team had given Dr. William Demmert a joint acting appointment for Indian Education within both the Office of Education, Department of Health Education and Welfare, and the Department of the Interior, Bureau of Indian Affairs. Dr. William Demmert testified in July 1977 with regard to "deferment on the tribal colleges bill, until the study provision in 93-638 could be completed" (Congressional Research Analyst report, June 1977; Andrus letter, July 1977; Demmert interview 1993-9; Demmert testimony, July 1977).

The July Senate hearing included witnesses from Indian country. The National Congress of American Indians president Chuck Trimble of South Dakota (Oglala Sioux tribal member) expressed support for the bill, and urged language to replace Indian control with tribal control throughout the bill. The National Tribal Chairmen's Association (NTCA) cautioned against tribal contravention. The

national Indian organizations had narrowed their objections to very specific language provisions (De La Cruz (NCAI) testimony, July 1977; NTCA testimony, May 1977).

Consortium legislative initiatives had started in the Senate Select Committee on Indian Affairs, due to the rapport the colleges had with committee members like Abourezk, and to the oversight jurisdiction of the committee. Support from Senators Abourezk, Young and Jackson had netted the colleges their crucial study provision in the 1975 Indian Self-Determination Act, Title II (Shanley interview 1993-50). But following the study provision, progress in the Senate was slow. In 1977, the ASGIE Chairman Blouin wrote directly to Senator Abourezk about the slow up on the tribal colleges bill. After several weeks of silence, Blouin personally met with Abourezk and they jointly learned that Senate committee staff had delayed the Blouin letter from getting to Abourezk. Abourezk expedited the process following that discovery (Forkenbrock interview 1993-3, 7, 15).

The consortium wrote to both sides of Congress and requested the tribal control and charters changes to be consistent throughout the bill. The fall conferences of NIEA and NCAI in Dallas highlighted the tribal colleges and identical resolutions were drafted and approved: "tribal prerogatives for postsecondary education delivery mechanisms" and "tribal control through charters." The heated Dallas discussions were formative and typified the relationship of AIHEC with the WICHE representative Locke (Gipp interview 1993-24). The resultant NCAI and NIEA joint testimony demanded direct funding

to tribes and tribal charters to determine tribal control. The Senate passed the bill on November 4, 1977, on a unanimous consent vote (De La Cruz (NCAI) testimony, July 1977; AIHEC letter, September 1977; NIEA resolution, September and November 1977; NCAI statement, September 1977).

The House Subcommittee on Indian Education

Following the Bolling Commission assignment of Indian education to the House Education and Labor Committee, a subcommittee on Indian Education had been designated in 1976. Committee Chairman, Kentucky Congressman Carl Perkins, appointed Congressman Lloyd Meeds of Washington State as chair of the new subcommittee. Meeds was joined on the subcommittee by Congressman Al Quie of Minnesota and Michael Blouin of Iowa and membership was open to the entire committee (Forkenbrock interview 1993-12). The subcommittee was delegated the expansive task to review all federal Indian Education laws. The tribal colleges and their bill were among the subjects under review.

Shortly after his appointment to the subcommittee chairmanship, Congressman Meeds became embroiled in disputes over Indian fishing rights in his Congressional district (in western Washington State) (U.S. Civil Rights Commission 1981-13). Meeds had been supportive of Indian issues and even informally agreed to sponsor the tribal colleges bill. The white backlash rose to a crescendo just as Meeds was up for reelection. Meeds barely won, and attributed his near loss to the Indian fishing rights controversy and non-voting Indian

constituents (Tiger interview 1993-36; Gipp interview 1993-30). As a result, Meeds chose to resign from all committee assignments related to Indian affairs, including the House Subcommittee on Indian Education. Less the Meeds membership, the subcommittee was reduced to the status of an advisory study group.

The Advisory Study Group on Indian Education went to Indian reservations and visited tribal schools, adult education projects and Headstart projects. The reservation community-based hearings were in regard to the Indian education laws. ASGIE Chairman Blouin was deeply committed to grassroots knowledge and expertise, and as a rule of operation held field-based information in the highest regard (Forkenbrock interview 1993-16). The ASGIE co-chairman Quie was morally committed to the concept of tribal sovereignty and had been involved with Indian constituent concerns for many years (Forkenbrock interview 1993-12).

At the suggestion of the consortium, the ASGIE convened a hearing on the "Federal Role in Indian Postsecondary Education" (AIHEC testimony, May 1977). The forum drew testimony from every major Indian organization and the tribal colleges (NIEA testimony, May 1977; NTCA testimony, May 1977). The hearing record built during this testimony was substantial, and of significant and positive value to the tribal colleges cause.

The House held a hearing on H.R. 9158, the Tribally Controlled Community Colleges Assistance Act of 1977, on October 13, 1977. The consortium presented a panel of hearing witnesses led by the consortium president Phyllis Howard (Hidatsa tribal member and president of Fort Berthold

Community College in North Dakota). The NIEA, NTCA and NCAI joint testimony was presented by Lucille Echohawk, Pawnee Indian from Denver, secretary of the National Indian Education Association. Echohawk requested direct funding to tribes for the tribal colleges and funding equity among the tribal colleges. The organizations emphasized the requirement for tribal choice in delivery mechanisms for higher education (NCAI and NIEA testimony, October 1977).

The tribal colleges bill drew strenuous opposition from Michigan Congressman William Ford, a Democrat. Congressman Ford was the chairman of the House Subcommittee on Postsecondary Education. In January 1977, Ford presented a letter of opposition to the Subcommittee, outlining 13 points of opposition. House committee staff member John Forkenbrock recalled that Ford referred to the tribal colleges legislation as "the worst piece of legislation he had ever seen" (Forkenbrock interview 1993-12). Ford was a liberal Democrat whose concept of American civil rights and American minorities was in the context of integration. The tribal colleges served only one racial group, when Ford's higher education legislative interests were to bring American people together (Ford letter, January 1977). Ford also criticized the potential proliferation of tribal colleges and their incumbent high costs. Fortunately, the political strength of Perkins, Blouin and Quie effectively reduced the Ford opposition to the level of a complaint. Although reluctant, Ford eventually voted for the bill as it left Committee (Forkenbrock interview 1993-12).

After the New Year, in February 1978, Congressman Michael Blouin reintroduced the tribal colleges bill, H.R. 11104. Hearings were conducted in May, and this time a panel of tribal college witnesses was led by Leroy Clifford, the new AIHEC Executive Director and an Oglala Lakota from Pine Ridge, SD (AIHEC letter, February 1978). During the House Committee hearings, Interior Secretary James Joseph was against enactment, DHEW Secretary Joseph Califano expressed opposition, while the BIA Director of Indian Education Dr. William Demmert deferred taking a position on the bill pending the completion of the study provision from the 1975 amendment to P.L. 93-638 (Joseph testimony, May 1978; Califano testimony, June 1978; Demmert testimony, June 1978).

White House and Executive Branch Responds

Encouraged by legislative progress in Congress, the consortium secured a meeting with the White House staff person assigned to Indian issues. Sinte Gleska College president Lionel Bordeaux and Standing Rock Community College president James Shanley recalled their visit to the White House in February 1978. President Shanley asked the White House staff member how she came to be in charge of Indian Affairs. Her reply was, "I was assigned domestic issues starting with H, I and J; I handle homosexuals, Indian and Jewish affairs." The task of educating the White House staff seemed difficult at best. The American Association of Community and Junior Colleges had commended the tribal colleges bill to the White House (AACJC letter, July 1977). And the Consortium did have

a knowledgeable White House supporter in Vice President Mondale (Stein 1988-190).

In August 1977, executive branch representatives from the Bureau of Indian Affairs, the Department of Health, Education and Welfare, and the Office of Management and Budget met for two whole days in the nation's capital with the consortium representatives and Congressional staff members. The executive branch representatives proposed a substitute bill with several provisions that departed substantially from the Senate bill content and pending House version of the bill. In the two-day marathon session, the new elements proposed included: short-term funding authority, capitation (per capita) funding, BIA right of refusal to fund, elimination of construction funds, elimination of the Navajo Community College Act, competitive grant awards, and a required tribal funding match. The consortium allied with the House staff Alan Lovesee and successfully resisted most of the proposed changes. But some of the proposed concepts were included: capitation funding, elimination of construction, and short-term authorization. These exceptions were sacrifices by the tribal colleges and the House staff members led by Allen Lovesee. But the process secured the executive branch change of position on the bill to "no objections." This was crucial to the continued life and eventual success of the bill (AIHEC discussion notes, August 1978).

The House Report and Congressional Intent

The House Committee on Education and Labor, chaired by Congressman Perkins, reported the tribal colleges bill out of Committee in August 1978, with the capitation funding concept, an FTE formula for funding, no construction support, eligibility criteria that included tribal charter provisions, institutional accreditation, tribal members in majority on the tribal college governing board and in the tribal college student body, and short-term authorization (three years). The Report was clear about the policy context in which this legislation was developed, that of Indian law (House Report, September 1978):

Under special trust relationship to Indian tribes as a source of funding, as States or local governments stand with regard to their own schools, . . . this is an intensification of existing federal commitment, . . . there should be no doubt in the eyes of the Higher Education community that H.R. 9158 is a program built around the special legal responsibility that exists between the federal government and Indian nations.

Congress had expanded the Indian policy boundaries, intensifying the federal commitment, based on the precedents from the past. The tribal colleges legislation was not a part of the greater federal policy in higher education, in the context of the Higher Education Act (HEA). The Committee analyzed the existing federal higher education programs (House Report, September 1978):

Existing legislative programs, even with modification, cannot meet the needs perceived. Existing titles under the Higher Education Act which could provide assistance to tribally controlled community colleges include Title III (Strengthening Developing Institutions), Title X (Community Colleges), Title IV, Subpart 6 (Assistance to Institutions of Higher Education) and Title VII (Construction,

Reconstruction and Renovation of Academic Facilities). . . . Title III is a discretionary program which provides assistance for development but not for basic operational expenses. . . . Even if more funds from Title III were to go to tribally controlled institutions, it would still not meet the need for basic operational money or provide continued annual support.

The House Report listed each HEA part, and noted that Title X, Title VII and Title VI were never funded. The Report described the two most important definitions in the bill; the first was "institution of higher education" (Section 2 (5)). The HEA definition was adopted; however, clause two of that Section 1201 definition, dealing with State requirement, was excluded. The second was "controlled" in Section 2 (4). The Committee made clear that (House Report, September 1978):

The Committee wishes to make clear that tribal governments are to be allowed to structure the governing boards and chartering instruments of their school to fit their needs and wishes, provided that: 1) there is an element of true control vested in the tribal council; 2) all requirements of this Act are fulfilled; 3) the action establishing a college or giving a tribal sanction to an institution is a formal action agreed to by a majority of the governing body of said tribe.

These factors were important subjects for correspondence and testimony, and the House Report clarified the Congressional intent and laid down the practical application of these policy concepts. The U.S. House passed HR 9158 on September 26, 1978, and the Senate concurred on October 3, 1978. President Jimmy Carter signed the bill into law on October 17, 1978.

Rules and Regulations and Appropriations

The arduous task of federal legislation development was certainly the major phase of the tribal colleges consortium work. In reality, however, many federal laws have been passed by Congress and signed by the President, yet never had rules promulgated nor funds appropriated. With authorization accomplished, the consortium now took up rule making and appropriations, concurrent tasks. The rule making was delegated to the Secretary of the Interior and entailed the convening of tribal consultations, publication of drafts, acceptance of public comments, and final publication of rules (AIHEC request for appropriations, March 1979 and May 1979; BIA scope of work, January 1979).

Appropriations for the new tribal colleges act was a Congressional responsibility, one that started in the Subcommittees for Interior Appropriations on both sides of Congress and, in this specific Indian-related legislation, also in the Senate Select Committee on Indian Affairs. Both rules and regulations and appropriations needed completion prior to the first check delivery.

In anticipation of the rule-making process, the consortium drafted rules and regulations and made them available to the Interior's organized consultation task force that began meeting in January 1979 (Task Force plan, February 1979). Known as Task Force #12, the tribal college act rule-making committee deliberated for six months, meeting in Denver for three-day sessions at least monthly. The task force membership was determined by the Bureau of Indian Affairs, and the nomination lists were reviewed and members chosen (Task Force

minutes, March 1979). Half of the members were tribal college representatives; other members were Indian people from tribes and organizations. The sessions were public, and Locke of WICHE continued to visit the task force meetings, questioning and issuing cautions about the funding mechanisms, the eligibility criteria and the college charter format. Finally, however, the tribal colleges rules and regulations were promulgated on October 28, 1979, a full year after the Carter signature made the tribal colleges bill a public law (Lavis memo, June 1979; Federal Register publication, November 1979).

The appropriations committees for the Interior held a serious part of the tribal colleges' destiny in their deliberations. As early as March of 1979, the consortium filed funding requests, an add-on request for the tribal colleges for fiscal year 1980 (AIHEC letter, March 1979). The consortium testified in the Senate in June 1979 and asked for \$7.8 million for college operations and technical assistance. To achieve the appropriations for the tribal colleges, the consortium met and corresponded extensively with the appropriations committees staff members and respective members of Congress (AIHEC briefing paper, May 1979).

Colleges Meet the Feasibility Test

The new law provided for an Indian organization to perform the feasibility studies and review on each tribal college campus. The BIA retained the consortium to perform these studies. Teams of tribal college professionals commenced with feasibility reviews that began with the first application for

feasibility submitted by Sinte Gleska College on March 18, 1979. The feasibility design had been generated by Interior Task Force #12 during the development of the rules and regulations and was a 50-page evaluative instrument (AIHEC Feasibility Form, July 1979).

Three processes had to be completed simultaneously before the operational dollars could be received by the individual tribal colleges: (1) the rules and regulations had to be drafted and published; (2) the appropriations had to pass through both houses of Congress and be signed by the President; and (3) each tribal college had to apply for feasibility, to host a feasibility review team and meet the criteria for eligibility.

Despite the complications, the first grant awards were made on May 23, 1980 to three colleges, Nebraska Indian Community College, Standing Rock Community College and Turtle Mountain Community College. During fiscal year 1980, the Bureau of Indian Affairs ultimately granted ten awards; in fiscal year 1981, 11 awards (Olivas 1984-229). The College of Ganado was grandfathered into the first round of awards, through the influence of Interior Secretary Udall and Senator Goldwater of Arizona (Forkenbrock interview 1993-4). The College of Ganado was a Presbyterian Church affiliated college on the Navajo Reservation, serving Navajo students but chartered by the Hopi Tribe. Ganado had never actively participated in the consortium nor was Ganado studied for feasibility as were the other tribal colleges.

Conclusion

The tribal colleges took up a difficult journey when they sought federal legislation to support their new and developing tribal community colleges. The federal executive branch, the Departments of Interior and Health, Education and Welfare were consistent in their opposition to the proposed legislation, finally softening to the position of deferment during the 95th Congress. The Office of Education, Department of Health, Education and Welfare, and the chairman of the House Subcommittee on Postsecondary Education held fast to the established federal higher education quality assurance process, that of accreditation. The Congressional review and approval of the bill placed the legislation in the policy field of Indian law, as described in the House Report of September 1978. The August 1978 meeting of executive branch representatives with the House staff and the consortium colleges cast several conditions on the act that included funding by capitation at a maximum of \$4,000, a facilities survey, and short-term authorization.

The national Indian organizations were generally supportive of the tribal colleges bill, but were seriously preoccupied with provisions that would meet the test of tribal sovereignty and control in the context of the Indian Self-Determination Act. The coalition of the National Congress of American Indian, the National Tribal Chairmen's Association and the National Indian Education Association determined to define the issues of tribal control. The pivotal

leadership of WICHE's Patricia Locke influenced the Congressional deliberations, and the participation of the national Indian leadership in the hearing process.

While the concepts of tribal control were thoroughly defined through this deliberative period, the deliberation occupied nearly a full year of time or more at the expense of the tribal colleges' operational resources.

The consortium of tribal colleges began the process of building federal resources for their member operations with a two-paragraph amendment to the Indian Self-Determination bill in 1974. The enacted Tribally Controlled Community Colleges Assistance Act of 1978 was signed by President Carter in October 1978. The Interior commenced rule-making consultations with the tribal college and tribal representatives. The Subcommittees for Interior Appropriations deliberated and returned appropriations for funding of the tribal colleges. The Interior issued a contract to the consortium to perform all the feasibility studies in the local tribal college campuses. The first checks issued to the first three recipients in May 1980 marked the successful achievement of federal operational resources for the tribal colleges of the United States. The American Indian Higher Education Consortium in effective partnership with the Congress had forged federal Indian higher education policy within federal Indian policy; a policy that would provide the life line for the tribal colleges.

Appendices

Appendix A of this study contains biographical descriptions of the 40 most frequently occurring and key participants in the study. Appendix B lists tribal college presidents in 1976. Appendix C charts consortium staff members. Appendix D lists consortium presidents 1973 to 1979. Appendix E charts all participants in the legislative process occurring in the archival documents, including the Indian tribes, tribal colleges, national Indian organizations, Members of Congress and their staff, the federal executive branch, and the higher education organizations. Appendix F is a legislative chronology of the Tribally Controlled Community Colleges Assistance Act of 1978.

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CHAPTER 4

THE PROCESS OF POLICY DEVELOPMENT:
ESTIMATION AND SELECTIONIntroduction

The tribal colleges entered the federal arena to develop a mechanism that would increase their operational resources. Although the consortium had no master plan for policy development, the professional staff and board members of the consortium earnestly pursued a course of strategies that brought them to a federal policy on Indian higher education. In order to understand that course of strategies, the researcher analyzed the consortium's problem investigation, option assessment, alternative generation and policy selection (Gipp interview 1993-32). From among policy development literature, the author chose the Brewer work on policy development, Foundations of Policy Analysis, for a useful set of terms for the policy development process. All significant consortium initiated primary documents were distributed by function among the policy estimation and selection methods. This distribution indicated key strategies employed by the consortium. With the use of the Brewer analysis terms, the author was able to answer study

question #4 - Why were American Indian constituents more influential in the policy formation than most other interested sectors?

This chapter is written in four major sections. The initial section reviews the context of the 1970's in Indian affairs, the Indian community, Indian legislation in the Congress and the White House. The second section is devoted to a review of the consortium strategies of policy development within the Brewer policy development called estimation, essentially the problem investigation and alternative assessment. The third part centers on the consortium's selection of policy elements within the framework of the Brewer policy selection process, the generation and selection of policy alternatives. The described consortium strategies of estimation and selection clarify the extent of consortium influence in the evolving policy and in the final form of the Tribally Controlled Community Colleges Assistance Act. The estimation and selection process examines the aspects or elements of policy and distinguishes the specific constituents that were tied to the elements. Although complex, this chapter attempts to answer study question #4 with regard to policy elements and the constituent groups tied to the elements.

Indian Policy and the Context of the 1970's

The Indian Community in the 1970's

The federal poverty program agenda promoted competition between various groups of Indian people, pitting urban city based Indian groups against rural reservation Indian tribes (Forbes 1981-46). The reservation leadership demanded special federal treatment based on treaty and trust obligations, and articulated this stance through the National Congress of American Indians and the National Tribal Chairmen's Association (Forbes 1981-18). A growing number of articulate Indian educators made their visions, concerns and expertise known, especially with the inception and organization of the National Indian Education Association (Forkenbrock interview 1993-16; Locke interview 1993-6). At this point, the American Indian protest movement was at a peak and primarily urban based. American Indians protested poor living conditions and demanded reparations for lost tribal lands. Examples of this national Indian movement were: the 1972 American Indian Movement (AIM) occupation of a store and church in Wounded Knee, South Dakota; the 1973 American Indian Movement takeover of the Bureau of Indian Affairs national headquarters in Washington, D.C.; the AIM occupation of Alcatraz Island in California; and the Six Nations pursuit of national recognition in the World Court in Geneva. The Indian resistance movement contributed to an inordinately attentive Congress and forum for Indian Affairs (Forbes 1981-1; Shanley interview 1993-40).

Nixon and Indian Self-Determination

Crucial pieces of legislation were passed during the Nixon era, particularly the Indian Education Act of 1972 and the Indian Self-Determination and Educational Assistance Act of 1975 (Forbes 1981-38). Coalitions among Indian communities effectively promoted legislative development in Indian health and child welfare (U.S. Civil Rights Commission 1981-60).

The new Nixon administration adopted the principle of self-determination, making it the headline theme of President Nixon's address on Indian policy (Forbes 1981-64). The Nixon cabinet appointee to the Interior, Walter Hickel, aggressively sought to exemplify Indian self-determination, and appointed Indian people who were Indian rights advocates to leadership positions in the Bureau of Indian Affairs. But Hickel was a short-lived Secretary, and his firing after only one year was accompanied by a serious erosion of Indian self-determination in the BIA that resulted in staff replacements (Philp 1986-214). Indian leaders were frustrated and disenchanted with Nixon's subsequent retreat from self-determination (Philp 1986-213).

The Congress and Indian Self-Determination

The tribal colleges legislation was first introduced into a volatile and dynamic Congressional climate, that of the Indian self-determination bill hearings (Locke interview 1993-4). Despite the Nixon administration's retreat from a meaningful commitment to tribal sovereignty, the Congress was nevertheless

plunging headlong into deliberations over the Indian self-determination bill. Basically, the bill regulated tribal services contracts previously provided by the BIA or Indian Health Service (Senese 1986-153). The new act allowed tribes to contract and operate programs previously run by the federal government as well as expand tribal management services. However, the act maintained the contracts under strict administrative BIA control, a new series of problems for Indian tribes (Senese 1986-163).

Two Congressional study groups contributed to a well informed and favorable Congress, the House Advisory Group on Indian Education of the House Education and Labor Committee gathered an unprecedented record on Indian education, and the American Indian Policy Review Commission of the Senate Select Committee on Indian Affairs studied Indian policy (Forkenbrock interview 1993-17; Scheirbeck 1980-208, 209; U.S. Civil Rights Commission 1981-13).

Indian self-determination was a powerful theme during the 1970's (Forkenbrock interview 1993-4). South Dakota Senator Abourezk entered office to positively transform the Indian federal relationship. Abourezk collaborated with Senators Young of South Dakota and Jackson of Washington State to formulate an improved tribal independence and self-determination (Shanley interview 1993-50). The Senators' interest coincided with the momentum among tribes for increased independence and the Nixon commitment to the concept. The Indian Self-Determination Act of 1975 was the result.

In the House, Indian education had been newly assigned to the authorizing jurisdiction of the House Education and Labor Committee. Committee Chairman Carl Perkins appointed the Advisory Study Group on Indian Education to review all Indian education federal authorities (Forkenbrock interview 1993-12). ASGIE co-chairman Minnesota Congressman Al Quie had a commitment to tribal sovereignty and a sense of obligation to improve Indian education. The other co-chairman, Iowa Congressman Michael Blouin, a former teacher and believer in field-based expertise, aspired to a new and responsible sense of leadership. The ASGIE field hearings, interviews and observations created an unprecedented record on Indian education from Indian educators' situations, expertise and knowledge. The ASGIE was instrumental in crafting the Indian Vocational Education set-aside provision, significantly improving the Indian Education Act, developing the educational provisions in the Indian Self-Determination Act and collaborating with the tribal colleges on the Tribally Controlled Community Colleges Assistance Act of 1978 (Forkenbrock interview 1993-17).

Indian Control in Education

The Office of Economic Opportunity stimulated comprehensive educational programming during the 1960's from early childhood education through college scholarship support. Indian people wanted educational programs that were meaningful and directed by tribal people themselves, not others (Gipp interview 1993-18). The Navajo community-controlled model education projects,

Rough Rock Demonstration School and Navajo Community College, gained national attention especially among Indian educators (Haymond 1982-108, 130). The policy shift represented by these models indicated a policy acceptance of Indian choice and control in education, as well as an unprecedented American Indian cultural orientation and content in curriculum (Demmert interview 1993-14; Forbes 1964-130; Shanley interview 1993-45). The Congressionally-supported and tribally-chartered Navajo Community College had been established with a college mission that affirmed the two worlds of experience, the Navajo and the mainstream (Gipp interview 1993-21; Haymond 1982-130). Clearly, the decade of the 1960's contributed significant federal and tribal initiatives of parental/community involvement and control that altered and expanded the boundaries of Indian education policy.

Apart from other American minority groups, the Indian people held high regard for their culture, identity and language. The Indian education parental and tribal control movement was counter to the larger American civil rights inspired structures of integrated schools and colleges (Demmert interview 1993-14).

Tribal Colleges and Tribal Control

The colleges were surrounded by tribal leaders who had become frustrated with tribal control under the new Indian self-determination law (enacted in 1975) (Forkenbrock interview 1993-14). Under the new authority, the tribes experienced BIA contracts with serious administrative complications such as late payments,

funding shortages, and technical limitations (Philp 1986-253). Although local and tribal control were exercised in some limited areas, the extent of control was seriously constrained, and in the final analysis, the act had not altered the BIA discretion and power in Indian programs (Senese 1986-158). In theory, the act appeared revolutionary, but in practice the BIA made the contracting process more "like operating a county mosquito district than a sovereign tribal administration" (Forbes 1981-120). Here, in the midst of these tests of the new and perhaps disappointing law, the tribal colleges were examined with unwarranted scrutiny from national and tribal organizations (Locke interview 1993-6).

Despite the self-determination act and its disappointing application in Indian tribal programs, the tribal colleges were nevertheless ready to take the full step to self-determination (Forkenbrock interview 1993-13). The new concept played a major role in the tribal colleges' development. Gipp reflected, "We wanted higher education with true meaning and directed toward degree completion" (Gipp interview 1993-17, 18). The consortium had a driving vision toward community development, toward education as an element in the freedom of the Indian people (Shanley interview 1993-55). The tribal college leaders sought to promote the culture, language and history of their tribes (Belgarde 1993-42). All of this was in a context of Indian tribes' high expectations, experiences of disappointment and BIA contracting that was just as rigid and paternal as it had been before Indian self-determination.

The 1970's and Indian Higher Education Policy

Title IV of the Higher Education Act dramatically increased Indian students' enrollment in higher education (Haymond 1982-14). The coalition of tribally controlled colleges, the American Indian Higher Education Consortium, incorporated in 1973 with six member colleges. The consortium testified in Congress in 1974 to amend the self-determination bill (Haymond 1982-132). The Indian Self-Determination Act of 1975, Title II, mandated a study of the tribal colleges, to be completed by the Bureau of Indian Affairs (P.L. 93-638, Title II, 1975; Gipp interview 1993-25). The House Advisory Group on Indian Education conducted oversight hearings on the Indian Education Act in locations throughout Indian country and included a study of the tribal colleges (Forkenbrock interview 1993-11; Scheirbeck 1980-209). The Bureau of Indian Affairs already operated three postsecondary institutions, including Haskell Indian Junior College (Lawrence, Kansas), Southwestern Indian Polytechnic (Albuquerque, New Mexico) and The Institute of American Indian Arts (Santa Fe, New Mexico). Existing federal policy helped with Indian student financial aid to attend college, supported three BIA operated colleges, but only minimally addressed Indian higher education in terms of tribal college support.

The 1970's in Summary

The decade of the 1970's was an accelerated period for Congressional collaboration with Indian Americans. Legislation proliferated in the areas of

education, health, child welfare, housing, and in tribal control of BIA programming. Proactive Indian leaders were initiating highly visible protest acts, especially in the urban areas, but also on some reservations. The American Indian Movement decried the deplorable living conditions of Indian people and demanded reparations for lost or stolen Indian lands. The nation's tribes had effective and articulate organizations that represented their positions in Congress and in forums around the country, like the National Congress of American Indians and the American Indian Higher Education Consortium. By 1978, 16 tribal colleges had been chartered and were operating on their respective reservations, largely in the northern plains states of North and South Dakota and Montana.

Policy Development Process: Estimation

The Policy Process

The process of policy formation is a complex task (Dery 1984-60, 68). The potentials for new policy measures are, over time, acted upon by many interested parties with specific views and interests. The parties subscribe to new policy measures according to their respective bases in theory, legal precedents, social and political values and religious tenets (Shirley 1981-77). In Shirley's work on policy measure development, he asserted that persons involved exert "guiding principles derived from cultural values" that impose "a criteria of choice among alternatives" (Shirley 1981-80). The tribal colleges were deeply committed to new policy

measure development, but lacked the literal political influence. This situation is diagnosed by Brewer (Brewer 1983-95).

Since gain is related to power, government and organizations with little power may have to try to compensate for their lower rates of gain by increasing foresight (through estimation) and speed of estimation.

From the earliest consortium member lists, the consortium had six college members. When the first draft was filed, the total Congressional delegation that represented the six AIHEC member colleges included Congressmen from North Dakota, South Dakota, Arizona and California. Senators were more numerous, since each state had two senators. In 1974, the consortium's political influence in the Congress was minimal and required compensation by increased foresight and speed of estimation.

Estimation and Policy Development

Estimation is the "systematic investigation of a problem and the thoughtful assessment of options and alternatives" (Brewer 1983-83). In view of this definition, the consortium employed a systematic investigation of the problem and was deeply involved in the assessment of alternatives. What follows is an analysis of the estimation strategies the tribal colleges' consortium employed, within the Brewer framework of estimation.

Estimation Process Surveyed

To survey the consortium investigation and assessment activities, the author reviewed all the AIHEC documents and distributed them among Brewer's elaborate system of estimation found in Foundations of Policy Analysis. This distribution illuminated the extent of their estimation activities and the aspects which gained significant and desired results for the consortium.

In the Brewer estimation framework, the tribal colleges analyzed and identified the root causes for new policy (Brewer 1983-84). The consortium efforts were affected by important time factors and affected both positively and negatively by unintended consequences or externalities (Brewer 1983-92, 95). Higher education policy and Indian education policy were built through historical and legal precedents and rigidly administered by executive agencies and Congressional committees. The agencies and committees or institutional structures set conditions on the tribal colleges that narrowed their legislative options (Brewer 1983-102). Alternatives were reviewed carefully and shared with other constituents through "issue papers in rapid response time" (Brewer 1983-96). The issue papers and testimony served the additional purpose of "complexity and conflict reduction" (Brewer 1983-102). The consortium initiated prototype fielding by their broad circulation of draft bills. The consortium elicited a spectrum of criticism from congressional committee staff members, national Indian organizations, and members of the Higher Education community at large.

The document survey evidenced the exercise of various estimation aspects and strategies. The Brewer estimation process provided the author with a means to functionally describe the characteristic strategies employed by the consortium during their quest for legislation development.

Root Causes

Policy proponents must elicit a clear sense of purpose and a well defined root cause for the policy measure process (Brewer 1983-84). The tribal colleges had incorporated in 1973, with the primary purpose of resource development (Consortium Articles of Incorporation, 1973). A central driving force of the consortium was the reality that the colleges had no money (Gipp interview 1993-25; Shanley interview 199-44). In 1974, two of the tribal colleges lost federal support they had been receiving from the Snyder Act (Bureau of Indian Affairs authorized funding). The inaccessible nature of this resource was clarified and analyzed in consortium correspondence and an issue paper (AIHEC letter, December 1974; AIHEC Issue Paper, 1975; Shanley interview 1993-44).

Title III of the Higher Education Act of 1965 was a second resource to the tribal colleges called Developing and Strengthening Institutions. Extensive AIHEC testimony was written and delivered on Title III before the U.S. House Subcommittee on Postsecondary Education in 1975. The consortium found the Title III funding to be short-term and unreliable (AIHEC testimony, May 1977; Shanley interview 1993-44).

A major purpose of the movement was tribal control of the tribal higher education. In 1975, the consortium issued an "AIHEC Issues and Recommendations Paper" which discussed tribal control as the "unique and integral precept to tribal colleges" (AIHEC testimony, November 1975). The South Dakota Legislature and the South Dakota Board of Regents declined funding to the tribal colleges in South Dakota, making state support potential nil (Stein 1988-100, 121). The colleges lacked tax bases and wealthy alumni, due to their economically impoverished community base and chartering tribal governments (Shanley interview 1993-44). The tribal colleges thoroughly investigated many funding resources and mutually understood the root cause of their policy development efforts: no money.

Time is Important

The compression of time for study, review and decisions is a function of the estimation process. According to Brewer, the decrease of time available negatively impacts the search for alternatives and the opportunity to do analysis (Brewer 1983-92). The lack of reliable operational resources for the tribal colleges served to pressure the colleges in their efforts. Those resources that had been acquired at each college were short term and discretionary. The longest term funding was the Title III, Higher Education Act funds, rarely over three years in grant term. The colleges' individual institutional time was limited and the pressure to find a stable and reliable funding source weighed on the consortium leadership. The practical

and daily operations of the colleges were constantly at risk throughout the period 1973 to 1981 (Stein 1988-156).

The tribal colleges policy development period coincided with the Indian self-determination movement. House staff assistant John Forkenbrock observed, "The timing was just too fast after 638, the tribal college act was another phase too fast" (Forkenbrock interview 1993-14). In addition, the movements' centrality of tribal control and tribal language, culture and history oddly contradicted the principle and practice of civil rights as it applied to American higher education (Demmert interview 1993-14). The Indian communities that chartered the tribal colleges were bound to self-development in light of Indian self-determination. Congressman Ford, a strong civil rights educator and Democrat, complained that the tribal colleges bill served only one racial group and might proliferate (Ford letter, January 1976).

Time was also a factor in the assessment of the administrative home for the tribal colleges. In 1976, the colleges were divided over which federal executive department would potentially administer the pending tribal colleges act. The leading candidates were (1) the Office of Education, Department of Health, Education and Welfare or (2) the Department of the Interior. Massachusetts Senator Edward Kennedy and his staff favored the U.S. Office of Education. The Committee staff members wanted clear consortium direction on this matter. But the consortium was stalemated on this issue until July of 1976. Finally, a Kennedy staff member conveyed to the consortium that the Senator had spent their clout on

other issues and could not perform primary support for the tribal colleges bill. Without the Kennedy sponsorship, the Department of the Interior became the undisputed administrative destination for the tribal colleges bill (AIHEC phone transcript, July 1976).

Unintended Consequences

The policy proponents must sense and assess the consequences of harmful or beneficial externalities, a critical estimation function (Brewer 1983-95). In the policy environment, diverse perceptions and ideology could cause system overload (Brewer 1983-96). The constituents involved in the federal policy development process included the federal executive branches of Education and the Interior, the Indian tribes and national organizations, the American higher education community and the tribal colleges. The tribal colleges concept was basic and straightforward, but, not surprisingly, the concept encroached on various constituents' proprietary interests. House and Senate hearing records revealed the breadth and depth of these perspectives.

Among the harmful and beneficial externalities that resulted in unintended consequences were the positions taken by the national Indian organizations. Supportive leadership from NCAI Executive Director Chuck Trimble resulted in positive Senate testimony in 1977 (Trimble testimony, July 1977). The 1977 NCAI education committee hearings in Dallas were a scene of heated debate and contest for the consortium. Locke held the committee chairmanship as well as the

presidency of the National Indian Education Association in 1977. The committee deliberation over tribal control mechanisms in tribal higher education placed a delay on the legislation. House staff member Forkenbrock reflected, "Congress paid real attention to Indian education, and in particular the National Congress of American Indians; AIHEC had to overcome the NCAI politics" (Forkenbrock interview 1993-8). The committees had to sort out the apparent conflict, taking serious and valuable amounts of time.

The beneficial externality of the national Indian organizations' involvement was their insistence on criteria for tribal college funding eligibility, on tribal consultation in the development of feasibility studies and rule making, and on a refined definition of tribal control mechanisms, such as tribal charters (NCAI testimony, March 1976; NIEA Resolution, September 1977; NIEA testimony, May 1977). The consequences of these externalities were unintended and costly, whether harmful or beneficial.

The early AIHEC board position to diminish and eliminate the WICHE role in the consortium Title III grant (1973) figured prominently in the slowed progress the colleges experienced in the policy development. The consortium members had no method to foretell the Locke prominence in 1976 and 1977. Locke brought to bear powerful and deliberative influence on the national Indian organizations assemblies of the National Congress of American Indians, the National Indian Education Association and in congressional hearings (NCAI resolution, October 1976 and July 1977; NTCA testimony, May 1977). The Locke

influence was supported in Indian country. The WICHE organization had supported Locke's extensive travel to over 50 Indian tribes to assess their higher education needs (Stein 1988-180).

The national Indian organizations were poised and prepared for the tribal control debate, having only recently and integrally been involved in the Indian Self-Determination Act development. The self-determination legislation expanded the frontiers of Indian policy and enhanced the tribal control of federal services through a new contracting authority. To the colleges, there appeared to be new, substantial and beneficial policy potential available to the tribal colleges (P.L. 93-638, January 1975).

The tribal colleges brought their draft legislation to the oversight hearings on the Indian Self-Determination Act. They were interested to amend Title II, the provision for tribal contracting of K-12 Indian schools (Gipp interview 1993-17). But congressional oversight is a process based on identification of shortcomings of law and suggested technical improvements of the law. In this scrutinizing environment, the tribal colleges draft bill was subjected to excessive review that required detailed terms, conditions and responses as they pertained to tribal control. This inordinate attention on the colleges bill approximated the Brewer system overload (Forkenbrock interview 1993-8; Gipp interview 1993-22; NTCA with NCAI and NIEA joint statement, April 1977).

The NCAI and NTCA testimony went beyond the principles of tribal control and magnified the characteristic structures that preserved tribal control in

governing board membership and in the funding path -- whether directly to tribal governments or to the colleges. Despite the tribal charters that established each consortium member college, the NCAI charged the consortium with tribal contravention or circumvention (NCAI and NIEA joint testimony October 1977; NIEA policy resolution, September 1977). What the colleges initially perceived as an appropriate context for tribal colleges legislation was in fact loaded with harmful externalities. Yvonne Franklin, House Education and Labor Committee staff member, remarked to Senate staff member Ella Horse, "The tribal control discussion totally eclipsed the educational issues and the tribal colleges' educational qualities" (Franklin memo, March 1976).

The anti-Indian white backlash of the 1970's was a result of the Indian protest movement that demanded treaty based fishing rights and reparations for lost lands. The white backlash impacted the consortium. The newly formed House Subcommittee on Indian Education was initially chaired by Washington Congressman Lloyd Meeds. Meeds had been a pro-Indian ally and had pledged early support to the tribal colleges bill. During his 1976 reelection bid, an Indian fishing rights controversy cost him white votes, backlash sympathizers. The lost white votes damaged the Meeds election totals as did large number of Indian constituents who simply did not vote in that election (U.S. Civil Rights Commission 1981-7). Barely reelected, Congressman Meeds returned to the capital, resigned from the Subcommittee and withdrew his sponsorship from the tribal colleges bill (Tiger interview 1993-36; Gipp interview 1993-30). House

Education and Labor Committee Chairman Carl Perkins then appointed new leadership and the Subcommittee was reduced to an Advisory Study Group. This transition also used valuable time for the colleges' cause. However, the time loss was more than compensated by the valuable and supportive new leadership of co-chairmen Minnesota Congressman Al Quie and Iowa Congressman Michael Blouin (Forkenbrock interview 1993-11).

Response Speed

Any source of opposition, caution or question was the sure catalyst for consortium issue and white papers. Including Congressional testimony, the consortium published over 30 substantial discussions of the tribal colleges legislation. Each were specific to the most recent question or criticism; each directly answered the criticism or questions, point by point. Brewer attested to the value and weight of response time (Brewer 1983-96).

Since gain is related to power . . . government and organizations with little power may have to try to compensate for the lower rates of gain by increasing foresight (through estimation) and speed of response.

The AIHEC response speed and its issue orientation demonstrated a rapid turn around time from the date of the questions, comments or criticisms of the draft bill (Forkenbrock interview 1993-11). Some of the contentious points that merited the consortium's immediate and specific response were the 1976 Locke points, the U.S. Office of Education objections in 1976, the paper to the Carter White House transition team, and Congressman Ford's 13 issues of opposition (AIHEC

information paper, 1976; AIHEC position paper, December 1976; AIHEC issues paper, February 1977). The issue papers functionally informed and explained the consortium perspectives and played a major role in complexity, uncertainty and conflict reduction. In the archival record, each issue and information paper was accompanied by lists of recipients that consistently included members of Congress, tribal chairmen, national Indian organizations and higher education officials. The consortium knowledgeably explored issues and assessed the potentials from questions and criticism, in remarkable response time. Incidentally, at this time each of these papers had to be manually produced by typewriter, since word processing was not yet in use.

Institutional Structures

The tribal colleges bill was scrutinized in a policy environment formed, claimed and monitored by multiple institutional structures. Brewer elaborated on these structures and their complexity.

Institutional structures and the roles individuals perform within organizations set out the conditions under which problems and opportunities will be appraised and acted upon.

Brewer asserts that the institutional structures dictate the context and must be well understood to decrease contention and disagreement and promote successful policy measure development (Brewer 1983-102). The federal higher education policy was administered by the Office of Education, Department of Health, Education and Welfare, and the structures which impinged on the bill had to do

with the federal accreditation of postsecondary institutions and the definition of postsecondary educational quality and the community college, and the fragmentation of federal higher education (Mattheis testimony, March 1976; J. Stedman issue paper, June 1977; Demmert testimony, July 1977). Certainly, the institutional structures that encompassed higher education and Indian law left little creative space for new policy. Each structure appraised the bill from its own rules and perspectives.

The federal agencies that had provided tribal colleges with development or operational support imposed conditions and constraints on the funds. In turn, the same agencies imposed similar conditions on the bill during testimony. For example, the Title III staff imposed assisting institutions on the consortium, outside the knowledge and consent of the consortium board (AIHEC testimony, May 1974; Locke interview 1993-3; Gipp interview 1993-20). Mattheis, U.S. Office of Education, testified that no new structures were needed, that available programs were adequate, even in spite of their short-term and constraining conditions (Mattheis testimony, March 1976).

Under the Snyder Act authority, the BIA had supported four tribal colleges. The Snyder Act funds use was based on the tribal priority system. In spite of the fund priority established by these three tribes, the BIA withheld the funding. Commissioner Thompson testified that existing authority was adequate to serve the tribal colleges, meaning the Snyder Act, even though the funding had been withheld (Thompson testimony, March 1976). Elsewhere in the BIA budget was

support for the BIA colleges, from the appropriations process, and without specific authority in the Snyder Act. Yet, the BIA withheld funds to the tribal colleges (Shanley interview 1993-54). Although in theory authority existed for appropriations, in practice the BIA set the conditions of their appropriate use.

Complexity Reduction

The institutions that held interests in Indian higher education applied questions and criticism, a process that resulted in the expansion and increased complexity of the draft bill. The bill started with two paragraphs and became 12 pages in length with 14 sections. The consortium analyzed the concerns and wrote issue papers with focused and specific responses, in an effort to promote understanding and reduce complexity. According to Brewer, the reduction of uncertainty, conflict and complexity is a prerequisite to policy measure decisions (Brewer 1983-102, 105). Furthermore, Chase indicates that successful issue management requires the participation of many interested sectors (Chase 1984-6). The consortium issue papers addressed the Indian higher education context and on an issue basis, expanded the participation of many constituents.

Additionally, the Congressional committees' staff members sought perspectives from a broad cross section of participants, and correspondence to the committees indicated participation from members of Congress, their respective staff representatives, national Indian organizations, the Commissioner of

Education, the Commissioner of Indian Affairs, the Secretary of the Interior and the Secretary of Health, Education and Welfare.

The constituents' influence with the Congressional members was evidenced by their respective requirements, limits and definitions that shaped and refined the tribal colleges bill. The consortium issue papers examined each question and criticism, with rapid factual rationale and discussion. Largely, the consortium issue and white papers explored and defined the issues and successfully reduced complexity and conflict. However, they sometimes enlarged and even complicated the policy development process with some constituents.

Issue Papers

The consortium issue papers were problem minded. Dery maintained that problem minded research explores the nature and formulation of the problem to develop a complex understanding (Dery 1984-58/64). In cooperation with the Congressional committee staff members, the consortium sorted through the numerous and diverse parts of Indian higher education policy that interact in a non-simple way (Dery 1984-68). Thirty issue papers and written testimony were authored by the consortium during the years 1974 to 1981. Model proposals, alternative formulations, problem diagnosis, and data analysis were all elements of these focused issue papers. Brewer notes that effective issue papers reflect these attributes in a sincere search for the best policy measures (Brewer 1983-103). Consortium staff members Gipp, P. Horse and Clifford were consistently engaged

in the search for the best policy measures and were respected for this consistent approach to their work (Forkenbrock interview 1993-10, 13).

The consortium issue papers thoroughly examined the competing issues and ideas. These papers were, in turn, examined and reexamined by the constituents and congressional staff who cared about the tribal colleges bill to expand the record of information available on tribal colleges. House Education and Labor staff member Forkenbrock described the consortium papers, ". . . the best answers, the best knowledge, field-based information and greatly respected by Congressmen Blouin and Quie" (Forkenbrock interview 1993-10).

When Congressman Ford argued against the bill with his 13 points of objection, in January 1977, the consortium countered each point with a response and rationale in a lengthy issue paper (AIHEC information paper, February 1977). When Locke levied heavy criticism against the bill in Senate hearings, in March 1976, the consortium responded to each charge in an orderly and scholarly manner (AIHEC testimony, March 1976). Issue papers were performed on both the Title III funding and on BIA Snyder Act constraints (Shanley interview 1993-44). It is apparent, however, that the consortium issue papers did not always reconcile contradictory perspectives among other constituents or in Congress.

The consortium's issue papers provided the decision makers, the Congressmen and Senators, a massive record of information, ranging from numerical data to philosophical rationale. An effective working partnership was built between Congressional staff and the consortium, sustained by the

consortium's ready response to bill drafts and changes (Forkenbrock interview 1993-11). This record expanded the judgment criteria, the measure of consequences, and finally projected acceptable paths (Brewer 1983-110). Brewer reasons that the issue analysis effort on the part of policy proponents both enhances the understanding of the root causes and problems and creates policy opportunities (Brewer 1983-112). The consortium had volumes of information and alternatives, especially in the study mandated by the Indian Self-Determination Act (Gipp interview 1993-25). The record afforded the decision makers significant and opportune understanding of tribal colleges policy.

Estimation in Summary

The estimation process of policy development is one of analysis and exploration. The consortium employed several significant strategies in what Brewer termed the "systematic investigation of a problem and the thoughtful assessment of options and alternatives." The survey of consortium documents revealed the extent of problem investigation and assessment that existed. While these estimation strategies reduced some of the complexity and revealed some significant potential policy elements, it also uncovered and even irritated biases and perspectives from the national Indian organizations and the federal higher education community that not only expanded the relevant issues, but complicated the process. The consortium undertook these estimation strategies in a methodical manner and answered criticisms and questions with initiative, data and rationale

and with remarkable speed. Concurrently, the tribal colleges were pressured by the urgency of their need for resources, and to complete the estimation process and legislative deliberations. Fortunately, the tribal colleges were somehow able to piece local operational institutional resources together. It is remarkable under these circumstances, that the consortium investigation and assessment of legislative options were both thorough and exhaustive.

Policy Development Process: Selection

Selection Process Surveyed

To survey the consortium decision-making stage of the policy process, the author reviewed all the AIHEC documents in this study and distributed them among the Brewer strategies for policy selection found in Foundations of Policy Analysis. The Brewer selection aspects examined by the author include the effect of unforeseen events and circumstances, the entire context of the task, and points of leverage exerted by the consortium given the context. The selection analysis scrutinized the reliability of consortium information, the personalities that empowered the organization, their culturally derived values and their mutual ability to isolate, master and own the basic issues in the policy development.

Selection

Brewer defined selection as the "choice among policy alternatives generated . . . the decision-making stage of policy process" (Brewer 1983-179). The

federal policy development or selection process was an overtly political process (Brewer 1983-180). The consortium paid respect and attention to the Congressmen and their staff members. The consortium telephone records and notes indicated frequent contacts with congressional committee staff members and among all constituents in the process. Congressional contacts were maintained through a broad distribution of issue papers and testimony, as demonstrated by the lists of office destinations attached to each consortium document. In addition and at great travel expense, the colleges sent delegates to meet firsthand with members of the House and Senate and their staff representatives (AIHEC phone record, May 1977).

Consortium leaders also attended the quarterly and annual meetings of the national Indian organizations held throughout the United States. The consortium leaders carefully interacted with the other constituents and carried out precise assignments and functions, as demonstrated in the meetings and discussion notes of the consortium (AIHEC discussion notes, May 1977).

The American Indian Higher Education Consortium was deeply involved in the selection of policy elements, the decision-making process that formulated the Tribally Controlled Community Colleges Assistance Act. Unforeseen sources of opposition and criticism occupied inordinate amounts of precious time for the tribal colleges. Context perception was a crucial factor in making sound choices, for the constituents participating in the process all held proprietary interests in existing policy. Strong points of leverage were prerequisite for successful bill

passage through the congressional committees and before the House and Senate, the individual Congressmen.

Despite being a newcomer to the Congressional environment, the American Indian Higher Education Consortium became a reliable and trusted source of tribal colleges information and data. The decision makers' personalities and their culturally derived values influenced the legislative process. The tribal colleges had to constantly bear in mind the most basic issue as the process gained momentum and complexity. These following crucial areas comprise the consortium's policy selection process.

The Unforeseen Occupies Inordinate Time

The depth and breadth of contextual study, coupled with the limitations and conditions interjected by the related federal higher education institutions and offices, were known and understood quantities and forces by the consortium. Brewer observed the element of chance in policy development and called them "unforeseen circumstances that occupy inordinate time and effort" (Brewer 1983-184). The tribal colleges experienced several unforeseen reactions to their proposed bill. First, the influence of Locke with the three major national Indian organizations posed formidable delays and required extensive negotiations with the Senate and House committees with regard to tribal control and the mechanisms that insured tribal control (AIHEC testimony, March 1976; Locke letter, March 1976; NTCA testimony, May 1977; NTCA with NCAI and NIEA

joint statements, April 1977). Second, the 13 points of opposition detailed by Congressman William Ford of Michigan illustrated the higher education establishment's appraisal of the bill. Ford complained that the colleges bill fragmented federal higher education, was a contradiction to the civil rights inspired goals in higher education, and provided no educational quality assurances. A third situation developed in 1977, when the staff of Senator Abourezk of South Dakota and Jackson of Washington State were inattentive to the tribal colleges bill. The delay intervened and countered consortium strategies. However, the alliance and partnership with Congressman Blouin of the House heightened Senate attention, and Abourezk refocused positive efforts on the bill (Forkenbrock interview 1993-15).

Task of Context

The context of a policy measure is described by Brewer as the "time and sequence of elements, the level of attention merited the measure, the political system or rules among constituents and past points of reference" (Brewer 1983-196). Chase concluded that the manager of policy development must accept the concept of "discipline, a rule or system of rules affecting conduct or action . . . practical rules" (Chase 1984-21). The time and sequence of elements in this effort were primarily determined by the rules of Congress, and the timetables of their respective committee processes. The tribal colleges were in urgent need of operational resources, for their access to operational funding had run short.

Despite the urgency of their needs, the tribal colleges could only encourage the scheduling of hearings, markup sessions, tradeoffs among members, floor readings and conference sessions (AIHEC letter, February 1978; AIHEC contact list, March 1977).

The frequency of consortium documents demonstrated their continuous efforts to encourage the committees' hearing date choices through extensive letter and telegram campaigns (AIHEC mailgram, July 1978). The tribal colleges submitted sets of questions to committee staff to more clearly elicit key points from all witnesses during hearing testimony (AIHEC comments, August 1977). The consortium often anticipated and developed information in advance of Congressional requests (AIHEC cost estimates, August 1976; AIHEC analysis, 1977). The Congressional committees assigned jurisdiction in Indian Affairs were select and well informed to the needs of Indian country. However, their previous review of Indian higher education issues was limited to their interaction with BIA colleges, so the higher education understanding needed development.

The Congressional level of attention given to Indian issues was dedicated to and preoccupied with heavy debate and discussion over the Indian Self-Determination Act. The tribal colleges bill was therefore subjected to inordinate scrutiny by Indian tribes and their national Indian organizations for measures of practical tribal control and tribal consultation (Gipp interview 1993-16; NTCA testimony, May 1977; NTCA mailgram, August 1977; NCAI and NIEA joint testimony, October 1977). The tribal control of schools was the primary discussion

that existed, and many elements of that debate were applied to the colleges bill. The consultation interest was a consistent tribal demand, regarding any and all changes in the federal Indian trust relationship (NIEA resolution, November 1977).

The tribal colleges draft bill drew attention from tribes and the BIA. The new authority tested the BIA capacities to operate under a new contracting law (Locke interview 1993-6). The BIA demonstrated rigid capacities and recalcitrance in contracting with tribes. The tribes' disappointment, reaction and protest were vented through the national Indian organizations, the NCAI and the NTCA. The self-determination act oversight hearings were replete with competing interpretations of law provisions, fueled by unmet tribal expectations. The tribal colleges presented the draft amendment in this hearing environment, and met BIA opposition along with undue scrutiny from the national Indian organizations (Shanley interview 1993-44; Thompson testimony, May 1976).

The U.S. Office of Education strenuously opposed the legislation. The USOE cited duplication of existing programs and potential proliferation of budget obligations as justification for that position. The USOE testimony characterized the tribal colleges as just another American minority group, and indicated scarce little knowledge of the unique federal Indian trust relationship, tribal control of education or tribal sovereignty (Mattheis testimony, March 1976).

With the Carter White House appointments to education, the position of the USOE softened to the position of deferral (Demmert testimony, July 1977).

The appointment of Ernest Boyer to the U.S. Commission of Education improved the tribal colleges support in the administration, as the bill reached its final stages before passage (Shanley interview 1993-51).

The legislative environment in the U.S. House of Representatives was active and supportive. The ASGIE leadership in Blouin and Quie exhibited respect for and trust in the consortium organization, for tribal sovereignty and more importantly for the tribal colleges bill. The ASGIE staff of Lovesee, Forkenbrock and Franklin carried out the field-based agenda as assigned and built meaningful relationships with the tribal college leaders. The Committee leadership combined political clout with the ASGIE leadership and overcame the Ford opposition expressed in 1977. They successfully voted the tribal colleges legislation out of committee and on to the House floor in 1978 (Forkenbrock interview 1993-11; Gipp interview 1993-30; Tiger interview 1993-5).

Brewer's concept of "past points of reference" in the policy context is applicable to the tribal colleges bill treatment, most especially in the House. The decision makers viewed this bill in the context and precedent of federal Indian law. The House Report that accompanied the bill to the White House in September 1978 attested to the unique legal status of Indian tribes (House Report, September 1978):

Under special trust relationship to Indian tribes as a source of funding, as States or local governments stand with regard to their own schools . . . this is an intensification of existing federal commitment . . . there should be no doubt in the eyes of the Higher Education community that H.R. 9158 is a program built around the

special legal responsibility that exists between the federal government and Indian nations.

Congress had expanded the policy boundaries, intensified the federal commitment, and the objections from the U.S. Office of Education were of diminished importance in the context of past points of reference for Indian law and the Indian trust relationship.

Points of Leverage

The selection process must access points of leverage which Brewer defined as points that reflect power of influence necessary to correct the problem (Brewer 1983-197). The tribal colleges were located in the most sparsely populated states in the country, with the exception of D.Q. University, in California. The colleges' respective state congressional delegations were only a small sector of the leverage needed to obtain successful bill passage. In this case, because the bill was appraised by the Congress as an expansion of Indian law, the Senate committee of jurisdiction was the Committee on Interior and Insular Affairs, later the Senate Select Committee on Indian Affairs. The Senators who served on the Committee held senior rank in the Senate and were influential, beyond the literal tribal colleges' state delegations' influence. The multi-year debate over the Indian Self-Determination and Educational Assistance Act had expanded the knowledge, expertise and numbers of Congressional members prepared to support the tribal colleges bill (Blouin memo, September 1977; Franklin memo, March 1976; Jackson memo, August 1976; Lovesee comments, September 1977).

However, out in the Indian community, the colleges were subject to intense and excessive scrutiny, especially within the newly legislated criteria for tribal control under the Indian Self-Determination Law. The consortium had many miles to cover and meetings to attend throughout Indian country, to negotiate support from the national Indian organizations (NWIEA resolution, October 1977; NIEA resolution, November 1977; NCAI committee minutes, October 1977). A solid working relationship with the leading national Indian organizations existed with Congressional leadership. The consortium was a relatively new player in this environment, and was initially eclipsed by the influence of the leading national Indian organizations.

Despite their new presence in the Congressional forum, the tribal colleges were conscientious to develop a foundation and record of reliable and trusted data on their institutions (AIHEC testimony, May 1977; AIHEC information paper, 1976; AIHEC report to Congress, January 1976). Their legislative activity included several major efforts to collect, refine, analyze and summarize data on the tribal colleges (AIHEC issue paper, February 1977). The House Advisory Study Group on Indian Education had journeyed to the colleges and, with their corroborative tribal colleges information, became strongly allied with the Consortium (Gipp interview 1993-16). The ASGIE information complimented the consortium data, an information base that comprised a crucial six-volume congressional record, and served as a strong point of leverage with both houses of Congress (ASGIE memo, August 1977; ASGIE comments, September 1977;

Forkenbrock interview 1993-10). The colleges had points of leverage beyond their actual institutional and personal influence, due to the Indian law related structures in Congress, and the consortium's well respected data base record on the tribal colleges (Gipp interview 1993-28).

Reliable and Trusted Information

Although decision makers harbor a suspicion of numbers, Brewer suggested that the politicians must have available and trusted sources of information (Brewer 1983-201). The base line data in the process was laid when the Indian Self-Determination Act, Title II mandated a study provision on tribal colleges in 1975. The Bureau of Indian Affairs contracted with the Consortium to perform the study, and in just a few months (by May 1975) the multi-volume tribal colleges study was submitted to Congress. The Consortium Director of Research and Data, Perry Horse, and field coordinator, Twila Martin of Turtle Mountain Community College in North Dakota, developed data forms, and the colleges held training sessions to prepare and complete the data gathering in their institutions (Gipp interview 1993-25). The information was submitted in congressional testimony beginning in 1976. The BIA held official silence on the study and subsequent data on the tribal colleges, but the record of tribal colleges data was voluminous and reliable and officially in the Congressional record (AIHEC report to Congress, January 1976; AIHEC testimony, March 1976). This study coupled with the ASGIE two-year study on Indian Education. Committee questions were answered

speedily and in detail. The consortium earned a reputation of being the reliable and trusted information source (House hearing record, March 1976).

Personalities

Brewer concludes that personality is a factor in successful policy measure development and is a function of their "motivation levels, risk taking, cognitive styles, idiosyncratic clashes and crisis reactions" (Brewer 1983-201). Chase asserted that the policy issue managers "must opt for discipline over visceral impulse" (Chase 1984-2). Dery postulates the "problem minded person will explore the problem and produce harmonies . . . produce the solution that conflicts the least" (Dery 1984-58, 62). In a like mind, Brewer proposed that "most laws are the product of incalculable gives and takes, deals and accommodations" (Brewer 1983-213). The factors of personal energy, motivation, vision and compromise were all significant influences in the tribal colleges bill development.

The motivation levels among tribal college leaders and consortium staff were strong and stable, fueled daily by the basic survival issue: no money, no tribal colleges (Shanley interview 1993-44). House staff member Forkenbrock described the consortium staff and board members, "They were prepared and ready to go, never doubted their motivation . . . all very above board" (Forkenbrock interview 1993-11).

The Brewer application of intentionality meant not only a desire for a result, but also understanding the parts of the desired end and the dynamics they

invoked on the participants in terms of actions, time and context (Brewer 1983-221). The consortium leaders Atcitty, Bordeaux, Shanley, Juneau, Howard, Shortbull and Risling (and others) demonstrated remarkable tenacity, vision and longevity in their legislative endeavor (AIHEC testimony May 1977; Locke interview 1993-5; Tiger interview 1993-35). The consortium insured problem exploration through careful criticism analysis and response, issue oriented papers and testimony, and reliance on expertise.

The tribal college presidents originated from their respective reservations. The grassroots tribal colleges movement consisted of a unique forum for non-elected well educated Indian leadership. The consortium leaders were articulate participants and initiators in the legislative development process. Former Standing Rock Community College president Shanley stated, "They shared the experience and belief that higher education had to do with the freedom of the people" (Shanley interview 1993-42). With few exceptions, the consortium leadership were young (under 40 years of age), well educated, and tribal members. About half of the tribal college leaders were formally educated in the high plains region universities and colleges of the United States, and the other half in the OEO sponsored graduate education projects at the University of Minnesota, Arizona State University, Pennsylvania State and Harvard University (Demmert interview 1993-13; Tiger interview 1993-35).

Consortium leaders had individually achieved rapport with various Congressman, but chose to share the benefits of that rapport with the consortium

and legislative goal. Thomas Atcitty of Navajo Community Colleges was influential with Arizona Senator Goldwater and Secretary of the Interior Udall; Lionel Bordeaux of Sinte Gleska College in South Dakota was a lifelong acquaintance of South Dakota Senator Abourezk; David Risling of D.Q.U. in Davis, California knew staff members of Massachusetts Senator Kennedy and California Congressman Roybal. Forkenbrock observed, "The consortium leadership were the right people at the right time, non-conformists, creative, thinking and courageous" (Forkenbrock interview 1993-10, 13).

From outside their allies, from the consortium's most tenacious critic, Locke reflected on the consortium leaders as "patriots and heroes, the shapers and organizers with the most vision" (Locke interview 1993-5, 6). The consortium presidents and staff members were determined, scholarly and knowledgeable strategists in their own right. On little or no money, they brought an idea of major magnitude to bear fruit and actually work for the tribes they serve (Forkenbrock interview 1993-17; Tiger interview 1993-35).

The staff of the House and Senate Committees demonstrated problem minded exploration of issues and questions, for they heard and analyzed the voices from all constituents. They investigated the tribal college concept in all its facets and posed questions to the Bureau of Indian Affairs, to the U.S. Office of Education, to the Office of Management and Budget, to the Congressional Research Office, and to the consortium (Forkenbrock interview 1993-6). The House field hearings and interviews developed knowledge and understanding of

Indian education on the part of the ASGIE chairmen Quie and Blouin. The Committee staff of Lovesee, Forkenbrock and Franklin translated the record and enjoined the participants, including Locke of WICHE, to settle on the basic principles in the legislation (AIHEC meeting notes, August 1978; ASGIE outline, 1978; Forkenbrock interview 1993-10, 17). The national Indian organizations demanded a definition of tribal control, motivated by the frustrations of the practical application of the Indian Self-Determination Act. And the American Association of Community and Junior Colleges held to their general support of the tribal college act and commented only on the details of funding formulas (AACJC letter, July 1978; and AACJC letter, September 1978).

This study of primary source documents identified 170 participants and 12 organizations or committees who took part in the legislative development process. A data base of 170 participant names, related issues and documents was compiled by the author. Appendix A contains participant biographical information on the 40 individuals whose names appeared five or more times in the archival documents. The data base sorted participants by constituent base, and Appendices B through E list tribal college presidents, consortium staff, consortium presidents and the master list of participants by constituent group.

Culturally Derived Values

The tribal college leaders were all members of Indian tribes, a factor that magnified their specific dedication to and involvement in the federal Indian law

policy forum. Shirley, Peters and El-Ansary maintained that the "culturally derived values serve as a criteria of choice among strategic alternatives" (Shirley, Peters and El-Ansary 1981-77, 80). The culturally derived values from tribal membership interjected an integral value among the group, the board and staff of the consortium (Stein 1988-73, 96, 112, 128, 133, 138). Their choices reflected a deep seated respect for tribal people, a respect that promoted remarkable unity of purpose in the consortium.

The cognitive styles of the tribal college presidents and congressional staff members were made evident in the frequent exchange of questions and answers, in the development of policy prototypes and proposed language and in the issue paper exploration of higher education concepts and principles. The sheer number of issue papers, more than 30, and 10 prototypes imparted an attitude among the participants, a shared quest for the best policy measure solutions (AIHEC prototypes: November 1974, February 1975, August 1975, March 1976).

Clearly, the process held its share of conflict and confrontation. The coalition of national Indian organizations catalyzed and mediated by Locke of WICHE supported the basic concept of tribal colleges, but insisted on specific means for achieving tribal control mechanisms. The scenes of disagreement were frequent in the quarterly and annual meetings of these key organizations from Dallas to Salt Lake City to Washington, D.C. The organizations issued resolutions after the committee process held well attended committee hearings. They were

dynamic and heated debates with the consortium leaders (NCAI and NIEA joint testimony, October 1977; NTCA mailgram, August 1977; Tiger interview 1993-34).

Reduce to the Basic Issues

Together, the fields of higher education and Indian law were very different and respectively complex. Whether the consortium selected the federal Indian law forum or the forum selected the tribal colleges bill, the context within federal Indian law was settled at a relatively early date, 1976, and thereby minimized the complexity and sources of conflict (Gipp interview 1993-20; Shanley interview 1993-53). The Indian law forum was complex in and of itself, carefully monitored by Indian tribes and organizations and rigidly administered by the Bureau of Indian Affairs (Senese 88-163; Philp 86-213). Ironically, the basic tribal colleges funding was not the significant source of debate. The formidable debate was about Indian education policy expansion and the affected boundaries of Indian law and Indian education policy. The federal provision of postsecondary education to tribes implicated the very definition of federal trust responsibility, and the powers of sovereign Indian tribes. The tribal colleges proposed provisions for institutional planning and development, facility remodeling and construction (AIHEC section analysis, 1977). However, the tribal colleges emerged from the selection process in eleventh hour meetings with the Office of Management and Budget, the Bureau of Indian Affairs and the U.S. Office of Education in August 1978 with Congressional support in tact, and a bill to support the most basic operational and

educational costs of the tribal colleges . . . the basic issue (AIHEC meeting notes, August 1978; Shanley interview 1993-44).

Selection in Summary

The selection process is the "political step in the policy process" (Brewer 983-187). The tribal colleges consortium was immersed in a context of competing interests and divergent fields of policy, higher education versus Indian law. The consortium participated in this overtly political series of disciplined actions and achieved the federal decisions or policies to support the tribal colleges. The unforeseen coalition of national Indian organizations delayed, but nevertheless profited the tribal colleges policy, for it provided tribal consultation opportunities, refined the concept of tribal control and tribal colleges and established a college criteria for eligibility under the law. The reference points from the past Indian law and policy greatly assisted the tribal colleges in complexity reduction. The expertise in both houses of Congress and their respective committees was a prominent point of leverage for the success of the bill. The consortium upheld the basic and fundamental issue and kept the policy goal in focus. The tribal college leaders possessed culturally derived values from their tribal memberships and their commitment to education that promoted a remarkable and effective unity of purpose. The Congressional members and staff sought and achieved a consensus through compromise and balance of interests.

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CHAPTER 5

SUMMARY, CONCLUSIONS, AND
RECOMMENDATIONS FOR FURTHER STUDYSummary

To summarize the findings, each study question area is individually discussed in the following section.

Major Historical and Policy Antecedents

The key and most important precedent in Indian law and history is the principle of tribal sovereignty and the Indian trust relationship with the federal government. Two specific federal laws illustrated the direct application of federal Indian trust relationship and federal responsibility to Indian tribes and their educational institutions: The Navajo Community Colleges Act of 1968 and the Indian Self-Determination Act of 1975. The Navajo Community College Act of 1968 established federal support for a tribally chartered college for operational funding and campus construction assistance to the Navajo Community College of Arizona. Tribally developed and controlled education and school programs comprised Title II, The Indian Educational Assistance Act of the Indian Self-Determination Act of 1975. Title II also contained a study provision, later

contracted and performed by the American Indian Higher Education Consortium. The tribal colleges study laid a critical and official foundation of reliable and trusted information in Congressional record.

Several secondary legal precedents existed in federal laws: The Snyder Act of 1923, the Indian Education Act of 1972 and the Higher Education Act of 1965. The Snyder Act of 1923 authorized Bureau of Indian Affairs support for Haskell Indian Junior College, the American Indian Art Institute and Southwest Indian Polytechnic Institute. Among all the tribal colleges, four had received support under the Snyder Act authority, through their respective tribes' agency programs priority system.

The Indian Education Act of 1972, IEA, provided legal definitions and recognition for "Indian cultural content in the curriculum" and the "unique educational needs of Indian children and adults." Indian tribes, schools, colleges and community groups received grants contingent on parental and tribal control in planning and project implementation. The IEA supported Indian teacher training and Indian adult education, both important higher education services.

The federal higher education authorities or laws outside the Interior Department were found in the U.S. Office of Education, Higher Education Act of 1965, HEA. Tribal colleges had been assisted through developing institutions or Title III of the Higher Education Act and the fund for the improvement of postsecondary education also in the HEA. The HEA established legal definitions of "community colleges," "quality postsecondary education," and "institution of

higher education." These definitions contributed directly to terms in the Tribally Controlled Community Colleges Assistance Act.

Many of the tribal colleges participated in discretionary and innovative educational programs administered by the Office of Economic Opportunity and from the Bureau of Indian Affairs Snyder Act support. Tribal and community-based education projects designed by the Navajo Nation included Rough Rock Demonstration School and Navajo Community College. Community and tribally controlled programs in diverse service areas forged some of the earliest models of tribal self-determination.

The Tribally Controlled Community Colleges Assistance Act of 1978

The tribal colleges act was passed in Congress and signed by President Jimmy Carter on October 17, 1978. The act purpose was for the operation and improvement of the tribally controlled community colleges. Definitions brought from previous federal legislation included "Indian," "Indian tribe," and "Secretary." The newly crafted definition of "tribally controlled community college" meant a formally sanctioned or chartered institution of an Indian tribe. Two other new definitions included "national Indian organization" and "full-time equivalent Indian student," which established a method of counting enrolled Indian students (enrolled or holding membership in a federally recognized tribe) enrollment for per capita funding support. "Institution of higher education" was derived from the

Higher Education Act of 1965, with the exception of the state higher education approval clause.

The eligible tribal colleges had to be chartered or sanctioned by an Indian tribe, governed by a majority Indian board, demonstrate educational goals, have operated for one year and serve a majority Indian students. To become eligible for the act, tribal colleges had to be studied and declared feasible for eligibility. Grants were based on the number of tribally enrolled Indian students, with a priority on those colleges already in operation. The grant funds per tribal college were based on a per capita maximum authorization of \$4,000 per full time equivalent Indian student. Annual reports and enrollment audits by the Bureau of Indian Affairs determined the full time equivalent Indian student count.

Participation in other higher education funding and Snyder Act support was protected in Section 108. A provision for grant adjustment or ratable reduction, provided a term by term (quarter or semester) averaging and subsequent reallocation of per capita support. Allocations were scheduled for installment payments. A facilities needs report was authorized and technical assistance was supported. The development of rules and regulations was assigned to the Secretary of the Interior (delegated to the Bureau of Indian Affairs) in consultation with national Indian organizations. The rules and regulations were to be completed and published in six months and promulgated in ten months. The funds were to be drawn from the general administrative appropriations of the Secretary (of the Interior) for enactment.

Title II of the Act reauthorized the Navajo Community College Assistance Act of 1978. Title II consisted of five sections, essentially to support a study of facilities needs and authorizing an appropriations level of \$4,000 per full time equivalent Indian student in attendance.

Events Leading to the Passage of the
Tribal Colleges Act

In 1972, the six tribally controlled community colleges in the United States joined together and incorporated a legislative advocacy and technical assistance organization, the American Indian Higher Education Consortium. The tribal colleges shared the characteristic condition of funding from federal and private grants support. These grants had proven to be inadequate, short term and discretionary in nature. The tribal colleges' chronic uncertain and underfunded condition made the search for reliable operational funding the driving force of the American Indian Higher Education Consortium.

The consortium retained a remarkably well educated staff of professional Indian higher educators. The consortium staff was complemented by a hard working and dedicated board of tribal colleges presidents and trustees. With initial funding from the Title III of the Higher Education Act of 1965, the consortium launched an aggressive federal policy development effort. Between 1973 and 1976, the consortium investigated potential federal funding authorities including existing higher education titles and Bureau of Indian Affairs authorities, as well as pending federal legislation.

In 1974, Consortium President Lionel Bordeaux requested an amendment to the Indian Self-Determination Act draft. Senator Abourezk of South Dakota, Senator Henry Jackson of Washington and Senator Kennedy of Massachusetts responded to this testimony and amended a tribal colleges study provision into Title II of the Indian Self-Determination Act of 1975. The consortium was awarded the sole source contract from the Bureau of Indian Affairs to perform the tribal colleges comprehensive study. By May 1975, a six-volume study of the tribal colleges was completed and submitted to Congress. During subsequent and numerous Congressional hearings, the study was an essential and critical data base in the Congressional record.

The consortium appeared before the Senate Select Committee for Indian Affairs in oversight hearings in March 1976. The consortium again requested a technical amendment to Title II of the Indian Self-Determination Act, to provide basic operational support to the tribal colleges. The testimony from national Indian organizations generally supported the concept but charged that the legislation undermined tribal government.

To improve the legislation support base, the consortium authored and circulated white papers on specific issues that arose during the March 1976 Senate hearing testimony. A leading critic of the legislation was the Western Interstate Commission of Higher Education (WICHE) and Patricia Locke. WICHE termed the tribal colleges legislation as tribal circumvention. Morris Thompson,

U.S. Commissioner of Indian Affairs, opposed the legislation as unnecessary and duplicative of current laws.

The House Education and Labor Committee formed the House Advisory Study Group for Indian Education (ASGIE) in 1976. The leaders, Congressmen Blouin and Quie, investigated Indian education laws. Their field hearings and school and adult education program observation and interviews expanded the Congressional record to include grassroots expertise, among whom were the tribal college leaders.

In 1977, the ASGIE held a hearing on "Federal Funding of Indian Postsecondary Education." The tribal colleges consortium brought a panel of witnesses to present the six-volume study and testify on the need for the tribal colleges legislation. The ASGIE combined the hearing testimony with their field-based information to assemble an unprecedented Congressional record on Indian education needs, including postsecondary education needs. The ASGIE 1977 hearing witnesses on Indian postsecondary education were diverse and included the national Indian organizations. In joint testimony, the National Congress of American Indians, the National Indian Education Association and the National Tribal Chairmen's Association accused the tribal colleges of tribal contravention. The federal executive branches adamantly opposed the bill, and cited college proliferation, escalating and high costs, lack of educational quality, and duplication of existing law authority as rationale. Congressman Ford of Michigan opposed higher education approaches that separated minorities, and for the potential high

costs expended for a small minority group. An expanded form of the tribal colleges bill resulted from the 1977 hearings that provided for college eligibility criteria that required a tribal charter or sanction, majority Indian governing body and student body, one year of operation and a plan of operation that emphasized Indian student educational needs.

In the Senate, after the 1976 technical amendments hearings, Senate progress slowed. The ASGIE chairman Congressman Blouin contacted Senator Abourezk of South Dakota about the lack of progress. Abourezk picked up the momentum and motivated the Senate Select Committee on Indian Affairs to support the bill and acquire a unanimous consent vote of the Senate floor for the tribal colleges bill in November of 1977.

The tribal colleges bill went through House hearings in both May and June of 1978. Still greater numbers of witnesses brought concerns that were technical and detailed. The national Indian organizations questioned the imposition of a postsecondary mechanism and demanded that funding be awarded directly to tribes instead of the colleges. The U.S. Office of Education and Bureau of Indian Affairs conceded to a position of deferral on the bill. The American Association of Community and Junior Colleges firmly supported the bill in testimony and in correspondence to the Carter White House.

In August of 1978, the Bureau of Indian Affairs in alliance with the Office of Management and Budget met for two days with consortium representative Leroy Clifford and House Advisory Group on Indian Education staff member Alan

Lovesee. During this two-day meeting in Washington, D.C., the federal executive branch attempted to constrain the legislation to conditions of administrative discretion and control. Effectively, the consortium and ASGIE alliance fended off most initiatives presented; however, the authorized support was made to be a three-year authorization and the support became based on a per capita allocation. The resulting legislation served the basic purpose of tribal colleges' operational support and acquired a "no objection" analysis from the Office of Management and Budget. The House Committee on Education and Labor proceeded with the floor passage of the Senate bill with amendments on September 16, 1978. On October 3, 1978, the Senate concurred with the House amendment, and the bill was sent to the White House. President Carter signed the bill into law on October 17, 1978.

The consortium then took up the matter of rules and regulations development and the instrument for feasibility studies. The Bureau of Indian Affairs convened a task force for consultation with national Indian organizations on rules development, and deliberated with an assembly of tribal colleges' representatives and American Indian professionals once or twice monthly beginning in January 1979. The rules were promulgated on October 28, 1979, a full year after the president's signature made the bill a public law.

The appropriations for tribal colleges were first requested in March 1979, for a Fiscal Year 1980 add-on. In June 1979, the consortium testimony requested \$7.8 million for colleges operations and technical assistance. Concurrent with the

appropriations process, individual colleges submitted applications for eligibility under the new law with the Bureau of Indian Affairs. The consortium was retained by the BIA to conduct the feasibility studies at each campus. Despite complications, the first grant awards were made on May 23, 1980 to three colleges, Nebraska Indian Community College, Standing Rock Community College and Turtle Mountain Community Colleges. Nevertheless, the delivery of the checks marked the completion of a long, arduous and fruitful effort of the tribal colleges to acquire operational support from the federal government and to expand federal Indian law to include Indian higher education.

Constituents in the Tribal Colleges Policy Development

The constituent groups were identified with regard to study question three and included tribal colleges and their unified organization, the American Indian Higher Education Consortium, the national Indian organizations, tribal leaders and governments, members of the United States House of Representatives and the United States Senate and their staff members, the federal executive branch agencies and representatives of the American higher education community.

The Tribal Colleges

The primary constituents for the Tribally Controlled Community Colleges Assistance Act of 1978 were the tribal college presidents, trustees and the consortium professional staff members. Together, the tribal colleges' American

Indian Higher Education Consortium centered their efforts on the development of the tribal colleges legislation. Thorough, consistent and comprehensive consortium policy development strategies were accomplished by the leading tribal college presidents, Lionel Bordeaux of Sinte Gleska College, James Shanley of Standing Rock College, Thomas Atcitty of Navajo Community College and Phyllis Howard of Fort Berthold College. Thomas Shortbull of Oglala Sioux Community College (later Oglala Lakota College) and Carol Juneau of Blackfeet Community College were effective contributors, although for short periods of the quest. Leading tribal college trustees provided integral testimony and strategic direction in the process, including David Risling of D.Q. University, Stanley Red Bird of Sinte Gleska College and Joy Hanley of Navajo Community College. The policy development process was implemented by the Consortium professional staff, among whom were David M. Gipp, Perry Horse, Richard Nichols and Leroy Clifford. David Gipp was integrally responsible for the strategic functions of the consortium effort and he set a standard of rapid, factual and issue-based response to Congress. All of these presidents, trustees and professional staff members were American Indian. Together, they successfully designed and implemented tasks appropriate to the complex congressional context, and the difficult legislative objective.

Congressional Leaders

The leading Congressional sponsors for the Tribally Controlled Community Colleges Assistance Act of 1978 were the Congressmen and Senators from South Dakota and North Dakota. Members of the Indian Affairs and Indian Education related Congressional Committees and Subcommittees contributed crucial leadership as well. In the United States Senate, South Dakota Senators James Abourezk and James Abdnor and North Dakota Senator Quentin Burdick were the most consistently supportive bill sponsors. Senate Committee leadership came from Washington State Senator Henry M. Jackson of the Interior and Insular Affairs Committee and American Indian committee staff members Ella Horse and Forest Gerard. In the House, Indian state leadership came from South Dakota Congressman Larry Pressler. House Committee leaders were Kentucky Congressman Carl Perkins of the House Education Labor Committee and the House Advisory Group on Indian Education co-chairmen, Minnesota Congressman Albert Quie and Iowa Congressman Michael Blouin. The notable House Committee staff members were John Forkenbrock, Alan Lovesee and Yvonne Franklin. Both Indian state congressional delegates and special Indian related committee members provided crucial and integral leadership, staff and support for the development of the tribal colleges act. Montana colleges joined the consortium in 1977 and 1978, and the Montana congressional delegation contributed just as the bill came to the floor of both sides of Congress.

National Indian Organizations

The national Indian organizations comprised a major constituent force in the development of the tribal colleges act. The National Congress of American Indians presidents provided important testimony, although not always supportive. Spokesperson Patricia Locke (also of the Western Interstate Commission on Higher Education) introduced issues that included tribal control and the higher education delivery mechanism. In 1977 and 1978, the National Congress of American Indians (NCAI) presented joint testimony with the National Indian Education Association and the National Tribal Chairmen's Association. During annual and quarterly meetings of these organizations the tribal colleges act came under scrutiny and criticism. The NCAI influence resulted in the name change from Indian controlled community colleges to tribally controlled community colleges. Generally supportive resolutions were consistent matters of Congressional Record; however, the more technical criticism on means of tribal control and the mechanism of higher education delivery were sources of serious delay to the policy development process. Key contributors from this sector were Charles Trimble, Lucille Echohawk and Georgiana Tiger (all American Indian professionals).

Tribal Government

Leaders of tribal government contributed supportive tribal council resolutions for the tribal colleges act. The tribal chairmen and council officers,

especially from the northern plains tribes (North and South Dakota and Montana) testified in Congressional hearings and corresponded with the committees of jurisdiction. While the tribes with tribal colleges were most actively involved, many tribes without tribal colleges also enacted supportive resolutions.

The Higher Education Sector

The American higher education sector was represented by the American Association of Community and Junior Colleges (AACJC) and the Western Interstate Commission on Higher Education. The AACJC federal liaison officer John Tirrell contributed crucial information on community college funding formulas and the accreditation or quality education issues. Tirrell and his AACJC colleagues sent resolutions to both Congress and the White House that attested to the need for tribal colleges. The Western Interstate Commission on Higher Education spokesperson Patricia Locke acquired unusual support from the WICHE Commissioners for high visibility participation in the tribal colleges legislation development. The WICHE project for tribal higher education programs assessed the higher education needs of many Indian tribes, although few of those with tribal colleges. The Locke influence on this legislative development was heightened with her election to the National Indian Education Association presidency in 1977 and the subsequent national Indian organizations' alliance and joint testimony.

The Federal Executive Branch

Helen Scheirbeck (Lumbi Indian) of the U.S. Office of Education assisted the consortium in early assessment of legislative alternatives and in the initial bill drafts. Official representatives of the Bureau of Indian Affairs and U.S. Office of Education adamantly opposed the tribal colleges act until the final May and June 1978 hearings when their testimony changed to deferral. Leading testimony was offered by William Demmert and Morris Thompson of the BIA, and William Demmert and Joseph Califano of the U.S. Office of Education. Two short-term contributions from the U.S. Office of Education were noted from early assistance from Frances Kelly, a project officer in the higher education office, and later from Ernest Boyer, Carter's Commissioner of Education.

The Role of the American Indian Higher Education Consortium

The tribal colleges united in a consortium beginning in 1972. The American Indian Higher Education Consortium retained an American Indian staff who were complemented by an active and articulate board of tribal college presidents and trustees. The consortium estimated the need for policy expansion through the trial of bill prototypes among a vast array of interested constituents and through careful Congressional and Indian country context perception. The consortium selected federal Indian education policy elements through the scholarly use of numerous and crucial issue papers that addressed specific areas.

The American Indian Higher Education Consortium exhibited professional attributes of tribal membership, scholarship, creativity, courage and issue commitment. They developed a knowledgeability of the complex legislative process that allowed effective policy development in a circumstance of institutional structures and procedures, through Congressional committee procedures, among national Indian organizations, in the writing of administration rules and enactment of appropriations. The American Indian Higher Education Consortium was the primary and key constituent group responsible for the effective development of federal Indian higher education policy that expanded Indian law to include the provision of Indian higher education through the operational support of the tribally controlled community colleges.

The tribal college leaders exerted the greatest influence on the tribal colleges legislation through the application of policy development strategies in careful policy estimation and selection activities. The estimation and selection processes were effectively employed to compensate for their literal and initial small political influence or clout.

Conclusions

The Effective Policy Manager

The study of historical documents and interviews made clear that federal policy development is a complex and sometimes contradictory process. The policy manager(s) must have a clear and unrelenting sense of the basic purpose of the

policy development effort. The effective policy manager must possess the qualities of scholarly curiosity, intercultural respect, adaptability for the unforeseen and the unexpected, an ability to appreciate adverse judgments, an uncanny intuition to anticipate demands, and an issue orientation in answer to all criticism and comment. These characteristic qualities exceed the capacities of any one individual and imply the qualities of a cohesive group of policy managers whose real unity of purpose can weather nearly any challenge or adversity.

Competing Constituent Perspectives and the Influential Policy Manager

Careful and factual analysis of the tribal colleges act documents indicate that the policy development process deals with the perspectives from all significant constituents. Certainly, all perspectives act on the policy development process from a remarkably unilateral platform. Among all constituents, the influential constituent(s) studies the many constituent perspectives on issues, collects and analyzes data, responds promptly to all perspectives with rational, logical and informed information, persists through the unforeseen and unexpected, respects the multiperspectives, and balances these perspectives against the basic issue of purpose. The influential constituent from Indian country must steadfastly exert policy estimation and selection strategies that acquire and maintain trusted information and a credible position with the congressional decision makers to achieve support beyond the actual political clout from Indian country congressional delegates. The influential constituent must effectively ally with

Congressman and their staff through policy estimation and selection activities that support the basic purpose or cause. In the case of the tribal college leaders, the Indian country delegation was painfully small in number, which necessitated that the American Indian Higher Education Consortium manage influential policy development strategies to build political credibility and support adequate to enact a federal law. But more than the Congressional enactment, the tribal colleges had to exert strategies with the Bureau of Indian Affairs (not allies) to establish rules and with appropriations committees in the Senate and House to develop and enact appropriations. No easy feat.

The 1970's American Civil Rights Context

From the study of historical context and the interviews, it is apparent that the American Indian tribal colleges were born in an era of Indian self-determination and tribal sovereignty. In the larger American context, the tribal colleges were born into a nation deeply involved with civil rights and its impact on higher education. In general, civil rights in education meant the right of all Americans to have equal and open access to opportunities and services, regardless of race or creed. In education, the application of civil rights principles took the form of school and college racial integration. But American Indian tribes had just survived a difficult decade of struggle to survive and a drive to be truly self-determined. The tribal college leaders viewed school and college integration as another method of cultural homogenization and assimilation, certainly counter to

tribally controlled schools and colleges. The current of American civil rights in education was almost oppositional to the tribal colleges approach to Indian higher education, Indian self-determination and tribal control based in the federal Indian trust relationship. The application of civil rights related integration in schools and colleges contrasted with the application of tribal control in tribal schools and colleges. Integration implied assimilation, while tribal control implied tribal culture, history and language centrally placed in a tribally determined curriculum. The contrast of these approaches impacted the tribal colleges policy development.

Culturally Derived Values and Leadership

The study of the policy managers' personalities and culturally derived values was possible through extensive archival document review and participant interviews. These two sources revealed a critical leadership characteristic of the tribal college leaders, that of a traditional Plains Indian warrior tradition. The tribal college leaders were from American Indian reservations, where respect for military or warrior service is held in the highest honored position. The tribal college leaders were young and shared the common tribal values that included the Plains Indian military and warrior tradition. The tribal college leaders were not distracted or confused by the Vietnam War protests; in fact, some tribal college leaders were Vietnam War veterans themselves. The warrior tradition of the plains Indian tribes and the drive to defend the nation and its members or one's

relatives may explain the undaunting unity of purpose displayed by tribal college leaders during this nearly impossible quest for federal legislation.

Two significant Plains Indian warrior characteristics are spiritual strength and courageous dedication. The tribal college leaders unfailingly began and closed all consortium meetings with prayer and were accompanied by tribal elders whose spiritual qualities and contributions were well known and respected. The courageous dedication correlated to the fearless warrior dedication whose defense of loved ones defied the odds of survival. The tribal college leaders staked their efforts on the education futures of their loved ones, defying the odds of success in Congress and institutional survival. The culturally derived value of the warrior tradition bound the American Indian Higher Education Consortium tribal college leadership together in a remarkable and effective unity of purpose.

Tribal and Academic Identity Among Derived Values

The historical document study evidenced that the tribal college leaders were all enrolled members of federally recognized American Indian tribes. They were raised up in the tribal communities with the values of family sharing, generosity, warrior commitment and spiritual dedication. The leaders knew their relatives and shared community membership with them. They were acquainted with most of their tribal members. Unqualifiedly, the tribal college leaders identified with their relatives and fellow tribal members. By their mutual life

experience as tribal members, and the Indian reservation circumstances, the tribal college leaders identified with each other as well.

Another significant quality linked the tribal college leaders to each other to promote their bonded unity of purpose. They all held formal higher education degrees and considered themselves American Indian academics. In this regard, they were unique among their tribal members, for just a few tribal members (approximately 1%) held higher education degrees by 1970. The tribal college leaders held tribal membership and academic membership, and both characteristics bound them together in remarkable unity of purpose.

In the quest for legislation, the strength of unity of purpose was tested by the contradictions in context, by the length of the process and by the other participating constituents. The American Indian Higher Education Consortium professional staff and board members exhibited an uncommon unity of purpose from mutual life experiences and tribally derived values.

Higher Education as a Preferred Life Quality

Based on the analysis of material applied to the framework of policy development strategies, it was apparent that a higher education degree was a respected quality of all the tribal college leaders. All of the leaders held a professional degree and viewed higher education as a conduit to their personal freedom in American society. They valued this characteristic to the extent of their commitment to tribal colleges and tribally controlled higher education. The tribal

college leaders exemplified their commitment to higher education through their professional positions and their long-term striving for legislation that would support their tribal colleges.

The tribal college leaders' commitment to the value of a higher education linked them to other constituents in the policy development process whose personal identity was academic in nature. This significant academic quality forged a linkage with members of the House and Senate and their staff members whose own personal significant qualities included a commitment to higher education.

Like other academics, the tribal college leaders promoted scholarly curiosity, data and fact collection and analysis, straightforward and trustworthy motivation, a visible drive to explore and research, and courageous conviction. Like other academics, they exhibited these characteristics in the conduct of their policy development efforts, and thereby effectively allied with those constituents whose orientation was academic and scholarly. Also, like other academics, they irritated those who held academics in suspicion for a variety of reasons. When the tribal college leaders proposed a real act of tribal self-determination, the national Indian organizations themselves (who championed this policy) derided and criticized their motives and the proposed bill elements. When the tribal college leaders proved capacities for successful and independent community college operations, the BIA suspected their capacities and educational qualities. Their commitment to higher education and its incumbent contribution to individual freedom and, by practice, their academic identity endowed them with a unity of

purpose with significant constituent academics. Turf guarding organizations and structure protecting bureaucracies held only limited appreciation for these tribal college academics and their purposes.

Context of the Task

This study analyzed the context of the 1970's and the historical documents of the consortium to conclude that the tribal colleges and their leaders were a contrast to the youthful American Indian militants who captured the media attention in the 1970's with armed confrontations and takeovers. The tribal colleges were a reservation-initiated higher education phenomenon, with the first generation of formally higher educated tribal members as leaders. The movement coincided with the rapid growth of the comprehensive, even amorphous community colleges explosion throughout the United States.

The tribal colleges entered the stream of American events when Congress and the United States Presidents were struggling with student protests, Black American protests, American Indian protests and correspondent white backlash. On so many fronts, the members of Congress were bombarded with protest, a specter that needed legislative solution. In this raucous stream, an American Indian cohort of academic higher educators, characteristically respectful, spiritual and strong in tribal values, achieved remarkable credibility with Congressmen for obvious and logical reasons. In contrast with the American protest groups, the tribal college leaders had an issue-based agenda, a hard working presence, deep

dedication to higher education and the Indian tribes, and a peaceful and scholarly quality. Against the context of American protest, the tribal college leaders' presence in Congress was a contrast. The unanimous consent vote in both sides of Congress indicated the acceptability level of their cause, the support of tribal colleges.

Tribal Colleges Act, a Tribally Based Initiative

From the literature review on the tribal colleges act, previous research on the tribal colleges act assumed that tribal colleges were an outgrowth of minority higher education, from the 1970's civil rights reforms of higher education. Previous research also assumed the federal policy of the tribal colleges act was an initiative of the federal executive branch, the Bureau of Indian Affairs. In the case of the tribal colleges, the literature attributed the formation of the tribal colleges act to a misguided BIA initiative.

Unlike previous literature, this study was based on primary source historical documents and interviews with participants. The firsthand documents and first person interviews revealed that the tribal colleges law was a collaborative initiative, designed and sustained by tribal college leaders within the context of the federal Indian trust relationship. It is apparent that the tribal college leaders of the American Indian Higher Education Consortium achieved sophisticated policy development within the complex Congressional legislative process and among fiercely competing constituent groups. Although perhaps uncommon, this effort

was an American Indian grassroots legislative development and one with surprising sophistication.

The Bureau of Indian Affairs consistently opposed the bill development, as did the U.S. Office of Education. From such primary documents as meeting minutes and phone records, the documentary evidence indicated the aim of the federal executive branch to be constraint and rigid territory protection. This study of primary source documents, official public record and primary participant interviews revealed that federal policy development cannot be studied in isolation from the constituent voices, and in this case, the first person voices of the tribal college leaders. What may have appeared as higher education policy development or expansion by federal executive branch initiatives or even Congressional initiative was in fact tribal nations' initiative in the context of the federal Indian trust relationship.

Recommendations for Further Study

Other Grassroots Legislative Advocates

This study has revealed several significant aspects of the federal tribal colleges law development, but several important questions remain unanswered. It is apparent that the consortium of tribal colleges was a grassroots American Indian advocacy organization that successfully influenced federal Indian policy on higher education. Were there other American Indian advocacy organizations that accomplished crucial pieces of legislation during the 95th Congress? If there were

other policy forming organizations, what process was used by their managers to achieve effective results? Are their policy management strategies comparable or contrasting to those of the American Indian Higher Education Consortium?

Policy Analysis Framework

Although it may appear from this study that the consortium of tribal colleges followed a carefully laid blueprint for policy development, this was not in fact the case. My use of the policy analysis format was to indicate the consortium's thorough and complete efforts, despite there having been no specific policy development blueprint. Does applying a policy analysis format to the consortium work somehow underestimate the significance of their original creativity and innovation? Are there other formats of policy analysis that could be useful as an approach to scientific discovery of this nature?

Future Tribal College Policy Development

Given what we now know about the policy development of the tribal colleges act, what legislative events have occurred since 1978? The initial legislation served the operational needs of the young and developing tribal colleges. As the tribal colleges mature and develop, what role will they have in the evolution of federal tribal college policy? What relationships with Congress and national Indian organizations will be needed to effectively manage policy development? Will the tribal colleges forge new ground in federal policy, outside the arena of Indian policy?

The 95th Congress and Other Indian
Organizations

The 95th Congress legislated the Indian Child Welfare Act and the Indian Health Care Act. What combinations of conditions and leadership made the 95th Congress receptive and generative of such landmark Indian health and welfare legislation? Did these acts expand Indian law? With regard to each of these, were there evident Indian professional coalitions who formed effective partnerships with Congress? If so, what strategies accomplished legislative results, and how do they compare or contrast with those policy development strategies of the American Indian Higher Education Consortium?

APPENDICES

APPENDIX A

BIOGRAPHIES OF SIGNIFICANT CONTRIBUTORS
TO TRIBAL COLLEGES LEGISLATIONIntroduction

The survey of archival documents acquired information on 170 participants in the tribal college legislative development. A data base analysis of the participants indicated 40 participants who appeared five or more times as key to documents. The writer gathered biographical information from the records reviewed and compiled a brief sketch of the leading participants. In addition, information was included from the Stein study, "A History of Tribally Controlled Colleges, 1968-1978." A bibliography at the conclusion of this appendix details the source documents that reference these important participants. In alphabetical order, the 40 participants are:

Abdnor, James
Abourezk, James
Atcitty, Thomas
Baldy, Steve
Belgarde, Larry
Blouin, Michael
Bordeaux, Lionel
Burdick, Quentin
Chisholm, Shirley
Clifford, Leroy

Demmert, William
Echohawk, Lucille
Falling, Leroy
Ford, William
Forkenbrock, John
Franklin, Yvonne
Gipp, David
Gerard Forest
Hanley, Joy
Hena, Jim

Horse, Ella
 Horse, Perry
 Howard, Phyllis
 Jackson, Henry M.
 Juneau, Carol
 Kildee, Dale
 Lavis, Rick
 Locke, Patricia
 Lovesee, Alan
 Meeds, Lloyd

Nichols, Richard
 Pressler, Larry
 Quie, Albert
 Risling, David
 Scheirbeck, Helen
 Shanley, James
 Shortbull, Thomas
 Tiger, Georgiana
 Tirrell, John
 Wynde, Yvonne

Abdnor, James

Mr. James Abdnor was the third term second district Republican Congressman of South Dakota during the 95th Congress. He was an important cosponsor of the tribal colleges bill in 1977 and 1978 (AIHEC sponsor list, 1977). Mr. Abdnor served on the House Public Works and Veteran's Committees. A staff member in the Abdnor office assisted the consortium with information development and dissemination.

Abourezk, James

Mr. James Abourezk was a Democratic Senator from South Dakota. He was raised on the Rosebud Sioux Reservation, and his firsthand knowledge of the Indian hardships and needs contributed to his constant support of the tribal colleges (Stein 1988-188). He was deeply involved in the development of the Indian Self-Determination Act of 1975 and wrote the consortium about the Indian contract schools funding formula in 1974 (Abourezk letter, April 1974)

Mr. Abourezk sponsored S. 2634, the "Indian Postsecondary Educational Assistance Act of 1975" (S. 2634, November 1975). The final version of the bill was sponsored by Mr. Abourezk, S. 1215 (S. 1215, September 1977). Among the congressmen and senators who became sponsors in the tribal colleges policy development, Senator Abourezk was the strongest and most consistent.

Atcitty, Thomas

Mr. Thomas Atcitty is a Navajo tribal member from New Mexico. Mr. Atcitty was raised in the Shiprock, New Mexico area of the Navajo reservation, and had been an administrator of Fed-mart in Window Rock, Arizona (Stein 1988-60). He served as both Vice President and President of Navajo Community College, 1972 to 1977. The consortium presidency went to Mr. Atcitty in 1974-75. The Atcitty testimony before the Senate Committee on Interior and Insular Affairs in 1975 addressed the "founding precepts of tribal college development, being tribal control and tribal sovereignty" (AIHEC testimony, April 1975).

Baldy, Steve

Mr. Steve Baldy is a member of the Hupa Tribe of northern California and a graduate of the University of California, Davis (Stein 88-81). He served as president of the Hehaka Sapa College of D.Q. University in Davis, California from 1974 to 1977. When the consortium went before the Senate Interior and Insular Affairs Committee in 1976, Mr. Baldy was on the witness panel. Mr. Baldy was a

proponent of an Education DHEW authority, particularly preferred from a previous record of BIA opposition to the D.Q. University takeover of an abandoned military base for a campus facility. On the consortium board, he was a vocal participant, appearing frequently in minutes and discussion notes as an articulate spokesperson.

Belgarde, Larry

Mr. Larry Belgarde is a member of the Turtle Mountain Chippewa Tribe in Belcourt, North Dakota. In 1976, he was co-director of the Turtle Mountain Community College with Twila Martin (Stein 1988-146). As a consortium board member, Mr. Belgarde dedicated time and effort to correspondence from TMCC to the North Dakota congressional delegation. In 1980, Mr. Belgarde served as the Education Superintendent for the Turtle Mountain Indian Agency of the Bureau of Indian Affairs. In this role, he was assigned the completion of a BIA Report on the status of tribal colleges in 1980 (BIA Exit Report, April 1980). This report addressed issues with regard to grant eligibility, restoration of the Snyder Act funds, and the need for foundation, forward and phased funding.

Blouin, Michael T.

Mr. Michael Blouin was a second term Democratic Congressman from Iowa during the 95th Session of the U.S. Congress. He was appointed to the House Subcommittee on Indian Education, a subcommittee reduced to an

Advisory Study Group due to the resignation of Congressman Lloyd Meeds of Washington (AIHEC phone record, May 1977). Together with the remaining member of the group, Al Quie of Minnesota, Mr. Blouin was proactive in oversight reviews of federal Indian education legislation. They planned and implemented an ambitious schedule of field hearings and interviews on Indian reservations across the country. Accompanied by expert staff, these Congressmen acquired and developed an expansive record of Indian education needs and information. Resultant from firsthand observations, conversations and testimony, these congressmen became painfully aware of the needy state of Indian education, and in particular, the tribal colleges (House Report on H.R. 9158, September 1978). Mr. Blouin's staff member was John Forkenbrock, whose work on the tribal colleges legislation was invaluable.

While Mr. Blouin had few if any Indian constituents in his home district, he was a prime proponent and cosponsor of the tribal colleges bill, H. R. 11104 in 1977 and H.R. 9158 in 1978 (H.R. 9158, September 1977). He countered Congressman William Ford's 13 points of opposition and analyzed, "The needs of the reservations do not equate to towns in the United States." Mr. Blouin served as chair of the ASGIE. He also supported the Navajo Community College Act. When the Bureau of Indian Affairs and the Office of Management and Budget proposed an alternative draft of the bill, Congressman Blouin held firm on the restoration of the NCC Act and for the basic operational funding for tribal colleges (AIHEC meeting notes, August 1978).

Bordeaux, Lionel

A member of the Sicangu Lakota of the Rosebud Sioux Indian Reservation of South Dakota, Lionel Bordeaux participated in the events leading to the passage of the tribally controlled colleges act, from inception to the delivery of the first check. Mr. Bordeaux holds an undergraduate degree from Black Hills State College in Spearfish, South Dakota and studied in the field of higher education at the University of Minnesota-Minneapolis. He served as president of the National Indian Education Association in 1971. He returned to the Rosebud Reservation and was appointed to the presidency of Sinte Gleska College in 1973.

Bordeaux was a key activist in the tribal college movement, and for the tribal college concept as a model of tribal self-determination (Stein 1988-128, 133). As a founding member of the consortium board of directors, he contributed congressional testimony during the study period. Mr. Bordeaux presented the consortium's initial congressional testimony in 1974 and requested an amendment to the Indian Self-Determination Act, Title II, The Indian Education Assistance Act (AIHEC testimony, May 1974). He served as the third president of the consortium, in 1975-76, and served on every panel of tribal college witnesses before the Senate and House committees. Mr. Bordeaux tirelessly sought Senate and House support, an effort that occupied many years. He was integral in the long-term discussions of tribal control with the national Indian organizations.

Bordeaux held a membership on the Task Force 12 that drafted the tribal colleges law rules and regulations (Task Force 12 minutes, December 1979).

The data base study of participants in the tribal colleges legislative development identified the Bordeaux contribution and participation to be the most frequent and consistent among all 170 people that appeared in the study documents.

Burdick, Quentin

A noted source of tribal colleges support since 1974, Mr. Quentin Burdick was the Democratic Senator of North Dakota. Senator Burdick had a crucial membership on the Senate Subcommittee on Interior Appropriations in 1979 (AIHEC Information, September 1979). Mr. Burdick was a consistent cosponsor of the tribal college bill. The Indian affairs staff member in the Senator's office was Sarah Garland an activist on behalf of the legislation development process.

Chisholm, Shirley

A fifth term Democratic Congresswoman from the twelfth district of New York State, Ms. Chisholm was an enthusiastic supporter for tribal colleges development from the beginning of the consortium search for support. In 1975, Ms. Chisholm recommended a Title III Developing Institutions (HEA) set aside fund for the tribal colleges (AIHEC memo, October 1975). Congresswoman Chisholm's staff members Smith, McBurney and Morrisay obtained cosponsors

from among the Black Caucus of the U.S. House of Representatives.

Ms. Chisholm met personally with the consortium delegation several times between 1975 and 1977.

Clifford, Leroy

An Oglala Lakota tribal member, Mr. Leroy Clifford was the second Executive Director of the American Indian Higher Education Consortium. He succeeded David Gipp and assumed the lead role in testimony development and delivery before Congress. Mr. Clifford was lead witness before the House Education and Labor Committee in October 1977 (AIHEC testimony, May and October 1977). Once the legislation was passed and made law by President Carter, Mr. Clifford took the chair of the Task Force on Indian Vocational Education (another BIA convened task force to develop rules and regulations) (Task Force Status Report, March 1979). The primary concentrations of his term of office were rules development and the appropriations legislation before Congress (AIHEC briefing paper, May 1979; AIHEC fact sheet, August 1979; Clifford testimony, February 1980).

Demmert, William

From Alaska, Dr. William Demmert is Tlingit and Lakota Indian. He received his undergraduate, graduate and doctoral education at the University of Alaska, Anchorage. He held the directorship of the U.S. Office of Education,

Department of Health Education and Welfare in 1976 to 1978. For a period in 1978, Dr. Demmert additionally held the education director's position in the Bureau of Indian Affairs Office of Education Programs. Dr. Demmert appeared before the House and Senate Committees in 1976, 1977 and 1978, and presented positions of opposition and later, deferral toward the tribal colleges bill (Demmert testimony, July 1977; Demmert letter, June 1978).

Echohawk, Lucille

Ms. Echohawk is a member of the Pawnee Tribe of Oklahoma. She was a prominent and nationally known Indian educator during the 1970's.

Ms. Echohawk was elected secretary of the National Indian Education Association, and delivered testimony on behalf of the coalition of national Indian organizations, during the 1977 hearings on the tribal colleges bill (NCAI/NIEA testimony, October 1977). She was responsible for the distribution of the NIEA resolutions that were passed regarding the protection of tribal sovereignty and higher education delivery mechanisms. Ms. Echohawk was a close associate of Patricia Locke, and held a term of office in NIEA concurrent to the Locke NIEA presidency in 1977-78 (NIEA resolution, November 1977).

Falling, Leroy

The initial outline of rules and regulations for the tribal colleges act was prepared by Mr. Leroy Falling, a professional BIA representative, in 1979. Falling was assigned to the Aberdeen Area Office (North Dakota) Bureau of Indian Affairs and had a role in contracting Indian Self-Determination grants at that level. Mr. Falling reported to the members of Task Force 12 that the BIA would replenish the Snyder Act funds lost by the tribal colleges in 1974. He was later responsible to publish a newsletter for Task Force 12 members. He was assigned to review the final rules and regulations draft with consortium attorney Bo Bo Dean (Task Force minutes, July 1979).

Ford, William

Mr. Ford was chairman of the House Subcommittee on Postsecondary Education; he is a Democrat from Michigan. Mr. Ford issued a 13 point statement of opposition to the tribal colleges bill in January 1977. In summary, his basic objections were that the bill (1) duplicated funding available from the USOE-Higher Education Act and the Interior Bureau of Indian Affairs, (2) set a dangerous federal precedent for racially specific higher education programs, (3) fragmented federal postsecondary education policy, and (4) consisted of a small class of colleges with a large amount of money (Ford letter, January 1977).

All postsecondary education proposed legislation came before Mr. Ford's subcommittee; however, the House Advisory Study Group on Indian Education had shared jurisdiction over the tribal colleges bill. The consortium issued a white paper in specific answer to the Ford points in February 1977. In hearing, the consortium panel of witnesses were told by Mr. Ford that the tribal colleges bill was "the worst piece of legislation to come before this subcommittee" (Bordeaux interview, 1993).

Forkenbrock, John

Iowa Democratic Congressman Michael Blouin retained John Forkenbrock as a staff assistant during the 94th Congress. Mr. Forkenbrock had been a public school teacher in Iowa and worked on education issues. Congressman Blouin acquired a membership on the House Education and Labor Committee and Forkenbrock was hired as a staff assistant on the House Advisory Study Group on Indian Education. The ASGIE sponsored field-based hearings, observations and hearings throughout Indian country, and Forkenbrock was among the staff who implemented this ambitious plan of field-based data gathering. Especially during 1977 and 1978, John was instrumental in balancing the constituent interests and acquiring the outcome of support for the tribal colleges. The author conducted a participant interview with Mr. Forkenbrock, and his perspectives on consortium strategies were meaningful to the content of this study.

Franklin, Yvonne

Staff member of the House Education and Labor committee, appointed by Congressman Al Quie, ranking minority member, Ms. Franklin was systematic with her investigation of proposed legislation. She held the title, Minority Staff Investigation (AIHEC phone notes, May 1977; Franklin memo, March 1976). She corresponded with Senate staff on the tribal colleges bill, and issued a tribal colleges prototype bill in 1977.

Gipp, David

Mr. David Gipp is a Hunkpapa Lakota from the Standing Rock Indian Reservation of Fort Yates, North Dakota. Mr. Gipp was the consortium's first Executive Director. The Title III, Higher Education Act grant, funded this position in 1973 (Stein 1988-182). The consortium based their headquarters in Denver. Gipp was a major contributor to the tribal college legislation, building the policy measures, fielding issue papers, contacting congressional staff, and attending the national Indian organizations' quarterly meetings (Gipp letter, December 1974; AIHEC testimony, April 1975).

The Gipp consortium administration achieved a standard of thorough and excellent record keeping that made this entire treatise possible. Mr. Gipp was creatively responsive to requests for information (AIHEC issue paper, 1975). He anticipated the need to develop reports, issue papers, and continuously provided

consortium members with updates and summaries of the legislative progress (AIHEC information paper, March 1976; Gipp memo, August 1976). Mr. Gipp assisted every consortium delegation to the capital, often leading the witness panels before congressional committees. He had a major hand in authoring over 30 issue and white papers, summaries, reports and written testimony during his tenure as Executive Director, 1973 to 1977. David Gipp resigned from the consortium leadership in 1977 to assume the presidency of the United Tribes Educational and Technical Center (Gipp interview, 1989).

Gerard, Forest

A Blackfeet tribal member, Mr. Forest Gerard was a staff member of the Senate Committee on Interior and Insular Affairs, 1975-1979. He participated in the policy measure development process from the legislative branch perspective. He convened the initial meeting of the BIA Task Force 12, meeting to draft the rules and regulations for the new tribal colleges act (Task Force 12 minutes, March 1979).

Hanley, Joy

Ms. Joy Hanley was a member of the Navajo Tribe of Arizona. She served as a trustee on the Navajo Community College board of trustees. Her participation in the legislative process was as a consortium board member. During the year 1978, Ms. Hanley was Acting President of NCC, after the Atcitty

resignation from the presidency (Stein 88-64). Navajo Community College was grantee for the initial consortium grant from the Title III, Higher Education Act. In addition to the NCC presidency, Ms. Hanley served as the Chairman of the NCC Board of Trustees in 1978-79. The issues with which she was associated were level of authorization, rules and regulations development, Navajo Community Colleges Act, Title II, and the funding formula (NCC letter, June 1979; Task Force 12 minutes, March 1979).

Hena, Jim

A Tesuque and Zuni tribal member, Mr. Hena was the Special Assistant to the president at Navajo Community College. In 1977, he met with House Committee staff Yvonne Franklin, to urge separate legislation (from the other tribal colleges) for the Navajo Community College Act. Mr. Hena conveyed the study of tribal colleges to AIHEC (Hena letter, January 1976). Mr. Hena was critical of the original act's funding base, and proposed an expanded base funding for Navajo Community College (AIHEC memo, August 1976). In the August 1978 meeting with the Office of Management and Budget, BIA, USOE and the consortium, Hena was opposed to a boiler plate charter, and pointed out the tribal

sovereign right to determine the charter format (AIHEC meeting notes, August 1978).

Horse, Ella M.

A Kiowa tribal member, Ms. Ella M. Horse served as a committee staff member for the Senate Interior and Insular Affairs Committee, which later became the Senate Select Committee on Indian Affairs. She was in constant correspondence and phone contact with consortium staff. Ms. Horse was responsible to acquire information for Senate committee members, and drafted and redrafted bill sections in cooperation with all interested parties and, in particular, with the consortium (E. Horse memo, June 1977; AIHEC memo, June 1976; AIHEC memo, August 1976). From her correspondence, Ms. Horse had a commitment to tribal consultation in the legislative process (E. Horse memo, October 1977).

Horse, Perry

Mr. Horse is a Kiowa tribal member of Oklahoma. He had received his undergraduate and graduate level education from Harvard University. As Associate Director of the consortium, Mr. Horse planned and implemented strategies to accomplish the legislation, the tribal colleges act. The term of his employment was from 1975 to 1979. He held the title Director of Research and Data. The records he kept of phone conversations, discussion notes and minutes

were meticulous; he was in constant communication with his consortium colleagues (P. Horse memo, January 1975). Data collection and report preparation were among his strengths (Stein 1988-185). His rapid written and focused responses to inquiries from all levels, but in particular to the House and Senate committee members were phenomenal.

Howard, Phyllis

Ms. Howard is a member of the Three Affiliated Tribes of North Dakota, capital in Newtown. She was the president of the Fort Berthold Community College, tribally chartered college of the Three Affiliated Tribes during this period. She served as consortium president in 1978-79, and delivered testimony before the congressional committees, with a panel of tribal college colleagues. Ms. Howard's lead testimony in 1978 emphasized the tribal history and culture aspect of tribal colleges curricula.

Jackson, Henry M.

Washington State's United States Senator Henry M. Jackson was a member of the Senate Interior and Insular Affairs Committee in 1974. He was involved in the development of the Indian Self-Determination and Educational Assistance Act. In 1974, he informed the consortium that time was too short to amend the tribal college operational support into the self-determination bill. But, he was amenable to a study provision amendment in Title II (education). Mr. Jackson's

participation in this process was critical for it provided a legislative authority to establish an officially recognized base of tribal colleges information (Jackson letter, April 1974).

Juneau, Carol

An Hidatsa tribal member of the Three Affiliated Tribes of North Dakota, Ms. Carol Juneau was director and, later, president of the Blackfeet Community College in Browning, Montana. Juneau received her undergraduate degree in education at Eastern Montana College and a graduate degree at Montana State University. After Blackfeet Community College was granted consortium membership in 1978 (the first Montana tribal college, followed shortly by Salish Kootenai College), Ms. Juneau became an active consortium board member. In 1979-80, she served as the consortium board secretary. Ms. Juneau was appointed to the BIA Task Force 12 that drafted rules and regulations for the new tribal colleges act (AIHEC letter, December 1978). She monitored rules drafts and corresponded with colleagues regarding approved draft language (Juneau letter, May 1978).

Kildee, Dale

Mr. Dale Kildee was a first term Democratic Congressman from Michigan in 1977-78, during the 95th Congress. He was a cosponsor for the tribal colleges

bill in the House in 1977 and 1978. Mr. Kildee held a prestigious membership on the House Education and Labor Committee.

Lavis, Rick

Rules and regulations drafting was Mr. Lavis's role in the legislation development process. A Bureau of Indian Affairs professional employee, he held the title of Deputy Assistant Secretary of the BIA in 1978. He represented the BIA in the August 1978 presentation of the OMB/BIA/USOE alternative bill. The BIA and OMB held firm on funding formula by capitation (funding per individual) and striking the college facilities construction provision. In 1979, Mr. Lavis was the BIA coordinator for rules and regulations drafting (Lavis letter, June 1979).

Locke, Patricia

Ms. Locke is a Hunkpapa Lakota from the Standing Rock Sioux Reservation of Fort Yates, North Dakota. Ms. Locke resided in Denver during the study period and held a professional administrative position with the Western Interstate Commission on Higher Education, Indian programs. Prior to this position, Mr. Gipp, former consortium director, described that Ms. Locke was retained briefly in a consultative role with the consortium, a relationship that was abruptly ended by the board, for non-performance. From the WICHE base, Ms. Locke traveled extensively among Indian reservations, to the nation's capital and Indian organizations quarterly meetings (Locke testimony, March 1976 and

May 1977). WICHE assessed and documented the higher education programs and plans of over 50 tribes (although few of the consortium member tribes).

In a March 1976 letter to high placed federal legislative and executive officials, Ms. Locke unfolded a series of concerns about the proposed tribal colleges legislation. Many of these concerns became points of opposition for the federal offices. Tribal chairmen and Indian organizations also reacted to Ms. Locke's points. The National Indian Education Association elected Ms. Locke to their board of directors and the association presidency in 1977. From this office, Ms. Locke actively proposed resolutions on tribal control and sovereignty issues with the tribal colleges legislation. The formidable coalition of national Indian organizations and their joint testimony and correspondence was attributable to her influence and leadership during 1976 and 1977 (NIEA/NCAI testimony, October 1977).

WICHE provided legal consultation, travel expenses and a credibility in the forum of the tribal college legislation (Dunbar letter, May 1977). Ms. Locke contributed to the policy concepts of tribal college eligibility criteria, consultation with Indian organizations in the development of feasibility study format and rules and regulations and in the technical and administrative mechanisms that insured tribal control in the colleges.

Lovesee, Alan

Mr. Lovesee was the staff attorney for the House Subcommittee on Indian Education, and the House Advisory Study Group on Indian Education (ASGIE). He was appointed by Congressman Carl Perkins of Kentucky, who chaired the House Education and Labor Committee during the period of this study.

Mr. Lovesee journeyed through Indian country with the ASGIE and conducted field hearings and interviews on oversight information for legislation revision in Indian education law. The two members on the ASGIE were Congressman Mike Blouin of Iowa and Congressman Al Quie of Minnesota. Mr. Lovesee established an information base on Indian education and in particular about tribal colleges.

Mr. Lovesee attended the tribal colleges consortium meetings and was influential in the tribal colleges bill language development in the House (ASGIE notice, October 1977). Lovesee understood the federal/Indian trust relationship and demonstrated this understanding in the August 1978 joint meetings with the consortium of tribal colleges, the Office of Management and Budget, the Bureau of Indian Affairs and the U.S. Office of Education (House Report on H.F. 9158, September 1978). On this occasion, Lovesee exacted the basic purpose of the legislation -- operational funding -- and as point mediator in this eleventh hour meeting, perceived the necessary compromises that would insure OMB sign off on the legislation (AIHEC meeting notes, August 1978).

Meeds, Lloyd

Congressman Meeds of western Washington State was Chair of the House Subcommittee on Indian Education in 1976. He supported the consortium request for a bill draft and volunteered to sponsor a bill, although he preferred to be the sole sponsor. The early 70's were troubled in Indian country over fishing and property rights struggles. The Meeds congressional district was troubled by Indian activists protecting aboriginal fishing rights and the whites' reaction or backlash. The struggle rose to such a crescendo that Congressman Meeds withdrew from Congressional assignments related to Indian Affairs. In 1976, Congressman Meeds resigned from his Subcommittee assignment. The loss of his membership reduced the Subcommittee to an Advisory Study Group. The remaining members were Minnesota Congressman Al Quie and Iowa Congressman Michael Blouin (AIHEC phone notes, May 1977).

Nichols, Richard

As consortium Director of Accreditation, Mr. Nichols was involved in the discussion of institutional quality and alternative accreditation processes for tribal colleges. He recommended that exemptions from feasibility could be provided to candidate and accredited colleges (Nichols Letter, June 1976). Mr. Nichols was adamant about building a broad based support in the House (Nichols letter, August 1978). He helped maintain an updated legislative information base for the

consortium. The consortium nominated Mr. Nichols to the Task Force 12 membership and he was appointed in January 1979 (BIA Task Force 12 membership, January 1979).

Pressler, Larry

Mr. Larry Pressler was a second term Republican Congressman from South Dakota during the 95th Congress. He was a cosponsor for the tribal colleges bill in 1977 and 1978 (H.R. 11104, 1977 and H.R. 9158, 1978).

Quie, Albert

Mr. Quie was an eleventh term Republican Congressman from the Minnesota Congressional District #1. He was ranking minority member on the House Committee on Education and Labor during the 95th Congress, and was on the Subcommittee on Indian Education with Mr. Meeds of Washington and Mr. Blouin of Iowa. The subcommittee was reduced to an Advisory Study Group when Mr. Meeds left the subcommittee. The ASGIE traveled throughout Indian country and held field hearings and interviews regarding federal Indian education laws. Mr. Quie and Mr. Blouin introduced H.R. 11104 and H.R. 9158, the tribal colleges bill. The House Report on H.R. 9158 passage contained a two-year study of the tribal colleges, the results of the ASGIE field research (House Report, September 1978). Mr. Quie exchanged correspondence with the Congressional

Budget Office and supported the tribal colleges' need for funding (Blouin letter, September 1978).

Risling, David

A member of the Hupa tribe of northern California, Dr. David Risling was a founding trustee on the Hehaka Sapa college Board of the D.Q. University in Davis, California. Dr. Risling was a professor of sociology and anthropology at the University of California-Davis and a volunteer faculty member at D.Q. University as well. He was a chartering consortium board member and contributed to the legislative efforts throughout the study period. The D.Q. University pursued federal legislation for campus construction in 1972, with the support of Senators Tunney and Cranston and Congressman Roybal. Dr. Risling was a proponent of tribal college legislation within the jurisdiction of the Office of Education, DHEW.

Scheirbeck, Helen

Ms. Scheirbeck is a Lumby tribal member. She was a program officer in the U.S. Office of Education, Indian Education Programs during the study period. The consortium received support and encouragement from Ms. Scheirbeck in 1973, when the consortium sought legislative authority and potential funding options. The organizational meeting of the consortium was convened by Ms. Scheirbeck in 1972. As a consortium consultant, Ms. Scheirbeck developed an initial draft of the tribal colleges bill in 1974 (Gipp interview, 1989; Scheirbeck

memo, December 1974). Legislative alternatives were highlighted in yet another issue paper authored by Scheirbeck in 1975. She outlined sections of federal laws which included the Indian Self-Determination Act, the Vocational Education Act, the Omnibus Education Act, and the Higher Education Act (Scheirbeck mailgram, February 1975). From within the U.S. Office of Education, Ms. Scheirbeck lent insights on federal organizational structures and conditions, as well as information on key officials and congressional staff. She accompanied consortium staff and board members during meetings with U.S. Office of Education officials and in the Congress.

Shanley, James

An Assiniboine tribal member from the Fort Peck Reservation in Montana, Dr. Shanley was raised in Poplar, Montana. He was president of Standing Rock Community College in Fort Yates, North Dakota during the study period. Dr. Shanley completed an undergraduate degree in education from Eastern Montana College in Billings, Montana, and a doctoral degree from the University of North Dakota in Grand Forks, North Dakota. He served a term as president of the consortium in 1976-77 and was instrumental in the arrangements made to meet with the Carter transition team in the White House in February of 1977 (AIHEC testimony, May 1977; Stein 1988-190). The most significant consortium interactions with the national Indian organizations occurred during the Shanley AIHEC presidency.

Shortbull, Thomas

Mr. Shortbull is an Oglala Lakota tribal member. He served as director and later president of the Oglala Sioux Community College on the Pine Ridge Sioux Indian Reservation of South Dakota. Among the consortium hearing witnesses, Mr. Shortbull was an important presenter before the Senate Committee on Interior and Insular Affairs in 1975 and 1976 (Consortium testimony, March 1976). Shortbull built and maintained a positive relationship with Massachusetts Senator Edward Kennedy and his staff. He held the position that the tribal colleges bill should be an amendment to the Omnibus Education Act (AIHEC memo, June 1976; AIHEC teleconference notes, July 1976). He served on the consortium board throughout his presidency and was nominated to the BIA Task Force 12 (AIHEC letter, December 1978). Shortbull obtained legal assistance for the consortium, William Sudow (Oglala Lakota tribal attorney) to analyze the options of legislative authority in June 1976.

Tiger, Georgiana

A Blackfeet Indian woman, Ms. Tiger was educated at George Washington University and did her graduate work at Harvard University. During the study period, she was a staff member of the National Congress of American Indians, in their national headquarters in Washington, D.C. Ms. Tiger served as a specialized staff person on education issues and in 1977 assisted the NCAI education

committee hearing process. She was concerned about vague definitions of Indian community and Indian control (Tiger memo, March 1977). Ms. Tiger was associated with the coalition of national Indian organizations, from 1976 to 1978.

Tirrell, John

Mr. John Tirrell served as the Legislative Analyst for the American Association of Community and Junior Colleges, in the national headquarters. With his assistance, the tribal colleges consortium received an AACJC conference resolution of support for the tribal colleges bill and on several occasions, letters of clarification and support on the need for tribal colleges and adequate funding. When the Carter White House transition team was assembled, AACJC informed the White House liaison William Cable of the anticipated bill passage. The consortium had a strong ally in the AACJC and Mr. John Tirrell, their legislative analyst. Supportive congressional testimony was submitted throughout the study period, with correspondence of a formal and informal nature (AACJC letter, July 1978; AACJC resolution July 1978; AACJC letter, September 1978).

Wynde, Yvonne

A member of the Sisseton-Wahpeton Sioux Tribe of South Dakota, Yvonne Wynde was president of the Sisseton-Wahpeton Community College during the study period. She served as the SWCC representative on the consortium board and accepted membership on the BIA Task Force 12 that drafted the federal rules

and regulations for the tribal colleges act (AIHEC letter, December 1978). She was elected by the Task Force to the position of vice chairman and served as presiding chairman during several task force sessions (Task Force 12 minutes, January and March 1979).

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APPENDIX B

LIST OF PRESIDENTS*

TRIBALLY CONTROLLED COMMUNITY COLLEGES

1976

American Indian Satellite Community College, Nebraska	Louis LaRose Coordinator
Cheyenne River	Ellsworth LeBeau Coordinator
Fort Berthold	Phyllis Howard Coordinator
Hehaka Sapa at D.Q.U.	Steve Baldy Acting President
Inupiat University of the Arctic	William Vaudrin President
Land Claims College	Eugene Evans Director
Lummi School of Aquaculture	Paul Winkler Director
Navajo Community College	Thomas Atcitty President
Oglala Sioux Community College	Thomas Short Bull President
Sinte Gleska College	Lionel Bordeaux President

Sisseton-Wahpeton Community College	Muriel Powers Acting Director
Standing Rock Community College	James Shanley President
Turtle Mountain Community College	Larry Belgarde Director

***Source:** Bureau of Indian Affairs Commissioner Morris Thompson letter to Senator James Abourezk of South Dakota, July 7, 1976, in response to a request for information on the tribal colleges, BIA operated colleges and Navajo Community College.

APPENDIX C

STAFF MEMBERS

AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

The AIHEC Board of Directors met in Davis, California on September 14-15, 1973 and appointed their initial professional staff members.

David M. Gipp, Executive Director
Cletus Satpauhoodle, Human Resource Director
Larry Dennison, Accreditation Director
Perry Horse, Research and Data Director
Wilhelmina Frederick, Curriculum Development Director
Barbara Walking Stick, Cooperative Education Information Director

Later staff included:

Leroy Clifford, Executive Director (1977-81)
Richard Nichols, Accreditation Director
Buddine Stewart, Curriculum Development Director
John Emhoolah, Human Resource Director
Page Baker
Roberta Wilson
Leroy Clifford, Executive Director

Source: Stein 1988: 182-183.

APPENDIX D

PRESIDENTS

AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

1973-1974 Gerald One Feather, Oglala Sioux Community College

1974-1975 Thomas Atcitty, Navajo Community College

1975-1976 Lionel Bordeaux, Sinte Gleska College

1976-1977 James Shanley, Standing Rock Community College

1978-1979 Phyllis Howard, Fort Berthold Community College

APPENDIX E

LIST OF PARTICIPANTS: TRIBALLY CONTROLLED COLLEGES ACT

CONSORTIUM AND TRIBAL COLLEGES

<u>Name</u>	<u>College</u>	<u>Tribe</u>	<u>Position</u>
Atcitty, Thomas	Navajo Community College	Navajo	President
Badwound, Elgin	Oglala Lakota College	Lakota Sioux	President
Baldy, Steve	D.Q. University	Hupa	President
Barden, Jack	Turtle Mountain Comm. College	NI	Faculty Member
Belgarde, Larry W.	Turtle Mountain Comm. College	Chippewa	President and Ed. Director
Bordeaux, Lionel	Sinte Gleska College	Lakota	President
Condon, Roger	Cheyenne River Comm. College	Lakota	Trustee
Davis, Carol	Turtle Mountain Comm. College	Chippewa	Administrator
Evans, Eugene	Land Claims College	NI	Director
Fenton, Karen	Salish Kootenai College	Salish	Trustee
Fiddler, Jack	Turtle Mountain Comm. College	Chippewa	Representative
Foote, Charles	Little Hoop Community College	Sioux	President
Gross, Michael	Navajo Community College	NI	Attorney
Hanley, Joy	Navajo Community College	Navajo	Trustee Chairman, President
Hena, Jim	Navajo Community College	Tesuque & Zuni	Administrator
Hollow, Tony	Dull Knife Memorial College	Assiniboine	President
Honani, Donald	College of Ganado	Hopi	President
Howard, Phyllis	Fort Berthold Comm. College	Hidatsa	President
Juneau, Carol	Blackfeet Community College	Hidatsa	President
Lane, Jack	Cheyenne River Comm. College	Sioux	Representative
LaRose, Louis	Nebraska Indian Comm. College	Winnebago	Trustee Chairman, President
Lawrence, Joe	Little Hoop Community College	Sioux	Representative
LeBeau, Ellsworth	Cheyenne River Comm. College	Lakota	President
Lundstrom, Richard	Sinte Gleska College	Lakota	Trustee
Marshall, Arlene	Cheyenne River Comm. College	Lakota	Representative
Medicine Crow, Joe	Little Big Horn College	Crow	Director

McCabe, Donald	Navajo Community College	Navajo	President
McDonald, Art	Dull Knife Memorial College	Lakota	Administrator
McDonald, Joe	Salish Kootenai College	Salish	President
O'Donnell, Michael	Salish Kootenai College	NI	Representative
One Feather, Gerald	Oglala Sioux Community College	Lakota	President
Pond, Doreen	Dull Knife Memorial College	Northern Cheyenne	Administrator
Powers, Muriel	Sisseton Wahpeton Comm. College	Lakota	Director
Privett, James	American Indian Satellite Coll. Ctr	NI	President
Red Bird, Stanley	Sinte Gleska College	Lakota	Trustee Chairman
Red Owl, Ed	Sisseton Wahpeton Comm. College	Lakota	Representative
Risling, David	D.Q. University	Hupa	Trustee Chairman
Shanley, James	Standing Rock Community College	Assiniboine	President
Shortbull, Thomas	Oglala Sioux Community College	Lakota	President
Slater, Gerald	Salish Kootenai College	Salish	Vice President
Spang, Ray	Dull Knife Memorial College	Northern Cheyenne	Trustee
Stewart, David	Little Big Horn College	Crow	Trustee Chairman
Tibbets, John	Sinte Gleska College	Lakota	Administrator
Toodacheenee, Carl	Navajo Community College	Navajo	Trustee
Upickson, Joe	Inupiat University of the Arctic	Inupiat	Representative
Winkler, Paul	Lummi School of Aquaculture	NI	Representative
Wynde, Yvonne	Sisseton Wahpeton Comm. College	Lakota	President

CONSORTIUM STAFF

<u>Name</u>	<u>Position</u>
Emhoolah, John	AIHEC Human Resources Director
Gipp, David	AIHEC Executive Director
Horse, Perry	AIHEC Data and Information Director
Lee, David	AIHEC Controller
Nichols, Richard	AIHEC Accreditation Director
Snow, Toni	AIHEC Administrative Assistant
Stewart, Buddine	AIHEC Curriculum Director
Wilson, Roberta	AIHEC Staff Member

NATIONAL INDIAN ORGANIZATIONS

<u>Name</u>	<u>Position</u>
Andrade, Ron	National Congress of American Indians
Burgess, Bill	Native American Associates, Oklahoma
Crawford, Eugene	National Congress of American Indians Lutheran Churches
Echohawk, Lucille	National Indian Education Association
Kills Straight, Birgil	National Association of Indian Controlled School Boards
Locke, Patricia	National Indian Education Association & National Congress of American Indians
Snake, Reuben	President, National Tribal Chairmen's Association
Tiger, Georgiana	Education Director, National Congress of American Indians
Trimble, Charles	Executive Director, National Congress of American Indians

TRIBAL REPRESENTATIVES AND OTHERS

<u>Name</u>	<u>Position</u>
Blue Dog, Kurt	Attorney, Native American Rights Fund
Dean, Bo Bo	Attorney, Oglala Lakota Tribe
Deloria, Sam	Attorney, Standing Rock Sioux Tribe
Juneau, Stan	Blackfeet Tribal Council Member, Montana
Kneip, Richard F.	Governor, State of South Dakota
Old Person, Early	Blackfeet Tribal Chairman, Montana
Red Shirt, Clyde	Indian Community Member
Skye, Clarence	Director, United Sioux Tribes
Sudow, William	Attorney, Oglala Lakota Tribe
Tonemah, Stuart	Tribal Representative, Task Force 12
Trimble, Albert	Oglala Sioux Tribal Council President

LIST OF PARTICIPANTS: U. S. HOUSE OF REPRESENTATIVES

MEMBERS

<u>Name</u>	<u>State</u>	<u>Party</u>
Congressman Mark Andrews	North Dakota	Republican
Congressman Max Baucus	Montana	Democrat
Congressman Michael Blouin	Iowa	Democrat
Congressman John Buchanan	Alabama	Republican
Congresswoman Shirley Chisholm	New York	Democrat
Congressman John Erlenborn	Illinois	Republican
Congressman William Ford	Michigan	Democrat
Congressman Augustus Hawkins	California	Democrat
Congressman Manuel Lujan	New Mexico	Republican
Congressman Ron Marlenee	Montana	Republican
Congressman Lloyd Meeds	Washington	Democrat
Congressman James G. O'Hara	Michigan	Democrat
Congressman Carl Perkins	Kentucky	Democrat
Congressman Larry Pressler	South Dakota	Republican
Congressman Albert H. Quie	Minnesota	Republican
Congressman Edward R. Roybal	California	Democrat
Congressman Harold Runnels	New Mexico	Democrat
Congressman Paul Simon	Illinois	Democrat
Congressman Stewart Udall	Arizona	Democrat
Congressman Pat Williams	Montana	Democrat
Congressman Sidney Yates	Illinois	Democrat

STAFF

Andringa, Robert	House Education and Labor Committee
Duncan, Jack	House Education and Labor Committee
Franklin, Yvonne	House Education and Labor Committee
Forkenbrock, John	House Advisory Study Group on Indian Education
Harrison, Jim	House Subcommittee on Postsecondary Education
Huff, Robert	Congressional Staff
Jolly, Tom	House Subcommittee on Postsecondary Education
Leon, Vernon	Congressional Staff, Rep. Abdnor
Lovesee, Alan	House Advisory Study Group on Indian Education
McKee, Kathy	Congressional Staff
Rivlin, Alice M.	Congressional Budget Office
Wright, Trudy	Meeds Congressional Staff

LIST OF PARTICIPANTS: U. S. SENATE

MEMBERS

<u>Name</u>	<u>State</u>	<u>Party</u>
Senator James Abdnor	South Dakota	Democrat
Senator James Abourezk	South Dakota	Democrat
Senator Quentin N. Burdick	North Dakota	Democrat
Senator Curtis	Nebraska	Republican
Senator Dennis Deconcini	Arizona	Democrat
Senator Pete Domenici	New Mexico	Republican
Senator Barry Goldwater	Arizona	Republican
Senator Edward Hollings	South Carolina	Democrat
Senator Henry M. Jackson	Washington	Democrat
Senator Jacob Javitts	New York	Democrat
Senator Edward M. Kennedy	Massachusetts	Democrat
Senator Dale Kildee	Michigan	Democrat
Senator John Melcher	Montana	Democrat
Senator Montoya	New Mexico	Democrat
Senator George McGovern		Democrat
Senator Clayborn Pell	Rhode Island	Democrat
Senator Abraham Ribicoff		Democrat

STAFF

Burt, Smith	Senator Kennedy Staff Member
Crownover, Blair	Senate Staff
Garland, Sarah	Senator Burdick Staff Member
Gerard, Forest	Senate Select Committee for Indian Affairs Staff
Horse, Ella Mae	Senate Select Committee for Indian Affairs Staff
Parker, Allen	Senate Select Committee for Indian Affairs Staff
Reeser, Ralph	Senator Jackson Staff Member
Strong, Tony	Senator Abourezk Staff Member

FEDERAL EXECUTIVE BRANCH REPRESENTATIVES

<u>Name</u>	<u>Position</u>
Abreski, Mike	BIA Representative to Task Force 12
Andrus, Cecil	Secretary of the Interior
Barlow, Earl	BIA Director of Indian Education
Buckanaga, Gertrude	BIA Minneapolis Area Office
Cable, William	Carter White House Liaison
Califano, Joseph	Secretary of Health Education and Welfare
Demmert, William	BIA Director of Indian Education & DHEW Office of Education-Director of Indian Education
Eagle Bull, Harry	BIA Aberdeen Area Office, North Dakota
Ettinger, Kathy	Nixon White House Liaison
Falling, Leroy	BIA, Representative on Task Force 12
Goodfox, Theta	BIA, Representative on Task Force 12
James, Joseph	Acting Secretary of Health Education and Welfare
Kelly, Frances	Program Officer, DHEW, Higher Education
Lavis, Rick	Deputy Assistant Secretary for Indian Affairs, Interior
March, Edward	BIA Office of Indian Education
Osmond, David	Library of Congress Staff
Player, Willa	DHEW, Higher Education Office
Scheirbeck, Helen	DHEW, Office of Indian Education
Searcy, William C.	BIA Budget Office
Thompson, Morris	Commissioner of Indian Affairs
Vance, Jenny	Office of Management and Budget
Wilson, Jim	Indian Advocate, Office of Economic Opportunity

HIGHER EDUCATION

Buffalohead, Roger	University of Minnesota
Dunbar, David	Attorney, Western Interstate Commission on Higher Education, Denver
Hamilton, Betty	American Association of Community and Junior Colleges
Locke, Patricia	PRIME-Western Interstate Commission on Higher Education
Lujan, Lance	National Education Association and Task Force 12 Representative
Santana, Vicki	Western Interstate Commission on Higher Education
Tirrell, John	Congressional Liaison, American Association of Community and Junior Colleges

APPENDIX F

LEGISLATIVE HISTORY OF THE
TRIBALLY CONTROLLED COMMUNITY COLLEGES ASSISTANCE ACT
OF 1978

1974

- * 20 May 1974: S. 1017, L. Bordeaux requests amendment for tribal colleges in House hearings.

1975

- * 6 November 1975: S. 2634 introduced by Senators Abourezk and McGovern.

1976

- * 15 March 1976: Hearing before the Senate Subcommittee on Indian Affairs or the Committee on Interior and Insular Affairs.
- * 29 September 1976: S. 2634 redrafted, submitted as S. 3850.

1977

- * 21 February 1977: S. 3850 redrafted, submitted as S. 1215 by Senators Abourezk, Burdick, Gravel, DeConcini, Jackson.
- * 28 July 1977: Hearing before the Senate Select Committee on Indian Affairs.
- * 16 September 1977: H.R. 9158 introduced by Representatives Blouin and Quie.
- * 13 October 1977: Hearing before the House Subcommittee on Postsecondary Education of the Committee on Education and labor.
- * 1 November 1977: Senate Report on S. 1215.
- * 4 November 1977: Senate considers and passes S. 1215.

1978

- * 18 May, 14 June 1978: Hearings before the House Subcommittee on Postsecondary Education of the Committee on Education and Labor.
- * 11 September 1978: House Report on H.R. 9158.
- * 26 September 1978: House considers and passes H.R. 9158. Passage is vacated while amended S. 1215 is passed in lieu.
- * 3 October 1978: Senate concurs in House amendment.
- * 17 October 1978: P.L. 95-471 signed by President Carter.

1979

- * 21 November 1979: Federal Register published feasibility guidelines, rules and regulations for P.L. 95-471.

1980

- * 18 March 1980: First application submitted for feasibility.
- * 20 May 1980: First grant awards made by BIA to the tribal colleges under P.L. 95-471.

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