To amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to facilitate the ability of Indian tribes to integrate the employment, training, and related services from diverse Federal sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2013

Ms. Murkowski introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to facilitate the ability of Indian tribes to integrate the employment, training, and related services from diverse Federal sources, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE; REFERENCES.
4 (a) Short Title.—This Act may be cited as the
5 “Indian Employment, Training and Related Services Con-
6 solidation Act of 2013”.
(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

SEC. 2. STATEMENT OF PURPOSE.

Section 2 (25 U.S.C. 3401) is amended—

(1) by striking “The purposes of this Act are to demonstrate how Indian tribal governments can” and inserting “The purpose of this Act is to facilitate the ability of Indian tribes to”; 

(2) by inserting “from diverse Federal sources” after “they provide”; 

(3) by striking “and serve tribally-determined” and inserting “, serve tribally determined”; and 

(4) by inserting “, reduce administrative, reporting, and accounting costs, and make permanent any demonstration project under any plan referred to in section 4” before the period at the end.

SEC. 3. DEFINITIONS.

Section 3 (25 U.S.C. 3402) is amended by adding at the end the following:
“(5) TRIBAL ORGANIZATION.—The term ‘tribal organization’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).”.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

Section 4 (25 U.S.C. 3403) is amended to read as follows:

“SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

“(a) AUTHORIZATION.—The Secretary shall, in cooperation with the Attorney General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Transportation, and the Secretary of Veterans Affairs, after the Secretary approves a plan submitted by an Indian tribe or tribal organization under section 8, authorize the Indian tribe or tribal organization, as applicable, to coordinate, in accordance with the plan, Federally funded employment, training, and related services programs in a manner that integrates the programs into a consolidated and comprehensive program.

“(b) SINGLE INTEGRATED PLAN.—Consistent with section 8, after the Secretary approves a plan submitted
by an Indian tribe or tribal organization, the Indian tribe
or tribal organization shall not be required to submit any
additional budget, report, audit, supplemental audit, or
other documentation.’’.

SEC. 5. PROGRAMS AFFECTED AND TRANSFER OF FUNDS.

Section 5 (25 U.S.C. 3404) is amended to read as
follows:

‘‘SEC. 5. PROGRAMS AFFECTED.

(a) In General.—The programs that may be inte-
grated into a project under a plan described in section 4
shall include—

‘‘(1) any program under which an Indian tribe
or tribal organization is eligible for receipt of funds
under a statutory or administrative formula;

‘‘(2) any funds to which an Indian tribe, tribal
organization, or members of an Indian tribe or tribal
organization may be under Federal law;

‘‘(3) any funds an Indian tribe or tribal organi-
ization may secure as a result of a competitive proc-
ess, a noncompetitive process, or a specific designa-
tion; and

‘‘(4) any program under which block grant
funds may be provided to an Indian tribe or tribal
organization, regardless of whether the block grant
is for the benefit of the Indian tribe or tribal organi-
zation because of the status of the Indian tribe or
tribal organization or the status of the beneficiaries
the grant serves, that are made available for the
purposes of—

“(A) job training;
“(B) welfare to work and tribal work expe-
rience;
“(C) creating or enhancing employment
opportunities;
“(D) higher education;
“(E) skill development;
“(F) assisting Indian youth and adults to
succeed in the workforce;
“(G) encouraging self-sufficiency;
“(H) familiarizing individual participants
with the world of work;
“(I) facilitating the creation of job oppor-
tunities; and
“(J) any services related to the activities
described in subparagraphs (A) through (I).

“(b) Transfer of Funds.—Notwithstanding any
other provision of law, all funds for programs and services
covered by an approved plan shall, at the request of the
Indian tribe or tribal organization, be transferred to the
Indian tribe or tribal organization pursuant to an existing
contract, compact, or funding agreement awarded pursuant to the title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).”.

SEC. 6. PLAN REVIEW; WAIVER AUTHORITY; AND DISPUTE RESOLUTION.

Section 7 (25 U.S.C. 3406) is amended to read as follows:

“(a) IN GENERAL.—Upon receipt of a plan from an Indian tribe or tribal organization, the Secretary shall consult with—

“(1) the head of each Federal agency providing funds to be used to implement the plan; and

“(2) the Indian tribe or tribal organization that submitted the plan.

“(b) IDENTIFICATION OF WAIVERS.—The parties described in subsection (a) shall identify any waivers of applicable statutory, regulatory, or administrative requirements, or of Federal agency policies or procedures necessary to enable the Indian tribe or tribal organization to efficiently implement the plan.

“(c) TRIBAL WAIVER REQUEST.—In consultation with the Secretary, a participating Indian tribe or tribal organization may request the head of each affected agency to waive any statutory, regulatory, administrative requirement, policy, or procedure identified subsection (b).
“(d) Waiver Authority.—

“(1) In general.—Except as provided in paragraph (2), notwithstanding any other provision of law, the head of each affected agency shall waive any applicable statutory, regulatory, administrative requirement, regulation, policy, or procedure promulgated by the agency that has been identified by the parties under subparagraph (b).

“(2) Exception.—The head of an affected agency shall not grant a waiver under paragraph (1) if the head of the affected agency determines that a waiver will be inconsistent with the purposes of this Act.

“(e) Decision on Waiver Request.—

“(1) In general.—Not later than 90 days after the head of an affected agency receives a waiver request, the head of the affected agency shall decide whether to grant or deny the request.

“(2) Denial of request.—If the head of the affected agency denies a waiver request, not later than 90 days after the date on which the denial is made, the head of the affected agency shall provide the requesting Indian tribe or tribal organization and the Secretary with written notice of the denial and the reasons for the denial.
“(3) Failure to Act on Request.—If the head of an affected agency does not make a decision under paragraph (1) within 90 days after the date on which the head of the affected agency receives the waiver request, the request shall be granted.

“(f) Secretarial Review.—If the head of an affected agency denies a waiver request under subsection (e)(2), not later than 10 days after the date on which the request is denied, the Secretary shall review the denial and determine whether granting the waiver—

“(1) will be inconsistent with the provisions of the Act; or

“(2) will prevent the affected agency from fulfilling its obligations under the Act.

“(g) Interagency Dispute Resolution.—

“(1) In General.—Not later than 20 days after the date on which the Secretary determines that granting the waiver will not be inconsistent with the provisions of the Act and would not prevent the lead agency from fulfilling its obligations under the Act, the Secretary shall establish and initiate an interagency dispute resolution process involving—

“(A) the Secretary;

“(B) the participating Indian tribe or tribal organization; and
“(C) the head of the affected agency.

“(2) DURATION.—A dispute subject to paragraph (1) shall be resolved not later than 30 days after the date on which the process is initiated.

“(h) FINAL AUTHORITY.—If the dispute resolution process fails to resolve the dispute between a participating Indian tribe or tribal organization and an affected agency, the head of the affected agency shall have the final authority to resolve the dispute.

“(i) FINAL DECISION.—Not later than 10 days after the date on which the dispute is resolved under this section, the Secretary shall inform the requesting Indian tribe or tribal organization—

“(1) the final decision on the waiver request; and

“(2) notice of the right to file an appeal to the final decision in an appropriate district court of the United States.”.

SEC. 7. PLAN APPROVAL; SECRETARIAL AUTHORITY; REVIEW OF DECISION.

Section 8 (25 U.S.C. 3407) is amended to read as follows:

“(a) PLAN REQUIREMENTS.—A plan submitted to the Secretary for approval under this Act shall—
“(1) identify the programs to be integrated and consolidated;

“(2) be consistent with the purposes of this Act;

“(3) describe—

“(A) a comprehensive strategy identifying the full range of potential employment opportunities on and near the service area of the Indian tribe or tribal organization;

“(B) the education, training, and related services to be provided to assist Indians to access those employment opportunities;

“(C) the way in which services are to be integrated, consolidated, and delivered; and

“(D) the results expected from the plan;

“(4) identify the projected expenditures under the plan in a single budget covering all consolidated funds;

“(5) identify any agency of the Indian tribe or tribal organization to be involved in the delivery of the services integrated under the plan;

“(6) identify any statutory provisions, regulations, policies, or procedures that the Indian tribe or tribal organization believes need to be waived to implement the plan; and
“(7) be approved by the governing body of the
Indian tribe or tribal organization.

“(b) EXCLUSIVE AUTHORITY OF THE SECRETARY.—
The Secretary shall have exclusive authority to approve
or disapprove a plan submitted by an Indian tribe or tribal
organization in accordance with section 7.

“(c) APPROVAL PROCESS.—

“(1) IN GENERAL.—Not later than 90 days
after the date on which the Secretary receives a
plan, the Secretary shall approve or deny the plan,
including any request for a waiver that is made as
part of the plan.

“(2) APPROVAL.—If the Secretary approves a
plan under paragraph (1), the Secretary shall au-
thorize the transfer of funds under the plan.

“(3) DENIAL.—If the Secretary denies the plan
under paragraph (1), the Secretary shall provide to
the Indian tribe or tribal organization a written noti-
ification of disapproval of the plan that contains a
specific finding that clearly demonstrates that, or
that is supported by a controlling legal authority,
the plan does not meet the requirements set forth in
subsection (a).

“(4) FAILURE TO ACT.—If the Secretary does
not make a decision under paragraph (1) within 90
days after the date on which the Secretary receives
the plan, the plan shall be approved.

“(d) EXTENSION OF TIME.—Notwithstanding any
other provision of law, the Secretary may extend or other-
wise alter the 90-day period specified in subsection (c)(1)
above, if before the expiration of the period, the Secretary
obtains the express written consent of the Indian tribe or
tribal organization to extend or alter the period for up to
90 additional days.

“(e) APPLICABILITY.—If the Secretary denies the
plan under subsection (e)(1), the following shall apply:

“(1) Subsections (b) and (e) of section 102 of
“(2) Subsections (a) and (e) of section 110 of
that Act (25 U.S.C. 450m–1).”.

SEC. 8. JOB CREATION ACTIVITIES AUTHORIZED.

Section 9 (25 U.S.C. 3408) is amended—

(1) in subsection (a)—

(A) by striking “a tribal government may”
and inserting “an Indian tribe or tribal organi-
zation may”;

(B) by striking “tribal government or of
individual Indian people” and inserting “Indian
tribes, tribal organizations, or Indians”; and
(C) by striking “an overall regional economic activity which has a reasonable likelihood of success and consistent with the purposes specifically applicable to Indian programs in the statute under which the funds are authorized” and inserting “the plan”;

(2) by striking subsection (b) and inserting the following:

“(b) JOB CREATION OPPORTUNITIES.—Notwithstanding any other provision of law, including any requirement of a program that is integrated under a plan under this Act, an Indian tribe or tribal organization may use the funds made available under this Act for the creation of employment opportunities, including providing private sector training placement under section 10.”; and

(3) by striking subsection (c).

SEC. 9. EMPLOYER TRAINING PLACEMENTS.

Section 10 (25 U.S.C. 3409) is amended to read as follows:

“SEC. 10. EMPLOYER TRAINING PLACEMENTS.

“(a) IN GENERAL.—Subject to subsection (b), an Indian tribe or tribal organization that has in place an approved plan under this Act may use the funds made available under the plan—
“(1) to place participants in training positions
with employers; and
“(2) to pay the participants a training allow-
ance or wage for a training period of not more than
1 year.
“(b) REQUIREMENTS.—An Indian tribe or tribal or-
ganization may carry out subsection (a) only if the tribe
or tribal organization enters into a written agreement with
each applicable employer under which the employer shall
agree—
“(1) to provide on-the-job training to the par-
ticipants; and
“(2) on satisfactory completion of the training
period described in subsection (a)(2), to prioritize
the provision of permanent employment to the par-
ticipants.”.

SEC. 10. FEDERAL RESPONSIBILITIES.

Section 11 (25 U.S.C. 3410) is amended to read as
follows:

“SEC. 11. FEDERAL RESPONSIBILITIES.

“(a) LEAD AGENCY.—
“(1) IN GENERAL.—Notwithstanding any other
provision of law, the lead agency for each program
carried out under this Act shall be the Bureau of In-
dian Affairs.
“(2) INCLUSIONS.—The responsibilities of the Director of the Bureau of Indian Affairs in carrying out this Act shall include—

“(A) the development of a single model report for each Indian tribe and tribal organization that has in place an approved plan under this Act to submit to the Director reports on any consolidated activities undertaken and joint expenditures made under the plan;

“(B) the provision, directly or through contract, of appropriate voluntary and technical assistance to participating tribes and tribal organizations;

“(C) the development and use of a single monitoring and oversight system for plans approved under this Act;

“(D)(i) the receipt of all funds covered by a plan approved under this Act; and

“(ii) distribution of the funds to the respective Indian tribes and tribal organizations by not later than 20 days after the date of receipt of the funds from the appropriate Federal department or agency; and
“(E)(i) the performance of activities described in section 7 relating to agency waivers; and

“(ii) the establishment of an interagency dispute resolution process.

“(3) INCORPORATION OF SELF-DETERMINATION.—

“(A) IN GENERAL.—At the election of an Indian tribe or tribal organization that has in place an approved plan under this Act, the plan may incorporate any provision of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

“(B) EFFECT.—On incorporation of a provision under subparagraph (A), the provision shall have the same force and effect as if incorporated in this Act.

“(4) MEMORANDUM OF AGREEMENT.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Indian Employment, Training and Related Services Consolidation Act of 2013, the Secretary (acting through the Director of the Bureau of Indian Affairs), in conjunction with the Secretaries of Agriculture, Commerce, Education, Energy,
Health and Human Services, Homeland Security, Housing and Urban Development, Labor, Transportation, and Veterans Affairs and the Attorney General, shall enter into an inter-departmental memorandum of agreement providing for the implementation of this Act.

“(B) INCLUSIONS.—The memorandum of agreement under subparagraph (A) shall include provisions relating to—

“(i) an annual meeting of participating Indian tribes, tribal organizations, and Federal departments and agencies, to be cochaired by—

“(I) a representative of the President; and

“(II) a representative of the participating tribes and tribal organizations;

“(ii) an annual review of the achievements under this Act and any statutory, regulatory, administrative, or policy obstacles that prevent participating Indian tribes or tribal organizations from fully and efficiently carrying out the purposes of this Act; and
“(iii) a forum comprised of participating Indian tribes, tribal organizations, and Federal departments and agencies to identify and resolve interagency conflicts and conflicts between the Federal Government and Indian tribes or tribal organizations in the administration of this Act.

“(b) REPORT FORMAT.—

“(1) IN GENERAL.—The Secretary shall develop and distribute to Indian tribes and tribal organizations that have in place an approved plan under this Act a single report format, in accordance with the requirements of this Act.

“(2) REQUIREMENTS.—The Secretary shall ensure that the report format developed under paragraph (1), together with records maintained by each participating Indian tribe or tribal organization, contains information sufficient—

“(A) to determine whether the tribe or tribal organization has complied with the requirements of the approved plan of the tribe or tribal organization; and

“(B) to provide assurances to the head of each applicable Federal department or agency that the tribe or tribal organization has com-
plied with all directly applicable statutory and
regulatory requirements.

“(3) LIMITATION.—The report format devel-
oped under paragraph (1) shall not require a partici-
pating Indian tribe or tribal organization to report
on the expenditure of funds (expressed by fund
source or single agency code) transferred to the tribe
or tribal organization under an approved plan under
this Act.”.

SEC. 11. NO REDUCTION IN AMOUNTS.

Section 12 (25 U.S.C. 3411) is amended by striking
“a tribal government” and all that follows through the end
of the section and inserting the following: “an Indian tribe
or tribal organization that has in place an approved plan
under this Act be reduced as a result of—

“(1) the enactment of this Act; or

“(2) the approval or implementation of a plan
under this Act.”.

SEC. 12. INTERAGENCY TRANSFERS OF FUNDS.

Section 13 (25 U.S.C. 3412) is amended to read as
follows:

“SEC. 13. INTERAGENCY TRANSFERS OF FUNDS.

“Notwithstanding any other provision of law, not
later than 20 days after the date of apportionment to the
applicable department or agency, the Secretary, together
with the Secretaries of Agriculture, Commerce, Education,
Energy, Health and Human Services, Homeland Security,
Housing and Urban Development, Labor, Transportation,
and Veterans Affairs and the Attorney General, as appro-
priate, may transfer to the Director of the Bureau of In-
dian Affairs, for distribution to an Indian tribe or tribal
organization that has in place an approved plan under this
Act, any funds otherwise available to the applicable de-
partment or agency to achieve the purposes of this Act.”.

SEC. 13. ADMINISTRATION OF FUNDS.

Section 14 (25 U.S.C. 3413) is amended—

(1) by redesignating subsection (b) as sub-
section (d);

(2) by striking the section designation and
heading and all that follows through subsection (a)
and inserting the following:

“SEC. 14. ADMINISTRATION OF FUNDS.

“(a) REQUIREMENTS.—

“(1) IN GENERAL.—The amounts used to carry
out a plan approved under this Act shall be adminis-
tered in such manner as the Secretary determines to
be appropriate to ensure the amounts are spent on
activities authorized under the plan.

“(2) SEPARATE RECORDS AND AUDITS NOT RE-
QUIRED.—Notwithstanding any other provision of
law (including regulations and circulars of any agency (including Office of Management and Budget Circular A–133)), an Indian tribe or tribal organization that has in place an approved plan under this Act shall not be required—

“(A) to maintain separate records that trace any service or activity conducted under the approved plan to the program for which the funds were initially authorized or transferred;

“(B) to allocate expenditures among such a program; or

“(C) to audit expenditures by the original source of the program.

“(b) CARRYOVER.—Any funds transferred to an Indian tribe or tribal organization under this Act that are not obligated or expended prior to the beginning of the fiscal year after the fiscal year for which the funds were appropriated shall remain available for obligation or expenditure without fiscal year limitation, subject to the conditions that—

“(1) the funds shall be obligated or expended in accordance with the approved plan of the tribe or tribal organization; and

“(2) the tribe or tribal organization shall not be required to provide any additional justification or
documentation of the purposes of the approved plan as a condition of receiving or expending the funds.

“(c) INDIRECT COSTS.—Notwithstanding any other provision of law, an Indian tribe or tribal organization shall be entitled to recover the entire amount of indirect costs associated with any funds transferred to the tribe or tribal organization under this Act, in accordance with the applicable indirect cost rate specified in the approved plan of the tribe or tribal organization.”; and

(3) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking “All administrative” and inserting the following:

“(1) IN GENERAL.—All administrative”; and

(B) by striking “regulations)” and all that follows through the end of the subsection and inserting the following: “regulations).

“(2) TREATMENT.—The amount equal to the difference between the amount of the commingled funds and the actual administrative cost of the programs, as described in paragraph (1), shall be considered to be properly spent for Federal audit purposes if the amount is used to achieve the purposes of this Act.”.
Section 17 (25 U.S.C. 3416) is amended—

(1) in subsection (a), in the first sentence—

(A) by striking “, in a consistent and reliable manner,”; and

(B) by striking “, by gender,”; and

(2) in subsection (b)—

(A) in the first sentence—

(i) by striking “and the National Center for Native American Studies and Policy Development authorized by Public Law 101–301,”; and

(ii) by striking “and Alaska Native population throughout the entire United States” and inserting “throughout the United States”; and

(B) in the second sentence, by inserting “, tribal organizations,” after “Indian tribes”; and

(C) by striking the third sentence and inserting the following: “The report under this subsection shall be submitted to the Committee on Indian Affairs of the Senate and the Committees on Natural Resources and Education and Labor of the House of Representatives by not later than October 30, 2015.”.
SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Section 18 (25 U.S.C. 3417) is amended—

(1) by inserting “or tribal organizations” after “Indian tribes”; and

(2) by striking “1970, may deem” and inserting “1970 (42 U.S.C. 4701 et seq.), determines to be”.

SEC. 16. REPEALS; CONFORMING AMENDMENTS.

(a) REPEALS.—Sections 15 and 16 (25 U.S.C. 3414, 3415) are repealed.

(b) CONFORMING AMENDMENTS.—Sections 17 and 18 (25 U.S.C. 3416, 3417) (as amended by this Act) are redesignated as sections 15 and 16, respectively.

SEC. 17. EFFECT OF ACT.

Nothing in this Act or an amendment made by this Act—

(1) affects any plan approved under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) before the date of enactment of this Act;

(2) requires any Indian tribe or tribal organization to resubmit a plan described in paragraph (1); or
(3) modifies the effective period of any plan described in paragraph (1).