

Union Calendar No. 662

114TH CONGRESS
2^D SESSION

H. R. 329

[Report No. 114–828, Part I]

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 HOUSE OF REPRESENTATIVES

JANUARY 13, 2015

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources

NOVEMBER 16, 2016

Reported with an amendment and referred to the Committee on Education and the Workforce and the Committee on Ways and Means for a period ending not later than December 8, 2016, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clause 1(e) and clause 1(t) of rule X, respectively

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 7, 2016

Additional sponsors: Mr. COLE, Mr. RUSSELL, Mr. MULLIN, and Mr. KILMER

DECEMBER 7, 2016

The Committees on Education and the Workforce and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 13, 2015]

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.**

4 *This Act may be cited as the “Indian Employment,*
5 *Training and Related Services Consolidation Act of 2016”.*

6 **SEC. 2. AMENDMENT OF SHORT TITLE.**

7 (a) *IN GENERAL.*—*Section 1 of the Indian Employ-*
8 *ment, Training and Related Services Demonstration Act of*
9 *1992 (25 U.S.C. 3401 note; 106 Stat. 2302) is amended*
10 *to read as follows:*

11 **“SECTION 1. SHORT TITLE.**

12 *“This Act may be cited as the ‘Indian Employment,*
13 *Training and Related Services Act of 1992’.”.*

14 (b) *REFERENCES.*—*Any reference in law to the “In-*
15 *dian Employment, Training and Related Services Dem-*
16 *onstration Act of 1992” shall be deemed to be a reference*
17 *to the “Indian Employment, Training and Related Services*
18 *Act of 1992”.*

19 **SEC. 3. STATEMENT OF PURPOSE.**

20 *Section 2 of the Indian Employment, Training and*
21 *Related Services Act of 1992 (25 U.S.C. 3401), as amended*
22 *by section 2 of this Act, is amended—*

23 (1) *by striking “The purposes of this Act are to*
24 *demonstrate how Indian tribal governments can” and*

1 *inserting “The purpose of this Act is to facilitate the*
2 *ability of Indian tribes and tribal organizations to”;*

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

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

7 *(4) by inserting “, while reducing administra-*
8 *tive, reporting, and accounting costs” after “policy of*
9 *self-determination”.*

10 **SEC. 4. DEFINITIONS.**

11 *Section 3 of the Indian Employment, Training and*
12 *Related Services Act of 1992 (25 U.S.C. 3402), as amended*
13 *by section 2 of this Act, is amended—*

14 *(1) by striking paragraph (2) and inserting the*
15 *following:*

16 *“(2) INDIAN TRIBE.—*

17 *“(A) IN GENERAL.—The terms ‘Indian*
18 *tribe’ and ‘tribe’ have the meaning given the*
19 *term ‘Indian tribe’ in section 4 of the Indian*
20 *Self-Determination and Education Assistance*
21 *Act (25 U.S.C. 450b).*

22 *“(B) INCLUSION.—The term ‘Indian tribe’*
23 *includes tribal organizations (as defined in sec-*
24 *tion 4 of the Indian Self-Determination and*
25 *Education Assistance Act (25 U.S.C. 450b)).”;*

1 (2) by redesignating paragraph (4) as para-
2 graph (5); and

3 (3) by inserting after paragraph (3) the fol-
4 lowing:

5 “(4) *PROGRAM.*—The term ‘program’ means a
6 program described in section 5(a).”.

7 **SEC. 5. INTEGRATION OF SERVICES AUTHORIZED.**

8 Section 4 of the Indian Employment, Training and
9 *Related Services Act of 1992 (25 U.S.C. 3403), as amended*
10 *by section 2 of this Act, is amended to read as follows:*

11 **“SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.**

12 *“The Secretary shall, after approving a plan submitted*
13 *by an Indian tribe in accordance with section 8, authorize*
14 *the Indian tribe to, in accordance with the plan—*

15 *“(1) integrate the programs and Federal funds*
16 *received by the Indian tribe; and*

17 *“(2) coordinate the employment, training, and*
18 *related services provided with those funds in a con-*
19 *solidated and comprehensive tribal plan.”.*

20 **SEC. 6. PROGRAMS AFFECTED AND TRANSFER OF FUNDS.**

21 Section 5 of the Indian Employment, Training and
22 *Related Services Act of 1992 (25 U.S.C. 3404), as amended*
23 *by section 2 of this Act, is amended to read as follows:*

24 **“SEC. 5. PROGRAMS AFFECTED.**

25 “(a) *PROGRAMS AFFECTED.*—

1 “(1) *IN GENERAL.*—*The programs that may be*
2 *integrated pursuant to a plan approved under section*
3 *8 shall be only programs—*

4 “(A) *implemented for the purpose of—*

5 “(i) *job training;*

6 “(ii) *welfare to work and tribal work*
7 *experience;*

8 “(iii) *creating or enhancing employ-*
9 *ment opportunities;*

10 “(iv) *higher education;*

11 “(v) *skill development;*

12 “(vi) *assisting Indian youth and*
13 *adults to succeed in the workforce;*

14 “(vii) *encouraging self-sufficiency;*

15 “(viii) *familiarizing individual par-*
16 *ticipants with the world of work;*

17 “(ix) *facilitating the creation of job op-*
18 *portunities;*

19 “(x) *economic development; or*

20 “(xi) *any services related to the activi-*
21 *ties described in clauses (i) through (x); and*

22 “(B) *under which an Indian tribe or mem-*
23 *bers of an Indian tribe—*

24 “(i) *are eligible to receive funds—*

1 “(I) under a statutory or admin-
2 istrative formula making funds avail-
3 able to an Indian tribe; or

4 “(II) due to their status as Indi-
5 ans under Federal law; or

6 “(ii) have secured funds as a result of
7 a competitive process, a noncompetitive
8 process, or a specific designation.

9 “(2) TREATMENT OF BLOCK GRANT FUNDS.—For
10 purposes of this section, programs funded by block
11 grant funds provided to an Indian tribe, regardless of
12 whether the block grant is for the benefit of the Indian
13 tribe because of the status of the Indian tribe or the
14 status of the beneficiaries the grant serves, shall be eli-
15 gible to be integrated into the plan.

16 “(b) PROGRAM AUTHORIZATION.—The Secretary shall,
17 in cooperation with the Attorney General, the Secretary of
18 Agriculture, the Secretary of Commerce, the Secretary of
19 Education, the Secretary of Energy, the Secretary of Health
20 and Human Services, the Secretary of Homeland Security,
21 the Secretary of Housing and Urban Development, the Sec-
22 retary of Labor, the Secretary of Transportation, and the
23 Secretary of Veterans Affairs, after the Secretary approves
24 a plan submitted by an Indian tribe or tribal organization
25 under section 8, authorize the Indian tribe or tribal organi-

1 zation, as applicable, to coordinate, in accordance with the
2 plan, federally funded employment, training, and related
3 services programs and funding in a manner that integrates
4 the programs and funding into a consolidated and com-
5 prehensive program.”.

6 **SEC. 7. PLAN REQUIREMENTS.**

7 Section 6 of the Indian Employment, Training and
8 Related Services Act of 1992 (25 U.S.C. 3405), as amended
9 by section 2 of this Act, is amended to read as follows:

10 **“SEC. 6. PLAN REQUIREMENTS.**

11 “A plan submitted to the Secretary for approval under
12 this Act shall—

13 “(1) identify the programs to be integrated and
14 consolidated;

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

16 “(3) describe—

17 “(A) a comprehensive strategy identifying
18 the full range of potential employment opportu-
19 nities on and near the service area of the Indian
20 tribe;

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

1 “(2) *the Indian tribe that submitted the plan.*

2 “(b) *IDENTIFICATION OF WAIVERS.—The parties iden-*
3 *tified in subsection (a) shall identify any waivers of appli-*
4 *cable statutory, regulatory, or administrative requirements,*
5 *or of Federal agency policies or procedures necessary to en-*
6 *able the Indian tribe to efficiently implement the plan.*

7 “(c) *TRIBAL WAIVER REQUEST.—In consultation with*
8 *the Secretary, a participating Indian tribe may request*
9 *that the head of each affected agency waive any statutory,*
10 *regulatory, or administrative requirement, policy, or proce-*
11 *dure identified subsection (b).*

12 “(d) *WAIVER AUTHORITY.—*

13 “(1) *IN GENERAL.—Except as provided in para-*
14 *graph (2), notwithstanding any other provision of*
15 *law, the head of each affected Federal agency shall*
16 *wave any applicable statutory, regulatory, or admin-*
17 *istrative requirement, regulation, policy, or procedure*
18 *promulgated by the agency that has been identified by*
19 *the parties under subparagraph (b).*

20 “(2) *EXCEPTION.—The head of an affected Fed-*
21 *eral agency shall not grant a waiver under paragraph*
22 *(1) if the head of the affected agency determines that*
23 *a waiver will be inconsistent with—*

24 “(A) *the purposes of this Act; or*

1 “(B) the provision of law from which the
2 program included in the plan derives its author-
3 ity that is specifically applicable to Indians.

4 “(e) *DECISION ON WAIVER REQUEST.*—

5 “(1) *IN GENERAL.*—Not later than 90 days after
6 the head of an affected agency receives a waiver re-
7 quest, the head of the affected agency shall decide
8 whether to grant or deny the request.

9 “(2) *DENIAL OF REQUEST.*—If the head of the
10 affected agency denies a waiver request, not later than
11 30 days after the date on which the denial is made,
12 the head of the affected agency shall provide the re-
13 questing Indian tribe and the Secretary with written
14 notice of the denial and the reasons for the denial.

15 “(3) *FAILURE TO ACT ON REQUEST.*—If the head
16 of an affected agency does not make a decision under
17 paragraph (1) by the deadline identified in that
18 paragraph, the request shall be considered to be grant-
19 ed.

20 “(f) *SECRETARIAL REVIEW.*—If the head of an affected
21 agency denies a waiver request under subsection (e)(2), not
22 later than 30 days after the date on which the request is
23 denied, the Secretary shall review the denial and determine
24 whether granting the waiver—

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

3 “(2) will prevent the affected agency from ful-
4 filling the obligations of the affected agency under this
5 Act.

6 “(g) *INTERAGENCY DISPUTE RESOLUTION.*—

7 “(1) *IN GENERAL.*—Not later than 30 days after
8 the date on which the Secretary determines that
9 granting the waiver will not be inconsistent with the
10 provisions of this Act and will not prevent the af-
11 fected agency from fulfilling the obligations of the af-
12 fected agency under this Act, the Secretary shall es-
13 tablish and initiate an interagency dispute resolution
14 process involving—

15 “(A) the Secretary;

16 “(B) the participating Indian tribe; and

17 “(C) the head of the affected agency.

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

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

1 “(i) *FINAL DECISION*.—Not later than 10 days after
 2 the date on which the dispute is resolved under this section,
 3 the Secretary shall provide the requesting Indian tribe
 4 with—

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

6 “(2) notice of the right to file an appeal in ac-
 7 cordance with the applicable provisions described in
 8 section 8(d).”.

9 **SEC. 9. PLAN APPROVAL; SECRETARIAL AUTHORITY; RE-**
 10 **VIEW OF DECISION.**

11 Section 8 of the Indian Employment, Training and
 12 Related Services Act of 1992 (25 U.S.C. 3407), as amended
 13 by section 2 of this Act, is amended to read as follows:

14 **“SEC. 8. PLAN APPROVAL; SECRETARIAL AUTHORITY; RE-**
 15 **VIEW OF DECISION.**

16 “(a) *IN GENERAL*.—The Secretary shall have exclusive
 17 authority to approve or disapprove a plan submitted by an
 18 Indian tribe in accordance with section 6.

19 “(b) *APPROVAL PROCESS*.—

20 “(1) *IN GENERAL*.—Not later than 90 days after
 21 the date on which the Secretary receives a plan, the
 22 Secretary shall approve or deny the plan.

23 “(2) *APPROVAL*.—If the Secretary approves a
 24 plan under paragraph (1), the Secretary shall author-

1 *ize the transfer of program funds identified in the*
2 *plan in accordance with section 13.*

3 *“(3) DENIAL.—If the Secretary denies the plan*
4 *under paragraph (1), the Secretary shall provide to*
5 *the Indian tribe a written notification of disapproval*
6 *of the plan that contains a specific finding that clear-*
7 *ly demonstrates, or that is supported by a controlling*
8 *legal authority, that the plan does not meet the re-*
9 *quirements described in section 6.*

10 *“(4) PARTIAL APPROVAL.—*

11 *“(A) IN GENERAL.—If a plan is denied*
12 *under paragraph (3) solely on the basis that a*
13 *request for a waiver that is part of the plan has*
14 *not been approved (or is subject to dispute reso-*
15 *lution) under section 7, the Secretary shall, upon*
16 *a request from the tribe, grant partial approval*
17 *for those portions of the plan not affected by the*
18 *request for a waiver.*

19 *“(B) APPROVAL AFTER RESOLUTION.—With*
20 *respect to a plan described in subparagraph (A),*
21 *on resolution of the request for a waiver under*
22 *section 7, the Secretary shall, on a request from*
23 *the tribe, approve the plan or amended plan not*
24 *later than 90 days after the date on which the*
25 *Secretary receives the request.*

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

5 “(c) *EXTENSION OF TIME.*—*Notwithstanding any*
6 *other provision of law, the Secretary may extend or other-*
7 *wise alter the 90-day period identified in subsection (b)(1)*
8 *for not more than 90 additional days, if, before the expira-*
9 *tion of the period, the Secretary obtains the express written*
10 *consent of the Indian tribe.*

11 “(d) *REVIEW OF DENIAL.*—

12 “(1) *PROCEDURE UPON REFUSAL TO APPROVE*
13 *PLAN.*—*If the Secretary denies a plan under sub-*
14 *section (b)(3), the Secretary shall—*

15 “(A) *state any objections in writing to the*
16 *Indian tribe;*

17 “(B) *provide assistance to the Indian tribe*
18 *to overcome the stated objections; and*

19 “(C) *unless the Indian tribe brings a civil*
20 *action under paragraph (2), provide the Indian*
21 *tribe with a hearing on the record with the right*
22 *to engage in full discovery relevant to any issue*
23 *raised in the matter and the opportunity for ap-*
24 *peal on the objections raised, under such rules*

1 *and regulations as the Secretary may promul-*
2 *gate.*

3 “(2) *CIVIL ACTIONS; CONCURRENT JURISDICTION;*
4 *RELIEF.—*

5 “(A) *IN GENERAL.—The district courts of*
6 *the United States shall have original jurisdiction*
7 *of a civil action or claim against the appro-*
8 *priate Secretary arising under this section and*
9 *over any civil action or claim against the Sec-*
10 *retary for money damages arising under con-*
11 *tracts authorized by this section.*

12 “(B) *ADMINISTRATIVE HEARING AND AP-*
13 *PEAL NOT REQUIRED.—An Indian tribe may*
14 *bring a civil action or claim under this para-*
15 *graph without regard to whether the Indian tribe*
16 *had a hearing or filed an appeal under para-*
17 *graph (1).*

18 “(C) *RELIEF.—In an action brought under*
19 *this paragraph, the court may order appropriate*
20 *relief, including—*

21 “(i) *money damages;*

22 “(ii) *injunctive relief against any ac-*
23 *tion by an officer or employee of the United*
24 *States or any agency thereof contrary to*
25 *this Act or regulations promulgated there-*

1 under (including immediate injunctive re-
2 lief to reverse a denial of a plan under this
3 section or to compel the Secretary to ap-
4 prove a plan); and

5 “(iii) a writ of mandamus to compel
6 an officer or employee of the United States,
7 or any agency thereof, to perform a duty
8 provided under this Act or regulations pro-
9 mulgated hereunder.

10 “(3) *BURDEN OF PROOF AT HEARING OR APPEAL*
11 *DECLINING CONTRACT; FINAL AGENCY ACTION.*—

12 “(A) *IN GENERAL.*—With respect to any
13 hearing or appeal conducted under paragraph
14 (1)(C) or any civil action brought under para-
15 graph (2), the Secretary shall have the burden of
16 proving by clear and convincing evidence the va-
17 lidity of the grounds for denying approval of a
18 plan (or portion thereof).

19 “(B) *AGENCY ACTION.*—Notwithstanding
20 any other provision of law, a decision by an offi-
21 cial of the Department of the Interior or the De-
22 partment of Health and Human Services, as ap-
23 propriate (collectively referred to in this para-
24 graph as the ‘Department’) that constitutes final
25 agency action and that relates to an appeal

1 *within the Department that is conducted under*
2 *paragraph (1)(C) shall be made—*

3 “(i) *by an official of the Department*
4 *who holds a position at a higher organiza-*
5 *tional level within the Department than the*
6 *level of the departmental agency (such as*
7 *the Indian Health Service or the Bureau of*
8 *Indian Affairs) in which the decision that*
9 *is the subject of the appeal was made; or*

10 “(ii) *by an administrative judge.*

11 “(4) *APPLICATION OF LAWS TO ADMINISTRATIVE*
12 *APPEALS.—Section 504 of title 5, United States Code,*
13 *and section 2412 of title 28, United States Code, shall*
14 *apply to any administrative appeals pending on or*
15 *filed after October 5, 1988, by an Indian tribe regard-*
16 *ing a plan under this Act.”.*

17 **SEC. 10. EMPLOYER TRAINING PLACEMENTS.**

18 *Section 10 of the Indian Employment, Training and*
19 *Related Services Act of 1992 (25 U.S.C. 3409), as amended*
20 *by section 2 of this Act, is amended to read as follows:*

21 **“SEC. 10. EMPLOYER TRAINING PLACEMENTS.**

22 “(a) *IN GENERAL.—Subject to subsection (b), an In-*
23 *dian tribe that has in place an approved plan under this*
24 *Act may use the funds made available for the plan under*
25 *this Act—*

1 “(1) to place participants in training positions
2 with employers; and

3 “(2) to pay the participants a training allow-
4 ance or wage for a training period of not more than
5 24 months, which may be nonconsecutive.

6 “(b) *REQUIREMENTS.*—An Indian tribe may carry out
7 subsection (a) only if the Indian tribe enters into a written
8 agreement with each applicable employer under which the
9 employer shall agree—

10 “(1) to provide on-the-job training to the partici-
11 pants; and

12 “(2) on satisfactory completion of the training
13 period described in subsection (a)(2), to prioritize the
14 provision of permanent employment to the partici-
15 pants.”.

16 **SEC. 11. FEDERAL RESPONSIBILITIES.**

17 Section 11 of the Indian Employment, Training and
18 Related Services Act of 1992 (25 U.S.C. 3410), as amended
19 by section 2 of this Act, is amended to read as follows:

20 **“SEC. 11. FEDERAL RESPONSIBILITIES.**

21 “(a) *LEAD AGENCY.*—

22 “(1) *IN GENERAL.*—Notwithstanding any other
23 provision of law, the lead agency responsible for im-
24 plementation of this Act shall be the Bureau of In-
25 dian Affairs.

1 “(2) *INCLUSIONS.*—*The responsibilities of the*
2 *Director of the Bureau of Indian Affairs in carrying*
3 *out this Act shall include—*

4 “(A) *the development of a single model re-*
5 *port for each Indian tribe that has in place an*
6 *approved plan under this Act to submit to the*
7 *Director reports on any consolidated activities*
8 *undertaken and joint expenditures made under*
9 *the plan;*

10 “(B) *the provision, directly or through con-*
11 *tract, of appropriate voluntary and technical as-*
12 *sistance to participating Indian tribes;*

13 “(C) *the development and use of a single*
14 *monitoring and oversight system for plans ap-*
15 *proved under this Act;*

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

18 “(i) *the distribution of the funds to the re-*
19 *spective Indian tribes by not later than 45 days*
20 *after the date of receipt of the funds from the ap-*
21 *propriate Federal department or agency; and*

22 “(E)(i) *the performance of activities de-*
23 *scribed in section 7 relating to agency waivers;*
24 *and*

1 “(i) the establishment of an interagency
2 dispute resolution process.

3 “(3) *MEMORANDUM OF AGREEMENT.*—

4 “(A) *IN GENERAL.*—Not later than 1 year
5 after the date of enactment of the Indian Em-
6 ployment, Training and Related Services Con-
7 solidation Act of 2016, the Secretary (acting
8 through the Director of the Bureau of Indian Af-
9 fairs), in conjunction with the Secretaries of Ag-
10 riculture, Commerce, Education, Energy, Health
11 and Human Services, Homeland Security, Hous-
12 ing and Urban Development, Labor, Transpor-
13 tation, and Veterans Affairs and the Attorney
14 General, shall enter into an interdepartmental
15 memorandum of agreement providing for the im-
16 plementation of this Act.

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

20 “(i) an annual meeting of partici-
21 pating Indian tribes and Federal depart-
22 ments and agencies, to be co-chaired by—

23 “(I) a representative of the Presi-
24 dent; and

1 “(II) a representative of the par-
2 ticipating Indian tribes;

3 “(ii) an annual review of the achieve-
4 ments under this Act and any statutory,
5 regulatory, administrative, or policy obsta-
6 cles that prevent participating Indian tribes
7 from fully and efficiently carrying out the
8 purposes of this Act; and

9 “(iii) a forum comprised of partici-
10 pating Indian tribes and Federal depart-
11 ments and agencies to identify and resolve
12 interagency conflicts and conflicts between
13 the Federal Government and Indian tribes
14 in the administration of this Act.

15 “(b) *REPORT FORMAT.*—

16 “(1) *IN GENERAL.*—The lead agency shall de-
17 velop and distribute to Indian tribes that have in
18 place an approved plan under this Act a single report
19 format, in accordance with the requirements of this
20 Act.

21 “(2) *REQUIREMENTS.*—The lead agency shall en-
22 sure that the report format developed under para-
23 graph (1), together with records maintained by each
24 participating Indian tribe, contains information suf-
25 ficient—

1 “(A) to determine whether the Indian tribe
2 has complied with the requirements of the ap-
3 proved plan of the Indian tribe; and

4 “(B) to provide assurances to the head of
5 each applicable Federal department or agency
6 that the Indian tribe has complied with all di-
7 rectly applicable statutory and regulatory re-
8 quirements not waived under section 7.

9 “(3) *LIMITATION.*—The report format developed
10 under paragraph (1) shall not require a participating
11 Indian tribe to report on the expenditure of funds (ex-
12 pressed by fund source or single agency code) trans-
13 ferred to the Indian tribe under an approved plan
14 under this Act.”.

15 **SEC. 12. NO REDUCTION IN AMOUNTS.**

16 Section 12 of the Indian Employment, Training and
17 Related Services Act of 1992 (25 U.S.C. 3411), as amended
18 by section 2 of this Act, is amended to read as follows:

19 **“SEC. 12. NO REDUCTION IN AMOUNTS.**

20 “(a) *IN GENERAL.*—In no case shall the amount of
21 Federal funds available to an Indian tribe that has in place
22 an approved plan under this Act be reduced as a result
23 of—

24 “(1) the enactment of this Act; or

1 “(2) the approval or implementation of a plan
2 of an Indian tribe under this Act.

3 “(b) *INTERACTION WITH OTHER LAWS.*—The inclu-
4 sion of a program in a tribal plan under this Act shall
5 not—

6 “(1) modify, limit, or otherwise affect the eligi-
7 bility of the program for contracting under the In-
8 dian Self-Determination and Education Assistance
9 Act (25 U.S.C. 450 et seq.); or

10 “(2) eliminate the applicability of any provision
11 of the Indian Self-Determination and Education As-
12 sistance Act (25 U.S.C. 450 et seq.), as the provision
13 relates to a specific program eligible for contracting
14 under that Act.”.

15 **SEC. 13. TRANSFER OF FUNDS.**

16 Section 13 of the Indian Employment, Training and
17 Related Services Act of 1992 (25 U.S.C. 3412), as amended
18 by section 2 of this Act, is amended to read as follows:

19 **“SEC. 13. TRANSFER OF FUNDS.**

20 “(a) *IN GENERAL.*—Notwithstanding any other provi-
21 sion of law, not later than 30 days after the date of appor-
22 tionment to the applicable Federal department or agency,
23 the head of a Federal agency overseeing a program identi-
24 fied in a plan approved under this Act shall transfer to
25 the Director of the Bureau of Indian Affairs for distribution

1 to an Indian tribe any funds identified in the approved
2 plan of the Indian tribe.

3 “(b) *TRANSFER OF FUNDS.*—Notwithstanding any
4 other provision of law, at the request of the Indian tribe,
5 all program funds transferred to an Indian tribe in accord-
6 ance with the approved plan of the Indian tribe shall be
7 transferred to the Indian tribe pursuant to an existing con-
8 tract, compact, or funding agreement awarded pursuant to
9 title I or IV of the Indian Self-Determination and Edu-
10 cation Assistance Act (25 U.S.C. 450 et seq.).”.

11 **SEC. 14. ADMINISTRATION OF FUNDS.**

12 Section 14 of the Indian Employment, Training and
13 Related Services Act of 1992 (25 U.S.C. 3413), as amended
14 by section 2 of this Act, is amended—

15 (1) by redesignating subsection (b) as subsection
16 (d);

17 (2) by striking the section designation and head-
18 ing and all that follows through subsection (a) and
19 inserting the following:

20 **“SEC. 14. ADMINISTRATION OF FUNDS.**

21 **“(a) REQUIREMENTS.—**

22 **“(1) IN GENERAL.—**

23 **“(A) CONSOLIDATION AND REALLOCATION**
24 **OF FUNDS.—**Notwithstanding any other provi-
25 sion of law, all amounts transferred to a tribe

1 *pursuant to an approved plan may be consoli-*
2 *dated, reallocated, and rebudgeted as specified in*
3 *the approved plan to best meet the employment,*
4 *training, and related needs of the local commu-*
5 *nity served by the Indian tribe.*

6 “(B) *AUTHORIZED USE OF FUNDS.—The*
7 *amounts used to carry out a plan approved*
8 *under this Act shall be administered in such*
9 *manner as the Secretary determines to be appro-*
10 *priate to ensure the amounts are spent on activi-*
11 *ties authorized under the approved plan.*

12 “(C) *EFFECT.—Nothing in this section*
13 *interferes with the ability of the Secretary or the*
14 *lead agency to use accounting procedures that*
15 *conform to generally accepted accounting prin-*
16 *ciples, auditing procedures, and safeguarding of*
17 *funds that conform to chapter 75 of title 31,*
18 *United States Code (commonly known as the*
19 *‘Single Audit Act of 1984’).*

20 “(2) *SEPARATE RECORDS AND AUDITS NOT RE-*
21 *QUIRED.—Notwithstanding any other provision of*
22 *law (including regulations and circulars of any agen-*
23 *cy (including Office of Management and Budget Cir-*
24 *cular A–133)), an Indian tribe that has in place an*
25 *approved plan under this Act shall not be required—*

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

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

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

9 “(b) CARRYOVER.—

10 “(1) IN GENERAL.—Any funds transferred to an
11 Indian tribe under this Act that are not obligated or
12 expended prior to the beginning of the fiscal year
13 after the fiscal year for which the funds were appro-
14 priated shall remain available for obligation or ex-
15 penditure without fiscal year limitation, subject to the
16 condition that the funds shall be obligated or ex-
17 pended in accordance with the approved plan of the
18 Indian tribe.

19 “(2) NO ADDITIONAL DOCUMENTATION.—The In-
20 dian tribe shall not be required to provide any addi-
21 tional justification or documentation of the purposes
22 of the approved plan as a condition of receiving or
23 expending the funds.

24 “(c) INDIRECT COSTS.—Notwithstanding any other
25 provision of law, an Indian tribe shall be entitled to recover

1 100 percent of any indirect costs incurred by the Indian
2 tribe as a result of the transfer of funds to the Indian tribe
3 under this Act.”; and

4 (3) in subsection (d) (as redesignated by para-
5 graph (1))—

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

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

9 (B) by striking “regulations)” and all that
10 follows through the end of the subsection and in-
11 serting the following: “regulations).

12 “(2) *TREATMENT.*—The amount equal to the dif-
13 ference between the amount of the commingled funds
14 and the actual administrative cost of the programs, as
15 described in paragraph (1), shall be considered to be
16 properly spent for Federal audit purposes if the
17 amount is used to achieve the purposes of this Act.

18 “(e) *MATCHING FUNDS.*—Notwithstanding any other
19 provision of law, any funds transferred to an Indian tribe
20 under this Act shall be treated as non-Federal funds for
21 purposes of meeting matching requirements under any other
22 Federal law.

23 “(f) *CLAIMS.*—The following provisions of law shall
24 apply to plans approved under this Act:

1 “(1) *Section 314 of the Department of the Inte-*
2 *rior and Related Agencies Appropriations Act, 1991*
3 *(Public Law 101–512; 104 Stat. 1959).*

4 “(2) *Chapter 171 of title 28 (commonly known*
5 *as the ‘Federal Tort Claims Act’).*

6 “(g) *INTEREST OR OTHER INCOME.—*

7 “(1) *IN GENERAL.—An Indian tribe shall be en-*
8 *titled to retain interest earned on any funds trans-*
9 *ferred to the tribe under an approved plan and such*
10 *interest shall not diminish the amount of funds the*
11 *Indian tribe is authorized to receive under the plan*
12 *in the year the interest is earned or in any subse-*
13 *quent fiscal year.*

14 “(2) *PRUDENT INVESTMENT.—Funds transferred*
15 *under a plan shall be managed in accordance with*
16 *the prudent investment standard.”.*

17 **SEC. 15. LABOR MARKET INFORMATION ON INDIAN WORK**
18 **FORCE.**

19 *Section 17(a) of the Indian Employment, Training*
20 *and Related Services Act of 1992 (25 U.S.C. 3416(a)), as*
21 *amended by section 2 of this Act, is amended in the first*
22 *sentence—*

23 (1) *by striking “The Secretary” and all that fol-*
24 *lows through “manner;” and inserting “The Secretary*
25 *of Labor, in consultation with the Secretary, Indian*

1 *tribes, and the Director of the Bureau of the Census,*
2 *shall”;* and

3 *(2) by striking “, by gender,”.*

4 **SEC. 16. REPEALS; CONFORMING AMENDMENTS.**

5 *(a) REPEALS.—Sections 15 and 16 of the Indian Em-*
6 *ployment, Training and Related Services Act of 1992 (25*
7 *U.S.C. 3414, 3415), as amended by section 2 of this Act,*
8 *are repealed.*

9 *(b) CONFORMING AMENDMENTS.—Sections 17 and 18*
10 *of the Indian Employment, Training and Related Services*
11 *Act of 1992 (25 U.S.C. 3416, 3417) (as amended by this*
12 *Act) are redesignated as sections 15 and 16, respectively.*

13 **SEC. 17. EFFECT OF ACT.**

14 *Nothing in this Act or any amendment made by this*
15 *Act—*

16 *(1) affects any plan approved under the Indian*
17 *Employment, Training and Related Services Act of*
18 *1992 (25 U.S.C. 3401 et seq.) (as so redesignated) be-*
19 *fore the date of enactment of this Act;*

20 *(2) requires any Indian tribe or tribal organiza-*
21 *tion to resubmit a plan described in paragraph (1);*
22 *or*

23 *(3) modifies the effective period of any plan de-*
24 *scribed in paragraph (1).*

Union Calendar No. 662

114TH CONGRESS
2^D SESSION

H. R. 329

[Report No. 114-828, Part I]

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.

DECEMBER 7, 2016

The Committees on Education and the Workforce and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed