

**Calendar No. 385**114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1443****[Report No. 114–225]**

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.

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**IN THE SENATE OF THE UNITED STATES**

MAY 21, 2015

Ms. MURKOWSKI (for herself, Mr. SULLIVAN, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

MARCH 9, 2016

Reported by Mr. BARRASSO, without amendment

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**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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian Employment,  
3 Training and Related Services Consolidation Act of  
4 2015”.

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

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

10 **“SECTION 1. SHORT TITLE.**

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

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

18 **SEC. 3. STATEMENT OF PURPOSE.**

19 Section 2 of the Indian Employment, Training and  
20 Related Services Act of 1992 (25 U.S.C. 3401) is amend-  
21 ed—

22 (1) by striking “The purposes of this Act are  
23 to demonstrate how Indian tribal governments can”  
24 and inserting “The purpose of this Act is to facili-  
25 tate the ability of Indian tribes and tribal organiza-  
26 tions to”;

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

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

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

8 **SEC. 4. DEFINITIONS.**

9           Section 3 of the Indian Employment, Training, and  
10 Related Services Act of 1992 (25 U.S.C. 3402) is amend-  
11 ed—

12           (1) by striking paragraph (2) and inserting the  
13 following:

14           “(2) INDIAN TRIBE.—

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

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

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

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

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

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

6           Section 4 of the Indian Employment, Training and  
7           Related Services Act of 1992 (25 U.S.C. 3403) is amend-  
8           ed to read as follows:

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

10          “The Secretary shall, after approving a plan sub-  
11          mitted by an Indian tribe in accordance with section 8,  
12          authorize the Indian tribe to, in accordance with the  
13          plan—

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

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

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

20          Section 5 of the Indian Employment, Training and  
21          Related Services Act of 1992 (25 U.S.C. 3404) is amend-  
22          ed to read as follows:

23 **“SEC. 5. PROGRAMS AFFECTED.**

24          “(a) PROGRAMS AFFECTED.—

1           “(1) IN GENERAL.—The programs that may be  
2 integrated pursuant to a plan approved under sec-  
3 tion 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 partici-  
16 pants with the world of work;

17          “(ix) facilitating the creation of job  
18 opportunities;

19          “(x) economic development; or

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

22          and

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

25          “(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.—

10                  For purposes of this section, programs funded by  
11                  block grant funds provided to an Indian tribe, re-  
12                  gardless of whether the block grant is for the benefit  
13                  of the Indian tribe because of the status of the In-  
14                  dian tribe or the status of the beneficiaries the grant  
15                  serves, shall be eligible to be integrated into the  
16                  plan.

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

1 dian tribe or tribal organization under section 8, authorize  
 2 the Indian tribe or tribal organization, as applicable, to  
 3 coordinate, in accordance with the plan, federally funded  
 4 employment, training, and related services programs and  
 5 funding in a manner that integrates the programs and  
 6 funding into a consolidated and comprehensive program.”.

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

8 Section 6 of the Indian Employment, Training and  
 9 Related Services Act of 1992 (25 U.S.C. 3405) is amend-  
 10 ed to read as follows:

11 **“SEC. 6. PLAN REQUIREMENTS.**

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

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

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

17 “(3) describe—

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

22 “(B) the education, training, and related  
 23 services to be provided to assist Indians to ac-  
 24 cess those employment opportunities;

1           “(C) the way in which services and pro-  
2           gram funds are to be integrated, consolidated,  
3           and delivered; and

4           “(D) the results expected from the plan;

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

8           “(5) identify any agency of the Indian tribe to  
9           be involved in the delivery of the services integrated  
10          under the plan;

11          “(6) identify any statutory provisions, regula-  
12          tions, policies, or procedures that the Indian tribe  
13          believes need to be waived to implement the plan;  
14          and

15          “(7) be approved by the governing body of the  
16          Indian tribe.”.

17 **SEC. 8. PLAN REVIEW; WAIVER AUTHORITY; AND DISPUTE**  
18 **RESOLUTION.**

19          Section 7 of the Indian Employment, Training and  
20          Related Services Act of 1992 (25 U.S.C. 3406) is amend-  
21          ed to read as follows:

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

24                  “(1) the head of each Federal agency over-  
25                  seeing a program identified in the plan; and

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

2           “(b) IDENTIFICATION OF WAIVERS.—The parties  
3 identified in subsection (a) shall identify any waivers of  
4 applicable statutory, regulatory, or administrative require-  
5 ments, or of Federal agency policies or procedures nec-  
6 essary to enable the Indian tribe to efficiently implement  
7 the plan.

8           “(c) TRIBAL WAIVER REQUEST.—In consultation  
9 with the Secretary, a participating Indian tribe may re-  
10 quest that the head of each affected agency waive any stat-  
11 utory, regulatory, or administrative requirement, policy, or  
12 procedure identified subsection (b).

13          “(d) WAIVER AUTHORITY.—

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

21           “(2) EXCEPTION.—The head of an affected  
22 Federal agency shall not grant a waiver under para-  
23 graph (1) if the head of the affected agency deter-  
24 mines that a waiver will be inconsistent with—

25           “(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  
6           after the head of an affected agency receives a waiv-  
7           er request, the head of the affected agency shall de-  
8           cide 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  
11          than 30 days after the date on which the denial is  
12          made, the head of the affected agency shall provide  
13          the requesting Indian tribe and the Secretary with  
14          written notice of the denial and the reasons for the  
15          denial.

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

21          “(f) SECRETARIAL REVIEW.—If the head of an af-  
22          fected agency denies a waiver request under subsection  
23          (e)(2), not later than 30 days after the date on which the  
24          request is denied, the Secretary shall review the denial and  
25          determine 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  
5 this Act.

6           “(g) INTERAGENCY DISPUTE RESOLUTION.—

7           “(1) IN GENERAL.—Not later than 30 days  
8 after the date on which the Secretary determines  
9 that granting the waiver will not be inconsistent  
10 with the provisions of this Act and will not prevent  
11 the affected agency from fulfilling the obligations of  
12 the affected agency under this Act, the Secretary  
13 shall establish and initiate an interagency dispute  
14 resolution 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 para-  
19 graph (1) shall be resolved not later than 30 days  
20 after the 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 af-  
24 fected agency shall have the final authority to resolve the  
25 dispute.

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

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

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

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

12       Section 8 of the Indian Employment, Training and  
 13 Related Services Act of 1992 (25 U.S.C. 3407) is amend-  
 14 ed to read as follows:

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

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

20       “(b) APPROVAL PROCESS.—

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

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

1       thorize the transfer of program funds identified in  
2       the 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  
7       clearly demonstrates, or that is supported by a con-  
8       trolling legal authority, that the plan does not meet  
9       the requirements 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 res-  
15       olution) under section 7, the Secretary shall,  
16       upon a request from the tribe, grant partial ap-  
17       proval for those portions of the plan not af-  
18       fected by the request for a waiver.

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

1 date on which the Secretary receives the re-  
2 quest.

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

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

13 “(d) REVIEW OF DENIAL.—

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

17 “(A) state any objections in writing to the  
18 Indian tribe;

19 “(B) provide assistance to the Indian tribe  
20 to overcome the stated objections; and

21 “(C) unless the Indian tribe brings a civil  
22 action under paragraph (2), provide the Indian  
23 tribe with a hearing on the record with the  
24 right to engage in full discovery relevant to any  
25 issue raised in the matter and the opportunity

1 for appeal on the objections raised, under such  
2 rules and regulations as the Secretary may pro-  
3 mulgate.

4 “(2) CIVIL ACTIONS; CONCURRENT JURISDIC-  
5 TION; RELIEF.—

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

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

19 “(C) RELIEF.—In an action brought under  
20 this paragraph, the court may order appro-  
21 priate relief, including—

22 “(i) money damages;

23 “(ii) injunctive relief against any ac-  
24 tion by an officer or employee of the  
25 United States or any agency thereof con-

1 trary to this Act or regulations promul-  
2 gated thereunder (including immediate in-  
3 junctive relief to reverse a denial of a plan  
4 under this section or to compel the Sec-  
5 retary to approve a plan); and

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

11 “(3) BURDEN OF PROOF AT HEARING OR AP-  
12 PEAL DECLINING CONTRACT; FINAL AGENCY AC-  
13 TION.—

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

21 “(B) AGENCY ACTION.—Notwithstanding  
22 any other provision of law, a decision by an of-  
23 ficial of the Department of the Interior or the  
24 Department of Health and Human Services, as  
25 appropriate (collectively referred to in this para-

1 graph as the ‘Department’) that constitutes  
 2 final agency action and that relates to an ap-  
 3 peal within the Department that is conducted  
 4 under paragraph (1)(C) shall be made—

5 “(i) by an official of the Department  
 6 who holds a position at a higher organiza-  
 7 tional level within the Department than  
 8 the level of the departmental agency (such  
 9 as the Indian Health Service or the Bu-  
 10 reau of Indian Affairs) in which the deci-  
 11 sion that is the subject of the appeal was  
 12 made; or

13 “(ii) by an administrative judge.

14 “(4) APPLICATION OF LAWS TO ADMINISTRA-  
 15 TIVE APPEALS.—Section 504 of title 5, United  
 16 States Code, and section 2412 of title 28, United  
 17 States Code, shall apply to any administrative ap-  
 18 peals pending on or filed after October 5, 1988, by  
 19 an Indian tribe regarding a plan under this Act.”.

20 **SEC. 10. EMPLOYER TRAINING PLACEMENTS.**

21 Section 10 of the Indian Employment, Training and  
 22 Related Services Act of 1992 (25 U.S.C. 3409) is amend-  
 23 ed to read as follows:

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

2 “(a) IN GENERAL.—Subject to subsection (b), an In-  
3 dian tribe that has in place an approved plan under this  
4 Act may use the funds made available for the plan under  
5 this Act—

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

8 “(2) to pay the participants a training allow-  
9 ance or wage for a training period of not more than  
10 24 months, which may be nonconsecutive.

11 “(b) REQUIREMENTS.—An Indian tribe may carry  
12 out subsection (a) only if the Indian tribe enters into a  
13 written agreement with each applicable employer under  
14 which the employer shall agree—

15 “(1) to provide on-the-job training to the par-  
16 ticipants; and

17 “(2) on satisfactory completion of the training  
18 period described in subsection (a)(2), to prioritize  
19 the provision of permanent employment to the par-  
20 ticipants.”.

21 **SEC. 11. FEDERAL RESPONSIBILITIES.**

22 Section 11 of the Indian Employment, Training and  
23 Related Services Act of 1992 (25 U.S.C. 3410) is amend-  
24 ed to read as follows:

25 **“SEC. 11. FEDERAL RESPONSIBILITIES.**

26 “(a) LEAD AGENCY.—

1           “(1) IN GENERAL.—Notwithstanding any other  
2 provision of law, the lead agency responsible for im-  
3 plementation of this Act shall be the Bureau of In-  
4 dian Affairs.

5           “(2) INCLUSIONS.—The responsibilities of the  
6 Director of the Bureau of Indian Affairs in carrying  
7 out this Act shall include—

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

14           “(B) the provision, directly or through con-  
15 tract, of appropriate voluntary and technical as-  
16 sistance to participating Indian tribes;

17           “(C) the development and use of a single  
18 monitoring and oversight system for plans ap-  
19 proved under this Act;

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

22           “(ii) the distribution of the funds to the re-  
23 spective Indian tribes by not later than 45 days  
24 after the date of receipt of the funds from the  
25 appropriate Federal department or agency; and

1           “(E)(i) the performance of activities de-  
2           scribed in section 7 relating to agency waivers;  
3           and

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

6           “(3) MEMORANDUM OF AGREEMENT.—

7           “(A) IN GENERAL.—Not later than 1 year  
8           after the date of enactment of the Indian Em-  
9           ployment, Training and Related Services Con-  
10          solidation Act of 2014, the Secretary (acting  
11          through the Director of the Bureau of Indian  
12          Affairs), in conjunction with the Secretaries of  
13          Agriculture, Commerce, Education, Energy,  
14          Health and Human Services, Homeland Secu-  
15          rity, Housing and Urban Development, Labor,  
16          Transportation, and Veterans Affairs and the  
17          Attorney General, shall enter into an inter-  
18          departmental memorandum of agreement pro-  
19          viding for the implementation of this Act.

20          “(B) INCLUSIONS.—The memorandum of  
21          agreement under subparagraph (A) shall in-  
22          clude provisions relating to—

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

1                   “(I) a representative of the Presi-  
2                   dent; and

3                   “(II) a representative of the par-  
4                   ticipating Indian tribes;

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

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

17                  “(b) REPORT FORMAT.—

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

23                   “(2) REQUIREMENTS.—The lead agency shall  
24                   ensure that the report format developed under para-  
25                   graph (1), together with records maintained by each

1 participating Indian tribe, contains information suf-  
2 ficient—

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

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

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

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

18 Section 12 of the Indian Employment, Training and  
19 Related Services Act of 1992 (25 U.S.C. 3411) is amend-  
20 ed to read as follows:

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

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

1 “(1) the enactment of this Act; or

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

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

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

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

16 **SEC. 13. TRANSFER OF FUNDS.**

17 Section 13 of the Indian Employment, Training and  
18 Related Services Act of 1992 (25 U.S.C. 3412) is amend-  
19 ed to read as follows:

20 **“SEC. 13. TRANSFER OF FUNDS.**

21 “(a) IN GENERAL.—Notwithstanding any other pro-  
22 vision of law, not later than 30 days after the date of ap-  
23 portionment to the applicable Federal department or agen-  
24 cy, the head of a Federal agency overseeing a program  
25 identified in a plan approved under this Act shall transfer

1 to the Director of the Bureau of Indian Affairs for dis-  
 2 tribution to an Indian tribe any funds identified in the  
 3 approved plan of the Indian tribe.

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

12 **SEC. 14. ADMINISTRATION OF FUNDS.**

13 Section 14 of the Indian Employment, Training and  
 14 Related Services Act of 1992 (25 U.S.C. 3413) is amend-  
 15 ed—

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

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

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

22 **“(a) REQUIREMENTS.—**

23 **“(1) IN GENERAL.—**

24 **“(A) CONSOLIDATION AND REALLOCATION**  
 25 **OF FUNDS.—Notwithstanding any other provi-**

1           sion of law, all amounts transferred to a tribe  
2           pursuant to an approved plan may be consoli-  
3           dated, reallocated, and rebudgeted as specified  
4           in the approved plan to best meet the employ-  
5           ment, training, and related needs of the local  
6           community served by the Indian tribe.

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

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

21          “(2) SEPARATE RECORDS AND AUDITS NOT RE-  
22          QUIRED.—Notwithstanding any other provision of  
23          law (including regulations and circulars of any agen-  
24          cy (including Office of Management and Budget Cir-

1 cular A-133)), an Indian tribe that has in place an  
2 approved plan under this Act shall not be required—

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

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

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

11 “(b) CARRYOVER.—

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

21 “(2) NO ADDITIONAL DOCUMENTATION.—The  
22 Indian tribe shall not be required to provide any ad-  
23 ditional justification or documentation of the pur-  
24 poses of the approved plan as a condition of receiv-  
25 ing or expending the funds.

1       “(c) INDIRECT COSTS.—Notwithstanding any other  
2 provision of law, an Indian tribe shall be entitled to re-  
3 cover 100 percent of any indirect costs incurred by the  
4 Indian tribe as a result of the transfer of funds to the  
5 Indian tribe under this Act.”; and

6           (3) in subsection (d) (as redesignated by para-  
7 graph (1))—

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

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

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

14          “(2) TREATMENT.—The amount equal to the  
15 difference between the amount of the commingled  
16 funds and the actual administrative cost of the pro-  
17 grams, as described in paragraph (1), shall be con-  
18 sidered to be properly spent for Federal audit pur-  
19 poses if the amount is used to achieve the purposes  
20 of this Act.

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

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

3           “(1) Section 314 of the Department of the In-  
4 terior and Related Agencies Appropriations Act,  
5 1991 (Public Law 101–512; 104 Stat. 1959).

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

8       “(g) INTEREST OR OTHER INCOME.—

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

16           “(2) PRUDENT INVESTMENT.—Funds trans-  
17 ferred under a plan shall be managed in accordance  
18 with the prudent investment standard.”.

19 **SEC. 15. LABOR MARKET INFORMATION ON INDIAN WORK**  
20 **FORCE.**

21       Section 17(a) of the Indian Employment, Training  
22 and Related Services Act of 1992 (25 U.S.C. 3416(a)) is  
23 amended in the first sentence—

24           (1) by striking “The Secretary” and all that  
25 follows through “manner,” and inserting “The Sec-

1       retary of Labor, in consultation with the Secretary,  
2       Indian tribes, and the Director of the Bureau of the  
3       Census, shall”; and

4               (2) by striking “, by gender,”.

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

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

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

14      **SEC. 17. EFFECT OF ACT.**

15      Nothing in this Act or any amendment made by this  
16      Act—

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

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

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

Calendar No. 385

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1443**

[Report No. 114-225]

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## **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.

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MARCH 9, 2016

Reported without amendment