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115TH CONGRESS }
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SENATE

{ REPORT
115-26

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

APRIL 6 (legislative day, APRIL 4), 2017.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 91]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 91) 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, having considered the same, reports favorably thereon, without amendment, and recommends the bill do pass.

PURPOSE

The bill, S. 91, would amend the Indian Employment, Training and Related Services Demonstration Act of 1992 (1992 Act) to improve the ability of Indian tribes to integrate the employment, training, and related services from diverse federal sources, and for other purposes.

BACKGROUND

In 1992, President Bush signed into law, the Indian Employment, Training, and Related Services Demonstration Act of 1992 (1992 Act or Public Law No. 102-477). This law enabled Indian tribes to coordinate and integrate employment and training programs administered by the Departments of Labor (DOL), Interior (DOI), Education, and Health and Human Services (HHS). This consolidated program is commonly referred to as the 477 program. Tribal participation in the 477 program is voluntary.

The 1992 Act was intended to reduce unemployment in tribal communities by creating employment opportunities consistent with the principle of tribal self-determination. The 1992 Act was also intended to increase the effectiveness of employment and training programs by reducing redundant, unnecessary, and burdensome federal bureaucracy through the consolidation of budgeting, reporting, and auditing systems.

Components of the 1992 Act. Under the 477 program, participating Indian tribes are required to submit a single—federally approved plan, budget, financial report, and receive a single audit for all the employment and training programs included in the participant's 477 program. This consolidation would supplant a participating Indian tribe from submitting multiple documents to each federal agency. Indian tribes are further able to implement programs designed to address tribal needs, guided by tribal goals.

The single audit ensures accountability of the program and that the participating Indian tribes adhere to the accountability standards of the Government Performance Results Act. To facilitate coordination and streamlining, Public Law No. 102–477 allows participating federal agencies to waive any statutory or regulatory requirements as they deem necessary.

The lead agency, designated by Public Law No. 102–477, to coordinate the 477 program with the participating Indian tribes and federal agencies is the DOI through the Division of Workforce Development at the Office of Indian Services within the Bureau of Indian Affairs.¹ Funding from the agencies is sent to the DOI which then transfers the funding to participating Indian tribes through contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA).

Implementation of the 1992 Act. Implementation of the law proceeded with six Indian tribes and Alaska Native organizations submitting the initial 477 plans in 1994. Currently, Indian tribes and tribal organizations who utilize a 477 plan are located in: Alaska, Arizona, Idaho, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Dakota, Washington, Wisconsin, and Wyoming.²

Over 250 Indian tribes and tribal organizations operate more than sixty separate 477 plans, consolidating separate programs in three Departments—Interior, Labor, and Health and Human Services.³ On an annual basis, approximately \$110 million is funded through 477 plans.⁴ The success of the 477 program has been lauded by Indian tribes and the DOI. In recent years, the 477 pro-

¹Div. of Workforce Dev., Bureau of Indian Affairs, U.S. Dep't of the Interior, Who We Are, available at <http://www.indianaffairs.gov/WhoWeAre/BIA/OIS/DWD/index.htm>.

²U.S. Dep't of Labor, Employment and Training Administration, *List of DOL—WIA Funded Federally Recognized Tribes and Alaska Native Entities Participating in Public Law 102–477*, available at <https://www.doleta.gov/dinap/cfm/477list.cfm>.

³These programs include the following within the DOI: Bureau of Indian Affairs' General Assistance program, Division of Workforce Development's Job Placement and Training program, Higher Education and Adult Basic Education programs, and the Johnson O'Malley programs; within the DOL: Workforce Investment Act Section 166 Comprehensive Services program and Supplemental Youth Services program; and within the HHS: Native Employment Works, Tribal Temporary Assistance for Needy Families (TANF), and Child Care and Development Fund programs.

⁴Alaska Federation of Natives, *President's Report* (May 2015), available at <http://www.nativefederation.org/wp-content/uploads/2012/11/May2015-AFNPresidentsReport1060115.pdf>.

gram has received some of the highest ratings under the federal Program Assessment Rating Tool (PART) reviews.⁵

The Indian tribes and tribal organizations who have participated in a 477 plan have significantly improved the effectiveness of the delivery of services provided to their communities, in part, because the “flexibility has allowed [Indian tribes] to be so successful.”⁶ For example, through programmatic integration and consolidation, Public Law No. 102–477 has also helped Indian tribes increase the number of individuals who receive services by decreasing the administrative burdens.

According to testimony received by the Committee, “over 99% of the [total participant base of 43,991 people] achieved positive employment or education outcomes, earning an average of \$7.00 increase in hourly wages.”⁷

Administrative Issues. Despite the relative success of the 477 program, unresolved concerns, since 2000, remained between the HHS and the DOI prompting the HHS to propose withdrawing certain programs from participation in the 477 program. Those concerns largely centered on the ability of the agency to determine whether the program funds had been properly spent, even with the submission of clean annual audits, final reports, and approved budgets and plans. As a result, the HHS requested Indian tribes include the smallest spending details in their proposed budgets for the 477 programs. The HHS also questioned whether certain program funds could be contracted by or transferred to Indian tribes using the ISDEAA contracts or compacts.

On June 2, 2008, the HHS began issuing letters formally notifying Indian tribes whose plans were up for renewal that certain programs would be withdrawn from participating in the 477 program.⁸ Indian tribes were concerned that such an action would be imposed upon all other participating Indian tribes as their plans came up for approval or renewal. They were further concerned that such an action would re-impose upon Indian tribes the burdensome budget and reporting requirements the 1992 Act and subsequent amendments to the law sought to eliminate. The DOI was also concerned that the withdrawal of HHS funds from the 477 program would be detrimental to the participating Indian tribes.⁹

The FY 2012 omnibus appropriations conference report required the Administration and Indian tribes to form a workgroup to resolve differences in how funds should be transferred to Indian tribes and how tribal programs should be audited.¹⁰ The conference report further required the Administration to provide updates to Congress on resolving these issues and required the Bureau of Indian Affairs to submit a report summarizing the workgroup’s ef-

⁵*Indian Employment, Training and Related Services Consolidation Act: Hearing on S. 1574 Before the S. Comm. on Indian Affairs*, 113th Cong. 2 (2014) (written testimony of Margaret Zientek, Co-Chair, 477 Tribal Work Group).

⁶*Id.* at 5.

⁷*Id.* at 2.

⁸Letter from Curtis Coy, Deputy Assistant Secretary for Administration, and Sidonie Squier, Director, Office of Family Assistance, U.S. Dep’t of Health and Human Services, to Robert Middleton, Ph.D., Director, Office of Indian Energy and Economic Development, U.S. Dep’t of the Interior (Jun. 2, 2008) (on file with the Committee).

⁹Letter from George T. Skibine, Acting Deputy Assistant Secretary for Policy and Economic Development, Office of the Secretary, U.S. Dep’t of the Interior, to Lisa Murkowski, Senator of U.S. Senate (Jan. 16, 2009) (on file with the Committee).

¹⁰H.R. Rep. No. 112–331, at 1064 (2011) (Conf. Rep.).

forts. The report was due on March 18, 2014 and issued on April 1, 2014.

According to testimony received by the Committee, the workgroup reached consensus on several issues, but not on the transferring of funds and reporting issues “due to a fundamental difference over the proper interpretation of the 477 statute,”¹¹ including “ambiguous language in the 477 law which only recently has been identified.”¹²

NEED FOR LEGISLATION

The bill would amend the 1992 Act to authorize federal Indian-related programs from the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, Transportation, and Veterans Affairs to be eligible for consolidation into a single 477 plan. This process would allow for a participating tribe to submit a 477 plan with one budget, audit, and report for all departments. The process would reduce bureaucracy and costs, and encourage efficiency for more programs. The bill would also make the 1992 Act demonstration project permanent.

LEGISLATIVE HISTORY

1992 Act. Senator Simon introduced S. 1530, the Indian Employment, Training and Related Services Demonstration Act of 1992, on July 23, 1991, which was referred to the Committee on Indian Affairs. The original cosponsors to S. 1530 were Senators Akaka, Burdick, Conrad, Daschle, DeConcini, Domenici, Inouye, Frank H. Murkowski, and Reid. Senators Bingaman, Gorton, and McCain were later added as cosponsors.

The Committee held a hearing on S. 1530 on July 25, 1991. On October 15, 1991, the Committee favorably reported S. 1530 to the Senate with a substitute amendment and an amendment to the title. The Senate passed S. 1530 with an amendment and an amendment to the title by voice vote on October 30, 1991. The House of Representatives passed the bill, with an amendment, by voice vote on September 29, 1992. On October 7, 1992, the Senate agreed to the House of Representatives amendment by voice vote and the final bill was cleared for the President’s signature. On October 23, 1992, S. 1530 became Public Law No. 102–477.

2000 Amendments. During the 106th Congress, H.R. 5528, the Omnibus Indian Advancement Act, was introduced by Representative Thune on October 24, 2000. Sections 1101–04 of the Omnibus Indian Advancement Act amended the Indian Employment, Training, and Related Services Demonstration Act of 1992 to allow Indian tribes more flexibility in using their funds for employment creation and to provide clarity on waiver requests in tribal plans. There were no cosponsors on the bill. It was referred to the Committee on Resources of the House of Representatives which held a hearing on the bill on October 25, 2000. The House of Representatives passed the bill on October 26, 2000. By unanimous consent,

¹¹*Indian Employment, Training and Related Services Consolidation Act: Hearing on S. 1574 Before the S. Comm. on Indian Affairs*, 113th Cong. 3 (2014) (written testimony of Margaret Zientek, Co-Chair, 477 Tribal Work Group).

¹²*Id.* at 5.

the Senate passed the bill without amendment on December 11, 2000. On December 27, 2000, H.R. 5528 became Public Law No. 106-568.

113th Congress. During the 113th Congress, S. 1574, the Indian Employment, Training, and Related Services Consolidated Act of 2014, was introduced by Senator Murkowski on October 16, 2013. Senator Begich was added as a cosponsor on March 24, 2014. The bill, S. 1574, was referred to the Committee on Indian Affairs which held a hearing on the bill on April 2, 2014. On June 11, 2014, the Committee held a duly called business meeting to consider, among other bills, S. 1574. The Committee ordered the bill, as amended, to be favorably reported to the Senate. On August 26, 2014, the Committee reported S. 1574, as amended, to the Senate without a written report. No further action was taken by the Senate.

A companion bill, H.R. 5671, the Indian Employment, Training and Related Services Consolidation Act of 2014, was introduced by Representative Don Young on September 18, 2014. On October 7, 2014, H.R. 5671 was referred to the Committee on Natural Resources Subcommittee Indian and Alaska Native Affairs of the House of Representatives. No further action was taken by the House of Representatives.

114th Congress. The Indian Employment, Training and Related Services Consolidation Act of 2015 (S. 1443) was introduced by Senators Murkowski and Sullivan on May 21, 2015. Senator Crapo was added as a co-sponsor on June 16, 2015. This bill is nearly identical to S. 1574 (113th Congress) as reported out of Committee. The bill did not include the provisions directing the Comptroller General of the United States to develop an inventory of eligible programs for inclusion in tribal plans.

On October 21, 2015, the Committee held a duly called business meeting to consider, among other bills, S. 1443. The Committee ordered the bill, without amendment, to be favorably reported to the Senate. On July 14, 2016, the Senate passed S. 1443 without amendment by voice vote. On July 18, 2016, the bill was received in the House of Representatives and held at the desk. No further action was taken by the House of Representatives.

Representative Don Young introduced a companion bill, H.R. 329, the Indian Employment, Training and Related Services Consolidation Act of 2016 on January 13, 2015. Representatives Cole, Kilmer, Mullin, and Russell were later added as co-sponsors. On April 14, 2015, the Committee on Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs of the House of Representatives held a legislative hearing on H.R. 329.

On November 16, 2016, the Committee on Natural Resources reported H.R. 329, as amended, with the bill being referred jointly and sequentially to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives. On December 7, 2016, both of these Committees discharged H.R. 329, as amended. On December 7, 2016, a motion by Representative Don Young to suspend the rules and pass H.R. 329, as amended, was agreed to by voice vote. On December 8, 2016, the bill was received in the Senate. No further action was taken by the Senate.

115th Congress. Senators Murkowski and Sullivan introduced S. 91, the Indian Employment, Training and Related Services Consolidation Act of 2017, on January 10, 2017. On February 8, 2017, the Committee held a duly called business meeting to consider, among other bills, S. 91. The Committee ordered the bill, without amendment, to be favorably reported to the Senate.

The bill, S. 91, is identical to H.R. 329 as passed by the House of Representatives in the 114th Congress. The provisions adopted in the current bill are primarily clarifying and technical in nature, including:

- Clarifies that the Department of the Interior is required to coordinate with other federal agencies under the 477 program;
- Clarifies the provision which ensures that a consolidated format is used by Indian tribes when reporting expenditures;
- Excludes funds from the Department of Health and Human Services and the Department of Labor from being eligible for use as a non-federal match in grant applications;
- Removes higher education from the list of possible types of programs that could be integrated into a 477 plan;
- Requires Indian tribes to list the anticipated employment benefits in their 477 plan and include employment information in their reports;
- Requires the interagency memorandum of agreement include an analysis of the employment benefits of the program when they review achievements;
- Amends the judicial remedy section by striking the specifications for Indian tribes to pursue monetary damages under the section;
- Strikes the language that would allow Indian tribes to meet a lower burden of proof standard for pursuing cases; and
- Clarifies the language regarding the process for Indian tribes to seek relief.

Under the bill, S. 91, Indian tribes will retain the ability to bring civil actions based on agencies improper treatment under the 1992 Act, including injunctive relief to reverse a 477 plan denial or to compel an agency to follow the law. Indian tribes pursuing monetary damages would have to meet the standard thresholds of the Tucker Act for bringing suit against the federal government.

Representative Don Young introduced an identical companion bill, H.R. 228, the Indian Employment, Training and Related Services Consolidation Act of 2017, on January 3, 2017. The bill, H.R. 228, was referred to the Committee on Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs of the House of Representatives on February 10, 2017. On February 27, 2017, a motion by Representative McClintock to suspend the rules and pass H.R. 228, as amended, was agreed to by voice vote by the House of Representatives. On February 28, 2017, the bill was received in the Senate.

The bill, H.R. 228, as received in the Senate, is similar to S. 91 with a few technical corrections, including:

- Modifies abbreviated language to the full spelling of words;
- Clarifies the language of how Indian tribes and members of an Indian tribe are eligible to receive funds under an integrated 477 program; and

- Updates references to citations to the United States Code citations that have been recently reorganized.

The changes made to H.R. 228 were approved by the 477 Tribal Work Group during the consideration of the bill by the House of Representatives.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 cites this Act as the “Indian Employment, Training, and Related Services Consolidation Act of 2017”.

Section 2. Amendment of short title

Section 2 of this Act amends Section 1 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (the 1992 Act), by removing the word “Demonstration” from the title of the 1992 Act. This section also clarifies that any reference to the 1992 Act shall be deemed a reference to this Act.

Section 3. Statement of purpose

Section 3 amends the purpose of the 1992 Act to facilitate the ability of Indian tribes to integrate the employment, training and related services they provide from diverse federal sources. This integration is intended to improve the effectiveness of those services, reduce joblessness in Indian communities, serve tribally-determined goals consistent with the policy of self-determination, while reducing administrative, reporting, and accounting costs.

Section 4. Definitions

Section 4 sets forth definitions of “Federal agency”, “Indian”, “Indian tribe”, “Secretary”, and “program” to be consistent with the Indian Self Determination and Education Assistance Act. This section creates a new definition of “program” to clarify which federal programs and funding sources are eligible for inclusion in tribal plans, and updates the definition of “Indian tribe” to include tribal organizations.

Section 5. Integration of services authorized

The Secretary shall, after approving a plan submitted by an Indian tribe in accordance with section 8, authorize the Indian tribe to integrate the programs and federal funds received by the Indian tribe and coordinate the employment, training and related services provided with those funds in a consolidated and comprehensive tribal plan.

Section 6. Programs affected and transfer of funds

Section 6 authorizes what affected programs that may be integrated pursuant to a plan approved under section 8. The programs should have a purpose of job training, welfare to work and tribal work experience, creating or enhancing employment opportunities, skill development, assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing individual participants with the world of work, and facilitating the creation of job opportunities, or any services related to purposes listed.

Under Section 6, Indian tribes or members of an Indian tribe who may integrate programs are—those who are eligible to receive funds under a statutory or administrative formula making funds available to an Indian tribe, or are due to their status as Indians under federal law; or Indian tribes or members of an Indian tribe who have secured funds as a result of a competitive process, a non-competitive process, or a specific designation.

This section also allows for programs funded by block grant funds provided to an Indian tribe to be integrated into the 477 plan, regardless of whether the block grant is for the benefit of the Indian tribe or the status of the beneficiaries the grant serves.

This section expands the 477 program to include the Departments of Justice, Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Labor, Transportation, and Veterans Affairs.

Section 7. Plan requirements

Section 7 requires that tribal employment plans that are submitted must describe a comprehensive strategy identifying the full range of potential employment opportunities on or near the service area of an Indian tribe, including projected expenditures, and any waivers of federal law or regulations needed to effectively carry out the tribal plan. This section also requires participating tribes to set a goal in their plans for the number of program participants that are able to attain unsubsidized employment by the second quarter after exiting their program.

Section 8. Plan review; waiver authority; and dispute resolution

Section 8 clarifies the authority of all covered agencies to grant applicable waivers to enable tribes to efficiently implement plans, and places the responsibility on the Secretary of the Interior to resolve disputes within a fixed time frame. This is consistent with longstanding law and practice under the Indian Self Determination and Education Assistance Act governing contracting proposals, if no action is made to approve or disapprove a waiver request, the waiver request is deemed approved by operation of law.

Subsection (e) provides that not later than 90 days of receiving a waiver request the head of the affected agency must make a decision to deny or grant the request. If an agency issues a denial, the agency shall provide the requesting tribe and the Secretary written notice and reason for denial. This section further provides that when an agency fails to act within 90 days, the waiver shall be considered granted.

Subsection (f) clarifies the duties that the Secretary must take if an affected agency denies a waiver request.

Subsection (g) defines the interagency dispute resolution process if the Secretary determines that granting the waiver will be inconsistent with the provisions of this Act, by involving—the Secretary, the participating Indian tribe, and the head of the affected agency.

Subsection (h) states the head of the affected agency shall have final authority to resolve the dispute in the case that the dispute resolution process fails to resolve the dispute between the Indian tribe and the affected agency.

Under subsection (i), a final decision on a dispute shall be made by the Secretary of the Interior no later than 10 days after the dis-

pute is resolved. The Secretary of the Interior shall provide the requesting Indian tribe with the final decision on the waiver request and notice of the right to file an appeal that is in accordance with this section.

Section 9. Plan approval; secretarial authority; review of decision

Section 9 clarifies the responsibility of the Secretary of the Interior as the sole authority to approve or disapprove a plan under the Act after coordinating with each federal agency providing funds used to implement the plan. This section further clarifies the plan approval process, denial process, and partial approvals. The Secretary may extend or otherwise alter the 90-day period identified in subsection (b)(1) for not more than an additional 90 days with express written consent of the requesting tribe.

Section 9 outlines an option for tribes to pursue civil actions to potentially reverse an unfair denial of a plan or compel an agency to perform its program-related duties under the law. The district courts of the United States shall have original jurisdiction of a civil action against the appropriate Secretary arising under this section. This section clarifies that an Indian tribe may bring a civil action without regard to whether the Indian tribe had a hearing or filed an appeal. The court may order appropriate relief against any action by an officer or employee of the United States or any agency thereof that is contrary to the Act or regulation promulgated thereunder.

Section 10. Employer training placements

Section 10 expands the employment placement authority enacted by the 2000 amendments to include all employers under the approved plan.

Section 11. Federal responsibilities

Section 11 amends Section 11 of the 1992 Act by reaffirming that the Bureau of Indian Affairs as the lead agency for administering the Act. This section provides guidance on the responsibilities of the Bureau of Indian Affairs, and requirements for DOI's coordination with other agencies, in the implementation of this Act. Additionally, this section requires the Secretary of the Interior and the Secretaries of the other participating departments to enter into an interdepartmental memorandum of agreement to expedite the implementation of the Act. Under this Act, tribes must include achievement numbers and percentages in annual reviews.

Section 12. No reduction in amounts

Section 12 prohibits any reduction in funds to which a participating tribes or tribal organizations would otherwise be entitled to absent participation under the Act, as well as provides clarity for the Act's interaction with the Indian Self Determination and Education Assistance Act.

Section 13. Transfer of funds

Section 13 authorizes the interagency transfer of funds necessary to carry out the Act, requiring that such transfers occur within 30 days of apportionment of funds to the transferring agency and also provides for the transfer of funds to the tribe through an existing

self-determination or self-governance contract or funding agreement already in place with the tribe.

Section 14. Administration of funds

Section 14 clarifies that notwithstanding any other provision of the law, all amounts transferred to a tribe pursuant to an approved plan may be consolidated and reallocated as specified in the approved plan to best meet the employment, training, and related needs of the local community served by the Indian tribe. The participating tribe or tribal organization is not required to maintain separate records that track how funds from a particular program included in a plan were spent, nor to track expenditures from such programs, and expressly exempts participating tribes and tribal organizations from any provision of OMB circular A 133 that imposes contrary requirements. Carryover funds from the previous fiscal year shall remain available for use in accordance with the approved plan of the Indian tribe.

Subsection (c) specifies that once a tribe or tribal organization has been issued an approved indirect cost rate from its cognizant federal agency, the tribe or tribal organization shall be permitted to recover its indirect costs pursuant to such rate from all programs contributing funds under a plan.

Subsection (e) specifies that any funds transferred to an Indian tribe under this Act shall be treated as non-federal funds for purposes of meeting matching requirements under any other federal law, except those administered by the Department of Labor or the Department of Health and Human Services.

Subsection (f) provides that the Federal Tort Claims Act shall apply to all approved tribal plans.

Subsection (g) provides that an Indian tribe shall be entitled to retain interest earned on any funds transferred to the tribe under an approved plan that such interest shall not diminish the amount of funds in the Indian tribe is authorized to receive under the plan in the year the interest is earned.

Section 15. Labor market information on Indian work force

Section 15 shifts the responsibility of preparing the labor market information report from the Secretary of Interior to the Secretary of Labor, and directs the Secretary of Labor, in consultation with the Secretary of Interior, Indian tribes, and the Director of the Bureau of Census, to provide a report on labor market information on Indian work force.

Section 16. Repeals; conforming amendments

Section 16 repeals two sections of P.L. 102 477 that are deemed no longer necessary due to amendments made by this Act.

Section 17. Effect of act

Section 17 states that no tribal plans currently in effect are affected by this Act, there is no requirement of any Indian tribe or tribal organization to resubmit a plan already approved under existing law, and it does not modify the effective period of any existing plan.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated March 10, 2017, was prepared for S. 91:

MARCH 10, 2017.

Hon. JOHN HOEVEN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 91, the Indian Employment, Training and Related Services Consolidation Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL.

Enclosure.

S. 91—Indian Employment, Training and Related Services Consolidation Act of 2017

Under current law, multiple federal agencies provide financial assistance to Indian tribes for a wide range of purposes. Under the Indian Employment, Training and Related Services Demonstration Act and subject to approval by the Bureau of Indian Affairs (BIA), tribes can consolidate funds from certain types of federal grants, particularly those that support programs related to employment, training, and education. S. 91 would amend that act to expand the types of federal grants that tribes could consolidate.

CBO estimates that enacting S. 91 would have no significant effect on the federal budget because the legislation would not affect the overall amount of assistance provided by federal agencies to tribes. Based on information from BIA, CBO estimates that any increased federal costs to oversee and administer tribal plans under the bill, which would be subject to appropriation, would not exceed \$500,000 in any year.

Enacting S. 91 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 91 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 91 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Robert Reese. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 91 will have minimal impact of regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 91.

CHANGES IN EXISTING LAW

In accordance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 91, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic):

25 U.S.C. § 3401 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477))

§ 3401. Statement of purpose.**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the “Indian Employment, Training and Related Services Demonstration Act of 1992”.]

SECTION 1. SHORT TITLE.

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

SEC. 2. STATEMENT OF PURPOSE.

[The purpose of this Act are to demonstrate how Indian tribal governments can] *The purpose of this Act is to facilitate the ability of Indian tribes and tribal organizations to integrate the employment, training and related service they provide from diverse Federal sources in order to improve the effectiveness of those services, reduce joblessness in Indian communities, [and serve tribally-determined], and serve tribally-determined goals consistent with the policy of self-determination, while reducing administrative, reporting, and accounting costs.*

25 U.S.C. § 3402 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477), as amended by the Omnibus Indian Advancement Act (P.L. 106-568))

§ 3402. Definitions.**SEC. 3. DEFINITIONS.**

For the purposes of this Act, the following definitions apply:

(1) **FEDERAL AGENCY.**—The term “federal agency” has the same meaning given the term “agency” in section 551(1) of title 5, United States Code.

[(2) INDIAN TRIBE.—The terms “Indian tribe” and “tribe” shall have the meaning given the term “Indian tribe” in section 4(e) of the Indian Self-Determination and Education Assistance Act.]

(2) **INDIAN TRIBE.**—

(A) **IN GENERAL.**—*The terms “Indian tribe” and “tribe” have the meaning given the term “Indian tribe” in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).*

(B) **INCLUSION.**—*The term “Indian tribe” includes tribal organizations (as defined in section 4 of the Indian Self-De-*

termination and Education Assistance Act (25 U.S.C. 5304).

(3) INDIAN.—The term “Indian” shall have the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act.

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

(~~4~~5) SECRETARY.—Except where otherwise provided, the term “Secretary” means the Secretary of the Interior.

25 U.S.C. § 3403 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3403. Integration of services authorized.

[SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

【The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to coordinate, in accordance with such plan, its federally funded employment, training, and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.】

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

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

(1) integrate the programs and Federal funds received by the Indian tribe in accordance with waiver authority granted under section 7(d); and

(2) coordinate the employment, training, and related services provided with those funds in a consolidated and comprehensive tribal plan.

25 U.S.C. § 3404 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477), as amended by the Omnibus Indian Advancement Act (P.L. 106–568))

§ 3404. Programs affected.

[SEC. 5. PROGRAMS AFFECTED.

【The programs that may be integrated in a demonstration project under any such plan referred to in section 4 of this Act shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing Indian youth and adults with the world of work, facilitating the creation of job opportunities and any services related to these activities.】

SEC. 5. PROGRAMS AFFECTED.

(a) PROGRAMS AFFECTED—

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

(A) implemented for the purpose of—

- (i) job training;
- (ii) welfare to work and tribal work experience;
- (iii) creating or enhancing employment opportunities;
- (iv) skill development;
- (v) assisting Indian youth and adults to succeed in the workforce;
- (vi) encouraging self-sufficiency;
- (vii) familiarizing individual participants with the world of work;
- (viii) facilitating the creation of job opportunities;
- (ix) economic development; or
- (x) any services related to the activities described in clauses (i) through (ix); and

(B) under which an Indian tribe or members of an Indian tribe—

(i) are eligible to receive funds—

(I) under a statutory or administrative formula making funds available to an Indian tribe; or

(II) due to their status as Indians under Federal law; or

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

(2) *TREATMENT OF BLOCK GRANT FUNDS.*—For purposes of this section, programs funded by block grant funds provided to an Indian tribe, regardless of whether the block grant is for the benefit of the Indian tribe because of the status of the Indian tribe or the status of the beneficiaries the grant serves, shall be eligible to be integrated into the plan.

(b) *PROGRAM 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 and funding in a manner that integrates the programs and funding into a consolidated and comprehensive program.

25 U.S.C. § 3405 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3405. Plan requirements.

[SEC. 6. PLAN REQUIREMENTS.

[For a plan to be acceptable pursuant to section 4, it shall—

[(1) identify the programs to be integrated;

[(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

[(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

[(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

[(5) identify the projected expenditures under the plan in a single budget;

[(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

[(7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and

[(8) be approved by the governing body of the affected tribe.】

SEC. 6. 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 purpose 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;

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

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

(D) the results expected, including the expected number of program participants in unsubsidized employment during the second quarter after exit from the program, 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 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 believes need to be waived to implement the plan; and

(7) be approved by the governing body of the Indian tribe.

25 U.S.C. § 3406 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477), as amended by the Omnibus Indian Advancement Act (P.L. 106-568))

§ 3406. Plan review.

[SEC. 7. PLAN REVIEW.

【Upon receipt of the plan from a tribal government, the Secretary shall consult with the Secretary of each Federal agency providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall

identify any waivers of statutory requirements or of Federal agency regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by that agency that has been so identified by such tribal government or agency, unless the Secretary of the affected agency determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.】

SEC. 7. PLAN REVIEW.

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

(1) the head of each Federal agency overseeing a program identified in the plan; and

(2) the Indian tribe that submitted the plan.

(b) *IDENTIFICATION OF WAIVERS.*—The parties identified 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 to efficiently implement the plan.

(c) *TRIBAL WAIVER REQUEST.*—In consultation with the Secretary, a participating Indian tribe may request that the head of each affected agency waive any statutory, regulatory, or 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 Federal agency shall waive any applicable statutory, regulatory, or 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 Federal agency shall not grant a waiver under paragraph (1) if the head of the affected agency determines that a waiver will be inconsistent with—

(A) the purpose of this Act; or

(B) the provision of law from which the program included in the plan derives its authority that is specifically applicable to Indians.

(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 30 days after the date on which the denial is made, the head of the affected agency shall provide the requesting Indian tribe 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) by the deadline identified in that paragraph, the request shall be considered to be granted.

(f) *SECRETARIAL REVIEW.*—If the head of an affected agency denies a waiver request under subsection (e)(2), not later than 30 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 this Act; or
- (2) will prevent the affected agency from fulfilling the obligations of the affected agency under this Act.

(g) *Interagency Dispute Resolution.*—

(1) *IN GENERAL.*—Not later than 30 days after the date on which the Secretary determines that granting the waiver will not be inconsistent with the provisions of this Act and will not prevent the affected agency from fulfilling the obligations of the affected agency under this Act, the Secretary shall establish and initiate an interagency dispute resolution process involving—

- (A) the Secretary;
- (B) the participating Indian tribe; 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 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 provide the requesting Indian tribe with—

- (1) the final decision on the waiver request; and
- (2) notice of the right to file an appeal in accordance with the applicable provisions described in section 8(d).

25 U.S.C. § 3407 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477), as amended by the Omnibus Indian Advancement Act (P.L. 106-568))

§ 3407. Plan approval.

[SEC. 8. PLAN APPROVAL.

[Within 90 days after the receipt of a tribal government’s plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary’s approval or disapproval of the plan, including any request for a waiver that is made part of the plan submitted by the tribal government. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian tribe.**]**

SEC. 8. PLAN APPROVAL; SECRETARIAL AUTHORITY; REVIEW OF DECISION.

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

(b) *APPROVAL PROCESS.*—

(1) *IN GENERAL.*—Not later than 90 days after the date on which the Secretary receives a plan, the Secretary shall, after

coordinating with the Secretary of each Federal agency providing funds to be used to implement the plan, approve or deny the plan.

(2) *APPROVAL.*—If the Secretary approves a plan under paragraph (1), the Secretary shall authorize the transfer of program funds identified in the plan in accordance with section 13.

(3) *DENIAL.*—If the Secretary denies the plan under paragraph (1), the Secretary shall provide to the Indian tribe a written notification of disapproval of the plan that contains a specific finding that clearly demonstrates, or that is supported by a controlling legal authority, that the plan does not meet the requirements described in section 6.

(4) *PARTIAL APPROVAL.*—

(A) *IN GENERAL.*—If a plan is denied under paragraph (3) solely on the basis that a request for a waiver that is part of the plan has not been approved (or is subject to dispute resolution) under section 7, the Secretary shall, upon a request from the tribe, grant partial approval for those portions of the plan not affected by the request for a waiver.

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

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

(c) *EXTENSION OF TIME.*—Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period identified in subsection (b)(1) for not more than 90 additional days, if, before the expiration of the period, the Secretary obtains the express written consent of the Indian tribe.

(d) *REVIEW OF DENIAL.*—

(1) *PROCEDURE UPON REFUSAL TO APPROVE PLAN.*—If the Secretary denies a plan under subsection (b)(3), the Secretary shall—

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

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

(C) unless the Indian tribe brings a civil action under paragraph (2), provide the Indian tribe with a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter and the opportunity for appeal on the objections raised, under such rules and regulations as the Secretary may promulgate.

(2) *CIVIL ACTIONS.*—

(A) *IN GENERAL.*—The district courts of the United States shall have original jurisdiction of a civil action against the appropriate Secretary arising under this section.

(B) *ADMINISTRATIVE HEARING AND APPEAL NOT REQUIRED.*—An Indian tribe may bring a civil action under this paragraph without regard to whether the Indian tribe had a hearing or filed an appeal under paragraph (1).

(C) *RELIEF.*—*In an action brought under this paragraph, the court may order appropriate relief (including injunctive relief to reverse a denial of a plan under this section or to compel an officer or employee of the United States, or any agency thereof, to perform a duty provided under this Act or regulations promulgated thereunder) against any action by an officer or employee of the United States or any agency thereof contrary to this Act or regulations promulgated thereunder.*

(3) *FINAL AGENCY ACTION.*—*Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (collectively referred to in this paragraph as the ‘Department’) that constitutes final agency action and that relates to an appeal within the Department that is conducted under paragraph (1)(C) shall be made—*

(A) *by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or*

(B) *by an administrative law judge.*

25 U.S.C. § 3409 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3409. Private sector training placements.

[SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

[A tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and, upon satisfactory completion of the training period, to guarantee permanent employment to such participants for a minimum of 12 months.]

SEC. 10. EMPLOYER TRAINING PLACEMENTS.

(a) *IN GENERAL.*—*Subject to subsection (b), an Indian tribe that has in place an approved plan under this Act may use the funds made available for the plan under this Act—*

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

(2) *to pay the participants a training allowance or wage for a training period of not more than 24 months, which may be nonconsecutive.*

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

(1) *to provide on-the-job training to the participants; and*

(2) *on satisfactory completion of the training period described in subsection (a)(2), to prioritize the provision of permanent employment to the participants.*

25 U.S.C. § 3410 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477))

§ 3410. Federal responsibilities.

[SEC. 11. FEDERAL RESPONSIBILITIES.

[(a) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.— Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

[(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

[(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

[(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

[(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

[(b) REPORT REQUIREMENTS.—The single report format shall be developed by the Secretary, consistent with the requirements of this Act. Such report format, together with records maintained on the consolidated program at the tribal level shall contain such information as will allow a determination that the tribe has complied with the requirements incorporated in its approved plan and will provide assurances to each Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.]

SEC. 11. FEDERAL RESPONSIBILITIES

(a) LEAD AGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the lead agency responsible for implementation of this Act shall be the Bureau of Indian Affairs.

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

(A) in coordination with the head of each Federal agency overseeing a program identified in the plan, the development of a single model report for each Indian tribe 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 Indian tribes;

(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) the distribution of the funds to the respective Indian tribes by not later than 45 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) 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 2017, 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 interdepartmental 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 and Federal departments and agencies, to be co-chaired by—

(I) a representative of the President; and

(II) a representative of the participating Indian tribes;

(ii) an annual review of the achievements under this Act, including the number and percentage of program participants in unsubsidized employment during the second quarter after exit from the program, and any statutory, regulatory, administrative, or policy obstacles that prevent participating Indian tribes from fully and efficiently carrying out the purposes of this Act; and

(iii) a forum comprised of participating Indian tribes and Federal departments and agencies to identify and resolve interagency conflicts and conflicts between the Federal Government and Indian tribes in the administration of this Act.

(b) REPORT FORMAT.—

(1) IN GENERAL.—The lead agency shall develop and distribute to Indian tribes 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 lead agency shall ensure that the report format developed under paragraph (1), together with

records maintained by each participating Indian tribe, contains information sufficient—

(A) to determine whether the Indian tribe has complied with the requirements of the approved plan of the Indian tribe;

(B) to determine the number and percentage of program participants in unsubsidized employment during the second quarter after exit from the program; and

(C) to provide assurances to the head of each applicable Federal department or agency that the Indian tribe has complied with all directly applicable statutory and regulatory requirements not waived under section 7.

(3) *LIMITATION.*—The report format developed under paragraph (1) shall not require a participating Indian tribe to report on the expenditure of funds expressed by fund source or single agency code transferred to the Indian tribe under an approved plan under this Act but instead shall require the Indian tribe to submit a single report on the expenditure of consolidated funds under such plan.

25 U.S.C. § 3411 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3411. No reduction in amounts.

[SEC. 12. NO REDUCTION IN AMOUNTS.]

[In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.]

SEC. 12. NO REDUCTION IN AMOUNTS.

(a) *IN GENERAL.*—In no case shall the amount of Federal funds available to an Indian tribe 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 of an Indian tribe under this Act.

(b) *INTERACTION WITH OTHER LAWS.*—The inclusion of a program in a tribal plan under this Act shall not—

(1) modify, limit, or otherwise affect the eligibility of the program for contracting under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.); or

(2) eliminate the applicability of any provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.), as the provision relates to a specific program eligible for contracting under that Act.

25 U.S.C. § 3412 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3412. Interagency fund transfers authorized.

[SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.]

[The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to a tribal government in order to further the purposes of this Act.]

SEC. 13. TRANSFER OF FUNDS.

(a) *IN GENERAL.*—Notwithstanding any other provision of law, not later than 30 days after the date of apportionment to the applicable Federal department or agency, the head of a Federal agency overseeing a program identified in a plan approved under this Act shall transfer to the Director of the Bureau of Indian Affairs for distribution to an Indian tribe any funds identified in the approved plan of the Indian tribe.

(b) *TRANSFER OF FUNDS.*—Notwithstanding any other provision of law, at the request of the Indian tribe, all program funds transferred to an Indian tribe in accordance with the approved plan of the Indian tribe shall be transferred to the Indian tribe pursuant to an existing contract, compact, or funding agreement awarded pursuant to title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.)

25 U.S.C. § 3413 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3413. Administration of funds and overage.**§ SEC. 14. ADMINISTRATION OF FUNDS AND OVERAGE.****[(a) ADMINISTRATION OF FUNDS.—**

[(1) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under such program.

[(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the tribe to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among such individual programs.]

SEC. 14. ADMINISTRATION OF FUNDS.**(a) REQUIREMENTS.—****(1) IN GENERAL.—**

(A) CONSOLIDATION AND REALLOCATION OF FUNDS.—Notwithstanding any other provision of law, all amounts transferred to a tribe pursuant to an approved plan may be consolidated, reallocated, and rebudgeted as specified in the approved plan to best meet the employment, training, and related needs of the local community served by the Indian tribe.

(B) AUTHORIZED USE OF FUNDS.—The amounts used to carry out a plan approved under this Act shall be administered in such manner as the Secretary determines to be appropriate to ensure the amounts are spent on activities authorized under the approved plan.

(C) EFFECT.—Nothing in this section interferes with the ability of the Secretary or the lead agency to use accounting procedures that conform to generally accepted accounting principles, auditing procedures, and safeguarding of funds that conform to chapter 75 of title 31, United States Code (commonly known as the ‘Single Audit Act of 1984’).

(2) *SEPARATE RECORDS AND AUDITS NOT REQUIRED.*—*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 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.*—

(1) *IN GENERAL.*—*Any funds transferred to an Indian tribe 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 condition that the funds shall be obligated or expended in accordance with the approved plan of the Indian tribe.*

(2) *NO ADDITIONAL DOCUMENTATION.*—*The Indian tribe 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 shall be entitled to recover 100 percent of any indirect costs incurred by the Indian tribe as a result of the transfer of funds to the Indian tribe under this Act.*

(**[b]**d) *OVERAGE.*—**[All administrative]**

(1) *IN GENERAL.*—*All administrative costs may be commingled and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's [regulations], and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this Act.]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.*

(e) *MATCHING FUNDS.*—*Notwithstanding any other provision of law, any funds transferred to an Indian tribe under this Act shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law, except those administered by the Department of Labor or the Department of Health and Human Services.*

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

(1) *Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101-512; 104 Stat. 1959).*

(2) *Chapter 171 of title 28 (commonly known as the 'Federal Tort Claims Act').*

(g) *INTEREST OR OTHER INCOME.*—

(1) *IN GENERAL.*—An Indian tribe shall be entitled to retain interest earned on any funds transferred to the tribe under an approved plan and such interest shall not diminish the amount of funds the Indian tribe is authorized to receive under the plan in the year the interest is earned or in any subsequent fiscal year.

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

25 U.S.C. § 3414 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477))

§ 3414. Fiscal accountability.

[SEC. 15. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.]

25 U.S.C. § 3415 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102–477), as amended by An Act to make technical improvements in the United State Code by amending provisions to reflect the current names of congressional committees (P.L. 103–437))

§ 3415. Report on statutory obstacles to program integration.

[SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.

[(a) **PRELIMINARY REPORT.**—Not later than two years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives on the status of the implementation of the demonstration program authorized under this Act.

[(b) **FINAL REPORT.**—Not later than five years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Education and Labor of the House of Representatives on the results of the implementation of the demonstration program authorized under this Act. Such report shall identify statutory barriers to the ability of tribal governments to integrate more effectively their employment, training, and related services in a manner consistent with the purposes of this Act.]

25 U.S.C. § 3416 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477), as amended by An Act to make technical improvements in the United State Code by amending provisions to reflect the current names of congressional committees (P.L. 103-437))

§ 3416. Labor market information on the Indian work force.

SEC. [17]15. LABOR MARKET INFORMATION ON THE INDIAN WORK FORCE.

(a) REPORT.—[The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner,] *The Secretary of Labor, in consultation with the Secretary, Indian tribes, and the Director of the Bureau of the Census, shall* develop, maintain and publish, not less than biennially, a report on the population[, by gender,] eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to, information at the national level by State, Bureau of Indian Affairs Service area, and tribal level for the—(1) total service population; (2) the service population under age 16 and over 64; (3) the population available for work, including those not considered to be actively seeking work; (4) the employed population, including those employed with annual earnings below the poverty line; and (5) the numbers employed in private sector positions and in public sector positions.

25 U.S.C. § 3417 (Indian Employment, Training and Related Services Demonstration Act of 1992 (P.L. 102-477))

§ 3417. Assignment of Federal personnel to State Indian economic development programs.

SEC. [18]16. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970, may deem appropriate to help ensure the success of such program.