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SENATE

{ REPORT
114-225

AMENDING 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

MARCH 9, 2016.—Ordered to be printed

Mr. BARRASSO, from the Senate Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1443]

The Committee on Indian Affairs, to which was referred the bill (S. 1443) 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 that the bill do pass.

PURPOSE

The purpose of S. 1443, as ordered reported, is to amend the *Indian Employment, Training and Related Services Demonstration Act of 1992* to facilitate the ability of Indian tribes and tribal organizations to integrate the employment, training, and related services from diverse Federal sources, and for other purposes.

BACKGROUND

Purpose and Intent. In 1992, President Bush signed into law Public Law No. 102-477, the *Indian Employment, Training, and Related Services Demonstration Act of 1992* (1992 Act, the consolidated program is commonly referred to as the 477 program). This law would enable 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). 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 and reporting systems.

Components. As a result, participating Indian tribes are required to submit a single federally approved plan, a single budget, a single financial report, and receive a single audit for all the employment and training programs included in the participant's 477 program, instead of multiple documents for multiple programs. Indian tribes could then better 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. Implementation of the law proceeded with six Indian tribes and Alaska Native organizations submitting the first 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—the Department of the Interior, the Department of Labor, and the Department of 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

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 DHHS: 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-AFNPresidentsReport_060115.pdf; Press Release, Murkowski, Sullivan Bill Would Ensure Tribal Funding Program Stays Streamlined (May 22, 2015), available at <http://www.sullivan.senate.gov/newsroom/press-releases/murkowski-sullivan-bill-would-ensure-tribal-funding-program-stays-streamlined>.

lauded by Indian tribes and the DOI. In recent years, the 477 program has received some of the highest ratings under the governmental 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 between the DHHS and the DOI prompted the DHHS 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 DHHS requested Indian tribes include the smallest spending details in their proposed budgets for the 477 programs. The DHHS 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 DHHS 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 reimpose 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 DHHS funds from the 477 program would be detrimental to the participating Indian tribes.⁹

The Fiscal Year 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 fund transfer 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

Despite the best efforts to resolve these concerns administratively over the years,¹³ further clarification in the law is required to ensure that Indian tribes are not subjected to overly burdensome bureaucracy and have certainty in administering these programs. The bill, S. 1443, would improve the effectiveness of the delivery of services and make the 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 passed the bill, with an amendment, by voice vote on September 29, 1992. On October 7, 1992, the Senate agreed to the House amendment by voice vote and the final bill was cleared for the White House. 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 House Committee on Resources which held a hearing on the bill on October 25, 2000. The House passed the bill on October 26, 2000. By unanimous consent, the Senate passed the bill without amend-

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.

¹³In more recent years, “[b]etween November, 2011 and January, 2014, the workgroup met by teleconference or in person approximately 30 times.” *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 Kevin Washburn, Assistant Secretary for Indian Affairs, U.S. Dep’t of the Interior).

ment 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 Lisa 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.

The House 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 Subcommittee Indian and Alaska Native Affairs where no further action was taken on the bill.

114th Congress. During this Congress, S. 1443, the *Indian Employment, Training and Related Services Consolidation Act of 2015*, was introduced by Senator Lisa Murkowski on May 21, 2015. Senator Dan Sullivan is an original co-sponsor and Senator Mike Crapo was added as a co-sponsor on June 16, 2015. This bill is nearly identical to S. 1574 (113th Cong.) that was reported out of Committee. S. 1443 does 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.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 cites this Act as the “Indian Employment, Training and Related Services Consolidation Act of 2015.”

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 Section 2 of the 1992 Act’s “Statement of Purpose” and describes the purpose of this Act is to facilitate the ability of Indian tribes to integrate the employment, training and related services they provide from diverse Federal sources in order 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 such as, “Indian tribe,” which includes tribal organizations and is consistent with the *Indian Self-Determination and Education Assistance Act* (ISDEAA). This section also creates a new definition of “Program,” to help clarify and expand the types of Federal programs and funding sources eligible for inclusion in tribal 477 plans.

Section 5. Integration of services authorized

Section 5 authorizes the Secretary to be able to approve a plan submitted by an Indian tribe in accordance with section 8. This section also authorizes an Indian tribe, in accordance with the approved plan—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 allows for programs approved under section 8 of this Act to be integrated into the plan. The only programs that may be integrated should have a purpose of job training, welfare to work and tribal work experience, creating or enhancing employment opportunities, higher education, skill development, assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing individual participants with the world of work, facilitating the creation of job opportunities, economic development, or any services related to the 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 due to their status as Indians under Federal law; or 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.

Section 6 expands the 477 Program to include the related programs within the Departments of the Interior, 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 submitted for Secretarial approval 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.

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

Section 8 clarifies the authority of all covered agencies to grant waivers, and places the responsibility on the Secretary of the Interior to resolve disputes within a fixed time frame. This is con-

sistent with longstanding law and practice under the ISDEAA 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.

Section 8 provides the affected agency 90 days to approve or decline to approve a waiver request, if a decision is not made within the 90 days, the waiver request shall be granted. If a waiver request is denied, the head of the affected agency shall, no later than 30 days after the denial is made, issue written notice and reasons for the denial. This section also provides for Secretarial review of waiver requests.

Section 8 allows for a 30-day interagency dispute resolution process if the Secretary determines that granting the waiver will not be inconsistent with the provisions of this Act. The Secretary shall establish and initiate an interagency dispute resolution process involving the Secretary, the participating Indian tribe; and the head of the affected agency. This section also states the head of the affected agency shall have final authority to resolve the dispute, if the dispute resolution process fails to resolve the dispute between the Indian tribe and the affected agency.

Under section 8, a final decision on a dispute shall be made by the Secretary of the Interior no later than 10 days after the dispute is resolved. The Secretary of the Interior shall provide the requesting Indian tribe with the final decision on the waiver request where the relevant tribe or tribal organization is then granted the right to appeal any adverse decision of the Secretary of the Interior pursuant to the provisions set forth in 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. This Act improves the 1992 Act by addressing past delays and providing mechanisms for appeal. It also creates a partial approval if specific sections of the plan are in the waiver appeal process. The timing, decision and appeal provisions are modeled on the declination processes already set forth under Title I of the ISDEAA for contracting proposals, including provisions for administrative and judicial review.

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. An Indian tribe may carry out the expanded authority only if the Indian tribe enters into a written agreement with each applicable employer whereby the employer agrees to provide on-the-job training to the participants, and on satisfactory completion of the training to prioritize the permanent placement of participants.

Section 11. Federal responsibilities

Section 11 reaffirms that the Bureau of Indian Affairs is the lead agency for administering this Act. This section also provides guidance on the responsibilities of the Bureau of Indian Affairs in implementing this Act. Section 11 also 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 this Act.

Under Section 11(b), the lead agency shall develop and distribute a single report format to Indian tribes that have an approved plan. The lead agency shall ensure that the report format includes information to determine whether the Indian tribe has complied with the requirements of the approved plan, and 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. The report format shall not require Indian tribes to report on the expenditure of funds transferred to the Indian tribe under an approved plan under this Act.

Section 12. No reduction in amounts

Section 12 prohibits any reduction in funds to which a participating Indian tribe or tribal organizations would otherwise be entitled to absent participation under this Act. This section also provides clarity for this Act's interaction with the ISDEAA.

Section 13. Transfer of funds

Section 13 authorizes the interagency transfer of funds necessary to carry out this Act by 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 Indian tribe.

Section 14. Administration of funds

Section 14 clarifies that notwithstanding any other provision of law, all amounts transferred to an Indian 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. 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, or track expenditures from such programs, and expressly exempts participating Indian 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.

Section 14(c) specifies that once an Indian tribe or tribal organization has been issued an approved indirect cost rate from its cognizant Federal agency, the Indian tribe or tribal organization shall be permitted to recover its indirect costs pursuant to such rate from all programs contributing funds under an approved plan.

Section 14(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.

Section 14(f) provides that the *Federal Tort Claims Act* shall apply to approved tribal plans.

Section 14(g) provides that an Indian tribe shall be entitled to retain interest earned on any funds transferred to the Indian tribe

under an approved plan and that 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.

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, directing 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

This section repeals two sections of P.L. 102–477 that are 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 January 8, 2016, was prepared for S. 1443:

JANUARY 8, 2016.

Hon. JOHN BARRASSO,
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. 1443, the Indian Employment, Training and Related Services Consolidation Act of 2015.

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

Sincerely,

KEITH HALL.

Enclosure.

Under current law, a variety of 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 certain types of federal grants—particularly those that support programs related to employment, training, and education—to implement tribal plans related to such activities. S. 1443 would amend that act to expand the types of federal grants that tribes could consolidate.

CBO estimates that enacting S. 1443 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. 1443 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1443 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

S. 1443 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Megan Carroll. 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. 1443 will have a minimal impact of regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1443.

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. 1443, 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 purposes 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 services 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. 450b).

(B) *INCLUSION.*—The term ‘Indian tribe’ includes tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

(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; 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) higher education;*
- (v) skill development;*
- (vi) assisting Indian youth and adults to succeed in the workforce;*
- (vii) encouraging self-sufficiency;*
- (viii) familiarizing individual participants with the world of work;*
- (ix) facilitating the creation of job opportunities;*
- (x) economic development; or*
- (xi) any services related to the activities described in clauses (i) through (x); 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 purposes of this Act;

(3) describe—

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

(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 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.】

(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 in 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 af-

affected agency determines that a waiver will be inconsistent with—

(A) the purposes 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 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; CONCURRENT JURISDICTION; RELIEF.—

(A) IN GENERAL.—The district courts of the United States shall have original jurisdiction of a civil action or claim against the appropriate Secretary arising under this section and over any civil action or claim against the Secretary for money damages arising under contracts authorized by this section.

(B) ADMINISTRATIVE HEARING AND APPEAL NOT REQUIRED.—An Indian tribe may bring a civil action or claim 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—

(i) money damages;

(ii) injunctive relief against any action by an officer or employee of the United States or any agency thereof contrary to this Act or regulations promulgated thereunder (including immediate injunctive relief to reverse a denial of a plan under this section or to compel the Secretary to approve a plan); and

(iii) a writ of mandamus 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 hereunder.

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

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

(B) 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—

(i) 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

(ii) by an administrative judge.

(4) APPLICATION OF LAWS TO ADMINISTRATIVE APPEALS.—Section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, shall apply to any administrative appeals pending on or filed after October 5, 1988, by an Indian tribe regarding a plan under this Act.

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

§ 3409. Private sector training placements

ISEC. 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 author-

ized 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.]

(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) *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 2014, 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 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; and

(B) 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.

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.]

(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. 450 et seq.); or

(2) eliminate the applicability of any provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 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. 450 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.*

(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.

(b) INDIAN DEMOGRAPHIC INFORMATION.—The Secretary, in consultation with the Bureau of the Census of the Department of Commerce, and the National Center for Native American Studies and Policy Development authorized by Public Law 101–301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted 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 not later than 12 months after the date of enactment of this Act.

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.