

## Calendar No. 32

115TH CONGRESS  
1ST SESSION

# S. 91

[Report No. 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.

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### IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2017

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

APRIL 6 (legislative day, APRIL 4), 2017

Reported by Mr. HOEVEN, without amendment

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian Employment,  
3 Training and Related Services Consolidation Act of  
4 2017”.

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

6 (a) IN GENERAL.—Section 1 of the Indian Employ-  
7 ment, Training and Related Services Demonstration Act  
8 of 1992 (25 U.S.C. 3401 note) is amended to read as fol-  
9 lows:

10 **“SECTION 1. SHORT TITLE.**

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

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

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

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

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

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

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

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

8 **SEC. 4. DEFINITIONS.**

9           Section 3 of the Indian Employment, Training and  
10 Related Services Act of 1992 (25 U.S.C. 3402), as amend-  
11 ed by section 2 of this Act, is amended—

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

14           “(2) INDIAN TRIBE.—

15           “(A) IN GENERAL.—The terms ‘Indian  
16 tribe’ and ‘tribe’ have the meaning given the  
17 term ‘Indian tribe’ in section 4 of the Indian  
18 Self-Determination and Education Assistance  
19 Act (25 U.S.C. 5304).

20           “(B) INCLUSION.—The term ‘Indian tribe’  
21 includes tribal organizations (as defined in sec-  
22 tion 4 of the Indian Self-Determination and  
23 Education Assistance Act (25 U.S.C. 5304)).”;

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

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

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

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

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

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

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

14                 “(1) integrate the programs and Federal funds  
15          received by the Indian tribe in accordance with waiv-  
16          er authority granted under section 7(d); and

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

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

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

24 **“SEC. 5. PROGRAMS AFFECTED.**

25          “(a) PROGRAMS AFFECTED.—

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

4                   “(A) implemented for the purpose of—

5                           “(i) job training;

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

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

10                          “(iv) skill development;

11                          “(v) assisting Indian youth and adults  
12 to succeed in the workforce;

13                          “(vi) encouraging self-sufficiency;

14                          “(vii) familiarizing individual partici-  
15 pants with the world of work;

16                          “(viii) facilitating the creation of job  
17 opportunities;

18                          “(ix) economic development; or

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

21                          and

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

24                           “(i) are eligible to receive funds—

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

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

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

9                   “(2) TREATMENT OF BLOCK GRANT FUNDS.—

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

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

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

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

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

11 **“SEC. 6. PLAN REQUIREMENTS.**

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

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

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

17 “(3) describe—

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

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

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

4           “(D) the results expected, including the ex-  
5           pected number of program participants in un-  
6           subsidized employment during the second quar-  
7           ter after exit from the program, from the plan;

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

11          “(5) identify any agency of the Indian tribe to  
12          be involved in the delivery of the services integrated  
13          under the plan;

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

18          “(7) be approved by the governing body of the  
19          Indian tribe.”.

20 **SEC. 8. PLAN REVIEW; WAIVER AUTHORITY; AND DISPUTE**  
21 **RESOLUTION.**

22          Section 7 of the Indian Employment, Training and  
23          Related Services Act of 1992 (25 U.S.C. 3406), as amend-  
24          ed by section 2 of this Act, is amended to read as follows:



1 **“SEC. 7. PLAN REVIEW.**

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

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

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

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

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

18 “(d) WAIVER AUTHORITY.—

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

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

5                   “(A) the purpose of this Act; or

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

9           “(e) DECISION ON WAIVER REQUEST.—

10           “(1) IN GENERAL.—Not later than 90 days  
11 after the head of an affected agency receives a waiv-  
12 er request, the head of the affected agency shall de-  
13 cide whether to grant or deny the request.

14           “(2) DENIAL OF REQUEST.—If the head of the  
15 affected agency denies a waiver request, not later  
16 than 30 days after the date on which the denial is  
17 made, the head of the affected agency shall provide  
18 the requesting Indian tribe and the Secretary with  
19 written notice of the denial and the reasons for the  
20 denial.

21           “(3) FAILURE TO ACT ON REQUEST.—If the  
22 head of an affected agency does not make a decision  
23 under paragraph (1) by the deadline identified in  
24 that paragraph, the request shall be considered to be  
25 granted.

1       “(f) SECRETARIAL REVIEW.—If the head of an af-  
2 fected agency denies a waiver request under subsection  
3 (e)(2), not later than 30 days after the date on which the  
4 request is denied, the Secretary shall review the denial and  
5 determine whether granting the waiver—

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

8               “(2) will prevent the affected agency from ful-  
9 filling the obligations of the affected agency under  
10 this Act.

11       “(g) INTERAGENCY DISPUTE RESOLUTION.—

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

20                       “(A) the Secretary;

21                       “(B) the participating Indian tribe; and

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

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

1       “(h) FINAL AUTHORITY.—If the dispute resolution  
2 process fails to resolve the dispute between a participating  
3 Indian tribe and an affected agency, the head of the af-  
4 fected agency shall have the final authority to resolve the  
5 dispute.

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

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

11           and

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

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

17       Section 8 of the Indian Employment, Training and  
18 Related Services Act of 1992 (25 U.S.C. 3407), as amend-  
19 ed by section 2 of this Act, is amended to read as follows:

20 **“SEC. 8. PLAN APPROVAL; SECRETARIAL AUTHORITY; RE-**  
21 **VIEW OF DECISION.**

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

25       “(b) APPROVAL PROCESS.—

1           “(1) IN GENERAL.—Not later than 90 days  
2 after the date on which the Secretary receives a  
3 plan, the Secretary shall, after coordinating with the  
4 Secretary of each Federal agency providing funds to  
5 be used to implement the plan, approve or deny the  
6 plan.

7           “(2) APPROVAL.—If the Secretary approves a  
8 plan under paragraph (1), the Secretary shall au-  
9 thorize the transfer of program funds identified in  
10 the plan in accordance with section 13.

11           “(3) DENIAL.—If the Secretary denies the plan  
12 under paragraph (1), the Secretary shall provide to  
13 the Indian tribe a written notification of disapproval  
14 of the plan that contains a specific finding that  
15 clearly demonstrates, or that is supported by a con-  
16 trolling legal authority, that the plan does not meet  
17 the requirements described in section 6.

18           “(4) PARTIAL APPROVAL.—

19           “(A) IN GENERAL.—If a plan is denied  
20 under paragraph (3) solely on the basis that a  
21 request for a waiver that is part of the plan has  
22 not been approved (or is subject to dispute res-  
23 olution) under section 7, the Secretary shall,  
24 upon a request from the tribe, grant partial ap-

1           proval for those portions of the plan not af-  
2           fected by the request for a waiver.

3           “(B) APPROVAL AFTER RESOLUTION.—

4           With respect to a plan described in subpara-  
5           graph (A), on resolution of the request for a  
6           waiver under section 7, the Secretary shall, on  
7           a request from the tribe, approve the plan or  
8           amended plan not later than 90 days after the  
9           date on which the Secretary receives the re-  
10          quest.

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

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

21          “(d) REVIEW OF DENIAL.—

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

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

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

5           “(C) unless the Indian tribe brings a civil  
6 action under paragraph (2), provide the Indian  
7 tribe with a hearing on the record with the  
8 right to engage in full discovery relevant to any  
9 issue raised in the matter and the opportunity  
10 for appeal on the objections raised, under such  
11 rules and regulations as the Secretary may pro-  
12 mulgate.

13           “(2) CIVIL ACTIONS.—

14           “(A) IN GENERAL.—The district courts of  
15 the United States shall have original jurisdic-  
16 tion of a civil action against the appropriate  
17 Secretary arising under this section.

18           “(B) ADMINISTRATIVE HEARING AND AP-  
19 PEAL NOT REQUIRED.—An Indian tribe may  
20 bring a civil action under this paragraph with-  
21 out regard to whether the Indian tribe had a  
22 hearing or filed an appeal under paragraph (1).

23           “(C) RELIEF.—In an action brought under  
24 this paragraph, the court may order appro-  
25 priate relief (including injunctive relief to re-

1           verse a denial of a plan under this section or  
2           to compel an officer or employee of the United  
3           States, or any agency thereof, to perform a  
4           duty provided under this Act or regulations pro-  
5           mulgated thereunder) against any action by an  
6           officer or employee of the United States or any  
7           agency thereof contrary to this Act or regula-  
8           tions promulgated thereunder.

9           “(3) FINAL AGENCY ACTION.—Notwithstanding  
10          any other provision of law, a decision by an official  
11          of the Department of the Interior or the Department  
12          of Health and Human Services, as appropriate (col-  
13          lectively referred to in this paragraph as the ‘De-  
14          partment’) that constitutes final agency action and  
15          that relates to an appeal within the Department that  
16          is conducted under paragraph (1)(C) shall be  
17          made—

18                 “(A) by an official of the Department who  
19                 holds a position at a higher organizational level  
20                 within the Department than the level of the de-  
21                 partmental agency (such as the Indian Health  
22                 Service or the Bureau of Indian Affairs) in  
23                 which the decision that is the subject of the ap-  
24                 peal was made; or

25                 “(B) by an administrative law judge.”.



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

2 Section 10 of the Indian Employment, Training and  
3 Related Services Act of 1992 (25 U.S.C. 3409), as amend-  
4 ed by section 2 of this Act, is amended to read as follows:

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

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

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

12 “(2) to pay the participants a training allow-  
13 ance or wage for a training period of not more than  
14 24 months, which may be nonconsecutive.

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

19 “(1) to provide on-the-job training to the par-  
20 ticipants; and

21 “(2) on satisfactory completion of the training  
22 period described in subsection (a)(2), to prioritize  
23 the provision of permanent employment to the par-  
24 ticipants.”.

1 **SEC. 11. FEDERAL RESPONSIBILITIES.**

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

5 **“SEC. 11. FEDERAL RESPONSIBILITIES.**

6 “(a) LEAD AGENCY.—

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

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

14 “(A) in coordination with the head of each  
15 Federal agency overseeing a program identified  
16 in the plan, the development of a single model  
17 report for each Indian tribe that has in place an  
18 approved plan under this Act to submit to the  
19 Director reports on any consolidated activities  
20 undertaken and joint expenditures made under  
21 the plan;

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

1           “(C) the development and use of a single  
2 monitoring and oversight system for plans ap-  
3 proved under this Act;

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

6           “(ii) the distribution of the funds to the re-  
7 spective Indian tribes by not later than 45 days  
8 after the date of receipt of the funds from the  
9 appropriate Federal department or agency; and

10           “(E)(i) the performance of activities de-  
11 scribed in section 7 relating to agency waivers;  
12 and

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

15           “(3) MEMORANDUM OF AGREEMENT.—

16           “(A) IN GENERAL.—Not later than 1 year  
17 after the date of enactment of the Indian Em-  
18 ployment, Training and Related Services Con-  
19 solidation Act of 2017, the Secretary (acting  
20 through the Director of the Bureau of Indian  
21 Affairs), in conjunction with the Secretaries of  
22 Agriculture, Commerce, Education, Energy,  
23 Health and Human Services, Homeland Secu-  
24 rity, Housing and Urban Development, Labor,  
25 Transportation, and Veterans Affairs and the

1 Attorney General, shall enter into an inter-  
2 departmental memorandum of agreement pro-  
3 viding for the implementation of this Act.

4 “(B) INCLUSIONS.—The memorandum of  
5 agreement under subparagraph (A) shall in-  
6 clude provisions relating to—

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

10 “(I) a representative of the Presi-  
11 dent; and

12 “(II) a representative of the par-  
13 ticipating Indian tribes;

14 “(ii) an annual review of the achieve-  
15 ments under this Act, including the num-  
16 ber and percentage of program partici-  
17 pants in unsubsidized employment during  
18 the second quarter after exit from the pro-  
19 gram, and any statutory, regulatory, ad-  
20 ministrative, or policy obstacles that pre-  
21 vent participating Indian tribes from fully  
22 and efficiently carrying out the purposes of  
23 this Act; and

24 “(iii) a forum comprised of partici-  
25 pating Indian tribes and Federal depart-

1                   ments and agencies to identify and resolve  
2                   interagency conflicts and conflicts between  
3                   the Federal Government and Indian tribes  
4                   in the administration of this Act.

5           “(b) REPORT FORMAT.—

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

11                  “(2) REQUIREMENTS.—The lead agency shall  
12                  ensure that the report format developed under para-  
13                  graph (1), together with records maintained by each  
14                  participating Indian tribe, contains information suf-  
15                  ficient—

16                          “(A) to determine whether the Indian tribe  
17                          has complied with the requirements of the ap-  
18                          proved plan of the Indian tribe;

19                          “(B) to determine the number and per-  
20                          centage of program participants in unsubsidized  
21                          employment during the second quarter after  
22                          exit from the program; and

23                          “(C) to provide assurances to the head of  
24                          each applicable Federal department or agency  
25                          that the Indian tribe has complied with all di-

1           rectly applicable statutory and regulatory re-  
2           quirements not waived under section 7.

3           “(3) LIMITATION.—The report format devel-  
4           oped under paragraph (1) shall not require a partici-  
5           pating Indian tribe to report on the expenditure of  
6           funds expressed by fund source or single agency  
7           code transferred to the Indian tribe under an ap-  
8           proved plan under this Act but instead shall require  
9           the Indian tribe to submit a single report on the ex-  
10          penditure of consolidated funds under such plan.”.

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

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

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

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

20                 “(1) the enactment of this Act; or

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

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

1           “(1) modify, limit, or otherwise affect the eligi-  
2           bility of the program for contracting under the In-  
3           dian Self-Determination and Education Assistance  
4           Act (25 U.S.C. 5304 et seq.); or

5           “(2) eliminate the applicability of any provision  
6           of the Indian Self-Determination and Education As-  
7           sistance Act (25 U.S.C. 5304 et seq.), as the provi-  
8           sion relates to a specific program eligible for con-  
9           tracting under that Act.”.

10 **SEC. 13. TRANSFER OF FUNDS.**

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

14 **“SEC. 13. TRANSFER OF FUNDS.**

15           “(a) IN GENERAL.—Notwithstanding any other pro-  
16           vision of law, not later than 30 days after the date of ap-  
17           portionment to the applicable Federal department or agen-  
18           cy, the head of a Federal agency overseeing a program  
19           identified in a plan approved under this Act shall transfer  
20           to the Director of the Bureau of Indian Affairs for dis-  
21           tribution to an Indian tribe any funds identified in the  
22           approved plan of the Indian tribe.

23           “(b) TRANSFER OF FUNDS.—Notwithstanding any  
24           other provision of law, at the request of the Indian tribe,  
25           all program funds transferred to an Indian tribe in accord-

1 ance with the approved plan of the Indian tribe shall be  
 2 transferred to the Indian tribe pursuant to an existing  
 3 contract, compact, or funding agreement awarded pursu-  
 4 ant to title I or IV of the Indian Self-Determination and  
 5 Education Assistance Act (25 U.S.C. 5304 et seq.).”.

6 **SEC. 14. ADMINISTRATION OF FUNDS.**

7 Section 14 of the Indian Employment, Training and  
 8 Related Services Act of 1992 (25 U.S.C. 3413), as amend-  
 9 ed by section 2 of this Act, is amended—

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

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

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

16 **“(a) REQUIREMENTS.—**

17 **“(1) IN GENERAL.—**

18 **“(A) CONSOLIDATION AND REALLOCATION**  
 19 **OF FUNDS.—**Notwithstanding any other provi-  
 20 sion of law, all amounts transferred to a tribe  
 21 pursuant to an approved plan may be consoli-  
 22 dated, reallocated, and rebudgeted as specified  
 23 in the approved plan to best meet the employ-  
 24 ment, training, and related needs of the local  
 25 community served by the Indian tribe.



1           “(B) AUTHORIZED USE OF FUNDS.—The  
2 amounts used to carry out a plan approved  
3 under this Act shall be administered in such  
4 manner as the Secretary determines to be ap-  
5 propriate to ensure the amounts are spent on  
6 activities authorized under the approved plan.

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

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

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

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

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

5           “(b) CARRYOVER.—

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

15          “(2) NO ADDITIONAL DOCUMENTATION.—The  
16          Indian tribe shall not be required to provide any ad-  
17          ditional justification or documentation of the pur-  
18          poses of the approved plan as a condition of receiv-  
19          ing or expending the funds.

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

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

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

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

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

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

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

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

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

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

6           “(g) INTEREST OR OTHER INCOME.—

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

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

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

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

23                 (1) by striking “The Secretary” and all that  
24                 follows through “manner,” and inserting “The Sec-  
25                 retary of Labor, in consultation with the Secretary,

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

3 (2) by striking “, by gender,”.

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

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

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

14 **SEC. 17. EFFECT OF ACT.**

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

17 (1) affects any plan approved under the Indian  
18 Employment, Training and Related Services Act of  
19 1992 (25 U.S.C. 3401 et seq.), as amended by sec-  
20 tion 2 of this Act, before the date of enactment of  
21 this Act;

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

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



**Calendar No. 32**

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 91**

[Report No. 115-26]

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**A BILL**

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

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APRIL 6 (legislative day, APRIL 4), 2017

Reported without amendment