

CHAPTER 36—INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES

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§ 3401. Statement of purpose

The purposes of this chapter are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

(Pub. L. 102-477, §2, Oct. 23, 1992, 106 Stat. 2302.)

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-568, title XI, §1101, Dec. 27, 2000, 114 Stat. 2930, provided that: "This title [amending sections 3402, 3404, and 3406 to 3408 of this title and enacting provisions set out as notes under this section] may be cited as the 'Indian Employment, Training, and Related Services Demonstration Act Amendments of 2000'."

SHORT TITLE

Pub. L. 102-477, §1, Oct. 23, 1992, 106 Stat. 2302, provided that: "This Act [enacting this chapter] may be cited as the 'Indian Employment, Training and Related Services Demonstration Act of 1992'."

CONGRESSIONAL FINDINGS AND PURPOSES

Pub. L. 106-568, title XI, §1102, Dec. 27, 2000, 114 Stat. 2931, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) [sic] Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

"(A) improved the effectiveness of employment-related services provided by those tribes and organizations to their members;

"(B) enabled more Indian and Alaska Native people to prepare for and secure employment;

"(C) assisted in transitioning tribal members from welfare to work; and

"(D) otherwise demonstrated the value of integrating employment, training, education and related services. [sic]

"(E) the initiatives under the Indian Employment, Training, and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all Federal programs that emphasize the value of work may be included within a demonstration program of an Indian or Alaska Native organization; and

"(F) the initiatives under the Indian Employment, Training, and Related Services Demonstration

Act of 1992 should have the benefit of the support and attention of the officials with policy-making authority of—

"(i) the Department of the Interior; or

"(ii) other Federal agencies that administer programs covered by the Indian Employment, Training, and Related Services Demonstration Act of 1992.

"(b) PURPOSES.—The purposes of this title [see Short Title of 2000 Amendment note above] are to demonstrate how Indian tribal governments can integrate the employment, training, and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities, foster economic development on Indian lands, and serve tribally-determined goals consistent with the policies of self-determination and self-governance."

REPORT ON EXPANDING OPPORTUNITIES FOR PROGRAM INTEGRATION

Pub. L. 106-568, title XI, §1104, Dec. 27, 2000, 114 Stat. 2932, provided that: "Not later than 1 year after the date of the enactment of this title [Dec. 27, 2000], the Secretary, the Secretary of Health and Human Services, the Secretary of Labor, and the tribes and organizations participating in the integration initiative under this title [see Short Title of 2000 Amendment note above] shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives on the opportunities for expanding the integration of human resource development and economic development programs under this title, and the feasibility of establishing Joint Funding Agreements to authorize tribes to access and coordinated [sic] funds and resources from various agencies for purposes of human resources development, physical infrastructure development, and economic development assistance in general. Such report shall identify programs or activities which might be integrated and make recommendations for the removal of any statutory or other barriers to such integration."

§ 3402. Definitions

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

(1) Federal agency

The term "federal¹ agency" has the same meaning given the term "agency" in section 551(1) of title 5.

(2) Indian tribe

The terms "Indian tribe" and "tribe" shall have the meaning given the term "Indian tribe" in section 5304(e) of this title.

(3) Indian

The term "Indian" shall have the meaning given such term in section 5304(d) of this title.

(4) Secretary

Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

(Pub. L. 102-477, §3, Oct. 23, 1992, 106 Stat. 2302; Pub. L. 106-568, title XI, §1103(a), Dec. 27, 2000, 114 Stat. 2931.)

AMENDMENTS

2000—Pub. L. 106-568 added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

§ 3403. Integration of services authorized

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Sec-

¹ So in original. Probably should be capitalized.

retary 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.

(Pub. L. 102-477, § 4, Oct. 23, 1992, 106 Stat. 2302.)

§ 3404. Programs affected

The programs that may be integrated in a demonstration project under any such plan referred to in section 3403 of this title 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 Youth¹ and adults with the world of work, facilitating the creation of job opportunities and any services related to these activities.

(Pub. L. 102-477, § 5, Oct. 23, 1992, 106 Stat. 2302; Pub. L. 106-568, title XI, § 1103(b), Dec. 27, 2000, 114 Stat. 2931.)

AMENDMENTS

2000—Pub. L. 106-568 substituted “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” for “job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training”.

§ 3405. Plan requirements

For a plan to be acceptable pursuant to section 3403 of this title, it shall—

- (1) identify the programs to be integrated;
- (2) be consistent with the purposes of this chapter 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.

(Pub. L. 102-477, § 6, Oct. 23, 1992, 106 Stat. 2303.)

§ 3406. Plan review

Upon receipt of the plan from a tribal government, the Secretary of the Interior 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 chapter or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

(Pub. L. 102-477, § 7, Oct. 23, 1992, 106 Stat. 2303; Pub. L. 106-568, title XI, § 1103(c), Dec. 27, 2000, 114 Stat. 2932.)

AMENDMENTS

2000—Pub. L. 106-568 substituted “Federal agency” for “Federal department” and “Federal agency regulations” for “Federal departmental regulations”, substituted “agency” for “department” wherever appearing, and inserted “statutory requirement,” after “to waive any”.

§ 3407. 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 as 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.

(Pub. L. 102-477, § 8, Oct. 23, 1992, 106 Stat. 2303; Pub. L. 106-568, title XI, § 1103(d), Dec. 27, 2000, 114 Stat. 2932.)

AMENDMENTS

2000—Pub. L. 106-568 inserted “, including any request for a waiver that is made as part of the plan submitted by the tribal government” after “disapproval of the plan” and “, including reconsidering the disapproval of any waiver requested by the Indian tribe” after “reconsider such disapproval”.

§ 3408. Job creation activities authorized

(a) In general

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for

¹ So in original. Probably should not be capitalized.

the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall regional economic activity which has a reasonable likelihood of success and consistent with the purposes specifically applicable to Indian programs in the statute under which the funds are authorized.

(b) Job creation opportunities

(1) In general

Notwithstanding any other provisions of law, including any requirement of a program that is integrated under a plan under this chapter, a tribal government may use a percentage of the funds made available under this chapter (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 3409 of this title.

(2) Determination of percentage

The percentage of funds that a tribal government may use under this subsection is the greater of—

- (A) the rate of unemployment in the service area of the tribe up to a maximum of 25 percent; or
- (B) 10 percent.

(c) Limitation

The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a Federal agency under a statutory or administrative formula.

(Pub. L. 102-477, §9, Oct. 23, 1992, 106 Stat. 2303; Pub. L. 106-568, title XI, §1103(e), Dec. 27, 2000, 114 Stat. 2932.)

AMENDMENTS

2000—Pub. L. 106-568 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

§ 3409. Private sector training placements

A tribal government participating in a demonstration program under this chapter 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.

(Pub. L. 102-477, §10, Oct. 23, 1992, 106 Stat. 2304.)

§ 3410. Federal responsibilities

(a) Responsibilities of Department of the Interior

Within 180 days following October 23, 1992, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this chapter. The lead agency for a demonstra-

tion program under this chapter 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 chapter. 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.

(Pub. L. 102-477, §11, Oct. 23, 1992, 106 Stat. 2304.)

§ 3411. 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 chapter.

(Pub. L. 102-477, §12, Oct. 23, 1992, 106 Stat. 2304.)

§ 3412. 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 chapter.

(Pub. L. 102-477, §13, Oct. 23, 1992, 106 Stat. 2304.)

§ 3413. 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.

(b) Overage

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 chapter.

(Pub. L. 102-477, § 14, Oct. 23, 1992, 106 Stat. 2305.)

§ 3414. Fiscal accountability

Nothing in this chapter 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 [31 U.S.C. 7501 et seq.].

(Pub. L. 102-477, § 15, Oct. 23, 1992, 106 Stat. 2305.)

REFERENCES IN TEXT

The Single Audit Act of 1984, referred to in text, is Pub. L. 98-502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§ 7501 et seq.) of Title 31, Money and Finance, and provisions set out as notes under section 7501 of Title 31. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of Title 31 and Tables.

§ 3415. Report on statutory obstacles to program integration

(a) Preliminary report

Not later than two years after October 23, 1992, 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 chapter.

(b) Final report

Not later than five years after October 23, 1992, 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 chapter. 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 chapter.

(Pub. L. 102-477, § 16, Oct. 23, 1992, 106 Stat. 2305; Pub. L. 103-437, § 10(e)(1), (2)(C), Nov. 2, 1994, 108 Stat. 4589.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-437 substituted “Committee on Indian” for “Select Committee on Indian” and “Natural Resources” for “Interior and Insular Affairs”.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and

the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§ 3416. Labor market information on Indian work force

(a) Report

The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner, 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 October 23, 1992.

(Pub. L. 102-477, § 17, Oct. 23, 1992, 106 Stat. 2305; Pub. L. 103-437, § 10(e)(1), (2)(C), Nov. 2, 1994, 108 Stat. 4589.)

REFERENCES IN TEXT

Public Law 101-301, referred to in subsec. (b), is Pub. L. 101-301, May 24, 1990, 104 Stat. 206. Section 11 of Pub. L. 101-301, which authorized feasibility study for the establishment of a National Center for Native American Studies and Policy Development, is not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-437 substituted “Committee on Indian” for “Select Committee on Indian” and “Natural Resources” for “Interior and Insular Affairs”.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives changed to Committee on Education and

the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§ 3417. 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 [42 U.S.C. 4701 et seq.], may deem appropriate to help ensure the success of such program.

(Pub. L. 102-477, §18, Oct. 23, 1992, 106 Stat. 2306.)

REFERENCES IN TEXT

The Intergovernmental Personnel Act of 1970, referred to in text, is Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, as amended, which enacted sections 3371 to 3376 of Title 5, Government Organization and Employees, and chapter 62 (§4701 et seq.) of Title 42, The Public Health and Welfare, amended section 1304 of Title 5 and section 246 of Title 42, repealed sections 1881 to 1888 of Title 7, Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 42 and Tables.

CHAPTER 37—INDIAN ENERGY

Sec.	
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3504.	Leases, business agreements, and rights-of-way involving energy development or transmission.
3505.	Federal power marketing administrations.
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CODIFICATION

Title XXVI of the Energy Policy Act of 1992, comprising this chapter, was originally enacted by Pub. L. 102-486, title XXVI, Oct. 24, 1992, 106 Stat. 3113, and amended by Pub. L. 103-437, Nov. 2, 1994, 108 Stat. 4581; Pub. L. 105-388, Nov. 13, 1998, 112 Stat. 3477. Title XXVI is shown herein, however, as having been added by Pub. L. 109-58, title V, §503(a), Aug. 8, 2005, 119 Stat. 764, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 109-58.

§ 3501. Definitions

In this chapter:

(1) The term “Director” means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

(2) The term “Indian land” means—

(A) any land located within the boundaries of an Indian reservation, pueblo, or rancharia;

(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancharia, the title to which is held—

(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

(iii) by a dependent Indian community; and

(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land.

(3) The term “Indian reservation” includes—

(A) an Indian reservation in existence in any State or States as of August 8, 2005;

(B) a public domain Indian allotment; and

(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

(i) on original or acquired territory of the community; or

(ii) within or outside the boundaries of any State or States.

(4)(A) The term “Indian tribe” has the meaning given the term in section 5304 of this title.

(B) For the purpose of paragraph (12) and sections 3503(b)(1)(C) and 3504 of this title, the term “Indian tribe” does not include any Native Corporation.

(5) The term “integration of energy resources” means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

(6) The term “Native Corporation” has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(7) The term “organization” means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

(8) The term “Program” means the Indian energy resource development program established under section 3502(a) of this title.

(9) The term “Secretary” means the Secretary of the Interior.

(10) The term “sequestration” means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

(11) The term “tribal energy resource development organization” means an organization of two or more entities, at least one of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 3502 of this title.

(12) The term “tribal land” means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States.

(Pub. L. 102-486, title XXVI, §2601, as added Pub. L. 109-58, title V, §503(a), Aug. 8, 2005, 119 Stat. 764.)