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105TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 105-207

TO AMEND THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992 TO PROVIDE FOR THE TRANSFER OF SERVICES AND PERSONNEL FROM THE BUREAU OF INDIAN AFFAIRS TO THE OFFICE OF SELF-GOVERNANCE, TO EMPHASIZE THE NEED FOR JOB CREATION ON INDIAN RESERVATIONS, AND FOR OTHER PURPOSES

JUNE 5, 1998.—Ordered to be printed

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

REPORT

[To accompany S. 1279]

The Committee on Indian Affairs, to which was referred the bill (S. 1279) to amend the Indian Employment, Training, and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

The amendment is an amendment in the nature of a substitute as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Employment, Training and Related Services Demonstration Act Amendments of 1998”.

SEC. 2. FINDINGS.

Congress finds that—

(1) 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 services provided by those tribes and organizations;

(B) enabled more Indian people to secure employment;

(C) assisted welfare recipients; and

(D) otherwise demonstrated the value of integrating education, employment, and training services;

(2) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all pro-

grams that emphasize the value of work may be included within a demonstration program of an Indian tribe or Alaska Native organization;

(3) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 shares goals and innovative approaches of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(4) the programs referred to in paragraph (2) should be implemented by the Office of Self-Governance of the Department of the Interior, the unit within the Department of the Interior responsible for carrying out self-governance programs under the Indian Self-Determination and Education Assistance Act; and

(5) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials of—

(A) the Department of the Interior; and

(B) other Federal agencies involved with policymaking authority with respect to programs that emphasize the value of work for American Indians and Alaska Natives.

SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.

(a) **DEFINITIONS.**—Section 3 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

“(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.”.

(b) **PROGRAMS AFFECTED.**—Section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “The programs”;

(2) in subsection (a), as designated by paragraph (1) of this subsection, by striking “employment opportunities, or skill development” and all that follows through the end of the subsection, and inserting “securing employment, retaining employment, or creating employment opportunities and other programs relating to the world of work.”; and

(3) by adding at the end the following:

“(b) **PROGRAMS.**—The programs referred to in subsection (a) may include, at the option of an Indian tribe—

“(1) the program commonly referred to as the general assistance program established under the Act of November 2, 1921 (commonly known as the ‘Snyder Act’) (42 Stat. 208, chapter 115; 25 U.S.C. 13); and

“(2) the program known as the Johnson-O’Malley Program established under the Johnson-O’Malley Act (25 U.S.C. 452 through 457), if the applicable plan for the Indian tribe under section 4 includes educational services for elementary and secondary school students that familiarize those students with the world of work.”.

(c) **PLAN REVIEW.**—Section 7 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3406) is amended—

(1) by striking “Federal department” and inserting “Federal agency”;

(2) by striking “Federal departmental” and inserting “Federal agency”;

(3) by striking “department” each place it appears and inserting “agency”; and

(4) in the third sentence, by inserting “statutory requirement,” after “to waive any”.

(d) **PLAN APPROVAL.**—Section 8 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3407) is amended—

(1) in the first sentence, by inserting before the period at the end the following: “(including any request for a waiver that is made as part of the plan submitted by the tribal government)”;

(2) in the second sentence, by inserting before the period at the end the following: “, including reconsidering the disapproval of any waiver requested by the Indian tribe”.

(e) **JOB CREATION ACTIVITIES.**—Section 9 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3408) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “The plan submitted”; and

(2) by adding at the end the following:

“(b) **EMPLOYMENT OPPORTUNITIES.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, including any requirement of a program that is integrated under a plan under this Act, a tribal government may use a percentage of the funds made available under this Act

(as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 10.

“(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 area subject to the jurisdiction of the tribal government; 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.”

(f) FEDERAL RESPONSIBILITIES.—Section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “Bureau of Indian Affairs” and inserting “Office of Self-Governance”;

(2) in paragraph (3), by striking “and” at the end;

(3) in paragraph (4)—

(A) by inserting “delivered under an arrangement subject to the approval of the Indian tribe participating in the project,” after “appropriate to the project,”; and

(B) by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out demonstration projects under this Act, in consultation with each such Indian tribe, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out demonstration projects under this Act to discuss issues relating to the implementation of this Act with officials of each department specified in subsection (a).”

(g) ADDITIONAL RESPONSIBILITIES.—In assuming the responsibilities for carrying out the duties of a lead agency under section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) pursuant to the amendments made to that section by subsection (f) of this section, the Director of the Office of Self-Governance of the Department of the Interior shall ensure that an orderly transfer of those lead agency functions to the Office occurs in such manner as to eliminate any potential adverse effects on any Indian tribe that participates in a demonstration project under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(h) PERSONNEL.—In carrying out the amendment made by subsection (f)(1), the Secretary of the Interior shall transfer from the Bureau of Indian Affairs to the Office of Self-Governance of the Department of the Interior such personnel and resources as the Secretary determines to be appropriate.

SEC. 4. CONSOLIDATED ADVISORY COMMITTEES.

The Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) is amended by adding at the end the following:

“SEC. 19. CONSOLIDATED ADVISORY COMMITTEE.

“(a) IN GENERAL.—The head of each Federal agency specified in section 4 that otherwise has jurisdiction over a program that is integrated under this Act (in accordance with a plan under section 6) shall permit a tribal government that carries out that plan to establish a consolidated advisory committee to carry out the duties of each advisory committee that would otherwise be required under applicable law (including any council or commission relating to private industry) to carry out the programs integrated under the plan.

“(b) WAIVERS.—As necessary to carry out subsection (a), each agency head referred to in that paragraph shall waive any statutory requirement, regulation, or policy requiring the establishment of an advisory committee (including any advisory commission or council).”

SEC. 5. ALASKA REGIONAL CONSORTIA.

The Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.), as amended by section 4 of this Act, is amended by adding at the end the following:

“SEC. 20. ALASKA REGIONAL CONSORTIA.

“(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary shall permit a regional consortium of Alaska Native villages or regional or village corporations (as defined in or established under the Alas-

ka Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) to carry out a project under a plan that meets the requirements of this Act through a resolution adopted by the governing body of that consortium or corporation.

“(b) WITHDRAWAL.—Nothing in subsection (a) is intended to prohibit an Alaska Native village or regional or village corporation from withdrawing from participation in any portion of a program conducted pursuant to that subsection.”.

SEC. 6. EFFECTIVE DATES.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act, except that the transfer of functions to the Office of Self-Governance of the Department of the Interior under the amendment made by section 3(f)(1) shall be carried out not later than 90 days after the date of enactment of this Act.

PURPOSE

S. 1279 proposes to amend Public Law 102–477, the Indian Employment, Training and Related Services Demonstration Act of 1992 (codified at 25 U.S.C. §§ 3401–3417, and hereinafter referred to as the “477 program”). The Amendments proposed in this Act address several concerns with the 477 program that were revealed by tribal participants, coalition members, and federal administrators at a Senate Committee on Indian Affairs hearing held on May 13, 1997.¹ The bill’s primary purposes are threefold: (1) to transfer the lead agency responsibilities from the Bureau of Indian Affairs to the Office of Self-Governance; (2) to clarify and expand the federal formula programs that may be integrated into tribal 477 plans; and (3) to encourage Indian country entrepreneurship and expand permissible employment creation activities.

BACKGROUND

Since its enactment, the 477 program has become one of the few successful economic development programs in Indian country. The program was enacted to address the severe problems of unemployment and poverty faced by most Native American communities. The program permits tribal governments to consolidate formula funded employment, training and related programs into one streamlined, efficient plan designed to meet tribe-specific employment needs. Currently, twenty-two (22) tribal grantees participate in the 477 program, representing 190 of the 557 federally recognized tribes. All of the tribes participating in the program report that they are providing more jobs and better quality services to tribal members while reducing paper work and related administrative costs.

The 477 program was developed to provide tribes with a mechanism to take full advantage of the wide variety of employment training programs, while minimizing administrative time and costs, and by reducing federal paper work. Throughout the 1970’s and 1980’s, Congress authorized a number of employment training programs to address the unemployment problem that existed throughout the nation. Within each of these programs, Congress reserved funds exclusively for and allocated funds directly to tribes, pursuant to the federal government’s special trust relationship with tribes. When enacting these tribal-specific employment training

¹ Oversight Hearing on the Indian Employment, Training, and Related Services Demonstration Act Before the Senate Committee on Indian Affairs, 105th Cong., S. Hrg. 105–191 (May 13, 1997) [hereinafter Committee Hearing Report].

programs, it was Congress' intent to increase the economic self-sufficiency of tribal governments and their communities. However, contrary to this intent, many tribes were not able to take advantage of the programs, because of the great number of regulations, and filing and reporting requirements each program required of tribes. Additionally, the small amounts awarded under each grant relative to the significant time and paperwork burdens were often prohibitive and served to detract from the overall effectiveness of these programs.

The current 477 program authorizes the Secretary of the Interior, in collaboration with the Secretaries of Education, Health and Human Services, and Labor to review for approval tribal plans proposing to integrate formula funded employment and training and related services programs.² Integration of these programs permits tribes to more efficiently administer employment training and related services, and is designed to reduce unemployment in tribal communities, while serving the federal policy of Indian self-determination. Tribal plan must: identify programs to be integrated;³ describe a strategy identifying potential employment opportunities on and near the tribe's service area, and services to be provided; include a projected budget; identify tribal agencies involved in the delivery of services; identify necessary waivers; and be approved by the governing body of the tribe.⁴ The Secretary then, after consulting with the other department Secretaries involved is required to approve or reject the tribal plan, along with approval or rejection of any waivers requested, within ninety (90) days after receipt of the tribe's plan.⁵ If disapproved, the tribe has an opportunity to amend its plan or petition for reconsideration.⁶

According to the Bureau of Indian Affairs' (BIA) Preliminary Report on Public Law 102-477, as of October 6, 1996, more than \$17 million of federal funding had been pooled by participating agencies under the program.⁷ This same report stated that the size of grants varied with one third under \$500,000; one third between \$500,000 and \$1 million; and the final third over \$1 million.⁸ Tribal administrative compliance with the act has been exemplary. All grantees

²"The Department of Education is not currently participating since they have not identified any formula funded programs which would be appropriate." Bureau of Indian Affairs, Preliminary Report on Public Law 102-477 at 2 (January 1997) [hereinafter "BIA Preliminary Report"].

One reason for the lack of participation by the Department of Education, cited at the May 13th hearing, was that relevant Indian programs are small, and therefore, distribute funding on a competitive rather than formula basis. Committee Hearing Report, *supra* note 1, at 39.

³The BIA, the lead agency responsible for implementation of the 477 program, formally lists eleven (11) programs that are eligible for integration into tribal 477 plans, but other programs have been integrated on a case-by-case basis. In its initial report, dated June 6, 1997, the Bureau lists the following programs as eligible for integration, with program Departments listed in italics:

Department of Labor: Job Training Partnership Act (JTPA), P.L. 97-300 § 401, Title IV(A); JTPA, P.L. 97-300 § 401, Title II-B (Indian Summer Youth).

Department of Health and Human Services: Job Opportunities and Basic Skills Training (JOBS), P.L. 104-193 § 412(A)(2); Child Care and Development Block Grant (CCDBG), P.L. 101-508 (as amended); Temporary Assistance for Needy Families (TANF), P.L. 104-193.

Department of the Interior (BIA): Adult Vocational Training, 20 U.S.C. §§ 2302, 2313; Direct Employment; Adult Education; Higher Education, 25 U.S.C. §§ 3302 et seq.; General Assistance, 25 U.S.C. § 13; Tribal Work Experience.

BIA Preliminary Report, *supra* note 2, at 2-3.

⁴25 U.S.C. § 3405.

⁵25 U.S.C. § 3406.

⁶25 U.S.C. § 3407.

⁷BIA Preliminary Report, *supra* note 2, at 3.

⁸*Id.*

are in good standing having timely submitted program and financial reports to the BIA.⁹

The record shows that the 477 program has been successful, and should be expanded and strengthened. An oversight hearing, held by the Senate Committee on Indian Affairs on May 13, 1997 revealed several concerns with the program's administration and certain limitations that prevented broad implementation of the program. Additionally, implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, will make successful implementation of the 477 program a high priority for tribal governments. Known as the "Welfare Reform" law, this initiative places primary emphasis on securing and keeping gainful employment. Because the centerpiece of the Act is work, the 477 program will play a critical role in helping tribes make the transition to an employment-oriented framework. S. 1279 was developed to specifically address these concerns.

SUMMARY OF MAJOR AMENDMENTS

Lead agency change

The most prevalent concern raised before the Committee at the May 13th hearing was the lack of commitment from the Bureau of Indian Affairs, the lead federal agency responsible for implementation of the 477 program. The Committee received testimony from a number of tribal participants complaining of the Bureau's administrative record. As a result of this testimony and other considerations discussed below, Section 3(f) of S. 1279 proposes to transfer lead agency responsibilities from the Bureau of Indian Affairs to the Office of Self-Governance (OSG). Both agencies are located within the Department of the Interior, and the Secretary of the Interior will continue to be vested with primary responsibility to administer the program at the federal level. Section 3(h) requires the Secretary of the Interior to transfer personnel and resources from the BIA to OSG as is deemed appropriate.

Section 11 of Public Law 102-477 currently names the BIA as lead agency, and sets forth four (4) primary responsibilities: (1) to develop single report forms for tribal applicants; (2) to submit a number of reports to this Committee regarding progress of the 477 program; (3) to provide technical assistance to tribal participants; and (4) to act as the single agency responsible for transferring funds integral under the program to tribal participants.

Testimony revealed that the BIA failed to satisfy 3 of the 4 responsibilities listed. First, the Bureau failed to meet every deadline regarding reporting to this Committee listed by statute.¹⁰ Second, the BIA has dedicated only one full time staff person to provide technical assistance to tribes.¹¹ Instead of the Bureau providing

⁹Id.

¹⁰The preliminary report, required under section 16(a) of Public Law 102-477, was to be provided to this Committee "[n]ot later than two years after the date of enactment." It was, however, filed more than four years after the program's enactment.

¹¹The number of BIA staff working on the program was not clearly revealed at the May 13th hearing. Nancy Jemison, BIA's Director of Economic Development, stated that the Bureau had "two full-time people working on the program[, who] are also responsible for some collateral responsibilities related to census-related issues." Committee Hearing Report, supra note 1, at 12. However, in response to a question from the Chairman, Ms. Jemison stated that no one at the agency level works on the program full-time. Id.

technical assistance, the witnesses explained that the tribal participants themselves are providing assistance to tribes in writing 477 plans and developing their 477 budgets.¹² Finally, tribal participants have consistently complained to this Committee about delays in receiving their funding under the program. The Executive Director of the Cook Inlet Tribal Council testified that the Bureau withheld Johnson O'Malley (JOM) program funding integrated under an approved FY 1996 477 plan, until the last day of the school year. The tribe ran a program for the entire school year without money.¹³ Another tribe stated that:

The Bureau of Indian Affairs has been the biggest obstacle to the implementation of P.L. 102-477. BIA officials have either ignored the needs of P.L. 102-477 tribes or have refused to exercise the flexible authorities mandated by the statute. Without BIA involvement, the Act cannot be implemented. BIA is an important link in the chain of getting the different Federal agency funds to the tribes.¹⁴

Finally, the Tribal work group, representing all tribes participating in the program, noted that the BIA's lack of attention to the program in one particular case caused a tribe to "almost shut down its employment services because it had to wait for six months to get any of its 477 funds."¹⁵

The most significant reason justifying the transfer to the Office of Self-Governance is that it is better equipped to administer the program and constitutes a more natural fit to the 477 program. Nearly half of the tribes participating in the 477 program also participate in the self-governance program. Like 477, Self-Governance is an initiative that enables tribes to combine a number of services under a single plan to provide flexibility in delivery of federally-funded services. The Self-Governance program gives tribes the ability to consolidate programs within the Interior Department. The 477 program, on the other hand, is limited to formula-funded programs dealing with employment training and related services, but allows for integration of programs administered by the Departments of Labor, Health and Human Services, Education, and the Interior. The Committee notes, however, tribes are not required to participate in either program. Both are completely separate and voluntary programs, which permit tribal governments to determine for themselves the best method of delivering services to their members.

S. 1279 does not move the administration of this program to another Department, and in no way acts to diminish the government-to-government relationship that exists between Indian tribes and the federal government. These amendments continue to recognize that the Secretary of the Interior is vested with primary respon-

¹²Id. at 111-112 (written statement of Norm DeWeaver, Washington Representative of the Indian and Native American Employment and Training Coalition) (noting that "[f]or the last several years, BIA has provided a modest amount of funds to a 477 tribe * * * to support the [tribe-to-tribe] TA effort.")

¹³Id. at 22 (statement of Leroy Bingham, Chief Executive Officer, Cook Inlet Tribal Council, Anchorage, AK).

¹⁴Id. at 91 (written statement of Edward K. Thomas, President, Central Council of the Tlingit and Haida Indian Tribes of Alaska).

¹⁵Id. at 110 (written statement of Norm DeWeaver, Washington Representative of the Indian and Native American Employment and Training Coalition).

sibility for leading this initiative at the federal level. The reasons for the transfer of lead agency responsibilities to the Office of Self-Governance include the expertise which that agency holds in this area, its close ties to tribes already participating in the 477 program, and its recorded efficiency in administering consolidation plans like those permitted under the 477 program.

Programs affected

Another problem that surfaced at the May hearing was the BIA's inconsistent treatment of integration of the General Assistance¹⁶ and Johnson O'Malley¹⁷ programs into tribal 477 plans. Since 1994, several tribes have attempted to integrate both programs into their tribal 477 plans. They have received a variety of responses from the BIA. On several occasions the Bureau approved the integration, and other times it rejected integration. The Bureau confirmed this confusion at the hearing when it submitted conflicting testimony regarding its approval of including the JOM program into tribal 477 plans.¹⁸

Section 3(b) of S. 1279 attempts to eliminate this uncertainty by expressly providing that both programs may be integrated into tribal 477 plans, at the option of the tribe.¹⁹ This amendment does not change any statutory or regulatory requirements listed in the JOM program, and the program continues to be administered by the Assistant Secretary for Indian Affairs. A letter from the Assistant Secretary, dated March 27, 1998, notes that while these amendments will enable tribes to integrate the JOM program within its 477 plan, "the JOM program must continue to be conducted in accordance with its authorizing statutes."²⁰ The Committee stresses, however, that statutory obligations under the JOM program are subject to the waiver provision under current section 7 of Public Law 102-477 (as amended by section 3(c) of S. 1279).

In 1994, the JOM program was placed within the Tribal Priority Allocation (TPA) portion of the BIA's budget. Since that move was made, tribes were permitted to take over the JOM program through self-determination contracting or self-governance compacting.²¹ Section 3(b) does not constitute another move of the JOM program, or obligate tribes to participate in either the 477 or Self-Governance programs. S. 1279 merely provides tribes with a third avenue to take over the JOM program, to run it as the tribe sees fit, keeping with Congress' policy of tribal self-determination.

Section 3(b) also provides Secretarial guidance to future treatment of programs sought to be integrated by broadening the language contained in current section 5 of Public Law 102-477.²² Thus, the Committee encourages the Secretaries in charge of ap-

¹⁶ 25 U.S.C. § 13.

¹⁷ 25 U.S.C. § 452-457.

¹⁸ Committee Hearing Report, *supra* note 1, at 10-13.

¹⁹ At a Committee business meeting held on April 1, 1998, this amendment was revised, as included in the substitute version of S. 1279, to require that tribal plans seeking to integrate JOM funding into their 477 plan must use such funds for the intended beneficiaries of the JOM program, children aged 3 through grade 12.

²⁰ Letter from Kevin Gover, Assistant Secretary—Indian Affairs, Department of the Interior to the Senate Committee on Indian Affairs (Mar. 27, 1998) (included in appendix).

²¹ 25 U.S.C. 450 et seq.

²² 25 U.S.C. § 3404.

proving the inclusion of a program into a tribal 477 plan to give it broad consideration in favor of integration.

Plan approval: Statutory waiver provision

Section 3(c) of the substitute to S. 1279 proposes to amend section 7 of Public Law 102-477. Section 7 currently vests the:

Secretary of the affected department [with] authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government * * *, unless *the Secretary of the affected department* determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from the which the program involved derives its authority. * * *²³

Section 3(c) amends this sentence of section 7 by adding the words “statutory requirement” after the words “authority to waive any”. The intent of this amendment is to place tribal governments on par with state entities operating similar programs, and to broaden the number of programs that may be integrated into the program that are currently prevented from being integrated due to certain statutory requirements.

The Department of the Interior, in a letter to the Committee dated March 30, 1998, expressed its opposition to section 3(c), reasoning that “the agency with statutory authority for administering the affected programs should have sole responsibility for granting waivers.”²⁴ It is not the Committee’s intent to vest the Secretary of the Interior with authority to waive statutory requirements, regulations, policies or procedures that are within the authority of the Secretaries of other Departments. All waiver authority continues to be within the sole discretion of the Secretary of the affected department. The amended waiver authority in S. 1279 is intended to work in the same manner that the existing waiver provision does. Each Department acts on waivers involving its own programs. The decisions on tribal waiver requests are communicated to the tribes as part of the Secretary of the Interior’s action in approving tribal plans.

This provision also makes clear the original intent to tie in the 90 day limit on plan approval with the approval of requested waivers. As discussed above, the BIA approved tribal plans that included both General Assistance and Johnson O’Malley program funding. The Bureau then withheld funding under these programs, because waivers that would permit integration of these programs were not yet approved.²⁵ This amendment hopes to end this confusion, by making clear that the Secretary must act on both plans and waivers within the 90 day period.

Job creation activities

A major purpose of S. 1279 is to strengthen the ability of tribes to use 477 resources to create jobs for Indian and Alaskan Native

²³ 25 U.S.C. § 3406 (emphasis added).

²⁴ Letter from Kevin Gover, Assistant Secretary—Indian Affairs, Department of the Interior to the Senate Committee on Indian Affairs (Mar. 31, 1998) (included in appendix).

²⁵ Committee Hearing Report, supra note 1, at 12.

people in their service areas. Employment training is futile in the absence of job opportunities. Welfare reform increases the pressure on all tribes, including those participating in the 477 initiative, to open up new employment opportunities. Job creation in the private sector was a major purpose of P.L. 102-477 when it was originally enacted. Section 3(e) of S. 1279 proposes to reinforce this objective and take it several steps further by authorizing the use of funds commingled under a 477 plan to facilitate economic development, notwithstanding provisions written into statutes whose programs fund tribal 477 plans—provisions written without regard for the urgent need for job creation in Native communities. The amount of funds permitted for creation of employment opportunities is based on the greater of two figures: “the rate of unemployment in the area subject to the jurisdiction of the tribal government”; or ten percent (10%).

Several of the participation 477 tribes have already shown that integrating their existing resources can facilitate job creation:

The employment and training department of the Three Affiliated Tribes in North Dakota was able to respond quickly when a data entry business explored the possibility of establishing a facility in a small, isolated community on the Fort Berthold Reservation. With all of its employment and training funds pooled under a single plan and one budget, the program could immediately commit assistance to recruit potential employees, provide start-up training and help insure that a qualified work force was available to the enterprise. Without the 477 program, the program at the Three Affiliated Tribes would have had to revise at least three separate program plans and related budgets, obtain the approval of several different federal agencies and otherwise withhold support for the project, perhaps until the business opportunity had passed.

The Sisseton-Wahpeton Sioux Tribe was able to use the 477 program to support the expansion of a major tribal enterprise and enable it to move to a more favorable location. Providing on-the-job training for a variety of tribal enterprises is a feature of the 477 program on the White Earth Reservation in Minnesota.

The Bristol Bay Native Association expects to use 477 resources to support village job creation efforts currently funded through Tribal Priority Allocation money in its self-governance compact.

The Tlingit Haida Central Council in southeast Alaska is using 477 resources to support a joint effort of several village corporations in the mining industry.

The Committee encourages all the federal agencies whose programs are involved in 477 to remove any barriers in regulation or policy to the active involvement of the 477 tribes in economic development. The Committee also encourages the 477 tribes to make even greater use of their integrated programs to serve tribal job creation goals.

Alaska regional consortia

Section 5 of S. 1279 proposes to clarify the requirement for tribal governing body resolutions as it applies specifically in Alaska. Many of the federal programs covered by the 477 program are implemented in Alaska at the regional level, as regions are described in the Alaska Native Claims Settlement Act. The service delivery

system consists in most cases of the Alaska regional nonprofit corporations. Section 5 is intended to reduce the burden involved in repeatedly gathering governing body resolutions from tribal entities at the village level by requiring one resolution to approve the regional organization's plan from that group's own governing body to satisfy the tribal resolution requirement in Section 6(8) of the current law.

At the same time, the Committee wishes to stress that any federally-recognized entity covered by a regional 477 plan can withdraw from that plan at any time by adopting an appropriate governing body resolution. Should one or more villages within a region decide by resolution not to participate in the regional plan, the ability of such village or villages to obtain funds directly is subject to the requirements of law or of federal agency regulations governing the program involved.

CONCLUSIONS

S. 1279 further bolsters an already successful program by eliminating limits placed on it by the original statute and addressing concerns raised by current tribal grantees. The need to strengthen this program has become urgent, because of the * * *. Further lessen federal regulations over the limited funds made available for employment training services. * * *

LEGISLATIVE HISTORY

On May 13, 1997, the Senate Committee on Indian Affairs held an oversight hearing on P.L. 102-477, the Indian Employment, Training, and Related Services Demonstration Act of 1992 (25 U.S.C. §§ 3401-3417). Senator Campbell introduced S. 1279 on October 9, 1997 for himself, and Mr. Murkowski, which was referred to the Committee on Indian Affairs. That same day, Senator Murkowski introduced S. 1281 for himself and Mr. Campbell, which proposed similar amendments to the 477 program, and addresses several Alaska-specific concerns. An amendment in the nature of a substitute was prepared by the Chairman of the Committee, Senator Campbell, incorporating the two bills.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In an open business session on April 1, 1998, the Committee on Indian Affairs, by voice vote, adopted the amendment in the nature of a substitute offered by Senator Campbell and ordered the bill reported with the recommendation that the Senate pass S. 1279 as reported.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

The Act will be cited as the Indian Employment, Training and Related Services Demonstration Act Amendments of 1998.

SECTION 2—FINDINGS

The bill creates a findings section, which recognizes that tribes participating in the 477 program have improved the quality of em-

ployment-related services delivered to their members while cutting administrative costs, paper work, and time.

SECTION 3—AMENDMENTS

(b) Programs affected

This change generally broadens the scope of programs affected by the Act, and specifically recognizes that the General Assistance and Johnson O'Malley programs may be integrated into tribal consolidation plans. Integration of Johnson O'Malley funding is stipulated upon a tribe making assurances in its 477 plan proposal that such funds will be used to familiarize elementary and secondary school students with “the world of work”.

(c) Plan review

This amendment permits agency heads to waive “statutory requirements” for programs integrated into tribal plans at the request of the participating tribe, subject to approval by the Secretary of the affected department.

(d) Plan approval

Existing law requires the Secretary to permit tribal applicants to amend disapproved plans or to petition for reconsideration. This amendment would additionally direct the Secretary to reconsider disapproval of requested statutory waivers.

(e) Job creation activities

The bill adds language to Section 9 of the Act that permits tribes to use a percentage of their 477 funds to create employment opportunities, including private sector training placement. The permitted percentage is based on the tribal community's rate of unemployment.

(f) Federal responsibilities

This amendment would transfer lead agency responsibility from the Bureau of Indian Affairs (BIA) to the Office of Self-Governance (OSG), which in addition to existing responsibilities as lead agency, must meet with tribes participating in the program at least twice a year.

(g) Additional responsibilities

This subsection requires the Director of the Office of Self-Governance to ensure an orderly transfer of functions occurs to eliminate any potential adverse effects on participating tribes.

(h) Personnel

The bill directs the Secretary to transfer personnel and resources from the BIA to the Office of Self-Governance as he deems necessary to carry out the purposes of this Act.

SECTION 5—ALASKA REGIONAL CONSORTIA

Section 4 of the bill clarifies the requirement for tribal governing body resolutions as it applies specifically to Alaska tribal regional corporations. The bill is intended to reduce the burden involved in

repeatedly gathering governing body resolutions from tribal entities at the village level, while at the same time, any federally-recognized entity covered by a regional 477 plan to withdraw from that plan at any time by adopting an appropriate governing body resolution.

SECTION 6—EFFECTIVE DATE

This subsection requires that all amendments take effect upon enactment, and provides transfer of lead agency functions take place within 90 days of enactment.

COST AND BUDGET CONSIDERATIONS

The cost estimate for S. 1279, as evaluated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 4, 1998.

Hon. BEN NIGHTHORSE CAMPBELL,
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. 1279, the Indian Employment, Training and Related Services Demonstration Act Amendments of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kristen Layman (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1279—Indian Employment, Training and Related Services Demonstration Act Amendments of 1998

S. 1279 would transfer federal responsibility for demonstration programs under the Indian Employment, Training and Related Services Demonstration Act of 1992 from the Bureau of Indian Affairs (BIA) to the Office of Self-Governance (OSG), both at the Department of the Interior. It would allow tribal governments and Alaska Native Organizations to include programs that emphasize job creation within a demonstration program, subject to certain limits and conditions. The bill also would expand the scope of demonstration programs under the act and would change various administrative requirements.

CBO estimates that enacting S. 1279 would have no significant impact on the federal budget. Based on information provided by BIA, CBO estimates that the discretionary costs associated with the transfer of responsibility from BIA to OSG would be less than \$10,000. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 1279 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995

and would not affect the budgets of state, local, or tribal governments. Tribes would benefit from enactment of provisions in this bill that would allow them to consolidate additional grant programs into a single demonstration project, seek waivers of statutory requirements associated with the consolidated programs, and use part of the project funds for private-sector job training. Alaska Native Corporations would further benefit from the provision allowing regional consortia to represent individual, regional, or village corporations.

The CBO staff contacts are Kristen Layman (for federal costs) and Marjorie Miller (for the state and local impact). The estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY 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 has concluded that enactment of S. 1279 will reduce regulatory or paperwork impacts.

EXECUTIVE COMMUNICATIONS

The Committee received two letters from the Department of Interior commenting on S. 1279, dated March 27, 1998 and March 31, 1998. Both are set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 27, 1998.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of February 3, 1998, requesting clarification of the Bureau of Indian Affairs position regarding the relationship of the Johnson-O'Malley (JOM) Program and S. 1279 and S. 1281.

After careful reconsideration of the issues involved, we have determined that inclusion of the JOM program is allowable, and can strengthen the Federal-tribal partnership. While both Senate bills will enable tribes to integrate certain Federal programs to simultaneously improve overall program effectiveness and reduce unemployment in tribal communities, the JOM program must continue to be conducted in accordance with its authorizing statutes.

Thank you for your continued interest and support of Indian education programs. For additional information, please contact the Director, Office of Indian Education Programs.

A similar letter is being sent to Honorable Frank H. Murkowski, United States Senator.

Sincerely,

KEVIN GOVER,
Assistant Secretary—Indian Affairs.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 31, 1998.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express the Department of the Interior's (Department) position on S. 1279, a bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992, to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes. We oppose two sections of S. 1279 and our comments follow.

There are four major points of consideration with the legislation. They are to: (1) transfer certain services and personnel from the Bureau of Indian Affairs (Bureau) to the Office of Self-Governance (OSG) for the purpose of administering the 477 program, (2) require that the General Assistance and the Johnson O'Malley (JOM) Programs be included in Public Law 102-477, (3) allow the Department to waive statutory requirements, and (4) require at least two meetings per year between tribal representatives and the Assistant Secretary for Indian Affairs.

1. Transfer certain services and personnel from the Bureau of Indian Affairs (Bureau) to the Office of Self-Governance

Overall, we do not support S. 1279 as a means for organization the management and administration of Federal programs. Public Law 102-477 was enacted in October 1992 and the first grantees began implementing the program in January 1994. Since that time, the Bureau has made considerable progress in the program's development. Participating tribes consistently report increased success in placing tribal members in jobs as a direct result of the program. We do not believe that a transfer of the program from the Bureau of the OSG is necessary or will ensure a more successful program.

Tribes have argued that transferring the Public Law 102-477 demonstration program into the OSG would provide more visibility and attention for the project; however, the program would then be competing for attention with the self-governance issues that surround the 64 compacts that include 206 Federally recognized tribes. The Public Law 102-477 program has had a high level of visibility and will continue to build on this visibility as more tribes seek to consolidate Bureau social service programs with other federal agencies programs under welfare reform. Tribes also assert that funds would be distributed more rapidly if OSG administered the Public Law 102-477 program. At its inception, the tribes experienced grant approval and fund distribution delays. Furthermore, the numerous Continuing Resolutions in FY 1996 and FY 1997, further exacerbated funding distribution delays in this relatively new program. However, the Bureau has been and continues to modify internal procedures to address these delays. For example, initially Public Law 102-477 grants under Public Law 93-638 authority were issued by the Bureau's Area Offices. Due to the Area Office grant approval delays, we contradicted the Bureau's policy of

decentralization, by centralizing and re delegating grant authority to the Bureau's Central Office Director of Economic Development in FY 1996. This reduced the amount of time to transfer funds to the tribes considerably.

Upon approval of the Bureau's budget, Tribal Priority Allocation (TPA) funds are included in a tribe's base budget. Unless the tribe notifies the Bureau otherwise, the Bureau allots TPA funds to the Area Offices. Based on grant modifications, the portion of the funds which are attributable to the Public Law 102-477 grant are then returned to the Office of Economic Development so that the funds will be made available. For the FY 1999 distribution of Public Law 102-477 funds, the Bureau will implement a similar procedure by withholding identified funds from the tribe's base budgets (i.e. TPA accounts) contingent upon tribal approval that their base budget may be decremented. This will ensure that funds are moved directly from Central Office to the tribes and bypass Area Office accounts. The Bureau is confident that this approach will further expedite fund transfers.

We believe that a legislative mandate to make organizational changes as proposed will reduce the Bureau's management flexibility. For example, as the Bureau seeks creative strategies to address the current "welfare-to-work" initiatives, the Bureau may want to follow the lead of Public Law 102-477 tribes by combining the Public Law 102-477 initiative with its social services programs.

2. Require that the General Assistance and the Johnson O'Malley (JOM) Programs be included in Public Law 102-477

After careful reconsideration of the issues involved, we have determined that inclusion of both the General Assistance (GA) and the Johnson O'Malley (JOM) Programs into Public Law 102-477 is allowable. With respect to the GA program, 25 U.S.C. § 13d restricts the available uses of GA appropriations. Nevertheless, incorporation of GA into a Public Law 102-477 plan will allow tribes to more actively coordinate federal approaches to Indian education, employment, training and related programs as well as strengthen the federal-tribal partnership.

We ask that the Committee consider that under 25 U.S.C. § 456, the JOM parent committee must fully participate in the development of the programs that a JOM contractor will utilize in its educational plan; also the JOM parent committee has the authority to approve and disapprove those programs. The JOM program assists students by providing the tools to achieve basic state education requirements in their pursuit of elementary and high school diplomas; it is not a post-high school job placement and training program for adults. Moreover, JOM program funds must be expended in accordance with the statute.

3. Allow the Department to waive statutory requirements

The Department of the Interior would be granted the authority to waive statutes for all programs including those under other Federal agencies. We oppose this provision because we believe the agency with statutory authority for administering the affected programs should have sole responsibility for granting waivers.

4. *Require at least two (2) meetings per year between tribal representatives and an official of the bureau whose appointment is subject to the confirmation of the Senate*

The Deputy Commissioner meets regularly with tribal representatives and has a good working relationship with the Public Law 102a-477 grantees. As a testament to its commitment to work with the tribes, the Bureau has funded a tribal work group over the past several years to assist the Bureau in its implementation of the Public Law 102-477 program. Furthermore, the Assistant Secretary for Indian Affairs is currently in the process of extending invitations to the participating agencies and tribal grantees to discuss and review the Public Law 102-477 programs' progress.

We look forward to further discussions with Committee staff on these issues.

Sincerely,

KEVIN GOVER,
Assistant Secretary—Indian Affairs.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the enactment of S. 1279 will result in the following changes in 25 U.S.C. §§ 3401 et seq., with existing language which is to be deleted in black brackets and new language to be added to italic:

* * * * *

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act Amendments of 1998".

* * * * *

SEC. 2. FINDINGS.

Congress finds that—

- (1) *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 services provided by those tribes and organizations;*
- (B) *enabled more Indian people to secure employment;*
- (C) *assisted welfare recipients; and*
- (D) *otherwise demonstrated the value of integrating education, employment, and training services.*

- (2) *The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all programs that emphasize the value of work may be included within a demonstration program of an Indian tribe or Alaska Native organization.*

- (3) *The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 shares goals and innovative approaches of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).*

(4) *The programs referred to in paragraph (2) should be implemented by the Office of Self-Governance of the Department of the Interior, the unit within the Department of the Interior responsible for carrying out self-governance programs under the Indian Self-Determination and Education Assistance Act.*

(5) *The initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials of—*

(A) *the Department of the Interior; and*

(B) *other Federal agencies involved with policymaking authority with respect to programs that emphasize the value of work for American Indians and Alaska Natives.*

* * * * *

25 U.S.C. 3402

§ 3402. 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.*

[(1)](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)](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.*

[(3)](4) *SECRETARY.—Except where otherwise provided, the term “Secretary” means the Secretary of the Interior.*

* * * * *

25 U.S.C. 3404

§ 3404. Programs affected

(a) *IN GENERAL.—The programs that may be integrated in a demonstration project under any such plan referred to in section 4 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 job training, tribal work experience, [employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training.] securing employment, retaining employment, or creating employment opportunities and other programs relating to the world of work.*

(b) *PROGRAMS.—The programs referred to in subsection (a) may include, at the option of an Indian tribe—*

(1) *the program commonly referred to as the general assistance program established under the Act of November 2, 1921 (commonly known as the “Snyder Act”) (42 Stat. 208, chapter 115; 25 U.S.C. 13); and*

(2) *the program known as the Johnson O’Malley Program established under the Johnson O’Malley Act (25 U.S.C. 452 through 457), if the applicable plan for the Indian tribe under*

section 4 includes education services for elementary and secondary school students that familiarize those students with the world of work.

* * * * *

25 U.S.C. 3406

§ 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 department] *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 departmental] *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 [department] *agency* shall have the authority to waive any *statutory requirement*, regulation, policy, or procedure promulgated by that [department] *agency* that has been so identified by such tribal government or [department] *agency*, unless the Secretary of the affected [department] *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.

* * * * *

25 U.S.C. 3407

§ 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*.

* * * * *

25 U.S.C. 3408

§ 3408. Job creation activities

(a) *IN GENERAL*.—The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for 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) *EMPLOYMENT OPPORTUNITIES.*—

(1) *IN GENERAL.*—Notwithstanding any other provision of law, including any requirement of a program that is integrated under a plan under this Act, a tribal government may use a percentage of the funds made available under this Act (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 10.

(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 area subject to the jurisdiction of the tribal government; 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.

* * * * *

25 U.S.C. 3410(a)**§ 3410. Federal responsibilities**

(a) *RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.*—Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the **[Bureau of Indian Affairs]** *Office of Self-Governance of the* 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, *delivered under an arrangement subject to the approval of the Indian tribe participating in 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**[.]; and**

(5) *the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out demonstration projects under this Act, in consultation with each such Indian tribe, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for*

all Indian tribes that carry out demonstration projects under this Act to discuss issues relating to the implementation of this Act with officials of each department specified in subsection (a).

* * * * *

Note to 25 U.S.C. 3410 as amended

SECTION 3(g). ADDITIONAL RESPONSIBILITIES.

ADDITIONAL RESPONSIBILITIES.—In assuming the responsibilities for carrying out the duties of a lead agency under section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) pursuant to the amendments made to that section by subsection (f) of this section, the Director of the Office of Self-Governance of the Department of the Interior shall ensure that an orderly transfer of those lead agency functions to the Office occurs in such manner as to eliminate any potential adverse effects on any Indian tribe that participates in a demonstration project under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

* * * * *

Note to 25 U.S.C. 3410 as amended

SECTION 3(h). PERSONNEL

PERSONNEL.—In carrying out the amendment made by subsection (f)(1), the Secretary of the Interior shall transfer from the Bureau of Indian Affairs to the Office of Self-Governance of the Department of the Interior such personnel and resources as the Secretary determines to be appropriate.

* * * * *

25 U.S.C. 3418

SEC. 19. CONSOLIDATED ADVISORY COMMITTEE.

(a) IN GENERAL.—The head of each Federal agency specified in section 4 that otherwise has jurisdiction over a program that is integrated under this Act (in accordance with a plan under section 6) shall permit a tribal government that carries out that plan to establish a consolidated advisory committee to carry out the duties of each advisory committee that would otherwise be required under applicable law (including any council or commission relating to private industry) to carry out the programs integrated under the plan.

(b) WAIVERS.—As necessary to carry out subsection (a), each agency head referred to in that paragraph shall waive any statutory requirement, regulation, or policy requiring the establishment of an advisory committee (including any advisory commission or council).

* * * * *

25 U.S.C. 3419

SEC. 20. ALASKA REGIONAL CONSORTIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary shall permit a regional consortium of Alaska Native villages or regional or village corporations

(as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) to carry out a project under a plan that meets the requirements of this Act through a resolution adopted by the governing body of that consortium or corporation.

(b) WITHDRAWAL.—Nothing in subsection (a) is intended to prohibit an Alaska Native village or regional or village corporation from withdrawing from participation in any portion of a program conducted pursuant to that subsection.

* * * * *

Note to Amendment

SECTION 6. EFFECTIVE DATES.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act, except that the transfer of functions to the Office of Self-Governance of the Department of the Interior under the amendment made by section 3(f)(1) shall be carried out not later than 90 days after the date of enactment of this Act.

○