

107TH CONGRESS
2D SESSION

S. 210

AN ACT

To authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Alco-
5 hol and Substance Abuse Program Consolidation Act of
6 2002”.

1 **SEC. 2. STATEMENT OF PURPOSE.**

2 The purposes of this Act are—

3 (1) to enable Indian tribes to consolidate and
4 integrate alcohol and other substance abuse preven-
5 tion, diagnosis, and treatment programs, and mental
6 health and related programs, to provide unified and
7 more effective and efficient services to Indians af-
8 flicted with alcohol and other substance abuse prob-
9 lems;

10 (2) to recognize that Indian tribes can best de-
11 termine the goals and methods for establishing and
12 implementing prevention, diagnosis, and treatment
13 programs for their communities, consistent with the
14 policy of self-determination;

15 (3) to encourage and facilitate the implementa-
16 tion of an automated clinical information system to
17 complement the Indian health care delivery system;

18 (4) to authorize the use of Federal funds to
19 purchase, lease, license, or provide training for, tech-
20 nology for an automated clinical information system
21 that incorporates clinical, as well as financial and re-
22 porting, capabilities for Indian behavioral health
23 care programs;

24 (5) to encourage quality assurance policies and
25 procedures, and empower Indian tribes through
26 training and use of technology, to significantly en-

1 hance the delivery of, and treatment results from,
2 Indian behavioral health care programs;

3 (6) to assist Indian tribes in maximizing use of
4 public, tribal, human, and financial resources in de-
5 veloping effective, understandable, and meaningful
6 practices under Indian behavioral health care pro-
7 grams; and

8 (7) to encourage and facilitate timely and effec-
9 tive analysis and evaluation of Indian behavioral
10 health care programs.

11 **SEC. 3. DEFINITIONS.**

12 (a) IN GENERAL.—In this Act:

13 (1) AUTOMATED CLINICAL INFORMATION SYS-
14 TEM.—The term “automated clinical information
15 system” means an automated computer software
16 system that can be used to manage clinical, finan-
17 cial, and reporting information for Indian behavioral
18 health care programs.

19 (2) FEDERAL AGENCY.—The term “Federal
20 agency” has the meaning given the term “agency”
21 in section 551 of title 5, United States Code.

22 (3) INDIAN.—The term “Indian” has the mean-
23 ing given the term in section 4 of the Indian Self-
24 Determination and Education Assistance Act (25
25 U.S.C. 450b).

1 (4) INDIAN BEHAVIORAL HEALTH CARE PRO-
 2 GRAM.—The term “Indian behavioral health care
 3 program” means a federally funded program, for the
 4 benefit of Indians, to prevent, diagnose, or treat, or
 5 enhance the ability to prevent, diagnose, or treat—

6 (A) mental health problems; or

7 (B) alcohol or other substance abuse prob-
 8 lems.

9 (5) INDIAN TRIBE.—The terms “Indian tribe”
 10 and “tribe” have the meaning given the term “In-
 11 dian tribe” in section 4 of the Indian Self Deter-
 12 mination and Education Assistance Act (25 U.S.C.
 13 450b) and include entities as provided for in sub-
 14 section (b)(2).

15 (6) SECRETARY.—The term “Secretary” means
 16 the Secretary of Health and Human Services.

17 (7) SUBSTANCE ABUSE.—The term “substance
 18 abuse” includes—

19 (A) the illegal use or abuse of a drug or
 20 an inhalant; and

21 (B) the abuse of tobacco or a related prod-
 22 uct.

23 (b) INDIAN TRIBE.—

24 (1) IN GENERAL.—In any case in which an In-
 25 dian tribe has authorized another Indian tribe, an

1 intertribal consortium, a tribal organization, or an
2 Indian health center to plan for or carry out pro-
3 grams, services, functions, or activities (or portions
4 thereof) on its behalf under this Act, the authorized
5 Indian tribe, intertribal consortium, tribal organiza-
6 tion, or Indian health center shall have the rights
7 and responsibilities of the authorizing Indian tribe
8 (except as otherwise provided in the authorizing res-
9 olution or in this Act).

10 (2) INCLUSION OF OTHER ENTITIES.—In a case
11 described in paragraph (1), the term “Indian tribe”,
12 as defined in subsection (a)(3), shall include the ad-
13 ditional authorized Indian tribe, intertribal consor-
14 tium, tribal organization, or Indian health center.

15 **SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.**

16 (a) IN GENERAL.—The Secretary, in cooperation
17 with the Secretary of Labor, the Secretary of the Interior,
18 the Secretary of Education, the Secretary of Housing and
19 Urban Development, the Attorney General, and the Sec-
20 retary of Transportation, as appropriate, shall, upon re-
21 ceipt of a plan acceptable to the Secretary that is sub-
22 mitted by an Indian tribe, authorize the tribe to carry out
23 a demonstration project to coordinate, in accordance with
24 the plan, the Indian behavioral health care programs of
25 the tribe in a manner that integrates the program services

1 involved into a single, coordinated, comprehensive pro-
2 gram that uses, to the extent necessary, an automated
3 clinical information system to better manage administra-
4 tive and clinical services, costs, and reporting require-
5 ments through the consolidation and integration of admin-
6 istrative and clinical functions.

7 (b) USE OF FUNDS FOR TECHNOLOGY.—Notwith-
8 standing any requirement applicable to an Indian behav-
9 ioral health care program of an Indian tribe that is inte-
10 grated under a demonstration project carried out under
11 subsection (a), the Indian tribe may use funds made avail-
12 able under the program to purchase, lease, license, or pro-
13 vide training for, technology for an automated clinical in-
14 formation system.

15 **SEC. 5. PROGRAMS AFFECTED.**

16 The programs that may be integrated in a dem-
17 onstration project under a plan submitted under section
18 4 are—

19 (1) any Indian behavioral health care program
20 under which an Indian tribe is eligible for the receipt
21 of funds under a statutory or administrative for-
22 mula;

23 (2) any Indian behavioral health care program
24 under which an Indian tribe is eligible for receipt of
25 funds through competitive or other grants, if—

1 (A)(i) the Indian tribe has provided notice
2 to the appropriate agency regarding the inten-
3 tions of the tribe to include the Indian behav-
4 ioral health care program in the plan that the
5 tribe submits to the Secretary; and

6 (ii) the affected agency has consented to
7 the inclusion of the grant in the plan; or

8 (B)(i) the Indian tribe has elected to in-
9 clude the Indian behavioral health care program
10 in its plan; and

11 (ii) the administrative requirements con-
12 tained in the plan are essentially the same as
13 the administrative requirements applicable to a
14 grant under the Indian behavioral health care
15 program; and

16 (3) any Indian behavioral health care program
17 under which an Indian tribe is eligible for receipt of
18 funds under any other funding scheme.

19 **SEC. 6. PLAN REQUIREMENTS.**

20 A plan of an Indian tribe submitted under section 4
21 shall—

22 (1) identify the programs to be integrated;

23 (2) be consistent with the purposes of this Act
24 authorizing the services to be integrated into the
25 demonstration project;

1 (3) describe a comprehensive strategy that—

2 (A) identifies the full range of existing and
3 potential alcohol and substance abuse and men-
4 tal health treatment and prevention programs
5 available on and near the tribe's service area;
6 and

7 (B) may include site and technology as-
8 sessments and any necessary computer hard-
9 ware installation and support;

10 (4) describe the manner in which services are to
11 be integrated and delivered and the results expected
12 under the plan, including, if implemented, the man-
13 ner and expected results of implementation of an
14 automated clinical information system;

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

17 (6) identify the agency or agencies in the tribe
18 to be involved in the delivery of the services inte-
19 grated under the plan;

20 (7) identify any statutory provisions, regula-
21 tions, policies, or procedures that the tribe believes
22 need to be waived in order to implement its plan;
23 and

24 (8) be approved by the governing body of the
25 tribe.

1 **SEC. 7. PLAN REVIEW.**

2 (a) CONSULTATION.—Upon receipt of a plan from an
3 Indian tribe under section 4, the Secretary shall consult
4 with—

5 (1) the head of each Federal agency providing
6 funds to be used to implement the plan; and

7 (2) the tribe submitting the plan.

8 (b) IDENTIFICATION OF WAIVERS.—The parties con-
9 sulting on the implementation of the plan under sub-
10 section (a) shall identify any waivers of statutory require-
11 ments or of Federal agency regulations, policies, or proce-
12 dures necessary to enable the tribal government to imple-
13 ment its plan.

14 (c) WAIVERS.—Notwithstanding any other provision
15 of law, the head of the affected Federal agency shall have
16 the authority to waive any statutory requirement, regula-
17 tion, policy, or procedure promulgated by the Federal
18 agency that has been identified by the tribe or the Federal
19 agency under subsection (b) unless the head of the af-
20 fected Federal agency determines that such a waiver is
21 inconsistent with—

22 (1) the purposes of this Act; or

23 (2) any statutory requirement applicable to the
24 program to be integrated under the plan that is spe-
25 cifically applicable to Indian programs.

1 **SEC. 8. PLAN APPROVAL.**

2 (a) IN GENERAL.—Not later than 90 days after the
3 receipt by the Secretary of a tribe’s plan under section
4 4, the Secretary shall inform the tribe, in writing, of the
5 Secretary’s approval or disapproval of the plan, including
6 any request for a waiver that is made as part of the plan.

7 (b) DISAPPROVAL.—If a plan is disapproved under
8 subsection (a), the Secretary shall inform the tribal gov-
9 ernment, in writing, of the reasons for the disapproval and
10 shall give the tribe an opportunity to amend its plan or
11 to petition the Secretary to reconsider such disapproval,
12 including reconsidering the disapproval of any waiver re-
13 quested by the Indian tribe.

14 **SEC. 9. FEDERAL RESPONSIBILITIES.**

15 (a) RESPONSIBILITIES OF THE INDIAN HEALTH
16 SERVICE.—

17 (1) MEMORANDUM OF UNDERSTANDING.—Not
18 later than 180 days after the date of enactment of
19 this Act, the Secretary, the Secretary of the Interior,
20 the Secretary of Labor, the Secretary of Education,
21 the Secretary of Housing and Urban Development,
22 the Attorney General, and the Secretary of Trans-
23 portation shall enter into an interdepartmental
24 memorandum of agreement providing for the imple-
25 mentation of the plans authorized under this Act.

1 (2) LEAD AGENCY.—The lead agency under
2 this Act shall be the Indian Health Service.

3 (3) RESPONSIBILITIES.—The responsibilities of
4 the lead agency under this Act shall include—

5 (A) the development of a single reporting
6 format related to each plan for a demonstration
7 project, which shall be used by a tribe to report
8 on the activities carried out under the plan;

9 (B) the development of a single reporting
10 format related to the projected expenditures for
11 the individual plan, which shall be used by a
12 tribe to report on all plan expenditures;

13 (C) the development of a single system of
14 Federal oversight for the plan, which shall be
15 implemented by the lead agency;

16 (D) the provision of, or arrangement for
17 provision of, technical assistance to a tribe ap-
18 propriate to support and implement the plan,
19 delivered under an arrangement subject to the
20 approval of the tribe participating in the
21 project, except that a tribe shall have the au-
22 thority to accept or reject the plan for providing
23 the technical assistance and the technical assist-
24 ance provider; and

1 (E) the convening by an appropriate offi-
2 cial of the lead agency (whose appointment is
3 subject to the confirmation of the Senate) and
4 a representative of the Indian tribes that carry
5 out projects under this Act, in consultation with
6 each of the Indian tribes that participate in
7 projects under this Act, of a meeting not less
8 than twice during each fiscal year for the pur-
9 pose of providing an opportunity for all Indian
10 tribes that carry out projects under this Act to
11 discuss issues relating to the implementation of
12 this Act with officials of each agency specified
13 in paragraph (1).

14 (b) REPORT REQUIREMENTS.—The single reporting
15 format shall be developed by the Secretary under sub-
16 section (a)(3), consistent with the requirements of this
17 Act. Such reporting format, together with records main-
18 tained on the consolidated program at the tribal level shall
19 contain such information as will—

20 (1) allow a determination that the tribe has
21 complied with the requirements incorporated in its
22 approved plan; and

23 (2) provide assurances to the Secretary that the
24 tribe has complied with all directly applicable statu-

1 tory requirements and with those directly applicable
2 regulatory requirements that have not been waived.

3 **SEC. 10. NO REDUCTION IN AMOUNTS.**

4 In no case shall the amount of Federal funds avail-
5 able to a participating tribe involved in any project be re-
6 duced as a result of the enactment of this Act.

7 **SEC. 11. INTERAGENCY FUND TRANSFERS AUTHORIZED.**

8 The Secretary, the Secretary of the Interior, the Sec-
9 retary of Labor, the Secretary of Education, the Secretary
10 of Housing and Urban Development, the Attorney Gen-
11 eral, or the Secretary of Transportation, as appropriate,
12 is authorized to take such action as may be necessary to
13 provide for the interagency transfer of funds otherwise
14 available to a tribe in order to further the purposes of
15 this Act.

16 **SEC. 12. ADMINISTRATION OF FUNDS AND OVERAGE.**

17 (a) ADMINISTRATION OF FUNDS.—

18 (1) IN GENERAL.—Program funds shall be ad-
19 ministered under this Act in such a manner as to
20 allow for a determination that funds from specific
21 programs (or an amount equal to the amount used
22 from each program) are expended on activities au-
23 thorized under such program.

24 (2) SEPARATE RECORDS NOT REQUIRED.—

25 Nothing in this section shall be construed as requir-

1 ing a tribe to maintain separate records tracing any
2 services or activities conducted under its approved
3 plan under section 4 to the individual programs
4 under which funds were authorized, nor shall the
5 tribe be required to allocate expenditures among in-
6 dividual programs.

7 (b) OVERAGE.—All administrative costs under a plan
8 under this Act may be commingled, and participating In-
9 dian tribes shall be entitled to the full amount of such
10 costs (under each program or department’s regulations),
11 and no overage shall be counted for Federal audit pur-
12 poses so long as the overage is used for the purposes pro-
13 vided for under this Act.

14 **SEC. 13. FISCAL ACCOUNTABILITY.**

15 Nothing in this Act shall be construed to interfere
16 with the ability of the Secretary or the lead agency to ful-
17 fill the responsibilities for the safeguarding of Federal
18 funds pursuant to chapter 75 of title 31, United States
19 Code.

20 **SEC. 14. REPORT ON STATUTORY AND OTHER BARRIERS TO**
21 **INTEGRATION.**

22 (a) PRELIMINARY REPORT.—Not later than 2 years
23 after the date of enactment of this Act, the Secretary shall
24 submit a report to the Committee on Indian Affairs of
25 the Senate and the Committee on Resources of the House

1 of Representatives on the implementation of the program
2 authorized under this Act.

3 (b) FINAL REPORT.—Not later than 5 years after the
4 date of the enactment of this Act, the Secretary shall sub-
5 mit a report to the Committee on Indian Affairs of the
6 Senate and the Committee on Resources of the House of
7 Representatives on the results of the implementation of
8 the program authorized under this Act. The report shall
9 identify statutory barriers to the ability of tribes to inte-
10 grate more effectively their alcohol and substance abuse
11 services in a manner consistent with the purposes of this
12 Act.

13 **SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE**
14 **INDIAN ALCOHOL AND DRUG TREATMENT OR**
15 **MENTAL HEALTH PROGRAMS.**

16 Any State with an alcohol and substance abuse or
17 mental health program targeted to Indian tribes shall be
18 eligible to receive, at no cost to the State, such Federal
19 personnel assignments as the Secretary, in accordance
20 with the applicable provisions of subchapter IV of chapter

1 33 of title 5, United States Code, may determine appro-
2 priate to help ensure the success of such program.

Passed the Senate September 17, 2002.

Attest:

Secretary.

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