

115TH CONGRESS
1ST SESSION

S. 245

To amend the Indian Tribal Energy Development and Self Determination
Act of 2005, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2017

Mr. HOEVEN (for himself, Mr. BARRASSO, Mr. MCCAIN, Mr. LANKFORD, Mr.
MORAN, and Ms. HEITKAMP) introduced the following bill; which was
read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Indian Tribal Energy Development and Self
Determination Act of 2005, 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 “Indian Tribal Energy
5 Development and Self-Determination Act Amendments of
6 2017”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—INDIAN TRIBAL ENERGY DEVELOPMENT AND SELF-
DETERMINATION ACT AMENDMENTS

- Sec. 101. Indian tribal energy resource development.
- Sec. 102. Indian tribal energy resource regulation.
- Sec. 103. Tribal energy resource agreements.
- Sec. 104. Technical assistance for Indian tribal governments.
- Sec. 105. Conforming amendments.
- Sec. 106. Report.

TITLE II—MISCELLANEOUS AMENDMENTS

- Sec. 201. Issuance of preliminary permits or licenses.
- Sec. 202. Tribal biomass demonstration project.
- Sec. 203. Weatherization program.
- Sec. 204. Appraisals.
- Sec. 205. Leases of restricted lands for Navajo Nation.
- Sec. 206. Extension of tribal lease period for the Crow Tribe of Montana.
- Sec. 207. Trust status of lease payments.

1 **TITLE I—INDIAN TRIBAL EN-**
2 **ERGY DEVELOPMENT AND**
3 **SELF-DETERMINATION ACT**
4 **AMENDMENTS**

5 **SEC. 101. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**
6 **MENT.**

7 (a) IN GENERAL.—Section 2602(a) of the Energy
8 Policy Act of 1992 (25 U.S.C. 3502(a)) is amended—

9 (1) in paragraph (2)—

10 (A) in subparagraph (C), by striking
11 “and” after the semicolon;

12 (B) in subparagraph (D), by striking the
13 period at the end and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(E) consult with each applicable Indian
16 tribe before adopting or approving a well spac-
17 ing program or plan applicable to the energy re-

1 sources of that Indian tribe or the members of
2 that Indian tribe.”; and

3 (2) by adding at the end the following:

4 “(4) PLANNING.—

5 “(A) IN GENERAL.—In carrying out the
6 program established by paragraph (1), the Sec-
7 retary shall provide technical assistance to in-
8 terested Indian tribes to develop energy plans,
9 including—

10 “(i) plans for electrification;

11 “(ii) plans for oil and gas permitting,
12 renewable energy permitting, energy effi-
13 ciency, electricity generation, transmission
14 planning, water planning, and other plan-
15 ning relating to energy issues;

16 “(iii) plans for the development of en-
17 ergy resources and to ensure the protection
18 of natural, historic, and cultural resources;
19 and

20 “(iv) any other plans that would as-
21 sist an Indian tribe in the development or
22 use of energy resources.

23 “(B) COOPERATION.—In establishing the
24 program under paragraph (1), the Secretary
25 shall work in cooperation with the Office of In-

1 dian Energy Policy and Programs of the De-
2 partment of Energy.”.

3 (b) DEPARTMENT OF ENERGY INDIAN ENERGY EDU-
4 CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-
5 GRAM.—Section 2602(b)(2) of the Energy Policy Act of
6 1992 (25 U.S.C. 3502(b)(2)) is amended—

7 (1) in the matter preceding subparagraph (A),
8 by inserting “, intertribal organization,” after “In-
9 dian tribe”;

10 (2) by redesignating subparagraphs (C) and
11 (D) as subparagraphs (D) and (E), respectively; and

12 (3) by inserting after subparagraph (B) the fol-
13 lowing:

14 “(C) activities to increase the capacity of
15 Indian tribes to manage energy development
16 and energy efficiency programs;”.

17 (c) DEPARTMENT OF ENERGY LOAN GUARANTEE
18 PROGRAM.—Section 2602(c) of the Energy Policy Act of
19 1992 (25 U.S.C. 3502(c)) is amended—

20 (1) in paragraph (1), by inserting “or a tribal
21 energy development organization” after “Indian
22 tribe”;

23 (2) in paragraph (3)—

1 (A) in the matter preceding subparagraph
 2 (A), by striking “guarantee” and inserting
 3 “guaranteed”;

4 (B) in subparagraph (A), by striking “or”;

5 (C) in subparagraph (B), by striking the
 6 period at the end and inserting “; or”; and

7 (D) by adding at the end the following:

8 “(C) a tribal energy development organiza-
 9 tion, from funds of the tribal energy develop-
 10 ment organization.”; and

11 (3) in paragraph (5), by striking “The Sec-
 12 retary of Energy may” and inserting “Not later
 13 than 1 year after the date of enactment of the In-
 14 dian Tribal Energy Development and Self-Deter-
 15 mination Act Amendments of 2017, the Secretary of
 16 Energy shall”.

17 **SEC. 102. INDIAN TRIBAL ENERGY RESOURCE REGULA-**
 18 **TION.**

19 Section 2603(c) of the Energy Policy Act of 1992 (25
 20 U.S.C. 3503(c)) is amended—

21 (1) in paragraph (1), by striking “on the re-
 22 quest of an Indian tribe, the Indian tribe” and in-
 23 serting “on the request of an Indian tribe or a tribal
 24 energy development organization, the Indian tribe or
 25 tribal energy development organization”; and

1 (2) in paragraph (2)(B), by inserting “or tribal
2 energy development organization” after “Indian
3 tribe”.

4 **SEC. 103. TRIBAL ENERGY RESOURCE AGREEMENTS.**

5 (a) AMENDMENT.—Section 2604 of the Energy Pol-
6 icy Act of 1992 (25 U.S.C. 3504) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
10 “or” after the semicolon at the end;

11 (ii) in subparagraph (B)—

12 (I) by striking clause (i) and in-
13 serting the following:

14 “(i) an electric production, generation,
15 transmission, or distribution facility (in-
16 cluding a facility that produces electricity
17 from renewable energy resources) located
18 on tribal land; or”; and

19 (II) in clause (ii)—

20 (aa) by inserting “, at least
21 a portion of which have been”
22 after “energy resources”;

23 (bb) by inserting “or pro-
24 duced from” after “developed
25 on”; and

1 (cc) by striking “and” after
2 the semicolon at the end and in-
3 serting “or”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(C) pooling, unitization, or communitiza-
7 tion of the energy mineral resources of the In-
8 dian tribe located on tribal land with any other
9 energy mineral resource (including energy min-
10 eral resources owned by the Indian tribe or an
11 individual Indian in fee, trust, or restricted sta-
12 tus or by any other persons or entities) if the
13 owner, or, if appropriate, lessee, of the re-
14 sources has consented or consents to the pool-
15 ing, unitization, or communitization of the
16 other resources under any lease or agreement;
17 and”;

18 (B) by striking paragraph (2) and insert-
19 ing the following:

20 “(2) a lease or business agreement described in
21 paragraph (1) shall not require review by, or the ap-
22 proval of, the Secretary under section 2103 of the
23 Revised Statutes (25 U.S.C. 81), or any other provi-
24 sion of law (including regulations), if the lease or
25 business agreement—

1 “(A) was executed—

2 “(i) in accordance with the require-
 3 ments of a tribal energy resource agree-
 4 ment in effect under subsection (e) (includ-
 5 ing the periodic review and evaluation of
 6 the activities of the Indian tribe under the
 7 agreement, to be conducted pursuant to
 8 subparagraphs (D) and (E) of subsection
 9 (e)(2)); or

10 “(ii) by the Indian tribe and a tribal
 11 energy development organization for which
 12 the Indian tribe has obtained a certifi-
 13 cation pursuant to subsection (h); and

14 “(B) has a term that does not exceed—

15 “(i) 30 years; or

16 “(ii) in the case of a lease for the pro-
 17 duction of oil resources, gas resources, or
 18 both, 10 years and as long thereafter as oil
 19 or gas is produced in paying quantities.”;

20 (2) by striking subsection (b) and inserting the
 21 following:

22 “(b) RIGHTS-OF-WAY.—An Indian tribe may grant a
 23 right-of-way over tribal land without review or approval
 24 by the Secretary if the right-of-way—

25 “(1) serves—

1 “(A) an electric production, generation,
2 transmission, or distribution facility (including
3 a facility that produces electricity from renew-
4 able energy resources) located on tribal land;

5 “(B) a facility located on tribal land that
6 extracts, produces, processes, or refines energy
7 resources; or

8 “(C) the purposes, or facilitates in car-
9 rying out the purposes, of any lease or agree-
10 ment entered into for energy resource develop-
11 ment on tribal land;

12 “(2) was executed—

13 “(A) in accordance with the requirements
14 of a tribal energy resource agreement in effect
15 under subsection (e) (including the periodic re-
16 view and evaluation of the activities of the In-
17 dian tribe under the agreement, to be conducted
18 pursuant to subparagraphs (D) and (E) of sub-
19 section (e)(2)); or

20 “(B) by the Indian tribe and a tribal en-
21 ergy development organization for which the In-
22 dian tribe has obtained a certification pursuant
23 to subsection (h); and

24 “(3) has a term that does not exceed 30
25 years.”;

1 (3) by striking subsection (d) and inserting the
2 following:

3 “(d) VALIDITY.—No lease or business agreement en-
4 tered into, or right-of-way granted, pursuant to this sec-
5 tion shall be valid unless the lease, business agreement,
6 or right-of-way is authorized by subsection (a) or (b).”;

7 (4) in subsection (e)—

8 (A) by striking paragraph (1) and insert-
9 ing the following:

10 “(1) IN GENERAL.—

11 “(A) AUTHORIZATION.—On or after the
12 date of enactment of the Indian Tribal Energy
13 Development and Self-Determination Act
14 Amendments of 2017, a qualified Indian tribe
15 may submit to the Secretary a tribal energy re-
16 source agreement governing leases, business
17 agreements, and rights-of-way under this sec-
18 tion.

19 “(B) NOTICE OF COMPLETE PROPOSED
20 AGREEMENT.—Not later than 60 days after the
21 date on which the tribal energy resource agree-
22 ment is submitted under subparagraph (A), the
23 Secretary shall—

1 “(i) notify the Indian tribe as to
 2 whether the agreement is complete or in-
 3 complete;

4 “(ii) if the agreement is incomplete,
 5 notify the Indian tribe of what information
 6 or documentation is needed to complete the
 7 submission; and

8 “(iii) identify and notify the Indian
 9 tribe of the financial assistance, if any, to
 10 be provided by the Secretary to the Indian
 11 tribe to assist in the implementation of the
 12 tribal energy resource agreement, including
 13 the environmental review of individual
 14 projects.

15 “(C) EFFECT.—Nothing in this paragraph
 16 precludes the Secretary from providing any fi-
 17 nancial assistance at any time to the Indian
 18 tribe to assist in the implementation of the trib-
 19 al energy resource agreement.”;

20 (B) in paragraph (2)—

21 (i) by striking “(2)(A)” and all that
 22 follows through the end of subparagraph
 23 (A) and inserting the following:

24 “(2) PROCEDURE.—

25 “(A) EFFECTIVE DATE.—

1 “(i) IN GENERAL.—On the date that
 2 is 271 days after the date on which the
 3 Secretary receives a tribal energy resource
 4 agreement from a qualified Indian tribe
 5 under paragraph (1), the tribal energy re-
 6 source agreement shall take effect, unless
 7 the Secretary disapproves the tribal energy
 8 resource agreement under subparagraph
 9 (B).

10 “(ii) REVISED TRIBAL ENERGY RE-
 11 SOURCE AGREEMENT.—On the date that is
 12 91 days after the date on which the Sec-
 13 retary receives a revised tribal energy re-
 14 source agreement from a qualified Indian
 15 tribe under paragraph (4)(B), the revised
 16 tribal energy resource agreement shall take
 17 effect, unless the Secretary disapproves the
 18 revised tribal energy resource agreement
 19 under subparagraph (B).”;

20 (ii) in subparagraph (B)—

21 (I) by striking “(B)” and all that
 22 follows through clause (ii) and insert-
 23 ing the following:

24 “(B) DISAPPROVAL.—The Secretary shall
 25 disapprove a tribal energy resource agreement

1 submitted pursuant to paragraph (1) or (4)(B)
 2 only if—

3 “(i) a provision of the tribal energy
 4 resource agreement violates applicable
 5 Federal law (including regulations) or a
 6 treaty applicable to the Indian tribe;

7 “(ii) the tribal energy resource agree-
 8 ment does not include one or more provi-
 9 sions required under subparagraph (D);
 10 or”; and

11 (II) in clause (iii)—

12 (aa) in the matter preceding
 13 subclause (I), by striking “in-
 14 cludes” and all that follows
 15 through “section—” and insert-
 16 ing “does not include provisions
 17 that, with respect to any lease,
 18 business agreement, or right-of-
 19 way to which the tribal energy
 20 resource agreement applies—”;

21 (bb) by striking subclauses
 22 (I), (II), (V), (VIII), and (XV);

23 (cc) by redesignating clauses
 24 (III), (IV), (VI), (VII), (IX)
 25 through (XIV), and (XVI) as

1 clauses (I), (II), (III), (IV), (V)
2 through (X), and (XI), respec-
3 tively;

4 (dd) in item (bb) of sub-
5 clause (XI) (as redesignated by
6 item (cc))—

7 (AA) by striking “or
8 tribal”; and

9 (BB) by striking the
10 period at the end and insert-
11 ing a semicolon; and

12 (ee) by adding at the end
13 the following:

14 “(XII) include a certification by
15 the Indian tribe that the Indian tribe
16 has—

17 “(aa) carried out a contract
18 or compact under title I or IV of
19 the Indian Self-Determination
20 and Education Assistance Act
21 (25 U.S.C. 5301 et seq.) for a
22 period of not less than 3 consecu-
23 tive years ending on the date on
24 which the Indian tribe submits
25 the application without material

1 audit exception (or without any
2 material audit exceptions that
3 were not corrected within the 3-
4 year period) relating to the man-
5 agement of tribal land or natural
6 resources; or

7 “(bb) substantial experience
8 in the administration, review, or
9 evaluation of energy resource
10 leases or agreements or has oth-
11 erwise substantially participated
12 in the administration, manage-
13 ment, or development of energy
14 resources located on the tribal
15 land of the Indian tribe; and

16 “(XIII) at the option of the In-
17 dian tribe, identify which functions, if
18 any, authorizing any operational or
19 development activities pursuant to a
20 lease, right-of-way, or business agree-
21 ment approved by the Indian tribe,
22 that the Indian tribe intends to con-
23 duct.”;

24 (iii) in subparagraph (C)—

1 (I) by striking clauses (i) and
 2 (ii);

3 (II) by redesignating clauses (iii)
 4 through (v) as clauses (ii) through
 5 (iv), respectively; and

6 (III) by inserting before clause
 7 (ii) (as redesignated by subclause (II))
 8 the following:

9 “(i) a process for ensuring that—

10 “(I) the public is informed of,
 11 and has reasonable opportunity to
 12 comment on, any significant environ-
 13 mental impacts of the proposed ac-
 14 tion; and

15 “(II) the Indian tribe provides
 16 responses to relevant and substantive
 17 public comments on any impacts de-
 18 scribed in subclause (I) before the In-
 19 dian tribe approves the lease, business
 20 agreement, or right-of-way;”;

21 (iv) in subparagraph (D)(ii), by strik-
 22 ing “subparagraph (B)(iii)(XVI)” and in-
 23 serting “subparagraph (B)(iv)(XI)”;

24 (v) by adding at the end the following:

“(F) EFFECTIVE PERIOD.—A tribal energy resource agreement that takes effect pursuant to this subsection shall remain in effect to the extent any provision of the tribal energy resource agreement is consistent with applicable Federal law (including regulations), unless the tribal energy resource agreement is—

“(i) rescinded by the Secretary pursuant to paragraph (7)(D)(iii)(II); or

“(ii) voluntarily rescinded by the Indian tribe pursuant to the regulations promulgated under paragraph (8)(B) (or successor regulations).”;

(C) in paragraph (4), by striking “date of disapproval” and all that follows through the end of subparagraph (C) and inserting the following: “date of disapproval, provide the Indian tribe with—

“(A) a detailed, written explanation of—

“(i) each reason for the disapproval; and

“(ii) the revisions or changes to the tribal energy resource agreement necessary to address each reason; and

1 “(B) an opportunity to revise and resubmit
2 the tribal energy resource agreement.”;

3 (D) in paragraph (6)—

4 (i) in subparagraph (B)—

5 (I) by striking “(B) Subject to”
6 and inserting the following:

7 “(B) Subject only to”; and

8 (II) by striking “subparagraph
9 (D)” and inserting “subparagraphs
10 (C) and (D)”;

11 (ii) in subparagraph (C), in the mat-
12 ter preceding clause (i), by inserting “to
13 perform the obligations of the Secretary
14 under this section and” before “to ensure”;
15 and

16 (iii) in subparagraph (D), by adding
17 at the end the following:

18 “(iii) Nothing in this section absolves,
19 limits, or otherwise affects the liability, if
20 any, of the United States for any—

21 “(I) term of any lease, business
22 agreement, or right-of-way under this
23 section that is not a negotiated term;
24 or

1 “(II) losses that are not the re-
 2 sult of a negotiated term, including
 3 losses resulting from the failure of the
 4 Secretary to perform an obligation of
 5 the Secretary under this section.”;

6 (E) in paragraph (7)—

7 (i) in subparagraph (A), by striking
 8 “has demonstrated” and inserting “the
 9 Secretary determines has demonstrated
 10 with substantial evidence”;

11 (ii) in subparagraph (B), by striking
 12 “any tribal remedy” and inserting “all
 13 remedies (if any) provided under the laws
 14 of the Indian tribe”;

15 (iii) in subparagraph (D)—

16 (I) in clause (i), by striking “de-
 17 termine” and all that follows through
 18 the end of the clause and inserting the
 19 following: “determine—

20 “(I) whether the petitioner
 21 is an interested party; and

22 “(II) if the petitioner is an
 23 interested party, whether the In-
 24 dian tribe is not in compliance
 25 with the tribal energy resource

1 agreement as alleged in the peti-
2 tion.”;

3 (II) in clause (ii), by striking
4 “determination” and inserting “deter-
5 minations”; and

6 (III) in clause (iii), in the matter
7 preceding subclause (I) by striking
8 “agreement” the first place it appears
9 and all that follows through “, includ-
10 ing” and inserting “agreement pursu-
11 ant to clause (i), the Secretary shall
12 only take such action as the Secretary
13 determines necessary to address the
14 claims of noncompliance made in the
15 petition, including”;

16 (iv) in subparagraph (E)(i), by strik-
17 ing “the manner in which” and inserting
18 “, with respect to each claim made in the
19 petition, how”; and

20 (v) by adding at the end the following:

21 “(G) Notwithstanding any other provision
22 of this paragraph, the Secretary shall dismiss
23 any petition from an interested party that has
24 agreed with the Indian tribe to a resolution of

the claims presented in the petition of that party.”;

(F) in paragraph (8)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively; and

(iii) in subparagraph (A) (as redesignated by clause (ii))—

(I) in clause (i), by striking “and” at the end;

(II) in clause (ii), by adding “and” after the semicolon; and

(III) by adding at the end the following:

“(iii) amend an approved tribal energy resource agreement to assume authority for approving leases, business agreements, or rights-of-way for development of another energy resource that is not included in an approved tribal energy resource agreement without being required to apply for a new tribal energy resource agreement;” and

(G) by adding at the end the following:

1 “(9) EFFECT.—Nothing in this section author-
 2 izes the Secretary to deny a tribal energy resource
 3 agreement or any amendment to a tribal energy re-
 4 source agreement, or to limit the effect or implemen-
 5 tation of this section, due to lack of promulgated
 6 regulations.”;

7 (5) by redesignating subsection (g) as sub-
 8 section (j); and

9 (6) by inserting after subsection (f) the fol-
 10 lowing:

11 “(g) FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES
 12 BY THE SECRETARY.—

13 “(1) IN GENERAL.—Any amounts that the Sec-
 14 retary would otherwise expend to operate or carry
 15 out any program, function, service, or activity (or
 16 any portion of a program, function, service, or activ-
 17 ity) of the Department that, as a result of an Indian
 18 tribe carrying out activities under a tribal energy re-
 19 source agreement, the Secretary does not expend,
 20 the Secretary shall, at the request of the Indian
 21 tribe, make available to the Indian tribe in accord-
 22 ance with this subsection.

23 “(2) ANNUAL FUNDING AGREEMENTS.—The
 24 Secretary shall make the amounts described in para-
 25 graph (1) available to an Indian tribe through an

1 annual written funding agreement that is negotiated
2 and entered into with the Indian tribe that is separate from the tribal energy resource agreement.

3 “(3) EFFECT OF APPROPRIATIONS.—Notwithstanding paragraph (1)—

4 “(A) the provision of amounts to an Indian
5 tribe under this subsection is subject to the
6 availability of appropriations; and

7 “(B) the Secretary shall not be required to
8 reduce amounts for programs, functions, services, or activities that serve any other Indian
9 tribe to make amounts available to an Indian
10 tribe under this subsection.

11 “(4) DETERMINATION.—

12 “(A) IN GENERAL.—The Secretary shall
13 calculate the amounts under paragraph (1) in
14 accordance with the regulations adopted under
15 section 103(b) of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017.

16 “(B) APPLICABILITY.—The effective date
17 or implementation of a tribal energy resource
18 agreement under this section shall not be delayed or otherwise affected by—

1 “(i) a delay in the promulgation of
 2 regulations under section 103(b) of the In-
 3 dian Tribal Energy Development and Self-
 4 Determination Act Amendments of 2017;

5 “(ii) the period of time needed by the
 6 Secretary to make the calculation required
 7 under paragraph (1); or

8 “(iii) the adoption of a funding agree-
 9 ment under paragraph (2).

10 “(h) CERTIFICATION OF TRIBAL ENERGY DEVELOP-
 11 MENT ORGANIZATION.—

12 “(1) IN GENERAL.—Not later than 90 days
 13 after the date on which an Indian tribe submits an
 14 application for certification of a tribal energy devel-
 15 opment organization in accordance with regulations
 16 promulgated under section 103(b) of the Indian
 17 Tribal Energy Development and Self-Determination
 18 Act Amendments of 2017, the Secretary shall ap-
 19 prove or disapprove the application.

20 “(2) REQUIREMENTS.—The Secretary shall ap-
 21 prove an application for certification if—

22 “(A)(i) the Indian tribe has carried out a
 23 contract or compact under title I or IV of the
 24 Indian Self-Determination and Education As-
 25 sistance Act (25 U.S.C. 5301 et seq.); and

1 “(ii) for a period of not less than 3 con-
2 secutive years ending on the date on which the
3 Indian tribe submits the application, the con-
4 tract or compact—

5 “(I) has been carried out by the In-
6 dian tribe without material audit excep-
7 tions (or without any material audit excep-
8 tions that were not corrected within the 3-
9 year period); and

10 “(II) has included programs or activi-
11 ties relating to the management of tribal
12 land; and

13 “(B)(i) the tribal energy development orga-
14 nization is organized under the laws of the In-
15 dian tribe;

16 “(ii)(I) the majority of the interest in the
17 tribal energy development organization is owned
18 and controlled by the Indian tribe (or the In-
19 dian tribe and one or more other Indian tribes)
20 the tribal land of which is being developed; and

21 “(II) the organizing document of the tribal
22 energy development organization requires that
23 the Indian tribe with jurisdiction over the land
24 maintain at all times the controlling interest in
25 the tribal energy development organization;

1 “(iii) the organizing document of the tribal
2 energy development organization requires that
3 the Indian tribe (or the Indian tribe and one or
4 more other Indian tribes) the tribal land of
5 which is being developed own and control at all
6 times a majority of the interest in the tribal en-
7 ergy development organization; and

8 “(iv) the organizing document of the tribal
9 energy development organization includes a
10 statement that the organization shall be subject
11 to the jurisdiction, laws, and authority of the
12 Indian tribe.

13 “(3) ACTION BY SECRETARY.—If the Secretary
14 approves an application for certification pursuant to
15 paragraph (2), the Secretary shall, not more than 10
16 days after making the determination—

17 “(A) issue a certification stating that—

18 “(i) the tribal energy development or-
19 ganization is organized under the laws of
20 the Indian tribe and subject to the juris-
21 diction, laws, and authority of the Indian
22 tribe;

23 “(ii) the majority of the interest in
24 the tribal energy development organization
25 is owned and controlled by the Indian tribe

1 (or the Indian tribe and one or more other
 2 Indian tribes) the tribal land of which is
 3 being developed;

4 “(iii) the organizing document of the
 5 tribal energy development organization re-
 6 quires that the Indian tribe with jurisdic-
 7 tion over the land maintain at all times the
 8 controlling interest in the tribal energy de-
 9 velopment organization;

10 “(iv) the organizing document of the
 11 tribal energy development organization re-
 12 quires that the Indian tribe (or the Indian
 13 tribe and one or more other Indian tribes
 14 the tribal land of which is being developed)
 15 own and control at all times a majority of
 16 the interest in the tribal energy develop-
 17 ment organization; and

18 “(v) the certification is issued pursu-
 19 ant this subsection;

20 “(B) deliver a copy of the certification to
 21 the Indian tribe; and

22 “(C) publish the certification in the Fed-
 23 eral Register.

24 “(i) SOVEREIGN IMMUNITY.—Nothing in this section
 25 waives the sovereign immunity of an Indian tribe.”.

1 (b) REGULATIONS.—Not later than 1 year after the
2 date of enactment of the Indian Tribal Energy Develop-
3 ment and Self-Determination Act Amendments of 2017,
4 the Secretary shall promulgate or update any regulations
5 that are necessary to implement this section, including
6 provisions to implement—

7 (1) section 2604(e)(8) of the Energy Policy Act
8 of 1992 (25 U.S.C. 3504(e)(8)), including the proc-
9 ess to be followed by an Indian tribe amending an
10 existing tribal energy resource agreement to assume
11 authority for approving leases, business agreements,
12 or rights-of-way for development of an energy re-
13 source that is not included in the tribal energy re-
14 source agreement;

15 (2) section 2604(g) of the Energy Policy Act of
16 1992 (25 U.S.C. 3504(g)) including the manner in
17 which the Secretary, at the request of an Indian
18 tribe, shall—

19 (A) identify the programs, functions, serv-
20 ices, and activities (or any portions of pro-
21 grams, functions, services, or activities) that the
22 Secretary will not have to operate or carry out
23 as a result of the Indian tribe carrying out ac-
24 tivities under a tribal energy resource agree-
25 ment;

(B) identify the amounts that the Secretary would have otherwise expended to operate or carry out each program, function, service, and activity (or any portion of a program, function, service, or activity) identified pursuant to subparagraph (A); and

(C) provide to the Indian tribe a list of the programs, functions, services, and activities (or any portions of programs, functions, services, or activities) identified pursuant subparagraph (A) and the amounts associated with each program, function, service, and activity (or any portion of a program, function, service, or activity) identified pursuant to subparagraph (B); and

(3) section 2604(h) of the Energy Policy Act of 1992 (25 U.S.C. 3504(h)), including the process to be followed by, and any applicable criteria and documentation required for, an Indian tribe to request and obtain the certification described in that section.

SEC. 104. TECHNICAL ASSISTANCE FOR INDIAN TRIBAL GOVERNMENTS.

Section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

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

3 “(3) TECHNICAL AND SCIENTIFIC RE-
 4 SOURCES.—In addition to providing grants to Indian
 5 tribes under this subsection, the Secretary shall col-
 6 laborate with the Directors of the National Labora-
 7 tories in making the full array of technical and sci-
 8 entific resources of the Department of Energy avail-
 9 able for tribal energy activities and projects.”.

10 **SEC. 105. CONFORMING AMENDMENTS.**

11 (a) DEFINITION OF TRIBAL ENERGY DEVELOPMENT
 12 ORGANIZATION.—Section 2601 of the Energy Policy Act
 13 of 1992 (25 U.S.C. 3501) is amended—

14 (1) by redesignating paragraphs (9) through
 15 (12) as paragraphs (10) through (13), respectively;

16 (2) by inserting after paragraph (8) the fol-
 17 lowing:

18 “(9) The term ‘qualified Indian tribe’ means an
 19 Indian tribe that has—

20 “(A) carried out a contract or compact
 21 under title I or IV of the Indian Self-Deter-
 22 mination and Education Assistance Act (25
 23 U.S.C. 5301 et seq.) for a period of not less
 24 than 3 consecutive years ending on the date on
 25 which the Indian tribe submits the application

without material audit exception (or without any material audit exceptions that were not corrected within the 3-year period) relating to the management of tribal land or natural resources; or

“(B) substantial experience in the administration, review, or evaluation of energy resource leases or agreements or has otherwise substantially participated in the administration, management, or development of energy resources located on the tribal land of the Indian tribe.”; and

(3) by striking paragraph (12) (as redesignated by paragraph (1)) and inserting the following:

“(12) The term ‘tribal energy development organization’ means—

“(A) any enterprise, partnership, consortium, corporation, or other type of business organization that is engaged in the development of energy resources and is wholly owned by an Indian tribe (including an organization incorporated pursuant to section 17 of the Act of June 18, 1934 (25 U.S.C. 5124) (commonly known as the “Indian Reorganization Act”) or section 3 of the Act of June 26, 1936 (49 Stat.

1 1967, chapter 831) (commonly known as the
2 ‘Oklahoma Indian Welfare Act’)); and

3 “(B) any organization of two or more enti-
4 ties, at least one of which is an Indian tribe,
5 that has the written consent of the governing
6 bodies of all Indian tribes participating in the
7 organization to apply for a grant, loan, or other
8 assistance under section 2602 or to enter into
9 a lease or business agreement with, or acquire
10 a right-of-way from, an Indian tribe pursuant
11 to subsection (a)(2)(A)(ii) or (b)(2)(B) of sec-
12 tion 2604.”.

13 (b) INDIAN TRIBAL ENERGY RESOURCE DEVELOP-
14 MENT.—Section 2602 of the Energy Policy Act of 1992
15 (25 U.S.C. 3502) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by striking “tribal
18 energy resource development organizations”
19 and inserting “tribal energy development orga-
20 nizations”; and

21 (B) in paragraph (2), by striking “tribal
22 energy resource development organizations”
23 each place the term appears and inserting
24 “tribal energy development organizations”; and

1 (2) in subsection (b)(2), by striking “tribal en-
 2 ergy resource development organization” and insert-
 3 ing “tribal energy development organization”.

4 (c) WIND AND HYDROPOWER FEASIBILITY STUDY.—
 5 Section 2606(c)(3) of the Energy Policy Act of 1992 (25
 6 U.S.C. 3506(c)(3)) is amended by striking “energy re-
 7 source development” and inserting “energy development”.

8 (d) CONFORMING AMENDMENTS.—Section 2604(e)
 9 of the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is
 10 amended—

11 (1) in paragraph (3)—

12 (A) by striking “(3) The Secretary” and
 13 inserting the following:

14 “(3) NOTICE AND COMMENT; SECRETARIAL RE-
 15 VIEW.—The Secretary”; and

16 (B) by striking “for approval”;

17 (2) in paragraph (4), by striking “(4) If the
 18 Secretary” and inserting the following:

19 “(4) ACTION IN CASE OF DISAPPROVAL.—If the
 20 Secretary”;

21 (3) in paragraph (5)—

22 (A) by striking “(5) If an Indian tribe”
 23 and inserting the following:

24 “(5) PROVISION OF DOCUMENTS TO SEC-
 25 RETARY.—If an Indian tribe”; and

1 (B) in the matter preceding subparagraph
 2 (A), by striking “approved” and inserting “in
 3 effect”;

4 (4) in paragraph (6)—

5 (A) by striking “(6)(A) In carrying out”
 6 and inserting the following:

7 “(6) SECRETARIAL OBLIGATIONS AND EFFECT
 8 OF SECTION.—

9 “(A) In carrying out”;

10 (B) in subparagraph (A), by indenting
 11 clauses (i) and (ii) appropriately;

12 (C) in subparagraph (B), by striking “ap-
 13 proved” and inserting “in effect”; and

14 (D) in subparagraph (D)—

15 (i) in clause (i), by striking “an ap-
 16 proved tribal energy resource agreement”
 17 and inserting “a tribal energy resource
 18 agreement in effect under this section”;
 19 and

20 (ii) in clause (ii), by striking “ap-
 21 proved by the Secretary” and inserting “in
 22 effect”; and

23 (5) in paragraph (7)—

24 (A) by striking “(7)(A) In this paragraph”
 25 and inserting the following:

1 “(7) PETITIONS BY INTERESTED PARTIES.—

2 “(A) In this paragraph”;

3 (B) in subparagraph (A), by striking “ap-
4 proved by the Secretary” and inserting “in ef-
5 fect”;

6 (C) in subparagraph (B), by striking “ap-
7 proved by the Secretary” and inserting “in ef-
8 fect”; and

9 (D) in subparagraph (D)(iii)—

10 (i) in subclause (I), by striking “ap-
11 proved”; and

12 (ii) in subclause (II)—

13 (I) by striking “approval of” in
14 the first place it appears; and

15 (II) by striking “subsection (a)
16 or (b)” and inserting “subsection
17 (a)(2)(A)(i) or (b)(2)(A)”.

18 **SEC. 106. REPORT.**

19 (a) IN GENERAL.—Not later than 18 months after
20 the date of enactment of this Act, the Secretary of the
21 Interior shall submit to the Committee on Indian Affairs
22 of the Senate and the Committee on Natural Resources
23 of the House of Representatives a report that details with
24 respect to activities for energy development on Indian
25 land, how the Department of the Interior—

1 (1) processes and completes the reviews of en-
 2 ergy-related documents in a timely and transparent
 3 manner;

4 (2) monitors the timeliness of agency review for
 5 all energy-related documents;

6 (3) maintains databases to track and monitor
 7 the review and approval process for energy-related
 8 documents associated with conventional and renew-
 9 able Indian energy resources that require Secretarial
 10 approval prior to development, including—

11 (A) any seismic exploration permits;

12 (B) permission to survey;

13 (C) archeological and cultural surveys;

14 (D) access permits;

15 (E) environmental assessments;

16 (F) oil and gas leases;

17 (G) surface leases;

18 (H) rights-of-way agreements; and

19 (I) communitization agreements;

20 (4) identifies in the databases—

21 (A) the date lease applications and permits
 22 are received by the agency;

23 (B) the status of the review;

24 (C) the date the application or permit is
 25 considered complete and ready for review;

1 (D) the date of approval; and

2 (E) the start and end dates for any signifi-
3 cant delays in the review process;

4 (5) tracks in the databases, for all energy-re-
5 lated leases, agreements, applications, and permits
6 that involve multiple agency review—

7 (A) the dates documents are transferred
8 between agencies;

9 (B) the status of the review;

10 (C) the date the required reviews are com-
11 pleted; and

12 (D) the date interim or final decisions are
13 issued.

14 (b) INCLUSIONS.—The report under subsection (a)
15 shall include—

16 (1) a description of any intermediate and final
17 deadlines for agency action on any Secretarial review
18 and approval required for Indian conventional and
19 renewable energy exploration and development ac-
20 tivities;

21 (2) a description of the existing geographic
22 database established by the Bureau of Indian Af-
23 fairs, explaining—

24 (A) how the database identifies—

- 1 (i) the location and ownership of all
- 2 Indian oil and gas resources held in trust;
- 3 (ii) resources available for lease; and
- 4 (iii) the location of—
- 5 (I) any lease of land held in trust
- 6 or restricted fee on behalf of any In-
- 7 dian tribe or individual Indian; and
- 8 (II) any rights-of-way on that
- 9 land in effect;
- 10 (B) how the information from the database
- 11 is made available to—
- 12 (i) the officials of the Bureau of In-
- 13 dian Affairs with responsibility over the
- 14 management and development of Indian
- 15 resources; and
- 16 (ii) resource owners; and
- 17 (C) any barriers to identifying the informa-
- 18 tion described in subparagraphs (A) and (B) or
- 19 any deficiencies in that information; and
- 20 (3) an evaluation of—
- 21 (A) the ability of each applicable agency to
- 22 track and monitor the review and approval
- 23 process of the agency for Indian energy develop-
- 24 ment; and

1 (B) the extent to which each applicable
 2 agency complies with any intermediate and final
 3 deadlines.

4 **TITLE II—MISCELLANEOUS** 5 **AMENDMENTS**

6 **SEC. 201. ISSUANCE OF PRELIMINARY PERMITS OR LI-** 7 **CENSES.**

8 (a) IN GENERAL.—Section 7(a) of the Federal Power
 9 Act (16 U.S.C. 800(a)) is amended by striking “States
 10 and municipalities” and inserting “States, Indian tribes,
 11 and municipalities”.

12 (b) APPLICABILITY.—The amendment made by sub-
 13 section (a) shall not affect—

14 (1) any preliminary permit or original license
 15 issued before the date of enactment of the Indian
 16 Tribal Energy Development and Self-Determination
 17 Act Amendments of 2017; or

18 (2) an application for an original license, if the
 19 Commission has issued a notice accepting that appli-
 20 cation for filing pursuant to section 4.32(d) of title
 21 18, Code of Federal Regulations (or successor regu-
 22 lations), before the date of enactment of the Indian
 23 Tribal Energy Development and Self-Determination
 24 Act Amendments of 2017.

1 (c) DEFINITION OF INDIAN TRIBE.—For purposes of
 2 section 7(a) of the Federal Power Act (16 U.S.C. 800(a))
 3 (as amended by subsection (a)), the term “Indian tribe”
 4 has the meaning given the term in section 4 of the Indian
 5 Self-Determination and Education Assistance Act (25
 6 U.S.C. 5304).

7 **SEC. 202. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

8 (a) PURPOSE.—The purpose of this section is to es-
 9 tablish a biomass demonstration project for federally rec-
 10 ognized Indian tribes and Alaska Native corporations to
 11 promote biomass energy production.

12 (b) TRIBAL BIOMASS DEMONSTRATION PROJECT.—
 13 The Tribal Forest Protection Act of 2004 (25 U.S.C.
 14 3115a et seq.) is amended—

15 (1) in section 2(a), by striking “In this section”
 16 and inserting “In this Act”; and

17 (2) by adding at the end the following:

18 **“SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

19 “(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREE-
 20 MENTS.—For each of fiscal years 2017 through 2021, the
 21 Secretary shall enter into stewardship contracts or similar
 22 agreements (excluding direct service contracts) with In-
 23 dian tribes to carry out demonstration projects to promote
 24 biomass energy production (including biofuel, heat, and
 25 electricity generation) on Indian forest land and in nearby

1 communities by providing reliable supplies of woody bio-
 2 mass from Federal land.

3 “(b) DEMONSTRATION PROJECTS.—In each fiscal
 4 year for which projects are authorized, at least 4 new dem-
 5 onstration projects that meet the eligibility criteria de-
 6 scribed in subsection (c) shall be carried out under con-
 7 tracts or agreements described in subsection (a).

8 “(c) ELIGIBILITY CRITERIA.—To be eligible to enter
 9 into a contract or agreement under this section, an Indian
 10 tribe shall submit to the Secretary an application—

11 “(1) containing such information as the Sec-
 12 retary may require; and

13 “(2) that includes a description of—

14 “(A) the Indian forest land or rangeland
 15 under the jurisdiction of the Indian tribe; and

16 “(B) the demonstration project proposed
 17 to be carried out by the Indian tribe.

18 “(d) SELECTION.—In evaluating the applications
 19 submitted under subsection (c), the Secretary shall—

20 “(1) take into consideration—

21 “(A) the factors set forth in paragraphs
 22 (1) and (2) of section 2(e); and

23 “(B) whether a proposed project would—

24 “(i) increase the availability or reli-
 25 ability of local or regional energy;

1 “(ii) enhance the economic develop-
2 ment of the Indian tribe;

3 “(iii) result in or improve the connec-
4 tion of electric power transmission facilities
5 serving the Indian tribe with other electric
6 transmission facilities;

7 “(iv) improve the forest health or wa-
8 tersheds of Federal land or Indian forest
9 land or rangeland;

10 “(v) demonstrate new investments in
11 infrastructure; or

12 “(vi) otherwise promote the use of
13 woody biomass; and

14 “(2) exclude from consideration any merchant-
15 able logs that have been identified by the Secretary
16 for commercial sale.

17 “(e) IMPLEMENTATION.—The Secretary shall—

18 “(1) ensure that the criteria described in sub-
19 section (c) are publicly available by not later than
20 120 days after the date of enactment of this section;
21 and

22 “(2) to the maximum extent practicable, consult
23 with Indian tribes and appropriate intertribal orga-
24 nizations likely to be affected in developing the ap-
25 plication and otherwise carrying out this section.

1 “(f) REPORT.—Not later than September 20, 2019,
 2 the Secretary shall submit to Congress a report that de-
 3 scribes, with respect to the reporting period—

4 “(1) each individual tribal application received
 5 under this section; and

6 “(2) each contract and agreement entered into
 7 pursuant to this section.

8 “(g) INCORPORATION OF MANAGEMENT PLANS.—In
 9 carrying out a contract or agreement under this section,
 10 on receipt of a request from an Indian tribe, the Secretary
 11 shall incorporate into the contract or agreement, to the
 12 maximum extent practicable, management plans (includ-
 13 ing forest management and integrated resource manage-
 14 ment plans) in effect on the Indian forest land or range-
 15 land of the respective Indian tribe.

16 “(h) TERM.—A contract or agreement entered into
 17 under this section—

18 “(1) shall be for a term of not more than 20
 19 years; and

20 “(2) may be renewed in accordance with this
 21 section for not more than an additional 10 years.”.

22 (c) ALASKA NATIVE BIOMASS DEMONSTRATION
 23 PROJECT.—

24 (1) DEFINITIONS.—In this subsection:

1 (A) FEDERAL LAND.—The term “Federal
2 land” means—

3 (i) land of the National Forest System
4 (as defined in section 11(a) of the Forest
5 and Rangeland Renewable Resources Plan-
6 ning Act of 1974 (16 U.S.C. 1609(a)) ad-
7 ministered by the Secretary of Agriculture,
8 acting through the Chief of the Forest
9 Service; and

10 (ii) public lands (as defined in section
11 103 of the Federal Land Policy and Man-
12 agement Act of 1976 (43 U.S.C. 1702)),
13 the surface of which is administered by the
14 Secretary of the Interior, acting through
15 the Director of the Bureau of Land Man-
16 agement.

17 (B) INDIAN TRIBE.—The term “Indian
18 tribe” has the meaning given the term in sec-
19 tion 4 of the Indian Self-Determination and
20 Education Assistance Act (25 U.S.C. 5304).

21 (C) SECRETARY.—The term “Secretary”
22 means—

23 (i) the Secretary of Agriculture, with
24 respect to land under the jurisdiction of
25 the Forest Service; and

1 (ii) the Secretary of the Interior, with
2 respect to land under the jurisdiction of
3 the Bureau of Land Management.

4 (D) TRIBAL ORGANIZATION.—The term
5 “tribal organization” has the meaning given the
6 term in section 4 of the Indian Self-Determina-
7 tion and Education Assistance Act (25 U.S.C.
8 5304).

9 (2) AGREEMENTS.—For each of fiscal years
10 2017 through 2021, the Secretary shall enter into
11 an agreement or contract with an Indian tribe or a
12 tribal organization to carry out a demonstration
13 project to promote biomass energy production (in-
14 cluding biofuel, heat, and electricity generation) by
15 providing reliable supplies of woody biomass from
16 Federal land.

17 (3) DEMONSTRATION PROJECTS.—In each fiscal
18 year for which projects are authorized, at least 1
19 new demonstration project that meets the eligibility
20 criteria described in paragraph (4) shall be carried
21 out under contracts or agreements described in
22 paragraph (2).

23 (4) ELIGIBILITY CRITERIA.—To be eligible to
24 enter into a contract or agreement under this sub-

1 section, an Indian tribe or tribal organization shall
2 submit to the Secretary an application—

3 (A) containing such information as the
4 Secretary may require; and

5 (B) that includes a description of the dem-
6 onstration project proposed to be carried out by
7 the Indian tribe or tribal organization.

8 (5) SELECTION.—In evaluating the applications
9 submitted under paragraph (4), the Secretary
10 shall—

11 (A) take into consideration whether a pro-
12 posed project would—

13 (i) increase the availability or reli-
14 ability of local or regional energy;

15 (ii) enhance the economic development
16 of the Indian tribe;

17 (iii) result in or improve the connec-
18 tion of electric power transmission facilities
19 serving the Indian tribe with other electric
20 transmission facilities;

21 (iv) improve the forest health or wa-
22 tersheds of Federal land or non-Federal
23 land;

24 (v) demonstrate new investments in
25 infrastructure; or

1 (vi) otherwise promote the use of
2 woody biomass; and

3 (B) exclude from consideration any mer-
4 chantable logs that have been identified by the
5 Secretary for commercial sale.

6 (6) IMPLEMENTATION.—The Secretary shall—

7 (A) ensure that the criteria described in
8 paragraph (4) are publicly available by not later
9 than 120 days after the date of enactment of
10 this subsection; and

11 (B) to the maximum extent practicable,
12 consult with Indian tribes and appropriate trib-
13 al organizations likely to be affected in devel-
14 oping the application and otherwise carrying
15 out this subsection.

16 (7) REPORT.—Not later than September 20,
17 2019, the Secretary shall submit to Congress a re-
18 port that describes, with respect to the reporting pe-
19 riod—

20 (A) each individual application received
21 under this subsection; and

22 (B) each contract and agreement entered
23 into pursuant to this subsection.

24 (8) TERM.—A contract or agreement entered
25 into under this subsection—

1 (A) shall be for a term of not more than
2 20 years; and

3 (B) may be renewed in accordance with
4 this subsection for not more than an additional
5 10 years.

6 **SEC. 203. WEATHERIZATION PROGRAM.**

7 Section 413(d) of the Energy Conservation and Pro-
8 duction Act (42 U.S.C. 6863(d)) is amended—

9 (1) by striking paragraph (1) and inserting the
10 following:

11 “(1) RESERVATION OF AMOUNTS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B) and notwithstanding any other provi-
14 sion of this part, the Secretary shall reserve
15 from amounts that would otherwise be allocated
16 to a State under this part not less than 100
17 percent, but not more than 150 percent, of an
18 amount which bears the same proportion to the
19 allocation of that State for the applicable fiscal
20 year as the population of all low-income mem-
21 bers of an Indian tribe in that State bears to
22 the population of all low-income individuals in
23 that State.

24 “(B) RESTRICTIONS.—Subparagraph (A)
25 shall apply only if—

1 “(i) the tribal organization serving the
 2 low-income members of the applicable In-
 3 dian tribe requests that the Secretary
 4 make a grant directly; and

5 “(ii) the Secretary determines that
 6 the low-income members of the applicable
 7 Indian tribe would be equally or better
 8 served by making a grant directly than a
 9 grant made to the State in which the low-
 10 income members reside.

11 “(C) PRESUMPTION.—If the tribal organi-
 12 zation requesting the grant is a tribally des-
 13 ignated housing entity (as defined in section 4
 14 of the Native American Housing Assistance and
 15 Self-Determination Act of 1996 (25 U.S.C.
 16 4103)) that has operated without material audit
 17 exceptions (or without any material audit excep-
 18 tions that were not corrected within a 3-year
 19 period), the Secretary shall presume that the
 20 low-income members of the applicable Indian
 21 tribe would be equally or better served by mak-
 22 ing a grant directly to the tribal organization
 23 than by a grant made to the State in which the
 24 low-income members reside.”;

25 (2) in paragraph (2)—

1 (A) by striking “The sums” and inserting
 2 “ADMINISTRATION.—The amounts”;

3 (B) by striking “on the basis of his deter-
 4 mination”;

5 (C) by striking “individuals for whom such
 6 a determination has been made” and inserting
 7 “low-income members of the Indian tribe”; and

8 (D) by striking “he” and inserting “the
 9 Secretary”; and

10 (3) in paragraph (3), by striking “In order”
 11 and inserting “APPLICATION.—In order”.

12 **SEC. 204. APPRAISALS.**

13 (a) IN GENERAL.—Title XXVI of the Energy Policy
 14 Act of 1992 (25 U.S.C. 3501 et seq.) is amended by add-
 15 ing at the end the following:

16 **“SEC. 2607. APPRAISALS.**

17 “(a) IN GENERAL.—For any transaction that re-
 18 quires approval of the Secretary and involves mineral or
 19 energy resources held in trust by the United States for
 20 the benefit of an Indian tribe or by an Indian tribe subject
 21 to Federal restrictions against alienation, any appraisal
 22 relating to fair market value of those resources required
 23 to be prepared under applicable law may be prepared by—

24 “(1) the Secretary;

25 “(2) the affected Indian tribe; or

1 “(3) a certified, third-party appraiser pursuant
2 to a contract with the Indian tribe.

3 “(b) SECRETARIAL REVIEW AND APPROVAL.—Not
4 later than 45 days after the date on which the Secretary
5 receives an appraisal prepared by or for an Indian tribe
6 under paragraph (2) or (3) of subsection (a), the Sec-
7 retary shall—

8 “(1) review the appraisal; and

9 “(2) approve the appraisal unless the Secretary
10 determines that the appraisal fails to meet the
11 standards set forth in regulations promulgated
12 under subsection (d).

13 “(c) NOTICE OF DISAPPROVAL.—If the Secretary de-
14 termines that an appraisal submitted for approval under
15 subsection (b) should be disapproved, the Secretary shall
16 give written notice of the disapproval to the Indian tribe
17 and a description of—

18 “(1) each reason for the disapproval; and

19 “(2) how the appraisal should be corrected or
20 otherwise cured to meet the applicable standards set
21 forth in the regulations promulgated under sub-
22 section (d).

23 “(d) REGULATIONS.—The Secretary shall promul-
24 gate regulations to carry out this section, including stand-

1 ards the Secretary shall use for approving or disapproving
 2 the appraisal described in subsection (a).”.

3 **SEC. 205. LEASES OF RESTRICTED LANDS FOR NAVAJO NA-**
 4 **TION.**

5 (a) IN GENERAL.—Subsection (e)(1) of the first sec-
 6 tion of the Act of August 9, 1955 (commonly known as
 7 the “Long-Term Leasing Act”) (25 U.S.C. 415(e)(1)), is
 8 amended—

9 (1) by striking “, except a lease for” and insert-
 10 ing “, including a lease for”;

11 (2) by striking subparagraph (A) and inserting
 12 the following:

13 “(A) in the case of a business or agricul-
 14 tural lease, 99 years;”;

15 (3) in subparagraph (B), by striking the period
 16 at the end and inserting “; and”; and

17 (4) by adding at the end the following:

18 “(C) in the case of a lease for the explo-
 19 ration, development, or extraction of any min-
 20 eral resource (including geothermal resources),
 21 25 years, except that—

22 “(i) any such lease may include an op-
 23 tion to renew for 1 additional term of not
 24 to exceed 25 years; and

1 “(ii) any such lease for the explo-
 2 ration, development, or extraction of an oil
 3 or gas resource shall be for a term of not
 4 to exceed 10 years, plus such additional
 5 period as the Navajo Nation determines to
 6 be appropriate in any case in which an oil
 7 or gas resource is produced in a paying
 8 quantity.”.

9 (b) GAO REPORT.—Not later than 5 years after the
 10 date of enactment of this Act, the Comptroller General
 11 of the United States shall prepare and submit to Congress
 12 a report describing the progress made in carrying out the
 13 amendment made by subsection (a).

14 **SEC. 206. EXTENSION OF TRIBAL LEASE PERIOD FOR THE**
 15 **CROW TRIBE OF MONTANA.**

16 Subsection (a) of the first section of the Act of Au-
 17 gust 9, 1955 (25 U.S.C. 415(a)), is amended in the second
 18 sentence by inserting “, land held in trust for the Crow
 19 Tribe of Montana” after “Devils Lake Sioux Reserva-
 20 tion”.

21 **SEC. 207. TRUST STATUS OF LEASE PAYMENTS.**

22 (a) DEFINITION OF SECRETARY.—In this section, the
 23 term “Secretary” means the Secretary of the Interior.

24 (b) TREATMENT OF LEASE PAYMENTS.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2) and at the request of the Indian tribe or
 3 individual Indian, any advance payments, bid depos-
 4 its, or other earnest money received by the Secretary
 5 in connection with the review and Secretarial ap-
 6 proval under any other Federal law (including regu-
 7 lations) of a sale, lease, permit, or any other convey-
 8 ance of any interest in any trust or restricted land
 9 of any Indian tribe or individual Indian shall, upon
 10 receipt and prior to Secretarial approval of the con-
 11 tract or conveyance instrument, be held in the trust
 12 fund system for the benefit of the Indian tribe and
 13 individual Indian from whose land the funds were
 14 generated.

15 (2) RESTRICTION.—If the advance payment,
 16 bid deposit, or other earnest money received by the
 17 Secretary results from competitive bidding, upon se-
 18 lection of the successful bidder, only the funds paid
 19 by the successful bidder shall be held in the trust
 20 fund system.

21 (c) USE OF FUNDS.—

22 (1) IN GENERAL.—On the approval of the Sec-
 23 retary of a contract or other instrument for a sale,
 24 lease, permit, or any other conveyance described in
 25 subsection (b)(1), the funds held in the trust fund

1 system and described in subsection (b), along with
2 all income generated from the investment of those
3 funds, shall be disbursed to the Indian tribe or indi-
4 vidual Indian landowners.

5 (2) ADMINISTRATION.—If a contract or other
6 instrument for a sale, lease, permit, or any other
7 conveyance described in subsection (b)(1) is not ap-
8 proved by the Secretary, the funds held in the trust
9 fund system and described in subsection (b), along
10 with all income generated from the investment of
11 those funds, shall be paid to the party identified in,
12 and in such amount and on such terms as set out
13 in, the applicable regulations, advertisement, or
14 other notice governing the proposed conveyance of
15 the interest in the land at issue.

16 (d) APPLICABILITY.—This section shall apply to any
17 advance payment, bid deposit, or other earnest money re-
18 ceived by the Secretary in connection with the review and
19 Secretarial approval under any other Federal law (includ-
20 ing regulations) of a sale, lease, permit, or any other con-
21 veyance of any interest in any trust or restricted land of
22 any Indian tribe or individual Indian on or after the date
23 of enactment of this Act.

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