

114TH CONGRESS
1ST SESSION

S. 209

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian Tribal Energy
3 Development and Self-Determination Act Amendments of
4 2015”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 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.

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Sec. 205. Leases of restricted lands for Navajo Nation.

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7 **TITLE I—INDIAN TRIBAL EN-**
8 **ERGY DEVELOPMENT AND**
9 **SELF-DETERMINATION ACT**
10 **AMENDMENTS**

11 **SEC. 101. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**
12 **MENT.**

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

15 (1) in paragraph (2)—

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

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

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

6 “(E) consult with each applicable Indian
7 tribe before adopting or approving a well spac-
8 ing program or plan applicable to the energy re-
9 sources of that Indian tribe or the members of
10 that Indian tribe.”; and

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

12 “(4) PLANNING.—

13 “(A) IN GENERAL.—In carrying out the
14 program established by paragraph (1), the Sec-
15 retary shall provide technical assistance to in-
16 terested Indian tribes to develop energy plans,
17 including—

18 “(i) plans for electrification;

19 “(ii) plans for oil and gas permitting,
20 renewable energy permitting, energy effi-
21 ciency, electricity generation, transmission
22 planning, water planning, and other plan-
23 ning relating to energy issues;

24 “(iii) plans for the development of en-
25 ergy resources and to ensure the protection

1 of natural, historic, and cultural resources;
2 and

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

6 “(B) COOPERATION.—In establishing the
7 program under paragraph (1), the Secretary
8 shall work in cooperation with the Office of In-
9 dian Energy Policy and Programs of the De-
10 partment of Energy.”.

11 (b) DEPARTMENT OF ENERGY INDIAN ENERGY EDU-
12 CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-
13 GRAM.—Section 2602(b)(2) of the Energy Policy Act of
14 1992 (25 U.S.C. 3502(b)(2)) is amended—

15 (1) in the matter preceding subparagraph (A),
16 by inserting “, intertribal organization,” after “In-
17 dian tribe”;

18 (2) by redesignating subparagraphs (C) and
19 (D) as subparagraphs (D) and (E), respectively; and

20 (3) by inserting after subparagraph (B) the fol-
21 lowing:

22 “(C) activities to increase the capacity of
23 Indian tribes to manage energy development
24 and energy efficiency programs;”.

1 (c) DEPARTMENT OF ENERGY LOAN GUARANTEE
2 PROGRAM.—Section 2602(c) of the Energy Policy Act of
3 1992 (25 U.S.C. 3502(c)) is amended—

4 (1) in paragraph (1), by inserting “or a tribal
5 energy development organization” after “Indian
6 tribe”;

7 (2) in paragraph (3)—

8 (A) in the matter preceding subparagraph
9 (A), by striking “guarantee” and inserting
10 “guaranteed”;

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

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

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

15 “(C) a tribal energy development organiza-
16 tion, from funds of the tribal energy develop-
17 ment organization.”; and

18 (3) in paragraph (5), by striking “The Sec-
19 retary of Energy may” and inserting “Not later
20 than 1 year after the date of enactment of the In-
21 dian Tribal Energy Development and Self-Deter-
22 mination Act Amendments of 2015, the Secretary of
23 Energy shall”.

1 **SEC. 102. INDIAN TRIBAL ENERGY RESOURCE REGULA-**
2 **TION.**

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

5 (1) in paragraph (1), by striking “on the re-
6 quest of an Indian tribe, the Indian tribe” and in-
7 serting “on the request of an Indian tribe or a tribal
8 energy development organization, the Indian tribe or
9 tribal energy development organization”; and

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

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

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

16 (1) in subsection (a)—

17 (A) in paragraph (1)—

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

20 (ii) in subparagraph (B)—

21 (I) by striking clause (i) and in-
22 serting the following:

23 “(i) an electric production, generation,
24 transmission, or distribution facility (in-
25 cluding a facility that produces electricity

1 from renewable energy resources) located
2 on tribal land; or”;

3 (II) in clause (ii)—

4 (aa) by inserting “, at least
5 a portion of which have been”
6 after “energy resources”;

7 (bb) by inserting “or pro-
8 duced from” after “developed
9 on”; and

10 (cc) by striking “and” after
11 the semicolon at the end and in-
12 serting “or”; and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(C) pooling, unitization, or
16 communitization of the energy mineral re-
17 sources of the Indian tribe located on tribal
18 land with any other energy mineral resource
19 (including energy mineral resources owned by
20 the Indian tribe or an individual Indian in fee,
21 trust, or restricted status or by any other per-
22 sons or entities) if the owner, or, if appropriate,
23 lessee, of the resources has consented or con-
24 sents to the pooling, unitization, or

1 communitization of the other resources under
2 any lease or agreement; and”;

3 (B) by striking paragraph (2) and insert-
4 ing the following:

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

11 “(A) was executed—

12 “(i) in accordance with the require-
13 ments of a tribal energy resource agree-
14 ment in effect under subsection (e) (includ-
15 ing the periodic review and evaluation of
16 the activities of the Indian tribe under the
17 agreement, to be conducted pursuant to
18 subparagraphs (D) and (E) of subsection
19 (e)(2)); or

20 “(ii) by the Indian tribe and a tribal
21 energy development organization for which
22 the Indian tribe has obtained a certifi-
23 cation pursuant to subsection (h); and

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

25 “(i) 30 years; or

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

5 (2) by striking subsection (b) and inserting the
6 following:

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

10 “(1) serves—

11 “(A) an electric production, generation,
12 transmission, or distribution facility (including
13 a facility that produces electricity from renew-
14 able energy resources) located on tribal land;

15 “(B) a facility located on tribal land that
16 extracts, produces, processes, or refines energy
17 resources; or

18 “(C) the purposes, or facilitates in car-
19 rying out the purposes, of any lease or agree-
20 ment entered into for energy resource develop-
21 ment on tribal land;

22 “(2) was executed—

23 “(A) in accordance with the requirements
24 of a tribal energy resource agreement in effect
25 under subsection (e) (including the periodic re-

1 view and evaluation of the activities of the In-
2 dian tribe under the agreement, to be conducted
3 pursuant to subparagraphs (D) and (E) of sub-
4 section (e)(2)); or

5 “(B) by the Indian tribe and a tribal en-
6 ergy development organization for which the In-
7 dian tribe has obtained a certification pursuant
8 to subsection (h); and

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

11 (3) by striking subsection (d) and inserting the
12 following:

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

17 (4) in subsection (e)—

18 (A) by striking paragraph (1) and insert-
19 ing the following:

20 “(1) IN GENERAL.—

21 “(A) AUTHORIZATION.—On or after the
22 date of enactment of the Indian Tribal Energy
23 Development and Self-Determination Act
24 Amendments of 2015, a qualified Indian tribe
25 may submit to the Secretary a tribal energy re-

1 source agreement governing leases, business
2 agreements, and rights-of-way under this sec-
3 tion.

4 “(B) NOTICE OF COMPLETE PROPOSED
5 AGREEMENT.—Not later than 60 days after the
6 date on which the tribal energy resource agree-
7 ment is submitted under subparagraph (A), the
8 Secretary shall—

9 “(i) notify the Indian tribe as to
10 whether the agreement is complete or in-
11 complete;

12 “(ii) if the agreement is incomplete,
13 notify the Indian tribe of what information
14 or documentation is needed to complete the
15 submission; and

16 “(iii) identify and notify the Indian
17 tribe of the financial assistance, if any, to
18 be provided by the Secretary to the Indian
19 tribe to assist in the implementation of the
20 tribal energy resource agreement, including
21 the environmental review of individual
22 projects.

23 “(C) EFFECT.—Nothing in this paragraph
24 precludes the Secretary from providing any fi-
25 nancial assistance at any time to the Indian

1 tribe to assist in the implementation of the trib-
2 al energy resource agreement.”;

3 (B) in paragraph (2)—

4 (i) by striking “(2)(A)” and all that
5 follows through the end of subparagraph
6 (A) and inserting the following:

7 “(2) PROCEDURE.—

8 “(A) EFFECTIVE DATE.—

9 “(i) IN GENERAL.—On the date that
10 is 271 days after the date on which the
11 Secretary receives a tribal energy resource
12 agreement from a qualified Indian tribe
13 under paragraph (1), the tribal energy re-
14 source agreement shall take effect, unless
15 the Secretary disapproves the tribal energy
16 resource agreement under subparagraph
17 (B).

18 “(ii) REVISED TRIBAL ENERGY RE-
19 SOURCE AGREEMENT.—On the date that is
20 91 days after the date on which the Sec-
21 retary receives a revised tribal energy re-
22 source agreement from a qualified Indian
23 tribe under paragraph (4)(B), the revised
24 tribal energy resource agreement shall take
25 effect, unless the Secretary disapproves the

1 revised tribal energy resource agreement
2 under subparagraph (B).”;

3 (ii) in subparagraph (B)—

4 (I) by striking “(B)” and all that
5 follows through clause (ii) and insert-
6 ing the following:

7 “(B) DISAPPROVAL.—The Secretary shall
8 disapprove a tribal energy resource agreement
9 submitted pursuant to paragraph (1) or (4)(B)
10 only if—

11 “(i) a provision of the tribal energy
12 resource agreement violates applicable
13 Federal law (including regulations) or a
14 treaty applicable to the Indian tribe;

15 “(ii) the tribal energy resource agree-
16 ment does not include 1 or more provisions
17 required under subparagraph (D); or”;

18 (II) in clause (iii)—

19 (aa) in the matter preceding
20 subclause (I), by striking “in-
21 cludes” and all that follows
22 through “section—” and insert-
23 ing “does not include provisions
24 that, with respect to any lease,
25 business agreement, or right-of-

1 way to which the tribal energy
2 resource agreement applies—”;

3 (bb) by striking subclauses
4 (I), (II), (V), (VIII), and (XV);

5 (cc) by redesignating clauses
6 (III), (IV), (VI), (VII), (IX)
7 through (XIV), and (XVI) as
8 clauses (I), (II), (III), (IV), (V)
9 through (X), and (XI), respec-
10 tively;

11 (dd) in item (bb) of sub-
12 clause (XI) (as redesignated by
13 item (cc))—

14 (AA) by striking “or
15 tribal”; and

16 (BB) by striking the
17 period at the end and insert-
18 ing a semicolon; and

19 (ee) by adding at the end
20 the following:

21 “(XII) include a certification by
22 the Indian tribe that the Indian tribe
23 has—

24 “(aa) carried out a contract
25 or compact under title I or IV of

1 the Indian Self-Determination
2 and Education Assistance Act
3 (25 U.S.C. 450 et seq.) for a pe-
4 riod of not less than 3 consecu-
5 tive years ending on the date on
6 which the Indian tribe submits
7 the application without material
8 audit exception (or without any
9 material audit exceptions that
10 were not corrected within the 3-
11 year period) relating to the man-
12 agement of tribal land or natural
13 resources; or

14 “(bb) substantial experience
15 in the administration, review, or
16 evaluation of energy resource
17 leases or agreements or has oth-
18 erwise substantially participated
19 in the administration, manage-
20 ment, or development of energy
21 resources located on the tribal
22 land of the Indian tribe; and

23 “(XIII) at the option of the In-
24 dian tribe, identify which functions, if
25 any, authorizing any operational or

1 development activities pursuant to a
2 lease, right-of-way, or business agree-
3 ment approved by the Indian tribe,
4 that the Indian tribe intends to con-
5 duct.”;

6 (iii) in subparagraph (C)—

7 (I) by striking clauses (i) and
8 (ii);

9 (II) by redesignating clauses (iii)
10 through (v) as clauses (ii) through
11 (iv), respectively; and

12 (III) by inserting before clause
13 (ii) (as redesignated by subclause (II))
14 the following:

15 “(i) a process for ensuring that—

16 “(I) the public is informed of,
17 and has reasonable opportunity to
18 comment on, any significant environ-
19 mental impacts of the proposed ac-
20 tion; and

21 “(II) the Indian tribe provides
22 responses to relevant and substantive
23 public comments on any impacts de-
24 scribed in subclause (I) before the In-

1 dian tribe approves the lease, business
2 agreement, or right-of-way.”;

3 (iv) in subparagraph (D)(ii), by strik-
4 ing “subparagraph (B)(iii)(XVI)” and in-
5 serting “subparagraph (B)(iv)(XI)”;

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

7 “(F) EFFECTIVE PERIOD.—A tribal energy
8 resource agreement that takes effect pursuant
9 to this subsection shall remain in effect to the
10 extent any provision of the tribal energy re-
11 source agreement is consistent with applicable
12 Federal law (including regulations), unless the
13 tribal energy resource agreement is—

14 “(i) rescinded by the Secretary pursu-
15 ant to paragraph (7)(D)(iii)(II); or

16 “(ii) voluntarily rescinded by the In-
17 dian tribe pursuant to the regulations pro-
18 mulgated under paragraph (8)(B) (or suc-
19 cessor regulations).”;

20 (C) in paragraph (4), by striking “date of
21 disapproval” and all that follows through the
22 end of subparagraph (C) and inserting the fol-
23 lowing: “date of disapproval, provide the Indian
24 tribe with—

25 “(A) a detailed, written explanation of—

1 “(i) each reason for the disapproval;

2 and

3 “(ii) the revisions or changes to the

4 tribal energy resource agreement necessary

5 to address each reason; and

6 “(B) an opportunity to revise and resubmit

7 the tribal energy resource agreement.”;

8 (D) in paragraph (6)—

9 (i) in subparagraph (B)—

10 (I) by striking “(B) Subject to”

11 and inserting the following:

12 “(B) Subject only to”; and

13 (II) by striking “subparagraph

14 (D)” and inserting “subparagraphs

15 (C) and (D)”;

16 (ii) in subparagraph (C), in the mat-

17 ter preceding clause (i), by inserting “to

18 perform the obligations of the Secretary

19 under this section and” before “to ensure”;

20 and

21 (iii) in subparagraph (D), by adding

22 at the end the following:

23 “(iii) Nothing in this section absolves,

24 limits, or otherwise affects the liability, if

25 any, of the United States for any—

1 “(I) term of any lease, business
2 agreement, or right-of-way under this
3 section that is not a negotiated term;
4 or

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

10 (E) in paragraph (7)—

11 (i) in subparagraph (A), by striking
12 “has demonstrated” and inserting “the
13 Secretary determines has demonstrated
14 with substantial evidence”;

15 (ii) in subparagraph (B), by striking
16 “any tribal remedy” and inserting “all
17 remedies (if any) provided under the laws
18 of the Indian tribe”;

19 (iii) in subparagraph (D)—

20 (I) in clause (i), by striking “de-
21 termine” and all that follows through
22 the end of the clause and inserting the
23 following: “determine—

24 “(I) whether the petitioner
25 is an interested party; and

1 “(II) if the petitioner is an
2 interested party, whether the In-
3 dian tribe is not in compliance
4 with the tribal energy resource
5 agreement as alleged in the peti-
6 tion.”;

7 (II) in clause (ii), by striking
8 “determination” and inserting “deter-
9 minations”; and

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

20 (iv) in subparagraph (E)(i), by strik-
21 ing “the manner in which” and inserting
22 “, with respect to each claim made in the
23 petition, how”; and

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

1 “(G) Notwithstanding any other provision
2 of this paragraph, the Secretary shall dismiss
3 any petition from an interested party that has
4 agreed with the Indian tribe to a resolution of
5 the claims presented in the petition of that
6 party.”;

7 (F) in paragraph (8)—

8 (i) by striking subparagraph (A);

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

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

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

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

17 (III) by adding at the end the
18 following:
19

20 “(iii) amend an approved tribal energy
21 resource agreement to assume authority
22 for approving leases, business agreements,
23 or rights-of-way for development of an-
24 other energy resource that is not included
25 in an approved tribal energy resource

1 agreement without being required to apply
2 for a new tribal energy resource agree-
3 ment;” and

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

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

11 (5) by redesignating subsection (g) as sub-
12 section (j); and

13 (6) by inserting after subsection (f) the fol-
14 lowing:

15 “(g) FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES
16 BY THE SECRETARY.—

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

1 tribe, make available to the Indian tribe in accord-
2 ance with this subsection.

3 “(2) ANNUAL FUNDING AGREEMENTS.—The
4 Secretary shall make the amounts described in para-
5 graph (1) available to an Indian tribe through an
6 annual written funding agreement that is negotiated
7 and entered into with the Indian tribe that is sepa-
8 rate from the tribal energy resource agreement.

9 “(3) EFFECT OF APPROPRIATIONS.—Notwith-
10 standing paragraph (1)—

11 “(A) the provision of amounts to an Indian
12 tribe under this subsection is subject to the
13 availability of appropriations; and

14 “(B) the Secretary shall not be required to
15 reduce amounts for programs, functions, serv-
16 ices, or activities that serve any other Indian
17 tribe to make amounts available to an Indian
18 tribe under this subsection.

19 “(4) DETERMINATION.—

20 “(A) IN GENERAL.—The Secretary shall
21 calculate the amounts under paragraph (1) in
22 accordance with the regulations adopted under
23 section 103(b) of the Indian Tribal Energy De-
24 velopment and Self-Determination Act Amend-
25 ments of 2015.

1 “(B) APPLICABILITY.—The effective date
2 or implementation of a tribal energy resource
3 agreement under this section shall not be de-
4 layed or otherwise affected by—

5 “(i) a delay in the promulgation of
6 regulations under section 103(b) of the In-
7 dian Tribal Energy Development and Self-
8 Determination Act Amendments of 2015;

9 “(ii) the period of time needed by the
10 Secretary to make the calculation required
11 under paragraph (1); or

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

14 “(h) CERTIFICATION OF TRIBAL ENERGY DEVELOP-
15 MENT ORGANIZATION.—

16 “(1) IN GENERAL.—Not later than 90 days
17 after the date on which an Indian tribe submits an
18 application for certification of a tribal energy devel-
19 opment organization in accordance with regulations
20 promulgated under section 103(b) of the Indian
21 Tribal Energy Development and Self-Determination
22 Act Amendments of 2015, the Secretary shall ap-
23 prove or disapprove the application.

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

1 “(A)(i) the Indian tribe has carried out a
2 contract or compact under title I or IV of the
3 Indian Self-Determination and Education As-
4 sistance Act (25 U.S.C. 450 et seq.); and

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

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

14 “(II) has included programs or activi-
15 ties relating to the management of tribal
16 land; and

17 “(B)(i) the tribal energy development orga-
18 nization is organized under the laws of the In-
19 dian tribe;

20 “(ii)(I) the majority of the interest in the
21 tribal energy development organization is owned
22 and controlled by the Indian tribe (or the In-
23 dian tribe and 1 or more other Indian tribes)
24 the tribal land of which is being developed; and

1 “(II) the organizing document of the tribal
2 energy development organization requires that
3 the Indian tribe with jurisdiction over the land
4 maintain at all times the controlling interest in
5 the tribal energy development organization;

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

13 “(iv) the organizing document of the tribal
14 energy development organization includes a
15 statement that the organization shall be subject
16 to the jurisdiction, laws, and authority of the
17 Indian tribe.

18 “(3) ACTION BY SECRETARY.—If the Secretary
19 approves an application for certification pursuant to
20 paragraph (2), the Secretary shall, not more than 10
21 days after making the determination—

22 “(A) issue a certification stating that—

23 “(i) the tribal energy development or-
24 ganization is organized under the laws of
25 the Indian tribe and subject to the juris-

1 diction, laws, and authority of the Indian
2 tribe;

3 “(ii) the majority of the interest in
4 the tribal energy development organization
5 is owned and controlled by the Indian tribe
6 (or the Indian tribe and 1 or more other
7 Indian tribes) the tribal land of which is
8 being developed;

9 “(iii) the organizing document of the
10 tribal energy development organization re-
11 quires that the Indian tribe with jurisdic-
12 tion over the land maintain at all times the
13 controlling interest in the tribal energy de-
14 velopment organization;

15 “(iv) the organizing document of the
16 tribal energy development organization re-
17 quires that the Indian tribe (or the Indian
18 tribe and 1 or more other Indian tribes the
19 tribal land of which is being developed)
20 own and control at all times a majority of
21 the interest in the tribal energy develop-
22 ment organization; and

23 “(v) the certification is issued pursu-
24 ant this subsection;

1 “(B) deliver a copy of the certification to
2 the Indian tribe; and

3 “(C) publish the certification in the Fed-
4 eral Register.

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

7 (b) REGULATIONS.—Not later than 1 year after the
8 date of enactment of the Indian Tribal Energy Develop-
9 ment and Self-Determination Act Amendments of 2015,
10 the Secretary shall promulgate or update any regulations
11 that are necessary to implement this section, including
12 provisions to implement—

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

21 (2) section 2604(g) of the Energy Policy Act of
22 1992 (25 U.S.C. 3504(g)) including the manner in
23 which the Secretary, at the request of an Indian
24 tribe, shall—

1 (A) identify the programs, functions, serv-
2 ices, and activities (or any portions of pro-
3 grams, functions, services, or activities) that the
4 Secretary will not have to operate or carry out
5 as a result of the Indian tribe carrying out ac-
6 tivities under a tribal energy resource agree-
7 ment;

8 (B) identify the amounts that the Sec-
9 retary would have otherwise expended to oper-
10 ate or carry out each program, function, serv-
11 ice, and activity (or any portion of a program,
12 function, service, or activity) identified pursu-
13 ant to subparagraph (A); and

14 (C) provide to the Indian tribe a list of the
15 programs, functions, services, and activities (or
16 any portions of programs, functions, services, or
17 activities) identified pursuant subparagraph (A)
18 and the amounts associated with each program,
19 function, service, and activity (or any portion of
20 a program, function, service, or activity) identi-
21 fied pursuant to subparagraph (B); and

22 (3) section 2604(h) of the Energy Policy Act of
23 1992 (25 U.S.C. 3504(h)), including the process to
24 be followed by, and any applicable criteria and docu-

1 mentation required for, an Indian tribe to request
2 and obtain the certification described in that section.

3 **SEC. 104. TECHNICAL ASSISTANCE FOR INDIAN TRIBAL**
4 **GOVERNMENTS.**

5 Section 2602(b) of the Energy Policy Act of 1992
6 (25 U.S.C. 3502(b)) is amended—

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

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

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

18 **SEC. 105. CONFORMING AMENDMENTS.**

19 (a) **DEFINITION OF TRIBAL ENERGY DEVELOPMENT**
20 **ORGANIZATION.**—Section 2601 of the Energy Policy Act
21 of 1992 (25 U.S.C. 3501) is amended—

22 (1) by redesignating paragraphs (9) through
23 (12) as paragraphs (10) through (13), respectively;

24 (2) by inserting after paragraph (8) the fol-
25 lowing:

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

3 “(A) carried out a contract or compact
4 under title I or IV of the Indian Self Deter-
5 mination and Education Assistance Act (25
6 U.S.C. 450 et seq.) for a period of not less than
7 3 consecutive years ending on the date on which
8 the Indian tribe submits the application without
9 material audit exception (or without any mate-
10 rial audit exceptions that were not corrected
11 within the 3-year period) relating to the man-
12 agement of tribal land or natural resources; or

13 “(B) substantial experience in the adminis-
14 tration, review, or evaluation of energy resource
15 leases or agreements or has otherwise substan-
16 tially participated in the administration, man-
17 agement, or development of energy resources lo-
18 cated on the tribal land of the Indian tribe.”;

19 and

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

22 “(12) The term ‘tribal energy development or-
23 ganization’ means—

24 “(A) any enterprise, partnership, consor-
25 tium, corporation, or other type of business or-

1 organization that is engaged in the development
2 of energy resources and is wholly owned by an
3 Indian tribe (including an organization incor-
4 porated pursuant to section 17 of the Indian
5 Reorganization Act of 1934 (25 U.S.C. 477) or
6 section 3 of the Act of June 26, 1936 (25
7 U.S.C. 503) (commonly known as the ‘Okla-
8 homa Indian Welfare Act’)); and

9 “(B) any organization of 2 or more enti-
10 ties, at least 1 of which is an Indian tribe, that
11 has the written consent of the governing bodies
12 of all Indian tribes participating in the organi-
13 zation to apply for a grant, loan, or other as-
14 sistance under section 2602 or to enter into a
15 lease or business agreement with, or acquire a
16 right-of-way from, an Indian tribe pursuant to
17 subsection (a)(2)(A)(ii) or (b)(2)(B) of section
18 2604.”.

19 (b) INDIAN TRIBAL ENERGY RESOURCE DEVELOP-
20 MENT.—Section 2602 of the Energy Policy Act of 1992
21 (25 U.S.C. 3502) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1), by striking “tribal
24 energy resource development organizations”

1 and inserting “tribal energy development orga-
2 nizations”; and

3 (B) in paragraph (2), by striking “tribal
4 energy resource development organizations”
5 each place it appears and inserting “tribal en-
6 ergy development organizations”; and

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

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

14 (d) CONFORMING AMENDMENTS.—Section 2604(e)
15 of the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is
16 amended—

17 (1) in paragraph (3)—

18 (A) by striking “(3) The Secretary” and
19 inserting the following:

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

22 (B) by striking “for approval”;

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

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

3 (3) in paragraph (5)—

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

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

8 (B) in the matter preceding subparagraph
9 (A), by striking “approved” and inserting “in
10 effect”;

11 (4) in paragraph (6)—

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

14 “(6) SECRETARIAL OBLIGATIONS AND EFFECT
15 OF SECTION.—

16 “(A) In carrying out”;

17 (B) in subparagraph (A), by indenting
18 clauses (i) and (ii) appropriately;

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

21 (D) in subparagraph (D)—

22 (i) in clause (i), by striking “an ap-
23 proved tribal energy resource agreement”
24 and inserting “a tribal energy resource

1 agreement in effect under this section”;

2 and

3 (ii) in clause (ii), by striking “ap-
4 proved by the Secretary” and inserting “in
5 effect”; and

6 (5) in paragraph (7)—

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

9 “(7) PETITIONS BY INTERESTED PARTIES.—

10 “(A) In this paragraph”;

11 (B) in subparagraph (A), by striking “ap-
12 proved by the Secretary” and inserting “in ef-
13 fect”;

14 (C) in subparagraph (B), by striking “ap-
15 proved by the Secretary” and inserting “in ef-
16 fect”; and

17 (D) in subparagraph (D)(iii)—

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

20 (ii) in subclause (II)—

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

23 (II) by striking “subsection (a)
24 or (b)” and inserting “subsection
25 (a)(2)(A)(i) or (b)(2)(A)”.

1 **SEC. 106. REPORT.**

2 (a) IN GENERAL.—Not later than 18 months after
3 the date of enactment of this Act, the Secretary of the
4 Interior shall submit to the Committee on Indian Affairs
5 of the Senate and the Committee on Natural Resources
6 of the House of Representatives a report that details with
7 respect to activities for energy development on Indian
8 land, how the Department of the Interior—

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

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

14 (3) maintains databases to track and monitor
15 the review and approval process for energy-related
16 documents associated with conventional and renew-
17 able Indian energy resources that require Secretarial
18 approval prior to development, including—

19 (A) any seismic exploration permits;

20 (B) permission to survey;

21 (C) archeological and cultural surveys;

22 (D) access permits;

23 (E) environmental assessments;

24 (F) oil and gas leases;

25 (G) surface leases;

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

1 (I) communitization agreements;

2 (4) identifies in the databases—

3 (A) the date lease applications and permits
4 are received by the agency;

5 (B) the status of the review;

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

8 (D) the date of approval; and

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

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

14 (A) the dates documents are transferred
15 between agencies;

16 (B) the status of the review;

17 (C) the date the required reviews are com-
18 pleted; and

19 (D) the date interim or final decisions are
20 issued.

21 (b) INCLUSIONS.—The report under subsection (a)
22 shall include—

23 (1) a description of any intermediate and final
24 deadlines for agency action on any Secretarial review
25 and approval required for Indian conventional and

1 renewable energy exploration and development ac-
2 tivities;

3 (2) a description of the existing geographic
4 database established by the Bureau of Indian Af-
5 fairs, explaining—

6 (A) how the database identifies—

7 (i) the location and ownership of all
8 Indian oil and gas resources held in trust;

9 (ii) resources available for lease; and

10 (iii) the location of—

11 (I) any lease of land held in trust
12 or restricted fee on behalf of any In-
13 dian tribe or individual Indian; and

14 (II) any rights-of-way on that
15 land in effect;

16 (B) how the information from the database
17 is made available to—

18 (i) the officials of the Bureau of In-
19 dian Affairs with responsibility over the
20 management and development of Indian
21 resources; and

22 (ii) resource owners; and

23 (C) any barriers to identifying the informa-
24 tion described in subparagraphs (A) and (B) or
25 any deficiencies in that information; and

1 (3) an evaluation of—

2 (A) the ability of each applicable agency to
3 track and monitor the review and approval
4 process of the agency for Indian energy develop-
5 ment; and

6 (B) the extent to which each applicable
7 agency complies with any intermediate and final
8 deadlines.

9 **TITLE II—MISCELLANEOUS**
10 **AMENDMENTS**

11 **SEC. 201. ISSUANCE OF PRELIMINARY PERMITS OR LI-**
12 **CENSES.**

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

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

19 (1) any preliminary permit or original license
20 issued before the date of enactment of the Indian
21 Tribal Energy Development and Self-Determination
22 Act Amendments of 2015; or

23 (2) an application for an original license, if the
24 Commission has issued a notice accepting that appli-
25 cation for filing pursuant to section 4.32(d) of title

1 18, Code of Federal Regulations (or successor regu-
2 lations), before the date of enactment of the Indian
3 Tribal Energy Development and Self-Determination
4 Act Amendments of 2015.

5 (c) DEFINITION OF INDIAN TRIBE.—For purposes of
6 section 7(a) of the Federal Power Act (16 U.S.C. 800(a))
7 (as amended by subsection (a)), the term “Indian tribe”
8 has the meaning given the term in section 4 of the Indian
9 Self-Determination and Education Assistance Act (25
10 U.S.C. 450b).

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

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

16 (b) TRIBAL BIOMASS DEMONSTRATION PROJECT.—
17 The Tribal Forest Protection Act of 2004 (Public Law
18 108–278; 118 Stat. 868) is amended—

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

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

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

23 “(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREE-
24 MENTS.—For each of fiscal years 2016 through 2020, the
25 Secretary shall enter into stewardship contracts or similar

1 agreements (excluding direct service contracts) with In-
2 dian tribes to carry out demonstration projects to promote
3 biomass energy production (including biofuel, heat, and
4 electricity generation) on Indian forest land and in nearby
5 communities by providing reliable supplies of woody bio-
6 mass from Federal land.

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

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

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

17 “(2) that includes a description of—

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

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

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

24 “(1) take into consideration—

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

3 “(B) whether a proposed project would—

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

6 “(ii) enhance the economic develop-
7 ment of the Indian tribe;

8 “(iii) result in or improve the connec-
9 tion of electric power transmission facilities
10 serving the Indian tribe with other electric
11 transmission facilities;

12 “(iv) improve the forest health or wa-
13 tersheds of Federal land or Indian forest
14 land or rangeland;

15 “(v) demonstrate new investments in
16 infrastructure; or

17 “(vi) otherwise promote the use of
18 woody biomass; and

19 “(2) exclude from consideration any merchant-
20 able logs that have been identified by the Secretary
21 for commercial sale.

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

23 “(1) ensure that the criteria described in sub-
24 section (c) are publicly available by not later than

1 120 days after the date of enactment of this section;
2 and

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

7 “(f) REPORT.—Not later than September 20, 2018,
8 the Secretary shall submit to Congress a report that de-
9 scribes, with respect to the reporting period—

10 “(1) each individual tribal application received
11 under this section; and

12 “(2) each contract and agreement entered into
13 pursuant to this section.

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

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

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

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

3 (c) ALASKA NATIVE BIOMASS DEMONSTRATION
4 PROJECT.—

5 (1) DEFINITIONS.—In this subsection:

6 (A) FEDERAL LAND.—The term “Federal
7 land” means—

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

15 (ii) public lands (as defined in section
16 103 of the Federal Land Policy Manage-
17 ment Act of 1976 (43 U.S.C. 1702)), the
18 surface of which is administered by the
19 Secretary of the Interior, acting through
20 the Director of the Bureau of Land Man-
21 agement.

22 (B) INDIAN TRIBE.—The term “Indian
23 tribe” has the meaning given the term in sec-
24 tion 4 of the Indian Self-Determination and
25 Education Assistance Act (25 U.S.C. 450b).

1 (C) SECRETARY.—The term “Secretary”
2 means—

3 (i) the Secretary of Agriculture, with
4 respect to land under the jurisdiction of
5 the Forest Service; and

6 (ii) the Secretary of the Interior, with
7 respect to land under the jurisdiction of
8 the Bureau of Land Management.

9 (D) TRIBAL ORGANIZATION.—The term
10 “tribal organization” has the meaning given the
11 term in section 4 of the Indian Self-Determina-
12 tion and Education Assistance Act (25 U.S.C.
13 450b).

14 (2) AGREEMENTS.—For each of fiscal years
15 2016 through 2020, the Secretary shall enter into
16 an agreement or contract with an Indian tribe or a
17 tribal organization to carry out a demonstration
18 project to promote biomass energy production (in-
19 cluding biofuel, heat, and electricity generation) by
20 providing reliable supplies of woody biomass from
21 Federal land.

22 (3) DEMONSTRATION PROJECTS.—In each fiscal
23 year for which projects are authorized, at least 1
24 new demonstration project that meets the eligibility
25 criteria described in paragraph (4) shall be carried

1 out under contracts or agreements described in
2 paragraph (2).

3 (4) ELIGIBILITY CRITERIA.—To be eligible to
4 enter into a contract or agreement under this sub-
5 section, an Indian tribe or tribal organization shall
6 submit to the Secretary an application—

7 (A) containing such information as the
8 Secretary may require; and

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

12 (5) SELECTION.—In evaluating the applications
13 submitted under paragraph (4), the Secretary
14 shall—

15 (A) take into consideration whether a pro-
16 posed project would—

17 (i) increase the availability or reli-
18 ability of local or regional energy;

19 (ii) enhance the economic development
20 of the Indian tribe;

21 (iii) result in or improve the connec-
22 tion of electric power transmission facilities
23 serving the Indian tribe with other electric
24 transmission facilities;

1 (iv) improve the forest health or wa-
2 tersheds of Federal land or non-Federal
3 land;

4 (v) demonstrate new investments in
5 infrastructure; or

6 (vi) otherwise promote the use of
7 woody biomass; and

8 (B) exclude from consideration any mer-
9 chantable logs that have been identified by the
10 Secretary for commercial sale.

11 (6) IMPLEMENTATION.—The Secretary shall—

12 (A) ensure that the criteria described in
13 paragraph (4) are publicly available by not later
14 than 120 days after the date of enactment of
15 this subsection; and

16 (B) to the maximum extent practicable,
17 consult with Indian tribes and appropriate trib-
18 al organizations likely to be affected in devel-
19 oping the application and otherwise carrying
20 out this subsection.

21 (7) REPORT.—Not later than September 20,
22 2018, the Secretary shall submit to Congress a re-
23 port that describes, with respect to the reporting pe-
24 riod—

1 (A) each individual application received
2 under this subsection; and

3 (B) each contract and agreement entered
4 into pursuant to this subsection.

5 (8) TERM.—A contract or agreement entered
6 into under this subsection—

7 (A) shall be for a term of not more than
8 20 years; and

9 (B) may be renewed in accordance with
10 this subsection for not more than an additional
11 10 years.

12 **SEC. 203. WEATHERIZATION PROGRAM.**

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

15 (1) by striking paragraph (1) and inserting the
16 following:

17 “(1) RESERVATION OF AMOUNTS.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (B) and notwithstanding any other provi-
20 sion of this part, the Secretary shall reserve
21 from amounts that would otherwise be allocated
22 to a State under this part not less than 100
23 percent, but not more than 150 percent, of an
24 amount which bears the same proportion to the
25 allocation of that State for the applicable fiscal

1 year as the population of all low-income mem-
2 bers of an Indian tribe in that State bears to
3 the population of all low-income individuals in
4 that State.

5 “(B) RESTRICTIONS.—Subparagraph (A)
6 shall apply only if—

7 “(i) the tribal organization serving the
8 low-income members of the applicable In-
9 dian tribe requests that the Secretary
10 make a grant directly; and

11 “(ii) the Secretary determines that
12 the low-income members of the applicable
13 Indian tribe would be equally or better
14 served by making a grant directly than a
15 grant made to the State in which the low-
16 income members reside.

17 “(C) PRESUMPTION.—If the tribal organi-
18 zation requesting the grant is a tribally des-
19 ignated housing entity (as defined in section 4
20 of the Native American Housing Assistance and
21 Self-Determination Act of 1996 (25 U.S.C.
22 4103)) that has operated without material audit
23 exceptions (or without any material audit excep-
24 tions that were not corrected within a 3-year
25 period), the Secretary shall presume that the

1 low-income members of the applicable Indian
2 tribe would be equally or better served by mak-
3 ing a grant directly to the tribal organization
4 than by a grant made to the State in which the
5 low-income members reside.”;

6 (2) in paragraph (2)—

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

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

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

14 (D) by striking “he” and inserting “the
15 Secretary”; and

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

18 **SEC. 204. APPRAISALS.**

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

22 **“SEC. 2607. APPRAISALS.**

23 “(a) IN GENERAL.—For any transaction that re-
24 quires approval of the Secretary and involves mineral or
25 energy resources held in trust by the United States for

1 the benefit of an Indian tribe or by an Indian tribe subject
2 to Federal restrictions against alienation, any appraisal
3 relating to fair market value of those resources required
4 to be prepared under applicable law may be prepared by—

5 “(1) the Secretary;

6 “(2) the affected Indian tribe; or

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

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

14 “(1) review the appraisal; and

15 “(2) approve the appraisal unless the Secretary
16 determines that the appraisal fails to meet the
17 standards set forth in regulations promulgated
18 under subsection (d).

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

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

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

5 “(d) REGULATIONS.—The Secretary shall promul-
6 gate regulations to carry out this section, including stand-
7 ards the Secretary shall use for approving or disapproving
8 the appraisal described in subsection (a).”.

9 **SEC. 205. LEASES OF RESTRICTED LANDS FOR NAVAJO NA-**
10 **TION.**

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

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

17 (2) by striking subparagraph (A) and inserting
18 the following:

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

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

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

24 “(C) in the case of a lease for the explo-
25 ration, development, or extraction of any min-

1 eral resource (including geothermal resources),
2 25 years, except that—

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

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

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

19 **SEC. 206. EXTENSION OF TRIBAL LEASE PERIOD FOR THE**
20 **CROW TRIBE OF MONTANA.**

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

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

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

4 (b) TREATMENT OF LEASE PAYMENTS.—

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

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

25 (c) USE OF FUNDS.—

1 (1) IN GENERAL.—On the approval of the Sec-
2 retary of a contract or other instrument for a sale,
3 lease, permit, or any other conveyance described in
4 subsection (b)(1), the funds held in the trust fund
5 system and described in subsection (b), along with
6 all income generated from the investment of those
7 funds, shall be disbursed to the Indian tribe or indi-
8 vidual Indian landowners.

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

20 (d) APPLICABILITY.—This section shall apply to any
21 advance payment, bid deposit, or other earnest money re-
22 ceived by the Secretary in connection with the review and
23 Secretarial approval under any other Federal law (includ-
24 ing regulations) of a sale, lease, permit, or any other con-
25 veyance of any interest in any trust or restricted land of

- 1 any Indian tribe or individual Indian on or after the date
- 2 of enactment of this Act.

Passed the Senate December 10, 2015.

Attest:

Secretary.

114TH CONGRESS
1ST SESSION

S. 209

AN ACT

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