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S. 245

[Report No. 115–84]

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, Ms. HEITKAMP, Mr. ENZI, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

MAY 24, 2017

Reported by Mr. HOEVEN, without amendment

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,*

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 2017”.

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.

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.

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 2017, 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

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

(II) in clause (ii)—

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

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

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

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

“(C) pooling, unitization, or communiza-
tion of the energy mineral resources of the In-
dian tribe located on tribal land with any other
energy mineral resource (including energy min-
eral resources owned by the Indian tribe or an
individual Indian in fee, trust, or restricted sta-
tus or by any other persons or entities) if the
owner, or, if appropriate, lessee, of the re-
sources has consented or consents to the pool-
ing, unitization, or communitization of the

1 other resources under any lease or agreement;
 2 and”]; 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 2017, 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

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

(ii) in subparagraph (B)—

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

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

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

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

(II) in clause (iii)—

(aa) in the matter preceding
subclause (I), by striking “in-
cludes” and all that follows
through “section—” and insert-
ing “does not include provisions
that, with respect to any lease,

1 business agreement, or right-of-
 2 way to which the tribal energy
 3 resource agreement applies—”;

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

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

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

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

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

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

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

1 “(aa) carried out a contract
2 or compact under title I or IV of
3 the Indian Self-Determination
4 and Education Assistance Act
5 (25 U.S.C. 5301 et seq.) for a
6 period of not less than 3 consecu-
7 tive years ending on the date on
8 which the Indian tribe submits
9 the application without material
10 audit exception (or without any
11 material audit exceptions that
12 were not corrected within the 3-
13 year period) relating to the man-
14 agement of tribal land or natural
15 resources; or

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

“(XIII) at the option of the Indian tribe, identify which functions, if any, authorizing any operational or development activities pursuant to a lease, right-of-way, or business agreement approved by the Indian tribe, that the Indian tribe intends to conduct.”;

(iii) in subparagraph (C)—

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

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

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

“(i) a process for ensuring that—

“(I) the public is informed of, and has reasonable opportunity to comment on, any significant environmental impacts of the proposed action; and

“(II) the Indian tribe provides responses to relevant and substantive

1 public comments on any impacts de-
 2 scribed in subclause (I) before the In-
 3 dian tribe approves the lease, business
 4 agreement, or right-of-way;”;

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

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

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

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

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

22 (C) in paragraph (4), by striking “date of
 23 disapproval” and all that follows through the
 24 end of subparagraph (C) and inserting the fol-

1 lowing: “date of disapproval, provide the Indian
2 tribe with—

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

4 “(i) each reason for the disapproval;
5 and

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

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

11 (D) in paragraph (6)—

12 (i) in subparagraph (B)—

13 (I) by striking “(B) Subject to”
14 and inserting the following:

15 “(B) Subject only to”; and

16 (II) by striking “subparagraph
17 (D)” and inserting “subparagraphs
18 (C) and (D)”;

19 (ii) in subparagraph (C), in the mat-
20 ter preceding clause (i), by inserting “to
21 perform the obligations of the Secretary
22 under this section and” before “to ensure”;
23 and

24 (iii) in subparagraph (D), by adding
25 at the end the following:

1 “(iii) Nothing in this section absolves,
 2 limits, or otherwise affects the liability, if
 3 any, of the United States for any—

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

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

13 (E) in paragraph (7)—

14 (i) in subparagraph (A), by striking
 15 “has demonstrated” and inserting “the
 16 Secretary determines has demonstrated
 17 with substantial evidence”;

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

22 (iii) in subparagraph (D)—

23 (I) in clause (i), by striking “de-
 24 termine” and all that follows through

1 the end of the clause and inserting the
2 following: “determine—

3 “(I) whether the petitioner
4 is an interested party; and

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

11 (II) in clause (ii), by striking
12 “determination” and inserting “deter-
13 minations”; and

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

24 (iv) in subparagraph (E)(i), by strik-
25 ing “the manner in which” and inserting

1 “, with respect to each claim made in the
2 petition, how”; and

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

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

10 (F) in paragraph (8)—

11 (i) by striking subparagraph (A);

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

15 (iii) in subparagraph (A) (as redesignig-
16 nated by clause (ii))—

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

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

21 (III) by adding at the end the
22 following:

23 “(iii) amend an approved tribal energy
24 resource agreement to assume authority
25 for approving leases, business agreements,

1 or rights-of-way for development of an-
2 other energy resource that is not included
3 in an approved tribal energy resource
4 agreement without being required to apply
5 for a new tribal energy resource agree-
6 ment;” and

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

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

14 (5) by redesignating subsection (g) as sub-
15 section (j); and

16 (6) by inserting after subsection (f) the fol-
17 lowing:

18 “(g) FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES
19 BY THE SECRETARY.—

20 “(1) IN GENERAL.—Any amounts that the Sec-
21 retary would otherwise expend to operate or carry
22 out any program, function, service, or activity (or
23 any portion of a program, function, service, or activ-
24 ity) of the Department that, as a result of an Indian
25 tribe carrying out activities under a tribal energy re-

1 source agreement, the Secretary does not expend,
 2 the Secretary shall, at the request of the Indian
 3 tribe, make available to the Indian tribe in accord-
 4 ance with this subsection.

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

11 “(3) EFFECT OF APPROPRIATIONS.—Notwith-
 12 standing paragraph (1)—

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

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

21 “(4) DETERMINATION.—

22 “(A) IN GENERAL.—The Secretary shall
 23 calculate the amounts under paragraph (1) in
 24 accordance with the regulations adopted under
 25 section 103(b) of the Indian Tribal Energy De-

1 velopment and Self-Determination Act Amend-
2 ments of 2017.

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

7 “(i) a delay in the promulgation of
8 regulations under section 103(b) of the In-
9 dian Tribal Energy Development and Self-
10 Determination Act Amendments of 2017;

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

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

16 “(h) CERTIFICATION OF TRIBAL ENERGY DEVELOP-
17 MENT ORGANIZATION.—

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

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

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

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

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

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

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

22 “(ii)(I) the majority of the interest in the
23 tribal energy development organization is owned
24 and controlled by the Indian tribe (or the In-

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

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

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

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

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

24 “(A) issue a certification stating that—

1 “(i) the tribal energy development or-
2 ganization is organized under the laws of
3 the Indian tribe and subject to the juris-
4 diction, laws, and authority of the Indian
5 tribe;

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

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

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

1 “(v) the certification is issued pursu-
2 ant this subsection;

3 “(B) deliver a copy of the certification to
4 the Indian tribe; and

5 “(C) publish the certification in the Fed-
6 eral Register.

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

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

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

23 (2) section 2604(g) of the Energy Policy Act of
24 1992 (25 U.S.C. 3504(g)) including the manner in

1 which the Secretary, at the request of an Indian
2 tribe, shall—

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

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

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

24 (3) section 2604(h) of the Energy Policy Act of
25 1992 (25 U.S.C. 3504(h)), including the process to

1 be followed by, and any applicable criteria and docu-
 2 mentation required for, an Indian tribe to request
 3 and obtain the certification described in that section.

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

6 Section 2602(b) of the Energy Policy Act of 1992
 7 (25 U.S.C. 3502(b)) is amended—

8 (1) by redesignating paragraphs (3) through
 9 (6) as paragraphs (4) through (7), respectively; and
 10 (2) by inserting after paragraph (2) the fol-
 11 lowing:

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

19 **SEC. 105. CONFORMING AMENDMENTS.**

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

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

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

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

5 “(A) carried out a contract or compact
6 under title I or IV of the Indian Self-Deter-
7 mination and Education Assistance Act (25
8 U.S.C. 5301 et seq.) for a period of not less
9 than 3 consecutive years ending on the date on
10 which the Indian tribe submits the application
11 without material audit exception (or without
12 any material audit exceptions that were not cor-
13 rected within the 3-year period) relating to the
14 management of tribal land or natural resources;
15 or

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

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

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

3 “(A) any enterprise, partnership, consor-
4 tium, corporation, or other type of business or-
5 ganization that is engaged in the development
6 of energy resources and is wholly owned by an
7 Indian tribe (including an organization incor-
8 porated pursuant to section 17 of the Act of
9 June 18, 1934 (25 U.S.C. 5124) (commonly
10 known as the “Indian Reorganization Act”) or
11 section 3 of the Act of June 26, 1936 (49 Stat.
12 1967, chapter 831) (commonly known as the
13 ‘Oklahoma Indian Welfare Act’)); and

14 “(B) any organization of two or more enti-
15 ties, at least one of which is an Indian tribe,
16 that has the written consent of the governing
17 bodies of all Indian tribes participating in the
18 organization to apply for a grant, loan, or other
19 assistance under section 2602 or to enter into
20 a lease or business agreement with, or acquire
21 a right-of-way from, an Indian tribe pursuant
22 to subsection (a)(2)(A)(ii) or (b)(2)(B) of sec-
23 tion 2604.”.

1 (b) INDIAN TRIBAL ENERGY RESOURCE DEVELOP-
 2 MENT.—Section 2602 of the Energy Policy Act of 1992
 3 (25 U.S.C. 3502) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1), by striking “tribal
 6 energy resource development organizations”
 7 and inserting “tribal energy development orga-
 8 nizations”; and

9 (B) in paragraph (2), by striking “tribal
 10 energy resource development organizations”
 11 each place the term appears and inserting
 12 “tribal energy development organizations”; and

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

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

20 (d) CONFORMING AMENDMENTS.—Section 2604(e)
 21 of the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is
 22 amended—

23 (1) in paragraph (3)—

24 (A) by striking “(3) The Secretary” and
 25 inserting the following:

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

3 (B) by striking “for approval”;

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

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

8 (3) in paragraph (5)—

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

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

13 (B) in the matter preceding subparagraph
14 (A), by striking “approved” and inserting “in
15 effect”;

16 (4) in paragraph (6)—

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

19 “(6) SECRETARIAL OBLIGATIONS AND EFFECT
20 OF SECTION.—

21 “(A) In carrying out”;

22 (B) in subparagraph (A), by indenting
23 clauses (i) and (ii) appropriately;

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

1 (D) in subparagraph (D)—

2 (i) in clause (i), by striking “an ap-
3 proved tribal energy resource agreement”
4 and inserting “a tribal energy resource
5 agreement in effect under this section”;
6 and

7 (ii) in clause (ii), by striking “ap-
8 proved by the Secretary” and inserting “in
9 effect”; and

10 (5) in paragraph (7)—

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

13 “(7) PETITIONS BY INTERESTED PARTIES.—

14 “(A) In this paragraph”;

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

18 (C) in subparagraph (B), by striking “ap-
19 proved by the Secretary” and inserting “in ef-
20 fect”; and

21 (D) in subparagraph (D)(iii)—

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

24 (ii) in subclause (II)—

- 1 (I) by striking “approval of” in
 2 the first place it appears; and
 3 (II) by striking “subsection (a)
 4 or (b)” and inserting “subsection
 5 (a)(2)(A)(i) or (b)(2)(A)”.

6 **SEC. 106. REPORT.**

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

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

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

19 (3) maintains databases to track and monitor
 20 the review and approval process for energy-related
 21 documents associated with conventional and renew-
 22 able Indian energy resources that require Secretarial
 23 approval prior to development, including—

24 (A) any seismic exploration permits;

25 (B) permission to survey;

- 1 (C) archeological and cultural surveys;
- 2 (D) access permits;
- 3 (E) environmental assessments;
- 4 (F) oil and gas leases;
- 5 (G) surface leases;
- 6 (H) rights-of-way agreements; and
- 7 (I) communitization agreements;

8 (4) identifies in the databases—

- 9 (A) the date lease applications and permits
- 10 are received by the agency;
- 11 (B) the status of the review;
- 12 (C) the date the application or permit is
- 13 considered complete and ready for review;
- 14 (D) the date of approval; and
- 15 (E) the start and end dates for any signifi-
- 16 cant delays in the review process;

17 (5) tracks in the databases, for all energy-re-

18 lated leases, agreements, applications, and permits

19 that involve multiple agency review—

- 20 (A) the dates documents are transferred
- 21 between agencies;
- 22 (B) the status of the review;
- 23 (C) the date the required reviews are com-
- 24 pleted; and

1 (D) the date interim or final decisions are
2 issued.

3 (b) INCLUSIONS.—The report under subsection (a)
4 shall include—

5 (1) a description of any intermediate and final
6 deadlines for agency action on any Secretarial review
7 and approval required for Indian conventional and
8 renewable energy exploration and development ac-
9 tivities;

10 (2) a description of the existing geographic
11 database established by the Bureau of Indian Af-
12 fairs, explaining—

13 (A) how the database identifies—

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

16 (ii) resources available for lease; and

17 (iii) the location of—

18 (I) any lease of land held in trust
19 or restricted fee on behalf of any In-
20 dian tribe or individual Indian; and

21 (II) any rights-of-way on that
22 land in effect;

23 (B) how the information from the database
24 is made available to—

1 (i) the officials of the Bureau of In-
 2 dian Affairs with responsibility over the
 3 management and development of Indian
 4 resources; and

5 (ii) resource owners; and

6 (C) any barriers to identifying the informa-
 7 tion described in subparagraphs (A) and (B) or
 8 any deficiencies in that information; and

9 (3) an evaluation of—

10 (A) the ability of each applicable agency to
 11 track and monitor the review and approval
 12 process of the agency for Indian energy develop-
 13 ment; and

14 (B) the extent to which each applicable
 15 agency complies with any intermediate and final
 16 deadlines.

17 **TITLE II—MISCELLANEOUS** 18 **AMENDMENTS**

19 **SEC. 201. ISSUANCE OF PRELIMINARY PERMITS OR LI-** 20 **CENSES.**

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

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

3 (1) any preliminary permit or original license
 4 issued before the date of enactment of the Indian
 5 Tribal Energy Development and Self-Determination
 6 Act Amendments of 2017; or

7 (2) an application for an original license, if the
 8 Commission has issued a notice accepting that appli-
 9 cation for filing pursuant to section 4.32(d) of title
 10 18, Code of Federal Regulations (or successor regu-
 11 lations), before the date of enactment of the Indian
 12 Tribal Energy Development and Self-Determination
 13 Act Amendments of 2017.

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

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

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

1 (b) TRIBAL BIOMASS DEMONSTRATION PROJECT.—
 2 The Tribal Forest Protection Act of 2004 (25 U.S.C.
 3 3115a et seq.) is amended—

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

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

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

8 “(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREE-
 9 MENTS.—For each of fiscal years 2017 through 2021, the
 10 Secretary shall enter into stewardship contracts or similar
 11 agreements (excluding direct service contracts) with In-
 12 dian tribes to carry out demonstration projects to promote
 13 biomass energy production (including biofuel, heat, and
 14 electricity generation) on Indian forest land and in nearby
 15 communities by providing reliable supplies of woody bio-
 16 mass from Federal land.

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

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

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

3 “(2) that includes a description of—

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

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

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

10 “(1) take into consideration—

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

13 “(B) whether a proposed project would—

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

16 “(ii) enhance the economic develop-
17 ment of the Indian tribe;

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

22 “(iv) improve the forest health or wa-
23 tersheds of Federal land or Indian forest
24 land or rangeland;

1 “(v) demonstrate new investments in
2 infrastructure; or

3 “(vi) otherwise promote the use of
4 woody biomass; and

5 “(2) exclude from consideration any merchant-
6 able logs that have been identified by the Secretary
7 for commercial sale.

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

9 “(1) ensure that the criteria described in sub-
10 section (c) are publicly available by not later than
11 120 days after the date of enactment of this section;
12 and

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

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

20 “(1) each individual tribal application received
21 under this section; and

22 “(2) each contract and agreement entered into
23 pursuant to this section.

24 “(g) INCORPORATION OF MANAGEMENT PLANS.—In
25 carrying out a contract or agreement under this section,

1 on receipt of a request from an Indian tribe, the Secretary
 2 shall incorporate into the contract or agreement, to the
 3 maximum extent practicable, management plans (includ-
 4 ing forest management and integrated resource manage-
 5 ment plans) in effect on the Indian forest land or range-
 6 land of the respective Indian tribe.

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

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

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

13 (c) ALASKA NATIVE BIOMASS DEMONSTRATION
 14 PROJECT.—

15 (1) DEFINITIONS.—In this subsection:

16 (A) FEDERAL LAND.—The term “Federal
 17 land” means—

18 (i) land of the National Forest System
 19 (as defined in section 11(a) of the Forest
 20 and Rangeland Renewable Resources Plan-
 21 ning Act of 1974 (16 U.S.C. 1609(a)) ad-
 22 ministered by the Secretary of Agriculture,
 23 acting through the Chief of the Forest
 24 Service; and

1 (ii) public lands (as defined in section
2 103 of the Federal Land Policy and Man-
3 agement Act of 1976 (43 U.S.C. 1702)),
4 the surface of which is administered by the
5 Secretary of the Interior, acting through
6 the Director of the Bureau of Land Man-
7 agement.

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

12 (C) SECRETARY.—The term “Secretary”
13 means—

14 (i) the Secretary of Agriculture, with
15 respect to land under the jurisdiction of
16 the Forest Service; and

17 (ii) the Secretary of the Interior, with
18 respect to land under the jurisdiction of
19 the Bureau of Land Management.

20 (D) TRIBAL ORGANIZATION.—The term
21 “tribal organization” has the meaning given the
22 term in section 4 of the Indian Self-Determina-
23 tion and Education Assistance Act (25 U.S.C.
24 5304).

1 (2) AGREEMENTS.—For each of fiscal years
2 2017 through 2021, the Secretary shall enter into
3 an agreement or contract with an Indian tribe or a
4 tribal organization to carry out a demonstration
5 project to promote biomass energy production (in-
6 cluding biofuel, heat, and electricity generation) by
7 providing reliable supplies of woody biomass from
8 Federal land.

9 (3) DEMONSTRATION PROJECTS.—In each fiscal
10 year for which projects are authorized, at least 1
11 new demonstration project that meets the eligibility
12 criteria described in paragraph (4) shall be carried
13 out under contracts or agreements described in
14 paragraph (2).

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

19 (A) containing such information as the
20 Secretary may require; and

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

1 (5) SELECTION.—In evaluating the applications
2 submitted under paragraph (4), the Secretary
3 shall—

4 (A) take into consideration whether a pro-
5 posed project would—

6 (i) increase the availability or reli-
7 ability of local or regional energy;

8 (ii) enhance the economic development
9 of the Indian tribe;

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

14 (iv) improve the forest health or wa-
15 tersheds of Federal land or non-Federal
16 land;

17 (v) demonstrate new investments in
18 infrastructure; or

19 (vi) otherwise promote the use of
20 woody biomass; and

21 (B) exclude from consideration any mer-
22 chantable logs that have been identified by the
23 Secretary for commercial sale.

24 (6) IMPLEMENTATION.—The Secretary shall—

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

5 (B) to the maximum extent practicable,
6 consult with Indian tribes and appropriate trib-
7 al organizations likely to be affected in devel-
8 oping the application and otherwise carrying
9 out this subsection.

10 (7) REPORT.—Not later than September 20,
11 2019, the Secretary shall submit to Congress a re-
12 port that describes, with respect to the reporting pe-
13 riod—

14 (A) each individual application received
15 under this subsection; and

16 (B) each contract and agreement entered
17 into pursuant to this subsection.

18 (8) TERM.—A contract or agreement entered
19 into under this subsection—

20 (A) shall be for a term of not more than
21 20 years; and

22 (B) may be renewed in accordance with
23 this subsection for not more than an additional
24 10 years.

1 **SEC. 203. WEATHERIZATION PROGRAM.**

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

4 (1) by striking paragraph (1) and inserting the
5 following:

6 “(1) RESERVATION OF AMOUNTS.—

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

19 “(B) RESTRICTIONS.—Subparagraph (A)
20 shall apply only if—

21 “(i) the tribal organization serving the
22 low-income members of the applicable In-
23 dian tribe requests that the Secretary
24 make a grant directly; and

25 “(ii) the Secretary determines that
26 the low-income members of the applicable

1 Indian tribe would be equally or better
 2 served by making a grant directly than a
 3 grant made to the State in which the low-
 4 income members reside.

5 “(C) PRESUMPTION.—If the tribal organi-
 6 zation requesting the grant is a tribally des-
 7 ignated housing entity (as defined in section 4
 8 of the Native American Housing Assistance and
 9 Self-Determination Act of 1996 (25 U.S.C.
 10 4103)) that has operated without material audit
 11 exceptions (or without any material audit excep-
 12 tions that were not corrected within a 3-year
 13 period), the Secretary shall presume that the
 14 low-income members of the applicable Indian
 15 tribe would be equally or better served by mak-
 16 ing a grant directly to the tribal organization
 17 than by a grant made to the State in which the
 18 low-income members reside.”;

19 (2) in paragraph (2)—

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

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

1 (C) by striking “individuals for whom such
 2 a determination has been made” and inserting
 3 “low-income members of the Indian tribe”; and
 4 (D) by striking “he” and inserting “the
 5 Secretary”; and
 6 (3) in paragraph (3), by striking “In order”
 7 and inserting “APPLICATION.—In order”.

8 **SEC. 204. APPRAISALS.**

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

12 **“SEC. 2607. APPRAISALS.**

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

20 “(1) the Secretary;

21 “(2) the affected Indian tribe; or

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

24 “(b) SECRETARIAL REVIEW AND APPROVAL.—Not
 25 later than 45 days after the date on which the Secretary

1 receives an appraisal prepared by or for an Indian tribe
2 under paragraph (2) or (3) of subsection (a), the Sec-
3 retary shall—

4 “(1) review the appraisal; and

5 “(2) approve the appraisal unless the Secretary
6 determines that the appraisal fails to meet the
7 standards set forth in regulations promulgated
8 under subsection (d).

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

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

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

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

1 **SEC. 205. LEASES OF RESTRICTED LANDS FOR NAVAJO NA-**
 2 **TION.**

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

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

9 (2) by striking subparagraph (A) and inserting
 10 the following:

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

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

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

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

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

23 “(ii) any such lease for the explo-
 24 ration, development, or extraction of an oil
 25 or gas resource shall be for a term of not
 26 to exceed 10 years, plus such additional

1 period as the Navajo Nation determines to
 2 be appropriate in any case in which an oil
 3 or gas resource is produced in a paying
 4 quantity.”.

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

10 **SEC. 206. EXTENSION OF TRIBAL LEASE PERIOD FOR THE**
 11 **CROW TRIBE OF MONTANA.**

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

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

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

20 (b) TREATMENT OF LEASE PAYMENTS.—

21 (1) IN GENERAL.—Except as provided in para-
 22 graph (2) and at the request of the Indian tribe or
 23 individual Indian, any advance payments, bid depos-
 24 its, or other earnest money received by the Secretary
 25 in connection with the review and Secretarial ap-

1 proval under any other Federal law (including regu-
2 lations) of a sale, lease, permit, or any other convey-
3 ance of any interest in any trust or restricted land
4 of any Indian tribe or individual Indian shall, upon
5 receipt and prior to Secretarial approval of the con-
6 tract or conveyance instrument, be held in the trust
7 fund system for the benefit of the Indian tribe and
8 individual Indian from whose land the funds were
9 generated.

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

16 (c) USE OF FUNDS.—

17 (1) IN GENERAL.—On the approval of the Sec-
18 retary of a contract or other instrument for a sale,
19 lease, permit, or any other conveyance described in
20 subsection (b)(1), the funds held in the trust fund
21 system and described in subsection (b), along with
22 all income generated from the investment of those
23 funds, shall be disbursed to the Indian tribe or indi-
24 vidual Indian landowners.

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

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

Calendar No. 104

115TH CONGRESS
1ST Session

S. 245

[Report No. 115-84]

A BILL

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

MAY 24, 2017

Reported without amendment