

113TH CONGRESS
2D SESSION

S. 2132

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

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2014

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

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Tribal Energy
5 Development and Self-Determination Act Amendments of
6 2014”.

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

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

Sec. 1. Short title.

Sec. 2. Table of contents.

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

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

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.

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

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

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

9 (1) in paragraph (2)—

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

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

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

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

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

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

4 “(4) PLANNING.—

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

10 “(i) plans for electrification;

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

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

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

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

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

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

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

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

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

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

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

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

23 (2) in paragraph (3)—

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

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

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

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

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

11 (3) in paragraph (5), by striking “The Sec-
12 retary of Energy may” and inserting “Not later
13 than 1 year after the date of enactment of the In-
14 dian Tribal Energy Development and Self-Deter-
15 mination Act Amendments of 2014, the Secretary of
16 Energy shall”.

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

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

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

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

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

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

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

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

11 (ii) in subparagraph (B)—

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

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

19 (II) in clause (ii)—

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

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

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

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

6 “(C) pooling, unitization, or
7 communitization of the energy mineral re-
8 sources of the Indian tribe located on tribal
9 land with any other energy mineral resource
10 (including energy mineral resources owned by
11 the Indian tribe or an individual Indian in fee,
12 trust, or restricted status or by any other per-
13 sons or entities) if the owner of the resources
14 has consented or consents to the pooling, unit-
15 ization, or communitization of the other re-
16 sources under any lease or agreement; and”;
17 and

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

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

25 “(A) was executed—

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

9 “(ii) by the Indian tribe and a tribal
10 energy development organization—

11 “(I) for which the Indian tribe
12 has obtained certification pursuant to
13 subsection (h); and

14 “(II) the majority of the interest
15 in which is, and continues to be
16 throughout the full term or renewal
17 term (if any) of the lease or business
18 agreement, owned and controlled by
19 the Indian tribe (or the Indian tribe
20 and 1 or more other Indian tribes);
21 and

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

23 “(i) 30 years; or

24 “(ii) in the case of a lease for the pro-
25 duction of oil resources, gas resources, or

1 both, 10 years and as long thereafter as oil
2 or gas is produced in paying quantities.”;

3 (2) by striking subsection (b) and inserting the
4 following:

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

8 “(1) serves—

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

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

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

20 “(2) was executed—

21 “(A) in accordance with the requirements
22 of a tribal energy resource agreement in effect
23 under subsection (e) (including the periodic re-
24 view and evaluation of the activities of the In-
25 dian tribe under the agreement, to be conducted

1 pursuant to subparagraphs (D) and (E) of sub-
2 section (e)(2)); or

3 “(B) by the Indian tribe and a tribal en-
4 ergy development organization—

5 “(i) for which the Indian tribe has ob-
6 tained certification pursuant to subsection
7 (h); and

8 “(ii) the majority of the interest in
9 which is, and continues to be throughout
10 the full term or renewal term (if any) of
11 the right-of-way, owned and controlled by
12 the Indian tribe (or the Indian tribe and 1
13 or more other Indian tribes); and

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

16 (3) by striking subsection (d) and inserting the
17 following:

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

22 (4) in subsection (e)—

23 (A) in paragraph (2)—

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

4 “(2) PROCEDURE.—

5 “(A) EFFECTIVE DATE.—

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

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

24 (ii) in subparagraph (B)—

1 (I) by striking “(B)” and all that
2 follows through “if—” and inserting
3 the following:

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

8 (II) by striking clause (i) and in-
9 serting the following:

10 “(i) the Secretary determines that the
11 Indian tribe has not demonstrated that the
12 Indian tribe has sufficient capacity to reg-
13 ulate the development of the specific 1 or
14 more energy resources identified for devel-
15 opment under the tribal energy resource
16 agreement submitted by the Indian tribe;”;

17 (III) by redesignating clause (iii)
18 as clause (iv) and indenting appro-
19 priately;

20 (IV) by striking clause (ii) and
21 inserting the following:

22 “(ii) a provision of the tribal energy
23 resource agreement would violate applica-
24 ble Federal law (including regulations) or
25 a treaty applicable to the Indian tribe;

1 “(iii) the tribal energy resource agree-
2 ment does not include 1 or more provisions
3 required under subparagraph (D); or”; and

4 (V) in clause (iv) (as redesign-
5 nated by subclause (III))—

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

16 (bb) in subclause (XVI)(bb),
17 by striking “or tribal”;

18 (iii) in subparagraph (C)—

19 (I) in the matter preceding clause
20 (i), by inserting “the approval of”
21 after “with respect to”;

22 (II) by striking clause (ii) and in-
23 serting the following:

24 “(ii) the identification of mitigation
25 measures, if any, that, in the discretion of

1 the Indian tribe, the Indian tribe might
2 propose for incorporation into the lease,
3 business agreement, or right-of-way”;

4 (III) in clause (iii)(I), by striking
5 “proposed action” and inserting “ap-
6 proval of the lease, business agree-
7 ment, or right-of-way”;

8 (IV) in clause (iv), by striking
9 “and” at the end;

10 (V) in clause (v), by striking the
11 period at the end and inserting “;
12 and”;

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

15 “(vi) the identification of specific
16 classes or categories of actions, if any, de-
17 termined by the Indian tribe not to have
18 significant environmental effects.”;

19 (iv) in subparagraph (D)(ii), by strik-
20 ing “subparagraph (B)(iii)(XVI)” and in-
21 serting “subparagraph (B)(iv)(XV)”;

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

23 “(F) A tribal energy resource agreement
24 that takes effect pursuant to this subsection
25 shall remain in effect to the extent any provi-

1 sion of the tribal energy resource agreement is
2 consistent with applicable Federal law (includ-
3 ing regulations), unless the tribal energy re-
4 source agreement is—

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

7 “(ii) voluntarily rescinded by the In-
8 dian tribe pursuant to the regulations pro-
9 mulgated under paragraph (8)(B) (or suc-
10 cessor regulations).

11 “(G)(i) The Secretary shall make a capac-
12 ity determination under subparagraph (B)(i)
13 not later than 120 days after the date on which
14 the Indian tribe submits to the Secretary the
15 tribal energy resource agreement of the Indian
16 tribe pursuant to paragraph (1), unless the Sec-
17 retary and the Indian tribe mutually agree to
18 an extension of the time period for making the
19 determination.

20 “(ii) Any determination that the Indian
21 tribe lacks the requisite capacity shall be treat-
22 ed as a disapproval under paragraph (4) and,
23 not later than 10 days after the date of the de-
24 termination, the Secretary shall provide to the
25 Indian tribe—

1 “(I) a detailed, written explanation of
2 each reason for the determination; and

3 “(II) a description of the steps that
4 the Indian tribe should take to dem-
5 onstrate sufficient capacity.

6 “(H) Notwithstanding any other provision
7 of this section, an Indian tribe shall be consid-
8 ered to have demonstrated sufficient capacity
9 under subparagraph (B)(i) to regulate the de-
10 velopment of the specific 1 or more energy re-
11 sources of the Indian tribe identified for devel-
12 opment under the tribal energy resource agree-
13 ment submitted by the Indian tribe pursuant to
14 paragraph (1) if—

15 “(i) the Secretary determines that—

16 “(I) the Indian tribe has carried
17 out a contract or compact under title
18 I or IV of the Indian Self-Determina-
19 tion and Education Assistance Act
20 (25 U.S.C. 450 et seq.); and

21 “(II) for a period of not less than
22 3 consecutive years ending on the date
23 on which the Indian tribe submits the
24 tribal energy resource agreement of
25 the Indian tribe pursuant to para-

1 graph (1) or (4)(B), the contract or
2 compact—

3 “(aa) has been carried out
4 by the Indian tribe without mate-
5 rial audit exceptions (or without
6 any material audit exceptions
7 that were not corrected within
8 the 3-year period); and

9 “(bb) has included programs
10 or activities relating to the man-
11 agement of tribal land; or

12 “(ii) the Secretary fails to make the
13 determination within the time allowed
14 under subparagraph (G)(i) (including any
15 extension of time agreed to under that sub-
16 paragraph).”;

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

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

23 “(i) each reason for the disapproval;
24 and

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

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

6 (C) in paragraph (6)—

7 (i) in subparagraph (B)—

8 (I) by striking “(B) Subject to”
9 and inserting the following:

10 “(B) Subject only to”; and

11 (II) by striking “subparagraph
12 (D)” and inserting “subparagraphs
13 (C) and (D)”;

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

19 (iii) in subparagraph (D), by adding
20 at the end the following:

21 “(iii) Nothing in this section absolves,
22 limits, or otherwise affects the liability, if
23 any, of the United States for any—

24 “(I) term of any lease, business
25 agreement, or right-of-way under this

1 section that is not a negotiated term;
2 or

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

9 (D) in paragraph (7)—

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

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

18 (iii) in subparagraph (D)—

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

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

1 “(II) if the petitioner is an inter-
2 ested party, whether the Indian tribe
3 is not in compliance with the tribal
4 energy resource agreement as alleged
5 in the petition.”;

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

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

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

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

24 “(G) Notwithstanding any other provision
25 of this paragraph, the Secretary shall dismiss

1 any petition from an interested party that has
2 agreed with the Indian tribe to a resolution of
3 the claims presented in the petition of that
4 party.”;

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

7 (6) by inserting after subsection (f) the fol-
8 lowing:

9 “(g) FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES
10 BY THE SECRETARY.—

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

21 “(2) ANNUAL FUNDING AGREEMENTS.—The
22 Secretary shall make the amounts described in para-
23 graph (1) available to an Indian tribe through an
24 annual written funding agreement that is negotiated

1 and entered into with the Indian tribe that is sepa-
2 rate from the tribal energy resource agreement.

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

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

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

13 “(4) DETERMINATION.—

14 “(A) IN GENERAL.—The Secretary shall
15 calculate the amounts under paragraph (1) in
16 accordance with the regulations adopted under
17 section 103(b) of the Indian Tribal Energy De-
18 velopment and Self-Determination Act Amend-
19 ments of 2014.

20 “(B) APPLICABILITY.—The effective date
21 or implementation of a tribal energy resource
22 agreement under this section shall not be de-
23 layed or otherwise affected by—

24 “(i) a delay in the promulgation of
25 regulations under section 103(b) of the In-

1 dian Tribal Energy Development and Self-
2 Determination Act Amendments of 2014;

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

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

8 “(h) CERTIFICATION OF TRIBAL ENERGY DEVELOP-
9 MENT ORGANIZATION.—

10 “(1) IN GENERAL.—Not later than 90 days
11 after the date on which an Indian tribe submits an
12 application for certification of a tribal energy devel-
13 opment organization in accordance with regulations
14 promulgated under section 103(b) of the Indian
15 Tribal Energy Development and Self-Determination
16 Act Amendments of 2014, the Secretary shall ap-
17 prove or disapprove the application.

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

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

24 “(ii) for a period of not less than 3 con-
25 secutive years ending on the date on which the

1 Indian tribe submits the application, the con-
2 tract or compact—

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

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

11 “(B)(i) the tribal energy development orga-
12 nization is organized under the laws of the In-
13 dian tribe and subject to the jurisdiction and
14 authority of the Indian tribe;

15 “(ii) the majority of the interest in the
16 tribal energy development organization is owned
17 and controlled by the Indian tribe (or the In-
18 dian tribe and 1 or more other Indian tribes);
19 and

20 “(iii) the organizing document of the tribal
21 energy development organization requires that
22 the Indian tribe (or the Indian tribe and 1 or
23 more other Indian tribes) own and control at all
24 times a majority of the interest in the tribal en-
25 ergy development organization.

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

5 “(A) issue a certification stating that—

6 “(i) the tribal energy development or-
7 ganization is organized under the laws of
8 the Indian tribe and subject to the juris-
9 diction and authority of the Indian tribe;

10 “(ii) the majority of the interest in
11 the tribal energy development organization
12 is owned and controlled by the Indian tribe
13 (or the Indian tribe and 1 or more other
14 Indian tribes);

15 “(iii) 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)
19 own and control at all times a majority of
20 the interest in the tribal energy develop-
21 ment organization; and

22 “(iv) the certification is issued pursu-
23 ant this subsection;

24 “(B) deliver a copy of the certification to
25 the Indian tribe; and

1 “(C) publish the certification in the Fed-
2 eral Register.

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

5 (b) REGULATIONS.—Not later than 1 year after the
6 date of enactment of the Indian Tribal Energy Develop-
7 ment and Self-Determination Act Amendments of 2014,
8 the Secretary shall promulgate or update any regulations
9 that are necessary to implement this section, including
10 provisions to implement—

11 (1) section 2604(g) of the Energy Policy Act of
12 1992 (25 U.S.C. 3504(g)) including the manner in
13 which the Secretary, at the request of an Indian
14 tribe, shall—

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

22 (B) identify the amounts that the Sec-
23 retary would have otherwise expended to oper-
24 ate or carry out each program, function, serv-
25 ice, and activity (or any portion of a program,

1 function, service, or activity) identified pursu-
2 ant to subparagraph (A); and

3 (C) provide to the Indian tribe a list of the
4 programs, functions, services, and activities (or
5 any portions of programs, functions, services, or
6 activities) identified pursuant subparagraph (A)
7 and the amounts associated with each program,
8 function, service, and activity (or any portion of
9 a program, function, service, or activity) identi-
10 fied pursuant to subparagraph (B); and

11 (2) section 2604(h) of the Energy Policy Act of
12 1992 (25 U.S.C. 3504(h)), including the process to
13 be followed by, and any applicable criteria and docu-
14 mentation required for, an Indian tribe to request
15 and obtain the certification described in that section.

16 **SEC. 104. TECHNICAL ASSISTANCE FOR INDIAN TRIBAL**
17 **GOVERNMENTS.**

18 Section 2602(b) of the Energy Policy Act of 1992
19 (25 U.S.C. 3502(b)) is amended—

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

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

24 “(3) TECHNICAL AND SCIENTIFIC RE-
25 SOURCES.—In addition to providing grants to Indian

1 tribes under this subsection, the Secretary shall col-
2 laborate with the Directors of the National Labora-
3 tories in making the full array of technical and sci-
4 entific resources of the Department of Energy avail-
5 able for tribal energy activities and projects.”.

6 **SEC. 105. CONFORMING AMENDMENTS.**

7 (a) DEFINITION OF TRIBAL ENERGY DEVELOPMENT
8 ORGANIZATION.—Section 2601 of the Energy Policy Act
9 of 1992 (25 U.S.C. 3501) is amended by striking para-
10 graph (11) and inserting the following:

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

13 “(A) any enterprise, partnership, consor-
14 tium, corporation, or other type of business or-
15 ganization that is engaged in the development
16 of energy resources and is wholly owned by an
17 Indian tribe (including an organization incor-
18 porated pursuant to section 17 of the Indian
19 Reorganization Act of 1934 (25 U.S.C. 477) or
20 section 3 of the Act of June 26, 1936 (25
21 U.S.C. 503) (commonly known as the ‘Okla-
22 homa Indian Welfare Act’)); or

23 “(B) any organization of 2 or more enti-
24 ties, at least 1 of which is an Indian tribe, that
25 has the written consent of the governing bodies

1 of all Indian tribes participating in the organi-
2 zation to apply for a grant, loan, or other as-
3 sistance under section 2602 or to enter into a
4 lease or business agreement with, or acquire a
5 right-of-way from, an Indian tribe pursuant to
6 subsection (a)(2)(A)(ii) or (b)(2)(B) of section
7 2604.”.

8 (b) INDIAN TRIBAL ENERGY RESOURCE DEVELOP-
9 MENT.—Section 2602 of the Energy Policy Act of 1992
10 (25 U.S.C. 3502) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1), by striking “tribal
13 energy resource development organizations”
14 and inserting “tribal energy development orga-
15 nizations”; and

16 (B) in paragraph (2), by striking “tribal
17 energy resource development organizations”
18 each place it appears and inserting “tribal en-
19 ergy development organizations”; and

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

23 (c) WIND AND HYDROPOWER FEASIBILITY STUDY.—
24 Section 2606(c)(3) of the Energy Policy Act of 1992 (25

1 U.S.C. 3506(c)(3)) is amended by striking “energy re-
2 source development” and inserting “energy development”.

3 (d) CONFORMING AMENDMENTS.—Section 2604(e)
4 of the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is
5 amended—

6 (1) in paragraph (1)—

7 (A) by striking “(1) On the date” and in-
8 serting the following:

9 “(1) IN GENERAL.—On the date”; and

10 (B) by striking “for approval”;

11 (2) in paragraph (2)(B)(iv) (as redesignated by
12 section 4(a)(4)(A)(ii)(III))—

13 (A) in subclause (XIV), by inserting “and”
14 after the semicolon at the end;

15 (B) by striking subclause (XV); and

16 (C) by redesignating subclause (XVI) as
17 subclause (XV);

18 (3) in paragraph (3)—

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

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

23 (B) by striking “for approval”;

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

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

3 (5) 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 (6) 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 (7) 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 **TITLE II—MISCELLANEOUS**
 2 **AMENDMENTS**

3 **SEC. 201. ISSUANCE OF PRELIMINARY PERMITS OR LI-**
 4 **CENSES.**

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

9 (b) **APPLICABILITY.**—The amendment made by sub-
 10 section (a) shall not affect—

11 (1) any preliminary permit or original license
 12 issued before the date of enactment of the Indian
 13 Tribal Energy Development and Self-Determination
 14 Act Amendments of 2014; or

15 (2) an application for an original license, if the
 16 Commission has issued a notice accepting that appli-
 17 cation for filing pursuant to section 4.32(d) of title
 18 18, Code of Federal Regulations (or successor regu-
 19 lations), before the date of enactment of the Indian
 20 Tribal Energy Development and Self-Determination
 21 Act Amendments of 2014.

22 (c) **DEFINITION OF INDIAN TRIBE.**—For purposes of
 23 section 7(a) of the Federal Power Act (16 U.S.C. 800(a))
 24 (as amended by subsection (a)), the term “Indian tribe”
 25 has the meaning given the term in section 4 of the Indian

1 Self-Determination and Education Assistance Act (25
2 U.S.C. 450b).

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

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

8 (b) TRIBAL BIOMASS DEMONSTRATION PROJECT.—
9 The Tribal Forest Protection Act of 2004 (Public Law
10 108–278; 118 Stat. 868) is amended—

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

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

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

15 “(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREE-
16 MENTS.—For each of fiscal years 2015 through 2019, the
17 Secretary shall enter into stewardship contracts or similar
18 agreements (excluding direct service contracts) with In-
19 dian tribes to carry out demonstration projects to promote
20 biomass energy production (including biofuel, heat, and
21 electricity generation) on Indian forest land and in nearby
22 communities by providing reliable supplies of woody bio-
23 mass from Federal land.

24 “(b) DEMONSTRATION PROJECTS.—In each fiscal
25 year for which projects are authorized, at least 4 new dem-

1 onstration projects that meet the eligibility criteria de-
2 scribed in subsection (c) shall be carried out under con-
3 tracts or agreements described in subsection (a).

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

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

9 “(2) that includes a description of—

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

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

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

16 “(1) take into consideration—

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

19 “(B) whether a proposed project would—

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

22 “(ii) enhance the economic develop-
23 ment of the Indian tribe;

24 “(iii) result in or improve the connec-
25 tion of electric power transmission facilities

1 serving the Indian tribe with other electric
2 transmission facilities;

3 “(iv) improve the forest health or wa-
4 tersheds of Federal land or Indian forest
5 land or rangeland;

6 “(v) demonstrate new investments in
7 infrastructure; or

8 “(vi) otherwise promote the use of
9 woody biomass; and

10 “(2) exclude from consideration any merchant-
11 able logs that have been identified by the Secretary
12 for commercial sale.

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

14 “(1) ensure that the criteria described in sub-
15 section (c) are publicly available by not later than
16 120 days after the date of enactment of this section;
17 and

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

22 “(f) REPORT.—Not later than September 20, 2017,
23 the Secretary shall submit to Congress a report that de-
24 scribes, with respect to the reporting period—

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

3 “(2) each contract and agreement entered into
4 pursuant to this section.

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

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

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

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

19 (c) ALASKA NATIVE CORPORATION BIOMASS DEM-
20 ONSTRATION PROJECT.—

21 (1) DEFINITIONS.—In this subsection:

22 (A) ALASKA NATIVE CORPORATION.—The
23 term “Alaska Native corporation” has the
24 meaning given the term “Native Corporation”

1 in section 3 of the Alaska Native Claims Settle-
2 ment Act (43 U.S.C. 1602).

3 (B) FEDERAL LAND.—The term “Federal
4 land” means—

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

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

19 (C) FOREST LAND.—The term “forest
20 land” means land that—

21 (i) is conveyed to an Alaska Native
22 corporation pursuant to the Alaska Native
23 Claims Settlement Act (43 U.S.C. 1601 et
24 seq.); and

1 (ii)(I) is considered chiefly valuable
2 for the production of forest products or to
3 maintain watershed or other land values
4 enhanced by a forest cover (including com-
5 mercial and noncommercial timberland and
6 woodland), regardless of whether a formal
7 inspection and land classification action
8 has been taken; or

9 (II) formerly had a forest or vegeta-
10 tive cover that is capable of restoration.

11 (D) SECRETARY.—The term “Secretary”
12 means—

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

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

19 (2) AGREEMENTS.—For each of fiscal years
20 2015 through 2019, the Secretary shall enter into a
21 stewardship contract or similar agreement (excluding
22 a direct service contract) with 1 or more Alaska Na-
23 tive corporations to carry out a demonstration
24 project to promote biomass energy production (in-
25 cluding biofuel, heat, and electricity generation) on

1 forest land of the Alaska Native corporations and in
2 nearby communities by providing reliable supplies of
3 woody biomass from Federal land.

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

10 (4) ELIGIBILITY CRITERIA.—To be eligible to
11 enter into a contract or agreement under this sub-
12 section, an Alaska Native corporation shall submit
13 to the Secretary an application—

14 (A) containing such information as the
15 Secretary may require; and

16 (B) that includes a description of—

17 (i) the forest land or rangeland under
18 the jurisdiction of the Alaska Native cor-
19 poration; and

20 (ii) the demonstration project pro-
21 posed to be carried out by the Alaska Na-
22 tive corporation.

23 (5) SELECTION.—In evaluating the applications
24 submitted under paragraph (4), the Secretary
25 shall—

1 (A) take into consideration whether a pro-
2 posed project would—

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

5 (ii) enhance the economic development
6 of the Alaska Native corporation;

7 (iii) result in or improve the connec-
8 tion of electric power transmission facilities
9 serving the Alaska Native corporation with
10 other electric transmission facilities;

11 (iv) improve the forest health or wa-
12 tersheds of Federal land or Alaska Native
13 corporation forest land or rangeland;

14 (v) demonstrate new investments in
15 infrastructure; or

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

18 (B) exclude from consideration any mer-
19 chantable logs that have been identified by the
20 Secretary for commercial sale.

21 (6) IMPLEMENTATION.—The Secretary shall—

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

1 (B) to the maximum extent practicable,
2 consult with Alaska Native corporations and ap-
3 propriate Alaska Native organizations likely to
4 be affected in developing the application and
5 otherwise carrying out this subsection.

6 (7) REPORT.—Not later than September 20,
7 2017, the Secretary shall submit to Congress a re-
8 port that describes, with respect to the reporting pe-
9 riod—

10 (A) each individual application received
11 under this subsection; and

12 (B) each contract and agreement entered
13 into pursuant to this subsection.

14 (8) TERM.—A contract or agreement entered
15 into under this subsection—

16 (A) shall be for a term of not more than
17 20 years; and

18 (B) may be renewed in accordance with
19 this subsection for not more than an additional
20 10 years.

21 **SEC. 203. WEATHERIZATION PROGRAM.**

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

24 (1) by striking paragraph (1) and inserting the
25 following:

1 “(1) RESERVATION OF AMOUNTS.—

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

14 “(B) RESTRICTIONS.—Subparagraph (A)
15 shall apply only if—

16 “(i) the tribal organization serving the
17 low-income members of the applicable In-
18 dian tribe requests that the Secretary
19 make a grant directly; and

20 “(ii) the Secretary determines that
21 the low-income members of the applicable
22 Indian tribe would be equally or better
23 served by making a grant directly than a
24 grant made to the State in which the low-
25 income members reside.”;

1 (2) in paragraph (2)—

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

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

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

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

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

13 **SEC. 204. APPRAISALS.**

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

17 **“SEC. 2607. APPRAISALS.**

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

25 “(1) the Secretary;

1 “(2) the affected Indian tribe; or

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

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

9 “(1) review the appraisal; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) GAO REPORT.—Not later than 5 years after the
10 date of enactment of this Act, the Comptroller General
11 of the United States shall prepare and submit to Congress
12 a report describing the progress made in carrying out the
13 amendment made by subsection (a)(4).

○