

114TH CONGRESS  
1ST SESSION

# S. 209

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## AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

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

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

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

Sec. 1. Short title.

Sec. 2. Table of contents.

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

Sec. 101. Indian tribal energy resource development.

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 2015, the Secretary of  
23 Energy shall”.

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

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

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

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

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

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

16 (1) in subsection (a)—

17 (A) in paragraph (1)—

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

20 (ii) in subparagraph (B)—

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

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

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

3 (II) in clause (ii)—

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

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

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

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

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

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

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

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

11                   “(A) was executed—

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

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

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

25                           “(i) 30 years; or



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

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

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

10                   “(1) serves—

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

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

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

22                   “(2) was executed—

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

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

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

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

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

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

17 (4) in subsection (e)—

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

20 “(1) IN GENERAL.—

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

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

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

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

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

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

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

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

3           (B) in paragraph (2)—

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

7           “(2) PROCEDURE.—

8           “(A) EFFECTIVE DATE.—

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

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

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

3 (ii) in subparagraph (B)—

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

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

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

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

18 (II) in clause (iii)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (iii) in subparagraph (C)—

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

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

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

15 “(i) a process for ensuring that—

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

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



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

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

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

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

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

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

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

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

1 “(i) each reason for the disapproval;

2 and

3 “(ii) the revisions or changes to the

4 tribal energy resource agreement necessary

5 to address each reason; and

6 “(B) an opportunity to revise and resubmit

7 the tribal energy resource agreement.”;

8 (D) in paragraph (6)—

9 (i) in subparagraph (B)—

10 (I) by striking “(B) Subject to”

11 and inserting the following:

12 “(B) Subject only to”; and

13 (II) by striking “subparagraph

14 (D)” and inserting “subparagraphs

15 (C) and (D)”;

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

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

18 perform the obligations of the Secretary

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

20 and

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

22 at the end the following:

23 “(iii) Nothing in this section absolves,

24 limits, or otherwise affects the liability, if

25 any, of the United States for any—

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

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

10 (E) in paragraph (7)—

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

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

19 (iii) in subparagraph (D)—

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

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

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

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

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

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

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

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

7           (F) in paragraph (8)—

8                 (i) by striking subparagraph (A);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           “(4) DETERMINATION.—

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

22           “(A) issue a certification stating that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 and

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

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

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

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

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

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

22 (1) in subsection (a)—

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



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

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

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

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

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

17 (1) in paragraph (3)—

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

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

22 (B) by striking “for approval”;

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

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

3           (3) in paragraph (5)—

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

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

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

11          (4) in paragraph (6)—

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

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

16           “(A) In carrying out”;

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

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

21           (D) in subparagraph (D)—

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

1 agreement in effect under this section”;

2 and

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

6 (5) in paragraph (7)—

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

9 “(7) PETITIONS BY INTERESTED PARTIES.—

10 “(A) In this paragraph”;

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

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

17 (D) in subparagraph (D)(iii)—

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

20 (ii) in subclause (II)—

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

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

1 **SEC. 106. REPORT.**

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

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

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

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

19 (A) any seismic exploration permits;

20 (B) permission to survey;

21 (C) archeological and cultural surveys;

22 (D) access permits;

23 (E) environmental assessments;

24 (F) oil and gas leases;

25 (G) surface leases;

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

1 (I) communitization agreements;

2 (4) identifies in the databases—

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

5 (B) the status of the review;

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

8 (D) the date of approval; and

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

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

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

16 (B) the status of the review;

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

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

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

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

1 renewable energy exploration and development ac-  
2 tivities;

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

6 (A) how the database identifies—

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

9 (ii) resources available for lease; and

10 (iii) the location of—

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

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

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

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

22 (ii) resource owners; and

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

1 (3) an evaluation of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

17 “(2) that includes a description of—

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

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

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

24 “(1) take into consideration—

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

3           “(B) whether a proposed project would—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           (1) DEFINITIONS.—In this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (6) IMPLEMENTATION.—The Secretary shall—

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

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

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

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

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

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

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

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

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

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

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

17 “(1) RESERVATION OF AMOUNTS.—

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



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

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

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

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

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

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

6 (2) in paragraph (2)—

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

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

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

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

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

18 **SEC. 204. APPRAISALS.**

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

22 **“SEC. 2607. APPRAISALS.**

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

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

5           “(1) the Secretary;

6           “(2) the affected Indian tribe; or

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

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

14           “(1) review the appraisal; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) TREATMENT OF LEASE PAYMENTS.—

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

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

25 (c) USE OF FUNDS.—

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

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

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

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

Passed the Senate December 10, 2015.

Attest:

*Secretary.*





114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 209**

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**AN ACT**

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