

114TH CONGRESS
2D SESSION

S. 2717

To improve the safety and address the deferred maintenance needs of Indian dams to prevent flooding on Indian reservations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2016

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

A BILL

To improve the safety and address the deferred maintenance needs of Indian dams to prevent flooding on Indian reservations, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Dam Repairs and Improvements for Tribes Act of 2016”
6 or the “DRIFT Act of 2016”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—INDIAN DAM SAFETY DEFERRED MAINTENANCE FUNDS

Subtitle A—High-Hazard Fund

- Sec. 101. Establishment.
- Sec. 102. Deposits to Fund.
- Sec. 103. Expenditures from Fund.
- Sec. 104. Investments of amounts.
- Sec. 105. Transfers of amounts.
- Sec. 106. Termination.

Subtitle B—Low-Hazard Fund

- Sec. 111. Establishment.
- Sec. 112. Deposits to Fund.
- Sec. 113. Expenditures from Fund.
- Sec. 114. Investments of amounts.
- Sec. 115. Transfers of amounts.
- Sec. 116. Termination.

TITLE II—REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN DAMS

Subtitle A—Program Establishment

- Sec. 201. Repair, replacement, and maintenance of certain Indian dams.
- Sec. 202. Eligible dams.
- Sec. 203. Requirements and conditions.
- Sec. 204. Tribal consultation and user input.
- Sec. 205. Allocation among dams.

Subtitle B—Management

- Sec. 211. Tribal Safety of Dams Committee.
- Sec. 212. Indian dam surveys.
- Sec. 213. Flood plain management pilot program.
- Sec. 214. Tribal Partnership Program.
- Sec. 215. Cost-sharing for Indian tribes.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) DAM.—

4 (A) IN GENERAL.—The term “dam” has
 5 the meaning given the term in section 2 of the
 6 National Dam Safety Program Act (33 U.S.C.
 7 467).

8 (B) INCLUSIONS.—The term “dam” in-
 9 cludes any structure, facility, equipment, or ve-

1 hicle used in connection with the operation of a
2 dam.

3 (2) FUND.—The term “Fund” means, as appli-
4 cable—

5 (A) the High-Hazard Indian Dam Safety
6 Deferred Maintenance Fund established by sec-
7 tion 101; or

8 (B) the Low-Hazard Indian Dam Safety
9 Deferred Maintenance Fund established by sec-
10 tion 111.

11 (3) HIGH HAZARD POTENTIAL DAM.—The term
12 “high hazard potential dam” means a dam assigned
13 to the significant or high hazard potential classifica-
14 tion under the guidelines published by the Federal
15 Emergency Management Agency entitled “Federal
16 Guidelines for Dam Safety: Hazard Potential Classi-
17 fication System for Dams” (FEMA Publication
18 Number 333).

19 (4) INDIAN TRIBE.—The term “Indian tribe”
20 has the meaning given the term in section 4 of the
21 Indian Self-Determination and Education Assistance
22 Act (25 U.S.C. 450b).

23 (5) LOW HAZARD POTENTIAL DAM.—The term
24 “low hazard potential dam” means a dam assigned
25 to the low hazard potential classification under the

1 guidelines published by the Federal Emergency
 2 Management Agency entitled “Federal Guidelines
 3 for Dam Safety: Hazard Potential Classification
 4 System for Dams” (FEMA Publication Number
 5 333).

6 (6) SECRETARY.—The term “Secretary” means
 7 the Secretary of the Interior, acting through the As-
 8 sistant Secretary for Indian Affairs, in consultation
 9 with the Secretary of the Army.

10 **TITLE I—INDIAN DAM SAFETY**
 11 **DEFERRED MAINTENANCE**
 12 **FUNDS**

13 **Subtitle A—High-Hazard Fund**

14 **SEC. 101. ESTABLISHMENT.**

15 There is established in the Treasury of the United
 16 States a fund, to be known as the “High-Hazard Indian
 17 Dam Safety Deferred Maintenance Fund”, consisting of—

18 (1) such amounts as are deposited in the Fund
 19 under section 102; and

20 (2) any interest earned on investment of
 21 amounts in the Fund under section 104.

22 **SEC. 102. DEPOSITS TO FUND.**

23 (a) IN GENERAL.—For each of fiscal years 2017
 24 through 2037, the Secretary of the Treasury shall deposit
 25 in the Fund \$22,750,000 of the revenues that would oth-

1 erwise be deposited for the fiscal year in the reclamation
2 fund established by the first section of the Act of June
3 17, 1902 (32 Stat. 388, chapter 1093).

4 (b) AVAILABILITY OF AMOUNTS.—Amounts depos-
5 ited in the Fund under subsection (a) shall be used, sub-
6 ject to appropriation, to carry out this Act.

7 **SEC. 103. EXPENDITURES FROM FUND.**

8 (a) IN GENERAL.—Subject to subsection (b), for each
9 of fiscal years 2017 through 2037, the Secretary may, to
10 the extent provided in advance in appropriations Acts, ex-
11 pend from the Fund, in accordance with this Act, not more
12 than the sum of—

13 (1) \$22,750,000; and

14 (2) the amount of interest accrued in the Fund.

15 (b) ADDITIONAL EXPENDITURES.—The Secretary
16 may expend more than \$22,750,000 for any fiscal year
17 referred to in subsection (a) if the additional amounts are
18 available in the Fund as a result of a failure of the Sec-
19 retary to expend all of the amounts available under sub-
20 section (a) in 1 or more prior fiscal years.

21 **SEC. 104. INVESTMENTS OF AMOUNTS.**

22 (a) IN GENERAL.—The Secretary shall invest such
23 portion of the Fund as is not, in the judgment of the Sec-
24 retary, required to meet current withdrawals.

1 (b) CREDITS TO FUND.—The interest on, and the
2 proceeds from the sale or redemption of, any obligations
3 held in the Fund shall be credited to, and form a part
4 of, the Fund.

5 **SEC. 105. TRANSFERS OF AMOUNTS.**

6 (a) IN GENERAL.—The amounts required to be
7 transferred to the Fund under this subtitle shall be trans-
8 ferred at least monthly from the general fund of the
9 Treasury to the Fund on the basis of estimates made by
10 the Secretary of the Treasury.

11 (b) ADJUSTMENTS.—Proper adjustment shall be
12 made in amounts subsequently transferred to the extent
13 prior estimates are in excess of or less than the amounts
14 required to be transferred.

15 **SEC. 106. TERMINATION.**

16 On September 30, 2037—

17 (1) the Fund shall terminate; and

18 (2) the unexpended and unobligated balance of
19 the Fund shall be transferred to the reclamation
20 fund established by the first section of the Act of
21 June 17, 1902 (32 Stat. 388, chapter 1093).

1 **Subtitle B—Low-Hazard Fund**

2 **SEC. 111. ESTABLISHMENT.**

3 There is established in the Treasury of the United
4 States a fund, to be known as the “Low-Hazard Indian
5 Dam Safety Deferred Maintenance Fund”, consisting of—

6 (1) such amounts as are deposited in the Fund
7 under section 112; and

8 (2) any interest earned on investment of
9 amounts in the Fund under section 114.

10 **SEC. 112. DEPOSITS TO FUND.**

11 (a) IN GENERAL.—For each of fiscal years 2017
12 through 2037, the Secretary of the Treasury shall deposit
13 in the Fund \$10,000,000 of the revenues that would oth-
14 erwise be deposited for the fiscal year in the reclamation
15 fund established by the first section of the Act of June
16 17, 1902 (32 Stat. 388, chapter 1093).

17 (b) AVAILABILITY OF AMOUNTS.—Amounts depos-
18 ited in the Fund under subsection (a) shall be used, sub-
19 ject to appropriation, to carry out this Act.

20 **SEC. 113. EXPENDITURES FROM FUND.**

21 (a) IN GENERAL.—Subject to subsection (b), for each
22 of fiscal years 2017 through 2037, the Secretary may, to
23 the extent provided in advance in appropriations Acts, ex-
24 pend from the Fund, in accordance with this Act, not more
25 than the sum of—

1 (1) \$10,000,000; and

2 (2) the amount of interest accrued in the Fund.

3 (b) **ADDITIONAL EXPENDITURES.**—The Secretary
4 may expend more than \$10,000,000 for any fiscal year
5 referred to in subsection (a) if the additional amounts are
6 available in the Fund as a result of a failure of the Sec-
7 retary to expend all of the amounts available under sub-
8 section (a) in 1 or more prior fiscal years.

9 **SEC. 114. INVESTMENTS OF AMOUNTS.**

10 (a) **IN GENERAL.**—The Secretary shall invest such
11 portion of the Fund as is not, in the judgment of the Sec-
12 retary, required to meet current withdrawals.

13 (b) **CREDITS TO FUND.**—The interest on, and the
14 proceeds from the sale or redemption of, any obligations
15 held in the Fund shall be credited to, and form a part
16 of, the Fund.

17 **SEC. 115. TRANSFERS OF AMOUNTS.**

18 (a) **IN GENERAL.**—The amounts required to be
19 transferred to the Fund under this subtitle shall be trans-
20 ferred at least monthly from the general fund of the
21 Treasury to the Fund on the basis of estimates made by
22 the Secretary of the Treasury.

23 (b) **ADJUSTMENTS.**—Proper adjustment shall be
24 made in amounts subsequently transferred to the extent

1 prior estimates are in excess of or less than the amounts
 2 required to be transferred.

3 **SEC. 116. TERMINATION.**

4 On September 30, 2037—

5 (1) the Fund shall terminate; and

6 (2) the unexpended and unobligated balance of
 7 the Fund shall be transferred to the reclamation
 8 fund established by the first section of the Act of
 9 June 17, 1902 (32 Stat. 388, chapter 1093).

10 **TITLE II—REPAIR, REPLACE-**
 11 **MENT, AND MAINTENANCE OF**
 12 **CERTAIN INDIAN DAMS**

13 **Subtitle A—Program Establishment**

14 **SEC. 201. REPAIR, REPLACEMENT, AND MAINTENANCE OF**
 15 **CERTAIN INDIAN DAMS.**

16 (a) **IN GENERAL.**—The Secretary shall establish a
 17 program to address the deferred maintenance needs of In-
 18 dian dams that—

19 (1) create flood risks or other risks to public or
 20 employee safety or natural or cultural resources; and

21 (2) unduly impede the management and effi-
 22 ciency of Indian dams.

23 (b) **FUNDING.**—

24 (1) **HIGH-HAZARD FUND.**—Consistent with sec-
 25 tion 102, the Secretary shall use or transfer to the

1 Bureau of Indian Affairs not less than \$22,750,000
2 of amounts in the High-Hazard Indian Dam Safety
3 Deferred Maintenance Fund, plus accrued interest,
4 for each of fiscal years 2017 through 2037 to carry
5 out maintenance, repair, and replacement activities
6 for 1 or more of the Indian dams described in sec-
7 tion 202(a).

8 (2) LOW-HAZARD FUND.—Consistent with sec-
9 tion 112, the Secretary shall use or transfer to the
10 Bureau of Indian Affairs not less than \$10,000,000
11 of amounts in the Low-Hazard Indian Dam Safety
12 Deferred Maintenance Fund, plus accrued interest,
13 for each of fiscal years 2017 through 2037 to carry
14 out maintenance, repair, and replacement activities
15 for 1 or more of the Indian dams described in sec-
16 tion 202(b).

17 (c) COMPLIANCE WITH DAM SAFETY POLICIES.—
18 Maintenance, repair, and replacement activities for Indian
19 dams under this Act shall be carried out in accordance
20 with the dam safety policies of the Director of the Bureau
21 of Indian Affairs established to carry out the Indian Dams
22 Safety Act of 1994 (25 U.S.C. 3801 et seq.).

1 **SEC. 202. ELIGIBLE DAMS.**

2 (a) HIGH HAZARD POTENTIAL DAMS.—The dams el-
3 igible for funding under section 201(b)(1) are Indian high
4 hazard potential dams in the United States that—

5 (1) are included in the safety of dams program
6 established pursuant to the Indian Dams Safety Act
7 of 1994 (25 U.S.C. 3801 et seq.); and

8 (2)(A)(i) are owned by the Federal Govern-
9 ment, as listed in the Federal inventory required by
10 Executive Order 13327 (40 U.S.C. 121 note; relat-
11 ing to Federal real property asset management); and

12 (ii) are managed by the Bureau of Indian
13 Affairs (including dams managed under con-
14 tracts or compacts pursuant to the Indian Self-
15 Determination and Education Assistance Act
16 (25 U.S.C. 450 et seq.)); or

17 (B) have deferred maintenance documented by
18 the Bureau of Indian Affairs.

19 (b) LOW HAZARD POTENTIAL DAMS.—The dams eli-
20 gible for funding under section 201(b)(2) are Indian low
21 hazard potential dams in the United States that, on the
22 date of enactment of this Act—

23 (1) are covered under the Indian Dams Safety
24 Act of 1994 (25 U.S.C. 3801 et seq.); and

25 (2)(A)(i) are owned by the Federal Govern-
26 ment, as listed in the Federal inventory required by

1 Executive Order 13327 (40 U.S.C. 121 note; relat-
2 ing to Federal real property asset management); and

3 (ii) are managed by the Bureau of Indian
4 Affairs (including dams managed under con-
5 tracts or compacts pursuant to the Indian Self-
6 Determination and Education Assistance Act
7 (25 U.S.C. 450 et seq.)); or

8 (B) have deferred maintenance documented by
9 the Bureau of Indian Affairs.

10 **SEC. 203. REQUIREMENTS AND CONDITIONS.**

11 Not later than 120 days after the date of enactment
12 of this Act and as a precondition to amounts being ex-
13 pended from the Fund to carry out this subtitle, the Sec-
14 retary, in consultation with representatives of affected In-
15 dian tribes, shall develop and submit to Congress—

16 (1) programmatic goals to carry out this sub-
17 title that—

18 (A) would enable the completion of repair-
19 ing, replacing, improving, or performing main-
20 tenance on Indian dams as expeditiously as
21 practicable, subject to the dam safety policies of
22 the Director of the Bureau of Indian Affairs es-
23 tablished to carry out the Indian Dams Safety
24 Act of 1994 (25 U.S.C. 3801 et seq.);

1 (B) facilitate or improve the ability of the
2 Bureau of Indian Affairs to carry out the mis-
3 sion of the Bureau of Indian Affairs in oper-
4 ating an Indian dam; and

5 (C) ensure that the results of government-
6 to-government consultation required under sec-
7 tion 204 be addressed; and

8 (2) funding prioritization criteria to serve as a
9 methodology for distributing funds under this sub-
10 title that take into account—

11 (A) the extent to which deferred mainte-
12 nance of Indian dams poses a threat to—

13 (i) public or employee safety or
14 health;

15 (ii) natural or cultural resources; or

16 (iii) the ability of the Bureau of In-
17 dian Affairs to carry out the mission of the
18 Bureau of Indian Affairs in operating an
19 Indian dam;

20 (B) the extent to which repairing, replac-
21 ing, improving, or performing maintenance on
22 an Indian dam will—

23 (i) improve public or employee safety,
24 health, or accessibility;

1 (ii) assist in compliance with codes,
2 standards, laws, or other requirements;

3 (iii) address unmet needs; or

4 (iv) assist in protecting natural or cul-
5 tural resources;

6 (C) the methodology of the rehabilitation
7 priority index of the Secretary, as in effect on
8 the date of enactment of this Act;

9 (D) the potential economic benefits of the
10 expenditures on job creation and general eco-
11 nomic development in the affected tribal com-
12 munities;

13 (E) the ability of an Indian dam to ad-
14 dress tribal, regional, and watershed level flood
15 prevention needs;

16 (F) the need to comply with the dam safe-
17 ty policies of the Director of the Bureau of In-
18 dian Affairs established to carry out the Indian
19 Dams Safety Act of 1994 (25 U.S.C. 3801 et
20 seq.);

21 (G) the ability of the water storage capac-
22 ity of an Indian dam to be increased to prevent
23 flooding in downstream tribal and nontribal
24 communities; and

1 (H) such other factors as the Secretary de-
2 termines to be appropriate to prioritize the use
3 of available funds that are, to the fullest extent
4 practicable, consistent with tribal and user rec-
5 ommendations received pursuant to the con-
6 sultation and input process under section 204.

7 **SEC. 204. TRIBAL CONSULTATION AND USER INPUT.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), before expending funds on an Indian dam pursuant
10 to section 201 and not later than 60 days after the date
11 of enactment of this Act, the Secretary shall—

12 (1) consult with the Director of the Bureau of
13 Indian Affairs on the expenditure of funds;

14 (2) ensure that the Director of the Bureau of
15 Indian Affairs advises the Indian tribe that has ju-
16 risdiction over the land on which a dam eligible to
17 receive funding under section 202 is located on the
18 expenditure of funds; and

19 (3) solicit and consider the input, comments,
20 and recommendations of the landowners served by
21 the Indian dam.

22 (b) EMERGENCIES.—If the Secretary determines that
23 an emergency circumstance exists with respect to an In-
24 dian dam, subsection (a) shall not apply with respect to
25 that Indian dam.

1 **SEC. 205. ALLOCATION AMONG DAMS.**

2 (a) IN GENERAL.—Subject to subsection (b), to the
3 maximum extent practicable, the Secretary shall ensure
4 that, for each of fiscal years 2017 through 2037, each In-
5 dian dam eligible for funding under section 202 that has
6 critical maintenance needs receives part of the funding
7 under section 201 to address critical maintenance needs.

8 (b) PRIORITY.—In allocating amounts under section
9 201(b), in addition to considering the funding priorities
10 described in section 203, the Secretary shall give priority
11 to Indian dams eligible for funding under section 202 that
12 serve—

13 (1) more than 1 Indian tribe within an Indian
14 reservation; or

15 (2) highly populated Indian communities, as de-
16 termined by the Secretary.

17 (c) CAP ON FUNDING.—

18 (1) IN GENERAL.—Subject to paragraph (2), in
19 allocating amounts under section 201(b), the Sec-
20 retary shall allocate not more than \$10,000,000 to
21 any individual dam described in section 202 during
22 any consecutive 3-year period.

23 (2) EXCEPTION.—Notwithstanding the cap de-
24 scribed in paragraph (1), if the full amount under
25 section 201(b) cannot be fully allocated to eligible
26 Indian dams because the costs of the remaining ac-

1 activities authorized in section 201(b) of an Indian
 2 dam would exceed the cap described in paragraph
 3 (1), the Secretary may allocate the remaining funds
 4 to eligible Indian dams in accordance with this sub-
 5 title.

6 (d) BASIS OF FUNDING.—Any amounts made avail-
 7 able under this section shall be nonreimbursable.

8 (e) APPLICABILITY OF ISDEAA.—The Indian Self-
 9 Determination and Education Assistance Act (25 U.S.C.
 10 450 et seq.) shall apply to activities carried out under this
 11 section.

12 **Subtitle B—Management**

13 **SEC. 211. TRIBAL SAFETY OF DAMS COMMITTEE.**

14 (a) ESTABLISHMENT OF COMMITTEE.—

15 (1) ESTABLISHMENT.—The Secretary of the In-
 16 terior shall establish within the Bureau of Indian Af-
 17 fairs the Tribal Safety of Dams Committee (referred
 18 to in this section as the “Committee”).

19 (2) MEMBERSHIP.—

20 (A) COMPOSITION.—The Committee shall
 21 be composed of 15 members, of whom—

22 (i) 11 shall be appointed by the Sec-
 23 retary of the Interior from among individ-
 24 uals who, to the maximum extent prac-
 25 ticable, have knowledge and expertise in

1 dam safety issues and flood prevention and
2 mitigation, of whom not less than 1 shall
3 be a member of an Indian tribe in each
4 of—

5 (I) the Intermountain West;

6 (II) the Great Plains;

7 (III) the Pacific Northwest;

8 (IV) the Southwest;

9 (V) the Southeast; and

10 (VI) the Northeast;

11 (ii) 2 shall be appointed by the Sec-
12 retary of the Interior from among employ-
13 ees of the Bureau of Indian Affairs who
14 have knowledge and expertise in dam safe-
15 ty issues and flood prevention and mitiga-
16 tion;

17 (iii) 1 shall be appointed by the Sec-
18 retary of the Interior from among employ-
19 ees of the Bureau of Reclamation who have
20 knowledge and expertise in dam safety
21 issues and flood prevention and mitigation;
22 and

23 (iv) 1 shall be appointed by the Sec-
24 retary of the Army from among employees
25 of the Corps of Engineers who have knowl-

1 edge and expertise in dam safety issues
2 and flood prevention and mitigation.

3 (B) NONVOTING MEMBERS.—The members
4 of the Committee appointed under clauses (ii)
5 and (iii) of subparagraph (A) shall be nonvoting
6 members.

7 (C) DATE.—The appointments of the
8 members of the Committee shall be made as
9 soon as practicable after the date of enactment
10 of this Act.

11 (3) PERIOD OF APPOINTMENT.—Members shall
12 be appointed for the life of the Committee.

13 (4) VACANCIES.—Any vacancy in the Com-
14 mittee shall not affect the powers of the Committee,
15 but shall be filled in the same manner as the origi-
16 nal appointment.

17 (5) INITIAL MEETING.—Not later than 30 days
18 after the date on which all members of the Com-
19 mittee have been appointed, the Committee shall
20 hold the first meeting.

21 (6) MEETINGS.—The Committee shall meet at
22 the call of the Chairperson.

23 (7) QUORUM.—A majority of the members of
24 the Committee shall constitute a quorum, but a less-
25 er number of members may hold hearings.

1 (8) CHAIRPERSON AND VICE CHAIRPERSON.—

2 The Committee shall select a Chairperson and Vice
3 Chairperson from among the members.

4 (b) DUTIES OF THE COMMITTEE.—

5 (1) STUDY.—The Committee shall conduct a
6 thorough study of all matters relating to the mod-
7 ernization of the Indian Dams Safety Act of 1994
8 (25 U.S.C. 3801 et seq.).

9 (2) RECOMMENDATIONS.—The Committee shall
10 develop recommendations for legislation to improve
11 the Indian Dams Safety Act of 1994 (25 U.S.C.
12 3801 et seq.).

13 (3) REPORT.—Not later than 1 year after the
14 date on which the Committee holds the first meet-
15 ing, the Committee shall submit a report containing
16 a detailed statement of the findings and conclusions
17 of the Committee, together with recommendations
18 for legislation that the Committee considers appro-
19 priate, to—

20 (A) the Committee on Indian Affairs of the
21 Senate; and

22 (B) the Committee on Natural Resources
23 of the House of Representatives.

24 (c) POWERS OF THE COMMITTEE.—

1 (1) HEARINGS.—The Committee may hold such
2 hearings, sit and act at such times and places, take
3 such testimony, and receive such evidence as the
4 Committee considers appropriate to carry out this
5 section.

6 (2) INFORMATION FROM FEDERAL AGENCIES.—

7 (A) IN GENERAL.—The Committee may
8 secure directly from any Federal department or
9 agency such information as the Committee con-
10 siders necessary to carry out this section.

11 (B) REQUEST.—On request of the Chair-
12 person of the Committee, the head of any Fed-
13 eral department or agency shall furnish infor-
14 mation described in subparagraph (A) to the
15 Committee.

16 (3) POSTAL SERVICES.—The Committee may
17 use the United States mails in the same manner and
18 under the same conditions as other departments and
19 agencies of the Federal Government.

20 (4) GIFTS.—The Committee may accept, use,
21 and dispose of gifts or donations of services or prop-
22 erty.

23 (d) COMMITTEE PERSONNEL MATTERS.—

24 (1) COMPENSATION OF MEMBERS.—

1 (A) NON-FEDERAL MEMBERS.—Each
2 member of the Committee who is not an officer
3 or employee of the Federal Government shall be
4 compensated at a rate equal to the daily equiva-
5 lent of the annual rate of basic pay prescribed
6 for level IV of the Executive Schedule under
7 section 5315 of title 5, United States Code, for
8 each day (including travel time) during which
9 the member is engaged in the performance of
10 the duties of the Committee.

11 (B) FEDERAL MEMBERS.—Each member
12 of the Committee who is an officer or employee
13 of the Federal Government shall serve without
14 compensation in addition to that received for
15 services as an officer or employee of the Federal
16 Government.

17 (2) TRAVEL EXPENSES.—The members of the
18 Committee shall be allowed travel expenses, includ-
19 ing per diem in lieu of subsistence, at rates author-
20 ized for employees of agencies under subchapter I of
21 chapter 57 of title 5, United States Code, while
22 away from their homes or regular places of business
23 in the performance of services for the Committee.

24 (3) STAFF.—

25 (A) IN GENERAL.—

1 (i) APPOINTMENT.—The Chairperson
2 of the Committee may, without regard to
3 the civil service laws and regulations, ap-
4 point and terminate an executive director
5 and such other additional personnel as
6 may be necessary to enable the Committee
7 to perform the duties of the Committee.

8 (ii) CONFIRMATION.—The employ-
9 ment of an executive director shall be sub-
10 ject to confirmation by the Committee.

11 (B) COMPENSATION.—The Chairperson of
12 the Committee may fix the compensation of the
13 executive director and other personnel without
14 regard to chapter 51 and subchapter III of
15 chapter 53 of title 5, United States Code, relat-
16 ing to classification of positions and General
17 Schedule pay rates, except that the rate of pay
18 for the executive director and other personnel
19 may not exceed the rate payable for level V of
20 the Executive Schedule under section 5316 of
21 that title.

22 (4) DETAIL OF GOVERNMENT EMPLOYEES.—
23 Any Federal Government employee may be detailed
24 to the Committee without reimbursement, and such

1 detail shall be without interruption or loss of civil
2 service status or privilege.

3 (5) PROCUREMENT OF TEMPORARY AND INTER-
4 MITTENT SERVICES.—The Chairperson of the Com-
5 mittee may procure temporary and intermittent serv-
6 ices under section 3109(b) of title 5, United States
7 Code, at rates for individuals that do not exceed the
8 daily equivalent of the annual rate of basic pay pre-
9 scribed for level V of the Executive Schedule under
10 section 5316 of that title.

11 (e) TERMINATION OF THE COMMITTEE.—The Com-
12 mittee shall terminate 90 days after the date on which
13 the Committee submits the report under subsection (b)(3).

14 (f) FUNDING.—Of the amounts authorized to be ex-
15 pended from either Fund, \$1,000,000 shall be made avail-
16 able from either Fund during fiscal year 2017 to carry
17 out this section, to remain available until expended.

18 **SEC. 212. INDIAN DAM SURVEYS.**

19 (a) TRIBAL REPORTS.—The Secretary shall request
20 that, not less frequently than once every 180 days, each
21 Indian tribe submit to the Secretary a report providing
22 an inventory of the dams located on the land of the Indian
23 tribe.

24 (b) BIA REPORTS.—Not less frequently than once
25 each year, the Secretary shall submit to Congress a report

1 describing the condition of each dam under the partial or
2 total jurisdiction of the Secretary.

3 **SEC. 213. FLOOD PLAIN MANAGEMENT PILOT PROGRAM.**

4 (a) ESTABLISHMENT.—The Secretary shall establish,
5 within the Bureau of Indian Affairs, a flood plain manage-
6 ment pilot program (referred to in this section as the “pro-
7 gram”) to provide, at the request of an Indian tribe, guid-
8 ance to the Indian tribe relating to best practices for the
9 mitigation and prevention of floods, including consultation
10 with the Indian tribe on—

- 11 (1) flood plain mapping; or
12 (2) new construction planning.

13 (b) TERMINATION.—The program shall terminate on
14 the date that is 4 years after the date of enactment of
15 this Act.

16 (c) FUNDING.—Of the amounts authorized to be ex-
17 pended from either Fund, \$250,000 shall be made avail-
18 able from either Fund during each of fiscal years 2017,
19 2018, and 2019 to carry out this section, to remain avail-
20 able until expended.

21 **SEC. 214. TRIBAL PARTNERSHIP PROGRAM.**

22 Section 203 of the Water Resources Development Act
23 of 2000 (33 U.S.C. 2269) is amended by striking sub-
24 sections (b) through (d) and inserting the following:

25 “(b) PROGRAM.—

1 “(1) IN GENERAL.—In coordination with the
2 heads of other appropriate Federal agencies, the
3 Secretary may provide, in accordance with this sub-
4 section, assistance to an Indian tribe with any activ-
5 ity relating to the feasibility, planning, design, or
6 construction of a water resources development
7 project that—

8 “(A) will substantially benefit an Indian
9 tribe; and

10 “(B) is located—

11 “(i) primarily within Indian country
12 (as defined in section 1151 of title 18,
13 United States Code, and including land
14 that is within the jurisdictional area of an
15 Oklahoma Indian tribe, as determined by
16 the Secretary of the Interior, and is recog-
17 nized by the Secretary of the Interior as el-
18 igitible for trust land status under part 151
19 of title 25, Code of Federal Regulations (or
20 a successor regulation)); or

21 “(ii) in proximity to an Alaska Native
22 village.

23 “(2) AUTHORIZED ACTIVITIES.—An activity
24 under paragraph (1) may address—

1 “(A) projects for flood damage reduction,
2 environmental restoration and protection, and
3 preservation of cultural and natural resources;

4 “(B) watershed assessments and planning
5 activities; and

6 “(C) such other projects as the Secretary,
7 in cooperation with Indian tribes and the heads
8 of other appropriate Federal agencies, deter-
9 mines to be appropriate.

10 “(3) DETAILED PROJECT REPORTS.—

11 “(A) IN GENERAL.—On request of an In-
12 dian tribe, the Secretary shall provide to the In-
13 dian tribe a report describing, in detail, the fea-
14 sibility and planning of a water resources devel-
15 opment project described in paragraph (1).

16 “(B) RECOMMENDATION.—A report under
17 subparagraph (A) may, but shall not be re-
18 quired to, contain a recommendation on a spe-
19 cific water resources development project.

20 “(C) FUNDING.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), the Secretary shall use funds made
23 available to the Secretary to provide a re-
24 port under subparagraph (A).

1 “(ii) LIMITATION.—The Secretary
2 may not use more than \$100,000 for any
3 1 report under subparagraph (A).

4 “(4) DESIGN AND CONSTRUCTION.—

5 “(A) IN GENERAL.—The Secretary may
6 provide assistance with the design and construc-
7 tion of a water resources development project
8 described in paragraph (1) without specific au-
9 thorization from Congress if the projected Fed-
10 eral share of the cost of the project is not more
11 than \$10,000,000.

12 “(B) SPECIFIC AUTHORIZATION.—A law of
13 Congress authorizing the Secretary to provide
14 assistance with the design and construction of
15 a specific water resources development project
16 described in paragraph (1) shall be required if
17 the projected Federal share of the cost of the
18 project is more than \$10,000,000.

19 “(5) CONTRACTS AND COMPACTS.—The Sec-
20 retary may enter into a contract or compact with 1
21 or more Indian tribes to conduct any activity under
22 paragraph (1).

23 “(c) CONSULTATION AND COORDINATION WITH SEC-
24 RETARY OF THE INTERIOR.—

1 “(1) IN GENERAL.—In recognition of the
2 unique role of the Secretary of the Interior con-
3 cerning trust responsibilities with Indian tribes and
4 in recognition of mutual trust responsibilities, the
5 Secretary shall consult with the Secretary of the In-
6 terior concerning any activity conducted under sub-
7 section (b).

8 “(2) INTEGRATION OF ACTIVITIES.—The Sec-
9 retary shall—

10 “(A) integrate civil works activities of the
11 Department of the Army with activities of the
12 Department of the Interior to avoid conflicts,
13 duplications of effort, or unanticipated adverse
14 effects on Indian tribes; and

15 “(B) consider the authorities and pro-
16 grams of the Department of the Interior and
17 other Federal agencies in any recommendation
18 concerning any activity conducted under sub-
19 section (b).

20 “(d) COST-SHARING.—

21 “(1) ABILITY TO PAY.—

22 “(A) IN GENERAL.—Any cost-sharing
23 agreement for any activity conducted under
24 subsection (b) shall be subject to the ability of
25 the non-Federal interest to pay.

1 “(B) USE OF PROCEDURES.—

2 “ (i) IN GENERAL.—The ability of a
3 non-Federal interest to pay shall be deter-
4 mined by the Secretary in accordance with
5 procedures established by the Secretary.

6 “ (ii) DETERMINATION.—Not later
7 than 180 days after the date of enactment
8 of the Water Resources Reform and Devel-
9 opment Act of 2014 (Public Law 113–
10 121), the Secretary shall issue guidance on
11 the procedures described in clause (i).

12 “(2) CREDIT.—The Secretary may credit to-
13 ward the non-Federal share of the costs of any activ-
14 ity conducted under subsection (b) the cost of serv-
15 ices, studies, supplies, or other in-kind contributions
16 provided by the non-Federal interest an amount
17 equal to not more than 100 percent of the cost-share
18 requirement of the non-Federal interest if the Sec-
19 retary determines that the services, studies, supplies,
20 or other in-kind contributions will facilitate comple-
21 tion of the study.

22 “(3) SOVEREIGN IMMUNITY.—The Secretary
23 shall not require an Indian tribe to waive the sov-
24 ereign immunity of the Indian tribe as a condition

1 to entering into a cost-sharing agreement under this
2 subsection.”.

3 **SEC. 215. COST-SHARING FOR INDIAN TRIBES.**

4 Section 1156 of the Water Resources Development
5 Act of 1986 (33 U.S.C. 2310) is amended—

6 (1) in the section heading, by inserting “**AND**
7 **INDIAN TRIBES**” after “**TERRITORIES**”; and

8 (2) in subsection (a)—

9 (A) by striking “projects in” and inserting
10 the following:

11 “projects—

12 “(1) in”;

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

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

16 “(2) for any Indian tribe (as defined in section
17 102 of the Federally Recognized Indian Tribe List
18 Act of 1994 (25 U.S.C. 479a)).”.

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