

Calendar No. 501

113TH CONGRESS
2D SESSION

S. 2132

[Report No. 113–224]

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

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2014

Mr. BARRASSO (for himself, Mr. HOEVEN, Mr. MCCAIN, Mr. THUNE, Mr. ENZI, Ms. MURKOWSKI, Mr. MORAN, Mr. WALSH, Mr. TESTER, Mrs. FISCHER, and Mr. UDALL of Colorado) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

JULY 30, 2014

Reported by Mr. TESTER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

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

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

1 **SECTION 1. SHORT TITLE.**

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

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.

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.

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)—

16 (A) in subparagraph (C), by striking

17 “and” after the semicolon;

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

(C) by adding at the end the following:

“(E) consult with each applicable Indian tribe before adopting or approving a well spacing program or plan applicable to the energy resources of that Indian tribe or the members of that Indian tribe.”; and

(2) by adding at the end the following:

“(4) PLANNING.—

“(A) IN GENERAL.—In carrying out the program established by paragraph (1), the Secretary shall provide technical assistance to interested Indian tribes to develop energy plans, including—

“(i) plans for electrification;

“(ii) plans for oil and gas permitting; renewable energy permitting; energy efficiency; electricity generation; transmission planning; water planning; and other planning relating to energy issues;

“(iii) plans for the development of energy resources and to ensure the protection of natural, historic, and cultural resources; and

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

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

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

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

16 (2) by redesignating subparagraphs (C) and
 17 (D) as subparagraphs (D) and (E), respectively; and

18 (3) by inserting after subparagraph (B) the fol-
 19 lowing:

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

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

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

4 (2) in paragraph (3)—

5 (A) in the matter preceding subparagraph
6 (A), by striking “guarantee” and inserting
7 “guaranteed”;

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

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

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

12 “(C) a tribal energy development organiza-
13 tion, from funds of the tribal energy develop-
14 ment organization.”; and

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

21 **SEC. 102. INDIAN TRIBAL ENERGY RESOURCE REGULA-**
22 **TION.**

23 Section 2603(e) of the Energy Policy Act of 1992 (25
24 U.S.C. 3503(e)) is amended—

1 (1) in paragraph (1), by striking “on the re-
 2 request of an Indian tribe, the Indian tribe” and in-
 3 serting “on the request of an Indian tribe or a tribal
 4 energy development organization, the Indian tribe or
 5 tribal energy development organization”; and

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

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

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

12 (1) in subsection (a)—

13 (A) in paragraph (1)—

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

16 (ii) in subparagraph (B)—

17 (I) by striking clause (i) and in-
 18 serting the following:

19 “(i) an electric production, generation,
 20 transmission, or distribution facility (in-
 21 cluding a facility that produces electricity
 22 from renewable energy resources) located
 23 on tribal land; or”; and

24 (II) in clause (ii)—

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

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

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

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

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

24 (B) by striking paragraph (2) and insert-
25 ing the following:

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

6 “(A) was executed—

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

15 “(ii) by the Indian tribe and a tribal
 16 energy development organization—

17 “(I) for which the Indian tribe
 18 has obtained certification pursuant to
 19 subsection (h); and

20 “(II) the majority of the interest
 21 in which is, and continues to be
 22 throughout the full term or renewal
 23 term (if any) of the lease or business
 24 agreement, owned and controlled by
 25 the Indian tribe (or the Indian tribe

1 and 1 or more other Indian tribes);

2 and

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

4 “(i) 30 years; or

5 “(ii) in the case of a lease for the pro-

6 duction of oil resources, gas resources, or

7 both, 10 years and as long thereafter as oil

8 or gas is produced in paying quantities.”;

9 (2) by striking subsection (b) and inserting the
10 following:

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

14 “(1) serves—

15 “(A) an electric production, generation,
16 transmission, or distribution facility (including
17 a facility that produces electricity from renew-
18 able energy resources) located on tribal land;

19 “(B) a facility located on tribal land that
20 extracts, produces, processes, or refines energy
21 resources; or

22 “(C) the purposes, or facilitates in car-
23 rying out the purposes, of any lease or agree-
24 ment entered into for energy resource develop-
25 ment on tribal land; and

1 ~~“(2) was executed—~~

2 ~~“(A) in accordance with the requirements~~
 3 ~~of a tribal energy resource agreement in effect~~
 4 ~~under subsection (e) (including the periodic re-~~
 5 ~~view and evaluation of the activities of the In-~~
 6 ~~dian tribe under the agreement, to be conducted~~
 7 ~~pursuant to subparagraphs (D) and (E) of sub-~~
 8 ~~section (e)(2)); or~~

9 ~~“(B) by the Indian tribe and a tribal en-~~
 10 ~~ergy development organization—~~

11 ~~“(i) for which the Indian tribe has ob-~~
 12 ~~tained certification pursuant to subsection~~
 13 ~~(h); and~~

14 ~~“(ii) the majority of the interest in~~
 15 ~~which is, and continues to be throughout~~
 16 ~~the full term or renewal term (if any) of~~
 17 ~~the right-of-way, owned and controlled by~~
 18 ~~the Indian tribe (or the Indian tribe and 1~~
 19 ~~or more other Indian tribes); and~~

20 ~~“(3) has a term that does not exceed 30~~
 21 ~~years.”;~~

22 ~~(3) by striking subsection (d) and inserting the~~
 23 ~~following:~~

24 ~~“(d) VALIDITY.—No lease or business agreement en-~~
 25 ~~tered into, or right-of-way granted, pursuant to this sec-~~

1 tion shall be valid unless the lease, business agreement,
 2 or right-of-way is authorized by subsection (a) or (b).”;

3 ~~(4) in subsection (c)—~~

4 ~~(A) in paragraph (2)—~~

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

8 ~~“(2) PROCEDURE.—~~

9 ~~“(A) EFFECTIVE DATE.—~~

10 ~~“(i) IN GENERAL.—On the date that~~
 11 ~~is 271 days after the date on which the~~
 12 ~~Secretary receives a tribal energy resource~~
 13 ~~agreement from an Indian tribe under~~
 14 ~~paragraph (1), the tribal energy resource~~
 15 ~~agreement shall take effect, unless the Sec-~~
 16 ~~retary disapproves the tribal energy re-~~
 17 ~~source agreement under subparagraph (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 an Indian tribe~~
 23 ~~under paragraph (4)(B), the revised tribal~~
 24 ~~energy resource agreement shall take ef-~~
 25 ~~fect, unless the Secretary disapproves the~~

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

(ii) in subparagraph (B)—

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

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

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

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

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

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

1 “(ii) a provision of the tribal energy
2 resource agreement would violate applica-
3 ble Federal law (including regulations) or
4 a treaty applicable to the Indian tribe;

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

8 (V) in clause (iv) (as redesign-
9 nated by subclause (III))—

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

20 (bb) in subclause (XVI)(bb),
21 by striking “or tribal”;

22 (iii) in subparagraph (C)—

23 (I) in the matter preceding clause
24 (i), by inserting “the approval of”
25 after “with respect to”;

1 (II) by striking clause (ii) and in-
 2 serting the following:

3 “(ii) the identification of mitigation
 4 measures, if any, that, in the discretion of
 5 the Indian tribe, the Indian tribe might
 6 propose for incorporation into the lease,
 7 business agreement, or right-of-way”;

8 (III) in clause (iii)(I), by striking
 9 “proposed action” and inserting “ap-
 10 proval of the lease, business agree-
 11 ment, or right-of-way”;

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

14 (V) in clause (v), by striking the
 15 period at the end and inserting “;
 16 and”; and

17 (VI) by adding at the end the fol-
 18 lowing:

19 “(vi) the identification of specific
 20 classes or categories of actions, if any, de-
 21 termined by the Indian tribe not to have
 22 significant environmental effects.”;

23 (iv) in subparagraph (D)(ii), by strik-
 24 ing “subparagraph (B)(iii)(XVI)” and in-
 25 serting “subparagraph (B)(iv)(XV)”; and

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

2 “(F) A tribal energy resource agreement
3 that takes effect pursuant to this subsection
4 shall remain in effect to the extent any provi-
5 sion of the tribal energy resource agreement is
6 consistent with applicable Federal law (includ-
7 ing regulations), unless the tribal energy re-
8 source agreement is—

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

11 “(ii) voluntarily rescinded by the In-
12 dian tribe pursuant to the regulations pro-
13 mulgated under paragraph (8)(B) (or suc-
14 cessor regulations).

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

24 “(ii) Any determination that the Indian
25 tribe lacks the requisite capacity shall be treat-

ed as a disapproval under paragraph (4) and,
not later than 10 days after the date of the de-
termination, the Secretary shall provide to the
Indian tribe—

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

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

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

“(i) the Secretary determines that—

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

1 “(H) for a period of not less than
 2 3 consecutive years ending on the date
 3 on which the Indian tribe submits the
 4 tribal energy resource agreement of
 5 the Indian tribe pursuant to para-
 6 graph (1) or (4)(B), the contract or
 7 compact—

8 “(aa) has been carried out
 9 by the Indian tribe without mate-
 10 rial audit exceptions (or without
 11 any material audit exceptions
 12 that were not corrected within
 13 the 3-year period); and

14 “(bb) has included programs
 15 or activities relating to the man-
 16 agement of tribal land; or

17 “(ii) the Secretary fails to make the
 18 determination within the time allowed
 19 under subparagraph (G)(i) (including any
 20 extension of time agreed to under that sub-
 21 paragraph).”;

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

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

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

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

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

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

11 (C) in paragraph (6)—

12 (i) in subparagraph (B)—

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

15 “(B) Subject only to”; and

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

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

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

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

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

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

14 (D) in paragraph (7)—

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

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

23 (iii) in subparagraph (D)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 ~~“(3) EFFECT OF APPROPRIATIONS.—Notwith-~~
 8 standing paragraph ~~(1)~~—

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

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

17 ~~“(4) DETERMINATION.—~~

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

24 ~~“(B) APPLICABILITY.—The effective date~~
 25 or implementation of a tribal energy resource

agreement under this section shall not be delayed or otherwise affected by—

“(i) a delay in the promulgation of regulations under section 103(b) of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2014;

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

“(iii) the adoption of a funding agreement under paragraph (2).

“(h) CERTIFICATION OF TRIBAL ENERGY DEVELOPMENT ORGANIZATION.—

“(1) IN GENERAL.—Not later than 90 days after the date on which an Indian tribe submits an application for certification of a tribal energy development organization in accordance with regulations promulgated under section 103(b) of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2014, the Secretary shall approve or disapprove the application.

“(2) REQUIREMENTS.—The Secretary shall approve an application for certification if—

“(A)(i) the Indian tribe has carried out a contract or compact under title I or IV of the

1 Indian Self-Determination and Education As-
2 sistence Act (25 U.S.C. 450 et seq.); and

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

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

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

15 “(B)(i) the tribal energy development orga-
16 nization is organized under the laws of the In-
17 dian tribe and subject to the jurisdiction and
18 authority of the Indian tribe;

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

24 “(iii) the organizing document of the tribal
25 energy development organization requires that

the Indian tribe (or the Indian tribe and 1 or more other Indian tribes) own and control at all times a majority of the interest in the tribal energy development organization.

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

~~“(A) issue a certification stating that—~~

~~“(i) the tribal energy development organization is organized under the laws of the Indian tribe and subject to the jurisdiction and authority of the Indian tribe;~~

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

~~“(iii) the organizing document of the tribal energy development organization requires that the Indian tribe (or the Indian tribe and 1 or more other Indian tribes) own and control at all times a majority of the interest in the tribal energy development organization; and~~

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

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

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

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

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

15 (1) section 2604(g) of the Energy Policy Act of
16 1992 (25 U.S.C. 3504(g)) including the manner in
17 which the Secretary, at the request of an Indian
18 tribe, shall—

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

(B) identify the amounts that the Secretary would have otherwise expended to operate or carry out each program, function, service, and activity (or any portion of a program, function, service, or activity) identified pursuant to subparagraph (A); and

(C) provide to the Indian tribe a list of the programs, functions, services, and activities (or any portions of programs, functions, services, or activities) identified pursuant subparagraph (A) and the amounts associated with each program, function, service, and activity (or any portion of a program, function, service, or activity) identified pursuant to subparagraph (B); and

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

SEC. 104. TECHNICAL ASSISTANCE FOR INDIAN TRIBAL GOVERNMENTS.

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

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

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

3 ~~“(3) TECHNICAL AND SCIENTIFIC RE-~~
4 ~~SOURCES.—~~In addition to providing grants to Indian
5 tribes under this subsection, the Secretary shall col-
6 laborate with the Directors of the National Labora-
7 tories in making the full array of technical and sci-
8 entific resources of the Department of Energy avail-
9 able for tribal energy activities and projects.”.

10 **SEC. 105. CONFORMING AMENDMENTS.**

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

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

17 ~~“(A) any enterprise, partnership, consor-~~
18 ~~tium, corporation, or other type of business or-~~
19 ~~ganization that is engaged in the development~~
20 ~~of energy resources and is wholly owned by an~~
21 ~~Indian tribe (including an organization incor-~~
22 ~~porated pursuant to section 17 of the Indian~~
23 ~~Reorganization Act of 1934 (25 U.S.C. 477) or~~
24 ~~section 3 of the Act of June 26, 1936 (25~~

U.S.C. 503) (commonly known as the ‘Oklahoma Indian Welfare Act’)); or

“(B) any organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602 or to enter into a lease or business agreement with, or acquire a right-of-way from, an Indian tribe pursuant to subsection (a)(2)(A)(ii) or (b)(2)(B) of section 2604.”.

(b) INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.—Section 2602 of the Energy Policy Act of 1992 (25 U.S.C. 3502) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “tribal energy resource development organizations” and inserting “tribal energy development organizations”; and

(B) in paragraph (2), by striking “tribal energy resource development organizations” each place it appears and inserting “tribal energy development organizations”; and

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

4 (c) WIND AND HYDROPOWER FEASIBILITY STUDY.—

5 Section 2606(c)(3) of the Energy Policy Act of 1992 (25
 6 U.S.C. 3506(c)(3)) is amended by striking “energy re-
 7 source development” and inserting “energy development”.

8 (d) CONFORMING AMENDMENTS.—Section 2604(e)
 9 of the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is
 10 amended—

11 (1) in paragraph (1)—

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

14 “(1) IN GENERAL.—On the date”; and

15 (B) by striking “for approval”;

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

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

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

21 (C) by redesignating subclause (XVI) as
 22 subclause (XV);

23 (3) in paragraph (3)—

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

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

3 (B) by striking ~~“for approval”~~;

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

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

8 (5) in paragraph (5)—

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

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

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

16 (6) in paragraph (6)—

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

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

21 ~~“(A) In carrying out”~~;

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

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

1 ~~(D)~~ in subparagraph ~~(D)~~—

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

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

10 ~~(7)~~ in paragraph ~~(7)~~—

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

13 “~~(7)~~ PETITIONS BY INTERESTED PARTIES.—

14 “(A) In this paragraph”;

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

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

21 ~~(D)~~ in subparagraph ~~(D)~~(iii)—

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

24 (ii) in subclause (II)—

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

6 **TITLE II—MISCELLANEOUS** 7 **AMENDMENTS**

8 **SEC. 201. ISSUANCE OF PRELIMINARY PERMITS OR LI-** 9 **CENSES.**

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

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

16 (1) any preliminary permit or original license
 17 issued before the date of enactment of the Indian
 18 Tribal Energy Development and Self-Determination
 19 Act Amendments of 2014; or

20 (2) an application for an original license, if the
 21 Commission has issued a notice accepting that appli-
 22 cation for filing pursuant to section 4.32(d) of title
 23 18, Code of Federal Regulations (or successor regu-
 24 lations), before the date of enactment of the Indian

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

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

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

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

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

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

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

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

21 ~~“(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREE-~~
22 ~~MENTS.~~—For each of fiscal years 2015 through 2019, the
23 Secretary shall enter into stewardship contracts or similar
24 agreements (excluding direct service contracts) with In-
25 dian tribes to carry out demonstration projects to promote

1 biomass energy production (including biofuel, heat, and
 2 electricity generation) on Indian forest land and in nearby
 3 communities by providing reliable supplies of woody bio-
 4 mass from Federal land.

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

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

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

15 “(2) that includes a description of—

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

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

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

22 “(1) take into consideration—

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

25 “(B) whether a proposed project would—

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

3 “(ii) enhance the economic develop-
4 ment of the Indian tribe;

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

9 “(iv) improve the forest health or wa-
10 tersheds of Federal land or Indian forest
11 land or rangeland;

12 “(v) demonstrate new investments in
13 infrastructure; or

14 “(vi) otherwise promote the use of
15 woody biomass; and

16 “(2) exclude from consideration any merchant-
17 able logs that have been identified by the Secretary
18 for commercial sale.

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

20 “(1) ensure that the criteria described in sub-
21 section (e) are publicly available by not later than
22 120 days after the date of enactment of this section;
23 and

24 “(2) to the maximum extent practicable, consult
25 with Indian tribes and appropriate intertribal orga-

1 nizations likely to be affected in developing the ap-
 2 plication and otherwise carrying out this section.

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

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

8 “(2) each contract and agreement entered into
 9 pursuant to this section.

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

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

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

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

24 “(c) ALASKA NATIVE CORPORATION BIOMASS DEM-
 25 ONSTRATION PROJECT.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) ALASKA NATIVE CORPORATION.—The
3 term “Alaska Native corporation” has the
4 meaning given the term “Native Corporation”
5 in section 3 of the Alaska Native Claims Settle-
6 ment Act (~~43~~ U.S.C. 1602).

7 (B) FEDERAL LAND.—The term “Federal
8 land” means—

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

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

23 (C) FOREST LAND.—The term “forest
24 land” means land that—

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

(ii)(I) is considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover (including commercial and noncommercial timberland and woodland), regardless of whether a formal inspection and land classification action has been taken; or

(II) formerly had a forest or vegetative cover that is capable of restoration.

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

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

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

(2) AGREEMENTS.—For each of fiscal years 2015 through 2019, the Secretary shall enter into a stewardship contract or similar agreement (excluding

1 a direct service contract) with 1 or more Alaska Na-
 2 tive corporations to carry out a demonstration
 3 project to promote biomass energy production (in-
 4 cluding biofuel, heat, and electricity generation) on
 5 forest land of the Alaska Native corporations and in
 6 nearby communities by providing reliable supplies of
 7 woody biomass from Federal land.

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

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

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

20 (B) that includes a description of—

21 (i) the forest land or rangeland under
 22 the jurisdiction of the Alaska Native cor-
 23 poration; and

1 (ii) the demonstration project pro-
2 posed to be carried out by the Alaska Na-
3 tive corporation.

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

7 (A) take into consideration whether a pro-
8 posed project would—

9 (i) increase the availability or reli-
10 ability of local or regional energy;

11 (ii) enhance the economic development
12 of the Alaska Native corporation;

13 (iii) result in or improve the connec-
14 tion of electric power transmission facilities
15 serving the Alaska Native corporation with
16 other electric transmission facilities;

17 (iv) improve the forest health or wa-
18 tersheds of Federal land or Alaska Native
19 corporation forest land or rangeland;

20 (v) demonstrate new investments in
21 infrastructure; or

22 (vi) otherwise promote the use of
23 woody biomass; and

1 ~~(B)~~ exclude from consideration any mer-
 2 chantable logs that have been identified by the
 3 Secretary for commercial sale.

4 ~~(6)~~ IMPLEMENTATION.—The Secretary shall—

5 ~~(A)~~ ensure that the criteria described in
 6 paragraph ~~(4)~~ are publicly available by not later
 7 than 120 days after the date of enactment of
 8 this subsection; and

9 ~~(B)~~ to the maximum extent practicable;
 10 consult with Alaska Native corporations and ap-
 11 propriate Alaska Native organizations likely to
 12 be affected in developing the application and
 13 otherwise carrying out this subsection.

14 ~~(7)~~ REPORT.—Not later than September 20,
 15 2017, the Secretary shall submit to Congress a re-
 16 port that describes, with respect to the reporting pe-
 17 riod—

18 ~~(A)~~ each individual application received
 19 under this subsection; and

20 ~~(B)~~ each contract and agreement entered
 21 into pursuant to this subsection.

22 ~~(8)~~ TERM.—A contract or agreement entered
 23 into under this subsection—

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

1 ~~(B)~~ may be renewed in accordance with
 2 this subsection for not more than an additional
 3 ~~10~~ years.

4 **SEC. 203. WEATHERIZATION PROGRAM.**

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

7 ~~(1)~~ by striking paragraph ~~(1)~~ and inserting the
 8 following:

9 ~~“(1) RESERVATION OF AMOUNTS.—~~

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

22 ~~“(B) RESTRICTIONS.—~~Subparagraph ~~(A)~~
 23 shall apply only if—

24 ~~“(i) the tribal organization serving the~~
 25 low-income members of the applicable In-

1 dian tribe requests that the Secretary
2 make a grant directly; and

3 “(ii) the Secretary determines that
4 the low-income members of the applicable
5 Indian tribe would be equally or better
6 served by making a grant directly than a
7 grant made to the State in which the low-
8 income members reside.”;

9 ~~(2) in paragraph (2)—~~

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

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

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

17 (D) by striking “he” and inserting “the
18 Secretary”; and

19 ~~(3) in paragraph (3), by striking “In order”~~
20 and inserting “APPLICATION.—In order”.

21 **SEC. 204. APPRAISALS.**

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

1 **~~“SEC. 2607. APPRAISALS.~~**

2 ~~“(a) IN GENERAL.—For any transaction that re-~~
 3 ~~quires approval of the Secretary and involves mineral or~~
 4 ~~energy resources held in trust by the United States for~~
 5 ~~the benefit of an Indian tribe or by an Indian tribe subject~~
 6 ~~to Federal restrictions against alienation, any appraisal~~
 7 ~~relating to fair market value of those resources required~~
 8 ~~to be prepared under applicable law may be prepared by—~~

9 ~~“(1) the Secretary;~~

10 ~~“(2) the affected Indian tribe; or~~

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

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

18 ~~“(1) review the appraisal; and~~

19 ~~“(2) approve the appraisal unless the Secretary~~
 20 ~~determines that the appraisal fails to meet the~~
 21 ~~standards set forth in regulations promulgated~~
 22 ~~under subsection (d).~~

23 ~~“(c) NOTICE OF DISAPPROVAL.—If the Secretary de-~~
 24 ~~termines that an appraisal submitted for approval under~~
 25 ~~subsection (b) should be disapproved, the Secretary shall~~

1 give written notice of the disapproval to the Indian tribe
2 and a description of—

3 ~~“(1) each reason for the disapproval; and~~

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

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

12 **SEC. 205. LEASES OF RESTRICTED LANDS FOR NAVAJO NA-**
13 **TION.**

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

18 ~~(1) by striking “, except a lease for” and insert-~~
19 ~~ing “, including a lease for”;~~

20 ~~(2) by striking subparagraph (A) and inserting~~
21 ~~the following:~~

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

24 ~~(3) in subparagraph (B), by striking the period~~
25 ~~at the end and inserting “, and”; and~~

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

2 “(C) in the case of a lease for the explo-
3 ration, development, or extraction of any min-
4 eral resource (including geothermal resources);
5 25 years, except that—

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

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

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

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the “Indian Tribal Energy*
24 *Development and Self-Determination Act Amendments of*
25 *2014”.*

1 **SEC. 2. TABLE OF CONTENTS.**

2 *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. Indian energy efficiency.

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.

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

7 **SEC. 101. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**
8 **MENT.**

9 *(a) IN GENERAL.—Section 2602(a) of the Energy Pol-*
10 *icy Act of 1992 (25 U.S.C. 3502(a)) is amended—*

11 *(1) in paragraph (2)—*

12 *(A) in subparagraph (C), by striking “and”*
13 *after the semicolon;*

14 *(B) in subparagraph (D), by striking the*
15 *period at the end and inserting “; and”; and*

16 *(C) by adding at the end the following:*

1 “(E) consult with each applicable Indian
 2 tribe before adopting or approving a well spac-
 3 ing program or plan applicable to the energy re-
 4 sources of that Indian tribe or the members of
 5 that Indian tribe.”; and

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

7 “(4) PLANNING.—

8 “(A) IN GENERAL.—In carrying out the
 9 program established by paragraph (1), the Sec-
 10 retary shall provide technical assistance to inter-
 11 ested Indian tribes to develop energy plans, in-
 12 cluding—

13 “(i) plans for electrification;

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

19 “(iii) plans for the development of en-
 20 ergy resources and to ensure the protection
 21 of natural, historic, and cultural resources;
 22 and

23 “(iv) any other plans that would assist
 24 an Indian tribe in the development or use
 25 of energy resources.

1 “(B) *COOPERATION.*—*In establishing the*
 2 *program under paragraph (1), the Secretary*
 3 *shall work in cooperation with the Office of In-*
 4 *Indian Energy Policy and Programs of the De-*
 5 *partment of Energy.*”.

6 (b) *DEPARTMENT OF ENERGY INDIAN ENERGY EDU-*
 7 *CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-*
 8 *GRAM.*—*Section 2602(b)(2) of the Energy Policy Act of*
 9 *1992 (25 U.S.C. 3502(b)(2)) is amended—*

10 (1) *in the matter preceding subparagraph (A),*
 11 *by inserting “, intertribal organization,” after “In-*
 12 *Indian tribe”;*

13 (2) *by redesignating subparagraphs (C) and (D)*
 14 *as subparagraphs (D) and (E), respectively; and*

15 (3) *by inserting after subparagraph (B) the fol-*
 16 *lowing:*

17 “(C) *activities to increase the capacity of*
 18 *Indian tribes to manage energy development and*
 19 *energy efficiency programs;*”.

20 (c) *DEPARTMENT OF ENERGY LOAN GUARANTEE PRO-*
 21 *GRAM.*—*Section 2602(c) of the Energy Policy Act of 1992*
 22 *(25 U.S.C. 3502(c)) is amended—*

23 (1) *in paragraph (1), by inserting “or a tribal*
 24 *energy development organization” after “Indian*
 25 *tribe”;*

1 (2) in paragraph (3)—

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

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

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

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

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

12 (3) in paragraph (5), by striking “The Secretary
13 of Energy may” and inserting “Not later than 1 year
14 after the date of enactment of the Indian Tribal En-
15 ergy Development and Self-Determination Act
16 Amendments of 2014, the Secretary of Energy shall”.

17 **SEC. 102. INDIAN TRIBAL ENERGY RESOURCE REGULATION.**

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

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

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

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

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

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

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

11 (ii) in subparagraph (B)—

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

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

19 (II) in clause (ii)—

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

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

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

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

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

17 (B) by striking paragraph (2) and inserting
 18 the following:

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

24 “(A) was executed—

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

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

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

13 “(II) the majority of the interest
 14 in which is, and continues to be
 15 throughout the full term or renewal
 16 term (if any) of the lease or business
 17 agreement, owned and controlled by the
 18 Indian tribe (or the Indian tribe and
 19 1 or more other Indian tribes the tribal
 20 land of which is being developed); and
 21 “(B) has a term that does not exceed—

22 “(i) 30 years; or

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

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

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

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

8 “(1) serves—

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

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

16 “(C) the purposes, or facilitates in carrying
17 out the purposes, of any lease or agreement en-
18 tered into for energy resource development on
19 tribal land; and

20 “(2) was executed—

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

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

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

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

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

15 “(3) has a term that does not exceed 30 years.”;
 16 (3) by striking subsection (d) and inserting the
 17 following:

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

22 (4) in subsection (e)—

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

1 “(1) *IN GENERAL*.—On or after the date of en-
 2 actment of the Indian Tribal Energy Development
 3 and Self-Determination Act Amendments of 2014, an
 4 Indian tribe may submit to the Secretary a tribal en-
 5 ergy resource agreement governing leases, business
 6 agreements, and rights-of-way under this section.”;

7 (B) in paragraph (2)—

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

11 “(2) *PROCEDURE*.—

12 “(A) *EFFECTIVE DATE*.—

13 “(i) *IN GENERAL*.—On the date that is
 14 271 days after the date on which the Sec-
 15 retary receives a tribal energy resource
 16 agreement from an Indian tribe under
 17 paragraph (1), the tribal energy resource
 18 agreement shall take effect, unless the Sec-
 19 retary disapproves the tribal energy re-
 20 source agreement under subparagraph (B).

21 “(ii) *REVISED TRIBAL ENERGY RE-*
 22 *SOURCE AGREEMENT*.—On the date that is
 23 91 days after the date on which the Sec-
 24 retary receives a revised tribal energy re-
 25 source agreement from an Indian tribe

under paragraph (4)(B), the revised tribal energy resource agreement shall take effect, unless the Secretary disapproves the revised tribal energy resource agreement under subparagraph (B).”;

(ii) in subparagraph (B)—

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

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

(II) by striking clause (i) and inserting the following:

“(i) the Secretary determines that the Indian tribe has not demonstrated that the Indian tribe has sufficient capacity to regulate the development of the specific 1 or more energy resources identified for development under the tribal energy resource agreement submitted by the Indian tribe;”;

(III) by redesignating clause (iii) as clause (iv) and indenting appropriately;

1 (IV) *by striking clause (ii) and*
 2 *inserting the following:*

3 “(ii) *a provision of the tribal energy*
 4 *resource agreement would violate applicable*
 5 *Federal law (including regulations) or a*
 6 *treaty applicable to the Indian tribe;*

7 “(iii) *the tribal energy resource agree-*
 8 *ment does not include 1 or more provisions*
 9 *required under subparagraph (D); or”;* and
 10 (V) *in clause (iv) (as redesignated*
 11 *by subclause (III))—*

12 (aa) *in the matter preceding*
 13 *subclause (I), by striking “in-*
 14 *cludes” and all that follows*
 15 *through “section—” and inserting*
 16 *“does not include provisions that,*
 17 *with respect to any lease, business*
 18 *agreement, or right-of-way to*
 19 *which the tribal energy resource*
 20 *agreement applies—”;* and

21 (bb) *in subclause (XVI)(bb),*
 22 *by striking “or tribal”;*
 23 (iii) *in subparagraph (C)—*

1 (I) in the matter preceding clause
 2 (i), by inserting “the approval of”
 3 after “with respect to”;

4 (II) by striking clause (ii) and in-
 5 serting the following:

6 “(ii) the identification of mitigation
 7 measures, if any, that, in the discretion of
 8 the Indian tribe, the Indian tribe might
 9 propose for incorporation into the lease,
 10 business agreement, or right-of-way.”;

11 (III) in clause (iii)(I), by striking
 12 “proposed action” and inserting “ap-
 13 proval of the lease, business agreement,
 14 or right-of-way”;

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

17 (V) in clause (v), by striking the
 18 period at the end and inserting “;
 19 and”; and

20 (VI) by adding at the end the fol-
 21 lowing:

22 “(vi) the identification of specific class-
 23 es or categories of actions, if any, deter-
 24 mined by the Indian tribe not to have sig-
 25 nificant environmental effects.”;

(iv) in subparagraph (D)(ii), by striking “subparagraph (B)(iii)(XVI)” and inserting “subparagraph (B)(iv)(XV)”; and

(v) by adding at the end the following:

“(F) A tribal energy resource agreement that takes effect pursuant to this subsection shall remain in effect to the extent any provision of the tribal energy resource agreement is consistent with applicable Federal law (including regulations), unless the tribal energy resource agreement is—

“(i) rescinded by the Secretary pursuant to paragraph (7)(D)(iii)(II); or

“(ii) voluntarily rescinded by the Indian tribe pursuant to the regulations promulgated under paragraph (8)(B) (or successor regulations).

“(G)(i) The Secretary shall make a preliminary capacity determination under subparagraph (B)(i) not later than 120 days after the date on which the Indian tribe submits to the Secretary the tribal energy resource agreement of the Indian tribe pursuant to paragraph (1), unless the Secretary and the Indian tribe mutually

1 *agree to an extension of the time period for mak-*
2 *ing the determination.*

3 “(ii) *Any determination (including any*
4 *preliminary determination) that the Indian tribe*
5 *lacks the requisite capacity shall be treated as a*
6 *disapproval under paragraph (4) and, not later*
7 *than 10 days after the date of the determination,*
8 *the Secretary shall provide to the Indian tribe—*

9 “(I) *a detailed, written explanation of*
10 *each reason for the determination; and*

11 “(II) *a description of the steps that the*
12 *Indian tribe should take to demonstrate suf-*
13 *ficient capacity.*

14 “(H) *Notwithstanding any other provision*
15 *of this section, an Indian tribe shall be consid-*
16 *ered to have demonstrated sufficient capacity*
17 *under subparagraph (B)(i) to regulate the devel-*
18 *opment of the specific 1 or more energy resources*
19 *of the Indian tribe identified for development*
20 *under the tribal energy resource agreement sub-*
21 *mitted by the Indian tribe pursuant to para-*
22 *graph (1) if—*

23 “(i) *the Secretary determines that—*

24 “(I)(aa) *the Indian tribe has car-*
25 *ried out a contract or compact under*

1 *title I or IV of the Indian Self-Deter-*
2 *mination and Education Assistance*
3 *Act (25 U.S.C. 450 et seq.); and*

4 “(bb) for a period of not less than
5 3 consecutive years ending on the date
6 on which the Indian tribe submits the
7 tribal energy resource agreement of the
8 Indian tribe pursuant to paragraph
9 (1) or (4)(B), the contract or com-
10 pact—

11 “(AA) has been carried out
12 by the Indian tribe without mate-
13 rial audit exceptions (or without
14 any material audit exceptions
15 that were not corrected within the
16 3-year period); and

17 “(BB) has included pro-
18 grams or activities relating to the
19 management of the environment,
20 tribal land, realty, or natural re-
21 sources; or

22 “(II) the Indian tribe has carried
23 out approval of surface leases under
24 subsection (h) of the first section of the
25 Act of August 9, 1955 (commonly

1 *known as the ‘Long-Term Leasing*
 2 *Act’ (25 U.S.C. 415(h)) for the pre-*
 3 *vious calendar year without a finding*
 4 *of a compliance violation under para-*
 5 *graph (8)(B) of that subsection; or*

6 *“(ii) the Secretary fails to make the*
 7 *preliminary determination within the time*
 8 *allowed under subparagraph (G)(i) (includ-*
 9 *ing any extension of time agreed to under*
 10 *that subparagraph).”;*

11 *(C) in paragraph (4), by striking “date of*
 12 *disapproval” and all that follows through the*
 13 *end of subparagraph (C) and inserting the fol-*
 14 *lowing: “date of disapproval, provide the Indian*
 15 *tribe with—*

16 *“(A) a detailed, written explanation of—*

17 *“(i) each reason for the disapproval;*
 18 *and*

19 *“(ii) the revisions or changes to the*
 20 *tribal energy resource agreement necessary*
 21 *to address each reason; and*

22 *“(B) an opportunity to revise and resubmit*
 23 *the tribal energy resource agreement.”;*

24 *(D) in paragraph (6)—*

25 *(i) in subparagraph (B)—*

1 (I) by striking “(B) Subject to”
2 and inserting the following:

3 “(B) Subject only to”; and

4 (II) by striking “subparagraph
5 (D)” and inserting “subparagraphs
6 (C) and (D)”;

7 (ii) in subparagraph (C), in the matter
8 preceding clause (i), by inserting “to per-
9 form the obligations of the Secretary under
10 this section and” before “to ensure”; and

11 (iii) in subparagraph (D), by adding
12 at the end the following:

13 “(iii) Nothing in this section absolves,
14 limits, or otherwise affects the liability, if
15 any, of the United States for any—

16 “(I) term of any lease, business
17 agreement, or right-of-way under this
18 section that is not a negotiated term;
19 or

20 “(II) losses that are not the result
21 of a negotiated term, including losses
22 resulting from the failure of the Sec-
23 retary to perform an obligation of the
24 Secretary under this section.”;

25 (E) in paragraph (7)—

1 (i) in subparagraph (A), by striking
 2 “has demonstrated” and inserting “the Sec-
 3 retary determines has demonstrated with
 4 substantial evidence”;

5 (ii) in subparagraph (B), by striking
 6 “any tribal remedy” and inserting “all
 7 remedies (if any) provided under the laws
 8 of the Indian tribe”;

9 (iii) in subparagraph (D)—

10 (I) in clause (i), by striking “de-
 11 termine” and all that follows through
 12 the end of the clause and inserting the
 13 following: “determine—

14 “(I) whether the petitioner is
 15 an interested party; and

16 “(II) if the petitioner is an
 17 interested party, whether the In-
 18 dian tribe is not in compliance
 19 with the tribal energy resource
 20 agreement as alleged in the peti-
 21 tion.”;

22 (II) in clause (ii), by striking
 23 “determination” and inserting “deter-
 24 minations”; and

1 (III) in clause (iii), in the matter
 2 preceding subclause (I) by striking
 3 “agreement” the first place it appears
 4 and all that follows through “, includ-
 5 ing” and inserting “agreement pursu-
 6 ant to clause (i), the Secretary shall
 7 only take such action as the Secretary
 8 determines necessary to address the
 9 claims of noncompliance made in the
 10 petition, including”;

11 (iv) in subparagraph (E)(i), by strik-
 12 ing “the manner in which” and inserting “,
 13 with respect to each claim made in the peti-
 14 tion, how”; and

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

16 “(G) Notwithstanding any other provision
 17 of this paragraph, the Secretary shall dismiss
 18 any petition from an interested party that has
 19 agreed with the Indian tribe to a resolution of
 20 the claims presented in the petition of that
 21 party.”;

22 (F) in paragraph (8)(B)—

23 (i) in clause (i), by striking “and” at
 24 the end;

1 (ii) in clause (ii), by adding “and”
 2 after the semicolon; and

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

5 “(iii) amend an approved tribal en-
 6 ergy resource agreement to assume author-
 7 ity for approving leases, business agree-
 8 ments, or rights-of-way for development of
 9 another energy resource that is not included
 10 in an approved tribal energy resource agree-
 11 ment without being required to apply for a
 12 new tribal energy resource agreement;” and
 13 (G) by adding at the end the following:

14 “(9) *EFFECT.*—Nothing in this section author-
 15 izes the Secretary to deny a tribal energy resource
 16 agreement or any amendment to a tribal energy re-
 17 source agreement, or to limit the effect or implementa-
 18 tion of this section, due to lack of promulgated regula-
 19 tions.”;

20 (5) by redesignating subsection (g) as subsection
 21 (j); and

22 (6) by inserting after subsection (f) the following:

23 “(g) *FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES*
 24 *BY THE SECRETARY.*—

1 “(1) *IN GENERAL.*—Any amounts that the Sec-
 2 retary would otherwise expend to operate or carry out
 3 any program, function, service, or activity (or any
 4 portion of a program, function, service, or activity) of
 5 the Department that, as a result of an Indian tribe
 6 carrying out activities under a tribal energy resource
 7 agreement, the Secretary does not expend, the Sec-
 8 retary shall, at the request of the Indian tribe, make
 9 available to the Indian tribe in accordance with this
 10 subsection.

11 “(2) *ANNUAL FUNDING AGREEMENTS.*—The Sec-
 12 retary shall make the amounts described in para-
 13 graph (1) available to an Indian tribe through an an-
 14 nual written funding agreement that is negotiated
 15 and entered into with the Indian tribe that is sepa-
 16 rate from the tribal energy resource agreement.

17 “(3) *EFFECT OF APPROPRIATIONS.*—Notwith-
 18 standing paragraph (1)—

19 “(A) the provision of amounts to an Indian
 20 tribe under this subsection is subject to the avail-
 21 ability of appropriations; and

22 “(B) the Secretary shall not be required to
 23 reduce amounts for programs, functions, services,
 24 or activities that serve any other Indian tribe to

1 *make amounts available to an Indian tribe*
 2 *under this subsection.*

3 “(4) *DETERMINATION.*—

4 “(A) *IN GENERAL.*—*The Secretary shall cal-*
 5 *culate the amounts under paragraph (1) in ac-*
 6 *cordance with the regulations adopted under sec-*
 7 *tion 103(b) of the Indian Tribal Energy Devel-*
 8 *opment and Self-Determination Act Amendments*
 9 *of 2014.*

10 “(B) *APPLICABILITY.*—*The effective date or*
 11 *implementation of a tribal energy resource agree-*
 12 *ment under this section shall not be delayed or*
 13 *otherwise affected by—*

14 “(i) *a delay in the promulgation of*
 15 *regulations under section 103(b) of the In-*
 16 *dian Tribal Energy Development and Self-*
 17 *Determination Act Amendments of 2014;*

18 “(ii) *the period of time needed by the*
 19 *Secretary to make the calculation required*
 20 *under paragraph (1); or*

21 “(iii) *the adoption of a funding agree-*
 22 *ment under paragraph (2).*

23 “(h) *CERTIFICATION OF TRIBAL ENERGY DEVELOP-*
 24 *MENT ORGANIZATION.*—

1 “(1) *IN GENERAL.*—Not later than 90 days after
 2 the date on which an Indian tribe submits an appli-
 3 cation for certification of a tribal energy development
 4 organization in accordance with regulations promul-
 5 gated under section 103(b) of the Indian Tribal En-
 6 ergy Development and Self-Determination Act
 7 Amendments of 2014, the Secretary shall approve or
 8 disapprove the application.

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

11 “(A)(i) the Indian tribe has carried out a
 12 contract or compact under title I or IV of the In-
 13 dian Self-Determination and Education Assist-
 14 ance Act (25 U.S.C. 450 et seq.); and

15 “(ii) for a period of not less than 3 consec-
 16 tive years ending on the date on which the In-
 17 dian tribe submits the application, the contract
 18 or compact—

19 “(I) has been carried out by the Indian
 20 tribe without material audit exceptions (or
 21 without any material audit exceptions that
 22 were not corrected within the 3-year pe-
 23 riod); and

1 “(II) has included programs or activi-
 2 ties relating to the management of tribal
 3 land; and

4 “(B)(i) the tribal energy development orga-
 5 nization is organized under the laws of the In-
 6 dian tribe and subject to the jurisdiction and au-
 7 thority of the Indian tribe;

8 “(ii) the majority of the interest in the trib-
 9 al energy development organization is owned
 10 and controlled by the Indian tribe (or the Indian
 11 tribe and 1 or more other Indian tribes the tribal
 12 land of which is being developed); and

13 “(iii) the organizing document of the tribal
 14 energy development organization requires that
 15 the Indian tribe (or the Indian tribe and 1 or
 16 more other Indian tribes the tribal land of which
 17 is being developed) own and control at all times
 18 a majority of the interest in the tribal energy de-
 19 velopment organization.

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

24 “(A) issue a certification stating that—

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

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

11 “(iii) the organizing document of the
12 tribal energy development organization re-
13 quires that the Indian tribe (or the Indian
14 tribe and 1 or more other Indian tribes the
15 tribal land of which is being developed) own
16 and control at all times a majority of the
17 interest in the tribal energy development or-
18 ganization; and

19 “(iv) the certification is issued pursu-
20 ant this subsection;

21 “(B) deliver a copy of the certification to
22 the Indian tribe; and

23 “(C) publish the certification in the Federal
24 Register.

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

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

9 (1) *section 2604(e)(8) of the Energy Policy Act*
10 *of 1992 (25 U.S.C. 3504(e)(8)), including the process*
11 *to be followed by an Indian tribe amending an exist-*
12 *ing tribal energy resource agreement to assume au-*
13 *thority for approving leases, business agreements, or*
14 *rights-of-way for development of an energy resource*
15 *that is not included in the tribal energy resource*
16 *agreement;*

17 (2) *section 2604(g) of the Energy Policy Act of*
18 *1992 (25 U.S.C. 3504(g)) including the manner in*
19 *which the Secretary, at the request of an Indian tribe,*
20 *shall—*

21 (A) *identify the programs, functions, serv-*
22 *ices, and activities (or any portions of programs,*
23 *functions, services, or activities) that the Sec-*
24 *retary will not have to operate or carry out as*

1 *a result of the Indian tribe carrying out activi-*
 2 *ties under a tribal energy resource agreement;*

3 *(B) identify the amounts that the Secretary*
 4 *would have otherwise expended to operate or*
 5 *carry out each program, function, service, and*
 6 *activity (or any portion of a program, function,*
 7 *service, or activity) identified pursuant to sub-*
 8 *paragraph (A); and*

9 *(C) provide to the Indian tribe a list of the*
 10 *programs, functions, services, and activities (or*
 11 *any portions of programs, functions, services, or*
 12 *activities) identified pursuant subparagraph (A)*
 13 *and the amounts associated with each program,*
 14 *function, service, and activity (or any portion of*
 15 *a program, function, service, or activity) identi-*
 16 *fied pursuant to subparagraph (B); and*

17 *(3) section 2604(h) of the Energy Policy Act of*
 18 *1992 (25 U.S.C. 3504(h)), including the process to be*
 19 *followed by, and any applicable criteria and docu-*
 20 *mentation required for, an Indian tribe to request*
 21 *and obtain the certification described in that section.*

22 **SEC. 104. TECHNICAL ASSISTANCE FOR INDIAN TRIBAL**
 23 **GOVERNMENTS.**

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

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

3 (2) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) *TECHNICAL AND SCIENTIFIC RESOURCES.*—
6 *In addition to providing grants to Indian tribes*
7 *under this subsection, the Secretary shall collaborate*
8 *with the Directors of the National Laboratories in*
9 *making the full array of technical and scientific re-*
10 *sources of the Department of Energy available for*
11 *tribal energy activities and projects.”.*

12 **SEC. 105. CONFORMING AMENDMENTS.**

13 (a) *DEFINITION OF TRIBAL ENERGY DEVELOPMENT*
14 *ORGANIZATION.*—Section 2601 of the Energy Policy Act of
15 1992 (25 U.S.C. 3501) is amended by striking paragraph
16 (11) and inserting the following:

17 “(11) The term ‘tribal energy development orga-
18 nization’ means—

19 “(A) any enterprise, partnership, consor-
20 tium, corporation, or other type of business orga-
21 nization that is engaged in the development of
22 energy resources and is wholly owned by an In-
23 dian tribe (including an organization incor-
24 porated pursuant to section 17 of the Indian Re-
25 organization Act of 1934 (25 U.S.C. 477) or sec-

tion 3 of the Act of June 26, 1936 (25 U.S.C. 503) (commonly known as the ‘Oklahoma Indian Welfare Act’)); or

“(B) any organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602 or to enter into a lease or business agreement with, or acquire a right-of-way from, an Indian tribe pursuant to subsection (a)(2)(A)(ii) or (b)(2)(B) of section 2604.”.

(b) INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.—Section 2602 of the Energy Policy Act of 1992 (25 U.S.C. 3502) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “tribal energy resource development organizations” and inserting “tribal energy development organizations”; and

(B) in paragraph (2), by striking “tribal energy resource development organizations” each place it appears and inserting “tribal energy development organizations”; and

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

4 (c) WIND AND HYDROPOWER FEASIBILITY STUDY.—
 5 Section 2606(c)(3) of the Energy Policy Act of 1992 (25
 6 U.S.C. 3506(c)(3)) is amended by striking “energy resource
 7 development” and inserting “energy development”.

8 (d) CONFORMING AMENDMENTS.—Section 2604(e) of
 9 the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is
 10 amended—

11 (1) in paragraph (2)(B)(iv) (as redesignated by
 12 section 103(a)(4)(A)(ii)(III))—

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

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

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

18 (2) in paragraph (3)—

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

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

23 (B) by striking “for approval”;

24 (3) in paragraph (4), by striking “(4) If the Sec-
 25 retary” and inserting the following:

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

3 (4) *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 (5) *in paragraph (6)—*

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

14 “(6) *SECRETARIAL OBLIGATIONS AND EFFECT OF*
15 *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*
25 *agreement in effect under this section*”; and

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

4 (6) in paragraph (7)—

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

7 “(7) PETITIONS BY INTERESTED PARTIES.—

8 “(A) In this paragraph”;

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

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

15 (D) in subparagraph (D)(iii)—

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

18 (ii) in subclause (II)—

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

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

1 **SEC. 106. INDIAN ENERGY EFFICIENCY.**

2 *Part D of title III of the Energy Policy and Conserva-*
 3 *tion Act (42 U.S.C. 6321 et seq.) is amended by adding*
 4 *at the end the following:*

5 **“SEC. 367. INDIAN ENERGY EFFICIENCY PROGRAM.**

6 *“(a) DEFINITION OF INDIAN TRIBE.—In this section,*
 7 *the term ‘Indian tribe’ has the meaning given the term in*
 8 *section 4 of the Indian Self-Determination and Education*
 9 *Assistance Act (25 U.S.C. 450b).*

10 *“(b) PURPOSE.—The purpose of the grants provided*
 11 *under subsection (d) shall be to assist Indian tribes in im-*
 12 *plementing strategies—*

13 *“(1) to develop alternative and renewable energy*
 14 *resources within the jurisdictions of eligible entities in*
 15 *a manner that—*

16 *“(A) is environmentally sustainable; and*

17 *“(B) to the maximum extent practicable,*
 18 *maximizes benefits for Indian tribes and tribal*
 19 *members;*

20 *“(2) to increase the energy efficiency of Indian*
 21 *tribes and tribal members; and*

22 *“(3) to improve energy efficiency in—*

23 *“(A) the transportation sector;*

24 *“(B) the building sector; and*

25 *“(C) other appropriate sectors.*

1 “(c) *TRIBAL ALLOCATION.*—Of the amount of funds
 2 authorized to be appropriated for each fiscal year under sec-
 3 tion 365(f) to carry out this part, the Secretary shall allo-
 4 cate not less than 2.5 percent of the funds for each fiscal
 5 year to be distributed to Indian tribes in accordance with
 6 subsection (d).

7 “(d) *GRANTS.*—Of the amounts available for distribu-
 8 tion under subsection (c), the Secretary shall establish a
 9 competitive process for providing grants under this section
 10 that gives priority to projects that—

11 “(1) *increase energy efficiency and energy con-*
 12 *servation rather than new energy generation projects;*

13 “(2) *integrate cost-effective renewable energy*
 14 *with energy efficiency;*

15 “(3) *move beyond the planning stage and are*
 16 *ready for implementation;*

17 “(4) *clearly articulate and demonstrate the abil-*
 18 *ity to achieve measurable goals;*

19 “(5) *have the potential to make an impact in the*
 20 *government buildings, infrastructure, communities,*
 21 *and land of an Indian tribe; and*

22 “(6) *maximize the creation or retention of jobs*
 23 *on Indian land.*

24 “(e) *USE OF FUNDS.*—An Indian tribe may use a
 25 grant received under this section to carry out activities to

1 *achieve the purposes described in subsection (b), includ-*
 2 *ing—*

3 “(1) *the development and implementation of en-*
 4 *ergy efficiency and conservation strategies;*

5 “(2) *the retention of technical consultant services*
 6 *to assist the Indian tribe in the development of an en-*
 7 *ergy efficiency and conservation strategy, including—*

8 “(A) *the formulation of energy efficiency,*
 9 *energy conservation, and energy usage goals;*

10 “(B) *the identification of strategies to*
 11 *achieve the goals—*

12 “(i) *through efforts to increase energy*
 13 *efficiency and reduce energy consumption;*
 14 *and*

15 “(ii) *by encouraging behavioral*
 16 *changes among the population served by the*
 17 *Indian tribe;*

18 “(C) *the development of methods to measure*
 19 *progress in achieving the goals;*

20 “(D) *the development and publication of*
 21 *annual reports to the population served by the*
 22 *eligible entity describing—*

23 “(i) *the strategies and goals; and*

1 “(ii) the progress made in achieving
2 the strategies and goals during the pre-
3 ceding calendar year; and

4 “(E) other services to assist in the imple-
5 mentation of the energy efficiency and conserva-
6 tion strategy;

7 “(3) the implementation of residential and com-
8 mercial building energy audits;

9 “(4) the establishment of financial incentive pro-
10 grams for energy efficiency improvements;

11 “(5) the provision of grants for the purpose of
12 performing energy efficiency retrofits;

13 “(6) the development and implementation of en-
14 ergy efficiency and conservation programs for build-
15 ings and facilities within the jurisdiction of the In-
16 dian tribe, including—

17 “(A) the design and operation of the pro-
18 grams;

19 “(B) the identification of the most effective
20 methods of achieving maximum participation
21 and efficiency rates;

22 “(C) the education of the members of an In-
23 dian tribe;

24 “(D) the measurement and verification pro-
25 tocols of the programs; and

1 “(E) the identification of energy efficient
2 technologies;

3 “(7) the development and implementation of pro-
4 grams to conserve energy used in transportation, in-
5 cluding—

6 “(A) the use of—

7 “(i) flextime by employers; or

8 “(ii) satellite work centers;

9 “(B) the development and promotion of zon-
10 ing guidelines or requirements that promote en-
11 ergy-efficient development;

12 “(C) the development of infrastructure, in-
13 cluding bike lanes, pathways, and pedestrian
14 walkways;

15 “(D) the synchronization of traffic signals;
16 and

17 “(E) other measures that increase energy ef-
18 ficiency and decrease energy consumption;

19 “(8) the development and implementation of
20 building codes and inspection services to promote
21 building energy efficiency;

22 “(9) the application and implementation of en-
23 ergy distribution technologies that significantly in-
24 crease energy efficiency, including—

25 “(A) distributed resources; and

1 “(B) district heating and cooling systems;

2 “(10) the implementation of activities to increase
3 participation and efficiency rates for material con-
4 servation programs, including source reduction, recy-
5 cling, and recycled content procurement programs
6 that lead to increases in energy efficiency;

7 “(11) the purchase and implementation of tech-
8 nologies to reduce, capture, and, to the maximum ex-
9 tent practicable, use methane and other greenhouse
10 gases generated by landfills or similar sources;

11 “(12) the replacement of traffic signals and street
12 lighting with energy-efficient lighting technologies, in-
13 cluding—

14 “(A) light-emitting diodes; and

15 “(B) any other technology of equal or great-
16 er energy efficiency;

17 “(13) the development, implementation, and in-
18 stallation on or in any government building of the
19 Indian tribe of onsite renewable energy technology
20 that generates electricity from renewable resources, in-
21 cluding—

22 “(A) solar energy;

23 “(B) wind energy;

24 “(C) fuel cells; and

25 “(D) biomass; and

1 “(14) any other appropriate activity, as deter-
2 mined by the Secretary, in consultation with—

3 “(A) the Secretary of the Interior;

4 “(B) the Administrator of the Environ-
5 mental Protection Agency;

6 “(C) the Secretary of Transportation;

7 “(D) the Secretary of Housing and Urban
8 Development; and

9 “(E) Indian tribes.

10 “(f) GRANT APPLICATIONS.—

11 “(1) IN GENERAL.—

12 “(A) APPLICATION.—To apply for a grant
13 under this section, an Indian tribe shall submit
14 to the Secretary a proposed energy efficiency and
15 conservation strategy in accordance with this
16 paragraph.

17 “(B) CONTENTS.—A proposed strategy de-
18 scribed in subparagraph (A) shall include a de-
19 scription of—

20 “(i) the goals of the Indian tribe for
21 increased energy efficiency and conservation
22 in the jurisdiction of the Indian tribe; and

23 “(ii) the manner in which—

1 “(I) the proposed strategy com-
 2 plies with the restrictions described in
 3 subsection (e); and

4 “(II) a grant will allow the In-
 5 dian tribe fulfill the goals of the pro-
 6 posed strategy.

7 “(2) APPROVAL.—

8 “(A) IN GENERAL.—The Secretary shall ap-
 9 prove or disapprove a proposed strategy under
 10 paragraph (1) by not later than 120 days after
 11 the date of submission of the proposed strategy.

12 “(B) DISAPPROVAL.—If the Secretary dis-
 13 approves a proposed strategy under paragraph
 14 (1)—

15 “(i) the Secretary shall provide to the
 16 Indian tribe the reasons for the disapproval;
 17 and

18 “(ii) the Indian tribe may revise and
 19 resubmit the proposed strategy as many
 20 times as necessary, until the Secretary ap-
 21 proves a proposed strategy.

22 “(C) REQUIREMENT.—The Secretary shall
 23 not provide to an Indian tribe a grant under
 24 this section until a proposed strategy is approved
 25 by the Secretary.

1 “(3) *LIMITATIONS ON USE OF FUNDS.*—Of the
 2 *amounts provided to an Indian tribe under this sec-*
 3 *tion, an Indian tribe may use for administrative ex-*
 4 *penses, excluding the cost of the reporting require-*
 5 *ments of this section, an amount equal to the greater*
 6 *of—*

7 “(A) *10 percent of the administrative ex-*
 8 *penses; or*

9 “(B) *\$75,000.*

10 “(4) *ANNUAL REPORT.*—Not later than 2 years
 11 *after the date on which funds are initially provided*
 12 *to an Indian tribe under this section, and annually*
 13 *thereafter, the Indian tribe shall submit to the Sec-*
 14 *retary a report describing—*

15 “(A) *the status of development and imple-*
 16 *mentation of the energy efficiency and conserva-*
 17 *tion strategy; and*

18 “(B) *to the maximum extent practicable, an*
 19 *assessment of energy efficiency gains within the*
 20 *jurisdiction of the Indian tribe.”.*

1 ***TITLE II—MISCELLANEOUS***
 2 ***AMENDMENTS***

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

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

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

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

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

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

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

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

4 (a) *PURPOSE.*—*The purpose of this section is to estab-*
5 *lish a biomass demonstration project for federally recog-*
6 *nized Indian tribes and Alaska Native corporations to pro-*
7 *mote biomass energy production.*

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

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

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

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

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

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

1 *tion projects that meet the eligibility criteria described in*
 2 *subsection (c) shall be carried out under contracts or agree-*
 3 *ments described in subsection (a).*

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

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

9 “(2) *that includes a description of—*

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

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

14 “(d) *SELECTION.—In evaluating the applications sub-*
 15 *mitted under subsection (c), the Secretary shall—*

16 “(1) *take into consideration—*

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

19 “(B) *whether a proposed project would—*

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

22 “(ii) *enhance the economic development*
 23 *of the Indian tribe;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (1) *DEFINITIONS.*—In this subsection:

22 (A) *ALASKA NATIVE CORPORATION.*—The
23 term “Alaska Native corporation” has the mean-
24 ing given the term “Native Corporation” in sec-

tion 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

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

(i) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(ii) public lands (as defined in section 103 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

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

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

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

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

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

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

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

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

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

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

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

14 (A) *containing such information as the Sec-*
 15 *retary may require; and*

16 (B) *that includes a description of—*

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

20 (ii) *the demonstration project proposed*
 21 *to be carried out by the Alaska Native cor-*
 22 *poration.*

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

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

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

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

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

11 (iv) improve the forest health or water-
12 sheds of Federal land or Alaska Native cor-
13 poration forest land or rangeland;

14 (v) demonstrate new investments in in-
15 frastructure; or

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

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

21 (6) IMPLEMENTATION.—The Secretary shall—

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

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

6 (7) *REPORT*.—Not later than September 20,
 7 2017, the Secretary shall submit to Congress a report
 8 that describes, with respect to the reporting period—

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

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

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

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

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

20 **SEC. 203. WEATHERIZATION PROGRAM.**

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

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

25 “(1) *RESERVATION OF AMOUNTS*.—

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

12 “(B) *RESTRICTIONS.*—Subparagraph (A)
 13 shall apply only if—

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

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

24 “(C) *PRESUMPTION.*—If the tribal organi-
 25 zation requesting the grant is a tribally des-

1 *ignated housing entity (as defined in section 4 of*
 2 *the Native American Housing Assistance and*
 3 *Self-Determination Act of 1996 (25 U.S.C.*
 4 *4103)) that has operated without material audit*
 5 *exceptions (or without any material audit excep-*
 6 *tions that were not corrected within a 3-year pe-*
 7 *riod), the Secretary shall presume that the low-*
 8 *income members of the applicable Indian tribe*
 9 *would be equally or better served by making a*
 10 *grant directly to the tribal organization than by*
 11 *a grant made to the State in which the low-in-*
 12 *come members reside.”;*

13 *(2) in paragraph (2)—*

14 *(A) by striking “The sums” and inserting*
 15 *“ADMINISTRATION.—The amounts”;*

16 *(B) by striking “on the basis of his deter-*
 17 *mination”;*

18 *(C) by striking “individuals for whom such*
 19 *a determination has been made” and inserting*
 20 *“low-income members of the Indian tribe”; and*

21 *(D) by striking “he” and inserting “the*
 22 *Secretary”; and*

23 *(3) in paragraph (3), by striking “In order” and*
 24 *inserting “APPLICATION.—In order”.*

1 **SEC. 204. APPRAISALS.**

2 (a) *IN GENERAL.*—*Title XXVI of the Energy Policy*
 3 *Act of 1992 (25 U.S.C. 3501 et seq.) is amended by adding*
 4 *at the end the following:*

5 **“SEC. 2607. APPRAISALS.**

6 “(a) *IN GENERAL.*—*For any transaction that requires*
 7 *approval of the Secretary and involves mineral or energy*
 8 *resources held in trust by the United States for the benefit*
 9 *of an Indian tribe or by an Indian tribe subject to Federal*
 10 *restrictions against alienation, any appraisal relating to*
 11 *fair market value of those resources required to be prepared*
 12 *under applicable law may be prepared by—*

13 “(1) *the Secretary;*

14 “(2) *the affected Indian tribe; or*

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

17 “(b) *SECRETARIAL REVIEW AND APPROVAL.*—*Not*
 18 *later than 45 days after the date on which the Secretary*
 19 *receives an appraisal prepared by or for an Indian tribe*
 20 *under paragraph (2) or (3) of subsection (a), the Secretary*
 21 *shall—*

22 “(1) *review the appraisal; and*

23 “(2) *approve the appraisal unless the Secretary*
 24 *determines that the appraisal fails to meet the stand-*
 25 *ards set forth in regulations promulgated under sub-*
 26 *section (d).*

1 “(c) *NOTICE OF DISAPPROVAL.*—*If the Secretary deter-*
 2 *mines that an appraisal submitted for approval under sub-*
 3 *section (b) should be disapproved, the Secretary shall give*
 4 *written notice of the disapproval to the Indian tribe and*
 5 *a description of—*

6 “(1) *each reason for the disapproval; and*

7 “(2) *how the appraisal should be corrected or*
 8 *otherwise cured to meet the applicable standards set*
 9 *forth in the regulations promulgated under subsection*
 10 *(d).*

11 “(d) *REGULATIONS.*—*The Secretary shall promulgate*
 12 *regulations to carry out this section, including standards*
 13 *the Secretary shall use for approving or disapproving the*
 14 *appraisal described in subsection (a).”.*

15 **SEC. 205. LEASES OF RESTRICTED LANDS FOR NAVAJO NA-**
 16 **TION.**

17 “(a) *IN GENERAL.*—*Subsection (e)(1) of the first section*
 18 *of the Act of August 9, 1955 (commonly known as the*
 19 *“Long-Term Leasing Act”) (25 U.S.C. 415(e)(1)), is*
 20 *amended—*

21 (1) *by striking “, except a lease for” and insert-*
 22 *ing “, including a lease for”;*

23 (2) *by striking subparagraph (A) and inserting*
 24 *the following:*

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

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

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

6 “(C) in the case of a lease for the explo-
7 ration, development, or extraction of any min-
8 eral resource (including geothermal resources),
9 25 years, except that—

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

13 “(ii) any such lease for the exploration,
14 development, or extraction of an oil or gas
15 resource shall be for a term of not to exceed
16 10 years, plus such additional period as the
17 Navajo Nation determines to be appropriate
18 in any case in which an oil or gas resource
19 is produced in a paying quantity.”.

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

1 **SEC. 206. EXTENSION OF TRIBAL LEASE PERIOD FOR THE**
 2 **CROW TRIBE OF MONTANA.**

3 *Subsection (a) of the first section of the Act of August*
 4 *9, 1955 (25 U.S.C. 415(a)), is amended in the second sen-*
 5 *tence by inserting “, land held in trust for the Crow Tribe*
 6 *of Montana” after “Devils Lake Sioux Reservation”.*

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

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

10 *(b) TREATMENT OF LEASE PAYMENTS.—*

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

25 *(2) RESTRICTION.—If the advance payment, bid*
 26 *deposit, or other earnest money received by the Sec-*

1 *retary results from competitive bidding, upon selec-*
 2 *tion of the successful bidder, only the funds paid by*
 3 *the successful bidder shall be held in the trust fund*
 4 *system.*

5 *(c) USE OF FUNDS.—*

6 *(1) IN GENERAL.—On the approval of the Sec-*
 7 *retary of a contract or other instrument for a sale,*
 8 *lease, permit, or any other conveyance described in*
 9 *subsection (b)(1), the funds held in the trust fund sys-*
 10 *tem and described in subsection (b), along with all in-*
 11 *come generated from the investment of those funds,*
 12 *shall be disbursed to the Indian tribe or individual*
 13 *Indian landowners.*

14 *(2) ADMINISTRATION.—If a contract or other in-*
 15 *strument for a sale, lease, permit, or any other con-*
 16 *veyance described in subsection (b)(1) is not approved*
 17 *by the Secretary, the funds held in the trust fund sys-*
 18 *tem and described in subsection (b), along with all in-*
 19 *come generated from the investment of those funds,*
 20 *shall be paid to the party identified in, and in such*
 21 *amount and on such terms as set out in, the applica-*
 22 *ble regulations, advertisement, or other notice gov-*
 23 *erning the proposed conveyance of the interest in the*
 24 *land at issue.*

1 (d) *APPLICABILITY.*—*This section shall apply to any*
2 *advance payment, bid deposit, or other earnest money re-*
3 *ceived by the Secretary in connection with the review and*
4 *Secretarial approval under any other Federal law (includ-*
5 *ing regulations) of a sale, lease, permit, or any other con-*
6 *veyance of any interest in any trust or restricted land of*
7 *any Indian tribe or individual Indian on or after the date*
8 *of enactment of this Act.*

Calendar No. 501

113TH CONGRESS
2D Session

S. 2132

[Report No. 113-224]

A BILL

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

JULY 30, 2014

Reported with an amendment