

Calendar No. 700

110TH CONGRESS
2D SESSION**S. 2087****[Report No. 110–326]**

To amend certain laws relating to Native Americans to make technical corrections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2007

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

APRIL 16, 2008

Reported by Mr. DORGAN, without amendment

A BILL

To amend certain laws relating to Native Americans to make technical corrections, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Om-
5 nibus Technical Corrections Act of 2007”.

1 **SEC. 2. DEFINITION OF NATIVE AMERICAN.**

2 Section 2(9) of the Native American Graves Protec-
3 tion and Repatriation Act (25 U.S.C. 3001(9)) is amend-
4 ed—

5 (1) by inserting “or was” after “is”; and

6 (2) by inserting after “indigenous to” the fol-
7 lowing: “any geographic area that is now located
8 within the boundaries of”.

9 **SEC. 3. INDIAN TRIBAL JUSTICE.**

10 (a) INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL
11 ASSISTANCE.—The Indian Tribal Justice Technical and
12 Legal Assistance Act of 2000 is amended—

13 (1) in section 106 (25 U.S.C. 3666), by striking
14 “for fiscal years 2000 through 2004” and inserting
15 “for fiscal years 2008 through 2012”; and

16 (2) in section 201(d) (25 U.S.C. 3681(d)), by
17 striking “for fiscal years 2000 through 2004” and
18 inserting “for fiscal years 2008 through 2012”.

19 (b) INDIAN TRIBAL JUSTICE SYSTEMS.—Section 201
20 of the Indian Tribal Justice Act (25 U.S.C. 3621) is
21 amended by striking “2007” each place it appears and
22 inserting “2012”.

1 **SEC. 4. NATIVE AMERICAN PARTICIPATION IN METH-**
 2 **AMPHETAMINE GRANTS.**

3 (a) IN GENERAL.—Section 2996(a) of the Omnibus
 4 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
 5 3797cc(a)) is amended—

6 (1) in paragraph (1)—

7 (A) in the matter preceding subparagraph
 8 (A), by inserting “, territories, and Indian
 9 tribes (as defined in section 2704)” after “to
 10 assist States”; and

11 (B) in subparagraph (B), by striking “and
 12 local” and inserting “territorial, Tribal, and
 13 local”;

14 (2) in paragraph (2), by inserting “, territories,
 15 and Indian tribes” after “make grants to States”;

16 (3) in paragraph (3)(C), by inserting “, Trib-
 17 al,” after “support State”; and

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

19 “(4) EFFECT OF SUBSECTION.—Nothing in this
 20 subsection, or in the award or denial of any grant
 21 pursuant to this subsection—

22 “(A) allows grants authorized under para-
 23 graph (3)(A) to be made to, or used by, an en-
 24 tity for law enforcement activities that the enti-
 25 ty lacks jurisdiction to perform; or

1 “(B) has any effect other than to author-
 2 ize, award, or deny a grant of funds to a State,
 3 territory, or Indian tribe for the purposes de-
 4 scribed in this subsection.”.

5 (b) GRANT PROGRAMS FOR DRUG ENDANGERED
 6 CHILDREN.—Section 755(a) of the USA PATRIOT Im-
 7 provement and Reauthorization Act of 2005 (42 U.S.C.
 8 3797cc–2(a)) is amended by inserting “, territories, and
 9 Indian tribes (as defined in section 2704 of the Omnibus
 10 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
 11 3797d))” after “make grants to States”.

12 (c) GRANT PROGRAMS TO ADDRESS METHAMPHET-
 13 AMINE USE BY PREGNANT AND PARENTING WOMEN OF-
 14 FENDERS.—Section 756 of the USA PATRIOT Improve-
 15 ment and Reauthorization Act of 2005 (42 U.S.C.
 16 3797cc–3) is amended—

17 (1) in subsection (a)(2), by inserting “, terri-
 18 torial, or Tribal” after “State”;

19 (2) in subsection (b)—

20 (A) in paragraph (1)—

21 (i) by inserting “, territorial, or Trib-
 22 al” after “State”; and

23 (ii) by striking “and/or” and inserting
 24 “or”;

25 (B) in paragraph (2)—

1 (i) by inserting “, territory, or Indian
2 tribe” after “agency of the State”; and

3 (ii) by inserting “, territory, or Indian
4 tribe” after “criminal laws of that State”;
5 and

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

7 “(3) INDIAN TRIBE.—The term ‘Indian tribe’
8 has the meaning given the term in section 2704 of
9 the Omnibus Crime Control and Safe Streets Act of
10 1968 (42 U.S.C. 3797d).”; and

11 (3) in subsection (c)—

12 (A) in paragraph (3), by striking “Indian
13 Tribes” and inserting “Indian tribes”; and

14 (B) in paragraph (4)—

15 (i) in the matter preceding subpara-
16 graph (A)—

17 (I) by striking “State’s services”
18 and inserting “services of the State,
19 territory, or Indian tribe”; and

20 (II) by striking “and/or” and in-
21 serting “or”;

22 (ii) in subparagraph (A), by striking
23 “State”;

- 1 (iii) in subparagraph (C), by inserting
 2 “, Indian tribes,” after “involved coun-
 3 ties”; and
 4 (iv) in subparagraph (D), by inserting
 5 “, tribal” after “Federal, State”.

6 **SEC. 5. INDIAN LAND CONSOLIDATION ACT.**

7 (a) DEFINITIONS.—Section 202 of the Indian Land
 8 Consolidation Act (25 U.S.C. 2201) is amended—

9 (1) in paragraph (4)—

10 (A) by inserting “(i)” after “(4)”;

11 (B) by striking “‘trust or restricted inter-
 12 est in land’ or” and inserting the following:

13 “(ii) ‘trust or restricted interest in land’ or”;

14 and

15 (C) in clause (ii) (as designated by sub-
 16 paragraph (B)), by striking “an interest in
 17 land, title to which” and inserting “an interest
 18 in land, the title to which interest”; and

19 (2) by striking paragraph (7) and inserting the
 20 following:

21 “(7) the term ‘land’—

22 “(A) means any real property; and

23 “(B) only for purposes of intestate succes-
 24 sion under section 207(a), includes the interest,
 25 if any, owned by the decedent in improvements

permanently affixed to a parcel of trust or restricted lands (subject to any valid mortgage or other interest in such an improvement) if the parcel was owned, in whole or in part, by the decedent immediately prior to the death of the decedent.”.

(b) DESCENT AND DISTRIBUTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) in subsection (a)(2)(D)—

(A) in clause (i), by striking “clauses (ii) through (iv)” and inserting “clauses (ii) through (v)”;

(B) by striking clause (v) and inserting the following:

“(v) EFFECT OF SUBPARAGRAPH.—

Nothing in this subparagraph limits the right of any person to devise any trust or restricted interest pursuant to a valid will in accordance with subsection (b).”;

(2) in subsection (b)(2)(B)—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting the subclauses appropriately;

1 (B) by striking “Any interest” and insert-
 2 ing the following:

3 “(i) IN GENERAL.—Subject to clauses
 4 (ii) and (iii), any interest”;

5 (C) in subclause (III) of clause (i) (as des-
 6 ignated by subparagraphs (A) and (B)), by
 7 striking the semicolon and inserting a period;

8 (D) by striking “provided that nothing”
 9 and inserting the following:

10 “(iii) EFFECT.—Except as provided in
 11 clause (ii), nothing”; and

12 (E) by inserting after clause (i) (as des-
 13 ignated by subparagraph (B)) the following:

14 “(ii) EXCEPTION.—

15 “(I) IN GENERAL.—Notwith-
 16 standing clause (i), in any case in
 17 which a resolution, law, or other en-
 18 actment of the Indian tribe with juris-
 19 diction over the land of which an in-
 20 terest described in clause (i) is a part
 21 requests the Secretary to apply sub-
 22 paragraph (A)(ii) to devises of trust
 23 or restricted land under the jurisdic-
 24 tion of the Indian tribe, the interest

1 may be devised in fee in accordance
 2 with subparagraph (A)(ii).

3 “(II) EFFECT.—Subclause (I)
 4 shall apply with respect to a devise of
 5 a trust or restricted interest in land
 6 by any decedent who dies on or after
 7 the date on which the applicable In-
 8 dian tribe adopts the resolution, law,
 9 or other enactment described in sub-
 10 clause (I), regardless of the date on
 11 which the devise is made.”;

12 (3) in subsection (c)(2), by striking “the date
 13 that is” and all that follows through the period at
 14 the end and inserting the following: “September 1,
 15 2008.”; and

16 (4) in subsection (o)—

17 (A) in paragraph (3)—

18 (i) by redesignating subparagraphs
 19 (A) and (B) as clauses (i) and (ii) and in-
 20 denting the clauses appropriately;

21 (ii) by striking “(3)” and all that fol-
 22 lows through “No sale” and inserting the
 23 following:

1 “(3) REQUEST TO PURCHASE; CONSENT RE-
 2 QUIREMENTS; MULTIPLE REQUESTS TO PUR-
 3 CHASE.—

4 “(A) IN GENERAL.—No sale”; and
 5 (iii) by striking the last sentence and
 6 inserting the following:

7 “(B) MULTIPLE REQUESTS TO PUR-
 8 CHASE.—Except for interests purchased pursu-
 9 ant to paragraph (5), if the Secretary receives
 10 a request with respect to an interest from more
 11 than 1 eligible purchaser under paragraph (2),
 12 the Secretary shall sell the interest to the eligi-
 13 ble purchaser that is selected by the applicable
 14 heir, devisee, or surviving spouse.”;

15 (B) in paragraph (4)—

16 (i) in subparagraph (A), by adding
 17 “and” at the end;

18 (ii) in subparagraph (B), by striking
 19 “; and” and inserting a period; and

20 (iii) by striking subparagraph (C);
 21 and

22 (C) in paragraph (5)—

23 (i) in subparagraph (A)—

24 (I) in the matter preceding clause

25 (i)—

- 1 (aa) by striking “subpara-
- 2 graph (B), the consent of a per-
- 3 son who is an heir” and inserting
- 4 “subparagraph (C), the consent
- 5 of a person who is an heir or sur-
- 6 viving spouse”; and
- 7 (bb) by striking “auction
- 8 and”;
- 9 (II) in clause (i), by striking
- 10 “and” at the end;
- 11 (III) in clause (ii)—
- 12 (aa) by striking “auction”
- 13 and inserting “sale”;
- 14 (bb) by striking “the inter-
- 15 est passing to such heir rep-
- 16 represents” and inserting “, at the
- 17 time of death of the applicable
- 18 decedent, the interest of the dece-
- 19 dent in the land represented”;
- 20 and
- 21 (cc) by striking the period at
- 22 the end and inserting a semi-
- 23 colon; and
- 24 (IV) by adding at the end the fol-
- 25 lowing:

1 “(iii) the decedent died on or after
2 September 1, 2008; and

3 “(iv)(I) the Secretary is purchasing
4 the interest under the program authorized
5 under section 213(a)(1); or

6 “(II) after receiving a notice under
7 paragraph (4)(B), the Indian tribe with ju-
8 risdiction over the interest is proposing to
9 purchase the interest from an heir or sur-
10 viving spouse who is not residing on the
11 property in accordance with clause (i), and
12 who is not a member, and is not eligible to
13 become a member, of that Indian tribe.”;

14 (ii) by redesignating subparagraph
15 (B) as subparagraph (C);

16 (iii) by inserting after subparagraph
17 (A) the following:

18 “(B) AUTHORITY TO EXTEND DATE.—The
19 Secretary may extend the date referred to in
20 subparagraph (A)(iii) by not more than 1 year
21 if, by not later than August 1, 2008, the Sec-
22 retary publishes in the Federal Register a no-
23 tice of the extension.”; and

24 (iv) in subparagraph (C) (as redesign-
25 nated by clause (ii))—

1 (I) by inserting “or surviving
 2 spouse” after “heir” each place it ap-
 3 pears; and

4 (II) by striking “heir’s interest”
 5 and inserting “interest of the heir or
 6 surviving spouse”.

7 (c) CONFORMING AMENDMENT.—Section 213(a)(1)
 8 of the Indian Land Consolidation Act (25 U.S.C.
 9 2212(a)(1)) is amended by striking “section 207(p)” and
 10 inserting “section 207(o)”.

11 **SEC. 6. INDIAN GOODS AND PRODUCTS.**

12 (a) INDIAN ARTS AND CRAFTS.—

13 (1) CRIMINAL PROCEEDINGS; CIVIL ACTIONS;
 14 MISREPRESENTATIONS.—Section 5 of the Act enti-
 15 tled “An Act to promote the development of Indian
 16 arts and crafts and to create a board to assist there-
 17 in, and for other purposes” (25 U.S.C. 305d) is
 18 amended to read as follows:

19 **“SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.**

20 “(a) DEFINITION OF FEDERAL LAW ENFORCEMENT
 21 OFFICER.—In this section, the term ‘Federal law enforce-
 22 ment officer’ includes a Federal law enforcement officer
 23 (as defined in section 115(c) of title 18, United States
 24 Code).

1 “(b) CONDUCT OF INVESTIGATIONS.—Any Federal
 2 law enforcement officer may conduct an investigation re-
 3 lating to a violation of this Act that occurs on land under
 4 the jurisdiction of the Federal Government.

5 “(c) CRIMINAL PROCEEDINGS.—

6 “(1) INVESTIGATION.—

7 “(A) IN GENERAL.—The Board may refer
 8 an alleged violation of section 1159 of title 18,
 9 United States Code, to any Federal law enforce-
 10 ment officer for appropriate investigation.

11 “(B) REFERRAL NOT REQUIRED.—A Fed-
 12 eral law enforcement officer may investigate an
 13 alleged violation of section 1159 of that title re-
 14 gardless of whether the Federal law enforce-
 15 ment officer receives a referral under subpara-
 16 graph (A).

17 “(2) FINDINGS.—The findings of an investiga-
 18 tion of an alleged violation of section 1159 of title
 19 18, United States Code, by any Federal department
 20 or agency under paragraph (1)(A) shall be sub-
 21 mitted to—

22 “(A) the Attorney General; or

23 “(B) the Board.

1 “(3) RECOMMENDATIONS.—On receiving the
2 findings of an investigation under paragraph (2), the
3 Board may—

4 “(A) recommend to the Attorney General
5 that criminal proceedings be initiated under
6 section 1159 of title 18, United States Code;
7 and

8 “(B) provide such support to the Attorney
9 General relating to the criminal proceedings as
10 the Attorney General determines to be appro-
11 priate.

12 “(d) CIVIL ACTIONS.—In lieu of, or in addition to,
13 any criminal proceeding under subsection (c), the Board
14 may recommend that the Attorney General initiate a civil
15 action under section 6.”.

16 (2) CAUSE OF ACTION FOR MISREPRESENTA-
17 TION.—Section 6 of the Act entitled “An Act to pro-
18 mote the development of Indian arts and crafts and
19 to create a board to assist therein, and for other
20 purposes” (25 U.S.C. 305e) is amended—

21 (A) by striking subsection (d);

22 (B) by redesignating subsections (a)
23 through (c) as subsections (b) through (d), re-
24 spectively;

1 (C) by inserting before subsection (b) (as
2 redesignated by subparagraph (B)) the fol-
3 lowing:

4 “(a) DEFINITIONS.—In this section:

5 “(1) INDIAN.—The term ‘Indian’ means an in-
6 dividual that—

7 “(A) is a member of an Indian tribe; or

8 “(B) is certified as an Indian artisan by an
9 Indian tribe.

10 “(2) INDIAN PRODUCT.—The term ‘Indian
11 product’ has the meaning given the term in any reg-
12 ulation promulgated by the Secretary.

13 “(3) INDIAN TRIBE.—

14 “(A) IN GENERAL.—The term ‘Indian
15 tribe’ has the meaning given the term in section
16 4 of the Indian Self-Determination and Edu-
17 cation Assistance Act (25 U.S.C. 450b).

18 “(B) INCLUSION.—The term ‘Indian tribe’
19 includes, for purposes of this section only, an
20 Indian group that has been formally recognized
21 as an Indian tribe by—

22 “(i) a State legislature;

23 “(ii) a State commission; or

1 “(iii) another similar organization
2 vested with State legislative tribal recogni-
3 tion authority.

4 “(4) SECRETARY.—The term ‘Secretary’ means
5 the Secretary of the Interior.”;

6 (D) in subsection (b) (as redesignated by
7 subparagraph (B)), by striking “subsection (c)”
8 and inserting “subsection (d)”;

9 (E) in subsection (c) (as redesignated by
10 subparagraph (B))—

11 (i) by striking “subsection (a)” and
12 inserting “subsection (b)”;

13 (ii) by striking “suit” and inserting
14 “the civil action”;

15 (F) by striking subsection (d) (as redesign-
16 nated by subparagraph (B)) and inserting the
17 following:

18 “(d) PERSONS THAT MAY INITIATE CIVIL AC-
19 TIONS.—

20 “(1) IN GENERAL.—A civil action under sub-
21 section (b) may be initiated by—

22 “(A) the Attorney General, at the request
23 of the Secretary acting on behalf of—

24 “(i) an Indian tribe;

25 “(ii) an Indian; or

1 “(iii) an Indian arts and crafts orga-
2 nization;

3 “(B) an Indian tribe, acting on behalf of—

4 “(i) the Indian tribe;

5 “(ii) a member of that Indian tribe; or

6 “(iii) an Indian arts and crafts orga-
7 nization;

8 “(C) an Indian; or

9 “(D) an Indian arts and crafts organiza-
10 tion.

11 “(2) DISPOSITION OF AMOUNTS RECOVERED.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), an amount recovered in a
14 civil action under this section shall be paid to
15 the Indian tribe, the Indian, or the Indian arts
16 and crafts organization on the behalf of which
17 the civil action was initiated.

18 “(B) EXCEPTIONS.—

19 “(i) ATTORNEY GENERAL.—In the
20 case of a civil action initiated under para-
21 graph (1)(A), the Attorney General may
22 deduct from the amount—

23 “(I) the amount of the cost of
24 the civil action and reasonable attor-
25 ney’s fees awarded under subsection

1 (c), to be deposited in the Treasury
 2 and credited to appropriations avail-
 3 able to the Attorney General on the
 4 date on which the amount is recov-
 5 ered; and

6 “(II) the amount of the costs of
 7 investigation awarded under sub-
 8 section (c), to reimburse the Board
 9 for the activities of the Board relating
 10 to the civil action.

11 “(ii) INDIAN TRIBE.—In the case of a
 12 civil action initiated under paragraph
 13 (1)(B), the Indian tribe may deduct from
 14 the amount—

15 “(I) the amount of the cost of
 16 the civil action; and

17 “(II) reasonable attorney’s fees.”;
 18 and

19 (G) in subsection (e), by striking “(e) In
 20 the event that” and inserting the following:

21 “(e) SAVINGS PROVISION.—If”.

22 (b) MISREPRESENTATION OF INDIAN PRODUCED
 23 GOODS AND PRODUCTS.—Section 1159 of title 18, United
 24 States Code, is amended—

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

3 “(b) PENALTY.—Any person that knowingly violates
4 subsection (a) shall—

5 “(1) in the case of a first violation by that per-
6 son—

7 “(A) if the applicable goods are offered or
8 displayed for sale at a total price of \$1,000 or
9 more, or if the applicable goods are sold for a
10 total price of \$1,000 or more—

11 “(i) in the case of an individual, be
12 fined not more than \$250,000, imprisoned
13 for not more than 5 years, or both; and

14 “(ii) in the case of a person other
15 than an individual, be fined not more than
16 \$1,000,000; and

17 “(B) if the applicable goods are offered or
18 displayed for sale at a total price of less than
19 \$1,000, or if the applicable goods are sold for
20 a total price of less than \$1,000—

21 “(i) in the case of an individual, be
22 fined not more than \$25,000, imprisoned
23 for not more than 1 year, or both; and

1 “(ii) in the case of a person other
2 than an individual, be fined not more than
3 \$100,000; and

4 “(2) in the case of a subsequent violation by
5 that person, regardless of the amount for which any
6 good is offered or displayed for sale or sold—

7 “(A) in the case of an individual, be fined
8 under this title, imprisoned for not more than
9 15 years, or both; and

10 “(B) in the case of a person other than an
11 individual, be fined not more than
12 \$5,000,000.”; and

13 (2) in subsection (c), by striking paragraph (3)
14 and inserting the following:

15 “(3) the term ‘Indian tribe’—

16 “(A) has the meaning given the term in
17 section 4 of the Indian Self-Determination and
18 Education Assistance Act (25 U.S.C. 450b);
19 and

20 “(B) includes, for purposes of this section
21 only, an Indian group that has been formally
22 recognized as an Indian tribe by—

23 “(i) a State legislature;

24 “(ii) a State commission; or

1 “(iii) another similar organization
2 vested with State legislative tribal recogni-
3 tion authority; and”.

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