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114TH CONGRESS
1ST SESSION

S. 209

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

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2015

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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Energy Development and Self-Determination Act Amendments of 2015".

SEC. 2. TABLE OF CONTENTS.

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Sec. 1. Short title.
Sec. 2. Table of contents.

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

SEC. 101. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

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

(1) in paragraph (2)—

(A) in subparagraph (C), by striking ''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 re-

sources 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

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

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

dian Energy Policy and Programs of the Department of Energy.''.

(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—Section 2602(b)(2) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)(2)) is amended—

(1) in the matter preceding subparagraph (A), by inserting '', intertribal organization,'' after ''Indian tribe'';

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

(3) by inserting after subparagraph (B) the following:

''(C) activities to increase the capacity of Indian tribes to manage energy development and energy efficiency programs;''.

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

(1) in paragraph (1), by inserting ''or a tribal energy development organization'' after ''Indian tribe'';

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''guarantee'' and inserting ''guaranteed'';

(B) in subparagraph (A), by striking ''or'';

(C) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(C) a tribal energy development organization, from funds of the tribal energy development organization.''; and

(3) in paragraph (5), by striking ''The Secretary of Energy may'' and inserting ''Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2015, the Secretary of Energy shall''.

SEC. 102. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

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

(1) in paragraph (1), by striking ''on the request of an Indian tribe, the Indian tribe'' and inserting ''on the request of an Indian tribe or a tribal energy development organization, the Indian tribe or tribal energy development organization''; and

(2) in paragraph (2)(B), by inserting ''or tribal energy development organization'' after ''Indian tribe''.

SEC. 103. TRIBAL ENERGY RESOURCE AGREEMENTS.

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

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''or'' after the semicolon at the end;

(ii) in subparagraph (B)—

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

''(i) an electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land; or''; and

(II) in clause (ii)—

(aa) by inserting '', at least a portion of which have been'' after ''energy resources'';

(bb) by inserting ''or produced from'' after ''developed on''; and

(cc) by striking ''and'' after the semicolon at the end and inserting ''or''; and

(iii) by adding at the end the following:

''(C) pooling, unitization, or communitization of the energy mineral resources of the Indian tribe located on tribal land with any other energy mineral resource (including energy mineral resources owned by the Indian tribe or an individual Indian in fee, trust, or restricted status or by any other persons or entities) if the owner of the resources has consented or consents to the pooling, unitization, or communitization of the other resources under any lease or agreement; and''; and

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

''(2) a lease or business agreement described in paragraph (1) shall not require review by, or the approval of, the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), or any other provision of law, if the lease or business agreement—

''(A) was executed—

"(i) in accordance with the requirements of a tribal energy resource agreement in effect under subsection (e) (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subparagraphs (D) and (E) of subsection (e)(2)); or

"(ii) by the Indian tribe and a tribal energy development organization—

"(I) for which the Indian tribe has obtained certification pursuant to subsection (h); and

"(II) the majority of the interest in which is, and continues to be throughout the full term or renewal term (if any) of the lease or business agreement, owned and controlled by the Indian tribe (or the Indian tribe and 1 or more other Indian tribes the tribal land of which is being developed); and

"(B) has a term that does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities.";

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

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

"(1) serves—

"(A) an electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land;

"(B) a facility located on tribal land that extracts, produces, processes, or refines energy resources; or

"(C) the purposes, or facilitates in carrying out the purposes, of any lease or agreement entered into for energy resource development on tribal land; and

"(2) was executed—

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

view and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subparagraphs (D) and (E) of subsection (e)(2)); or

"(B) by the Indian tribe and a tribal energy development organization—

"(i) for which the Indian tribe has obtained certification pursuant to subsection (h); and

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

"(3) has a term that does not exceed 30 years.";

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

"(d) VALIDITY.—No lease or business agreement entered into, or right-of-way granted, pursuant to this section shall be valid unless the lease, business agreement, or right-of-way is authorized by subsection (a) or (b).";

(4) in subsection (e)—

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

"(1) IN GENERAL.—On or after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2015, an Indian tribe may submit to the Secretary a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.";

(B) in paragraph (2)—

(i) by striking "(2)(A)" and all that follows through the end of subparagraph (A) and inserting the following:

"(2) PROCEDURE.—

"(A) EFFECTIVE DATE.—

"(i) IN GENERAL.—On the date that is 271 days after the date on which the Secretary receives a tribal energy resource agreement from an Indian tribe under paragraph (1), the tribal energy resource agreement shall take effect, unless the Secretary disapproves the tribal energy resource agreement under subparagraph (B).

"(ii) REVISED TRIBAL ENERGY RESOURCE AGREEMENT.—On the date that is

91 days after the date on which the Secretary receives a revised tribal energy resource 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;

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

''(ii) a provision of the tribal energy resource agreement would violate applicable Federal law (including regulations) or a treaty applicable to the Indian tribe;

''(iii) the tribal energy resource agreement does not include 1 or more provisions required under subparagraph (D); or''; and

(V) in clause (iv) (as redesignated by subclause (III))—

(aa) in the matter preceding subclause (I), by striking ''includes'' and all that follows through ''section—'' and inserting ''does not include provisions that, with respect to any lease, business agreement, or right-of-way to which the tribal energy resource agreement applies—''; and

(bb) in subclause (XVI)(bb), by striking ''or tribal'';

(iii) in subparagraph (C)—

(I) in the matter preceding clause (i), by inserting ''the approval of'' after ''with respect to'';

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

''(ii) the identification of mitigation measures, if any, that, in the discretion of the Indian tribe, the Indian tribe might propose for incorporation into the lease, business agreement, or right-of-way;'';

(III) in clause (iii)(I), by striking ''proposed action'' and inserting ''approval of the lease, business agreement, or right-of-way'';

(IV) in clause (iv), by striking ''and'' at the end;

(V) in clause (v), by striking the period at the end and inserting ''; and''; and

(VI) by adding at the end the following:

"(vi) the identification of specific classes or categories of actions, if any, determined by the Indian tribe not to have significant 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 agree to an extension of the time period for making the determination.

"(ii) Any determination (including any preliminary determination) that the Indian tribe lacks the requisite capacity shall be treated as a disapproval under paragraph (4) and, not later than 10 days after the date of the determination, 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 demonstrate sufficient capacity.

"(H) Notwithstanding any other provision of this section, an Indian tribe shall be considered to have demonstrated sufficient capacity under subparagraph (B)(i) to regulate the development of the specific 1 or more energy resources of the Indian tribe identified for development under the tribal energy resource agree-

ment submitted by the Indian tribe pursuant to paragraph (1) if—

"(i) the Secretary determines that—

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

"(bb) for a period of not less than 3 consecutive years ending on the date on which the Indian tribe submits the tribal energy resource agreement of the Indian tribe pursuant to paragraph (1) or (4)(B), the contract or compact—

"(AA) has been carried out by the Indian tribe without material audit exceptions (or without any material audit exceptions that were not corrected within the 3-year period); and

"(BB) has included programs or activities relating to the management of the environment,

tribal land, realty, or natural resources; or

"(II) the Indian tribe has carried out approval of surface leases under subsection (h) of the first section of the Act of August 9, 1955 (commonly known as the 'Long-Term Leasing Act') (25 U.S.C. 415(h)) for the previous calendar year without a finding of a compliance violation under paragraph (8)(B) of that subsection; or

"(ii) the Secretary fails to make the preliminary determination within the time allowed under subparagraph (G)(i) (including any extension of time agreed to under that subparagraph).";

(C) in paragraph (4), by striking "date of disapproval" and all that follows through the end of subparagraph (C) and inserting the following: "date of disapproval, provide the Indian tribe with—

"(A) a detailed, written explanation of—

"(i) each reason for the disapproval; and

"(ii) the revisions or changes to the tribal energy resource agreement necessary to address each reason; and

"(B) an opportunity to revise and resubmit the tribal energy resource agreement.";

(D) in paragraph (6)—

(i) in subparagraph (B)—

(I) by striking "(B) Subject to" and inserting the following:

"(B) Subject only to"; and

(II) by striking "subparagraph (D)" and inserting "subparagraphs (C) and (D)";

(ii) in subparagraph (C), in the matter preceding clause (i), by inserting "to perform the obligations of the Secretary under this section and" before "to ensure"; and

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

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

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

section that is not a negotiated term; or

"(II) losses that are not the result of a negotiated term, including losses resulting from the failure of the Secretary to perform an obligation of the Secretary under this section.";

(E) in paragraph (7)—

(i) in subparagraph (A), by striking "has demonstrated" and inserting "the Secretary determines has demonstrated with substantial evidence";

(ii) in subparagraph (B), by striking "any tribal remedy" and inserting "all remedies (if any) provided under the laws of the Indian tribe";

(iii) in subparagraph (D)—

(I) in clause (i), by striking "determine" and all that follows through the end of the clause and inserting the following: "determine—

"(I) whether the petitioner is an interested party; and

"(II) if the petitioner is an interested party, whether the In-

dian tribe is not in compliance with the tribal energy resource agreement as alleged in the petition.'';

(II) in clause (ii), by striking ''determination'' and inserting ''determinations''; and

(III) in clause (iii), in the matter preceding subclause (I) by striking ''agreement'' the first place it appears and all that follows through '', including'' and inserting ''agreement pursuant to clause (i), the Secretary shall only take such action as the Secretary determines necessary to address the claims of noncompliance made in the petition, including'';

(iv) in subparagraph (E)(i), by striking ''the manner in which'' and inserting '', with respect to each claim made in the petition, how''; and

(v) by adding at the end the following:

''(G) Notwithstanding any other provision of this paragraph, the Secretary shall dismiss any petition from an interested party that has

agreed with the Indian tribe to a resolution of the claims presented in the petition of that party.";

(F) in paragraph (8)(B)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by adding "and" after the semicolon; and

(iii) by adding at the end the following:

"(iii) amend an approved tribal energy resource agreement to assume authority for approving leases, business agreements, or rights-of-way for development of another energy resource that is not included in an approved tribal energy resource agreement without being required to apply for a new tribal energy resource agreement;" and

(G) by adding at the end the following:

"(9) EFFECT.—Nothing in this section authorizes the Secretary to deny a tribal energy resource agreement or any amendment to a tribal energy resource agreement, or to limit the effect or implemen-

tation of this section, due to lack of promulgated regulations.";

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

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

"(g) FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES BY THE SECRETARY.—

"(1) IN GENERAL.—Any amounts that the Secretary would otherwise expend to operate or carry out any program, function, service, or activity (or any portion of a program, function, service, or activity) of the Department that, as a result of an Indian tribe carrying out activities under a tribal energy resource agreement, the Secretary does not expend, the Secretary shall, at the request of the Indian tribe, make available to the Indian tribe in accordance with this subsection.

"(2) ANNUAL FUNDING AGREEMENTS.—The Secretary shall make the amounts described in paragraph (1) available to an Indian tribe through an annual written funding agreement that is negotiated and entered into with the Indian tribe that is separate from the tribal energy resource agreement.

"(3) EFFECT OF APPROPRIATIONS.—Notwithstanding paragraph (1)—

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

"(B) the Secretary shall not be required to reduce amounts for programs, functions, services, or activities that serve any other Indian tribe to make amounts available to an Indian tribe under this subsection.

"(4) DETERMINATION.—

"(A) IN GENERAL.—The Secretary shall calculate the amounts under paragraph (1) in accordance with the regulations adopted under section 103(b) of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2015.

"(B) APPLICABILITY.—The effective date 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 2015;

"(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 2015, 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 Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

"(ii) for a period of not less than 3 consecutive years ending on the date on which the Indian tribe submits the application, the contract or compact—

"(I) has been carried out by the Indian tribe without material audit exceptions (or without any material audit exceptions that were not corrected within the 3-year period); and

"(II) has included programs or activities relating to the management of tribal land; and

"(B)(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 the tribal land of which is being developed); and

"(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 the tribal land of which is being developed) 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 the tribal land of which is being developed);

"(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 the tribal land of which is being developed) own and control at all times a majority of the interest in the tribal energy development organization; and

"(iv) the certification is issued pursuant this subsection;

"(B) deliver a copy of the certification to the Indian tribe; and

"(C) publish the certification in the Federal Register.

"(i) SOVEREIGN IMMUNITY.—Nothing in this section waives the sovereign immunity of an Indian tribe.".

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

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

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

(A) identify the programs, functions, services, and activities (or any portions of programs, functions, services, or activities) that the Secretary will not have to operate or carry out as a result of the Indian tribe carrying out activities under a tribal energy resource agreement;

(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

(3) 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 docu-

mentation 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

(2) by inserting after paragraph (2) the following:

"(3) TECHNICAL AND SCIENTIFIC RESOURCES.—In addition to providing grants to Indian tribes under this subsection, the Secretary shall collaborate with the Directors of the National Laboratories in making the full array of technical and scientific resources of the Department of Energy available for tribal energy activities and projects.".

SEC. 105. CONFORMING AMENDMENTS.

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

"(11) The term 'tribal energy development organization' means—

"(A) any enterprise, partnership, consortium, corporation, or other type of business organization that is engaged in the development of energy resources and is wholly owned by an Indian tribe (including an organization incorporated pursuant to section 17 of the Indian Reorganization Act of 1934 (25 U.S.C. 477) or 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

(2) in subsection (b)(2), by striking ''tribal energy resource development organization'' and inserting ''tribal energy development organization''.

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

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

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

(A) in subclause (XIV), by inserting ''and'' after the semicolon at the end;

(B) by striking subclause (XV); and

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

(2) in paragraph (3)—

(A) by striking ''(3) The Secretary'' and inserting the following:

''(3) NOTICE AND COMMENT; SECRETARIAL REVIEW.—The Secretary''; and

(B) by striking ''for approval'';

(3) in paragraph (4), by striking ''(4) If the Secretary'' and inserting the following:

''(4) ACTION IN CASE OF DISAPPROVAL.—If the Secretary'';

(4) in paragraph (5)—

(A) by striking ''(5) If an Indian tribe'' and inserting the following:

''(5) PROVISION OF DOCUMENTS TO SECRETARY.—If an Indian tribe''; and

(B) in the matter preceding subparagraph (A), by striking ''approved'' and inserting ''in effect'';

(5) in paragraph (6)—

(A) by striking ''(6)(A) In carrying out'' and inserting the following:

''(6) SECRETARIAL OBLIGATIONS AND EFFECT OF SECTION.—

''(A) In carrying out'';

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

(C) in subparagraph (B), by striking ''approved'' and inserting ''in effect''; and

(D) in subparagraph (D)—

(i) in clause (i), by striking ''an approved tribal energy resource agreement'' and inserting ''a tribal energy resource agreement in effect under this section''; and

(ii) in clause (ii), by striking ''approved by the Secretary'' and inserting ''in effect''; and

(6) in paragraph (7)—

(A) by striking ''(7)(A) In this paragraph'' and inserting the following:

''(7) PETITIONS BY INTERESTED PARTIES.—

''(A) In this paragraph'';

(B) in subparagraph (A), by striking ''approved by the Secretary'' and inserting ''in effect'';

(C) in subparagraph (B), by striking ''approved by the Secretary'' and inserting ''in effect''; and

(D) in subparagraph (D)(iii)—

(i) in subclause (I), by striking ''approved''; and

(ii) in subclause (II)—

(I) by striking ''approval of'' in the first place it appears; and

(II) by striking ''subsection (a) or (b)'' and inserting ''subsection (a)(2)(A)(i) or (b)(2)(A)''.

TITLE II—MISCELLANEOUS AMENDMENTS

SEC. 201. ISSUANCE OF PRELIMINARY PERMITS OR LICENSES.

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

(b) APPLICABILITY.—The amendment made by subsection (a) shall not affect—

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

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

18, Code of Federal Regulations (or successor regulations), before the date of enactment of the Indian Tribal Energy Development and Self-Determination Act Amendments of 2015.

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

SEC. 202. TRIBAL BIOMASS DEMONSTRATION PROJECT.

(a) PURPOSE.—The purpose of this section is to establish a biomass demonstration project for federally recognized Indian tribes and Alaska Native corporations to promote biomass energy production.

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

(1) in section 2(a), by striking ''In this section'' and inserting ''In this Act''; and

(2) by adding at the end the following:

''SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.

''(a) STEWARDSHIP CONTRACTS OR SIMILAR AGREEMENTS.—For each of fiscal years 2015 through 2019, the Secretary shall enter into stewardship contracts or similar

agreements (excluding direct service contracts) with Indian tribes to carry out demonstration projects to promote biomass energy production (including biofuel, heat, and electricity generation) on Indian forest land and in nearby communities by providing reliable supplies of woody biomass from Federal land.

"(b) DEMONSTRATION PROJECTS.—In each fiscal year for which projects are authorized, at least 4 new demonstration projects that meet the eligibility criteria described in subsection (c) shall be carried out under contracts or agreements described in subsection (a).

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

"(1) containing such information as the Secretary may require; and

"(2) that includes a description of—

"(A) the Indian forest land or rangeland under the jurisdiction of the Indian tribe; and

"(B) the demonstration project proposed to be carried out by the Indian tribe.

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

"(1) take into consideration—

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

"(B) whether a proposed project would—

"(i) increase the availability or reliability of local or regional energy;

"(ii) enhance the economic development of the Indian tribe;

"(iii) result in or improve the connection of electric power transmission facilities serving the Indian tribe with other electric transmission facilities;

"(iv) improve the forest health or watersheds of Federal land or Indian forest land or rangeland;

"(v) demonstrate new investments in infrastructure; or

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

"(2) exclude from consideration any merchantable logs that have been identified by the Secretary for commercial sale.

"(e) IMPLEMENTATION.—The Secretary shall—

"(1) ensure that the criteria described in subsection (c) are publicly available by not later than

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

"(2) to the maximum extent practicable, consult with Indian tribes and appropriate intertribal organizations likely to be affected in developing the application and otherwise carrying out this section.

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

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

"(2) each contract and agreement entered into pursuant to this section.

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

"(h) TERM.—A contract or agreement entered into under this section—

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

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

(c) ALASKA NATIVE BIOMASS DEMONSTRATION PROJECT.—

(1) DEFINITIONS.—In this subsection:

(A) 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.

(B) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(C) 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.

(D) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) AGREEMENTS.—For each of fiscal years 2015 through 2019, the Secretary shall enter into an agreement or contract with an Indian tribe or a tribal organization to carry out a demonstration project to promote biomass energy production (including biofuel, heat, and electricity generation) by providing reliable supplies of woody biomass from Federal land.

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

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

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

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

(B) that includes a description of the demonstration project proposed to be carried out by the Indian tribe or tribal organization.

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

(A) take into consideration whether a proposed project would—

(i) increase the availability or reliability of local or regional energy;

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

(iii) result in or improve the connection of electric power transmission facilities serving the Indian tribe with other electric transmission facilities;

(iv) improve the forest health or watersheds of Federal land or non-Federal land;

(v) demonstrate new investments in infrastructure; or

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

(B) exclude from consideration any merchantable logs that have been identified by the Secretary for commercial sale.

(6) IMPLEMENTATION.—The Secretary shall—

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

(B) to the maximum extent practicable, consult with Indian tribes and appropriate tribal organizations likely to be affected in developing the application and otherwise carrying out this subsection.

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

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

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

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

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

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

SEC. 203. WEATHERIZATION PROGRAM.

Section 413(d) of the Energy Conservation and Production Act (42 U.S.C. 6863(d)) is amended—

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

''(1) RESERVATION OF AMOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of this part, the Secretary shall reserve from amounts that would otherwise be allocated to a State under this part not less than 100 percent, but not more than 150 percent, of an amount which bears the same proportion to the allocation of that State for the applicable fiscal

year as the population of all low-income members of an Indian tribe in that State bears to the population of all low-income individuals in that State.

"(B) RESTRICTIONS.—Subparagraph (A) shall apply only if—

"(i) the tribal organization serving the low-income members of the applicable Indian tribe requests that the Secretary make a grant directly; and

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

"(C) PRESUMPTION.—If the tribal organization requesting the grant is a tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) that has operated without material audit exceptions (or without any material audit exceptions that were not corrected within a 3-year period), the Secretary shall presume that the

low-income members of the applicable Indian tribe would be equally or better served by making a grant directly to the tribal organization than by a grant made to the State in which the low-income members reside.'';

(2) in paragraph (2)—

(A) by striking ''The sums'' and inserting ''ADMINISTRATION.—The amounts'';

(B) by striking ''on the basis of his determination'';

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

(D) by striking ''he'' and inserting ''the Secretary''; and

(3) in paragraph (3), by striking ''In order'' and inserting ''APPLICATION.—In order''.

SEC. 204. APPRAISALS.

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

''SEC. 2607. APPRAISALS.

''(a) IN GENERAL.—For any transaction that requires approval of the Secretary and involves mineral or energy resources held in trust by the United States for

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

"(1) the Secretary;

"(2) the affected Indian tribe; or

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

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

"(1) review the appraisal; and

"(2) approve the appraisal unless the Secretary determines that the appraisal fails to meet the standards set forth in regulations promulgated under subsection (d).

"(c) NOTICE OF DISAPPROVAL.—If the Secretary determines that an appraisal submitted for approval under subsection (b) should be disapproved, the Secretary shall give written notice of the disapproval to the Indian tribe and a description of—

"(1) each reason for the disapproval; and

"(2) how the appraisal should be corrected or otherwise cured to meet the applicable standards set forth in the regulations promulgated under subsection (d).

"(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section, including standards the Secretary shall use for approving or disapproving the appraisal described in subsection (a).".

SEC. 205. LEASES OF RESTRICTED LANDS FOR NAVAJO NATION.

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

(1) by striking ", except a lease for" and inserting ", including a lease for";

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

"(A) in the case of a business or agricultural lease, 99 years;";

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

(4) by adding at the end the following:

"(C) in the case of a lease for the exploration, development, or extraction of any min-

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

"(i) any such lease may include an option to renew for 1 additional term of not to exceed 25 years; and

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

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

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

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting ", land held in trust for the Crow Tribe of Montana" after "Devils Lake Sioux Reservation".

SEC. 207. TRUST STATUS OF LEASE PAYMENTS.

(a) DEFINITION OF SECRETARY.—In this section, the term ''Secretary'' means the Secretary of the Interior.

(b) TREATMENT OF LEASE PAYMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and at the request of the Indian tribe or individual Indian, any advance payments, bid deposits, or other earnest money received by the Secretary in connection with the review and Secretarial approval under any other Federal law (including regulations) of a sale, lease, permit, or any other conveyance of any interest in any trust or restricted land of any Indian tribe or individual Indian shall, upon receipt and prior to Secretarial approval of the contract or conveyance instrument, be held in the trust fund system for the benefit of the Indian tribe and individual Indian from whose land the funds were generated.

(2) RESTRICTION.—If the advance payment, bid deposit, or other earnest money received by the Secretary results from competitive bidding, upon selection of the successful bidder, only the funds paid by the successful bidder shall be held in the trust fund system.

(c) USE OF FUNDS.—

(1) IN GENERAL.—On the approval of the Secretary of a contract or other instrument for a sale, lease, permit, or any other conveyance described in subsection (b)(1), the funds held in the trust fund system and described in subsection (b), along with all income generated from the investment of those funds, shall be disbursed to the Indian tribe or individual Indian landowners.

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

(d) APPLICABILITY.—This section shall apply to any advance payment, bid deposit, or other earnest money received by the Secretary in connection with the review and Secretarial approval under any other Federal law (including regulations) of a sale, lease, permit, or any other conveyance of any interest in any trust or restricted land of

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

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