

Calendar No. 686

114TH CONGRESS
2D SESSION**S. 2717****[Report No. 114–382]**

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

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2016

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

NOVEMBER 17, 2016

Reported by Mr. BARRASSO, with an amendment

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

A BILL

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

5 (b) **TABLE OF CONTENTS.**—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—INDIAN DAM SAFETY DEFERRED MAINTENANCE FUNDS

Subtitle A—High-Hazard Fund

Sec. 101. Establishment.

Sec. 102. Deposits to Fund.

Sec. 103. Expenditures from Fund.

Sec. 104. Investments of amounts.

Sec. 105. Transfers of amounts.

Sec. 106. Termination.

Subtitle B—Low-Hazard Fund

Sec. 111. Establishment.

Sec. 112. Deposits to Fund.

Sec. 113. Expenditures from Fund.

Sec. 114. Investments of amounts.

Sec. 115. Transfers of amounts.

Sec. 116. Termination.

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

Subtitle A—Program Establishment

Sec. 201. Repair, replacement, and maintenance of certain Indian dams.

Sec. 202. Eligible dams.

Sec. 203. Requirements and conditions.

Sec. 204. Tribal consultation and user input.

Sec. 205. Allocation among dams.

Subtitle B—Management

Sec. 211. Tribal Safety of Dams Committee.

Sec. 212. Indian dam surveys.

Sec. 213. Flood plain management pilot program.

Sec. 214. Tribal Partnership Program.

Sec. 215. Cost-sharing for Indian tribes.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **DAM.**—

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

8 (B) **INCLUSIONS.**—The term “dam” in-
9 cludes any structure, facility, equipment, or ve-
10 hicle used in connection with the operation of a
11 dam.

12 (2) **FUND.**—The term “Fund” means, as appli-
13 cable—

14 (A) the High-Hazard Indian Dam Safety
15 Deferred Maintenance Fund established by sec-
16 tion 101; or

17 (B) the Low-Hazard Indian Dam Safety
18 Deferred Maintenance Fund established by sec-
19 tion 111.

20 (3) **HIGH HAZARD POTENTIAL DAM.**—The term
21 “high hazard potential dam” means a dam assigned
22 to the significant or high hazard potential classifica-
23 tion under the guidelines published by the Federal
24 Emergency Management Agency entitled “Federal
25 Guidelines for Dam Safety: Hazard Potential Classi-

1 fication System for Dams” (FEMA Publication
2 Number 333).

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

7 (5) LOW HAZARD POTENTIAL DAM.—The term
8 “low hazard potential dam” means a dam assigned
9 to the low hazard potential classification under the
10 guidelines published by the Federal Emergency
11 Management Agency entitled “Federal Guidelines
12 for Dam Safety: Hazard Potential Classification
13 System for Dams” (FEMA Publication Number
14 333).

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

1 **TITLE I—INDIAN DAM SAFETY**
 2 **DEFERRED MAINTENANCE**
 3 **FUNDS**

4 **Subtitle A—High-Hazard Fund**

5 **SEC. 101. ESTABLISHMENT.**

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

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

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

13 **SEC. 102. DEPOSITS TO FUND.**

14 (a) **IN GENERAL.**—For each of fiscal years 2017
 15 through 2037, the Secretary of the Treasury shall deposit
 16 in the Fund \$22,750,000 of the revenues that would oth-
 17 erwise be deposited for the fiscal year in the reclamation
 18 fund established by the first section of the Act of June
 19 17, 1902 (32 Stat. 388, chapter 1093).

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

23 **SEC. 103. EXPENDITURES FROM FUND.**

24 (a) **IN GENERAL.**—Subject to subsection (b), for each
 25 of fiscal years 2017 through 2037, the Secretary may, to

1 the extent provided in advance in appropriations Acts, ex-
 2 pend from the Fund, in accordance with this Act, not more
 3 than the sum of—

4 (1) \$22,750,000; and

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

6 (b) ~~ADDITIONAL EXPENDITURES.~~—The Secretary
 7 may expend more than \$22,750,000 for any fiscal year
 8 referred to in subsection (a) if the additional amounts are
 9 available in the Fund as a result of a failure of the Sec-
 10 retary to expend all of the amounts available under sub-
 11 section (a) in 1 or more prior fiscal years.

12 **SEC. 104. INVESTMENTS OF AMOUNTS.**

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

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

20 **SEC. 105. TRANSFERS OF AMOUNTS.**

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

1 (b) ~~ADJUSTMENTS.~~—Proper adjustment shall be
 2 made in amounts subsequently transferred to the extent
 3 prior estimates are in excess of or less than the amounts
 4 required to be transferred.

5 **SEC. 106. TERMINATION.**

6 On September 30, 2037—

7 (1) the Fund shall terminate; and

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

12 **Subtitle B—Low-Hazard Fund**

13 **SEC. 111. ESTABLISHMENT.**

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

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

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

21 **SEC. 112. DEPOSITS TO FUND.**

22 (a) ~~IN GENERAL.~~—For each of fiscal years 2017
 23 through 2037, the Secretary of the Treasury shall deposit
 24 in the Fund \$10,000,000 of the revenues that would oth-
 25 erwise be deposited for the fiscal year in the reclamation

1 fund established by the first section of the Act of June
2 17, 1902 (32 Stat. 388, chapter 1093).

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

6 **SEC. 113. EXPENDITURES FROM FUND.**

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

12 (1) \$10,000,000; and

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

14 (b) ~~ADDITIONAL EXPENDITURES.~~—The Secretary
15 may expend more than \$10,000,000 for any fiscal year
16 referred to in subsection (a) if the additional amounts are
17 available in the Fund as a result of a failure of the Sec-
18 retary to expend all of the amounts available under sub-
19 section (a) in 1 or more prior fiscal years.

20 **SEC. 114. INVESTMENTS OF AMOUNTS.**

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

24 (b) ~~CREDITS TO FUND.~~—The interest on, and the
25 proceeds from the sale or redemption of, any obligations

1 held in the Fund shall be credited to, and form a part
 2 of, the Fund.

3 **SEC. 115. TRANSFERS OF AMOUNTS.**

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

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

13 **SEC. 116. TERMINATION.**

14 On September 30, 2037—

15 (1) the Fund shall terminate; and

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

1 **TITLE II—REPAIR, REPLACE-**
 2 **MENT, AND MAINTENANCE OF**
 3 **CERTAIN INDIAN DAMS**

4 **Subtitle A—Program Establishment**

5 **SEC. 201. REPAIR, REPLACEMENT, AND MAINTENANCE OF**
 6 **CERTAIN INDIAN DAMS.**

7 (a) IN GENERAL.—The Secretary shall establish a
 8 program to address the deferred maintenance needs of In-
 9 dian dams that—

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

12 (2) unduly impede the management and effi-
 13 ciency of Indian dams.

14 (b) FUNDING.—

15 (1) HIGH-HAZARD FUND.—Consistent with sec-
 16 tion 102, the Secretary shall use or transfer to the
 17 Bureau of Indian Affairs not less than \$22,750,000
 18 of amounts in the High-Hazard Indian Dam Safety
 19 Deferred Maintenance Fund, plus accrued interest,
 20 for each of fiscal years 2017 through 2037 to carry
 21 out maintenance, repair, and replacement activities
 22 for 1 or more of the Indian dams described in sec-
 23 tion 202(a).

24 (2) LOW-HAZARD FUND.—Consistent with sec-
 25 tion 112, the Secretary shall use or transfer to the

1 Bureau of Indian Affairs not less than \$10,000,000
 2 of amounts in the Low-Hazard Indian Dam Safety
 3 Deferred Maintenance Fund, plus accrued interest,
 4 for each of fiscal years 2017 through 2037 to carry
 5 out maintenance, repair, and replacement activities
 6 for 1 or more of the Indian dams described in sec-
 7 tion 202(b).

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

14 **SEC. 202. ELIGIBLE DAMS.**

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

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

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

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

6 (B) have deferred maintenance documented by
7 the Bureau of Indian Affairs.

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

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

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

18 (ii) are managed by the Bureau of Indian
19 Affairs (including dams managed under con-
20 tracts or compacts pursuant to the Indian Self-
21 Determination and Education Assistance Act
22 (25 U.S.C. 450 et seq.)); or

23 (B) have deferred maintenance documented by
24 the Bureau of Indian Affairs.

1 **SEC. 203. REQUIREMENTS AND CONDITIONS.**

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

7 (1) programmatic goals to carry out this sub-
8 title that—

9 (A) would enable the completion of repair-
10 ing, replacing, improving, or performing main-
11 tenance on Indian dams as expeditiously as
12 practicable, subject to the dam safety policies of
13 the Director of the Bureau of Indian Affairs es-
14 tablished to carry out the Indian Dams Safety
15 Act of 1994 (25 U.S.C. 3801 et seq.);

16 (B) facilitate or improve the ability of the
17 Bureau of Indian Affairs to carry out the mis-
18 sion of the Bureau of Indian Affairs in oper-
19 ating an Indian dam; and

20 (C) ensure that the results of government-
21 to-government consultation required under sec-
22 tion 204 be addressed; and

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

1 (A) the extent to which deferred maintenance of Indian dams poses a threat to—

2
3 (i) public or employee safety or health;

4
5 (ii) natural or cultural resources; or

6 (iii) the ability of the Bureau of Indian Affairs to carry out the mission of the Bureau of Indian Affairs in operating an Indian dam;

7
8
9
10 (B) the extent to which repairing, replacing, improving, or performing maintenance on an Indian dam will—

11
12
13 (i) improve public or employee safety, health, or accessibility;

14
15 (ii) assist in compliance with codes, standards, laws, or other requirements;

16
17 (iii) address unmet needs; or

18 (iv) assist in protecting natural or cultural resources;

19
20 (C) the methodology of the rehabilitation priority index of the Secretary, as in effect on the date of enactment of this Act;

21
22
23 (D) the potential economic benefits of the expenditures on job creation and general eco-

1 nomic development in the affected tribal com-
2 munities;

3 ~~(E)~~ the ability of an Indian dam to ad-
4 dress tribal, regional, and watershed level flood
5 prevention needs;

6 ~~(F)~~ the need to comply with the dam safe-
7 ty policies of the Director of the Bureau of In-
8 dian Affairs established to carry out the Indian
9 Dams Safety Act of 1994 (25 U.S.C. 3801 et
10 seq.);

11 ~~(G)~~ the ability of the water storage capae-
12 ity of an Indian dam to be increased to prevent
13 flooding in downstream tribal and nontribal
14 communities; and

15 ~~(H)~~ such other factors as the Secretary de-
16 termines to be appropriate to prioritize the use
17 of available funds that are, to the fullest extent
18 practicable, consistent with tribal and user rec-
19 ommendations received pursuant to the con-
20 sultation and input process under section 204.

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

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

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

3 (2) ensure that the Director of the Bureau of
4 Indian Affairs advises the Indian tribe that has ju-
5 risdiction over the land on which a dam eligible to
6 receive funding under section 202 is located on the
7 expenditure of funds; and

8 (3) solicit and consider the input, comments,
9 and recommendations of the landowners served by
10 the Indian dam.

11 (b) EMERGENCIES.—If the Secretary determines that
12 an emergency circumstance exists with respect to an In-
13 dian dam, subsection (a) shall not apply with respect to
14 that Indian dam.

15 **SEC. 205. ALLOCATION AMONG DAMS.**

16 (a) IN GENERAL.—Subject to subsection (b), to the
17 maximum extent practicable, the Secretary shall ensure
18 that, for each of fiscal years 2017 through 2037, each In-
19 dian dam eligible for funding under section 202 that has
20 critical maintenance needs receives part of the funding
21 under section 201 to address critical maintenance needs.

22 (b) PRIORITY.—In allocating amounts under section
23 201(b), in addition to considering the funding priorities
24 described in section 203, the Secretary shall give priority

1 to Indian dams eligible for funding under section 202 that
 2 serve—

3 (1) more than 1 Indian tribe within an Indian
 4 reservation; or

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

7 (c) CAP ON FUNDING.—

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

13 (2) EXCEPTION.—Notwithstanding the cap de-
 14 scribed in paragraph (1), if the full amount under
 15 section 201(b) cannot be fully allocated to eligible
 16 Indian dams because the costs of the remaining ac-
 17 tivities authorized in section 201(b) of an Indian
 18 dam would exceed the cap described in paragraph
 19 (1), the Secretary may allocate the remaining funds
 20 to eligible Indian dams in accordance with this sub-
 21 title.

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

24 (e) APPLICABILITY OF ISDEAA.—The Indian Self-
 25 Determination and Education Assistance Act (25 U.S.C.

1 450 et seq.) shall apply to activities carried out under this
 2 section.

3 **Subtitle B—Management**

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

5 (a) ESTABLISHMENT OF COMMITTEE.—

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

10 (2) MEMBERSHIP.—

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

13 (i) 11 shall be appointed by the Sec-
 14 retary of the Interior from among individ-
 15 uals who, to the maximum extent prae-
 16 ticable, have knowledge and expertise in
 17 dam safety issues and flood prevention and
 18 mitigation, of whom not less than 4 shall
 19 be a member of an Indian tribe in each
 20 of—

21 (I) the Intermountain West;

22 (II) the Great Plains;

23 (III) the Pacific Northwest;

24 (IV) the Southwest;

25 (V) the Southeast; and

1 (VI) the Northeast;

2 (ii) 2 shall be appointed by the Sec-
3 retary of the Interior from among employ-
4 ees of the Bureau of Indian Affairs who
5 have knowledge and expertise in dam safe-
6 ty issues and flood prevention and mitiga-
7 tion;

8 (iii) 1 shall be appointed by the Sec-
9 retary of the Interior from among employ-
10 ees of the Bureau of Reclamation who have
11 knowledge and expertise in dam safety
12 issues and flood prevention and mitigation;
13 and

14 (iv) 1 shall be appointed by the Sec-
15 retary of the Army from among employees
16 of the Corps of Engineers who have knowl-
17 edge and expertise in dam safety issues
18 and flood prevention and mitigation.

19 (B) NONVOTING MEMBERS.—The members
20 of the Committee appointed under clauses (ii)
21 and (iii) of subparagraph (A) shall be nonvoting
22 members.

23 (C) DATE.—The appointments of the
24 members of the Committee shall be made as

1 soon as practicable after the date of enactment
2 of this Act.

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

5 ~~(4) VACANCIES.—~~Any vacancy in the Com-
6 mittee shall not affect the powers of the Committee;
7 but shall be filled in the same manner as the origi-
8 nal appointment.

9 ~~(5) INITIAL MEETING.—~~Not later than 30 days
10 after the date on which all members of the Com-
11 mittee have been appointed, the Committee shall
12 hold the first meeting.

13 ~~(6) MEETINGS.—~~The Committee shall meet at
14 the call of the Chairperson.

15 ~~(7) QUORUM.—~~A majority of the members of
16 the Committee shall constitute a quorum, but a less-
17 er number of members may hold hearings.

18 ~~(8) CHAIRPERSON AND VICE CHAIRPERSON.—~~
19 The Committee shall select a Chairperson and Vice
20 Chairperson from among the members.

21 ~~(b) DUTIES OF THE COMMITTEE.—~~

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

1 ~~(2) RECOMMENDATIONS.—~~The Committee shall
 2 develop recommendations for legislation to improve
 3 the Indian Dams Safety Act of 1994 ~~(25 U.S.C.~~
 4 ~~3801 et seq.)~~.

5 ~~(3) REPORT.—~~Not later than 1 year after the
 6 date on which the Committee holds the first meet-
 7 ing, the Committee shall submit a report containing
 8 a detailed statement of the findings and conclusions
 9 of the Committee, together with recommendations
 10 for legislation that the Committee considers appro-
 11 priate, to—

12 ~~(A) the Committee on Indian Affairs of the~~
 13 Senate; and

14 ~~(B) the Committee on Natural Resources~~
 15 of the House of Representatives.

16 ~~(c) POWERS OF THE COMMITTEE.—~~

17 ~~(1) HEARINGS.—~~The Committee may hold such
 18 hearings, sit and act at such times and places, take
 19 such testimony, and receive such evidence as the
 20 Committee considers appropriate to carry out this
 21 section.

22 ~~(2) INFORMATION FROM FEDERAL AGENCIES.—~~

23 ~~(A) IN GENERAL.—~~The Committee may
 24 secure directly from any Federal department or

1 agency such information as the Committee con-
2 siders necessary to carry out this section.

3 ~~(B) REQUEST.~~—On request of the Chair-
4 person of the Committee, the head of any Fed-
5 eral department or agency shall furnish infor-
6 mation described in subparagraph (A) to the
7 Committee.

8 ~~(3) POSTAL SERVICES.~~—The Committee may
9 use the United States mails in the same manner and
10 under the same conditions as other departments and
11 agencies of the Federal Government.

12 ~~(4) GIFTS.~~—The Committee may accept, use,
13 and dispose of gifts or donations of services or prop-
14 erty.

15 ~~(d) COMMITTEE PERSONNEL MATTERS.~~—

16 ~~(1) COMPENSATION OF MEMBERS.~~—

17 ~~(A) NON-FEDERAL MEMBERS.~~—Each
18 member of the Committee who is not an officer
19 or employee of the Federal Government shall be
20 compensated at a rate equal to the daily equiva-
21 lent of the annual rate of basic pay prescribed
22 for level IV of the Executive Schedule under
23 section 5315 of title 5, United States Code, for
24 each day (including travel time) during which

1 the member is engaged in the performance of
 2 the duties of the Committee.

3 ~~(B) FEDERAL MEMBERS.—~~Each member
 4 of the Committee who is an officer or employee
 5 of the Federal Government shall serve without
 6 compensation in addition to that received for
 7 services as an officer or employee of the Federal
 8 Government.

9 ~~(2) TRAVEL EXPENSES.—~~The members of the
 10 Committee shall be allowed travel expenses, includ-
 11 ing per diem in lieu of subsistence, at rates author-
 12 ized for employees of agencies under subchapter I of
 13 chapter 57 of title 5, United States Code, while
 14 away from their homes or regular places of business
 15 in the performance of services for the Committee.

16 ~~(3) STAFF.—~~

17 ~~(A) IN GENERAL.—~~

18 ~~(i) APPOINTMENT.—~~The Chairperson
 19 of the Committee may, without regard to
 20 the civil service laws and regulations, ap-
 21 point and terminate an executive director
 22 and such other additional personnel as
 23 may be necessary to enable the Committee
 24 to perform the duties of the Committee.

1 (ii) CONFIRMATION.—The employ-
 2 ment of an executive director shall be sub-
 3 ject to confirmation by the Committee.

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

15 (4) DETAIL OF GOVERNMENT EMPLOYEES.—
 16 Any Federal Government employee may be detailed
 17 to the Committee without reimbursement, and such
 18 detail shall be without interruption or loss of civil
 19 service status or privilege.

20 (5) PROCUREMENT OF TEMPORARY AND INTER-
 21 MITTENT SERVICES.—The Chairperson of the Com-
 22 mittee may procure temporary and intermittent serv-
 23 ices under section 3109(b) of title 5, United States
 24 Code, at rates for individuals that do not exceed the
 25 daily equivalent of the annual rate of basic pay pre-

scribed for level V of the Executive Schedule under
section 5316 of that title.

(e) ~~TERMINATION OF THE COMMITTEE.~~—The Committee shall terminate 90 days after the date on which the Committee submits the report under subsection (b)(3).

(f) ~~FUNDING.~~—Of the amounts authorized to be expended from either Fund, \$1,000,000 shall be made available from either Fund during fiscal year 2017 to carry out this section, to remain available until expended.

SEC. 212. INDIAN DAM SURVEYS.

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

(b) ~~BIA REPORTS.~~—Not less frequently than once each year, the Secretary shall submit to Congress a report describing the condition of each dam under the partial or total jurisdiction of the Secretary.

SEC. 213. FLOOD PLAIN MANAGEMENT PILOT PROGRAM.

(a) ~~ESTABLISHMENT.~~—The Secretary shall establish, within the Bureau of Indian Affairs, a flood plain management pilot program (referred to in this section as the “program”) to provide, at the request of an Indian tribe, guidance to the Indian tribe relating to best practices for the

1 mitigation and prevention of floods, including consultation
 2 with the Indian tribe on—

3 (1) flood plain mapping; or

4 (2) new construction planning.

5 (b) TERMINATION.—The program shall terminate on
 6 the date that is 4 years after the date of enactment of
 7 this Act.

8 (c) FUNDING.—Of the amounts authorized to be ex-
 9 pended from either Fund, \$250,000 shall be made avail-
 10 able from either Fund during each of fiscal years 2017,
 11 2018, and 2019 to carry out this section; to remain avail-
 12 able until expended.

13 **SEC. 214. TRIBAL PARTNERSHIP PROGRAM.**

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

17 “(b) PROGRAM.—

18 “(1) IN GENERAL.—In coordination with the
 19 heads of other appropriate Federal agencies, the
 20 Secretary may provide, in accordance with this sub-
 21 section, assistance to an Indian tribe with any activ-
 22 ity relating to the feasibility, planning, design, or
 23 construction of a water resources development
 24 project that—

1 “(A) will substantially benefit an Indian
2 tribe; and

3 “(B) is located—

4 “(i) primarily within Indian country
5 (as defined in section 1151 of title 18,
6 United States Code; and including land
7 that is within the jurisdictional area of an
8 Oklahoma Indian tribe, as determined by
9 the Secretary of the Interior; and is recog-
10 nized by the Secretary of the Interior as el-
11 igible for trust land status under part 151
12 of title 25, Code of Federal Regulations (or
13 a successor regulation)); or

14 “(ii) in proximity to an Alaska Native
15 village.

16 “(2) AUTHORIZED ACTIVITIES.—An activity
17 under paragraph (1) may address—

18 “(A) projects for flood damage reduction,
19 environmental restoration and protection; and
20 preservation of cultural and natural resources;

21 “(B) watershed assessments and planning
22 activities; and

23 “(C) such other projects as the Secretary,
24 in cooperation with Indian tribes and the heads

of other appropriate Federal agencies, determines to be appropriate.

~~“(3) DETAILED PROJECT REPORTS.—~~

~~“(A) IN GENERAL.—On request of an Indian tribe, the Secretary shall provide to the Indian tribe a report describing, in detail, the feasibility and planning of a water resources development project described in paragraph (1).~~

~~“(B) RECOMMENDATION.—A report under subparagraph (A) may, but shall not be required to, contain a recommendation on a specific water resources development project.~~

~~“(C) FUNDING.—~~

~~“(i) IN GENERAL.—Subject to clause (ii), the Secretary shall use funds made available to the Secretary to provide a report under subparagraph (A).~~

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

~~“(4) DESIGN AND CONSTRUCTION.—~~

~~“(A) IN GENERAL.—The Secretary may provide assistance with the design and construction of a water resources development project described in paragraph (1) without specific au-~~

thorization from Congress if the projected Federal share of the cost of the project is not more than \$10,000,000.

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

“(5) CONTRACTS AND COMPACTS.—The Secretary may enter into a contract or compact with 1 or more Indian tribes to conduct any activity under paragraph (1).

“(c) CONSULTATION AND COORDINATION WITH SECRETARY OF THE INTERIOR.—

“(1) IN GENERAL.—In recognition of the unique role of the Secretary of the Interior concerning trust responsibilities with Indian tribes and in recognition of mutual trust responsibilities, the Secretary shall consult with the Secretary of the Interior concerning any activity conducted under subsection (b).

“(2) INTEGRATION OF ACTIVITIES.—The Secretary shall—

1 “(A) integrate civil works activities of the
 2 Department of the Army with activities of the
 3 Department of the Interior to avoid conflicts;
 4 duplications of effort, or unanticipated adverse
 5 effects on Indian tribes; and

6 “(B) consider the authorities and pro-
 7 grams of the Department of the Interior and
 8 other Federal agencies in any recommendation
 9 concerning any activity conducted under sub-
 10 section (b).

11 ~~“(d) COST-SHARING.—~~

12 ~~“(1) ABILITY TO PAY.—~~

13 ~~“(A) IN GENERAL.—Any cost-sharing~~
 14 ~~agreement for any activity conducted under~~
 15 ~~subsection (b) shall be subject to the ability of~~
 16 ~~the non-Federal interest to pay.~~

17 ~~“(B) USE OF PROCEDURES.—~~

18 ~~“(i) IN GENERAL.—The ability of a~~
 19 ~~non-Federal interest to pay shall be deter-~~
 20 ~~mined by the Secretary in accordance with~~
 21 ~~procedures established by the Secretary.~~

22 ~~“(ii) DETERMINATION.—Not later~~
 23 ~~than 180 days after the date of enactment~~
 24 ~~of the Water Resources Reform and Devel-~~
 25 ~~opment Act of 2014 (Public Law 113-~~

1 121); the Secretary shall issue guidance on
2 the procedures described in clause (i).

3 “(2) CREDIT.—The Secretary may credit to-
4 ward the non-Federal share of the costs of any activ-
5 ity conducted under subsection (b) the cost of serv-
6 ices, studies, supplies, or other in-kind contributions
7 provided by the non-Federal interest an amount
8 equal to not more than 100 percent of the cost-share
9 requirement of the non-Federal interest if the Sec-
10 retary determines that the services, studies, supplies,
11 or other in-kind contributions will facilitate comple-
12 tion of the study.

13 “(3) SOVEREIGN IMMUNITY.—The Secretary
14 shall not require an Indian tribe to waive the sov-
15 ereign immunity of the Indian tribe as a condition
16 to entering into a cost-sharing agreement under this
17 subsection.”.

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

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

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

23 (2) in subsection (a)—

24 (A) by striking “projects in” and inserting
25 the following:

1 “projects—
 2 “(1) in”,
 3 (B) by striking the period at the end and
 4 inserting “; and”; and
 5 (C) by adding at the end the following:
 6 “(2) for any Indian tribe (as defined in section
 7 102 of the Federally Recognized Indian Tribe List
 8 Act of 1994 (25 U.S.C. 479a)).”.

9 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

10 (a) *SHORT TITLE.*—*This Act may be cited as the*
 11 *“Dam Repairs and Improvements for Tribes Act of 2016”*
 12 *or the “DRIFT Act of 2016”.*

13 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 14 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—INDIAN DAM SAFETY DEFERRED MAINTENANCE FUNDS

Subtitle A—High-Hazard Fund

Sec. 101. Establishment.

Sec. 102. Deposits to Fund.

Sec. 103. Expenditures from Fund.

Sec. 104. Investments of amounts.

Sec. 105. Transfers of amounts.

Sec. 106. Termination.

Subtitle B—Low-Hazard Fund

Sec. 111. Establishment.

Sec. 112. Deposits to Fund.

Sec. 113. Expenditures from Fund.

Sec. 114. Investments of amounts.

Sec. 115. Transfers of amounts.

Sec. 116. Termination.

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

Subtitle A—Program Establishment

Sec. 201. Repair, replacement, and maintenance of certain Indian dams.

Sec. 202. Eligible dams.

Sec. 203. Requirements and conditions.

Sec. 204. Tribal consultation and user input.

Sec. 205. Allocation among dams.

Subtitle B—Management

Sec. 211. Tribal Safety of Dams Committee.

Sec. 212. Indian dam surveys.

Sec. 213. Flood plain management pilot program.

Sec. 214. Tribal Partnership Program.

Sec. 215. Cost-sharing for Indian tribes.

1 SEC. 2. DEFINITIONS.

2 *In this Act:*

3 (1) DAM.—

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

8 (B) INCLUSIONS.—*The term “dam” in-*
**9 cludes any structure, facility, equipment, or ve-
10 hicle used in connection with the operation of a
11 dam.**

12 (2) FUND.—*The term “Fund” means, as appli-*
13 cable—

14 (A) the High-Hazard Indian Dam Safety
15 Deferred Maintenance Fund established by sec-
16 tion 101; or

1 (B) *the Low-Hazard Indian Dam Safety*
 2 *Deferred Maintenance Fund established by sec-*
 3 *tion 111.*

4 (3) *HIGH HAZARD POTENTIAL DAM.*—*The term*
 5 *“high hazard potential dam” means a dam assigned*
 6 *to the significant or high hazard potential classifica-*
 7 *tion under the guidelines published by the Federal*
 8 *Emergency Management Agency entitled “Federal*
 9 *Guidelines for Dam Safety: Hazard Potential Classi-*
 10 *fication System for Dams” (FEMA Publication Num-*
 11 *ber 333).*

12 (4) *INDIAN TRIBE.*—*The term “Indian tribe” has*
 13 *the meaning given the term in section 4 of the Indian*
 14 *Self-Determination and Education Assistance Act (25*
 15 *U.S.C. 450b).*

16 (5) *LOW HAZARD POTENTIAL DAM.*—*The term*
 17 *“low hazard potential dam” means a dam assigned to*
 18 *the low hazard potential classification under the*
 19 *guidelines published by the Federal Emergency Man-*
 20 *agement Agency entitled “Federal Guidelines for Dam*
 21 *Safety: Hazard Potential Classification System for*
 22 *Dams” (FEMA Publication Number 333).*

23 (6) *SECRETARY.*—*The term “Secretary” means*
 24 *the Secretary of the Interior, acting through the As-*

1 *sistant Secretary for Indian Affairs, in consultation*
 2 *with the Secretary of the Army.*

3 ***TITLE I—INDIAN DAM SAFETY***
 4 ***DEFERRED MAINTENANCE***
 5 ***FUNDS***

6 ***Subtitle A—High-Hazard Fund***

7 ***SEC. 101. ESTABLISHMENT.***

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

11 *(1) such amounts as are deposited in the Fund*
 12 *under section 102; and*

13 *(2) any interest earned on investment of*
 14 *amounts in the Fund under section 104.*

15 ***SEC. 102. DEPOSITS TO FUND.***

16 *(a) IN GENERAL.—For each of fiscal years 2017*
 17 *through 2037, the Secretary of the Treasury shall deposit*
 18 *in the Fund \$22,750,000 of the revenues that would other-*
 19 *wise be deposited for the fiscal year in the reclamation fund*
 20 *established by the first section of the Act of June 17, 1902*
 21 *(32 Stat. 388, chapter 1093).*

22 *(b) AVAILABILITY OF AMOUNTS.—Amounts deposited*
 23 *in the Fund under subsection (a) shall be used, subject to*
 24 *appropriation, to carry out this Act.*

1 **SEC. 103. EXPENDITURES FROM FUND.**

2 (a) *IN GENERAL.*—Subject to subsection (b), for each
 3 of fiscal years 2017 through 2037, the Secretary may, to
 4 the extent provided in advance in appropriations Acts, ex-
 5 pend from the Fund, in accordance with this Act, not more
 6 than the sum of—

7 (1) \$22,750,000; and

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

9 (b) *ADDITIONAL EXPENDITURES.*—The Secretary may
 10 expend more than \$22,750,000 for any fiscal year referred
 11 to in subsection (a) if the additional amounts are available
 12 in the Fund as a result of a failure of the Secretary to ex-
 13 pend all of the amounts available under subsection (a) in
 14 1 or more prior fiscal years.

15 **SEC. 104. INVESTMENTS OF AMOUNTS.**

16 (a) *IN GENERAL.*—The Secretary of the Treasury shall
 17 invest such portion of the Fund as is not, in the judgment
 18 of the Secretary, required to meet current withdrawals.

19 (b) *CREDITS TO FUND.*—The interest on, and the pro-
 20 ceeds from the sale or redemption of, any obligations held
 21 in the Fund shall be credited to, and form a part of, the
 22 Fund.

23 **SEC. 105. TRANSFERS OF AMOUNTS.**

24 (a) *IN GENERAL.*—The amounts required to be trans-
 25 ferred to the Fund under this subtitle shall be transferred
 26 at least monthly from the revenues that would otherwise be

1 deposited for the fiscal year in the reclamation fund estab-
 2 lished by the first section of the Act of June 17, 1902 (32
 3 Stat. 388, chapter 1093), to the Fund on the basis of esti-
 4 mates made by the Secretary of the Treasury.

5 (b) *ADJUSTMENTS.*—Proper adjustment shall be made
 6 in amounts subsequently transferred to the extent prior esti-
 7 mates are in excess of or less than the amounts required
 8 to be transferred.

9 **SEC. 106. TERMINATION.**

10 On September 30, 2037—

11 (1) the Fund shall terminate; and

12 (2) the unexpended and unobligated balance of
 13 the Fund shall be transferred to the reclamation fund
 14 established by the first section of the Act of June 17,
 15 1902 (32 Stat. 388, chapter 1093).

16 **Subtitle B—Low-Hazard Fund**

17 **SEC. 111. ESTABLISHMENT.**

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

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

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

1 **SEC. 112. DEPOSITS TO FUND.**

2 (a) *IN GENERAL.*—For each of fiscal years 2017
3 through 2037, the Secretary of the Treasury shall deposit
4 in the Fund \$10,000,000 of the revenues that would other-
5 wise be deposited for the fiscal year in the reclamation fund
6 established by the first section of the Act of June 17, 1902
7 (32 Stat. 388, chapter 1093).

8 (b) *AVAILABILITY OF AMOUNTS.*—Amounts deposited
9 in the Fund under subsection (a) shall be used, subject to
10 appropriation, to carry out this Act.

11 **SEC. 113. EXPENDITURES FROM FUND.**

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

17 (1) \$10,000,000; and

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

19 (b) *ADDITIONAL EXPENDITURES.*—The Secretary may
20 expend more than \$10,000,000 for any fiscal year referred
21 to in subsection (a) if the additional amounts are available
22 in the Fund as a result of a failure of the Secretary to ex-
23 pend all of the amounts available under subsection (a) in
24 1 or more prior fiscal years.

1 **SEC. 114. INVESTMENTS OF AMOUNTS.**

2 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
 3 *invest such portion of the Fund as is not, in the judgment*
 4 *of the Secretary, required to meet current withdrawals.*

5 (b) *CREDITS TO FUND.*—*The interest on, and the pro-*
 6 *ceeds from the sale or redemption of, any obligations held*
 7 *in the Fund shall be credited to, and form a part of, the*
 8 *Fund.*

9 **SEC. 115. TRANSFERS OF AMOUNTS.**

10 (a) *IN GENERAL.*—*The amounts required to be trans-*
 11 *ferred to the Fund under this subtitle shall be transferred*
 12 *at least monthly from the revenues that would otherwise be*
 13 *deposited for the fiscal year in the reclamation fund estab-*
 14 *lished by the first section of the Act of June 17, 1902 (32*
 15 *Stat. 388, chapter 1093), to the Fund on the basis of esti-*
 16 *mates made by the Secretary of the Treasury.*

17 (b) *ADJUSTMENTS.*—*Proper adjustment shall be made*
 18 *in amounts subsequently transferred to the extent prior esti-*
 19 *mates are in excess of or less than the amounts required*
 20 *to be transferred.*

21 **SEC. 116. TERMINATION.**

22 *On September 30, 2037—*

23 (1) *the Fund shall terminate; and*

24 (2) *the unexpended and unobligated balance of*
 25 *the Fund shall be transferred to the reclamation fund*

1 *established by the first section of the Act of June 17,*
 2 *1902 (32 Stat. 388, chapter 1093).*

3 ***TITLE II—REPAIR, REPLACE-***
 4 ***MENT, AND MAINTENANCE OF***
 5 ***CERTAIN INDIAN DAMS***

6 ***Subtitle A—Program Establishment***

7 ***SEC. 201. REPAIR, REPLACEMENT, AND MAINTENANCE OF***
 8 ***CERTAIN INDIAN DAMS.***

9 *(a) IN GENERAL.—The Secretary shall establish a pro-*
 10 *gram to address the deferred maintenance needs of Indian*
 11 *dams that—*

12 *(1) create flood risks or other risks to public or*
 13 *employee safety or natural or cultural resources; and*

14 *(2) unduly impede the management and effi-*
 15 *ciency of Indian dams.*

16 *(b) FUNDING.—*

17 *(1) HIGH-HAZARD FUND.—Consistent with sec-*
 18 *tion 102, the Secretary shall use or transfer to the*
 19 *Bureau of Indian Affairs not less than \$22,750,000 of*
 20 *amounts in the High-Hazard Indian Dam Safety De-*
 21 *ferred Maintenance Fund, plus accrued interest, for*
 22 *each of fiscal years 2017 through 2037 to carry out*
 23 *maintenance, repair, and replacement activities for 1*
 24 *or more of the Indian dams described in section*
 25 *202(a).*

1 (2) *LOW-HAZARD FUND.*—*Consistent with section*
 2 *112, the Secretary shall use or transfer to the Bureau*
 3 *of Indian Affairs not less than \$10,000,000 of*
 4 *amounts in the Low-Hazard Indian Dam Safety De-*
 5 *ferred Maintenance Fund, plus accrued interest, for*
 6 *each of fiscal years 2017 through 2037 to carry out*
 7 *maintenance, repair, and replacement activities for 1*
 8 *or more of the Indian dams described in section*
 9 *202(b).*

10 (c) *COMPLIANCE WITH DAM SAFETY POLICIES.*—
 11 *Maintenance, repair, and replacement activities for Indian*
 12 *dams under this Act shall be carried out in accordance with*
 13 *the dam safety policies of the Director of the Bureau of In-*
 14 *dian Affairs established to carry out the Indian Dams Safe-*
 15 *ty Act of 1994 (25 U.S.C. 3801 et seq.).*

16 **SEC. 202. ELIGIBLE DAMS.**

17 (a) *HIGH HAZARD POTENTIAL DAMS.*—*The dams eli-*
 18 *gible for funding under section 201(b)(1) are Indian high*
 19 *hazard potential dams in the United States that—*

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

23 (2)(A)(i) *are owned by the Federal Government,*
 24 *as listed in the Federal inventory required by Execu-*

1 *tive Order 13327 (40 U.S.C. 121 note; relating to*
 2 *Federal real property asset management); and*

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

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

10 *(b) LOW HAZARD POTENTIAL DAMS.—The dams eligi-*
 11 *ble for funding under section 201(b)(2) are Indian low haz-*
 12 *ard potential dams in the United States that, on the date*
 13 *of enactment of this Act—*

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

16 *(2)(A)(i) are owned by the Federal Government,*
 17 *as listed in the Federal inventory required by Execu-*
 18 *tive Order 13327 (40 U.S.C. 121 note; relating to*
 19 *Federal real property asset management); and*

20 *(ii) are managed by the Bureau of Indian*
 21 *Affairs (including dams managed under con-*
 22 *tracts or compacts pursuant to the Indian Self-*
 23 *Determination and Education Assistance Act (25*
 24 *U.S.C. 450 et seq.)); or*

1 (B) have deferred maintenance documented by
2 the Bureau of Indian Affairs.

3 **SEC. 203. REQUIREMENTS AND CONDITIONS.**

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

9 (1) programmatic goals to carry out this subtitle
10 that—

11 (A) would enable the completion of repair-
12 ing, replacing, improving, or performing mainte-
13 nance on Indian dams as expeditiously as prac-
14 ticable, subject to the dam safety policies of the
15 Director of the Bureau of Indian Affairs estab-
16 lished to carry out the Indian Dams Safety Act
17 of 1994 (25 U.S.C. 3801 et seq.);

18 (B) facilitate or improve the ability of the
19 Bureau of Indian Affairs to carry out the mis-
20 sion of the Bureau of Indian Affairs in oper-
21 ating an Indian dam; and

22 (C) ensure that the results of government-to-
23 government consultation required under section
24 204 be addressed; and

1 (2) *funding prioritization criteria to serve as a*
2 *methodology for distributing funds under this subtitle*
3 *that take into account—*

4 (A) *the extent to which deferred mainte-*
5 *nance of Indian dams poses a threat to—*

6 (i) *public or employee safety or health;*

7 (ii) *natural or cultural resources; or*

8 (iii) *the ability of the Bureau of In-*
9 *dian Affairs to carry out the mission of the*
10 *Bureau of Indian Affairs in operating an*
11 *Indian dam;*

12 (B) *the extent to which repairing, replacing,*
13 *improving, or performing maintenance on an*
14 *Indian dam will—*

15 (i) *improve public or employee safety,*
16 *health, or accessibility;*

17 (ii) *assist in compliance with codes,*
18 *standards, laws, or other requirements;*

19 (iii) *address unmet needs; or*

20 (iv) *assist in protecting natural or cul-*
21 *tural resources;*

22 (C) *the methodology of the rehabilitation*
23 *priority index of the Secretary, as in effect on*
24 *the date of enactment of this Act;*

1 (D) the potential economic benefits of the
 2 expenditures on job creation and general eco-
 3 nomic development in the affected tribal commu-
 4 nities;

5 (E) the ability of an Indian dam to address
 6 tribal, regional, and watershed level flood preven-
 7 tion needs;

8 (F) the need to comply with the dam safety
 9 policies of the Director of the Bureau of Indian
 10 Affairs established to carry out the Indian Dams
 11 Safety Act of 1994 (25 U.S.C. 3801 et seq.);

12 (G) the ability of the water storage capacity
 13 of an Indian dam to be increased to prevent
 14 flooding in downstream tribal and nontribal
 15 communities; and

16 (H) such other factors as the Secretary de-
 17 termines to be appropriate to prioritize the use
 18 of available funds that are, to the fullest extent
 19 practicable, consistent with tribal and user rec-
 20 ommendations received pursuant to the consulta-
 21 tion and input process under section 204.

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

23 (a) *IN GENERAL.*—Except as provided in subsection
 24 (b), before expending funds on an Indian dam pursuant

1 to section 201 and not later than 60 days after the date
 2 of enactment of this Act, the Secretary shall—

3 (1) consult with the Director of the Bureau of
 4 Indian Affairs on the expenditure of funds;

5 (2) ensure that the Director of the Bureau of In-
 6 dian Affairs advises the Indian tribe that has juris-
 7 diction over the land on which a dam eligible to re-
 8 ceive funding under section 202 is located on the ex-
 9 penditure of funds; and

10 (3) solicit and consider the input, comments, and
 11 recommendations of the landowners served by the In-
 12 dian dam.

13 (b) *EMERGENCIES.*—If the Secretary determines that
 14 an emergency circumstance exists with respect to an Indian
 15 dam, subsection (a) shall not apply with respect to that In-
 16 dian dam.

17 **SEC. 205. ALLOCATION AMONG DAMS.**

18 (a) *IN GENERAL.*—Subject to subsection (b), to the
 19 maximum extent practicable, the Secretary shall ensure
 20 that, for each of fiscal years 2017 through 2037, each Indian
 21 dam eligible for funding under section 202 that has critical
 22 maintenance needs receives part of the funding under sec-
 23 tion 201 to address critical maintenance needs.

24 (b) *PRIORITY.*—In allocating amounts under section
 25 201(b), in addition to considering the funding priorities de-

1 scribed in section 203, the Secretary shall give priority to
 2 Indian dams eligible for funding under section 202 that
 3 serve—

4 (1) more than 1 Indian tribe within an Indian
 5 reservation; or

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

8 (c) CAP ON FUNDING.—

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

14 (2) EXCEPTION.—Notwithstanding the cap de-
 15 scribed in paragraph (1), if the full amount under
 16 section 201(b) cannot be fully allocated to eligible In-
 17 dian dams because the costs of the remaining activi-
 18 ties authorized in section 201(b) of an Indian dam
 19 would exceed the cap described in paragraph (1), the
 20 Secretary may allocate the remaining funds to eligible
 21 Indian dams in accordance with this subtitle.

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

24 (e) APPLICABILITY OF ISDEAA.—The Indian Self-De-
 25 termination and Education Assistance Act (25 U.S.C. 450

1 *et seq.) shall apply to activities carried out under this sec-*
 2 *tion.*

3 ***Subtitle B—Management***

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

5 *(a) ESTABLISHMENT OF COMMITTEE.—*

6 *(1) ESTABLISHMENT.—The Secretary of the Inte-*
 7 *rior shall establish within the Bureau of Indian Af-*
 8 *fairs the Tribal Safety of Dams Committee (referred*
 9 *to in this section as the “Committee”).*

10 *(2) MEMBERSHIP.—*

11 *(A) COMPOSITION.—The Committee shall be*
 12 *composed of 15 members, of whom—*

13 *(i) 11 shall be appointed by the Sec-*
 14 *retary of the Interior from among individ-*
 15 *uals who, to the maximum extent prac-*
 16 *ticable, have knowledge and expertise in*
 17 *dam safety issues and flood prevention and*
 18 *mitigation, of whom not less than 1 shall be*
 19 *a member of an Indian tribe in each of the*
 20 *Bureau of Indian Affairs regions of—*

21 *(I) the Northwest Region;*

22 *(II) the Pacific Region;*

23 *(III) the Western Region;*

24 *(IV) the Navajo Region;*

25 *(V) the Southwest Region;*

1 (VI) *the Rocky Mountain Region;*

2 (VII) *the Great Plains Region; and*

3 (VIII) *the Midwest Region;*

4 (ii) *2 shall be appointed by the Sec-*
5 *retary of the Interior from among employees*
6 *of the Bureau of Indian Affairs who have*
7 *knowledge and expertise in dam safety*
8 *issues and flood prevention and mitigation;*

9 (iii) *1 shall be appointed by the Sec-*
10 *retary of the Interior from among employees*
11 *of the Bureau of Reclamation who have*
12 *knowledge and expertise in dam safety*
13 *issues and flood prevention and mitigation;*
14 *and*

15 (iv) *1 shall be appointed by the Sec-*
16 *retary of the Army from among employees*
17 *of the Corps of Engineers who have knowl-*
18 *edge and expertise in dam safety issues and*
19 *flood prevention and mitigation.*

20 (B) *NONVOTING MEMBERS.—The members*
21 *of the Committee appointed under clauses (ii)*
22 *and (iii) of subparagraph (A) shall be nonvoting*
23 *members.*

24 (C) *DATE.—The appointments of the mem-*
25 *bers of the Committee shall be made as soon as*

1 *practicable after the date of enactment of this*
 2 *Act.*

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

5 (4) *VACANCIES.*—*Any vacancy in the Committee*
 6 *shall not affect the powers of the Committee, but shall*
 7 *be filled in the same manner as the original appoint-*
 8 *ment.*

9 (5) *INITIAL MEETING.*—*Not later than 30 days*
 10 *after the date on which all members of the Committee*
 11 *have been appointed, the Committee shall hold the*
 12 *first meeting.*

13 (6) *MEETINGS.*—*The Committee shall meet at*
 14 *the call of the Chairperson.*

15 (7) *QUORUM.*—*A majority of the members of the*
 16 *Committee shall constitute a quorum, but a lesser*
 17 *number of members may hold hearings.*

18 (8) *CHAIRPERSON AND VICE CHAIRPERSON.*—*The*
 19 *Committee shall select a Chairperson and Vice Chair-*
 20 *person from among the members.*

21 (b) *DUTIES OF THE COMMITTEE.*—

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

1 (2) *RECOMMENDATIONS.*—*The Committee shall*
 2 *develop recommendations for legislation to improve*
 3 *the Indian Dams Safety Act of 1994 (25 U.S.C. 3801*
 4 *et seq.).*

5 (3) *REPORT.*—*Not later than 1 year after the*
 6 *date on which the Committee holds the first meeting,*
 7 *the Committee shall submit a report containing a de-*
 8 *tailed statement of the findings and conclusions of the*
 9 *Committee, together with recommendations for legisla-*
 10 *tion that the Committee considers appropriate, to—*

11 (A) *the Committee on Indian Affairs of the*
 12 *Senate; and*

13 (B) *the Committee on Natural Resources of*
 14 *the House of Representatives.*

15 (c) *POWERS OF THE COMMITTEE.*—

16 (1) *HEARINGS.*—*The Committee may hold such*
 17 *hearings, sit and act at such times and places, take*
 18 *such testimony, and receive such evidence as the Com-*
 19 *mittee considers appropriate to carry out this section.*

20 (2) *INFORMATION FROM FEDERAL AGENCIES.*—

21 (A) *IN GENERAL.*—*The Committee may se-*
 22 *cure directly from any Federal department or*
 23 *agency such information as the Committee con-*
 24 *siders necessary to carry out this section.*

1 (B) *REQUEST.*—*On request of the Chair-*
2 *person of the Committee, the head of any Federal*
3 *department or agency shall furnish information*
4 *described in subparagraph (A) to the Committee.*

5 (3) *POSTAL SERVICES.*—*The Committee may use*
6 *the United States mails in the same manner and*
7 *under the same conditions as other departments and*
8 *agencies of the Federal Government.*

9 (4) *GIFTS.*—*The Committee may accept, use,*
10 *and dispose of gifts or donations of services or prop-*
11 *erty.*

12 (d) *COMMITTEE PERSONNEL MATTERS.*—

13 (1) *COMPENSATION OF MEMBERS.*—

14 (A) *NON-FEDERAL MEMBERS.*—*Each mem-*
15 *ber of the Committee who is not an officer or em-*
16 *ployee of the Federal Government shall be com-*
17 *pensated at a rate equal to the daily equivalent*
18 *of the annual rate of basic pay prescribed for*
19 *level IV of the Executive Schedule under section*
20 *5315 of title 5, United States Code, for each day*
21 *(including travel time) during which the member*
22 *is engaged in the performance of the duties of the*
23 *Committee.*

24 (B) *FEDERAL MEMBERS.*—*Each member of*
25 *the Committee who is an officer or employee of*

1 *the Federal Government shall serve without com-*
 2 *pensation in addition to that received for serv-*
 3 *ices as an officer or employee of the Federal Gov-*
 4 *ernment.*

5 (2) *TRAVEL EXPENSES.*—*The members of the*
 6 *Committee shall be allowed travel expenses, including*
 7 *per diem in lieu of subsistence, at rates authorized for*
 8 *employees of agencies under subchapter I of chapter*
 9 *57 of title 5, United States Code, while away from*
 10 *their homes or regular places of business in the per-*
 11 *formance of services for the Committee.*

12 (3) *STAFF.*—

13 (A) *IN GENERAL.*—

14 (i) *APPOINTMENT.*—*The Chairperson*
 15 *of the Committee may, without regard to*
 16 *the civil service laws and regulations, ap-*
 17 *point and terminate an executive director*
 18 *and such other additional personnel as may*
 19 *be necessary to enable the Committee to per-*
 20 *form the duties of the Committee.*

21 (ii) *CONFIRMATION.*—*The employment*
 22 *of an executive director shall be subject to*
 23 *confirmation by the Committee.*

24 (B) *COMPENSATION.*—*The Chairperson of*
 25 *the Committee may fix the compensation of the*

1 *executive director and other personnel without*
 2 *regard to chapter 51 and subchapter III of chap-*
 3 *ter 53 of title 5, United States Code, relating to*
 4 *classification of positions and General Schedule*
 5 *pay rates, except that the rate of pay for the ex-*
 6 *ecutive director and other personnel may not ex-*
 7 *ceed the rate payable for level V of the Executive*
 8 *Schedule under section 5316 of that title.*

9 (4) *DETAIL OF GOVERNMENT EMPLOYEES.—Any*
 10 *Federal Government employee may be detailed to the*
 11 *Committee without reimbursement, and such detail*
 12 *shall be without interruption or loss of civil service*
 13 *status or privilege.*

14 (5) *PROCUREMENT OF TEMPORARY AND INTER-*
 15 *MITTENT SERVICES.—The Chairperson of the Com-*
 16 *mittee may procure temporary and intermittent serv-*
 17 *ices under section 3109(b) of title 5, United States*
 18 *Code, at rates for individuals that do not exceed the*
 19 *daily equivalent of the annual rate of basic pay pre-*
 20 *scribed for level V of the Executive Schedule under*
 21 *section 5316 of that title.*

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

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

5 **SEC. 212. INDIAN DAM SURVEYS.**

6 (a) *TRIBAL REPORTS.*—The Secretary shall request
 7 that, not less frequently than once every 180 days, each In-
 8 dian tribe submit to the Secretary a report providing an
 9 inventory of the dams located on the land of the Indian
 10 tribe.

11 (b) *BIA REPORTS.*—Not less frequently than once each
 12 year, the Secretary shall submit to Congress a report de-
 13 scribing the condition of each dam under the partial or
 14 total jurisdiction of the Secretary.

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

16 (a) *ESTABLISHMENT.*—The Secretary shall establish,
 17 within the Bureau of Indian Affairs, a flood plain manage-
 18 ment pilot program (referred to in this section as the “pro-
 19 gram”) to provide, at the request of an Indian tribe, guid-
 20 ance to the Indian tribe relating to best practices for the
 21 mitigation and prevention of floods, including consultation
 22 with the Indian tribe on—

- 23 (1) flood plain mapping; or
- 24 (2) new construction planning.

1 (b) *TERMINATION.*—*The program shall terminate on*
 2 *the date that is 4 years after the date of enactment of this*
 3 *Act.*

4 (c) *FUNDING.*—*Of the amounts authorized to be ex-*
 5 *pended from either Fund, \$250,000 shall be made available*
 6 *from either Fund during each of fiscal years 2017, 2018,*
 7 *and 2019 to carry out this section, to remain available until*
 8 *expended.*

9 **SEC. 214. TRIBAL PARTNERSHIP PROGRAM.**

10 *Section 203 of the Water Resources Development Act*
 11 *of 2000 (33 U.S.C. 2269) is amended by striking subsections*
 12 *(b) through (d) and inserting the following:*

13 “(b) *PROGRAM.*—

14 “(1) *IN GENERAL.*—*In coordination with the*
 15 *heads of other appropriate Federal agencies, the Sec-*
 16 *retary may provide, in accordance with this sub-*
 17 *section, assistance to an Indian tribe with any activ-*
 18 *ity relating to the feasibility, planning, design, or*
 19 *construction of a water resources development project*
 20 *that—*

21 “(A) *will substantially benefit an Indian*
 22 *tribe; and*

23 “(B) *is located—*

24 “(i) *primarily within Indian country*
 25 *(as defined in section 1151 of title 18,*

1 *United States Code, and including land*
 2 *that is within the jurisdictional area of an*
 3 *Oklahoma Indian tribe, as determined by*
 4 *the Secretary of the Interior, and is recog-*
 5 *nized by the Secretary of the Interior as eli-*
 6 *gible for trust land status under part 151 of*
 7 *title 25, Code of Federal Regulations (or a*
 8 *successor regulation)); or*

9 *“(ii) in proximity to an Alaska Native*
 10 *village.*

11 “(2) *AUTHORIZED ACTIVITIES.*—*An activity*
 12 *under paragraph (1) may address—*

13 *“(A) projects for flood damage reduction,*
 14 *environmental restoration and protection, and*
 15 *preservation of cultural and natural resources;*

16 *“(B) watershed assessments and planning*
 17 *activities; and*

18 *“(C) such other projects as the Secretary, in*
 19 *cooperation with Indian tribes and the heads of*
 20 *other appropriate Federal agencies, determines to*
 21 *be appropriate.*

22 “(3) *DETAILED PROJECT REPORTS.*—

23 *“(A) IN GENERAL.*—*On request of an In-*
 24 *Indian tribe, the Secretary shall provide to the In-*
 25 *Indian tribe a report describing, in detail, the fea-*

1 *sibility and planning of a water resources devel-*
 2 *opment project described in paragraph (1).*

3 “(B) *RECOMMENDATION.*—*A report under*
 4 *subparagraph (A) may, but shall not be required*
 5 *to, contain a recommendation on a specific*
 6 *water resources development project.*

7 “(C) *FUNDING.*—

8 “(i) *IN GENERAL.*—*Subject to clause*
 9 *(ii), the Secretary shall use funds made*
 10 *available to the Secretary to provide a re-*
 11 *port under subparagraph (A).*

12 “(ii) *LIMITATION.*—*The Secretary may*
 13 *not use more than \$100,000 for any 1 re-*
 14 *port under subparagraph (A).*

15 “(4) *DESIGN AND CONSTRUCTION.*—

16 “(A) *IN GENERAL.*—*The Secretary may*
 17 *provide assistance with the design and construc-*
 18 *tion of a water resources development project de-*
 19 *scribed in paragraph (1) without specific author-*
 20 *ization from Congress if the projected Federal*
 21 *share of the cost of the project is not more than*
 22 *\$10,000,000.*

23 “(B) *SPECIFIC AUTHORIZATION.*—*A law of*
 24 *Congress authorizing the Secretary to provide as-*
 25 *sistance with the design and construction of a*

1 *specific water resources development project de-*
2 *scribed in paragraph (1) shall be required if the*
3 *projected Federal share of the cost of the project*
4 *is more than \$10,000,000.*

5 “(5) *CONTRACTS AND COMPACTS.*—*The Secretary*
6 *may enter into a contract or compact with 1 or more*
7 *Indian tribes to conduct any activity under para-*
8 *graph (1).*

9 “(c) *CONSULTATION AND COORDINATION WITH SEC-*
10 *RETARY OF THE INTERIOR.*—

11 “(1) *IN GENERAL.*—*In recognition of the unique*
12 *role of the Secretary of the Interior concerning trust*
13 *responsibilities with Indian tribes and in recognition*
14 *of mutual trust responsibilities, the Secretary shall*
15 *consult with the Secretary of the Interior concerning*
16 *any activity conducted under subsection (b).*

17 “(2) *INTEGRATION OF ACTIVITIES.*—*The Sec-*
18 *retary shall—*

19 “(A) *integrate civil works activities of the*
20 *Department of the Army with activities of the*
21 *Department of the Interior to avoid conflicts, du-*
22 *plications of effort, or unanticipated adverse ef-*
23 *fects on Indian tribes; and*

24 “(B) *consider the authorities and programs*
25 *of the Department of the Interior and other Fed-*

1 *eral agencies in any recommendation concerning*
 2 *any activity conducted under subsection (b).*

3 “(d) *COST-SHARING.*—

4 “(1) *ABILITY TO PAY.*—

5 “(A) *IN GENERAL.*—*Any cost-sharing agree-*
 6 *ment for any activity conducted under subsection*
 7 *(b) shall be subject to the ability of the non-Fed-*
 8 *eral interest to pay.*

9 “(B) *USE OF PROCEDURES.*—

10 “(i) *IN GENERAL.*—*The ability of a*
 11 *non-Federal interest to pay shall be deter-*
 12 *mined by the Secretary in accordance with*
 13 *procedures established by the Secretary.*

14 “(ii) *DETERMINATION.*—*Not later than*
 15 *180 days after the date of enactment of the*
 16 *Water Resources Reform and Development*
 17 *Act of 2014 (Public Law 113–121), the Sec-*
 18 *retary shall issue guidance on the proce-*
 19 *dures described in clause (i).*

20 “(2) *CREDIT.*—*The Secretary may credit toward*
 21 *the non-Federal share of the costs of any activity con-*
 22 *ducted under subsection (b) the cost of services, stud-*
 23 *ies, supplies, or other in-kind contributions provided*
 24 *by the non-Federal interest an amount equal to not*
 25 *more than 100 percent of the cost-share requirement*

1 *of the non-Federal interest if the Secretary determines*
 2 *that the services, studies, supplies, or other in-kind*
 3 *contributions will facilitate completion of the study.*

4 “(3) *SOVEREIGN IMMUNITY.*—*The Secretary shall*
 5 *not require an Indian tribe to waive the sovereign im-*
 6 *munity of the Indian tribe as a condition to entering*
 7 *into a cost-sharing agreement under this subsection.”.*

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

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

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

13 (2) *in subsection (a)—*

14 (A) *by striking “projects in” and inserting*
 15 *the following:*

16 “*projects—*

17 “(1) *in*”;

18 (B) *by striking the period at the end and*
 19 *inserting “; and”; and*

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

21 “(2) *for any Indian tribe (as defined in section*
 22 *102 of the Federally Recognized Indian Tribe List Act*
 23 *of 1994 (25 U.S.C. 479a)).”.*

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114TH CONGRESS
2D Session

S. 2717

[Report No. 114-382]

A BILL

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

NOVEMBER 17, 2016

Reported with an amendment