

Calendar No. 443

114TH CONGRESS
2D SESSION**S. 438****[Report No. 114–245]**

To provide for the repair, replacement, and maintenance of certain Indian irrigation projects.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2015

Mr. BARRASSO (for himself, Mr. TESTER, Mr. HATCH, Mr. ENZI, Mr. DAINES, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

APRIL 27, 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 provide for the repair, replacement, and maintenance of certain Indian irrigation projects.

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

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

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the “Ir-
5 rigation Rehabilitation and Renovation for Indian Tribal

1 Governments and Their Economies Act” or the “IRRI-
 2 GATE Act”.

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

Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.

TITLE I—INDIAN IRRIGATION 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.

TITLE II—REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS

Sec. 201. Repair, replacement, and maintenance of certain Indian irrigation
 projects.
 Sec. 202. Eligible projects.
 Sec. 203. Requirements and conditions.
 Sec. 204. Study of Indian irrigation program and project management.
 Sec. 205. Tribal consultation and user input.
 Sec. 206. Allocation among projects.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) FUND.—The term “Fund” means the In-
 8 dian Irrigation Fund established by section 101.

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

13 (3) SECRETARY.—The term “Secretary” means
 14 the Secretary of the Interior, acting through the
 15 Commissioner of Reclamation.

1 **TITLE I—INDIAN IRRIGATION**

2 **FUND**

3 **SEC. 101. ESTABLISHMENT.**

4 There is established in the Treasury of the United
5 States a fund, to be known as the “Indian Irrigation
6 Fund”, consisting of—

7 (1) such amounts as are deposited in the Fund
8 under section 103; and

9 (2) any interest earned on investment of
10 amounts in the Fund under section 105.

11 **SEC. 102. DEPOSITS TO FUND.**

12 (a) IN GENERAL.—For each of fiscal years 2015
13 through 2036, the Secretary of the Treasury shall deposit
14 in the Fund \$35,000,000 of the revenues that would oth-
15 erwise be deposited for the fiscal year in the reclamation
16 fund established by the first section of the Act of June
17 17, 1902 (32 Stat. 388, chapter 1093).

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

21 **SEC. 103. EXPENDITURES FROM FUND.**

22 (a) IN GENERAL.—Subject to subsection (b), for each
23 of fiscal years 2015 through 2036, the Secretary may, to
24 the extent provided in advance in appropriations Acts, ex-

pend from the Fund, in accordance with this Act, not more than the sum of—

(1) \$35,000,000; and

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

(b) **ADDITIONAL EXPENDITURES.**—The Secretary may expend more than \$35,000,000 for any fiscal year referred to in subsection (a) if the additional amounts are available in the Fund as a result of a failure of the Secretary to expend all of the amounts available under subsection (a) in 1 or more prior fiscal years.

SEC. 104. INVESTMENTS OF AMOUNTS.

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

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

SEC. 105. TRANSFERS OF AMOUNTS.

(a) **IN GENERAL.**—The amounts required to be transferred to the Fund under this title shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by 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, 2036—~~

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 **~~TITLE II—REPAIR, REPLACE-~~**
 13 **~~MENT, AND MAINTENANCE OF~~**
 14 **~~CERTAIN INDIAN IRRIGATION~~**
 15 **~~PROJECTS~~**

16 **~~SEC. 201. REPAIR, REPLACEMENT, AND MAINTENANCE OF~~**
 17 **~~CERTAIN INDIAN IRRIGATION PROJECTS.~~**

18 (a) ~~IN GENERAL.~~—The Secretary shall establish a
 19 program to address the deferred maintenance needs of In-
 20 dian irrigation projects that—

21 (1) create risks to public or employee safety or
 22 natural or cultural resources; and

23 (2) unduly impede the management and effi-
 24 ciency of the Indian irrigation program.

1 (b) ~~FUNDING.~~—Consistent with section 103, the Sec-
 2 retary shall use or transfer to the Bureau of Indian Af-
 3 fairs not less than \$35,000,000 of amounts in the Fund,
 4 plus accrued interest, for each of fiscal years 2015
 5 through 2036 to carry out maintenance, repair, and re-
 6 placement activities for 1 or more of the Indian irrigation
 7 projects described in section 202 (including any struc-
 8 tures, facilities, equipment, or vehicles used in connection
 9 with the operation of those projects).

10 **SEC. 202. ELIGIBLE PROJECTS.**

11 The projects eligible for funding under section 201(b)
 12 are the Indian irrigation projects in the western United
 13 States that, on the date of enactment of this Act—

14 (1) are owned by the Federal Government, as
 15 listed in the Federal inventory required by Executive
 16 Order 13327 (40 U.S.C. 121 note; relating to Fed-
 17 eral real property asset management);

18 (2) are managed by the Bureau of Indian Af-
 19 fairs (including projects managed under contracts or
 20 compacts pursuant to the Indian Self-Determination
 21 and Education Assistance Act (25 U.S.C. 450 et
 22 seq.); and

23 (3) 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 title, the Sec-
5 retary, in consultation with the Assistant Secretary for In-
6 dian Affairs, the Commissioner of Reclamation, and rep-
7 resentatives of affected Indian tribes, shall develop and
8 submit to Congress—

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

11 (A) would enable the completion of repair-
12 ing, replacing, improving, or performing main-
13 tenance on projects as expeditiously as possible;

14 (B) facilitate or improve the ability of the
15 Bureau of Indian Affairs to carry out the mis-
16 sion of the Bureau of Indian Affairs in oper-
17 ating a project; and

18 (C) ensure that the results of government-
19 to-government consultation required under sec-
20 tion 205 be addressed; and

21 (2) funding prioritization criteria to serve as a
22 methodology for distributing funds under this title,
23 that take into account—

24 (A) the extent to which deferred mainte-
25 nance of qualifying irrigation projects poses a
26 threat to public or employee safety or health;

1 (B) the extent to which deferred maintenance poses a threat to natural or cultural resources;

2 (C) the extent to which deferred maintenance poses a threat to the ability of the Bureau of Indian Affairs to carry out the mission of the Bureau of Indian Affairs in operating the project;

3 (D) the extent to which repairing, replacing, improving, or performing maintenance on a facility or structure will—

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

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

6 (iii) address unmet needs; and

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

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

9 (F) the potential economic benefits of the expenditures on job creation and general economic development in the affected tribal communities;

~~(G) the ability of the qualifying project to address tribal, regional, and watershed level water supply needs; and~~

~~(H) such other factors as the Secretary determines to be appropriate to prioritize the use of available funds that are, to the fullest extent practicable, consistent with tribal and user recommendations received pursuant to the consultation and input process under section 205.~~

SEC. 204. STUDY OF INDIAN IRRIGATION PROGRAM AND PROJECT MANAGEMENT.

~~(a) TRIBAL CONSULTATION AND USER INPUT.—Before beginning to conduct the study required under subsection (b), the Secretary shall—~~

~~(1) consult with the Indian tribes that have jurisdiction over the land on which an irrigation project eligible to receive funding under section 202 is located; and~~

~~(2) solicit and consider the input, comments, and recommendations of the landowners served by the irrigation project.~~

~~(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, shall complete a study that evaluates options for improv-~~

1 ing programmatic and project management and perform-
 2 ance of irrigation projects managed and operated in whole
 3 or in part by the Bureau of Indian Affairs.

4 (c) REPORT.—On completion of the study under sub-
 5 section (b), the Secretary of the Interior, acting through
 6 the Assistant Secretary for Indian Affairs, shall submit
 7 to the Committees on Energy and Natural Resources and
 8 Indian Affairs of the Senate and the Committee on Nat-
 9 ural Resources of the House of Representatives a report
 10 that—

11 (1) describes the results of the study; and

12 (2) includes recommendations for improving
 13 programmatic and project management and per-
 14 formance in each qualifying project area and for the
 15 program as a whole.

16 (d) FUNDING.—Of the amounts authorized to be ex-
 17 pended from the Fund, \$1,000,000 shall be made available
 18 during fiscal year 2015 to carry out this section; to remain
 19 available until expended.

20 **SEC. 205. TRIBAL CONSULTATION AND USER INPUT.**

21 Before expending funds on an Indian irrigation
 22 project pursuant to section 201 and not later than 60 days
 23 after the date of enactment of this Act, the Secretary
 24 shall—

1 (1) consult with the Indian tribe that has juris-
2 diction over the land on which an irrigation project
3 eligible to receive funding under section 202 is lo-
4 cated; and

5 (2) solicit and consider the input, comments,
6 and recommendations of the landowners served by
7 the irrigation project.

8 **SEC. 206. ALLOCATION AMONG PROJECTS.**

9 (a) IN GENERAL.—Subject to subsection (b), to the
10 maximum extent practicable, the Secretary shall ensure
11 that, for each of fiscal years 2015 through 2036, each In-
12 dian irrigation project eligible for funding under section
13 202 that has critical maintenance needs receives part of
14 the funding under section 201 to address critical mainte-
15 nance needs.

16 (b) PRIORITY.—In allocating amounts under section
17 201(b), in addition to considering the funding priorities
18 described in section 203, the Secretary shall give priority
19 to eligible Indian irrigation projects serving more than 1
20 Indian tribe within an Indian reservation and to projects
21 for which funding has not been made available during the
22 15-year period ending on the day before the date of enact-
23 ment of this Act under any other Act of Congress that
24 expressly identifies the Indian irrigation project or the In-
25 dian reservation of the project to address the deferred

1 maintenance, repair, or replacement needs of the Indian
 2 irrigation project.

3 ~~(c) CAP ON FUNDING.—~~

4 ~~(1) IN GENERAL.—~~Subject to paragraph (2), in
 5 allocating amounts under section 201(b), the Sec-
 6 retary shall allocate not more than \$15,000,000 to
 7 any individual Indian irrigation project described in
 8 section 202 during any consecutive 3-year period.

9 ~~(2) EXCEPTION.—~~Notwithstanding the cap de-
 10 scribed in paragraph (1), if the full amount under
 11 section 201(b) cannot be fully allocated to eligible
 12 Indian irrigation projects because the costs of the
 13 remaining activities authorized in section 201(b) of
 14 an irrigation project would exceed the cap described
 15 in paragraph (1), the Secretary may allocate the re-
 16 maining funds to eligible Indian irrigation projects
 17 in accordance with this title.

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

20 ~~(e) APPLICABILITY OF ISDEAA.—~~The Indian Self-
 21 Determination and Education Assistance Act (25 U.S.C.
 22 450 et seq.) shall apply to activities carried out under this
 23 section.

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Ir-*
 3 *rigation Rehabilitation and Renovation for Indian Tribal*
 4 *Governments and Their Economies Act” or the “IRRI-*
 5 *GATE Act”.*

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

Sec. 1. Short title; table of contents.

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TITLE I—INDIAN IRRIGATION 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.

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

*Sec. 201. Repair, replacement, and maintenance of certain Indian irrigation
projects.*

Sec. 202. Eligible projects.

Sec. 203. Requirements and conditions.

Sec. 204. Study of Indian irrigation program and project management.

Sec. 205. Tribal consultation and user input.

Sec. 206. Allocation among projects.

8 **SEC. 2. DEFINITIONS.**

9 *In this Act:*

10 (1) *FUND.*—*The term “Fund” means the Indian*
 11 *Irrigation Fund established by section 101.*

12 (2) *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).*

1 (3) *SECRETARY.*—*The term “Secretary” means*
 2 *the Secretary of the Interior.*

3 ***TITLE I—INDIAN IRRIGATION***
 4 ***FUND***

5 ***SEC. 101. ESTABLISHMENT.***

6 *There is established in the Treasury of the United*
 7 *States a fund, to be known as the “Indian Irrigation*
 8 *Fund”, consisting of—*

9 (1) *such amounts as are deposited in the Fund*
 10 *under section 103; and*

11 (2) *any interest earned on investment of*
 12 *amounts in the Fund under section 105.*

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

14 (a) *IN GENERAL.*—*For each of fiscal years 2016*
 15 *through 2037, the Secretary of the Treasury shall deposit*
 16 *in the Fund \$35,000,000 of the revenues that would other-*
 17 *wise be deposited for the fiscal year in the reclamation fund*
 18 *established by the first section of the Act of June 17, 1902*
 19 *(32 Stat. 388, chapter 1093).*

20 (b) *AVAILABILITY OF AMOUNTS.*—*Amounts deposited*
 21 *in the Fund under subsection (a) shall be used, subject to*
 22 *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 2016 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) \$35,000,000; and*

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

6 *(b) ADDITIONAL EXPENDITURES.—The Secretary may*
 7 *expend more than \$35,000,000 for any fiscal year referred*
 8 *to in subsection (a) if the additional amounts are available*
 9 *in the Fund as a result of a failure of the Secretary to ex-*
 10 *pend all of the amounts available under subsection (a) in*
 11 *1 or more prior fiscal years.*

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

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

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

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

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

1 (b) *ADJUSTMENTS.*—*Proper adjustment shall be made*
 2 *in amounts subsequently transferred to the extent prior esti-*
 3 *mates are in excess of or less than the amounts required*
 4 *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 fund*
 10 *established by the first section of the Act of June 17,*
 11 *1902 (32 Stat. 388, chapter 1093).*

12 **TITLE II—REPAIR, REPLACE-**
 13 **MENT, AND MAINTENANCE OF**
 14 **CERTAIN INDIAN IRRIGATION**
 15 **PROJECTS**

16 **SEC. 201. REPAIR, REPLACEMENT, AND MAINTENANCE OF**
 17 **CERTAIN INDIAN IRRIGATION PROJECTS.**

18 (a) *IN GENERAL.*—*The Secretary shall establish a pro-*
 19 *gram to address the deferred maintenance needs of Indian*
 20 *irrigation projects that—*

21 (1) *create risks to public or employee safety or*
 22 *natural or cultural resources; and*

23 (2) *unduly impede the management and effi-*
 24 *ciency of the Indian irrigation program.*

1 (b) *FUNDING.*—Consistent with section 103, the Sec-
 2 retary shall use or transfer to the Bureau of Indian Affairs
 3 not less than \$35,000,000 of amounts in the Fund, plus ac-
 4 crued interest, for each of fiscal years 2016 through 2037
 5 to carry out maintenance, repair, and replacement activi-
 6 ties for 1 or more of the Indian irrigation projects described
 7 in section 202 (including any structures, facilities, equip-
 8 ment, personnel, or vehicles used in connection with the op-
 9 eration of those projects), subject to the condition that the
 10 funds expended under this title shall not be—

11 (1) subject to reimbursement by the owners of the
 12 land served by the Indian irrigation projects; or

13 (2) assessed as debts or liens against the land
 14 served by the Indian irrigation projects.

15 **SEC. 202. ELIGIBLE PROJECTS.**

16 *The projects eligible for funding under section 201(b)*
 17 *are the Indian irrigation projects in the western United*
 18 *States that, on the date of enactment of this Act—*

19 (1) *are owned by the Federal Government, as*
 20 *listed in the Federal inventory required by Executive*
 21 *Order 13327 (40 U.S.C. 121 note; relating to Federal*
 22 *real property asset management);*

23 (2) *are managed and operated by the Bureau of*
 24 *Indian Affairs (including projects managed, operated,*
 25 *or maintained under contracts or compacts pursuant*

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

3 *(3) have deferred maintenance documented by*
 4 *the Bureau of Indian Affairs.*

5 **SEC. 203. REQUIREMENTS AND CONDITIONS.**

6 *Not later than 120 days after the date of enactment*
 7 *of this Act and as a precondition to amounts being ex-*
 8 *pended from the Fund to carry out this title, the Secretary,*
 9 *in consultation with the Assistant Secretary for Indian Af-*
 10 *airs and representatives of affected Indian tribes, shall de-*
 11 *velop and submit to Congress—*

12 *(1) programmatic goals to carry out this title*
 13 *that—*

14 *(A) would enable the completion of repair-*
 15 *ing, replacing, improving, or performing mainte-*
 16 *nance on projects as expeditiously as possible;*

17 *(B) facilitate or improve the ability of the*
 18 *Bureau of Indian Affairs to carry out the mis-*
 19 *sion of the Bureau of Indian Affairs in oper-*
 20 *ating a project; and*

21 *(C) ensure that the results of government-to-*
 22 *government consultation required under section*
 23 *205 be addressed; and*

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

4 (A) *the extent to which deferred mainte-*
 5 *nance of qualifying irrigation projects poses a*
 6 *threat to public or employee safety or health;*

7 (B) *the extent to which deferred mainte-*
 8 *nance poses a threat to natural or cultural re-*
 9 *sources;*

10 (C) *the extent to which deferred mainte-*
 11 *nance poses a threat to the ability of the Bureau*
 12 *of Indian Affairs to carry out the mission of the*
 13 *Bureau of Indian Affairs in operating the*
 14 *project;*

15 (D) *the extent to which repairing, replac-*
 16 *ing, improving, or performing maintenance on a*
 17 *facility or structure will—*

18 (i) *improve public or employee safety,*
 19 *health, or accessibility;*

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

22 (iii) *address unmet needs; and*

23 (iv) *assist in protecting natural or cul-*
 24 *tural resources;*

1 (E) the methodology of the rehabilitation
 2 priority index of the Secretary, as in effect on
 3 the date of enactment of this Act;

4 (F) the potential economic benefits of the ex-
 5 penditures on job creation and general economic
 6 development in the affected tribal communities;

7 (G) the ability of the qualifying project to
 8 address tribal, regional, and watershed level
 9 water supply needs; and

10 (H) such other factors as the Secretary de-
 11 termines to be appropriate to prioritize the use
 12 of available funds that are, to the fullest extent
 13 practicable, consistent with tribal and user rec-
 14 ommendations received pursuant to the consulta-
 15 tion and input process under section 205.

16 **SEC. 204. STUDY OF INDIAN IRRIGATION PROGRAM AND**
 17 **PROJECT MANAGEMENT.**

18 (a) *TRIBAL CONSULTATION AND USER INPUT.*—Before
 19 beginning to conduct the study required under subsection
 20 (b), the Secretary shall—

21 (1) consult with the Indian tribes that have ju-
 22 risdiction over the land on which an irrigation
 23 project eligible to receive funding under section 202 is
 24 located; and

1 (2) *solicit and consider the input, comments, and*
2 *recommendations of the landowners served by the irri-*
3 *gation project.*

4 (b) *STUDY.*—*Not later than 2 years after the date of*
5 *enactment of this Act, the Secretary of the Interior, acting*
6 *through the Assistant Secretary for Indian Affairs, shall*
7 *complete a study that evaluates options for improving pro-*
8 *grammatic and project management and performance of ir-*
9 *rigation projects managed and operated in whole or in part*
10 *by the Bureau of Indian Affairs.*

11 (c) *REPORT.*—*On completion of the study under sub-*
12 *section (b), the Secretary of the Interior, acting through the*
13 *Assistant Secretary for Indian Affairs, shall submit to the*
14 *Committee on Indian Affairs of the Senate and the Com-*
15 *mittee on Natural Resources of the House of Representatives*
16 *a report that—*

17 (1) *describes the results of the study; and*

18 (2) *includes recommendations for improving pro-*
19 *grammatic and project management and performance*
20 *in each qualifying project area and for the program*
21 *as a whole.*

22 (d) *STATUS REPORT.*—*Not later than 2 years after the*
23 *date of enactment of this Act, and not less frequently than*
24 *every 2 years thereafter, the Secretary of the Interior, acting*
25 *through the Assistant Secretary for Indian Affairs, shall*

1 *submit to the Committee on Indian Affairs of the Senate*
2 *and the Committee on Natural Resources of the House of*
3 *Representatives a report that includes a description of—*

4 *(1) the progress made toward addressing the de-*
5 *ferred maintenance needs of the Indian irrigation*
6 *projects described in section 202, including a list of*
7 *projects funded during the fiscal period covered by the*
8 *report;*

9 *(2) the outstanding needs of those projects that*
10 *have been provided funding to address the deferred*
11 *maintenance needs pursuant to this title;*

12 *(3) the remaining needs of any of those projects;*

13 *(4) how the goals established pursuant to section*
14 *203 have been met, including—*

15 *(A) an identification and assessment of any*
16 *deficiencies or shortfalls in meeting those goals;*
17 *and*

18 *(B) a plan to address the deficiencies or*
19 *shortfalls in meeting those goals; and*

20 *(5) any other subject matters the Secretary of the*
21 *Interior, to the maximum extent practicable con-*
22 *sistent with tribal and user recommendations received*
23 *pursuant to the consultation and input process under*
24 *this section, determines to be appropriate.*

1 **SEC. 205. TRIBAL CONSULTATION AND USER INPUT.**

2 *Before expending funds on an Indian irrigation*
3 *project pursuant to section 201 and not later than 120 days*
4 *after the date of enactment of this Act, the Secretary shall—*

5 *(1) consult with the Indian tribe that has juris-*
6 *isdiction over the land on which an irrigation project*
7 *eligible to receive funding under section 202 is lo-*
8 *cated; and*

9 *(2) solicit and consider the input, comments, and*
10 *recommendations of the landowners served by the irri-*
11 *gation project.*

12 **SEC. 206. ALLOCATION AMONG PROJECTS.**

13 *(a) IN GENERAL.—Subject to subsection (b), to the*
14 *maximum extent practicable, the Secretary shall ensure*
15 *that, for each of fiscal years 2016 through 2037, each Indian*
16 *irrigation project eligible for funding under section 202 that*
17 *has critical maintenance needs receives part of the funding*
18 *under section 201 to address critical maintenance needs.*

19 *(b) PRIORITY.—In allocating amounts under section*
20 *201(b), in addition to considering the funding priorities de-*
21 *scribed in section 203, the Secretary shall give priority to*
22 *eligible Indian irrigation projects serving more than 1 In-*
23 *dian tribe within an Indian reservation and to projects for*
24 *which funding has not been made available during the 10-*
25 *year period ending on the day before the date of enactment*
26 *of this Act under any other Act of Congress that expressly*

1 *identifies the Indian irrigation project or the Indian res-*
 2 *ervation of the project to address the deferred maintenance,*
 3 *repair, or replacement needs of the Indian irrigation*
 4 *project.*

5 *(c) CAP ON FUNDING.—*

6 *(1) IN GENERAL.—Subject to paragraph (2), in*
 7 *allocating amounts under section 201(b), the Sec-*
 8 *retary shall allocate not more than \$15,000,000 to*
 9 *any individual Indian irrigation project described in*
 10 *section 202 during any consecutive 3-year period.*

11 *(2) EXCEPTION.—Notwithstanding the cap de-*
 12 *scribed in paragraph (1), if the full amount under*
 13 *section 201(b) cannot be fully allocated to eligible In-*
 14 *dian irrigation projects because the costs of the re-*
 15 *maining activities authorized in section 201(b) of an*
 16 *irrigation project would exceed the cap described in*
 17 *paragraph (1), the Secretary may allocate the re-*
 18 *maining funds to eligible Indian irrigation projects*
 19 *in accordance with this title.*

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

22 *(e) APPLICABILITY OF ISDEAA.—The Indian Self-De-*
 23 *termination and Education Assistance Act (25 U.S.C. 450*
 24 *et seq.) shall apply to activities carried out under this sec-*
 25 *tion.*

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114TH CONGRESS
2^D Session

S. 438

[Report No. 114-245]

A BILL

To provide for the repair, replacement, and
maintenance of certain Indian irrigation projects.

APRIL 27, 2016

Reported with an amendment