

115TH CONGRESS  
2D SESSION

# S. 2515

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## AN ACT

To amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian Tribes, 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 “Practical Reforms and Other Goals To Reinforce the Ef-  
 4 fectiveness of Self-Governance and Self-Determination for  
 5 Indian Tribes Act of 2018” or the “PROGRESS for In-  
 6 dian Tribes Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—TRIBAL SELF-GOVERNANCE**

Sec. 101. Tribal self-governance.

**TITLE II—INDIAN SELF-DETERMINATION**

Sec. 201. Definitions; reporting and audit requirements; application of provi-  
 sions.

Sec. 202. Contracts by Secretary of the Interior.

Sec. 203. Administrative provisions.

Sec. 204. Contract funding and indirect costs.

Sec. 205. Contract or grant specifications.

9 **TITLE I—TRIBAL SELF-**  
 10 **GOVERNANCE**

11 **SEC. 101. TRIBAL SELF-GOVERNANCE.**

12 (a) **EFFECT OF PROVISIONS.**—Nothing in this Act,  
 13 or the amendments made by this Act, shall be construed—

14 (1) to modify, limit, expand, or otherwise af-  
 15 fect—

16 (A) the authority of the Secretary of the  
 17 Interior, as provided for under the Indian Self-  
 18 Determination and Education Assistance Act

1 (as in effect on the day before the date of en-  
2 actment of this Act), regarding—

3 (i) the inclusion of any non-BIA pro-  
4 gram (as defined in section 401 of the In-  
5 dian Self-Determination and Education  
6 Assistance Act) in a self-determination  
7 contract or funding agreement under sec-  
8 tion 403(e) of such Act (as so in effect);  
9 or

10 (ii) the implementation of any con-  
11 tract or agreement described in clause (i)  
12 that is in effect on the day described in  
13 subparagraph (A);

14 (B) the meaning, application, or effect of  
15 any Tribal water rights settlement, including  
16 the performance required of a party thereto or  
17 any payment or funding obligation thereunder;

18 (C) the authority, jurisdiction, or responsi-  
19 bility of a State to manage, control, or regulate  
20 fish and wildlife under State law (including reg-  
21 ulations) on land or water in the State, includ-  
22 ing Federal public land;

23 (D) except for the authority provided to  
24 the Secretary as described in subparagraph (A),  
25 the applicability or effect of any Federal law re-

1           lated to the protection or management of fish  
2           or wildlife; or

3                   (E) any treaty-reserved right or other right  
4           of any Indian Tribe as recognized by any other  
5           means, including treaties or agreements with  
6           the United States, Executive orders, statutes,  
7           regulations, or case law; or

8           (2) to authorize any provision of a contract or  
9           agreement that is not consistent with the terms of  
10          a Tribal water rights settlement.

11          (b) DEFINITIONS.—Section 401 of the Indian Self-  
12          Determination and Education Assistance Act (25 U.S.C.  
13          5361) is amended to read as follows:

14          **“SEC. 401. DEFINITIONS.**

15           “In this title:

16                   “(1) COMPACT.—The term ‘compact’ means a  
17           self-governance compact entered into under section  
18           404.

19                   “(2) CONSTRUCTION PROGRAM; CONSTRUCTION  
20           PROJECT.—The term ‘construction program’ or ‘con-  
21           struction project’ means a Tribal undertaking relat-  
22           ing to the administration, planning, environmental  
23           determination, design, construction, repair, improve-  
24           ment, or expansion of roads, bridges, buildings,  
25           structures, systems, or other facilities for purposes

1 of housing, law enforcement, detention, sanitation,  
2 water supply, education, administration, community,  
3 health, irrigation, agriculture, conservation, flood  
4 control, transportation, or port facilities, or for other  
5 Tribal purposes.

6 “(3) DEPARTMENT.—The term ‘Department’  
7 means the Department of the Interior.

8 “(4) FUNDING AGREEMENT.—The term ‘fund-  
9 ing agreement’ means a funding agreement entered  
10 into under section 403.

11 “(5) GROSS MISMANAGEMENT.—The term  
12 ‘gross mismanagement’ means a significant viola-  
13 tion, shown by a preponderance of the evidence, of  
14 a compact, funding agreement, or statutory or regu-  
15 latory requirement applicable to Federal funds for a  
16 program administered by an Indian Tribe under a  
17 compact or funding agreement.

18 “(6) INHERENT FEDERAL FUNCTION.—The  
19 term ‘inherent Federal function’ means a Federal  
20 function that may not legally be delegated to an In-  
21 dian Tribe.

22 “(7) NON-BIA PROGRAM.—The term ‘non-BIA  
23 program’ means all or a portion of a program, func-  
24 tion, service, or activity that is administered by any

1 bureau, service, office, or agency of the Department  
2 of the Interior other than—

3 “(A) the Bureau of Indian Affairs;

4 “(B) the Office of the Assistant Secretary  
5 for Indian Affairs; or

6 “(C) the Office of the Special Trustee for  
7 American Indians.

8 “(8) PROGRAM.—The term ‘program’ means  
9 any program, function, service, or activity (or por-  
10 tion thereof) within the Department that is included  
11 in a funding agreement.

12 “(9) SECRETARY.—The term ‘Secretary’ means  
13 the Secretary of the Interior.

14 “(10) SELF-DETERMINATION CONTRACT.—The  
15 term ‘self-determination contract’ means a self-de-  
16 termination contract entered into under section 102.

17 “(11) SELF-GOVERNANCE.—The term ‘self-gov-  
18 ernance’ means the Tribal Self-Governance Program  
19 established under section 402.

20 “(12) TRIBAL SHARE.—The term ‘Tribal share’  
21 means the portion of all funds and resources of an  
22 Indian Tribe that—

23 “(A) support any program within the Bu-  
24 reau of Indian Affairs, the Office of the Special

1 Trustee for American Indians, or the Office of  
2 the Assistant Secretary for Indian Affairs; and

3 “(B) are not required by the Secretary for  
4 the performance of an inherent Federal func-  
5 tion.

6 “(13) TRIBAL WATER RIGHTS SETTLEMENT.—  
7 The term ‘Tribal water rights settlement’ means any  
8 settlement, compact, or other agreement expressly  
9 ratified or approved by an Act of Congress that—

10 “(A) includes an Indian Tribe and the  
11 United States as parties; and

12 “(B) quantifies or otherwise defines any  
13 water right of the Indian Tribe.”.

14 (c) ESTABLISHMENT.—Section 402 of the Indian  
15 Self-Determination and Education Assistance Act (25  
16 U.S.C. 458bb) is amended to read as follows:

17 **“SEC. 402. TRIBAL SELF-GOVERNANCE PROGRAM.**

18 “(a) ESTABLISHMENT.—The Secretary shall estab-  
19 lish and carry out a program within the Department to  
20 be known as the ‘Tribal Self-Governance Program’.

21 “(b) SELECTION OF PARTICIPATING INDIAN  
22 TRIBES.—

23 “(1) IN GENERAL.—

24 “(A) ELIGIBILITY.—The Secretary, acting  
25 through the Director of the Office of Self-Gov-

1 ernance, may select not more than 50 new In-  
2 dian Tribes per year from those tribes eligible  
3 under subsection (c) to participate in self-gov-  
4 ernance.

5 “(B) JOINT PARTICIPATION.—On the re-  
6 quest of each participating Indian Tribe, two or  
7 more otherwise eligible Indian Tribes may be  
8 treated as a single Indian Tribe for the purpose  
9 of participating in self-governance.

10 “(2) OTHER AUTHORIZED INDIAN TRIBE OR  
11 TRIBAL ORGANIZATION.—If an Indian Tribe author-  
12 izes another Indian Tribe or a Tribal organization to  
13 plan for or carry out a program on its behalf under  
14 this title, the authorized Indian Tribe or Tribal or-  
15 ganization shall have the rights and responsibilities  
16 of the authorizing Indian Tribe (except as otherwise  
17 provided in the authorizing resolution).

18 “(3) JOINT PARTICIPATION AS ORGANIZA-  
19 TION.—Two or more Indian Tribes that are not oth-  
20 erwise eligible under subsection (c) may be treated  
21 as a single Indian Tribe for the purpose of partici-  
22 pating in self-governance as a Tribal organization  
23 if—

24 “(A) each Indian Tribe so requests; and



1           “(B) the Tribal organization itself, or at  
2           least one of the Indian Tribes participating in  
3           the Tribal organization, is eligible under sub-  
4           section (c).

5           “(4) TRIBAL WITHDRAWAL FROM A TRIBAL OR-  
6           GANIZATION.—

7           “(A) IN GENERAL.—An Indian Tribe that  
8           withdraws from participation in a Tribal orga-  
9           nization, in whole or in part, shall be entitled  
10          to participate in self-governance if the Indian  
11          Tribe is eligible under subsection (c).

12          “(B) EFFECT OF WITHDRAWAL.—If an In-  
13          dian Tribe withdraws from participation in a  
14          Tribal organization, the Indian Tribe shall be  
15          entitled to its Tribal share of funds and re-  
16          sources supporting the programs that the In-  
17          dian Tribe is entitled to carry out under the  
18          compact and funding agreement of the Indian  
19          Tribe.

20          “(C) PARTICIPATION IN SELF-GOVERN-  
21          ANCE.—The withdrawal of an Indian Tribe  
22          from a Tribal organization shall not affect the  
23          eligibility of the Tribal organization to partici-  
24          pate in self-governance on behalf of one or more

1 other Indian Tribes, if the Tribal organization  
2 still qualifies under subsection (c).

3 “(D) WITHDRAWAL PROCESS.—

4 “(i) IN GENERAL.—An Indian Tribe  
5 may, by Tribal resolution, fully or partially  
6 withdraw its Tribal share of any program  
7 in a funding agreement from a partici-  
8 pating Tribal organization.

9 “(ii) NOTIFICATION.—The Indian  
10 Tribe shall provide a copy of the Tribal  
11 resolution described in clause (i) to the  
12 Secretary.

13 “(iii) EFFECTIVE DATE.—

14 “(I) IN GENERAL.—A withdrawal  
15 under clause (i) shall become effective  
16 on the date that is specified in the  
17 Tribal resolution and mutually agreed  
18 upon by the Secretary, the with-  
19 drawing Indian Tribe, and the Tribal  
20 organization that signed the compact  
21 and funding agreement on behalf of  
22 the withdrawing Indian Tribe or Trib-  
23 al organization.

24 “(II) NO SPECIFIED DATE.—In  
25 the absence of a date specified in the

1 resolution, the withdrawal shall be-  
2 come effective on—

3 “(aa) the earlier of—

4 “(AA) 1 year after the  
5 date of submission of the re-  
6 quest; and

7 “(BB) the date on  
8 which the funding agree-  
9 ment expires; or

10 “(bb) such date as may be  
11 mutually agreed upon by the Sec-  
12 retary, the withdrawing Indian  
13 Tribe, and the Tribal organiza-  
14 tion that signed the compact and  
15 funding agreement on behalf of  
16 the withdrawing Indian Tribe or  
17 Tribal organization.

18 “(E) DISTRIBUTION OF FUNDS.—If an In-  
19 dian Tribe or Tribal organization eligible to  
20 enter into a self-determination contract or a  
21 compact or funding agreement fully or partially  
22 withdraws from a participating Tribal organiza-  
23 tion, the withdrawing Indian Tribe—

1           “(i) may elect to enter into a self-de-  
2           termination contract or compact, in which  
3           case—

4                       “(I) the withdrawing Indian  
5                       Tribe or Tribal organization shall be  
6                       entitled to its Tribal share of unex-  
7                       pended funds and resources sup-  
8                       porting the programs that the Indian  
9                       Tribe will be carrying out under its  
10                      own self-determination contract or  
11                      compact and funding agreement (cal-  
12                      culated on the same basis as the  
13                      funds were initially allocated to the  
14                      funding agreement of the Tribal orga-  
15                      nization); and

16                      “(II) the funds referred to in  
17                      subclause (I) shall be withdrawn by  
18                      the Secretary from the funding agree-  
19                      ment of the Tribal organization and  
20                      transferred to the withdrawing Indian  
21                      Tribe, on the condition that sections  
22                      102 and 105(i), as appropriate, shall  
23                      apply to the withdrawing Indian  
24                      Tribe; or

1           “(ii) may elect not to enter into a self-  
2           determination contract or compact, in  
3           which case all unexpended funds and re-  
4           sources associated with the withdrawing  
5           Indian Tribe’s returned programs (cal-  
6           culated on the same basis as the funds  
7           were initially allocated to the funding  
8           agreement of the Tribal organization) shall  
9           be returned by the Tribal organization to  
10          the Secretary for operation of the pro-  
11          grams included in the withdrawal.

12           “(F) RETURN TO MATURE CONTRACT STA-  
13          TUS.—If an Indian Tribe elects to operate all or  
14          some programs carried out under a compact or  
15          funding agreement under this title through a  
16          self-determination contract under title I, at the  
17          option of the Indian Tribe, the resulting self-de-  
18          termination contract shall be a mature self-de-  
19          termination contract as long as the Indian  
20          Tribe meets the requirements set forth in sec-  
21          tion 4(h).

22           “(c) ELIGIBILITY.—To be eligible to participate in  
23          self-governance, an Indian Tribe shall—

24           “(1) successfully complete the planning phase  
25          described in subsection (d);

1           “(2) request participation in self-governance by  
2 resolution or other official action by the Tribal gov-  
3 erning body; and

4           “(3) demonstrate, for the 3 fiscal years pre-  
5 ceding the date on which the Indian Tribe requests  
6 participation, financial stability and financial man-  
7 agement capability as evidenced by the Indian Tribe  
8 having no uncorrected significant and material audit  
9 exceptions in the required annual audit of its self-  
10 determination or self-governance agreements with  
11 any Federal agency.

12           “(d) PLANNING PHASE.—

13           “(1) IN GENERAL.—An Indian Tribe seeking to  
14 begin participation in self-governance shall complete  
15 a planning phase as provided in this subsection.

16           “(2) ACTIVITIES.—The planning phase shall—

17           “(A) be conducted to the satisfaction of  
18 the Indian Tribe; and

19           “(B) include—

20           “(i) legal and budgetary research; and

21           “(ii) internal Tribal government plan-  
22 ning, training, and organizational prepara-  
23 tion.

24           “(e) GRANTS.—

1           “(1) IN GENERAL.—Subject to the availability  
2 of appropriations, an Indian Tribe or Tribal organi-  
3 zation that meets the requirements of paragraphs  
4 (2) and (3) of subsection (c) shall be eligible for  
5 grants—

6           “(A) to plan for participation in self-gov-  
7 ernance; and

8           “(B) to negotiate the terms of participa-  
9 tion by the Indian Tribe or Tribal organization  
10 in self-governance, as set forth in a compact  
11 and a funding agreement.

12           “(2) RECEIPT OF GRANT NOT REQUIRED.—Re-  
13 ceipt of a grant under paragraph (1) shall not be a  
14 requirement of participation in self-governance.”.

15           (d) FUNDING AGREEMENTS.—Section 403 of the In-  
16 dian Self-Determination and Education Assistance Act  
17 (25 U.S.C. 5363) is amended—

18           (1) by striking subsection (a) and inserting the  
19 following:

20           “(a) AUTHORIZATION.—The Secretary shall, on the  
21 request of any Indian Tribe or Tribal organization, nego-  
22 tiate and enter into a written funding agreement with the  
23 governing body of the Indian Tribe or the Tribal organiza-  
24 tion in a manner consistent with—

1           “(1) the trust responsibility of the Federal Gov-  
2           ernment, treaty obligations, and the government-to-  
3           government relationship between Indian Tribes and  
4           the United States; and

5           “(2) subsection (b).”;

6           (2) in subsection (b)—

7           (A) in paragraph (1)—

8           (i) in the matter preceding subpara-  
9           graph (A), by striking “without regard to  
10           the agency or office of the Bureau of In-  
11           dian Affairs” and inserting “the Office of  
12           the Assistant Secretary for Indian Affairs,  
13           and the Office of the Special Trustee for  
14           American Indians, without regard to the  
15           agency or office of that Bureau or those  
16           Offices”;

17           (ii) by redesignating subparagraphs  
18           (A) and (B) as clauses (i) and (ii), respec-  
19           tively, and indenting the margins of such  
20           clauses accordingly;

21           (iii) by striking “including any pro-  
22           gram” and inserting the following: “includ-  
23           ing—

24           “(A) any program”;

25           (iv) in subparagraph (A)—



1 (I) in clause (i), as redesignated  
2 by clause (ii), by striking the semi-  
3 colon at the end and inserting “;  
4 and”; and

5 (II) in clause (ii), as so redesign-  
6 nated, by striking “and” after the  
7 semicolon;

8 (v) by redesignating subparagraph (C)  
9 as subparagraph (B);

10 (vi) in subparagraph (B), as redesign-  
11 nated by clause (v), by striking the semi-  
12 colon and inserting “; and”; and

13 (vii) by adding at the end the fol-  
14 lowing:

15 “(C) any other program, service, function,  
16 or activity (or portion thereof) that is provided  
17 through the Bureau of Indian Affairs, the Of-  
18 fice of the Assistant Secretary for Indian Af-  
19 fairs, or the Office of the Special Trustee for  
20 American Indians with respect to which Indian  
21 Tribes or Indians are primary or significant  
22 beneficiaries;”;

23 (B) in paragraph (2)—

24 (i) by striking “section 405(c)” and  
25 inserting “section 412(c)”; and

1 (ii) by inserting “and” after the semi-  
2 colon at the end;

3 (C) in paragraph (3), by striking the semi-  
4 colon at the end and inserting a period; and

5 (D) by striking paragraphs (4) through  
6 (9);

7 (3) in subsection (f)—

8 (A) in the subsection heading, by striking  
9 “FOR REVIEW”;

10 (B) by striking “such agreement to—” and  
11 all that follows through “Indian tribe” and in-  
12 serting “such agreement to each Indian Tribe”;

13 (C) by striking “agreement;” and inserting  
14 “agreement.”; and

15 (D) by striking paragraphs (2) and (3);  
16 and

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

18 “(m) OTHER PROVISIONS.—

19 “(1) EXCLUDED FUNDING.—A funding agree-  
20 ment shall not authorize an Indian Tribe to plan,  
21 conduct, administer, or receive Tribal share funding  
22 under any program that—

23 “(A) is provided under the Tribally Con-  
24 trolled Colleges and Universities Assistance Act  
25 of 1978 (25 U.S.C. 1801 et seq.); or

1           “(B) is provided for elementary and sec-  
2           ondary schools under the formula developed  
3           under section 1127 of the Education Amend-  
4           ments of 1978 (25 U.S.C. 2007).

5           “(2) SERVICES, FUNCTIONS, AND RESPONSIBIL-  
6           ITIES.—A funding agreement shall specify—

7           “(A) the services to be provided under the  
8           funding agreement;

9           “(B) the functions to be performed under  
10          the funding agreement; and

11          “(C) the responsibilities of the Indian  
12          Tribe and the Secretary under the funding  
13          agreement.

14          “(3) BASE BUDGET.—

15          “(A) IN GENERAL.—A funding agreement  
16          shall, at the option of the Indian Tribe, provide  
17          for a stable base budget specifying the recur-  
18          ring funds (which may include funds available  
19          under section 106(a)) to be transferred to the  
20          Indian Tribe, for such period as the Indian  
21          Tribe specifies in the funding agreement, sub-  
22          ject to annual adjustment only to reflect  
23          changes in congressional appropriations.

24          “(B) LIMITATIONS.—Notwithstanding sub-  
25          paragraph (A), a funding agreement shall not

1 specify funding associated with a program de-  
2 scribed in subsection (b)(2) or (c) unless the  
3 Secretary agrees.

4 “(4) NO WAIVER OF TRUST RESPONSIBILITY.—  
5 A funding agreement shall prohibit the Secretary  
6 from waiving, modifying, or diminishing in any way  
7 the trust responsibility of the United States with re-  
8 spect to Indian Tribes and individual Indians that  
9 exists under treaties, Executive orders, court deci-  
10 sions, and other laws.

11 “(n) AMENDMENT.—The Secretary shall not revise,  
12 amend, or require additional terms in a new or subsequent  
13 funding agreement without the consent of the Indian  
14 Tribe, unless such terms are required by Federal law.

15 “(o) EFFECTIVE DATE.—A funding agreement shall  
16 become effective on the date specified in the funding  
17 agreement.

18 “(p) EXISTING AND SUBSEQUENT FUNDING AGREE-  
19 MENTS.—

20 “(1) SUBSEQUENT FUNDING AGREEMENTS.—  
21 Absent notification from an Indian Tribe that the  
22 Indian Tribe is withdrawing or retroceding the oper-  
23 ation of one or more programs identified in a fund-  
24 ing agreement, or unless otherwise agreed to by the  
25 parties to the funding agreement or by the nature

1 of any noncontinuing program, service, function, or  
2 activity contained in a funding agreement—

3 “(A) a funding agreement shall remain in  
4 full force and effect until a subsequent funding  
5 agreement is executed, with funding paid annu-  
6 ally for each fiscal year the agreement is in ef-  
7 fect; and

8 “(B) the term of the subsequent funding  
9 agreement shall be retroactive to the end of the  
10 term of the preceding funding agreement for  
11 the purposes of calculating the amount of fund-  
12 ing to which the Indian Tribe is entitled.

13 “(2) DISPUTES.—Disputes over the implemen-  
14 tation of paragraph (1)(A) shall be subject to section  
15 406(c).

16 “(3) EXISTING FUNDING AGREEMENTS.—An  
17 Indian Tribe that was participating in self-govern-  
18 ance under this title on the date of enactment of the  
19 PROGRESS for Indian Tribes Act shall have the  
20 option at any time after that date—

21 “(A) to retain its existing funding agree-  
22 ment (in whole or in part) to the extent that  
23 the provisions of that funding agreement are  
24 not directly contrary to any express provision of  
25 this title; or

1           “(B) to negotiate a new funding agreement  
2           in a manner consistent with this title.

3           “(4) MULTIYEAR FUNDING AGREEMENTS.—An  
4           Indian Tribe may, at the discretion of the Indian  
5           Tribe, negotiate with the Secretary for a funding  
6           agreement with a term that exceeds 1 year.”.

7           (e) GENERAL REVISIONS.—Title IV of the Indian  
8           Self-Determination and Education Assistance Act (25  
9           U.S.C. 5304 et seq.) is amended by striking sections 404  
10          through 408 and inserting the following:

11       **“SEC. 404. COMPACTS.**

12          “(a) IN GENERAL.—The Secretary shall negotiate  
13          and enter into a written compact with each Indian Tribe  
14          participating in self-governance in a manner consistent  
15          with the trust responsibility of the Federal Government,  
16          treaty obligations, and the government-to-government re-  
17          lationship between Indian Tribes and the United States.

18          “(b) CONTENTS.—A compact under subsection (a)  
19          shall—

20               “(1) specify and affirm the general terms of the  
21               government-to-government relationship between the  
22               Indian Tribe and the Secretary; and

23               “(2) include such terms as the parties intend  
24               shall control during the term of the compact.

1 “(c) AMENDMENT.—A compact under subsection (a)  
2 may be amended only by agreement of the parties.

3 “(d) EFFECTIVE DATE.—The effective date of a com-  
4 pact under subsection (a) shall be—

5 “(1) the date of the execution of the compact  
6 by the parties; or

7 “(2) such date as is mutually agreed upon by  
8 the parties.

9 “(e) DURATION.—A compact under subsection (a)  
10 shall remain in effect—

11 “(1) for so long as permitted by Federal law;  
12 or

13 “(2) until termination by written agreement,  
14 retrocession, or reassumption.

15 “(f) EXISTING COMPACTS.—An Indian Tribe partici-  
16 pating in self-governance under this title, as in effect on  
17 the date of enactment of the PROGRESS for Indian  
18 Tribes Act, shall have the option at any time after that  
19 date—

20 “(1) to retain its negotiated compact (in whole  
21 or in part) to the extent that the provisions of the  
22 compact are not directly contrary to any express  
23 provision of this title; or

24 “(2) to negotiate a new compact in a manner  
25 consistent with this title.

1 **“SEC. 405. GENERAL PROVISIONS.**

2 “(a) **APPLICABILITY.**—An Indian Tribe and the Sec-  
3 retary shall include in any compact or funding agreement  
4 provisions that reflect the requirements of this title.

5 “(b) **CONFLICTS OF INTEREST.**—An Indian Tribe  
6 participating in self-governance shall ensure that internal  
7 measures are in place to address, pursuant to Tribal law  
8 and procedures, conflicts of interest in the administration  
9 of programs.

10 “(c) **AUDITS.**—

11 “(1) **SINGLE AGENCY AUDIT ACT.**—Chapter 75  
12 of title 31, United States Code, shall apply to a  
13 funding agreement under this title.

14 “(2) **COST PRINCIPLES.**—An Indian Tribe shall  
15 apply cost principles under the applicable Office of  
16 Management and Budget circular, except as modi-  
17 fied by—

18 “(A) any provision of law, including section  
19 106; or

20 “(B) any exemptions to applicable Office  
21 of Management and Budget circulars subse-  
22 quently granted by the Office of Management  
23 and Budget.

24 “(3) **FEDERAL CLAIMS.**—Any claim by the Fed-  
25 eral Government against an Indian Tribe relating to  
26 funds received under a funding agreement based on



1 any audit under this subsection shall be subject to  
2 section 106(f).

3 “(d) REDESIGN AND CONSOLIDATION.—Except as  
4 provided in section 407, an Indian Tribe may redesign or  
5 consolidate programs, or reallocate funds for programs, in  
6 a compact or funding agreement in any manner that the  
7 Indian Tribe determines to be in the best interest of the  
8 Indian community being served—

9 “(1) so long as the redesign or consolidation  
10 does not have the effect of denying eligibility for  
11 services to population groups otherwise eligible to be  
12 served under applicable Federal law; and

13 “(2) except that, with respect to the realloca-  
14 tion, consolidation, and redesign of programs de-  
15 scribed in subsection (b)(2) or (c) of section 403, a  
16 joint agreement between the Secretary and the In-  
17 dian Tribe shall be required.

18 “(e) RETROCESSION.—

19 “(1) IN GENERAL.—An Indian Tribe may fully  
20 or partially retrocede to the Secretary any program  
21 under a compact or funding agreement.

22 “(2) EFFECTIVE DATE.—

23 “(A) AGREEMENT.—Unless an Indian  
24 Tribe rescinds a request for retrocession under  
25 paragraph (1), the retrocession shall become ef-

1           fective on the date specified by the parties in  
2           the compact or funding agreement.

3           “(B) NO AGREEMENT.—In the absence of  
4           a specification of an effective date in the com-  
5           pact or funding agreement, the retrocession  
6           shall become effective on—

7                   “(i) the earlier of—

8                           “(I) 1 year after the date on  
9                           which the request is submitted; and

10                           “(II) the date on which the fund-  
11                           ing agreement expires; or

12                           “(ii) such date as may be mutually  
13                           agreed upon by the Secretary and the In-  
14                           dian Tribe.

15           “(f) NONDUPLICATION.—A funding agreement shall  
16           provide that, for the period for which, and to the extent  
17           to which, funding is provided to an Indian Tribe under  
18           this title, the Indian Tribe—

19                   “(1) shall not be entitled to contract with the  
20                   Secretary for funds under section 102, except that  
21                   the Indian Tribe shall be eligible for new programs  
22                   on the same basis as other Indian Tribes; and

23                   “(2) shall be responsible for the administration  
24                   of programs in accordance with the compact or  
25                   funding agreement.

1 “(g) RECORDS.—

2 “(1) IN GENERAL.—Unless an Indian Tribe  
3 specifies otherwise in the compact or funding agree-  
4 ment, records of an Indian Tribe shall not be consid-  
5 ered to be Federal records for purposes of chapter  
6 5 of title 5, United States Code.

7 “(2) RECORDKEEPING SYSTEM.—An Indian  
8 Tribe shall—

9 “(A) maintain a recordkeeping system; and

10 “(B) on a notice period of not less than 30  
11 days, provide the Secretary with reasonable ac-  
12 cess to the records to enable the Department to  
13 meet the requirements of sections 3101 through  
14 3106 of title 44, United States Code.

15 **“SEC. 406. PROVISIONS RELATING TO THE SECRETARY.**

16 “(a) TRUST EVALUATIONS.—A funding agreement  
17 shall include a provision to monitor the performance of  
18 trust functions by the Indian Tribe through the annual  
19 trust evaluation.

20 “(b) REASSUMPTION.—

21 “(1) IN GENERAL.—A compact or funding  
22 agreement shall include provisions for the Secretary  
23 to reassume a program and associated funding if  
24 there is a specific finding relating to that program  
25 of—

1           “(A) imminent jeopardy to a trust asset, a  
2           natural resource, or public health and safety  
3           that—

4                   “(i) is caused by an act or omission of  
5                   the Indian Tribe; and

6                   “(ii) arises out of a failure to carry  
7                   out the compact or funding agreement; or

8           “(B) gross mismanagement with respect to  
9           funds transferred to an Indian Tribe under a  
10          compact or funding agreement, as determined  
11          by the Secretary in consultation with the In-  
12          spector General, as appropriate.

13          “(2) PROHIBITION.—The Secretary shall not  
14          reassume operation of a program, in whole or part,  
15          unless—

16                   “(A) the Secretary first provides written  
17                   notice and a hearing on the record to the In-  
18                   dian Tribe; and

19                   “(B) the Indian Tribe does not take cor-  
20                   rective action to remedy the mismanagement of  
21                   the funds or programs, or the imminent jeop-  
22                   ardly to a trust asset, natural resource, or pub-  
23                   lic health and safety.

24          “(3) EXCEPTION.—

1           “(A) IN GENERAL.—Notwithstanding para-  
2 graph (2), the Secretary may, on written notice  
3 to the Indian Tribe, immediately reassume op-  
4 eration of a program if—

5           “(i) the Secretary makes a finding of  
6 imminent and substantial jeopardy and ir-  
7 reparable harm to a trust asset, a natural  
8 resource, or the public health and safety  
9 caused by an act or omission of the Indian  
10 Tribe; and

11           “(ii) the imminent and substantial  
12 jeopardy and irreparable harm to the trust  
13 asset, natural resource, or public health  
14 and safety arises out of a failure by the In-  
15 dian Tribe to carry out the terms of an ap-  
16 plicable compact or funding agreement.

17           “(B) REASSUMPTION.—If the Secretary re-  
18 assumes operation of a program under subpara-  
19 graph (A), the Secretary shall provide the In-  
20 dian Tribe with a hearing on the record not  
21 later than 10 days after the date of reassump-  
22 tion.

23           “(c) INABILITY TO AGREE ON COMPACT OR FUND-  
24 ING AGREEMENT.—

1           “(1) FINAL OFFER.—If the Secretary and a  
2 participating Indian Tribe are unable to agree, in  
3 whole or in part, on the terms of a compact or fund-  
4 ing agreement (including funding levels), the Indian  
5 Tribe may submit a final offer to the Secretary.

6           “(2) DETERMINATION.—Not more than 60  
7 days after the date of receipt of a final offer by one  
8 or more of the officials designated pursuant to para-  
9 graph (4), the Secretary shall review and make a de-  
10 termination with respect to the final offer, except  
11 that the 60-day period may be extended for up to 30  
12 days for circumstances beyond the control of the  
13 Secretary, upon written request by the Secretary to  
14 the Indian tribe.

15           “(3) EXTENSIONS.—The deadline described in  
16 paragraph (2) may be extended for any length of  
17 time, as agreed upon by both the Indian Tribe and  
18 the Secretary.

19           “(4) DESIGNATED OFFICIALS.—

20           “(A) IN GENERAL.—The Secretary shall  
21 designate one or more appropriate officials in  
22 the Department to receive a copy of the final  
23 offer described in paragraph (1).

24           “(B) NO DESIGNATION.—If no official is  
25 designated, the Director of the Office of the Ex-

1           Executive Secretariat and Regulatory Affairs shall  
2           be the designated official.

3           “(5) NO TIMELY DETERMINATION.—If the Sec-  
4           retary fails to make a determination with respect to  
5           a final offer within the period specified in paragraph  
6           (2), including any extension agreed to under para-  
7           graph (3), the Secretary shall be deemed to have  
8           agreed to the offer, except that with respect to any  
9           compact or funding agreement provision concerning  
10          a program described under section 403(c), the Sec-  
11          retary shall be deemed to have rejected the offer  
12          with respect to such provision and the terms of  
13          clauses (ii) through (iv) of paragraphs (6)(A) shall  
14          apply.

15          “(6) REJECTION OF FINAL OFFER.—

16                 “(A) IN GENERAL.—If the Secretary re-  
17                 jects a final offer (or one or more provisions or  
18                 funding levels in a final offer), the Secretary  
19                 shall—

20                         “(i) provide timely written notification  
21                         to the Indian Tribe that contains a specific  
22                         finding that clearly demonstrates, or that  
23                         is supported by a controlling legal author-  
24                         ity, that—

1           “(I) the amount of funds pro-  
2           posed in the final offer exceeds the  
3           applicable funding level as determined  
4           under section 106(a)(1);

5           “(II) the program that is the  
6           subject of the final offer is an inher-  
7           ent Federal function or is subject to  
8           the discretion of the Secretary under  
9           section 403(c);

10          “(III) the Indian Tribe cannot  
11          carry out the program in a manner  
12          that would not result in significant  
13          danger or risk to the public health or  
14          safety, to natural resources, or to  
15          trust resources;

16          “(IV) the Indian Tribe is not eli-  
17          gible to participate in self-governance  
18          under section 402(c);

19          “(V) the funding agreement  
20          would violate a Federal statute or reg-  
21          ulation; or

22          “(VI) with respect to a program  
23          or portion of a program included in a  
24          final offer pursuant to section  
25          403(b)(2), the program or the portion



1 of the program is not otherwise avail-  
2 able to Indian Tribes or Indians  
3 under section 102(a)(1)(E);

4 “(ii) provide technical assistance to  
5 overcome the objections stated in the noti-  
6 fication required by clause (i);

7 “(iii) provide the Indian Tribe with a  
8 hearing on the record with the right to en-  
9 gage in full discovery relevant to any issue  
10 raised in the matter, and the opportunity  
11 for appeal on the objections raised, except  
12 that the Indian Tribe may, in lieu of filing  
13 such appeal, directly proceed to initiate an  
14 action in a United States district court  
15 under section 110(a); and

16 “(iv) provide the Indian Tribe the op-  
17 tion of entering into the severable portions  
18 of a final proposed compact or funding  
19 agreement (including a lesser funding  
20 amount, if any), that the Secretary did not  
21 reject, subject to any additional alterations  
22 necessary to conform the compact or fund-  
23 ing agreement to the severed provisions.

1           “(B) EFFECT OF EXERCISING CERTAIN  
2           OPTION.—If an Indian Tribe exercises the op-  
3           tion specified in subparagraph (A)(iv)—

4                   “(i) the Indian Tribe shall retain the  
5                   right to appeal the rejection by the Sec-  
6                   retary under this section; and

7                   “(ii) clauses (i), (ii), and (iii) of sub-  
8                   paragraph (A) shall apply only to the por-  
9                   tion of the proposed final compact or fund-  
10                  ing agreement that was rejected by the  
11                  Secretary.

12          “(d) BURDEN OF PROOF.—In any administrative ac-  
13          tion, hearing, appeal, or civil action brought under this  
14          section, the Secretary shall have the burden of proof—

15                  “(1) of demonstrating, by a preponderance of  
16                  the evidence, the validity of the grounds for a re-  
17                  assumption under subsection (b); and

18                  “(2) of clearly demonstrating the validity of the  
19                  grounds for rejecting a final offer made under sub-  
20                  section (c).

21          “(e) GOOD FAITH.—

22                  “(1) IN GENERAL.—In the negotiation of com-  
23                  pacts and funding agreements, the Secretary shall at  
24                  all times negotiate in good faith to maximize imple-  
25                  mentation of the self-governance policy.

1           “(2) POLICY.—The Secretary shall carry out  
2 this title in a manner that maximizes the policy of  
3 Tribal self-governance.

4           “(f) SAVINGS.—

5           “(1) IN GENERAL.—To the extent that pro-  
6 grams carried out for the benefit of Indian Tribes  
7 and Tribal organizations under this title reduce the  
8 administrative or other responsibilities of the Sec-  
9 retary with respect to the operation of Indian pro-  
10 grams and result in savings that have not otherwise  
11 been included in the amount of Tribal shares and  
12 other funds determined under section 408(c), except  
13 for funding agreements entered into for programs  
14 under section 403(c), the Secretary shall make such  
15 savings available to the Indian Tribes or Tribal or-  
16 ganizations for the provision of additional services to  
17 program beneficiaries in a manner equitable to di-  
18 rectly served, contracted, and compacted programs.

19           “(2) DISCRETIONARY PROGRAMS OF SPECIAL  
20 SIGNIFICANCE.—For any savings generated as a re-  
21 sult of the assumption of a program by an Indian  
22 Tribe under section 403(c), such savings shall be  
23 made available to that Indian Tribe.

24           “(g) TRUST RESPONSIBILITY.—The Secretary may  
25 not waive, modify, or diminish in any way the trust re-

1 sponsibility of the United States with respect to Indian  
 2 Tribes and individual Indians that exists under treaties,  
 3 Executive orders, other laws, or court decisions.

4 “(h) DECISION MAKER.—A decision that constitutes  
 5 final agency action and relates to an appeal within the  
 6 Department conducted under subsection (c)(6)(A)(iii) may  
 7 be made by—

8 “(1) an official of the Department who holds a  
 9 position at a higher organizational level within the  
 10 Department than the level of the departmental agen-  
 11 cy in which the decision that is the subject of the  
 12 appeal was made; or

13 “(2) an administrative law judge.

14 “(i) RULES OF CONSTRUCTION.—Subject to section  
 15 101(a) of the PROGRESS for Indian Tribes Act, each  
 16 provision of this title and each provision of a compact or  
 17 funding agreement shall be liberally construed for the ben-  
 18 efit of the Indian Tribe participating in self-governance,  
 19 and any ambiguity shall be resolved in favor of the Indian  
 20 Tribe.

21 **“SEC. 407. CONSTRUCTION PROGRAMS AND PROJECTS.**

22 “(a) IN GENERAL.—Indian Tribes participating in  
 23 Tribal self-governance may carry out any construction  
 24 project included in a compact or funding agreement under  
 25 this title.

1       “(b) TRIBAL OPTION TO CARRY OUT CERTAIN FED-  
2 ERAL ENVIRONMENTAL ACTIVITIES.—In carrying out a  
3 construction project under this title, an Indian Tribe may,  
4 subject to the agreement of the Secretary, elect to assume  
5 some Federal responsibilities under the National Environ-  
6 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), divi-  
7 sion A of subtitle III of title 54, United States Code, and  
8 related provisions of other law and regulations that would  
9 apply if the Secretary were to undertake a construction  
10 project, by adopting a resolution—

11               “(1) designating a certifying Tribal officer to  
12 represent the Indian Tribe and to assume the status  
13 of a responsible Federal official under those Acts,  
14 laws, or regulations; and

15               “(2) accepting the jurisdiction of the United  
16 States courts for the purpose of enforcing the re-  
17 sponsibilities of the certifying Tribal officer assum-  
18 ing the status of a responsible Federal official under  
19 those Acts, laws, or regulations.

20       “(c) SAVINGS CLAUSE.—Notwithstanding subsection  
21 (b), nothing in this section authorizes the Secretary to in-  
22 clude in any compact or funding agreement duties of the  
23 Secretary under the National Environmental Policy Act  
24 (42 U.S.C. 4321 et seq.), the National Historic Preserva-

1 tion Act (16 U.S.C. 470 et seq.), and other related provi-  
2 sions of law that are inherent Federal functions.

3 “(d) CODES AND STANDARDS.—In carrying out a  
4 construction project under this title, an Indian Tribe  
5 shall—

6 “(1) adhere to applicable Federal, State, local,  
7 and Tribal building codes, architectural and engi-  
8 neering standards, and applicable Federal guidelines  
9 regarding design, space, and operational standards,  
10 appropriate for the particular project; and

11 “(2) use only architects and engineers who—

12 “(A) are licensed to practice in the State  
13 in which the facility will be built; and

14 “(B) certify that—

15 “(i) they are qualified to perform the  
16 work required by the specific construction  
17 involved; and

18 “(ii) upon completion of design, the  
19 plans and specifications meet or exceed the  
20 applicable construction and safety codes.

21 “(e) TRIBAL ACCOUNTABILITY.—

22 “(1) IN GENERAL.—In carrying out a construc-  
23 tion project under this title, an Indian Tribe shall  
24 assume responsibility for the successful completion  
25 of the construction project and of a facility that is

1 usable for the purpose for which the Indian Tribe  
2 received funding.

3 “(2) REQUIREMENTS.—For each construction  
4 project carried out by an Indian Tribe under this  
5 title, the Indian Tribe and the Secretary shall nego-  
6 tiate a provision to be included in the funding agree-  
7 ment that identifies—

8 “(A) the approximate start and completion  
9 dates for the project, which may extend over a  
10 period of one or more years;

11 “(B) a general description of the project,  
12 including the scope of work, references to de-  
13 sign criteria, and other terms and conditions;

14 “(C) the responsibilities of the Indian  
15 Tribe and the Secretary for the project;

16 “(D) how project-related environmental  
17 considerations will be addressed;

18 “(E) the amount of funds provided for the  
19 project;

20 “(F) the obligations of the Indian Tribe to  
21 comply with the codes referenced in subsection  
22 (d)(1) and applicable Federal laws and regula-  
23 tions;

24 “(G) the agreement of the parties over who  
25 will bear any additional costs necessary to meet

1 changes in scope, or errors or omissions in de-  
2 sign and construction; and

3 “(H) the agreement of the Secretary to  
4 issue a certificate of occupancy, if requested by  
5 the Indian Tribe, based upon the review and  
6 verification by the Secretary, to the satisfaction  
7 of the Secretary, that the Indian Tribe has se-  
8 cured upon completion the review and approval  
9 of the plans and specifications, sufficiency of  
10 design, life safety, and code compliance by  
11 qualified, licensed, and independent architects  
12 and engineers.

13 “(f) FUNDING.—

14 “(1) IN GENERAL.—Funding appropriated for  
15 construction projects carried out under this title  
16 shall be included in funding agreements as annual or  
17 semiannual advance payments at the option of the  
18 Indian Tribe.

19 “(2) ADVANCE PAYMENTS.—The Secretary  
20 shall include all associated project contingency funds  
21 with each advance payment, and the Indian Tribe  
22 shall be responsible for the management of such con-  
23 tingency funds.

24 “(g) NEGOTIATIONS.—At the option of the Indian  
25 Tribe, construction project funding proposals shall be ne-



1 gotiated pursuant to the statutory process in section 105,  
2 and any resulting construction project agreement shall be  
3 incorporated into the funding agreement as addenda.

4 “(h) FEDERAL REVIEW AND VERIFICATION.—

5 “(1) IN GENERAL.—On a schedule negotiated  
6 by the Secretary and the Indian Tribe—

7 “(A) the Secretary shall review and verify,  
8 to the satisfaction of the Secretary, that project  
9 planning and design documents prepared by the  
10 Indian Tribe in advance of initial construction  
11 are in conformity with the obligations of the In-  
12 dian Tribe under subsection (d); and

13 “(B) before the project planning and de-  
14 sign documents are implemented, the Secretary  
15 shall review and verify to the satisfaction of the  
16 Secretary that subsequent document amend-  
17 ments which result in a significant change in  
18 construction are in conformity with the obliga-  
19 tions of the Indian Tribe under subsection (d).

20 “(2) REPORTS.—The Indian Tribe shall provide  
21 the Secretary with project progress and financial re-  
22 ports not less than semiannually.

23 “(3) OVERSIGHT VISITS.—The Secretary may  
24 conduct onsite project oversight visits semiannually

1 or on an alternate schedule agreed to by the Sec-  
2 retary and the Indian Tribe.

3 “(i) APPLICATION OF OTHER LAWS.—Unless other-  
4 wise agreed to by the Indian Tribe and except as otherwise  
5 provided in this Act, no provision of title 41, United States  
6 Code, the Federal Acquisition Regulation, or any other law  
7 or regulation pertaining to Federal procurement (includ-  
8 ing Executive orders) shall apply to any construction pro-  
9 gram or project carried out under this title.

10 “(j) FUTURE FUNDING.—Upon completion of a facil-  
11 ity constructed under this title, the Secretary shall include  
12 the facility among those eligible for annual operation and  
13 maintenance funding support comparable to that provided  
14 for similar facilities funded by the Department as annual  
15 appropriations are available and to the extent that the fa-  
16 cility size and complexity and other factors do not exceed  
17 the funding formula criteria for comparable buildings.

18 **“SEC. 408. PAYMENT.**

19 “(a) IN GENERAL.—At the request of the governing  
20 body of an Indian Tribe and under the terms of an appli-  
21 cable funding agreement, the Secretary shall provide fund-  
22 ing to the Indian Tribe to carry out the funding agree-  
23 ment.

1       “(b) ADVANCE ANNUAL PAYMENT.—At the option of  
2 the Indian Tribe, a funding agreement shall provide for  
3 an advance annual payment to an Indian Tribe.

4       “(c) AMOUNT.—

5           “(1) IN GENERAL.—Subject to subsection (e)  
6 and sections 403 and 405, the Secretary shall pro-  
7 vide funds to the Indian Tribe under a funding  
8 agreement for programs in an amount that is equal  
9 to the amount that the Indian Tribe would have  
10 been entitled to receive under contracts and grants  
11 under this Act (including amounts for direct pro-  
12 gram and contract support costs and, in addition,  
13 any funds that are specifically or functionally related  
14 to the provision by the Secretary of services and  
15 benefits to the Indian Tribe or its members) without  
16 regard to the organization level within the Depart-  
17 ment at which the programs are carried out.

18           “(2) SAVINGS CLAUSE.—Nothing in this section  
19 reduces programs, services, or funds of, or provided  
20 to, another Indian Tribe.

21       “(d) TIMING.—

22           “(1) IN GENERAL.—Pursuant to the terms of  
23 any compact or funding agreement entered into  
24 under this title, the Secretary shall transfer to the  
25 Indian Tribe all funds provided for in the funding

1 agreement, pursuant to subsection (c), and provide  
2 funding for periods covered by joint resolution  
3 adopted by Congress making continuing appropria-  
4 tions, to the extent permitted by such resolution.

5 “(2) TRANSFERS.—Not later than 1 year after  
6 the date of enactment of the PROGRESS for Indian  
7 Tribes Act, in any instance in which a funding  
8 agreement requires an annual transfer of funding to  
9 be made at the beginning of a fiscal year or requires  
10 semiannual or other periodic transfers of funding to  
11 be made commencing at the beginning of a fiscal  
12 year, the first such transfer shall be made not later  
13 than 10 days after the apportionment of such funds  
14 by the Office of Management and Budget to the De-  
15 partment, unless the funding agreement provides  
16 otherwise.

17 “(e) AVAILABILITY.—Funds for trust services to indi-  
18 vidual Indians shall be available under a funding agree-  
19 ment only to the extent that the same services that would  
20 have been provided by the Secretary are provided to indi-  
21 vidual Indians by the Indian Tribe.

22 “(f) MULTIYEAR FUNDING.—A funding agreement  
23 may provide for multiyear funding.

24 “(g) LIMITATIONS ON AUTHORITY OF THE SEC-  
25 RETARY.—The Secretary shall not—

1           “(1) fail to transfer to an Indian Tribe its full  
2 share of any central, headquarters, regional, area, or  
3 service unit office or other funds due under this title  
4 for programs eligible under paragraph (1) or (2) of  
5 section 403(b), except as required by Federal law;

6           “(2) withhold any portion of such funds for  
7 transfer over a period of years; or

8           “(3) reduce the amount of funds required under  
9 this title—

10           “(A) to make funding available for self-  
11 governance monitoring or administration by the  
12 Secretary;

13           “(B) in subsequent years, except as nec-  
14 essary as a result of—

15           “(i) a reduction in appropriations  
16 from the previous fiscal year for the pro-  
17 gram to be included in a compact or fund-  
18 ing agreement;

19           “(ii) a congressional directive in legis-  
20 lation or an accompanying report;

21           “(iii) a Tribal authorization;

22           “(iv) a change in the amount of pass-  
23 through funds subject to the terms of the  
24 funding agreement; or

1                   “(v) completion of an activity under a  
2                   program for which the funds were pro-  
3                   vided;

4                   “(C) to pay for Federal functions, includ-  
5                   ing—

6                   “(i) Federal pay costs;

7                   “(ii) Federal employee retirement ben-  
8                   efits;

9                   “(iii) automated data processing;

10                   “(iv) technical assistance; and

11                   “(v) monitoring of activities under  
12                   this title; or

13                   “(D) to pay for costs of Federal personnel  
14                   displaced by self-determination contracts under  
15                   this Act or self-governance under this title.

16                   “(h) FEDERAL RESOURCES.—If an Indian Tribe  
17                   elects to carry out a compact or funding agreement with  
18                   the use of Federal personnel, Federal supplies (including  
19                   supplies available from Federal warehouse facilities), Fed-  
20                   eral supply sources (including lodging, airline transpor-  
21                   tation, and other means of transportation, including the  
22                   use of interagency motor pool vehicles), or other Federal  
23                   resources (including supplies, services, and resources  
24                   available to the Secretary under any procurement con-  
25                   tracts in which the Department is eligible to participate),

1 the Secretary shall, as soon as practicable, acquire and  
2 transfer such personnel, supplies, or resources to the In-  
3 dian Tribe under this title.

4 “(i) PROMPT PAYMENT ACT.—Chapter 39 of title 31,  
5 United States Code, shall apply to the transfer of funds  
6 due under a compact or funding agreement authorized  
7 under this title.

8 “(j) INTEREST OR OTHER INCOME.—

9 “(1) IN GENERAL.—An Indian Tribe may re-  
10 tain interest or income earned on any funds paid  
11 under a compact or funding agreement to carry out  
12 governmental purposes.

13 “(2) NO EFFECT ON OTHER AMOUNTS.—The  
14 retention of interest or income under paragraph (1)  
15 shall not diminish the amount of funds an Indian  
16 Tribe is entitled to receive under a funding agree-  
17 ment in the year the interest or income is earned or  
18 in any subsequent fiscal year.

19 “(3) INVESTMENT STANDARD.—Funds trans-  
20 ferred under this title shall be managed by the In-  
21 dian Tribe using the prudent investment standard,  
22 provided that the Secretary shall not be liable for  
23 any investment losses of funds managed by the In-  
24 dian Tribe that are not otherwise guaranteed or in-  
25 sured by the Federal Government.

1 “(k) CARRYOVER OF FUNDS.—

2 “(1) IN GENERAL.—Notwithstanding any provi-  
3 sion of an appropriations Act, all funds paid to an  
4 Indian Tribe in accordance with a compact or fund-  
5 ing agreement shall remain available until expended.

6 “(2) EFFECT OF CARRYOVER.—If an Indian  
7 Tribe elects to carry over funding from one year to  
8 the next, the carryover shall not diminish the  
9 amount of funds the Indian Tribe is entitled to re-  
10 ceive under a funding agreement in that fiscal year  
11 or any subsequent fiscal year.

12 “(l) LIMITATION OF COSTS.—

13 “(1) IN GENERAL.—An Indian Tribe shall not  
14 be obligated to continue performance that requires  
15 an expenditure of funds in excess of the amount of  
16 funds transferred under a compact or funding agree-  
17 ment.

18 “(2) NOTICE OF INSUFFICIENCY.—If at any  
19 time the Indian Tribe has reason to believe that the  
20 total amount provided for a specific activity under a  
21 compact or funding agreement is insufficient, the In-  
22 dian Tribe shall provide reasonable notice of such in-  
23 sufficiency to the Secretary.

24 “(3) SUSPENSION OF PERFORMANCE.—If, after  
25 notice under paragraph (2), the Secretary does not



1 increase the amount of funds transferred under the  
2 funding agreement, the Indian Tribe may suspend  
3 performance of the activity until such time as addi-  
4 tional funds are transferred.

5 “(4) SAVINGS CLAUSE.—Nothing in this section  
6 reduces any programs, services, or funds of, or pro-  
7 vided to, another Indian Tribe.

8 “(m) DISTRIBUTION OF FUNDS.—The Office of Self-  
9 Governance shall be responsible for distribution of all Bu-  
10 reau of Indian Affairs funds provided under this title un-  
11 less otherwise agreed by the parties to an applicable fund-  
12 ing agreement.

13 “(n) APPLICABILITY.—Notwithstanding any other  
14 provision of this section, section 101(a) of the  
15 PROGRESS for Indian Tribes Act applies to subsections  
16 (a) through (m).

17 **“SEC. 409. FACILITATION.**

18 “(a) IN GENERAL.—Except as otherwise provided by  
19 law (including section 101(a) of the PROGRESS for In-  
20 dian Tribes Act), the Secretary shall interpret each Fed-  
21 eral law and regulation in a manner that facilitates—

22 “(1) the inclusion of programs in funding  
23 agreements; and

24 “(2) the implementation of funding agreements.

25 “(b) REGULATION WAIVER.—

1           “(1) REQUEST.—An Indian Tribe may submit  
2 to the Secretary a written request for a waiver of  
3 applicability of a Federal regulation, including—

4                   “(A) an identification of the specific text in  
5 the regulation sought to be waived; and

6                   “(B) the basis for the request.

7           “(2) DETERMINATION BY THE SECRETARY.—  
8 Not later than 120 days after receipt by the Sec-  
9 retary and the designated officials under paragraph  
10 (4) of a request under paragraph (1), the Secretary  
11 shall approve or deny the requested waiver in writ-  
12 ing to the Indian Tribe.

13           “(3) EXTENSIONS.—The deadline described in  
14 paragraph (2) may be extended for any length of  
15 time, as agreed upon by both the Indian Tribe and  
16 the Secretary.

17           “(4) DESIGNATED OFFICIALS.—The Secretary  
18 shall designate one or more appropriate officials in  
19 the Department to receive a copy of the waiver re-  
20 quest described in paragraph (1).

21           “(5) GROUNDS FOR DENIAL.—The Secretary  
22 may deny a request under paragraph (1) upon a  
23 specific finding by the Secretary that the identified  
24 text in the regulation may not be waived because  
25 such a waiver is prohibited by Federal law.

1           “(6) FAILURE TO MAKE DETERMINATION.—If  
2           the Secretary fails to make a determination with re-  
3           spect to a waiver request within the period specified  
4           in paragraph (2) (including any extension agreed to  
5           under paragraph (3)), the Secretary shall be deemed  
6           to have agreed to the request, except that for a  
7           waiver request relating to programs eligible under  
8           section 403(b)(2) or section 403(c), the Secretary  
9           shall be deemed to have denied the request.

10           “(7) FINALITY.—A decision of the Secretary  
11           under this section shall be final for the Department.

12   **“SEC. 410. DISCRETIONARY APPLICATION OF OTHER SEC-**  
13                           **TIONS.**

14           “(a) IN GENERAL.—Except as otherwise provided in  
15           section 201(d) of the PROGRESS for Indian Tribes Act,  
16           at the option of a participating Indian Tribe or Indian  
17           Tribes, any of the provisions of title I may be incorporated  
18           in any compact or funding agreement under this title. The  
19           inclusion of any such provision shall be subject to, and  
20           shall not conflict with, section 101(a) of such Act.

21           “(b) EFFECT.—Each incorporated provision under  
22           subsection (a) shall—

23                   “(1) have the same force and effect as if set out  
24           in full in this title;

1           “(2) supplement or replace any related provi-  
2           sion in this title; and

3           “(3) apply to any agency otherwise governed by  
4           this title.

5           “(c) EFFECTIVE DATE.—If an Indian Tribe requests  
6           incorporation at the negotiation stage of a compact or  
7           funding agreement, the incorporation shall—

8           “(1) be effective immediately; and

9           “(2) control the negotiation and resulting com-  
10          pact and funding agreement.

11   **“SEC. 411. ANNUAL BUDGET LIST.**

12          “The Secretary shall list, in the annual budget re-  
13          quest submitted to Congress under section 1105 of title  
14          31, United States Code, any funds proposed to be included  
15          in funding agreements authorized under this title.

16   **“SEC. 412. REPORTS.**

17          “(a) IN GENERAL.—

18               “(1) REQUIREMENT.—On January 1 of each  
19               year, the Secretary shall submit to Congress a re-  
20               port regarding the administration of this title.

21               “(2) ANALYSIS.—Any Indian Tribe may submit  
22               to the Office of Self-Governance and to the appro-  
23               priate committees of Congress a detailed annual  
24               analysis of unmet Tribal needs for funding agree-  
25               ments under this title.

1       “(b) CONTENTS.—The report under subsection (a)(1)  
2 shall—

3               “(1) be compiled from information contained in  
4 funding agreements, annual audit reports, and data  
5 of the Secretary regarding the disposition of Federal  
6 funds;

7               “(2) identify—

8                       “(A) the relative costs and benefits of self-  
9 governance;

10                      “(B) with particularity, all funds that are  
11 specifically or functionally related to the provi-  
12 sion by the Secretary of services and benefits to  
13 self-governance Indian Tribes and members of  
14 Indian Tribes;

15                      “(C) the funds transferred to each Indian  
16 Tribe and the corresponding reduction in the  
17 Federal employees and workload; and

18                      “(D) the funding formula for individual  
19 Tribal shares of all Central Office funds, to-  
20 gether with the comments of affected Indian  
21 Tribes, developed under subsection (d);

22               “(3) before being submitted to Congress, be dis-  
23 tributed to the Indian Tribes for comment (with a  
24 comment period of not less than 30 days);

1           “(4) include the separate views and comments  
2 of each Indian Tribe or Tribal organization; and

3           “(5) include a list of—

4                 “(A) all such programs that the Secretary  
5 determines, in consultation with Indian Tribes  
6 participating in self-governance, are eligible for  
7 negotiation to be included in a funding agree-  
8 ment at the request of a participating Indian  
9 Tribe; and

10                “(B) all such programs which Indian  
11 Tribes have formally requested to include in a  
12 funding agreement under section 403(c) due to  
13 the special geographic, historical, or cultural  
14 significance of the program to the Indian Tribe,  
15 indicating whether each request was granted or  
16 denied, and stating the grounds for any denial.

17           “(c) REPORT ON NON-BIA PROGRAMS.—

18                 “(1) IN GENERAL.—In order to optimize oppor-  
19 tunities for including non-BIA programs in agree-  
20 ments with Indian Tribes participating in self-gov-  
21 ernance under this title, the Secretary shall review  
22 all programs administered by the Department, other  
23 than through the Bureau of Indian Affairs, the Of-  
24 fice of the Assistant Secretary for Indian Affairs, or  
25 the Office of the Special Trustee for American Indi-

1       ans, without regard to the agency or office con-  
2       cerned.

3               “(2) PROGRAMMATIC TARGETS.—The Secretary  
4       shall establish programmatic targets, after consulta-  
5       tion with Indian Tribes participating in self-govern-  
6       ance, to encourage bureaus of the Department to en-  
7       sure that an appropriate portion of those programs  
8       are available to be included in funding agreements.

9               “(3) PUBLICATION.—The lists under subsection  
10       (b)(5) and targets under paragraph (2) shall be pub-  
11       lished in the Federal Register and made available to  
12       any Indian Tribe participating in self-governance.

13               “(4) ANNUAL REVIEW.—

14               “(A) IN GENERAL.—The Secretary shall  
15       annually review and publish in the Federal Reg-  
16       ister, after consultation with Indian Tribes par-  
17       ticipating in self-governance, revised lists and  
18       programmatic targets.

19               “(B) CONTENTS.—In preparing the revised  
20       lists and programmatic targets, the Secretary  
21       shall consider all programs that were eligible  
22       for contracting in the original list published in  
23       the Federal Register in 1995, except for pro-  
24       grams specifically determined not to be con-  
25       tractible as a matter of law.

1       “(d) REPORT ON CENTRAL OFFICE FUNDS.—Not  
2 later than January 1, 2019, the Secretary shall, in con-  
3 sultation with Indian Tribes, develop a funding formula  
4 to determine the individual Tribal share of funds con-  
5 trolled by the Central Office of the Bureau of Indian Af-  
6 fairs and the Office of the Special Trustee for inclusion  
7 in the compacts.

8 **“SEC. 413. REGULATIONS.**

9       “(a) IN GENERAL.—

10           “(1) PROMULGATION.—Not later than 90 days  
11 after the date of enactment of the PROGRESS for  
12 Indian Tribes Act, the Secretary shall initiate proce-  
13 dures under subchapter III of chapter 5 of title 5,  
14 United States Code, to negotiate and promulgate  
15 such regulations as are necessary to carry out this  
16 title.

17           “(2) PUBLICATION OF PROPOSED REGULA-  
18 TIONS.—Proposed regulations to implement this title  
19 shall be published in the Federal Register not later  
20 than 21 months after the date of enactment of the  
21 PROGRESS for Indian Tribes Act.

22           “(3) EXPIRATION OF AUTHORITY.—The author-  
23 ity to promulgate regulations under paragraph (1)  
24 shall expire on the date that is 30 months after the



1 date of enactment of the PROGRESS for Indian  
2 Tribes Act.

3 “(b) COMMITTEE.—

4 “(1) MEMBERSHIP.—A negotiated rulemaking  
5 committee established pursuant to section 565 of  
6 title 5, United States Code, to carry out this section  
7 shall have as its members only representatives of the  
8 Federal Government and Tribal government.

9 “(2) LEAD AGENCY.—Among the Federal rep-  
10 resentatives described in paragraph (1), the Office of  
11 Self-Governance shall be the lead agency for the De-  
12 partment.

13 “(c) ADAPTATION OF PROCEDURES.—The Secretary  
14 shall adapt the negotiated rulemaking procedures to the  
15 unique context of self-governance and the government-to-  
16 government relationship between the United States and  
17 Indian Tribes.

18 “(d) EFFECT.—

19 “(1) REPEAL.—The Secretary may repeal any  
20 regulation that is inconsistent with this Act.

21 “(2) CONFLICTING PROVISIONS.—Subject to  
22 section 101(a) of the PROGRESS for Indian Tribes  
23 Act and except with respect to programs described  
24 under section 403(c), this title shall supersede any

1 conflicting provision of law (including any conflicting  
2 regulations).

3 “(3) EFFECTIVENESS WITHOUT REGARD TO  
4 REGULATIONS.—The lack of promulgated regula-  
5 tions on an issue shall not limit the effect or imple-  
6 mentation of this title.

7 **“SEC. 414. EFFECT OF CIRCULARS, POLICIES, MANUALS,  
8 GUIDANCE, AND RULES.**

9 “Unless expressly agreed to by a participating Indian  
10 Tribe in a compact or funding agreement, the partici-  
11 pating Indian Tribe shall not be subject to any agency  
12 circular, policy, manual, guidance, or rule adopted by the  
13 Department, except for—

14 “(1) the eligibility provisions of section 105(g);  
15 and

16 “(2) regulations promulgated pursuant to sec-  
17 tion 413.

18 **“SEC. 415. APPEALS.**

19 “Except as provided in section 406(d), in any admin-  
20 istrative action, appeal, or civil action for judicial review  
21 of any decision made by the Secretary under this title,  
22 the Secretary shall have the burden of proof of dem-  
23 onstrating by a preponderance of the evidence—

24 “(1) the validity of the grounds for the decision;  
25 and

1           “(2) the consistency of the decision with the re-  
2           quirements and policies of this title.

3   **“SEC. 416. APPLICATION OF OTHER PROVISIONS.**

4           “Section 314 of the Department of the Interior and  
5   Related Agencies Appropriations Act, 1991 (Public Law  
6   101–512; 104 Stat. 1959), shall apply to compacts and  
7   funding agreements entered into under this title.

8   **“SEC. 417. AUTHORIZATION OF APPROPRIATIONS.**

9           “There are authorized to be appropriated such sums  
10   as may be necessary to carry out this title.”.

11                   **TITLE II—INDIAN SELF-**  
12                   **DETERMINATION**

13   **SEC. 201. DEFINITIONS; REPORTING AND AUDIT REQUIRE-**  
14                   **MENTS; APPLICATION OF PROVISIONS.**

15           (a) DEFINITIONS.—

16                   (1) IN GENERAL.—Section 4 of the Indian Self-  
17   Determination and Education Assistance Act (25  
18   U.S.C. 5304) is amended by striking subsection (j)  
19   and inserting the following:

20           “(j) ‘self-determination contract’ means a contract  
21   entered into under title I (or a grant or cooperative agree-  
22   ment used under section 9) between a Tribal organization  
23   and the appropriate Secretary for the planning, conduct,  
24   and administration of programs or services that are other-  
25   wise provided to Indian Tribes and members of Indian

1 Tribes pursuant to Federal law, subject to the condition  
2 that, except as provided in section 105(a)(3), no contract  
3 entered into under title I (or grant or cooperative agree-  
4 ment used under section 9) shall be—

5 “(1) considered to be a procurement contract;

6 or

7 “(2) except as provided in section 107(a)(1),  
8 subject to any Federal procurement law (including  
9 regulations);”.

10 (2) TECHNICAL AMENDMENTS.—Section 4 of  
11 the Indian Self-Determination and Education Assist-  
12 ance Act (25 U.S.C. 5304), as amended by para-  
13 graph (1), is further amended—

14 (A) in subsection (e), by striking “‘Indian  
15 tribe’ means” and inserting “‘Indian tribe’ or  
16 ‘Indian Tribe’ means”; and

17 (B) in subsection (l), by striking “‘tribal  
18 organization’ means” and inserting “‘Tribal or-  
19 ganization’ or ‘tribal organization’ means”.

20 (b) REPORTING AND AUDIT REQUIREMENTS.—Sec-  
21 tion 5 of the Indian Self-Determination and Education As-  
22 sistance Act (25 U.S.C. 5305) is amended—

23 (1) in subsection (b)—

24 (A) by striking “after completion of the  
25 project or undertaking referred to in the pre-

1 ceding subsection of this section” and inserting  
2 “after the retention period for the report that  
3 is submitted to the Secretary under subsection  
4 (a)”;

5 (B) by adding at the end the following:  
6 “The retention period shall be defined in regu-  
7 lations promulgated by the Secretary pursuant  
8 to section 413.”; and

9 (2) in subsection (f)(1), by inserting “if the In-  
10 dian Tribal organization expends \$500,000 or more  
11 in Federal awards during such fiscal year” after  
12 “under this Act,”.

13 (c) EFFECTIVE DATE.—The amendment made by  
14 subsection (b)(2) shall not take effect until 14 months  
15 after the date of enactment of this Act.

16 (d) APPLICATION OF OTHER PROVISIONS.—Sections  
17 4, 5, 6, 7, 102(c), 104, 105(a)(1), 105(f), 110, and 111  
18 of the Indian Self-Determination and Education Assist-  
19 ance Act (25 U.S.C. 5304, 5305, 5306, 5307, 5321(c),  
20 5323, 5324(a)(1), 5324(f), 5331, and 5332) and section  
21 314 of the Department of the Interior and Related Agen-  
22 cies Appropriations Act, 1991 (Public Law 101–512; 104  
23 Stat. 1959), apply to compacts and funding agreements  
24 entered into under title IV of the Indian Self-Determina-

1 tion and Education Assistance Act (25 U.S.C. 5361 et  
2 seq.).

3 **SEC. 202. CONTRACTS BY SECRETARY OF THE INTERIOR.**

4 Section 102 of the Indian Self-Determination and  
5 Education Assistance Act (25 U.S.C. 5321) is amended—

6 (1) in subsection (c)(2), by striking “economic  
7 enterprises” and all that follows through “except  
8 that” and inserting “economic enterprises (as de-  
9 fined in section 3 of the Indian Financing Act of  
10 1974 (25 U.S.C. 1452)), except that”; and

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

12 “(f) GOOD FAITH REQUIREMENT.—In the negotia-  
13 tion of contracts and funding agreements, the Secretary  
14 shall—

15 “(1) at all times negotiate in good faith to  
16 maximize implementation of the self-determination  
17 policy; and

18 “(2) carry out this Act in a manner that maxi-  
19 mizes the policy of Tribal self-determination, in a  
20 manner consistent with—

21 “(A) the purposes specified in section 3;  
22 and

23 “(B) the PROGRESS for Indian Tribes  
24 Act.

1       “(g) **RULE OF CONSTRUCTION.**—Subject to section  
2 101(a) of the **PROGRESS** for Indian Tribes Act, each  
3 provision of this Act and each provision of a contract or  
4 funding agreement shall be liberally construed for the ben-  
5 efit of the Indian Tribe participating in self-determination,  
6 and any ambiguity shall be resolved in favor of the Indian  
7 Tribe.”.

8 **SEC. 203. ADMINISTRATIVE PROVISIONS.**

9       Section 105 of the Indian Self-Determination and  
10 Education Assistance Act (25 U.S.C. 5324) is amended—

11           (1) in subsection (b), in the first sentence, by  
12 striking “pursuant to” and all that follows through  
13 “of this Act” and inserting “pursuant to sections  
14 102 and 103”; and

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

16       “(p) **INTERPRETATION BY SECRETARY.**—Except as  
17 otherwise provided by law, the Secretary shall interpret  
18 all Federal laws (including regulations) and Executive or-  
19 ders in a manner that facilitates, to the maximum extent  
20 practicable—

21           “(1) the inclusion in self-determination con-  
22 tracts and funding agreements of—

23                   “(A) applicable programs, services, func-  
24 tions, and activities (or portions thereof); and

1           “(B) funds associated with those pro-  
2           grams, services, functions, and activities;

3           “(2) the implementation of self-determination  
4           contracts and funding agreements; and

5           “(3) the achievement of Tribal health objec-  
6           tives.

7           “(q)(1) TECHNICAL ASSISTANCE FOR INTERNAL  
8           CONTROLS.—In considering proposals for, amendments  
9           to, or in the course of, a contract under this title and com-  
10          pacts under titles IV and V of this Act, if the Secretary  
11          determines that the Indian Tribe lacks adequate internal  
12          controls necessary to manage the contracted program or  
13          programs, the Secretary shall, as soon as practicable, pro-  
14          vide the necessary technical assistance to assist the Indian  
15          Tribe in developing adequate internal controls. As part of  
16          that technical assistance, the Secretary and the Tribe shall  
17          develop a plan for assessing the subsequent effectiveness  
18          of such technical assistance. The inability of the Secretary  
19          to provide technical assistance or lack of a plan under this  
20          subsection shall not result in the reassumption of an exist-  
21          ing agreement, contract, or compact, or declination or re-  
22          jection of a new agreement, contract, or compact.

23          “(2) The Secretary shall prepare a report to be in-  
24          cluded in the information required for the reports under  
25          sections 405(b)(1) and 514(b)(2)(A). The Secretary shall



1 include in this report, in the aggregate, a description of  
2 the internal controls that were inadequate, the technical  
3 assistance provided, and a description of Secretarial ac-  
4 tions taken to address any remaining inadequate internal  
5 controls after the provision of technical assistance and im-  
6 plementation of the plan required by paragraph (1).”.

7 **SEC. 204. CONTRACT FUNDING AND INDIRECT COSTS.**

8 Section 106(a)(3) of the Indian Self-Determination  
9 and Education Assistance Act (25 U.S.C. 5325(a)(3)) is  
10 amended—

11 (1) in subparagraph (A)—

12 (A) in clause (i), by striking “, and” and  
13 inserting “; and”; and

14 (B) in clause (ii), by striking “expense re-  
15 lated to the overhead incurred” and inserting  
16 “expense incurred by the governing body of the  
17 Indian Tribe or Tribal organization and any  
18 overhead expense incurred”;

19 (2) by redesignating subparagraph (B) as sub-  
20 paragraph (C); and

21 (3) by inserting after subparagraph (A) the fol-  
22 lowing:

23 “(B) In calculating the reimbursement rate  
24 for expenses described in subparagraph (A)(ii),  
25 not less than 50 percent of the expenses de-

1           scribed in subparagraph (A)(ii) that are in-  
2           curred by the governing body of an Indian  
3           Tribe or Tribal organization relating to a Fed-  
4           eral program, function, service, or activity car-  
5           ried out pursuant to the contract shall be con-  
6           sidered to be reasonable and allowable.”.

7 **SEC. 205. CONTRACT OR GRANT SPECIFICATIONS.**

8           Section 108 of the Indian Self-Determination and  
9           Education Assistance Act (25 U.S.C. 5329) is amended—

10           (1) in subsection (a)(2), by inserting “subject  
11           to subsections (a) and (b) of section 102,” before  
12           “contain”;

13           (2) in subsection (f)(2)(A)(ii) of the model  
14           agreement contained in subsection (c), by inserting  
15           “subject to subsections (a) and (b) of section 102 of  
16           the Indian Self-Determination and Education Assist-  
17           ance Act (25 U.S.C. 5321),” before “such other pro-  
18           visions”; and

19           (3) in subsection (b)(7)(C) of the model agree-  
20           ment contained in subsection (c), in the second sen-  
21           tence of the matter preceding clause (i), by striking

1 “one performance monitoring visit” and inserting

2 “two performance monitoring visits”.

Passed the Senate September 28, 2018.

Attest:

*Secretary.*

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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**S. 2515**

**AN ACT**

To amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian Tribes, and for other purposes.