TITLE III—NATURAL RESOURCES

Subtitle A—Indian Dam Safety

SEC. 3101. INDIAN DAM SAFETY.

(a) DEFINITIONS.—In this section:

(1) DAM.—
   (A) IN GENERAL.—The term “dam” has the meaning given the term in section 2 of the National Dam Safety Program Act (33 U.S.C. 467).
   (B) INCLUSIONS.—The term “dam” includes any structure, facility, equipment, or vehicle used in connection with the operation of a dam.

(2) FUND.—The term “Fund” means, as applicable—
   (A) the High-Hazard Indian Dam Safety Deferred Maintenance Fund established by subsection (b)(1)(A); or
   (B) the Low-Hazard Indian Dam Safety Deferred Maintenance Fund established by subsection (b)(2)(A).

(3) HIGH HAZARD POTENTIAL DAM.—The term “high hazard potential dam” means a dam assigned to the significant or high hazard potential classifica-

(4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).


(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, in consultation with the Secretary of the Army.

(b) INDIAN DAM SAFETY DEFERRED MAINTENANCE FUNDS.—

(1) HIGH-HAZARD FUND.—
(A) Establishment.—There is established in the Treasury of the United States a fund, to be known as the “High-Hazard Indian Dam Safety Deferred Maintenance Fund”, consisting of—

(i) such amounts as are deposited in the Fund under subparagraph (B); and

(ii) any interest earned on investment of amounts in the Fund under subparagraph (D).

(B) Deposits to Fund.—

(i) In General.—For each of fiscal years 2017 through 2023, the Secretary of the Treasury shall deposit in the Fund $22,750,000 from the general fund of the Treasury.

(ii) Availability of Amounts.—Amounts deposited in the Fund under clause (i) shall be used, subject to appropriation, to carry out this section.

(C) Expenditures from Fund.—

(i) In General.—Subject to clause (ii), for each of fiscal years 2017 through 2023, the Secretary may, to the extent provided in advance in appropriations Acts,
expend from the Fund, in accordance with this section, not more than the sum of—

(I) $22,750,000; and

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

(ii) ADDITIONAL EXPENDITURES.— The Secretary may expend more than $22,750,000 for any fiscal year referred to in clause (i) 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 clause (i) in 1 or more prior fiscal years.

(D) INVESTMENTS OF AMOUNTS.—

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

(ii) 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.

(E) TRANSFERS OF AMOUNTS.—
(i) IN GENERAL.—The amounts required to be transferred to the Fund under this paragraph shall be transferred at least monthly.

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

(F) TERMINATION.—On September 30, 2023—

(i) the Fund shall terminate; and

(ii) the unexpended and unobligated balance of the Fund shall be transferred to the general fund of the Treasury.

(2) LOW-HAZARD FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the “Low-Hazard Indian Dam Safety Deferred Maintenance Fund”, consisting of—

(i) such amounts as are deposited in the Fund under subparagraph (B); and
(ii) any interest earned on investment of amounts in the Fund under subparagraph (D).

(B) DEPOSITS TO FUND.—

(i) IN GENERAL.—For each of fiscal years 2017 through 2023, the Secretary of the Treasury shall deposit in the Fund $10,000,000 from the general fund of the Treasury.

(ii) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under clause (i) shall be used, subject to appropriation, to carry out this section.

(C) EXPENDITURES FROM FUND.—

(i) IN GENERAL.—Subject to clause (ii), for each of fiscal years 2017 through 2023, the Secretary may, to the extent provided in advance in appropriations Acts, expend from the Fund, in accordance with this section, not more than the sum of—

(I) $10,000,000; and

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

(ii) ADDITIONAL EXPENDITURES.—The Secretary may expend more than
$10,000,000 for any fiscal year referred to in clause (i) 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 clause (i) in 1 or more prior fiscal years.

(D) INVESTMENTS OF AMOUNTS.—

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

(ii) 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.

(E) TRANSFERS OF AMOUNTS.—

(i) IN GENERAL.—The amounts required to be transferred to the Fund under this paragraph shall be transferred at least monthly.

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

(F) Termination.—On September 30, 2023—

(i) the Fund shall terminate; and

(ii) the unexpended and unobligated balance of the Fund shall be transferred to the general fund of the Treasury.

(c) Repair, Replacement, and Maintenance of Certain Indian Dams.—

(1) Program establishment.—

(A) In general.—The Secretary shall establish a program to address the deferred maintenance needs of Indian dams that—

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

(ii) unduly impede the management and efficiency of Indian dams.

(B) Funding.—

(i) High-hazard fund.—Consistent with subsection (b)(1)(B), the Secretary shall use or transfer to the Bureau of Indian Affairs not less than $22,750,000 of amounts in the High-Hazard Indian Dam
Safety Deferred Maintenance Fund, plus accrued interest, for each of fiscal years 2017 through 2023 to carry out maintenance, repair, and replacement activities for 1 or more of the Indian dams described in paragraph (2)(A).

(ii) Low-Hazard Fund.—Consistent with subsection (b)(2)(B), the Secretary shall use or transfer to the Bureau of Indian Affairs not less than $10,000,000 of amounts in the Low-Hazard Indian Dam Safety Deferred Maintenance Fund, plus accrued interest, for each of fiscal years 2017 through 2023 to carry out maintenance, repair, and replacement activities for 1 or more of the Indian dams described in paragraph (2)(B).

(C) Compliance with Dam Safety Policies.—Maintenance, repair, and replacement activities for Indian dams under this section shall be carried out in accordance with the dam safety policies of the Director of the Bureau of Indian Affairs established to carry out the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.).
(2) Eligible dams.—

(A) High hazard potential dams.—

The dams eligible for funding under paragraph (1)(B)(i) are Indian high hazard potential dams in the United States that—

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

(iii)(I)(aa) are owned by the Federal Government, as listed in the Federal inventory required by Executive Order 13327 (40 U.S.C. 121 note; relating to Federal real property asset management); and

(bb) are managed by the Bureau of Indian Affairs (including dams managed under contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.)); or

(II) have deferred maintenance documented by the Bureau of Indian Affairs.

(B) Low hazard potential dams.—The dams eligible for funding under paragraph (1)(B)(ii) are Indian low hazard potential dams
in the United States that, on the date of enactment of this Act—

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

(ii)(I)(aa) are owned by the Federal Government, as listed in the Federal inventory required by Executive Order 13327 (40 U.S.C. 121 note; relating to Federal real property asset management); and

(bb) are managed by the Bureau of Indian Affairs (including dams managed under contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.)); or

(II) have deferred maintenance documented by the Bureau of Indian Affairs.

(3) REQUIREMENTS AND CONDITIONS.—Not later than 120 days after the date of enactment of this Act and as a precondition to amounts being expended from the Fund to carry out this subsection, the Secretary, in consultation with representatives of affected Indian tribes, shall develop and submit to Congress—
(A) programmatic goals to carry out this subsection that—

(i) would enable the completion of repairing, replacing, improving, or performing maintenance on Indian dams as expeditiously as practicable, subject to the dam safety policies of the Director of the Bureau of Indian Affairs established to carry out the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.);

(ii) facilitate or improve the ability of the Bureau of Indian Affairs to carry out the mission of the Bureau of Indian Affairs in operating an Indian dam; and

(iii) ensure that the results of government-to-government consultation required under paragraph (4) be addressed; and

(B) funding prioritization criteria to serve as a methodology for distributing funds under this subsection that take into account—

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

(I) public or employee safety or health;
(II) natural or cultural resources;

or

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

(ii) the extent to which repairing, replacing, improving, or performing maintenance on an Indian dam will—

(I) improve public or employee safety, health, or accessibility;

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

(III) address unmet needs; or

(IV) assist in protecting natural or cultural resources;

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

(iv) the potential economic benefits of the expenditures on job creation and general economic development in the affected tribal communities;
(v) the ability of an Indian dam to address tribal, regional, and watershed level flood prevention needs;

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

(vii) the ability of the water storage capacity of an Indian dam to be increased to prevent flooding in downstream tribal and nontribal communities; and

(viii) 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 paragraph (4).

(4) **Tribal Consultation and User Input.**—

(A) *In General.*—Except as provided in subparagraph (B), before expending funds on an Indian dam pursuant to paragraph (1) and
not later than 60 days after the date of enactment of this Act, the Secretary shall—

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

(ii) ensure that the Director of the Bureau of Indian Affairs advises the Indian tribe that has jurisdiction over the land on which a dam eligible to receive funding under paragraph (2) is located on the expenditure of funds; and

(iii) solicit and consider the input, comments, and recommendations of the landowners served by the Indian dam.

(B) EMERGENCIES.—If the Secretary determines that an emergency circumstance exists with respect to an Indian dam, subparagraph (A) shall not apply with respect to that Indian dam.

(5) ALLOCATION AMONG DAMS.—

(A) IN GENERAL.—Subject to subparagraph (B), to the maximum extent practicable, the Secretary shall ensure that, for each of fiscal years 2017 through 2023, each Indian dam eligible for funding under paragraph (2) that
has critical maintenance needs receives part of
the funding under paragraph (1) to address
critical maintenance needs.

(B) PRIORITY.—In allocating amounts
under paragraph (1)(B), in addition to consid-
ering the funding priorities described in para-
graph (3), the Secretary shall give priority to
Indian dams eligible for funding under para-
graph (2) that serve—

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

(ii) highly populated Indian commu-

nities, as determined by the Secretary.

(C) CAP ON FUNDING.—

(i) IN GENERAL.—Subject to clause

(ii), in allocating amounts under paragraph

(1)(B), the Secretary shall allocate not

more than $10,000,000 to any individual
dam described in paragraph (2) during any

consecutive 3-year period.

(ii) EXCEPTION.—Notwithstanding
the cap described in clause (i), if the full
amount under paragraph (1)(B) cannot be
fully allocated to eligible Indian dams be-
cause the costs of the remaining activities
authorized in paragraph (1)(B) of an Indian dam would exceed the cap described in clause (i), the Secretary may allocate the remaining funds to eligible Indian dams in accordance with this subsection.

(D) Basis of funding.—Any amounts made available under this paragraph shall be nonreimbursable.

(E) Applicability of ISDEAA.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall apply to activities carried out under this paragraph.

(d) Tribal Safety of Dams Committee.—

(1) Establishment of Committee.—

(A) Establishment.—The Secretary of the Interior shall establish within the Bureau of Indian Affairs the Tribal Safety of Dams Committee (referred to in this paragraph as the “Committee”).

(B) Membership.—

(i) Composition.—The Committee shall be composed of 15 members, of whom—

(I) 11 shall be appointed by the Secretary of the Interior from among
300

individuals who, to the maximum extent practicable, have knowledge and expertise in dam safety issues and flood prevention and mitigation, of whom not less than 1 shall be a member of an Indian tribe in each of the Bureau of Indian Affairs regions of—

(aa) the Northwest Region;

(bb) the Pacific Region;

(cc) the Western Region;

(dd) the Navajo Region;

(ee) the Southwest Region;

(ff) the Rocky Mountain Region;

(gg) the Great Plans Region; and

(hh) the Midwest Region;

(II) 2 shall be appointed by the Secretary of the Interior from among employees of the Bureau of Indian Affairs who have knowledge and expertise in dam safety issues and flood prevention and mitigation;

(III) 1 shall be appointed by the Secretary of the Interior from among
employees of the Bureau of Reclama-
tion who have knowledge and expert-
tise in dam safety issues and flood
prevention and mitigation; and

(IV) I shall be appointed by the
Secretary of the Army from among
dam safety issues and flood preven-
tion and mitigation.

(iii) Date.—The appointments of the
members of the Committee shall be made
as soon as practicable after the date en-
actment of this Act.

(C) Period of Appointment.—Members
shall be appointed for the life of the Committee.

(D) Vacancies.—Any vacancy in the
Committee shall not affect the powers of the
Committee, but shall be filled in the same man-
ner as the original appointment.
(E) **Initial Meeting.**—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the first meeting.

(F) **Meetings.**—The Committee shall meet at the call of the Chairperson.

(G) **Quorum.**—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(H) **Chairperson and Vice Chairperson.**—The Committee shall select a Chairperson and Vice Chairperson from among the members.

(2) **Duties of the Committee.**—

(A) **Study.**—The Committee shall conduct a thorough study of all matters relating to the modernization of the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.).

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

(C) **Report.**—Not later than 1 year after the date on which the Committee holds the first meeting, the Committee shall submit a report
containing a detailed statement of the findings
and conclusions of the Committee, together
with recommendations for legislation that the
Committee considers appropriate, to—

(i) the Committee on Indian Affairs of
the Senate; and

(ii) the Committee on Natural Re-
resources of the House of Representatives.

(3) POWERS OF THE COMMITTEE.—

(A) HEARINGS.—The Committee may hold
such hearings, sit and act at such times and
places, take such testimony, and receive such
evidence as the Committee considers appro-
priate to carry out this paragraph.

(B) INFORMATION FROM FEDERAL AGEN-
cies.—

(i) IN GENERAL.—The Committee
may secure directly from any Federal de-
partment or agency such information as
the Committee considers necessary to carry
out this paragraph.

(ii) REQUEST.—On request of the
Chairperson of the Committee, the head of
any Federal department or agency shall
furnish information described in clause (i) to the Committee.

(C) Postal services.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(D) Gifts.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(4) Committee personnel matters.—

(A) Compensation of members.—

(i) Non-federal members.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Committee.

(ii) Federal members.—Each member of the Committee who is an officer or
employee of the Federal Government shall serve without compensation in addition to that received for services as an officer or employee of the Federal Government.

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

(C) STAFF.—

(i) IN GENERAL.—

(I) APPOINTMENT.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform the duties of the Committee.

(II) CONFIRMATION.—The employment of an executive director shall
be subject to confirmation by the Committee.

(ii) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

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

(E) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individ-
uals that do not exceed the daily equivalent of
the annual rate of basic pay prescribed for level
V of the Executive Schedule under section 5316
of that title.

(5) TERMINATION OF THE COMMITTEE.—The
Committee shall terminate 90 days after the date on
which the Committee submits the report under para-
graph (2)(C).

(6) FUNDING.—Of the amounts authorized to
be expended from either Fund, $1,000,000 shall be
made available from either Fund during fiscal year
2017 to carry out this subsection, to remain avail-
able until expended.

(e) INDIAN DAM SURVEYS.—

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

(2) BIA REPORTS.—Not less frequently than
once each year, the Secretary shall submit to Con-
gress a report describing the condition of each dam
under the partial or total jurisdiction of the Sec-
retary.

(f) FLOOD PLAIN MANAGEMENT PILOT PROGRAM.—
1. **Establishment.**—The Secretary shall establish, within the Bureau of Indian Affairs, a floodplain management pilot program (referred to in this subsection as the “program”) to provide, at the request of an Indian tribe, guidance to the Indian tribe relating to best practices for the mitigation and prevention of floods, including consultation with the Indian tribe on—

   (A) floodplain mapping; or

   (B) new construction planning.

2. **Termination.**—The program shall terminate on the date that is 4 years after the date of enactment of this Act.

3. **Funding.**—Of the amounts authorized to be expended from either Fund, $250,000 shall be made available from either Fund during each of fiscal years 2017, 2018, and 2019 to carry out this subsection, to remain available until expended.

**Subtitle B—Irrigation Rehabilitation and Renovation for Indian Tribal Governments and Their Economies**

**Sec. 3201. Definitions.**

In this subtitle: