

110TH CONGRESS
1ST SESSION

S. 2087

To amend certain laws relating to Native Americans to make technical corrections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2007

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

A BILL

To amend certain laws relating to Native Americans to make technical corrections, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Om-
5 nibus Technical Corrections Act of 2007”.

6 **SEC. 2. DEFINITION OF NATIVE AMERICAN.**

7 Section 2(9) of the Native American Graves Protec-
8 tion and Repatriation Act (25 U.S.C. 3001(9)) is amend-
9 ed—

10 (1) by inserting “or was” after “is”; and

1 (2) by inserting after “indigenous to” the fol-
2 lowing: “any geographic area that is now located
3 within the boundaries of”.

4 **SEC. 3. INDIAN TRIBAL JUSTICE.**

5 (a) INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL
6 ASSISTANCE.—The Indian Tribal Justice Technical and
7 Legal Assistance Act of 2000 is amended—

8 (1) in section 106 (25 U.S.C. 3666), by striking
9 “for fiscal years 2000 through 2004” and inserting
10 “for fiscal years 2008 through 2012”; and

11 (2) in section 201(d) (25 U.S.C. 3681(d)), by
12 striking “for fiscal years 2000 through 2004” and
13 inserting “for fiscal years 2008 through 2012”.

14 (b) INDIAN TRIBAL JUSTICE SYSTEMS.—Section 201
15 of the Indian Tribal Justice Act (25 U.S.C. 3621) is
16 amended by striking “2007” each place it appears and
17 inserting “2012”.

18 **SEC. 4. NATIVE AMERICAN PARTICIPATION IN METH-**
19 **AMPHETAMINE GRANTS.**

20 (a) IN GENERAL.—Section 2996(a) of the Omnibus
21 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
22 3797cc(a)) is amended—

23 (1) in paragraph (1)—

24 (A) in the matter preceding subparagraph

25 (A), by inserting “, territories, and Indian

1 tribes (as defined in section 2704)” after “to
2 assist States”; and

3 (B) in subparagraph (B), by striking “and
4 local” and inserting “territorial, Tribal, and
5 local”;

6 (2) in paragraph (2), by inserting “, territories,
7 and Indian tribes” after “make grants to States”;

8 (3) in paragraph (3)(C), by inserting “, Trib-
9 al,” after “support State”; and

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

11 “(4) EFFECT OF SUBSECTION.—Nothing in this
12 subsection, or in the award or denial of any grant
13 pursuant to this subsection—

14 “(A) allows grants authorized under para-
15 graph (3)(A) to be made to, or used by, an en-
16 tity for law enforcement activities that the enti-
17 ty lacks jurisdiction to perform; or

18 “(B) has any effect other than to author-
19 ize, award, or deny a grant of funds to a State,
20 territory, or Indian tribe for the purposes de-
21 scribed in this subsection.”.

22 (b) GRANT PROGRAMS FOR DRUG ENDANGERED
23 CHILDREN.—Section 755(a) of the USA PATRIOT Im-
24 provement and Reauthorization Act of 2005 (42 U.S.C.
25 3797cc-2(a)) is amended by inserting “, territories, and

1 Indian tribes (as defined in section 2704 of the Omnibus
2 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
3 3797d))” after “make grants to States”.

4 (c) GRANT PROGRAMS TO ADDRESS METHAMPHET-
5 AMINE USE BY PREGNANT AND PARENTING WOMEN OF-
6 FENDERS.—Section 756 of the USA PATRIOT Improve-
7 ment and Reauthorization Act of 2005 (42 U.S.C.
8 3797cc–3) is amended—

9 (1) in subsection (a)(2), by inserting “, terri-
10 torial, or Tribal” after “State”;

11 (2) in subsection (b)—

12 (A) in paragraph (1)—

13 (i) by inserting “, territorial, or Trib-
14 al” after “State”; and

15 (ii) by striking “and/or” and inserting
16 “or”;

17 (B) in paragraph (2)—

18 (i) by inserting “, territory, or Indian
19 tribe” after “agency of the State”; and

20 (ii) by inserting “, territory, or Indian
21 tribe” after “criminal laws of that State”;

22 and

23 (C) by adding at the end the following:

24 “(3) INDIAN TRIBE.—The term ‘Indian tribe’
25 has the meaning given the term in section 2704 of

1 the Omnibus Crime Control and Safe Streets Act of
2 1968 (42 U.S.C. 3797d).”; and

3 (3) in subsection (c)—

4 (A) in paragraph (3), by striking “Indian
5 Tribes” and inserting “Indian tribes”; and

6 (B) in paragraph (4)—

7 (i) in the matter preceding subpara-
8 graph (A)—

9 (I) by striking “State’s services”
10 and inserting “services of the State,
11 territory, or Indian tribe”; and

12 (II) by striking “and/or” and in-
13 serting “or”;

14 (ii) in subparagraph (A), by striking
15 “State”;

16 (iii) in subparagraph (C), by inserting
17 “, Indian tribes,” after “involved coun-
18 ties”; and

19 (iv) in subparagraph (D), by inserting
20 “, tribal” after “Federal, State”.

21 **SEC. 5. INDIAN LAND CONSOLIDATION ACT.**

22 (a) DEFINITIONS.—Section 202 of the Indian Land
23 Consolidation Act (25 U.S.C. 2201) is amended—

24 (1) in paragraph (4)—

25 (A) by inserting “(i)” after “(4)”;

1 (B) by striking “‘trust or restricted inter-
2 est in land’ or” and inserting the following:

3 “(ii) ‘trust or restricted interest in land’ or”;

4 and

5 (C) in clause (ii) (as designated by sub-
6 paragraph (B)), by striking “an interest in
7 land, title to which” and inserting “an interest
8 in land, the title to which interest”; and

9 (2) by striking paragraph (7) and inserting the
10 following:

11 “(7) the term ‘land’—

12 “(A) means any real property; and

13 “(B) only for purposes of intestate succes-
14 sion under section 207(a), includes the interest,
15 if any, owned by the decedent in improvements
16 permanently affixed to a parcel of trust or re-
17 stricted lands (subject to any valid mortgage or
18 other interest in such an improvement) if the
19 parcel was owned, in whole or in part, by the
20 decedent immediately prior to the death of the
21 decedent.”.

22 (b) DESCENT AND DISTRIBUTION.—Section 207 of
23 the Indian Land Consolidation Act (25 U.S.C. 2206) is
24 amended—

25 (1) in subsection (a)(2)(D)—

1 (A) in clause (i), by striking “clauses (ii)
2 through (iv)” and inserting “clauses (ii)
3 through (v)”; and

4 (B) by striking clause (v) and inserting the
5 following:

6 “(v) EFFECT OF SUBPARAGRAPH.—
7 Nothing in this subparagraph limits the
8 right of any person to devise any trust or
9 restricted interest pursuant to a valid will
10 in accordance with subsection (b).”;

11 (2) in subsection (b)(2)(B)—

12 (A) by redesignating clauses (i) through
13 (iii) as subclauses (I) through (III), respec-
14 tively, and indenting the subclauses appro-
15 priately;

16 (B) by striking “Any interest” and insert-
17 ing the following:

18 “(i) IN GENERAL.—Subject to clauses
19 (ii) and (iii), any interest”;

20 (C) in subclause (III) of clause (i) (as des-
21 ignated by subparagraphs (A) and (B)), by
22 striking the semicolon and inserting a period;

23 (D) by striking “provided that nothing”
24 and inserting the following:

1 “(iii) EFFECT.—Except as provided in
2 clause (ii), nothing”; and

3 (E) by inserting after clause (i) (as des-
4 ignated by subparagraph (B)) the following:

5 “(ii) EXCEPTION.—

6 “(I) IN GENERAL.—Notwith-
7 standing clause (i), in any case in
8 which a resolution, law, or other en-
9 actment of the Indian tribe with juris-
10 diction over the land of which an in-
11 terest described in clause (i) is a part
12 requests the Secretary to apply sub-
13 paragraph (A)(ii) to devise of trust
14 or restricted land under the jurisdic-
15 tion of the Indian tribe, the interest
16 may be devised in fee in accordance
17 with subparagraph (A)(ii).

18 “(II) EFFECT.—Subclause (I)
19 shall apply with respect to a devise of
20 a trust or restricted interest in land
21 by any decedent who dies on or after
22 the date on which the applicable In-
23 dian tribe adopts the resolution, law,
24 or other enactment described in sub-

1 clause (I), regardless of the date on
2 which the devise is made.”;

3 (3) in subsection (c)(2), by striking “the date
4 that is” and all that follows through the period at
5 the end and inserting the following: “September 1,
6 2008.”; and

7 (4) in subsection (o)—

8 (A) in paragraph (3)—

9 (i) by redesignating subparagraphs
10 (A) and (B) as clauses (i) and (ii) and in-
11 denting the clauses appropriately;

12 (ii) by striking “(3)” and all that fol-
13 lows through “No sale” and inserting the
14 following:

15 “(3) REQUEST TO PURCHASE; CONSENT RE-
16 QUIREMENTS; MULTIPLE REQUESTS TO PUR-
17 CHASE.—

18 “(A) IN GENERAL.—No sale”; and

19 (iii) by striking the last sentence and
20 inserting the following:

21 “(B) MULTIPLE REQUESTS TO PUR-
22 CHASE.—Except for interests purchased pursu-
23 ant to paragraph (5), if the Secretary receives
24 a request with respect to an interest from more
25 than 1 eligible purchaser under paragraph (2),

1 the Secretary shall sell the interest to the eligi-
2 ble purchaser that is selected by the applicable
3 heir, devisee, or surviving spouse.”;

4 (B) in paragraph (4)—

5 (i) in subparagraph (A), by adding
6 “and” at the end;

7 (ii) in subparagraph (B), by striking
8 “; and” and inserting a period; and

9 (iii) by striking subparagraph (C);
10 and

11 (C) in paragraph (5)—

12 (i) in subparagraph (A)—

13 (I) in the matter preceding clause

14 (i)—

15 (aa) by striking “subpara-
16 graph (B), the consent of a per-
17 son who is an heir” and inserting
18 “subparagraph (C), the consent
19 of a person who is an heir or sur-
20 viving spouse”; and

21 (bb) by striking “auction
22 and”;

23 (II) in clause (i), by striking
24 “and” at the end;

25 (III) in clause (ii)—

1 (aa) by striking “auction”
2 and inserting “sale”;

3 (bb) by striking “the inter-
4 est passing to such heir rep-
5 represents” and inserting “, at the
6 time of death of the applicable
7 decedent, the interest of the dece-
8 dent in the land represented”;
9 and

10 (cc) by striking the period at
11 the end and inserting a semi-
12 colon; and

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

15 “(iii) the decedent died on or after
16 September 1, 2008; and

17 “(iv)(I) the Secretary is purchasing
18 the interest under the program authorized
19 under section 213(a)(1); or

20 “(II) after receiving a notice under
21 paragraph (4)(B), the Indian tribe with ju-
22 risdiction over the interest is proposing to
23 purchase the interest from an heir or sur-
24 viving spouse who is not residing on the
25 property in accordance with clause (i), and

1 who is not a member, and is not eligible to
2 become a member, of that Indian tribe.”;

3 (ii) by redesignating subparagraph
4 (B) as subparagraph (C);

5 (iii) by inserting after subparagraph
6 (A) the following:

7 “(B) AUTHORITY TO EXTEND DATE.—The
8 Secretary may extend the date referred to in
9 subparagraph (A)(iii) by not more than 1 year
10 if, by not later than August 1, 2008, the Sec-
11 retary publishes in the Federal Register a no-
12 tice of the extension.”; and

13 (iv) in subparagraph (C) (as redesign-
14 ated by clause (ii))—

15 (I) by inserting “or surviving
16 spouse” after “heir” each place it ap-
17 pears; and

18 (II) by striking “heir’s interest”
19 and inserting “interest of the heir or
20 surviving spouse”.

21 (c) CONFORMING AMENDMENT.—Section 213(a)(1)
22 of the Indian Land Consolidation Act (25 U.S.C.
23 2212(a)(1)) is amended by striking “section 207(p)” and
24 inserting “section 207(o)”.

1 **SEC. 6. INDIAN GOODS AND PRODUCTS.**

2 (a) INDIAN ARTS AND CRAFTS.—

3 (1) CRIMINAL PROCEEDINGS; CIVIL ACTIONS;
4 MISREPRESENTATIONS.—Section 5 of the Act enti-
5 tled “An Act to promote the development of Indian
6 arts and crafts and to create a board to assist there-
7 in, and for other purposes” (25 U.S.C. 305d) is
8 amended to read as follows:

9 **“SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.**

10 “(a) DEFINITION OF FEDERAL LAW ENFORCEMENT
11 OFFICER.—In this section, the term ‘Federal law enforce-
12 ment officer’ includes a Federal law enforcement officer
13 (as defined in section 115(c) of title 18, United States
14 Code).

15 “(b) CONDUCT OF INVESTIGATIONS.—Any Federal
16 law enforcement officer may conduct an investigation re-
17 lating to a violation of this Act that occurs on land under
18 the jurisdiction of the Federal Government.

19 “(c) CRIMINAL PROCEEDINGS.—

20 “(1) INVESTIGATION.—

21 “(A) IN GENERAL.—The Board may refer
22 an alleged violation of section 1159 of title 18,
23 United States Code, to any Federal law enforce-
24 ment officer for appropriate investigation.

25 “(B) REFERRAL NOT REQUIRED.—A Fed-
26 eral law enforcement officer may investigate an

1 alleged violation of section 1159 of that title re-
2 gardless of whether the Federal law enforce-
3 ment officer receives a referral under subpara-
4 graph (A).

5 “(2) FINDINGS.—The findings of an investiga-
6 tion of an alleged violation of section 1159 of title
7 18, United States Code, by any Federal department
8 or agency under paragraph (1)(A) shall be sub-
9 mitted to—

10 “(A) the Attorney General; or

11 “(B) the Board.

12 “(3) RECOMMENDATIONS.—On receiving the
13 findings of an investigation under paragraph (2), the
14 Board may—

15 “(A) recommend to the Attorney General
16 that criminal proceedings be initiated under
17 section 1159 of title 18, United States Code;
18 and

19 “(B) provide such support to the Attorney
20 General relating to the criminal proceedings as
21 the Attorney General determines to be appro-
22 priate.

23 “(d) CIVIL ACTIONS.—In lieu of, or in addition to,
24 any criminal proceeding under subsection (c), the Board

1 may recommend that the Attorney General initiate a civil
2 action under section 6.”.

3 (2) CAUSE OF ACTION FOR MISREPRESENTA-
4 TION.—Section 6 of the Act entitled “An Act to pro-
5 mote the development of Indian arts and crafts and
6 to create a board to assist therein, and for other
7 purposes” (25 U.S.C. 305e) is amended—

8 (A) by striking subsection (d);

9 (B) by redesignating subsections (a)
10 through (c) as subsections (b) through (d), re-
11 spectively;

12 (C) by inserting before subsection (b) (as
13 redesignated by subparagraph (B)) the fol-
14 lowing:

15 “(a) DEFINITIONS.—In this section:

16 “(1) INDIAN.—The term ‘Indian’ means an in-
17 dividual that—

18 “(A) is a member of an Indian tribe; or

19 “(B) is certified as an Indian artisan by an
20 Indian tribe.

21 “(2) INDIAN PRODUCT.—The term ‘Indian
22 product’ has the meaning given the term in any reg-
23 ulation promulgated by the Secretary.

24 “(3) INDIAN TRIBE.—

1 “(A) IN GENERAL.—The term ‘Indian
2 tribe’ has the meaning given the term in section
3 4 of the Indian Self-Determination and Edu-
4 cation Assistance Act (25 U.S.C. 450b).

5 “(B) INCLUSION.—The term ‘Indian tribe’
6 includes, for purposes of this section only, an
7 Indian group that has been formally recognized
8 as an Indian tribe by—

9 “(i) a State legislature;

10 “(ii) a State commission; or

11 “(iii) another similar organization
12 vested with State legislative tribal recogni-
13 tion authority.

14 “(4) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of the Interior.”;

16 (D) in subsection (b) (as redesignated by
17 subparagraph (B)), by striking “subsection (c)”
18 and inserting “subsection (d)”;

19 (E) in subsection (c) (as redesignated by
20 subparagraph (B))—

21 (i) by striking “subsection (a)” and
22 inserting “subsection (b)”;

23 (ii) by striking “suit” and inserting
24 “the civil action”;

1 (F) by striking subsection (d) (as redesignated by subparagraph (B)) and inserting the
 2 following:
 3

4 “(d) PERSONS THAT MAY INITIATE CIVIL AC-
 5 TIONS.—

6 “(1) IN GENERAL.—A civil action under sub-
 7 section (b) may be initiated by—

8 “(A) the Attorney General, at the request
 9 of the Secretary acting on behalf of—

10 “(i) an Indian tribe;

11 “(ii) an Indian; or

12 “(iii) an Indian arts and crafts orga-
 13 nization;

14 “(B) an Indian tribe, acting on behalf of—

15 “(i) the Indian tribe;

16 “(ii) a member of that Indian tribe; or

17 “(iii) an Indian arts and crafts orga-
 18 nization;

19 “(C) an Indian; or

20 “(D) an Indian arts and crafts organiza-
 21 tion.

22 “(2) DISPOSITION OF AMOUNTS RECOVERED.—

23 “(A) IN GENERAL.—Except as provided in
 24 subparagraph (B), an amount recovered in a
 25 civil action under this section shall be paid to

1 the Indian tribe, the Indian, or the Indian arts
2 and crafts organization on the behalf of which
3 the civil action was initiated.

4 “(B) EXCEPTIONS.—

5 “(i) ATTORNEY GENERAL.—In the
6 case of a civil action initiated under para-
7 graph (1)(A), the Attorney General may
8 deduct from the amount—

9 “(I) the amount of the cost of
10 the civil action and reasonable attor-
11 ney’s fees awarded under subsection
12 (c), to be deposited in the Treasury
13 and credited to appropriations avail-
14 able to the Attorney General on the
15 date on which the amount is recov-
16 ered; and

17 “(II) the amount of the costs of
18 investigation awarded under sub-
19 section (c), to reimburse the Board
20 for the activities of the Board relating
21 to the civil action.

22 “(ii) INDIAN TRIBE.—In the case of a
23 civil action initiated under paragraph
24 (1)(B), the Indian tribe may deduct from
25 the amount—

1 “(I) the amount of the cost of
2 the civil action; and

3 “(II) reasonable attorney’s fees.”;
4 and

5 (G) in subsection (e), by striking “(e) In
6 the event that” and inserting the following:

7 “(e) SAVINGS PROVISION.—If”.

8 (b) MISREPRESENTATION OF INDIAN PRODUCED
9 GOODS AND PRODUCTS.—Section 1159 of title 18, United
10 States Code, is amended—

11 (1) by striking subsection (b) and inserting the
12 following:

13 “(b) PENALTY.—Any person that knowingly violates
14 subsection (a) shall—

15 “(1) in the case of a first violation by that per-
16 son—

17 “(A) if the applicable goods are offered or
18 displayed for sale at a total price of \$1,000 or
19 more, or if the applicable goods are sold for a
20 total price of \$1,000 or more—

21 “(i) in the case of an individual, be
22 fined not more than \$250,000, imprisoned
23 for not more than 5 years, or both; and

1 “(ii) in the case of a person other
2 than an individual, be fined not more than
3 \$1,000,000; and

4 “(B) if the applicable goods are offered or
5 displayed for sale at a total price of less than
6 \$1,000, or if the applicable goods are sold for
7 a total price of less than \$1,000—

8 “(i) in the case of an individual, be
9 fined not more than \$25,000, imprisoned
10 for not more than 1 year, or both; and

11 “(ii) in the case of a person other
12 than an individual, be fined not more than
13 \$100,000; and

14 “(2) in the case of a subsequent violation by
15 that person, regardless of the amount for which any
16 good is offered or displayed for sale or sold—

17 “(A) in the case of an individual, be fined
18 under this title, imprisoned for not more than
19 15 years, or both; and

20 “(B) in the case of a person other than an
21 individual, be fined not more than
22 \$5,000,000.”; and

23 (2) in subsection (c), by striking paragraph (3)
24 and inserting the following:

25 “(3) the term ‘Indian tribe’—

1 “(A) has the meaning given the term in
2 section 4 of the Indian Self-Determination and
3 Education Assistance Act (25 U.S.C. 450b);
4 and

5 “(B) includes, for purposes of this section
6 only, an Indian group that has been formally
7 recognized as an Indian tribe by—

8 “(i) a State legislature;

9 “(ii) a State commission; or

10 “(iii) another similar organization
11 vested with State legislative tribal recogni-
12 tion authority; and”.

○