

108TH CONGRESS
1ST SESSION

S. 424

To establish, reauthorize, and improve energy programs relating to Indian tribes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2003

Mr. BINGAMAN (for himself, Mr. INOUE, Mr. CAMPBELL, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish, reauthorize, and improve energy programs relating to Indian tribes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tribal Energy Self-Sufficiency Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—INDIAN ENERGY

Sec. 101. Comprehensive Indian energy program.

- Sec. 102. Office of Indian Energy Policy and Programs.
 Sec. 103. Siting of energy facilities on tribal land.
 Sec. 104. Indian mineral development review.
 Sec. 105. Renewable energy study.
 Sec. 106. Federal power marketing administrations.
 Sec. 107. Feasibility study for combined wind and hydropower demonstration project.
 Sec. 108. Transmission line demonstration project.

TITLE II—RENEWABLE ENERGY AND RURAL CONSTRUCTION
GRANTS

- Sec. 201. Renewable energy production incentive.

TITLE III—ENERGY EFFICIENCY AND ASSISTANCE TO LOW-
INCOME CONSUMERS

- Sec. 301. Low-income community energy efficiency pilot program.
 Sec. 302. Rural and remote community electrification grants.

1 SEC. 2. DEFINITION OF SECRETARY.

2 In this Act, the term “Secretary” means the Sec-
 3 retary of Energy.

4 TITLE I—INDIAN ENERGY

5 SEC. 101. COMPREHENSIVE INDIAN ENERGY PROGRAM.

6 Title XXVI of the Energy Policy Act of 1992 (25
 7 U.S.C. 3501 et seq.) is amended by adding after section
 8 2606 the following:

9 “SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

10 “(a) DEFINITIONS.—In this section:

11 “(1) DIRECTOR.—The term ‘Director’ means
 12 the Director of the Office of Indian Energy Policy
 13 and Programs of the Department of Energy.

14 “(2) INDIAN LAND.—The term ‘Indian land’
 15 means—

16 “(A) any land within the limits of an In-
 17 dian reservation, pueblo, or rancheria;

1 “(B) any land not within the limits of an
2 Indian reservation, pueblo, or rancharia, title to
3 which is held—

4 “(i) in trust by the United States for
5 the benefit of an Indian tribe;

6 “(ii) by an Indian tribe subject to re-
7 striction by the United States against
8 alienation; or

9 “(iii) by a dependent Indian commu-
10 nity; and

11 “(C) land conveyed to an Alaska Native
12 corporation under the Alaska Native Claims
13 Settlement Act (43 U.S.C. 1601 et seq.).

14 “(b) INDIAN ENERGY EDUCATION PLANNING AND
15 MANAGEMENT ASSISTANCE.—

16 “(1) IN GENERAL.—The Director shall establish
17 programs within the Office of Indian Energy Policy
18 and Programs to assist Indian tribes in meeting en-
19 ergy education, research and development, planning,
20 and management needs.

21 “(2) GRANTS.—In carrying out this section, the
22 Director may provide grants, on a competitive basis,
23 to an Indian tribe for use in carrying out—

1 “(A) renewable energy, nonrenewable en-
2 energy, energy efficiency, and energy conservation
3 programs;

4 “(B) studies and other activities sup-
5 porting tribal acquisition of energy supplies,
6 services, and facilities;

7 “(C) planning, construction, development,
8 operation, maintenance, and improvement of
9 tribal electrical generation, transmission, and
10 distribution facilities located on Indian land;
11 and

12 “(D) development, construction, and inter-
13 connection of electric power transmission facili-
14 ties located on Indian land with other electric
15 transmission facilities.

16 “(3) FORMULA.—

17 “(A) IN GENERAL.—The Director may de-
18 velop, in consultation with Indian tribes, a for-
19 mula for providing grants under this section.

20 “(B) CONSIDERATIONS.—In developing a
21 formula under subparagraph (A), the Director
22 may take into account—

23 “(i) the number of acres of Indian
24 land owned by an Indian tribe;

1 “(ii) the number of households on the
2 Indian land of an Indian tribe;

3 “(iii) the number of households on the
4 Indian land of an Indian tribe that have no
5 electric service or are underserved; and

6 “(iv) financial or other assets avail-
7 able to the Indian tribe from any source.

8 “(4) PRIORITY.—In providing a grant under
9 this subsection, the Director shall give priority to an
10 application received from an Indian tribe with inad-
11 equate electric service (as determined by the Direc-
12 tor).

13 “(5) REGULATIONS.—The Secretary may pro-
14 mulgate such regulations as the Secretary deter-
15 mines are necessary to carry out this subsection.

16 “(6) AUTHORIZATION OF APPROPRIATIONS.—
17 There is authorized to be appropriated to the Sec-
18 retary to carry out this section \$20,000,000 for each
19 of fiscal years 2003 through 2010.

20 “(c) LOAN GUARANTEE PROGRAM.—

21 “(1) AUTHORITY.—Subject to paragraph (3),
22 the Secretary may provide loan guarantees (as de-
23 fined in section 502 of the Federal Credit Reform
24 Act of 1990 (2 U.S.C. 661a) for not more than 90

1 percent of the unpaid principal and interest due on
2 any loan made to any Indian tribe for—

3 “(A) energy development (including the
4 planning, development, construction, and main-
5 tenance of electrical generation plants); and

6 “(B) for transmission and delivery mecha-
7 nisms for electricity produced on Indian land.

8 “(2) LENDERS.—A loan guaranteed under this
9 subsection shall be made by—

10 “(A) a financial institution subject to ex-
11 amination by the Secretary; or

12 “(B) an Indian tribe, from funds of the In-
13 dian tribe.

14 “(3) LIMITATION ON AMOUNT.—The aggregate
15 outstanding amount guaranteed by the Secretary of
16 Energy at any time under this subsection shall not
17 exceed \$2,000,000,000.

18 “(4) REGULATIONS.—The Secretary may pro-
19 mulgate such regulations as the Secretary deter-
20 mines are necessary to carry out this subsection.

21 “(5) FUNDING.—

22 “(A) AUTHORIZATION OF APPROPRIA-
23 TIONS.—There are authorized to be appro-
24 priated such sums as are necessary to carry out
25 this subsection.

1 “(B) AVAILABILITY.—Funds made avail-
2 able under subparagraph (A) shall remain avail-
3 able until expended.

4 “(d) INDIAN ENERGY PREFERENCE.—

5 “(1) IN GENERAL.—A Federal agency or de-
6 partment may give, in the purchase of electricity, oil,
7 gas, coal, or any other energy product or byproduct,
8 preference in the purchase to an energy and re-
9 source production enterprise, partnership, corpora-
10 tion, or other type of business organization the ma-
11 jority of the interest in which is owned and con-
12 trolled by an Indian tribe.

13 “(2) PRICE OF PRODUCTS.—In carrying out
14 this subsection, a Federal agency or department
15 shall—

16 “(A) pay not more than the prevailing
17 market price for an energy product or byprod-
18 uct; and

19 “(B) shall obtain not less than existing
20 market terms and conditions.”.

21 **SEC. 102. OFFICE OF INDIAN ENERGY POLICY AND PRO-**
22 **GRAMS.**

23 (a) IN GENERAL.—Title II of the Department of En-
24 ergy Organization Act (7 U.S.C. 7131 et seq.) is amended
25 by adding at the end the following:

1 **“SEC. 217. OFFICE OF INDIAN ENERGY POLICY AND PRO-**
2 **GRAMS.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—There is established within
5 the Department an Office of Indian Energy Policy
6 and Programs (referred to in this section as the ‘Of-
7 fice’).

8 “(2) DIRECTOR.—The Office shall be headed by
9 a Director, who shall be—

10 “(A) appointed by the Secretary; and

11 “(B) compensated at a rate equal to that
12 of level IV of the Executive Schedule under sec-
13 tion 5315 of title 5, United States Code.

14 “(b) DUTIES OF DIRECTOR.—The Director shall—

15 “(1) in accordance with Federal policies for the
16 promotion of tribal sovereignty and self-determina-
17 tion, provide, direct, foster, coordinate, and imple-
18 ment energy planning, education, management, con-
19 servation, and delivery programs of the Department
20 that—

21 “(A) promote tribal energy efficiency and
22 use;

23 “(B) modernize and develop, for the ben-
24 efit of Indian tribes, tribal energy and economic
25 infrastructure relating to natural resource de-
26 velopment and electrification;

1 “(C) lower or stabilize energy costs; and

2 “(D) electrify tribal land and the homes of
3 tribal members; and

4 “(2) carry out the duties assigned to the Sec-
5 retary or the Director under title XXVI of the En-
6 ergy Policy Act of 1992 (25 U.S.C. 3501 et seq.).”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) AUTHORIZATION OF APPROPRIATIONS.—

9 Section 2603 of the Energy Policy Act of 1992 (25
10 U.S.C. 3503) is amended by striking subsection (c)
11 and inserting the following:

12 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated to the Secretary to carry
14 out this section \$10,000,000 for each of fiscal years 2003
15 through 2010.”.

16 (2) TABLE OF CONTENTS.—The table of con-
17 tents of the Department of Energy Organization Act
18 (42 U.S.C. prec. 7101) is amended—

19 (A) in the item relating to section 209, by
20 striking “Section” and inserting “Sec.”; and

21 (B) by striking the items relating to sec-
22 tions 213 through 216 and inserting the fol-
23 lowing:

“Sec. 213. Establishment of policy for National Nuclear Security Administra-
tion.

“Sec. 214. Establishment of security, counterintelligence, and intelligence poli-
cies.

“Sec. 215. Office of Counterintelligence.

“Sec. 216. Office of Intelligence.

“Sec. 217. Office of Indian Energy Policy and Programs.”.

1 (3) EXECUTIVE SCHEDULE.—Section 5315 of
2 title 5, United States Code, is amended by inserting
3 “Director, Office of Indian Energy Policy and Pro-
4 grams, Department of Energy.” after “Inspector
5 General, Department of Energy.”.

6 **SEC. 103. SITING OF ENERGY FACILITIES ON TRIBAL LAND.**

7 (a) DEFINITIONS.—In this section:

8 (1) INDIAN TRIBE.—

9 (A) IN GENERAL.—The term “Indian
10 tribe” means any Indian tribe, band, nation, or
11 other organized group or community that is rec-
12 ognized as being eligible for the special pro-
13 grams and services provided by the United
14 States to Indians because of their status as In-
15 dians.

16 (B) EXCLUSIONS.—The term “Indian
17 tribe” does not include any Regional Corpora-
18 tion or Native Corporation (as those terms are
19 defined in section 3 of the Alaska Native
20 Claims Settlement Act (43 U.S.C. 1602)).

21 (2) INTERESTED PARTY.—The term “interested
22 party” means a State or other person the interests
23 of which could be adversely affected by a decision of

1 an Indian tribe to grant a lease or right-of-way in
2 accordance with this section.

3 (3) PETITION.—The term “petition” means a
4 written request submitted to the Secretary for the
5 review of an action (including inaction) of an Indian
6 tribe that is claimed to be in violation of tribal regu-
7 lations approved under subsection (f).

8 (4) RESERVATION.—The term “reservation”
9 means—

10 (A) with respect to a reservation in a State
11 other than the State of Oklahoma, all land that
12 has been set aside or that has been acknowl-
13 edged as having been set aside by the United
14 States for the use of an Indian tribe, the exte-
15 rior boundaries of which are more particularly
16 defined in a final tribal treaty, agreement, exec-
17 utive order, Federal statute, secretarial order,
18 or judicial determination; and

19 (B) with respect to a reservation in the
20 State of Oklahoma, all land that is—

21 (i) within the jurisdictional area of an
22 Indian tribe; and

23 (ii) within the boundaries of the last
24 reservation of the Indian tribe that was es-

1 tablished by treaty, executive order, or sec-
2 retarial order.

3 (5) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of the Interior.

5 (6) TRIBAL LAND.—The term ‘tribal land’
6 means any—

7 (A) tribal trust land; or

8 (B) other land owned by an Indian tribe
9 that is located within the reservation of the In-
10 dian tribe.

11 (b) LEASES INVOLVING ELECTRIC GENERATION,
12 TRANSMISSION, DISTRIBUTION, OR PROCESSING FACILI-
13 TIES.—

14 (1) IN GENERAL.—An Indian tribe may grant
15 a lease of tribal land for—

16 (A) an electric generation, transmission, or
17 distribution facility; or

18 (B) a facility to refine or otherwise process
19 renewable or nonrenewable energy resources de-
20 veloped on tribal land.

21 (2) APPROVAL NOT REQUIRED.—A lease de-
22 scribed in paragraph (1) shall not require the ap-
23 proval of the Secretary if—

1 (A) the lease is executed under tribal regu-
2 lations approved by the Secretary under this
3 subsection; and

4 (B) the term of the lease does not exceed
5 30 years.

6 (c) RIGHTS-OF-WAY FOR ELECTRIC GENERATION,
7 TRANSMISSION, DISTRIBUTION, OR PROCESSING FACILI-
8 TIES.—An Indian tribe may grant a right-of-way over trib-
9 al land for a pipeline or an electric transmission or dis-
10 tribution line without separate approval by the Secretary
11 if—

12 (1) the right-of-way is executed under and com-
13 plies with tribal regulations approved by the Sec-
14 retary;

15 (2) the term of the right-of-way does not exceed
16 30 years; and

17 (3) the pipeline or electric transmission or dis-
18 tribution line serves—

19 (A) an electric generation, transmission or
20 distribution facility located on tribal land; or

21 (B) a facility located on tribal land that re-
22 fines or otherwise processes renewable or non-
23 renewable energy resources developed on tribal
24 land.

1 (d) VALIDITY OF LEASES AND RIGHTS-OF-WAY.—No
2 lease or right-of-way granted under this section shall be
3 valid unless authorized in compliance with applicable tribal
4 regulations approved under subsection (f).

5 (e) RENEWALS.—Leases or rights-of-way entered
6 into under this section may be renewed at the discretion
7 of the Indian tribe making the grant of the lease or right-
8 of-way in accordance with this section.

9 (f) TRIBAL REGULATION REQUIREMENTS.—

10 (1) IN GENERAL.—The Secretary shall approve
11 or disapprove tribal regulations required under this
12 subsection.

13 (2) CONDITIONS FOR APPROVAL.—The Sec-
14 retary shall approve tribal regulations described in
15 paragraph (1) if the Secretary determines that the
16 regulations—

17 (A) are comprehensive in nature;

18 (B) include provisions that address—

19 (i) securing necessary information
20 from the lessee or right-of-way applicant;

21 (ii) the term of any conveyance;

22 (iii) amendments and renewals;

23 (iv) consideration for a lease or right-
24 of-way;

1 (v) technical or other relevant require-
2 ments;

3 (vi) requirements for environmental
4 review as described in paragraph (3);

5 (vii) requirements for complying with
6 all applicable environmental laws;

7 (viii) the identification of final ap-
8 proval authority; and

9 (ix) the provision of public notification
10 of final approvals; and

11 (C) establish a process for consultation
12 with any affected States concerning potential
13 off-reservation impacts associated with a lease
14 or right-of-way proposed to be granted.

15 (3) ENVIRONMENTAL REVIEW PROCESS.—An
16 Indian tribe shall establish an environmental review
17 process that includes—

18 (A) an identification and evaluation of all
19 significant environmental impacts of the pro-
20 posed action as compared to a no action alter-
21 native;

22 (B) identification of proposed mitigation;

23 (C) a process for ensuring that the public
24 is informed of and has an opportunity to com-

1 ment on the proposed action prior to tribal ap-
2 proval of the lease or right-of-way; and

3 (D) sufficient administrative support and
4 technical capability to carry out the environ-
5 mental review process.

6 (4) PERIOD FOR APPROVAL OR DISAPPROVAL.—

7 (A) IN GENERAL.—Not later than 270
8 days after the date of submission by an Indian
9 tribe to the Secretary of tribal regulations
10 under this subsection, the Secretary—

11 (i) may provide notice and an oppor-
12 tunity for public comment on the regula-
13 tions; and

14 (ii) shall approve or disapprove the
15 regulations.

16 (B) FORM OF DISAPPROVAL.—Any dis-
17 approval by the Secretary of tribal regulations
18 described in subparagraph (A) shall be accom-
19 panied by—

20 (i) written documentation that de-
21 scribes the basis for the disapproval; and

22 (ii) a description of changes or other
23 actions required to address concerns of the
24 Secretary.

1 (C) EXTENSION.—The Secretary may ex-
2 tend the deadline specified in subparagraph (A)
3 for an Indian tribe after consultation with the
4 Indian tribe.

5 (5) DUTIES OF INDIAN TRIBE.—If an Indian
6 tribe executes a lease or right-of-way in accordance
7 with tribal regulations required under this sub-
8 section, the Indian tribe shall provide to the Sec-
9 retary—

10 (A) a copy of the lease or right-of-way doc-
11 ument (including all amendments and renewals
12 to the lease or document); and

13 (B) in the case of tribal regulations or a
14 lease or right-of-way that permits payment to
15 be made directly to the Indian tribe, docu-
16 mentation of the payments sufficient to enable
17 the Secretary to discharge the trust responsi-
18 bility of the United States as appropriate under
19 applicable law.

20 (6) NO LIABILITY FOR LOSSES.—The United
21 States shall not be liable for any loss sustained by
22 any party (including any Indian tribe or member of
23 an Indian tribe) to a lease executed in accordance
24 with tribal regulations under this subsection.

25 (7) VIOLATIONS.—

1 (A) PETITIONS.—

2 (i) IN GENERAL.—An interested party
3 may, after exhaustion of tribal remedies,
4 submit to the Secretary, in a timely man-
5 ner, a petition for the review of compliance
6 of an Indian tribe with any tribal regula-
7 tions approved under this subsection.

8 (ii) DEADLINE FOR CONDUCT OF RE-
9 VIEW.—The Secretary shall conduct any
10 such review under clause (i) as the Sec-
11 retary determines to be necessary not later
12 than 90 days after the date of receipt of
13 a petition described in clause (i).

14 (B) DETERMINATION OF VIOLATION.—If,
15 on completion of a review of tribal regulations
16 under subparagraph (A), the Secretary deter-
17 mines that the regulations were violated, the
18 Secretary may take such action as the Sec-
19 retary determines to be necessary to remedy the
20 violation, including—

21 (i) rescinding or holding any applica-
22 ble lease or right-of-way in abeyance until
23 the violation is cured; and

24 (ii)(I) rescinding the approval of the
25 tribal regulations; and

1 (II) reassuming responsibility for ap-
2 proval of leases or rights-of-way associated
3 with the facilities covered by those leases
4 or rights-of-way.

5 (C) ACTIONS OF SECRETARY.—If the Sec-
6 retary seeks to remedy a violation described in
7 subparagraph (A), the Secretary shall—

8 (i) make a written determination with
9 respect to the regulations that have been
10 violated;

11 (ii) provide to the applicable Indian
12 tribe a written notice of the violation and
13 a copy of the written determination de-
14 scribed in clause (i); and

15 (iii) prior to the exercise of any rem-
16 edy or the rescission of the approval of the
17 regulations involved and reassumption of
18 responsibility for approval of any lease or
19 right-of-way, provide for the Indian tribe a
20 hearing and a reasonable opportunity to
21 cure the alleged violation.

22 (D) APPEAL.—An Indian tribe that is de-
23 termined by the Secretary under this paragraph
24 to have violated tribal regulations under this
25 subsection shall retain all rights to appeal as

1 provided by regulations promulgated by the
2 Secretary.

3 (g) AGREEMENTS.—

4 (1) IN GENERAL.—An agreement between an
5 Indian tribe and a business entity that is directly as-
6 sociated with the development of an electric genera-
7 tion, transmission, or distribution facility, or a facil-
8 ity to refine or otherwise process renewable or non-
9 renewable energy resources developed on tribal land,
10 shall not require the separate approval of the Sec-
11 retary in accordance with section 2103 of the Re-
12 vised Statutes (25 U.S.C. 81) if the activity that is
13 the subject of the agreement has been the subject of
14 an environmental review process under subsection
15 (f)(3).

16 (2) NO LIABILITY FOR LOSS.—The United
17 States shall not be liable for any loss sustained by
18 any party (including any Indian tribe or member of
19 an Indian tribe) associated with an agreement en-
20 tered into under this subsection.

21 (h) NO EFFECT ON OTHER LAW.—Nothing in this
22 section modifies or otherwise affects the applicability of
23 any provision of—

1 (1) the Act of May 11, 1938 (commonly known
2 as the “Indian Mineral Leasing Act of 1938”) (25
3 U.S.C. 396a et seq.);

4 (2) the Indian Mineral Development Act of
5 1982 (25 U.S.C. 2101 et seq.);

6 (3) the Surface Mining Control and Reclama-
7 tion Act of 1977 (30 U.S.C. 1201 et seq.); or

8 (4) any environmental law of the United States.

9 **SEC. 104. INDIAN MINERAL DEVELOPMENT REVIEW.**

10 (a) IN GENERAL.—The Secretary of the Interior shall
11 conduct a review of the activities that, as of the date of
12 enactment of this Act, have been carried out by govern-
13 ments of Indian tribes under the Indian Mineral Develop-
14 ment Act of 1982 (25 U.S.C. 2101 et seq.).

15 (b) REPORT.—Not later than 1 year after the date
16 of enactment of this Act, the Secretary of the Interior
17 shall submit to the Committee on Indian Affairs and the
18 Committee on Energy and Natural Resources of the Sen-
19 ate and the Committee on Resources of the House of Rep-
20 resentatives a report that describes—

21 (1) the results of the review;

22 (2) recommendations to ensure that Indian
23 tribes have the opportunity to develop nonrenewable
24 energy resources; and

1 (3) an analysis of the barriers to the develop-
2 ment of energy resources on Indian land, including
3 Federal policies and regulations and recommenda-
4 tions regarding the removal of those barriers.

5 (c) CONSULTATION.—In developing the report and
6 recommendations under this section, the Secretary of the
7 Interior shall consult with Indian tribes on a government-
8 to-government basis.

9 **SEC. 105. RENEWABLE ENERGY STUDY.**

10 (a) IN GENERAL.—Not later than 2 years after the
11 date of enactment of this Act, and once every 2 years
12 thereafter, the Secretary shall submit to the Committee
13 on Energy and Natural Resources and the Committee on
14 Indian Affairs of the Senate and the Committee on Energy
15 and Commerce and the Committee on Resources of the
16 House of Representatives a report that—

17 (1) describes energy consumption and renew-
18 able energy development potential on Indian land;

19 (2) identifies barriers to the development of re-
20 newable energy by Indian tribes, including Federal
21 policies and regulations; and

22 (3) makes recommendations regarding the re-
23 moval of those barriers.

24 (b) CONSULTATION.—In developing the report and
25 recommendations under this section, the Secretary shall

1 consult with Indian tribes on a government-to-government
2 basis.

3 **SEC. 106. FEDERAL POWER MARKETING ADMINISTRA-**
4 **TIONS.**

5 Title XXVI of the Energy Policy Act of 1992 (25
6 U.S.C. 3501 et seq.) (as amended by section 101) is
7 amended by adding at the end the following:

8 **“SEC. 2608. FEDERAL POWER MARKETING ADMINISTRA-**
9 **TIONS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) ADMINISTRATOR.—The term ‘Adminis-
12 trator’ means—

13 “(A) the Administrator of the Bonneville
14 Power Administration; and

15 “(B) the Administrator of the Western
16 Area Power Administration.

17 “(2) POWER MARKETING ADMINISTRATION.—
18 The term ‘power marketing administration’ means—

19 “(A) the Bonneville Power Administration;

20 “(B) the Western Area Power Administra-
21 tion; and

22 “(C) any other power administration the
23 power allocation of which is used by or for the
24 benefit of an Indian tribe located in the service
25 area of the administration.

1 “(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY
2 DEVELOPMENT.—Each Administrator shall encourage In-
3 dian tribal energy development by taking such actions as
4 are appropriate, including administration of programs of
5 the Bonneville Power Administration and the Western
6 Area Power Administration, in accordance with this sec-
7 tion.

8 “(c) ACTION BY THE ADMINISTRATOR.—In carrying
9 out this section—

10 “(1) each Administrator shall consider the
11 unique relationship that exists between the Federal
12 Government and Indian tribes;

13 “(2) power allocations from the Western Area
14 Power Administration to Indian tribes may be used
15 to firm Indian-owned renewable energy projects for
16 delivery of loads located on Indian land; and

17 “(3) the Administrator of the Western Area
18 Power Administration may purchase renewable or
19 nonrenewable power from Indian tribes to meet the
20 firming requirements of the Western Area Power
21 Administration.

22 “(d) ASSISTANCE FOR TRANSMISSION SYSTEM
23 USE.—

24 “(1) IN GENERAL.—An Administrator may pro-
25 vide technical assistance to Indian tribes seeking to

1 use the high-voltage transmission system for delivery
2 of electric power.

3 “(2) COSTS.—The costs of technical assistance
4 provided under paragraph (1) shall be funded—

5 “(A) by the Administrator using non-
6 reimbursable funds appropriated for that pur-
7 pose; or

8 “(B) by the applicable Indian tribes.

9 “(3) PRIORITY FOR ASSISTANCE FOR TRANS-
10 MISSION STUDIES.—In providing discretionary as-
11 sistance to Indian tribes under paragraph (1), each
12 Administrator shall give priority in funding to In-
13 dian tribes that have limited financial capability to
14 acquire that assistance.

15 “(e) POWER ALLOCATION STUDY.—

16 “(1) IN GENERAL.—Not later than 2 years
17 after the date of enactment of this section, the Sec-
18 retary of Energy shall submit to the Committee on
19 Energy and Natural Resources and the Committee
20 on Indian Affairs of the Senate and the Committee
21 on Energy and Commerce and the Committee on
22 Resources of the House of Representatives a report
23 that—

24 “(A) describes the use by Indian tribes of
25 Federal power allocations of the Western Area

1 Power Administration (or power sold by the
2 Southwestern Power Administration) and the
3 Bonneville Power Administration to or for the
4 benefit of Indian tribes in service areas of those
5 administrations; and

6 “(B) identifies—

7 “(i) the quantity of power allocated to
8 Indian tribes by the Western Area Power
9 Administration;

10 “(ii) the quantity of power sold to In-
11 dian tribes by other power marketing ad-
12 ministrations; and

13 “(iii) barriers that impede tribal ac-
14 cess to and use of Federal power, including
15 an assessment of opportunities—

16 “(I) to remove those barriers;

17 and

18 “(II) improve the ability of power
19 marketing administrations to facilitate
20 the use of Federal power by Indian
21 tribes.

22 “(2) CONSULTATION.—In developing the report
23 under paragraph (1), each power marketing admin-
24 istration shall consult with Indian tribes on a gov-
25 ernment-to-government basis.

1 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated to the Secretary of En-
3 ergy to carry out this section \$750,000 for each of fiscal
4 years 2003 through 2013.”.

5 **SEC. 107. FEASIBILITY STUDY FOR COMBINED WIND AND**
6 **HYDROPOWER DEMONSTRATION PROJECT.**

7 (a) STUDY.—The Secretary, in coordination with the
8 Secretary of the Army and the Secretary of the Interior,
9 shall conduct a study of the cost and feasibility of devel-
10 oping a demonstration project that would use wind energy
11 generated by Indian tribes and hydropower generated by
12 the Army Corps of Engineers on the Missouri River to
13 supply firming power to the Western Area Power Adminis-
14 tration.

15 (b) SCOPE OF STUDY.—The study shall—

16 (1) determine the feasibility of the blending of
17 wind energy and hydropower generated from the
18 Missouri River dams operated by the Army Corps of
19 Engineers;

20 (2) review historical purchase requirements and
21 projected purchase requirements for firming and the
22 patterns of availability and use of firming energy;

23 (3) assess the wind energy resource potential on
24 tribal land and projected cost savings through a
25 blend of wind and hydropower over a 30-year period;

1 (4) include a preliminary interconnection study
2 and a determination of resource adequacy of the
3 Upper Great Plains Region of the Western Area
4 Power Administration;

5 (5) determine seasonal capacity needs and asso-
6 ciated transmission upgrades for integration of tribal
7 wind generation; and

8 (6) include an independent tribal engineer as a
9 study team member.

10 (c) REPORT.—Not later than 1 year after the date
11 of enactment of this Act, the Secretary and Secretary of
12 the Army shall submit to Congress a report that describes
13 the results of the study, including—

14 (1) an analysis of the potential energy cost sav-
15 ings to the customers of the Western Area Power
16 Administration through the blend of wind and hy-
17 dropower;

18 (2) an evaluation of whether a combined wind
19 and hydropower system can reduce reservoir fluctua-
20 tion, enhance efficient and reliable energy produc-
21 tion, and provide Missouri River management flexi-
22 bility;

23 (3) recommendations for a demonstration
24 project that could be carried out by the Western
25 Area Power Administration in partnership with an

1 Indian tribal government or tribal government en-
2 ergy consortium to demonstrate the feasibility and
3 potential of using wind energy produced on Indian
4 land to supply firming energy to the Western Area
5 Power Administration or any other Federal power
6 marketing agency; and

7 (4) an identification of—

8 (A) the economic and environmental bene-
9 fits to be realized through such a Federal-tribal
10 partnership; and

11 (B) the manner in which such a partner-
12 ship could contribute to the energy security of
13 the United States.

14 (d) CONSULTATION.—In developing the report and
15 recommendations under this section, the Secretary and the
16 Secretary of the Army shall consult with applicable Indian
17 tribes on a government-to-government basis.

18 (e) FUNDING.—

19 (1) AUTHORIZATION OF APPROPRIATIONS.—

20 There is authorized to be appropriated to carry out
21 this section \$500,000, to remain available until ex-
22 pended.

23 (2) NONREIMBURSABILITY OF COSTS.—All

24 costs incurred by the Western Area Power Adminis-

1 tration in carrying out this section shall be non-
2 reimbursable.

3 **SEC. 108. TRANSMISSION LINE DEMONSTRATION PROJECT.**

4 The Dine Power Authority, an enterprise of the Nav-
5 ajo Nation, shall be eligible to receive grants and other
6 assistance under the demonstration program authorized
7 by section 2603 of the Energy Policy Act of 1992 (25
8 U.S.C. 3503) for activities associated with the develop-
9 ment of a transmission line from the Four Corners Area
10 to southern Nevada, including related power generation
11 opportunities.

12 **TITLE II—RENEWABLE ENERGY**
13 **AND RURAL CONSTRUCTION**
14 **GRANTS**

15 **SEC. 201. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

16 (a) INCENTIVE PAYMENTS.—Section 1212(a) of the
17 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is
18 amended in the third and fourth sentences by striking
19 “payment and which satisfies” and all that follows
20 through “Secretary shall establish.” and inserting the fol-
21 lowing: “payment. The Secretary shall establish other pro-
22 cedures necessary for efficient administration of the pro-
23 gram. The Secretary shall not establish any criteria or
24 procedures that have the effect of assigning to proposals
25 a higher or lower priority for eligibility or allocation of

1 appropriated funds on the basis of the energy source pro-
2 posed.”.

3 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—
4 Section 1212(b) of the Energy Policy Act of 1992 (42
5 U.S.C. 13317(b)) is amended—

6 (1) by striking “a State or any political” and
7 all that follows through “nonprofit electrical cooper-
8 ative” and inserting the following: “a nonprofit elec-
9 trical cooperative, a public utility, a State, territory,
10 or possession of the United States, the District of
11 Columbia (or a political subdivision of a State, terri-
12 tory, or possession or the District of Columbia), or
13 an Indian tribal government (or subdivision of an
14 Indian tribal government),”; and

15 (2) by inserting “landfill gas, incremental hy-
16 dropower, ocean” after “wind, biomass,”.

17 (c) ELIGIBILITY WINDOW.—Section 1212(c) of the
18 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is
19 amended by striking “during the 10-fiscal year period be-
20 ginning with the first full fiscal year occurring after the
21 enactment of this section” and inserting “before October
22 1, 2013”.

23 (d) PAYMENT PERIOD.—Section 1212(d) of the En-
24 ergy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended
25 in the second sentence by inserting “or in which the Sec-

1 retary determines that all necessary Federal and State au-
2 thorizations have been obtained to begin construction of
3 the facility” after “eligible for such payments”.

4 (e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of
5 the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1))
6 is amended in the first sentence by inserting “landfill gas,
7 incremental hydropower, ocean” after “wind, biomass,”.

8 (f) TERMINATION OF AUTHORITY.—Section 1212(f)
9 of the Energy Policy Act of 1992 (42 U.S.C. 13317(f))
10 is amended by striking “the expiration of” and all that
11 follows through “of this section” and inserting “Sep-
12 tember 30, 2023”.

13 (g) INCREMENTAL HYDROPOWER; AUTHORIZATION
14 OF APPROPRIATIONS.—Section 1212 of the Energy Policy
15 Act of 1992 (42 U.S.C. 13317) is amended by striking
16 subsection (g) and inserting the following:

17 “(g) INCREMENTAL HYDROPOWER.—

18 “(1) DEFINITION OF INCREMENTAL HYDRO-
19 POWER.—In this subsection, the term ‘incremental
20 hydropower’ means additional generating capacity
21 achieved from increased efficiency or an addition of
22 new capacity at a hydroelectric facility in existence
23 on the date of enactment of this paragraph.

24 “(2) PROGRAMS.—Subject to subsection (h)(2),
25 if an incremental hydropower program meets the re-

1 requirements of this section, as determined by the Sec-
 2 retary, the incremental hydropower program shall be
 3 eligible to receive incentive payments under this sec-
 4 tion.

5 “(h) AUTHORIZATION OF APPROPRIATIONS.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
 7 there are authorized to be appropriated such sums
 8 as are necessary to carry out this section for each
 9 of fiscal years 2003 through 2023.

10 “(2) LIMITATION ON FUNDS USED FOR INCRE-
 11 MENTAL HYDROPOWER PROGRAMS.—Not more than
 12 30 percent of the amounts made available under
 13 paragraph (1) shall be used to carry out programs
 14 described in subsection (g)(2).

15 “(3) AVAILABILITY OF FUNDS.—Funds made
 16 available under paragraph (1) shall remain available
 17 until expended.”

18 **TITLE III—ENERGY EFFICIENCY**
 19 **AND ASSISTANCE TO LOW-IN-**
 20 **COME CONSUMERS**

21 **SEC. 301. LOW-INCOME COMMUNITY ENERGY EFFICIENCY**
 22 **PILOT PROGRAM.**

23 (a) DEFINITION OF INDIAN TRIBE.—

24 (1) IN GENERAL.—In this section, the term
 25 “Indian tribe” means any Indian tribe, band, nation,

1 or other organized group or community that is rec-
2 ognized as being eligible for the special programs
3 and services provided by the United States to Indi-
4 ans because of their status as Indians.

5 (2) INCLUSIONS.—In this section, the term “In-
6 dian tribe” includes an Alaskan Native village, Re-
7 gional Corporation, and Village Corporation (as de-
8 fined in or established under the Alaska Native
9 Claims Settlement Act (43 U.S.C. 1601 et seq.)).

10 (b) GRANTS TO LOCAL GOVERNMENT, NONPROFIT,
11 AND TRIBAL ENTITIES.—The Secretary may provide
12 grants to units of local government, private, nonprofit
13 community development organizations, and tribal eco-
14 nomic development entities for use in—

15 (1) improving energy efficiency;

16 (2) identifying and developing alternative re-
17 newable and distributed energy supplies; and

18 (3) increasing energy conservation in low-in-
19 come rural and urban communities.

20 (c) COMPETITIVE GRANTS.—In addition to grants de-
21 scribed in subsection (b), the Secretary may provide
22 grants on a competitive basis for—

23 (1) investments that develop alternative renew-
24 able and distributed energy supplies;

1 (2) energy efficiency projects and energy con-
2 servation programs;

3 (3) studies and other activities that improve en-
4 ergy efficiency in low-income rural and urban com-
5 munities;

6 (4) planning and development assistance for in-
7 creasing the energy efficiency of buildings and facili-
8 ties; and

9 (5) technical and financial assistance to local
10 government and private entities on developing new
11 renewable and distributed sources of power or com-
12 bined heat and power generation.

13 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated to carry out this section
15 \$20,000,000 for each of fiscal years 2003 through 2005.

16 **SEC. 302. RURAL AND REMOTE COMMUNITY ELECTRIFICA-**
17 **TION GRANTS.**

18 Section 313 of the Rural Electrification Act of 1936
19 (7 U.S.C. 940c) is amended by adding at the end the fol-
20 lowing:

21 “(c) **RURAL AND REMOTE COMMUNITIES ELEC-**
22 **TRIFICATION GRANTS.**—

23 “(1) **DEFINITIONS.**—In this subsection:

24 “(A) **ELIGIBLE ENTITY.**—The term ‘eligi-
25 ble entity’ means—

1 “(i) a unit of local government of a
2 State or Territory;

3 “(ii) an Indian tribe; and

4 “(iii) a tribal college or university.

5 “(B) INDIAN TRIBE.—

6 “(i) IN GENERAL.—The term ‘Indian
7 tribe’ means any Indian tribe, band, na-
8 tion, or other organized group or commu-
9 nity that is recognized as being eligible for
10 the special programs and services provided
11 by the United States to Indians because of
12 their status as Indians.

13 “(ii) INCLUSIONS.—The term “Indian
14 tribe” includes a Alaskan Native village,
15 Regional Corporation, and Village Corpora-
16 tion (as defined in or established under the
17 Alaska Native Claims Settlement Act (43
18 U.S.C. 1601 et seq.)).

19 “(C) TRIBAL COLLEGE OR UNIVERSITY.—

20 The term ‘tribal college or university’ has the
21 meaning given the term in section 316(b)(3) of
22 the Higher Education Act (20 U.S.C.
23 1059c(b)(3)).

24 “(2) GRANTS.—The Secretary, in consultation
25 with the Secretary of Energy and the Secretary of

1 the Interior, may provide to an eligible entity 1 or
2 more grants for the purpose of—

3 “(A) increasing energy efficiency;

4 “(B) siting or upgrading transmission and
5 distribution lines; or

6 “(C) providing or modernizing electric fa-
7 cilities.

8 “(3) GRANT CRITERIA.—The Secretary shall
9 provide grants under this subsection based on a de-
10 termination of the most effective and cost-efficient
11 use of the funds to achieve the purposes of this sub-
12 section.

13 “(4) PRIORITY.—In providing grants under this
14 subsection, the Secretary shall give priority to re-
15 newable energy facilities.

16 “(5) AUTHORIZATION OF APPROPRIATIONS.—
17 There is authorized to be appropriated to carry out
18 this subsection \$20,000,000 for each of the 7 fiscal
19 years following the fiscal year in which this sub-
20 section is enacted.”.

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