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United States Senate

COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, DC 20510–6450

March 12, 2010

Dear Tribal Leader:

I am pleased to release a draft of a proposed Indian energy bill. I look forward to discussing the draft with you and working to prepare legislation that will unlock the potential of Indian energy resources and increase energy efficiency programs in Indian Country.

Two years ago, the Committee began actively working to identify historic and ongoing obstacles to Indian energy development. On May 1, 2008, the Committee held a hearing that identified these obstacles and began a discussion regarding solutions. On September 10, 2009, the Committee released an Indian Energy Concept Paper that proposed legislative concepts to address the obstacles. In the Fall of 2009, Committee staff held a series of nationwide Indian Energy Roundtables to discuss the Concept Paper with tribes, tribal members, and your energy industry partners. Finally, on October 22, 2009, the Committee held a hearing on the Concept Paper so that tribal leaders could provide their comments directly to the Committee.

A draft Indian energy bill is now available for your review and comment. Due to the length of the draft bill, it has been posted on the Committee's website at www.indian.senate.gov under "Issues." You can also request a copy via email or facsimile. Please address any requests and your comments to my staff, Rollie Wilson, at 202-224-2251 or rollie_wilson@indian.senate.gov.

I appreciate the time and effort that you all have invested in providing testimony, comments, and ideas throughout this process. I look forward to working with you to address energy issues in your community and throughout Indian Country.

Sincerely,

Byron L. Dorgan
Chairman

PRINTED ON RECYCLED PAPER

111TH CONGRESS
2D SESSION

S. _____

To amend the Energy Policy Act of 1992 to promote and streamline Indian energy development, to enhance programs to support Indian energy development and efficiency, to make technical corrections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Energy Policy Act of 1992 to promote and streamline Indian energy development, to enhance programs to support Indian energy development and efficiency, to make technical corrections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Energy Promotion and Parity Act of 2010".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings; purpose.

TITLE I—ENERGY PLANNING

Sec. 101. Indian Energy Development Offices.
Sec. 102. Indian energy program integration demonstration projects.
Sec. 103. Predevelopment feasibility activities.
Sec. 104. Comprehensive energy resource planning.
Sec. 105. Department of Energy Indian energy education planning and management assistance program.
Sec. 106. Appraisals.
Sec. 107. Technical assistance and National Laboratories of the Department of Energy.
Sec. 108. Preference for hydroelectric preliminary permits.
Sec. 109. Study on inclusion of Indian tribes in national and regional electrical infrastructure planning.

TITLE II—ENERGY DEVELOPMENT AND ENERGY EFFICIENCY

Sec. 201. Leases and rights-of-way on Indian land.
Sec. 202. Application for permit to drill fees not applicable.
Sec. 203. Distributed energy and community transmission demonstration projects.
Sec. 204. Environmental review.
Sec. 205. Department of Energy loan guarantee program.
Sec. 206. Inclusion of Indian tribes in State energy conservation plan program.
Sec. 207. Home weatherization assistance.
Sec. 208. Tribal forest assets protection.

TITLE III—ENERGY FINANCING

Sec. 301. Transfer by Indian tribes of credit for electricity produced from renewable resources.
Sec. 302. Investment tax credits.
Sec. 303. Permanent extension of depreciation rules for property on Indian reservations.
Sec. 304. Permanent extension of Indian employment credit.
Sec. 305. Extension of grants for specified energy property in lieu of tax credits.

TITLE IV—AMENDMENTS TO INDIAN ENERGY POLICY LAWS

Sec. 401. Amendments to Indian energy policy laws.

1 **SEC. 2. FINDINGS; PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) as of the date of enactment of this Act, re-
4 cently enacted Federal laws have begun to support
5 Indian tribal energy development by encouraging In-

1 dian tribes to play an active role in developing tribal
2 energy resources;
3 (2) the laws described in paragraph (1)—
4 (A) are being implemented slowly; and
5 (B) require modification to overcome a
6 century of Federal policies that have created
7 uncertainty and inequality regarding tribal en-
8 ergy development; and
9 (3) other Federal laws in effect on the date of
10 enactment of this Act—
11 (A) create disincentives for investment in
12 Indian country; and
13 (B) discourage Indian tribes from initi-
14 ating energy development efforts.
15 (b) PURPOSE.—The purpose of this Act is to address
16 problems relating to Indian energy development and effi-
17 ciency, including—
18 (1) outdated laws and cumbersome regulations
19 relating to tribal energy development;
20 (2) lack of tribal access to the transmission
21 grid; and
22 (3) difficulty in obtaining financing and invest-
23 ment for energy projects.

TITLE I—ENERGY PLANNING

SEC. 101. INDIAN ENERGY DEVELOPMENT OFFICES.

Section 2602(a) of the Energy Policy Act of 1992 (25 U.S.C. 3502(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following:

"(3) INDIAN ENERGY DEVELOPMENT OFFICES.—

"(A) ESTABLISHMENT.—To assist the Secretary in carrying out the Program, the Secretary shall establish within the Department of the Interior up to 3 offices.

"(B) NAMING.—Each office established under subparagraph (A) shall be known as an 'Indian Energy Development Office'.

"(C) LOCATION.—The Secretary shall locate each Indian Energy Development Office—

"(i) within a regional or agency office of the Bureau of Indian Affairs; and

"(ii) to the maximum extent practicable, in an area in which there exists a high quantity of tribal energy development

1 opportunities, as determined by the Sec-
2 retary.
3 "(D) DUTIES.—Each Indian Energy De-
4 velopment Office established under this para-
5 graph shall carry out such activities for over-
6 sight, approval, processing, and the distribution
7 of information relating to energy activities on
8 Indian land as are necessary in the jurisdiction
9 of the regional or agency office served by the
10 Indian Energy Development Office.
11 "(E) DIRECTORS.—
12 "(i) APPOINTMENT.—Each Indian
13 Energy Development Office established
14 under this paragraph shall be headed by a
15 director, to be appointed by the Secretary.
16 "(ii) DUTIES.—The director of each
17 Indian Energy Development Office shall
18 supervise, and ensure the timely processing
19 of, Indian energy materials in the jurisdic-
20 tion of the director that are subject to de-
21 velopment, review, or processing by—
22 "(I) the Bureau of Indian Af-
23 fairs;
24 "(II) the Bureau of Land Man-
25 agement;

"(III) the National Park Service;

"(IV) the United States Fish and Wildlife Service;

"(V) the Bureau of Reclamation;

"(VI) the Minerals Management Service; or

"(VII) the Office of Special Trustee for American Indians of the Department of the Interior."; and

(3) in paragraph (4) (as redesignated by paragraph (1)), by striking "2006 through 2016" and inserting "2010 through 2020".

SEC. 102. INDIAN ENERGY PROGRAM INTEGRATION DEMONSTRATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term "agency" has the meaning given the term in section 551 of title 5, United States Code.

(2) COMMUNITY DEVELOPMENT.—The term "community development" includes—

(A) programs, functions, and services relating to the design, financing, and construction of physical infrastructure;

(B) lending and credit programs for commercial projects; and

1 (C) any programs intended to create em-
2 ployment opportunities, encourage entrepre-
3 neurial activities, or improve economic condi-
4 tions in tribal communities.
5 (3) DEPARTMENT.—The term "Department"
6 means the Bureau of Indian Affairs and the Office
7 of Indian Energy and Economic Development of the
8 Department of the Interior.
9 (4) INDIAN; INDIAN TRIBE.—The terms "In-
10 dian" and "Indian tribe" have the meanings given
11 those terms in section 4 of the Indian Self-Deter-
12 mination and Education Assistance Act (25 U.S.C.
13 450b).
14 (5) SECRETARY.—The term "Secretary" means
15 the Secretary of the Interior.
16 (6) TRIBAL ENERGY RESOURCE DEVELOPMENT
17 ORGANIZATION.—The term "tribal energy resource
18 development organization" has the meaning given
19 that term in section 2601 of the Energy Policy Act
20 of 1992 (25 U.S.C. 3501).
21 (b) INTEGRATION OF SERVICES.—
22 (1) IN GENERAL.—On receipt of a plan of an
23 Indian tribe or tribal energy resource development
24 organization that is acceptable to the Secretary, the
25 Secretary, in cooperation with the agency heads de-

1 scribed in paragraph (2), shall authorize the Indian
2 tribe or tribal energy resource development organiza-
3 tion to integrate and coordinate activities described
4 in paragraph (3) in a manner that—
5 (A) integrates the relevant program serv-
6 ices into a single, coordinated, comprehensive
7 program; and
8 (B) reduces administrative costs by con-
9 solidating administrative functions.
10 (2) DESCRIPTION OF AGENCY HEADS.—The
11 agency heads referred to in paragraph (1) are—
12 (A) the Secretary of Agriculture;
13 (B) the Secretary of Commerce;
14 (C) the Secretary of Energy;
15 (D) the Secretary of Housing and Urban
16 Development;
17 (E) the Secretary of Labor; and
18 (F) the Secretary of Transportation.
19 (3) DESCRIPTION OF ACTIVITIES.—The activi-
20 ties referred to in paragraph (1) are federally funded
21 energy-related activities and programs (including
22 programs for employment training, energy planning,
23 financing, construction, and related physical infra-
24 structure and equipment), including—

1 (A) any program under which an Indian
2 tribe or tribal energy resource development or-
3 ganization is eligible to receive funds under a
4 statutory or administrative formula;
5 (B) activities carried out using any funds
6 an Indian tribe or members of the Indian tribe
7 are entitled to under Federal law; and
8 (C) activities carried out using any funds
9 an Indian tribe or a tribal energy resource de-
10 velopment organization may secure as a result
11 of a competitive process for the purpose of
12 planning, designing, constructing, operating, or
13 managing a renewable or nonrenewable energy
14 project on Indian land.
15 (4) INVENTORY OF AFFECTED PROGRAMS.—
16 (A) REPORTS.—Not later than 90 days
17 after the date of enactment of this Act, each
18 agency head described in paragraph (2) shall—
19 (i) conduct a survey of the programs
20 and services of the agency that are or may
21 be included in the plan of an Indian tribe
22 or tribal energy resource development or-
23 ganization under this subsection; and
24 (ii) submit to the Secretary a report
25 identifying those programs and services.

1 (B) PUBLICATION.—Not later than 60
2 days after the date of receipt of each report
3 under subparagraph (A), the Secretary shall
4 publish in the Federal Register a comprehensive
5 list of the programs and services identified in
6 the reports.
7 (c) SINGLE INTEGRATED PROGRAM.—
8 (1) IN GENERAL.—In accordance with sub-
9 section (e), on acceptance by the Secretary of a plan
10 of an Indian tribe or tribal energy resource develop-
11 ment organization, the activities described in the
12 plan shall be fully integrated into a single, coordi-
13 nated, comprehensive program.
14 (2) NO OBLIGATION.—A program under para-
15 graph (1) shall not obligate the affected Indian tribe
16 or tribal energy resource development organization
17 to submit to the Secretary any additional budget, re-
18 port, audit, supplemental audit, or other form of
19 documentation.
20 (d) PLAN REQUIREMENTS.—
21 (1) IN GENERAL.—A plan submitted by an In-
22 dian tribe or tribal energy resource development or-
23 ganization under subsection (b) shall—
24 (A) identify the activities to be integrated;

1 (B) be consistent with the purposes of this
2 section regarding the integration of the activi-
3 ties in a demonstration project;
4 (C) describe—
5 (i) the manner in which services are
6 to be integrated and delivered; and
7 (ii) the expected results of the plan;
8 (D) identify the projected expenditures
9 under the plan in a single budget;
10 (E) identify each agency of the Indian
11 tribe to be involved in the administration of ac-
12 tivities or delivery of the services integrated
13 under the plan;
14 (F) identify any statutory provisions, regu-
15 lations, policies, or procedures that the Indian
16 tribe recommends to be waived to implement
17 the plan; and
18 (G) be approved by the governing body of
19 the affected Indian tribe.
20 (2) NO ADDITIONAL REQUIREMENTS.—The
21 Secretary, and any agency head described in sub-
22 section (b)(2), shall not impose any additional re-
23 quirement or condition, or require additional docu-
24 mentation of, an Indian tribe or tribal energy re-

1 source development organization that has satisfied
2 the criteria described in paragraph (1).
3 (e) SECRETARIAL AUTHORITY; NOTICE OF SECRE-
4 TARIAL DECISION.—
5 (1) SOLE AUTHORITY.—The Secretary shall
6 have sole authority to approve or disapprove a plan
7 submitted by an Indian tribe or tribal energy re-
8 source development organization under this section.
9 (2) APPROVAL PROCESS.—Not later than 90
10 days after the receipt of a plan of an Indian tribe
11 or tribal energy resource development organization,
12 the Secretary shall inform the Indian tribe or tribal
13 energy resource development organization in writing
14 of the determination of the Secretary to approve or
15 disapprove the plan, including any request for a
16 waiver that is made as part of the plan.
17 (3) PLAN DISAPPROVAL.—Any issue preventing
18 approval of a plan under paragraph (2) shall be re-
19 solved in accordance with subsection (f).
20 (f) PLAN REVIEW; WAIVER AUTHORITY; DISPUTE
21 RESOLUTION.—
22 (1) IN GENERAL.—On receipt of a plan of an
23 Indian tribe or tribal energy resource development
24 organization, the Secretary shall consult, regarding
25 the plan, with—

1 (A) the head of each agency that provides
2 or will provide funds to be used to implement
3 the plan; and
4 (B) the tribal government of the applicable
5 Indian tribe.
6 (2) IDENTIFICATION OF WAIVERS.—
7 (A) IN GENERAL.—The objective of the
8 consultation under paragraph (1) shall be to
9 identify applicable statutory, regulatory, and
10 administrative requirements, policies, and pro-
11 cedures the waiver of which is necessary to en-
12 able the Indian tribe or tribal energy resource
13 development organization to implement the
14 plan.
15 (B) WAIVER AUTHORITY.—Notwith-
16 standing any other provision of law, the head of
17 each affected agency may waive any applicable
18 regulation, administrative requirement, policy,
19 or procedure identified under subparagraph (A)
20 in accordance with the purposes of this section.
21 (C) TRIBAL REQUEST TO WAIVE.—In con-
22 sultation with the Secretary, an Indian tribe
23 may request the head of an affected agency to
24 waive a regulation, administrative requirement,

1 policy, or procedure identified under subpara-
2 graph (A).
3 (D) DECLINATION OF WAIVER REQUEST.—
4 If the head of an affected agency declines to
5 grant a waiver requested under subparagraph
6 (C), the agency head shall provide to the re-
7 questing Indian tribe and the Secretary timely
8 written notice of the declination, including a de-
9 scription of the reasons for the declination.
10 (3) SECRETARIAL REVIEW.—In the event of a
11 declination of a waiver request under paragraph
12 (2)(D), the Secretary shall—
13 (A) review the written notice of the dec-
14 lination and the reasons for the declination; and
15 (B) determine whether the declination is—
16 (i) inconsistent with the purposes of
17 this section; or
18 (ii) prevents the Department from ful-
19 filling the obligations under subsection (g).
20 (4) INTERAGENCY DISPUTE RESOLUTION.—If
21 the Secretary determines that a declination is incon-
22 sistent with the purposes of this section, or prevents
23 the Department from fulfilling the obligations under
24 subsection (g), the Secretary shall establish inter-
25 agency dispute resolution procedures involving—

1 (A) the participating Indian tribe or tribal
2 energy resource development organization; and
3 (B) the applicable agency.
4 (5) FINAL AUTHORITY.—If the dispute resolu-
5 tion procedures under paragraph (3) fail to resolve
6 an impasse between a participating Indian tribe or
7 tribal energy resource development organization and
8 the applicable agency, final authority to resolve the
9 dispute shall reside with the Secretary.
10 (6) FINAL DECISION.—In the event of a failure
11 of the dispute resolution procedures under para-
12 graph (3), the Secretary shall inform the applicable
13 Indian tribe of the final determination of the Sec-
14 retary by not later than 180 days after the date of
15 receipt of the plan.
16 (g) RESPONSIBILITIES OF DEPARTMENT.—
17 (1) MEMORANDUM OF AGREEMENT.—Not later
18 than 180 days after the date of enactment of this
19 Act, the Secretary and the agency heads described
20 in subsection (b)(2) shall enter into an interdepart-
21 mental memorandum of agreement regarding the re-
22 sponsibilities of the Department described in para-
23 graph (2), which shall require—
24 (A) an annual meeting of participating In-
25 dian tribes, tribal energy resource development

1 organizations, and agencies, to be cochaired by
2 a representative of the President and a rep-
3 resentative of the participating Indian tribes
4 and tribal energy resource development organi-
5 zations;
6 (B) an annual review of the achievements
7 made under this section and statutory, regu-
8 latory, administrative, and policy obstacles that
9 prevent participating Indian tribes and tribal
10 energy resource development organizations from
11 fully carrying out the purposes of this section;
12 and
13 (C) a forum comprised of participating In-
14 dian tribes, tribal energy resource development
15 organizations, and agencies to identify and re-
16 solve interagency or Federal-tribal conflicts that
17 occur in carrying out this section.
18 (2) DESCRIPTION OF RESPONSIBILITIES.—The
19 responsibilities of the Department referred to in
20 paragraph (1) include—
21 (A) in accordance with paragraph (3), de-
22 veloping a model single report for each ap-
23 proved plan of an Indian tribe or tribal energy
24 resource development organization regarding

1 the activities carried out and expenditures made
2 under the plan;
3 (B) providing, directly or pursuant to a
4 contract, appropriate technical assistance to an
5 Indian tribe or tribal consortium with an ap-
6 proved plan under this section, subject to the
7 condition that the Indian tribe or tribal energy
8 resource development organization shall retain
9 the authority to accept the technical assistance
10 and the technical assistance provider;
11 (C) developing a single monitoring and
12 oversight system for the plans approved under
13 this section;
14 (D) receiving and distributing all funds
15 covered by a plan approved under this section;
16 (E) conducting any required investigation
17 relating to a waiver or an interagency dispute
18 resolution under this section.
19 (3) MODEL SINGLE REPORT.—The model single
20 report described in paragraph (2)(A) shall—
21 (A) be developed by the Secretary, in ac-
22 cordance with the requirements of this section;
23 and
24 (B) together with records maintained at
25 the Indian tribal level regarding the plan of the

1 Indian tribe or tribal energy resource develop-
2 ment organization, contain such information as
3 would allow a determination that the Indian
4 tribe or tribal energy resource development or-
5 ganization—
6 (i) has complied with the require-
7 ments incorporated in the applicable plan;
8 and
9 (ii) will provide assurances to each ap-
10 plicable agency that the Indian tribe or
11 tribal energy resource development organi-
12 zation has complied with all directly appli-
13 cable statutory and regulatory require-
14 ments.
15 (h) NO REDUCTION, DENIAL, OR WITHHOLDING OF
16 FUNDS.—No Federal funds may be reduced, denied, or
17 withheld as a result of participation by an Indian tribe
18 or tribal energy resource development organization in the
19 program under this section.
20 (i) INTERAGENCY FUND TRANSFERS.—
21 (1) IN GENERAL.—If a plan submitted by an
22 Indian tribe or tribal energy resource development
23 organization under this section is approved by the
24 Secretary, the Secretary and the head of each af-
25 fected agency shall take all necessary steps to effec-

1 tuate interagency transfers of funds to the Depart-
2 ment for ultimate distribution to the applicable In-
3 dian tribe or tribal energy resource development or-
4 ganization.
5 (2) COORDINATED AGENCY ACTION.—As part
6 of an interagency transfer under paragraph (1), an
7 affected agency shall provide to the Department a 1-
8 time transfer of all required funds by not later than
9 October 1 of each applicable fiscal year.
10 (3) AGENCIES NOT AUTHORIZED TO WITHHOLD
11 FUNDS.—If a plan is approved by the Secretary
12 under this section, no affected agency may withhold
13 funds for the plan from the Department.
14 (j) ADMINISTRATION, RECORDKEEPING, AND OVER-
15 AGE.—
16 (1) ADMINISTRATION OF FUNDS.—
17 (A) IN GENERAL.—The funds for a plan
18 under this section shall be administered in a
19 manner that allows for a determination that
20 funds from a specific program (or an amount
21 equal to the amount attracted from each pro-
22 gram) shall be used for activities described in
23 the plan.
24 (B) SEPARATE RECORDS NOT RE-
25 QUIRED.—Nothing in this section requires an

1 Indian tribe or tribal energy resource develop-
2 ment organization—
3 (i) to maintain separate records relat-
4 ing to any service or activity conducted
5 under the applicable plan for the program
6 under which the funds were authorized; or
7 (ii) to allocate expenditures among
8 those programs.
9 (2) ADMINISTRATIVE EXPENSES.—
10 (A) COMMINGLING.—Administrative funds
11 for activities under a plan under this section
12 may be commingled.
13 (B) ENTITLEMENT.—An Indian tribe or
14 tribal energy resource development organization
15 shall be entitled to the full amount of adminis-
16 trative costs for the activities under a plan
17 under this section, in accordance with applica-
18 ble regulations.
19 (C) OVERAGES.—No overage of adminis-
20 trative costs for the activities under a plan
21 under this section shall be counted for Federal
22 audit purposes, if the overage is used for the
23 purposes described in this section.
24 (k) SINGLE AUDIT ACT.—Nothing in this section
25 interferes with the ability of the Secretary to fulfill the

1 responsibilities for the safeguarding of Federal funds pur-
2 suant to chapter 75 of title 31, United States Code (com-
3 monly known as the "Single Audit Act").
4 (l) TRAINING AND TECHNICAL ASSISTANCE.—
5 (1) IN GENERAL.—The Bureau of Indian Af-
6 fairs may conduct activities for technical assistance
7 and training relating to plans under this section, in-
8 cluding—
9 (A) orientation sessions for Indian tribal
10 leaders;
11 (B) workshops on planning, operations,
12 and procedures for employees of Indian tribes;
13 (C) training relating to case management,
14 client assessment, education and training op-
15 tions, employer involvement, and related topics;
16 and
17 (D) the development and dissemination of
18 training and technical assistance materials in
19 printed form and over the Internet.
20 (2) ADMINISTRATION.—To effectively admin-
21 ister the training and technical assistance and train-
22 ing activities under this subsection, the Bureau of
23 Indian Affairs shall collaborate with an Indian tribe
24 that has participated in the activities described in
25 this section for not less than 3 years.

1 (3) AUTHORIZATION OF APPROPRIATIONS.—
2 There is authorized to be appropriated to the Bu-
3 reau of Indian Affairs to carry out this subsection
4 $500,000 for each of fiscal years 2010 through
5 2015, to remain available until expended.

6 **SEC. 103. PREDEVELOPMENT FEASIBILITY ACTIVITIES.**

7 Notwithstanding any other provision of law, no agree-
8 ment for activities on Indian land shall require the review
9 or approval of the Secretary of Energy or the Secretary
10 of the Interior if the agreement—

11 (1) involves an activity for the purpose of con-
12 ducting a scientific, geological, environmental, en-
13 ergy, or other related and necessary study or assess-
14 ment;

15 (2) involves the construction of a temporary fa-
16 cility that will be fully removed or reclaimed after
17 the activity described in paragraph (1) is completed;

18 (3) does not, as determined by the Indian tribe,
19 threaten the natural, cultural, or historic resources
20 of the Indian tribe;

21 (4) applies for a period of not more than 2
22 years; and

23 (5) is executed to study the feasibility of, or in
24 preparation for, the development of a renewable en-
25 ergy project on land of the Indian tribe.

1 **SEC. 104. COMPREHENSIVE ENERGY RESOURCE PLANNING.**

2 (a) IN GENERAL.—Title XXVI of the Energy Policy
3 Act of 1992 (25 U.S.C. 3501 et seq.) is amended by add-
4 ing at the end the following:

5 **"SEC. 2607. COMPREHENSIVE ENERGY RESOURCE PLAN-**
6 **NING.**

7 "(a) ESTABLISHMENT OF PROGRAM.—

8 "(1) IN GENERAL.—As soon as practicable
9 after the date of enactment of this section, the Sec-
10 retary shall establish a program to assist Indian
11 tribes in comprehensive energy resource planning.

12 "(2) COOPERATION.—In establishing the pro-
13 gram under paragraph (1), the Secretary shall work
14 in cooperation with the Office of Indian Energy Pol-
15 icy and Programs of the Department of Energy.

16 "(b) ENERGY RESOURCE MANAGEMENT PLANS.—

17 "(1) IN GENERAL.—In carrying out the pro-
18 gram under this section, the Secretary shall assist
19 interested Indian tribes to develop Indian energy re-
20 source management plans, including—

21 "(A) plans for electrification;

22 "(B) plans for programmatic work under
23 the National Environmental Policy Act of 1969
24 (42 U.S.C. 4321 et seq.) for oil and gas permit-
25 ting, energy efficiency, electricity generation,

1 transmission planning, water planning, and
2 other planning relating to energy issues;
3 "(C) land use management plans for the
4 development of energy resources and the protec-
5 tion of natural, historic, and cultural resources;
6 and
7 "(D) any other plan that would assist an
8 Indian tribe in the development or use of en-
9 ergy resources.
10 "(2) OBJECTIVES.—The objectives of an energy
11 resource management plan shall be—
12 "(A) to streamline the process by which
13 the Federal Government conducts environ-
14 mental reviews of proposed activities for energy-
15 related development on Indian land;
16 "(B) to ensure the protection natural, his-
17 toric, and cultural resources; and
18 "(C) to encourage Indian tribes and Alas-
19 ka Native organizations to conduct energy re-
20 source planning on all Indian land.
21 "(3) REVIEW AND APPROVAL.—An energy re-
22 source management plan developed under this sec-
23 tion shall be subject to—

1 "(A) review under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et
3 seq.); and
4 "(B) approval by the Secretary in accord-
5 ance with paragraph (4).
6 "(4) APPROVAL.—The Secretary may approve
7 an energy resource management plan under this sec-
8 tion if the Secretary determines that the plan—
9 "(A) identifies and evaluates the signifi-
10 cant environmental effects of each proposed en-
11 ergy-related activity (as compared to a no-ac-
12 tion alternative), including effects on natural,
13 historic, and cultural resources;
14 "(B) identifies proposed mitigation meas-
15 ures, if any, relating to the proposed energy-re-
16 lated activities;
17 "(C) establishes a process for ensuring
18 that—
19 "(i) the public is informed of, and has
20 an opportunity to comment on, the envi-
21 ronmental impacts of the proposed activi-
22 ties; and
23 "(ii) responses to relevant and sub-
24 stantive comments are provided before the

1 conclusion of the environmental review
2 process;
3 "(D) provides for sufficient administrative
4 support and technical capability to carry out
5 the environmental review process; and
6 "(E) requires oversight by the applicable
7 Indian tribe of energy development activities by
8 any other party under any lease, business
9 agreement, or right-of-way entered into pursu-
10 ant to a tribal energy resource agreement under
11 section 2604(e), if any, to determine whether
12 the activities are in compliance with the tribal
13 energy resource agreement and applicable Fed-
14 eral law.
15 "(5) TREATMENT ON APPROVAL.—On approval
16 by the Secretary of an energy resource management
17 plan under paragraph (4), the plan shall—
18 "(A) be considered to be programmatic
19 document under the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
21 and
22 "(B) provide a basis for future review and
23 approval of related energy-related development
24 projects.

1 "(c) CONTRACTS AND COMPACTS.—An energy plan
2 developed under this section may be carried out by an In-
3 dian tribe or tribal development organization pursuant to
4 a contract or compact under the Indian Self-Determina-
5 tion and Education Assistance Act (25 U.S.C. 450 et
6 seq.).".
7 (b) CONFORMING AMENDMENTS.—
8 (1) TRIBAL ENERGY RESOURCE AGREE-
9 MENTS.—Section 2604(e)(2)(C) of the Energy Pol-
10 icy Act of 1992 (25 U.S.C. 3504(e)(2)(C)) is
11 amended in the matter preceding clause (i) by strik-
12 ing "establish, and include provisions to ensure com-
13 pliance with, an environmental review process that"
14 and inserting "include provisions to ensure compli-
15 ance with the comprehensive environmental review
16 process established by the Office of Indian Energy
17 and Economic Development under section 2607(b),
18 which".
19 (2) TABLE OF CONTENTS.—The table of con-
20 tents of the Energy Policy Act of 1992 (42 U.S.C.
21 13201 note) is amended by adding at the end of the
22 items relating to title XXVI the following:

"Sec. 2607. Comprehensive energy resource planning.".

1 **SEC. 105. DEPARTMENT OF ENERGY INDIAN ENERGY EDU-**
2 **CATION PLANNING AND MANAGEMENT AS-**
3 **SISTANCE PROGRAM.**

4 Section 2602(b) of the Energy Policy Act of 1992
5 (25 U.S.C. 3502(b)) is amended—

6 (1) in paragraph (2)—

7 (A) in the matter preceding subparagraph
8 (A), by inserting ", authorized intertribal orga-
9 nization," after "Indian tribe";

10 (B) by redesignating subparagraphs (C)
11 and (D) as subparagraphs (D) and (E), respec-
12 tively; and

13 (C) by inserting after subparagraph (B)
14 the following:

15 "(C) activities to increase institutional sup-
16 port of Indian tribes to manage energy develop-
17 ment and energy efficiency programs;"; and

18 (2) in paragraph (4)(A), by striking "may" and
19 inserting "shall".

20 **SEC. 106. APPRAISALS.**

21 (a) IN GENERAL.—Title XXVI of the Energy Policy
22 Act of 1992 (25 U.S.C. 3501 et seq.) (as amended by sec-
23 tion 105(a)) is amended by adding at the end the fol-
24 lowing:

1 **"SEC. 2609. APPRAISALS.**

2 "(a) OPTIONS FOR CONDUCTING APPRAISALS.—With
3 respect to an energy-related transaction involving Indian
4 land or an Indian trust asset that requires the approval
5 of the Secretary, any appraisal relating to fair market
6 value required to be conducted under applicable law may
7 be conducted by—

8 "(1) the Secretary; or

9 "(2) the affected Indian tribe—

10 "(A) directly by the Indian tribe pursuant
11 to contract under the Indian Self-Determination
12 and Education Assistance Act (25 U.S.C. 450
13 et seq.); or

14 "(B) by a certified, third-party appraiser
15 pursuant to a contract with the Indian tribe.

16 "(b) SECRETARIAL REVIEW AND APPROVAL.—

17 "(1) IN GENERAL.—Not later than 60 days
18 after the date on which the Secretary receives an ap-
19 praisal conducted by or for an Indian tribe pursuant
20 to subsection (a)(2), the Secretary shall—

21 "(A) review the appraisal; and

22 "(B) provide to the Indian tribe a written
23 notice of approval or disapproval of the ap-
24 praisal.

25 "(2) FAILURE TO RESPOND.—If the Secretary
26 fails to provide to an Indian tribe a written notice

by the date required under paragraph (1), the appraisal shall be considered to be approved by the Secretary for purposes of approval or disapproval of the relevant energy-related transaction.".

(b) CONFORMING AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. 13201 note) (as amended by section 105(b)) is amended by adding at the end of the items relating to title XXVI the following:

"Sec. 2609. Appraisals.".

SEC. 107. TECHNICAL ASSISTANCE AND NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY.

Section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) TECHNICAL AND SCIENTIFIC RESOURCES.—In addition to providing grants to Indian tribes under this subsection, the Director shall collaborate with the Directors of the National Laboratories in making the full array of technical and scientific resources of the Department of Energy available for tribal energy activities and projects.".

SEC. 108. PREFERENCE FOR HYDROELECTRIC PRELIMINARY PERMITS.

Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) is amended by striking "States and municipalities" and inserting "States, Indian tribes, and municipalities".

SEC. 109. STUDY ON INCLUSION OF INDIAN TRIBES IN NATIONAL AND REGIONAL ELECTRICAL INFRASTRUCTURE PLANNING.

(a) STUDY.—

(1) IN GENERAL.—The Director of the Office of Indian Energy Policy and Programs of the Department of Energy, in consultation with the Office of Electricity and the Office of Energy Efficiency and Renewable Energy of the Department of Energy and the Director of the Indian Energy and Economic Development Office of the Department of the Interior, shall conduct a study to assess—

(A) the potential for electric generation on Indian land, and on the Outer Continental Shelf adjacent to Indian land, from renewable energy resources;

(B) the electrical transmission needs relating to carrying that energy to the market; and

(C) the number of tribal homes lacking access to electricity.

1 (2) REQUIREMENTS.—The study under para-
2 graph (1) shall—
3 (A) identify potential energy generation re-
4 sources on Indian land, and on the Outer Con-
5 tinental Shelf adjacent to Indian land, from re-
6 newable energy resources;
7 (B) identify existing electrical transmission
8 infrastructure on, and available to service, In-
9 dian land;
10 (C) identify relevant potential electric
11 transmission routes that can carry electricity
12 generated on Indian land to loads;
13 (D) assess the capacity and availability of
14 interconnection of existing electrical trans-
15 mission infrastructure;
16 (E) identify options to ensure tribal access
17 to electricity, if the development of transmission
18 infrastructure to reach tribal areas is deter-
19 mined to be unfeasible;
20 (F) identify regulatory, structural, finan-
21 cial, or other obstacles that Indian tribes en-
22 counter or would encounter in attempting to de-
23 velop energy transmission infrastructure or con-
24 nect with existing electrical transmission infra-
25 structure; and

(G) make recommendations for legislation to help Indian tribes overcome the obstacles identified under subparagraph (F).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Indian Energy Policy and Programs shall submit to Congress a report describing the results of the study under subsection (a).

TITLE II—ENERGY DEVELOPMENT AND ENERGY EFFICIENCY

SEC. 201. LEASES AND RIGHTS-OF-WAY ON INDIAN LAND.

(a) ACT OF MARCH 3, 1909.—The twelfth undesignated paragraph under the heading "COMMISSIONER" of title I of the Act of March 3, 1909 (25 U.S.C. 396), is amended—

(1) by striking "That all lands" and inserting the following:

"(a) LEASES.—All lands"; and

(2) by adding at the end the following:

"(b) RIGHTS-OF-WAY.—

"(1) IN GENERAL.—To achieve the purposes of this section, a right-of-way over tribal land may be granted in accordance with paragraph (2).

1 "(2) INCLUSION OF NECESSARY AND REASON-
2 ABLE RIGHTS-OF-WAY IN LEASES.—
3 "(A) IN GENERAL.—Notwithstanding any
4 other provision of law, a lease described in sub-
5 section (a) may include a right-of-way on land
6 also owned by the allottee that is necessary and
7 reasonable for mining purposes on the leased
8 land.
9 "(B) APPROVAL; COMPENSATION.—If a
10 necessary and reasonable right-of-way is in-
11 cluded with a lease under subparagraph (A)—
12 "(i) the right-of-way shall not be re-
13 quired to be separately approved by the
14 Secretary of the Interior, the applicable In-
15 dian tribe, or the individual landowner pur-
16 suant to the Act of February 5, 1948 (25
17 U.S.C. 323 et seq.); and
18 "(ii) compensation for the right-of-
19 way shall be included with the lease.
20 "(C) TREATMENT.—A right-of-way in-
21 cluded with a lease under subparagraph (A)—
22 "(i) shall be subject to review by the
23 Secretary of the Interior concurrently with
24 the lease; and

"(ii) shall be considered to be approved by the Secretary as of the effective date of the applicable lease.".

(b) INDIAN MINERAL LEASING ACT OF 1938.—The first section of the Act of May 11, 1938 (25 U.S.C. 396a) (commonly known as the "Indian Mineral Leasing Act of 1938"), is amended—

(1) by striking "That hereafter unallotted lands within" and inserting the following:

"SECTION 1. LEASES OF UNALLOTTED LANDS FOR MINING PURPOSES; TERM; RIGHTS-OF-WAY.

"(a) LEASES.—Effective beginning on May 11, 1938, the unallotted lands within"; and

(2) by adding at the end the following:

"(b) RIGHTS-OF-WAY.—

"(1) IN GENERAL.—To achieve the purposes of this Act, a right-of-way over tribal land may be granted in accordance with paragraph (2).

"(2) INCLUSION OF NECESSARY AND REASONABLE RIGHTS-OF-WAY IN LEASES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a lease described in subsection (a) may include a right-of-way on land also owned by the tribe, group, or band of Indians under Federal jurisdiction that is necessary

1 and reasonable for mining purposes on the
2 leased land.
3 "(B) APPROVAL; COMPENSATION.—If a
4 necessary and reasonable right-of-way is in-
5 cluded with a lease under subparagraph (A)—
6 "(i) the right-of-way shall not be re-
7 quired to be separately approved by the
8 Secretary, the applicable Indian tribe, or
9 the individual landowner pursuant to the
10 Act of February 5, 1948 (25 U.S.C. 323
11 et seq.); and
12 "(ii) compensation for the right-of-
13 way shall be included with the lease.
14 "(C) TREATMENT.—A right-of-way in-
15 cluded with a lease under subparagraph (A)—
16 "(i) shall be subject to review by the
17 Secretary of the Interior concurrently with
18 the lease; and
19 "(ii) shall be considered to be ap-
20 proved by the Secretary as of the effective
21 date of the applicable lease.".
22 (c) LONG-TERM LEASING ACT.—Subsection (a) of
23 the first section of the Act of August 9, 1955 (25 U.S.C.
24 415(a)) (commonly known as the "Long-Term Leasing
25 Act"), is amended—

1 (1) by striking the subsection designation and
2 all that follows through "Any restricted" and insert-
3 ing the following:
4 "(a) AUTHORIZED PURPOSES; TERM; APPROVAL BY
5 SECRETARY.—
6 "(1) AUTHORIZED PURPOSES.—Any restricted";
7 (2) by striking the second sentence and insert-
8 ing the following:
9 "(2) TERM.—
10 "(A) IN GENERAL.—Except as provided in
11 subparagraph (B), the term of a lease granted
12 under paragraph (1) shall be—
13 "(i) for a lease of tribally owned re-
14 stricted Indian land, not more than 99
15 years; and
16 "(ii) for a lease of individually owned
17 restricted Indian land, not more than 25
18 years.
19 "(B) EXCEPTION.—The term of a lease of
20 tribally owned or individually owned restricted
21 Indian land under paragraph (1) for grazing
22 purposes shall not exceed 10 years.";
23 (3) in the third sentence, by striking "Leases
24 for public" and all that follows through "twenty-five
25 years, and all" and inserting the following:

1 "(3) APPROVAL BY SECRETARY.—
2 "(A) IN GENERAL.—All"; and
3 (4) in the fourth sentence, by striking "Prior to
4 approval of" and inserting the following:
5 "(B) REQUIREMENTS FOR APPROVAL.—
6 Before approving".
7 (d) INDIAN REORGANIZATION ACT.—Section 17 of
8 the Act of June 18, 1934 (25 U.S.C. 477) (commonly
9 known as the "Indian Reorganization Act") is amended
10 in the second sentence by striking "twenty-five" and in-
11 serting "99".
12 (e) OKLAHOMA INDIAN WELFARE ACT.—Section 2 of
13 the Act of June 26, 1936 (25 U.S.C. 502) (commonly
14 known as the "Oklahoma Indian Welfare Act") is amend-
15 ed—
16 (1) by striking the section designation and all
17 that follows through "Whenever" and inserting the
18 following:
19 **"SEC. 2. PURCHASES, MORTGAGES, AND LEASES OF RE-**
20 **STRICTED INDIAN LANDS.**
21 "(a) PREFERENCE TO SECRETARY OF INTERIOR.—
22 When";
23 (2) in the second sentence, by striking "The
24 preference right" and inserting the following:
25 "(b) WAIVER.—The preference right"; and

1 (3) by adding at the end the following:
2 "(c) LIMITATION.—No restricted Indian land or in-
3 terest in land may be sold, mortgaged, or leased under
4 this Act for a period of more than 99 years.".

5 **SEC. 202. APPLICATION FOR PERMIT TO DRILL FEES NOT**
6 **APPLICABLE.**

7 The second undesignated paragraph of the matter
8 under the heading "MANAGEMENT OF LANDS AND RE-
9 SOURCES (INCLUDING RESCISSION OF FUNDS)" under the
10 heading "BUREAU OF LAND MANAGEMENT" of title I of
11 division A of the Department of the Interior, Environ-
12 ment, and Related Agencies Appropriations Act, 2010
13 (Public Law 111–88), is amended by striking ", and in
14 addition" and inserting ", subject to the condition that
15 no such fee may be collected by the Bureau for any appli-
16 cation for a permit to drill on Indian land (as defined in
17 section 2601 of the Energy Policy Act of 1992 (25 U.S.C.
18 3501)); and in addition".

19 **SEC. 203. DISTRIBUTED ENERGY AND COMMUNITY TRANS-**
20 **MISSION DEMONSTRATION PROJECTS.**

21 (a) IN GENERAL.—The Director of the Office of In-
22 dian Energy Policy and Programs of the Department of
23 Energy (referred to in this section as the "Director") shall
24 conduct not less than 5 distributed energy demonstration
25 projects to increase the energy resources available to In-

1 dian tribes and Alaska Natives for use in homes and com-
2 munity or government buildings.
3 (b) PRIORITY.—In carrying out this section, the Di-
4 rector shall give priority to projects that—
5 (1) reduce energy costs;
6 (2) reduce the use of fossil fuels;
7 (3) increase renewable energy sources; or
8 (4) transmit electricity or heat to homes and
9 buildings that previously were not served or were un-
10 derserved.
11 (c) ELIGIBLE PROJECTS.—A project under this sec-
12 tion may include a project for—
13 (1) distributed generation, local or community
14 distribution, or both;
15 (2) biomass combined heat and power systems;
16 (3) municipal solid waste generation;
17 (4) instream hydrokinetic energy;
18 (5) wind-diesel hybrid high-penetration systems;
19 (6) solar thermal, distributed solar, geothermal,
20 or wind generation; or
21 (7) any other project that meets the goals of
22 this section.
23 (d) INCORPORATION INTO EXISTING INFRASTRUC-
24 TURE.—As necessary, the Director shall encourage local
25 utilities and local governments to incorporate demonstra-

1 tion projects into existing transmission and distribution
2 infrastructure.

3 **SEC. 204. ENVIRONMENTAL REVIEW.**

4 (a) PURPOSES.—The purposes of this section are—
5 (1) to ensure that the policies described in the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.) and other provisions of law
8 that advance the purposes of that Act (as specified
9 in regulations promulgated by the Secretary of En-
10 ergy (referred to in this section as the "Secretary"))
11 are effectively implemented in connection with en-
12 ergy projects developed on tribal land; and
13 (2) to ensure undiminished protection of the en-
14 vironment.

15 (b) REVIEW.—The Secretary may delegate to any
16 participating Indian tribe the responsibility to carry out
17 any environmental review, decisionmaking, or other activ-
18 ity pursuant to the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.) (or such other provision
20 of law as the Secretary may specify, by regulation) in lieu
21 of any procedure for environmental protection that would
22 apply to the Secretary if the Secretary carried out the ac-
23 tivity with respect to a Federal project.

24 (c) REGULATIONS.—

1 (1) IN GENERAL.—The Secretary shall promul-
2 gate regulations to carry out this section only after
3 consultation with the Council on Environmental
4 Quality.
5 (2) CONTENTS.—The regulations promulgated
6 pursuant to this subsection shall—
7 (A) provide for the monitoring of the envi-
8 ronmental reviews conducted under this section;
9 (B) at the discretion of the Secretary, fa-
10 cilitate training for the performance of those re-
11 views; and
12 (C) provide for the suspension or termi-
13 nation of the assumption of any responsibility
14 by an Indian tribe under this section.
15 (d) TRIBAL CERTIFICATION.—A tribal certification
16 made pursuant to an environmental review conducted
17 under this section shall—
18 (1) be in a form acceptable to the Secretary;
19 (2) be executed by the chief executive officer or
20 other officer of the Indian tribe qualified by the Sec-
21 retary, by regulation;
22 (3) specify that the Indian tribe has fully car-
23 ried out the responsibilities of the Indian tribe, in
24 accordance with subsection (a); and
25 (4) specify that the certifying officer—

1 (A) to the extent required under subsection
2 (a), consents to assume the status of a respon-
3 sible Federal official under the National Envi-
4 ronmental Policy Act of 1969 (42 U.S.C. 4321
5 et seq.) and such other applicable provisions of
6 law as the Secretary may specify, by regulation;
7 and
8 (B) may, and consents on behalf of the rel-
9 evant Indian tribe to, accept the jurisdiction of
10 United States district and circuit courts of com-
11 petent jurisdiction for the purpose of enforcing
12 the responsibilities of the certifying officer as
13 such a responsible Federal official.

14 **SEC. 205. DEPARTMENT OF ENERGY LOAN GUARANTEE**
15 **PROGRAM.**

16 Section 2602(c) of the Energy Policy Act of 1992 (25
17 U.S.C. 3502(c)) is amended—
18 (1) in paragraph (1)—
19 (A) by striking the paragraph designation
20 and all that follows through "may provide" and
21 inserting the following:
22 "(1) REQUIREMENT.—Subject to paragraph
23 (4), not later than 1 year after the date of enact-
24 ment of the Indian Energy Promotion and Parity

1 Act of 2010, the Secretary of Energy shall provide";
2 and
3 (B) by striking "any loan made to an In-
4 dian tribe for energy development" and insert-
5 ing "such loans made to Indian tribes or tribal
6 energy resource development organizations for
7 energy development or the integration of energy
8 resources as the Secretary determines to be ap-
9 propriate";
10 (2) in paragraph (3), by striking the paragraph
11 designation and all that follows through "made by—
12 " and inserting the following:
13 "(3) ELIGIBLE PROVIDERS OF LOANS.—A loan
14 for which a loan guarantee is provided under this
15 subsection shall be made by—";
16 (3) in paragraph (4)—
17 (A) by striking "(4) The aggregate" and
18 inserting the following:
19 "(4) LIMITATIONS.—
20 "(A) AGGREGATE OUTSTANDING
21 AMOUNT.—The aggregate"; and
22 (B) by adding at the end the following:
23 "(B) SPECIFIC APPROPRIATION OR CON-
24 TRIBUTION.—No loan guarantee may be pro-
25 vided under this subsection unless—

"(i) an appropriation for the cost of the guarantee has been made; or

"(ii) the Secretary of Energy has—

"(I) received from the borrower a payment in full for the cost of the obligation; and

"(II) deposited the payment into the Treasury.";

(4) in paragraph (5), by striking the paragraph designation and all that follows through "may issue" and inserting the following:

"(5) REGULATIONS.—The Secretary of Energy shall promulgate"; and

(5) in paragraph (7), by striking "1 year after the date of enactment of this section" and inserting "October 1, 2010".

SEC. 206. INCLUSION OF INDIAN TRIBES IN STATE ENERGY CONSERVATION PLAN PROGRAM.

(a) IN GENERAL.—Section 366 of the Energy Policy and Conservation Act (42 U.S.C. 6326) is amended—

(1) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (9), (8), and (11), respectively, and moving the paragraphs so as to appear in numerical order;

(2) by inserting after paragraph (4) the following:

"(5) GOVERNOR.—The term 'Governor' means—

"(A) the Governor of a State; or

"(B) in the case of an Indian tribe, the head of the governing body of the Indian tribe.

"(6) 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. 450b)."; and

(3) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

"(10) STATE.—The term 'State' includes an Indian tribe.".

(b) TRIBAL SET-ASIDE.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking "fiscal years 2007 through 2012" and inserting "fiscal years 2010 through 2020, of which not less than 5 percent shall be used to provide assistance under this part to Indian tribes".

SEC. 207. HOME WEATHERIZATION ASSISTANCE.

Section 413 of the Energy Conservation and Production Act (42 U.S.C. 6863) is amended by striking subsection (d) and inserting the following:

1 "(d) DIRECT GRANTS TO INDIAN TRIBES FOR
2 WEATHERIZATION OF INDIAN HOMES.—
3 "(1) IN GENERAL.—Of the amounts made
4 available for each fiscal year to carry out the Weath-
5 erization Assistance Program for Low-Income Per-
6 sons established under part A of title IV of the En-
7 ergy Conservation and Production Act (42 U.S.C.
8 6861 et seq.), the Secretary shall set aside for In-
9 dian tribes (as defined in section 102 of the Feder-
10 ally Recognized Indian Tribe List Act of 1994 (25
11 U.S.C. 479a)) not less than 10 percent.
12 "(2) TRANSFER TO SECRETARY OF INTE-
13 RIOR.—
14 "(A) IN GENERAL.—Not later than 10
15 days after the date on which funds are made
16 available by the Office of Management and
17 Budget to the Secretary to carry out the
18 Weatherization Assistance Program for Low-In-
19 come Persons for a fiscal year, the Secretary
20 shall transfer to the Secretary of the Interior
21 the amount required under paragraph (1).
22 "(B) REQUIREMENT.—The Secretary shall
23 make the transfer required under subparagraph
24 (A) for each fiscal year for which funds are
25 made available by the Office of Management

1 and Budget to carry out the Weatherization As-
2 sistance Program for Low-Income Persons,
3 until such time as the Secretary has in place
4 sufficient staff, authorities, and regulations to
5 carry out the program described in paragraph
6 (3).
7 "(3) DISTRIBUTION.—
8 "(A) IN GENERAL.—On receipt of the
9 funds transferred under paragraph (2), the Sec-
10 retary of the Interior shall expeditiously dis-
11 tribute the funds to Indian tribes for direct
12 tribal administration pursuant to—
13 "(i) existing contracts and agreements
14 under the Indian Self-Determination and
15 Education Assistance Act (25 U.S.C. 450
16 et seq.); or
17 "(ii) in the absence of an applicable
18 contract or agreement described in clause
19 (i), a similar agreement, as determined by
20 the Secretary of the Interior.
21 "(B) FORMULA.—Of the amounts trans-
22 ferred under paragraph (2) for each fiscal year,
23 the Secretary of the Interior shall distribute—

1 "(i) ⅓ in equal shares among the In-
2 dian tribes that elect to receive the funds;
3 and
4 "(ii) ⅔ as the Secretary of the Inte-
5 rior determines to be appropriate among
6 those Indian tribes, in accordance with
7 subparagraph (C).
8 "(C) COMPETITIVE GRANTS.—
9 "(i) IN GENERAL.—The Secretary of
10 the Interior shall distribute the amounts
11 described in subparagraph (B)(ii) as the
12 Secretary determines to be appropriate
13 among Indian tribes that submit to the
14 Secretary applications at such time, in
15 such manner, and containing such infor-
16 mation as the Secretary may require.
17 "(ii) REQUIREMENTS.—Each applica-
18 tion submitted under clause (i) shall be—
19 "(I) peer reviewed; and
20 "(II) ranked in an anonymous
21 process by tribal representatives.
22 "(4) USE OF FUNDS.—
23 "(A) IN GENERAL.—Subject to subpara-
24 graph (B), an Indian tribe shall use funds pro-
25 vided under paragraph (3) for weatherization

1 and energy conservation measures that, in the
2 communities served by the Indian tribe—
3 "(i) improve the living conditions of,
4 Indian households; and
5 "(ii) create the maximum practicable
6 number of local jobs and training opportu-
7 nities for Indians.
8 "(B) REQUIREMENTS.—An activity funded
9 under this paragraph shall—
10 "(i) benefit only Indian households in
11 tribal communities;
12 "(ii) primarily involve—
13 "(I) the acquisition and installa-
14 tion of energy-efficient windows and
15 doors; or
16 "(II) the repair, replacement, or
17 insulation of floors, walls, and ceil-
18 ings; and
19 "(iii) secondarily involve the acquisi-
20 tion and installation of heating and cooling
21 equipment.
22 "(C) APPLICABILITY OF REQUIRE-
23 MENTS.—
24 "(i) IN GENERAL.—Notwithstanding
25 any other provision of law, the use of

1 funds under this paragraph by an Indian
2 tribe shall be subject only to—
3 "(I) the requirements of this sub-
4 section;
5 "(II) implementing regulations of
6 the Department of the Interior; and
7 "(III) the applicable reporting,
8 accountability, auditing, and adminis-
9 trative requirements of the Indian
10 Self-Determination and Education As-
11 sistance Act (25 U.S.C. 450 et seq.).
12 "(ii) OTHER REQUIREMENTS OF
13 ACT.—In accordance with the government-
14 to-government and trust relationships be-
15 tween the United States and Indian tribes,
16 the income, energy audit, grant limitation,
17 and other administrative and eligibility re-
18 quirements of this Act shall not apply to
19 the use of funds under this paragraph by
20 an Indian tribe.
21 "(5) REPORT.—Not later than 90 days after
22 the closing date of each applicable project year, each
23 Indian tribe that receives funds under this sub-
24 section shall submit to the Secretary of the Interior

1 a simple outcome report that describes, for that
2 project year—
3 "(A) each activity carried out by the In-
4 dian tribe under this subsection, including the
5 amounts used for each such activity;
6 "(B) the number of Indian households ben-
7 efitted by the activities of the Indian tribe
8 under this subsection; and
9 "(C) the estimated savings in energy costs
10 realized in the communities served by the In-
11 dian tribe.".

12 **SEC. 208. TRIBAL FOREST ASSETS PROTECTION.**

13 Section 2 of the Tribal Forest Protection Act of 2004
14 (25 U.S.C. 3115a) is amended by adding at the end the
15 following:
16 "(h) WOODY BIOMASS DEMONSTRATION
17 PROJECTS.—
18 "(1) IN GENERAL.—The Secretary shall enter
19 into contracts or other agreements with Indian
20 tribes to carry out demonstration projects to pro-
21 mote electricity generation on Indian forest land,
22 and in communities surrounding Indian land, by
23 providing reliable supplies of woody biomass from
24 adjacent Federal land.

1 "(2) APPLICATION.—To be eligible to enter into
2 a contract or other agreement under this subsection,
3 an Indian tribe shall submit to the Secretary an ap-
4 plication—
5 "(A) at such time, in such manner, and
6 containing such information as the Secretary
7 may require; and
8 "(B) that includes a description of—
9 "(i) the Indian forest land under the
10 jurisdiction of the Indian tribe; and
11 "(ii) the demonstration project pro-
12 posed to be carried out by the Indian tribe.
13 "(3) SELECTION.—In evaluating the applica-
14 tions submitted under paragraph (2), the Secretary
15 shall take into consideration—
16 "(A) the selection criteria described in sub-
17 section (c); and
18 "(B) whether a proposed demonstration
19 would—
20 "(i) result in increased interconnec-
21 tion of electric power transmission facilities
22 on Indian forest land with other electric
23 transmission facilities;
24 "(ii) promote electrification of homes
25 and businesses—

1 "(I) on Indian forest land; and
2 "(II) in surrounding commu-
3 nities; and
4 "(iii) otherwise promote the use of
5 woody biomass.
6 "(4) INCORPORATION OF MANAGEMENT
7 PLANS.—
8 "(A) IN GENERAL.—Subject to subpara-
9 graph (B), in carrying out a contract or agree-
10 ment under this subsection, on receipt of a re-
11 quest of an Indian tribe, the Secretary shall in-
12 corporate, to the maximum extent practicable,
13 management plans (including forest manage-
14 ment and integrated resource management
15 plans) that apply to the Indian forest land of
16 the respective Indian tribe.
17 "(B) REQUIREMENT.—The Secretary shall
18 ensure that each management plan incorporated
19 under subparagraph (A) is, before the date of
20 incorporation—
21 "(i) approved by the Secretary; and
22 "(ii) in effect.
23 "(5) TERM.—A contract or agreement entered
24 into under this subsection—

"(A) shall be for a term of not more than 20 years; and

"(B) may be renewed in accordance with this subsection for not more than an additional 10 years.

"(6) REPORT.—Not later than September 30, 2014, the Secretary shall submit to Congress a report that describes, with respect to the reporting period—

"(A) each Indian tribal application received under this subsection; and

"(B) each contract and agreement entered into pursuant to this subsection.".

TITLE III—ENERGY FINANCING

SEC. 301. TRANSFER BY INDIAN TRIBES OF CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) IN GENERAL.—Paragraph (3) of section 45(e) of the Internal Revenue Code of 1986 (relating to production attributable to the taxpayer) is amended to read as follows:

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—

"(A) IN GENERAL.—In the case of a facility in which more than 1 person has an owner-

1 ship interest, except to the extent provided in
2 regulations prescribed by the Secretary, produc-
3 tion from the facility shall be allocated among
4 such persons in proportion to their respective
5 ownership interests in the gross sales from such
6 facility.

7 "(B) SPECIAL RULE FOR INDIAN
8 TRIBES.—

9 "(i) IN GENERAL.—In the case of a
10 facility described in subparagraph (A) in
11 which an Indian tribe has an ownership in-
12 terest in the gross sales from such facility,
13 the Indian tribe may assign to any other
14 person who has an ownership interest in
15 such facility any portion of the production
16 from the facility that would (but for this
17 subparagraph) be allocated to such Indian
18 tribe. Any such assignment may be revoked
19 only with the consent of the Secretary and
20 shall be made at such time and in such
21 manner as the Secretary may provide.

22 "(ii) INDIAN TRIBE.—For purposes of
23 clause (i), the term 'Indian tribe' means
24 any Indian tribe, band, nation, pueblo, or
25 other organized group or community, in-

1 cluding any Alaska Native village or re-
2 gional or village corporation, as defined in,
3 or established pursuant to, the Alaska Na-
4 tive Claims Settlement Act (43 U.S.C.
5 1601 et seq.) which is recognized as eligi-
6 ble for the special programs and services
7 provided by the United States to Indians
8 because of their status as Indians.''.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to electricity produced and sold
11 after the date of the enactment of this Act.

12 **SEC. 302. INVESTMENT TAX CREDITS.**

13 (a) IN GENERAL.—Section 48(a) of the Internal Rev-
14 enue Code of 1986 (relating to energy credit) is amended
15 by adding at the end the following new paragraph:

16 ''(6) ASSIGNMENT OF BASIS BY INDIAN TRIBAL
17 GOVERNMENTS.—

18 ''(A) IN GENERAL.—In the case of energy
19 property in which an Indian tribal government
20 (within the meaning of section 7871) has an
21 ownership interest, such government may as-
22 sign to any other person who has an ownership
23 interest in the property any portion of the basis
24 of the property that would (but for this para-

graph) be allocated to such government. This assignment—

"(i) shall be made not later than the date the property is placed in service for purposes of this section,

"(ii) shall be made in such manner as the Secretary may provide, and

"(iii) may be revoked only with the consent of the Secretary.

"(B) TERMINATION.—This paragraph shall not apply to periods after December 31, 2014, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 303. PERMANENT EXTENSION OF DEPRECIATION RULES FOR PROPERTY ON INDIAN RESERVATIONS.

(a) IN GENERAL.—Subsection (j) of section 168 of the Internal Revenue Code of 1986 (relating to property on Indian reservations) is amended by striking paragraph (8).

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to property placed in service after
3 December 31, 2007.

4 **SEC. 304. PERMANENT EXTENSION OF INDIAN EMPLOY-**
5 **MENT CREDIT.**

6 Section 45A of the Internal Revenue Code of 1986
7 (relating to Indian employment credit) is amended by
8 striking subsection (f).

9 **SEC. 305. EXTENSION OF GRANTS FOR SPECIFIED ENERGY**
10 **PROPERTY IN LIEU OF TAX CREDITS.**

11 (a) IN GENERAL.—Subsection (a) of section 1603 of
12 division B of the American Recovery and Reinvestment
13 Act of 2009 is amended—
14 (1) in paragraph (1), by striking "2009 or
15 2010" and inserting "a calendar year after 2008
16 and before 2016", and
17 (2) in paragraph (2)—
18 (A) by striking "after 2010" and inserting
19 "after 2015", and
20 (B) by striking "2009 or 2010" and in-
21 serting "a calendar year described in paragraph
22 (1)".
23 (b) CONFORMING AMENDMENT.—Subsection (j) of
24 section 1603 of division B of such Act is amended by strik-
25 ing "2011" and inserting "2016".

(c) CLARIFICATION OF ELIGIBILITY FOR INDIAN TRIBES AND ALASKA NATIVES.—

(1) IN GENERAL.—Paragraph (3) of section 1603(g) of division B of the American Recovery and Reinvestment Act of 2009 is amended by inserting "other than an Indian tribe (within the meaning of section 45A(c)(6) of such Code)," after "section 54(j) of such Code,".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to grants with respect to property placed in service after the date of the enactment of this Act.

TITLE IV—AMENDMENTS TO INDIAN ENERGY POLICY LAWS

SEC. 401. AMENDMENTS TO INDIAN ENERGY POLICY LAWS.

(a) DEFINITION OF SEQUESTRATION.—Section 2601(10) of the Energy Policy Act of 1992 (25 U.S.C. 3501(10)) is amended by striking "reforestation or" and inserting "agricultural practices, reforestation, or".

(b) INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.—Section 2602(a)(2) of the Energy Policy Act of 1992 (25 U.S.C. 3502(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(E) establish Indian Energy Development Offices, in accordance with paragraph (3); and

"(F) provide grants and technical assistance to a national tribal energy organization, as determined by the Secretary, to establish and operate a program of assistance to Indian tribes and tribal energy resource development organizations to carry out evaluation, planning, design, financing, production, transportation, and transmission functions relating to tribal energy resource development.".

(c) PROVISION OF ASSISTANCE.—

(1) INDIAN TRIBAL ENERGY RESOURCE REGULATION.—Section 2603(c)(2)(B) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)(2)(B)) is amended by inserting "or tribal energy resource development organization" after "Indian tribe".

(2) FEDERAL POWER MARKETING ADMINISTRATIONS.—Section 2605 of the Energy Policy Act of 1992 (25 U.S.C. 3505) is amended—

1 (A) in subsection (d)(2)(B), by inserting
2 "or tribal energy resource development organi-
3 zation" after "Indian tribe"; and
4 (B) in subsection (e), in the matter pre-
5 ceding paragraph (1), by striking "2 years after
6 the date of enactment of the Energy Policy Act
7 of 2005" and inserting "September 30, 2010".
8 (d) ENERGY EFFICIENCY IN FEDERALLY ASSISTED
9 HOUSING.—Section 506(a) of the Energy Policy Act of
10 2005 (42 U.S.C. 16001) is amended—
11 (1) in the matter preceding paragraph (1), by
12 inserting "weatherization, energy efficiency, and"
13 after "shall promote"; and
14 (2) in paragraph (1), by striking "technologies"
15 and inserting "design, technologies,".