

Testimony of Kevin R. Frost

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Before the

U.S. Senate Committee on Indian Affairs

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On

S. 2610 – Tribal Energy Reauthorization Act

Good afternoon, Chairman Hoeven, Ranking Member Udall and Members of the Committee. My name is Kevin R. Frost, and it is an honor and a privilege to serve at the Department of Energy (DOE or the Department), as the Director of the Office of Indian Energy Policy and Programs. DOE is charged with, among other important responsibilities, providing Indian Country with assistance for energy development activities. Within this charge, the work being conducted by the Office of Indian Energy is setting the course for various advancements in tribal energy development. Issues such as energy storage, improving energy efficiency, and capacity building, create breakthroughs for how Indian Country is utilizing resources to address energy development goals.

Thank you for the opportunity to testify today on behalf of the Department regarding S. 2610, the Tribal Energy Reauthorization Act. I will highlight the work undertaken in delivering a mission that is providing access to electricity and energy development on tribal lands.

The Office of Indian Energy's Mission

The mission of the Office of Indian Energy is to maximize the development and deployment of strategic energy solutions that benefit tribal communities by providing American Indians and Alaska Natives with the knowledge, skills, and resources needed to implement successful strategic energy solutions. With 574 Federally recognized tribes, over 200 Alaska Native Village Corporations, and 13 Alaska Regional Corporations, the Office of Indian Energy uses a three-pronged approach to help its constituents harness their vast and undeveloped resources through: 1) financial assistance; 2), technical assistance ; and 3) education and capacity building.

Financial assistance is in the form of competitive grants to accelerate the deployment of energy infrastructure on tribal lands. To assist with deployment, and contingent upon Congressional Appropriations, the Office of Indian Energy provides what has been to date an annual Funding Opportunity Announcement (FOA). The annual FOA is consistent with the principles of tribal sovereignty and self-determination, with an all-of-the-above energy strategy that recognizes the breadth of energy resources on Tribal Lands, and each tribe's right to use them as they see fit. Projects sought under the FOA are fuel and technology neutral and intended to promote energy independence and economic development. Creating local employment is an ancillary benefit of annual FOAs through the installation and use of commercially available energy technologies that are best suited to meet the needs of the individual Tribes or Alaska Native organizations. From

2010-2019, DOE has invested nearly \$85 million in order to support more than 180 tribal energy projects valued at over \$180 million, including tribal cost-share.

In addition, the Office of Indian Energy provides technical assistance to federally recognized Indian tribes, including Alaska Native Villages, tribal energy development organizations, and other organized tribal groups at no cost. The goal of technical assistance is to address a specific challenge or fulfill a need that is essential to a current project's successful implementation. The intended result is a tangible product or specific deliverable designed to help move a project forward. Technical assistance is provided through technical analysis, financial analysis, and strategic energy planning.

Education and capacity building is accomplished by supporting tribal efforts to build internal capacity to navigate tribal energy projects by providing regional workshops, webinars, Tribal leader forums, Science, Technology, Engineering, and Mathematics (STEM) education, an online energy resource library and an annual Program Review in which recipients of grants are able to participate and share valuable lessons learned.

S. 2610 TRIBAL ENERGY REAUTHORIZATION ACT

The Department does not have a position on S.2610 at this time.

Cost Sharing:

Section 2(b)(2)(D) of this bill amends Section 2602(b) of the Energy Policy Act of 1992 (25 U.S.C. 3502(b)) by removing the cost sharing requirements under Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352). Cost-sharing is a foundational element of responsible expenditure of taxpayer funds and the Department would have significant concerns about completely removing the requirement. It is true that the requirement under Section 988 for 50 percent cost share for demonstration and commercial application activity has sometimes placed an unaffordable burden on many economically disadvantaged Indian tribes, however, we do not believe that a wholesale elimination of the cost-sharing requirement is the best tool to address such a situation. The Secretary already has the authority to reduce cost share when "necessary and appropriate, taking into consideration any technological risk relating to the activity". If the committee wishes to expand the Secretary's authority to reduce cost share for economically disadvantaged tribes, then a narrower amendment to the Secretary's exemption authority would be more appropriate.

Section 2(b)(2)(D) of this bill would, also require that the Director "take into consideration the fiscal ability of the Indian tribe, intertribal organization, or tribal energy development organization to meet a cost share requirement" and, "if appropriate, offer flexibility in the grant application process with respect to the amount of cost-sharing to be required." Specifically, the bill requires that fiscal ability be taken into consideration "in determining any cost share requirements of *an* Indian tribe, intertribal organization, or tribal energy development organization". As written, therefore, a case-by-case fiscal need determination would appear to be necessary for *each* Indian tribe, intertribal organization, or tribal energy development

organization. This case-by-case analysis is extremely resource intensive as was demonstrated by the Office of Indian Energy's previous experience in applying such a methodology. In addition, this previous experience demonstrated that the evaluation of financial indices was not necessarily an indicator of fiscal need. Therefore, we respectfully request that the Director be given the discretion to establish a methodology that meets the intent of the bill, without the requirement for an individual case-by-case analysis for each grant applicant.

Any reduction in cost share may significantly impact the Office of Indian Energy's ability to assist as many American Indian and Alaska Natives communities as possible, as more generous Federal cost-share for some projects would limit the number of total projects the office could fund. Lower tribal cost-share translates into increased DOE funding per grant, fewer tribal energy projects, and therefore fewer tribes benefiting from the same level of funding.

Local Partnerships for Technical Assistance:

Section 2(d) of this bill, which amends Section 217 of the Department of Energy Organization Act (42 U.S.C. 7144e), requires the Director, to the maximum extent practicable to, "give priority to partnering with State and local organizations that do not have comparable local experience, relationships, knowledge; and with respect to technical assistance provided to Indian tribes and Native Villages, partner with local and regional organizations."

As a best practice, the Office of Indian Energy currently strives to use local partnerships for technical assistance. The Office of Indian Energy has an existing Interagency Agreement with the Denali Commission to deliver technical assistance in Alaska. This benefits the Office of Indian Energy's Alaska constituency by harnessing local knowledge and expertise, which also includes cultural knowledge and protocols to address a specific challenge or help move a project forward. Technical assistance funding is spent locally and helps provide in-state economic benefits. Currently, the Office of Indian Energy is actively seeking technical assistance partnerships in the lower 48 as well.

Federal Government Grants and Opportunities Liaison for Indian Tribes and Alaska Natives:

Section 2(d) of this bill, which amends Section 217 of the Department of Energy Organization Act (42 U.S.C. 7144e), requires the Director, "[t]o the maximum extent practicable," to "designate appropriate staff to serve as liaison to Indian tribes and Native villages to ensure that Indian tribes and Native villages are aware of relevant grants and funding opportunities across all Federal agencies."

We respectfully submit that this provision is not necessary. Currently, the Office of Indian Energy's Alaska Program Manager is specifically tasked with this function for Alaska. A comparable position is currently in the process of being filled for the contiguous 48 United States, in the interim, the entirety of Office of Indian Energy's staff is tasked with this liaison function, including the dissemination of tribal energy related funding opportunities to the extent practicable. Furthermore, information on tribal energy-related funding opportunities, regardless of source and across all Federal agencies, continues to be posted on the Office of Indian Energy website and disseminated via email to over 28,000 subscribers. With respect to the Office of

Indian Energy's tribal energy mission, this function is currently being fulfilled with existing staff.

Indian Energy in the Arctic Strategy

Section 2(d) of this bill, which amends Section 217 of the Department of Energy Organization Act (42 U.S.C. 7144e), requires the Director to “develop, and submit to Congress a report describing, a strategy, to be known as the ‘Indian Energy in the Arctic Strategy’” within 180 days within enactment of this bill.

Many Arctic issues, which include national interests in safety, security, and international affairs, are beyond the scope of Indian Energy's limited resources. The Office of Indian Energy's relationship with Indian tribes, Alaska Native Villages, and Regional and Village corporations is in line with self-determination and tribal sovereignty and allows these entities the ability to utilize their resources as they see fit; any assistance is provided only upon request and with the consent of the Indian tribes. As such, any strategy would need to be developed in coordination and input from Alaska Native constituents, and would require more than 180 days to achieve. Given these considerations, it may be more appropriate for a comprehensive Indian Energy in the Arctic Strategy to be developed by the Secretary's Office, in coordination with the State of Alaska, and the Secretary of the Interior, and only after extensive engagement with and input from Alaska Native villages, Alaska Native Regional Corporations and village corporations. The Office of Indian Energy, will, to the best of our abilities and within our limited resources, support any Arctic efforts the Secretary and the Department undertake.

CONCLUSION

Thank you again for the opportunity to testify today on behalf of DOE. The Department appreciates the ongoing bipartisan support for its successful efforts to address Indian Country's energy development challenges in the past, and looks forward to working with the Committee to address these challenges now, and in the future.

I welcome your questions at this time.