

108TH CONGRESS
1ST SESSION

S. 522

To amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2003

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

A BILL

To amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American En-
5 ergy Development and Self-Determination Act of 2003”.

6 **SEC. 2. INDIAN ENERGY.**

7 (a) IN GENERAL.—Title XXVI of the Energy Policy
8 Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read
9 as follows:

1 **“TITLE XXVI—INDIAN ENERGY**

2 **“SEC. 2601. FINDINGS; PURPOSES.**

3 “(a) FINDINGS.—Congress finds that—

4 “(1) the energy resources of Indians and Indian
5 tribes are among the most valuable natural re-
6 sources of Indians and Indian tribes;

7 “(2) there exists a special legal and political re-
8 lationship between the United States and Indian
9 tribes as expressed in treaties, the Constitution,
10 Federal statutes, court decisions, executive orders,
11 and course of dealing;

12 “(3) Indian land comprises approximately 5
13 percent of the land area of the United States, but
14 contains an estimated 10 percent of all energy re-
15 serves in the United States, including—

16 “(A) 30 percent of known coal deposits lo-
17 cated in the western portion of the United
18 States;

19 “(B) 5 percent of known onshore oil depos-
20 its of the United States; and

21 “(C) 10 percent of known onshore natural
22 gas deposits of the United States;

23 “(4) coal, oil, natural gas, and other energy
24 minerals produced from Indian land represent more

1 than 10 percent of total nationwide onshore produc-
2 tion of energy minerals;

3 “(5) in 2000, 9,300,000 barrels of oil,
4 299,000,000,000 cubic feet of natural gas, and
5 21,400,000 tons of coal were produced from Indian
6 land, representing \$700,000,000 in Indian energy
7 revenue;

8 “(6) the Department of the Interior estimates
9 that only 25 percent of the oil and less than 20 per-
10 cent of all natural gas reserves on Indian land have
11 been developed;

12 “(7) the Department of Energy estimates that
13 the wind resources of the Great Plains could meet
14 75 percent of the electricity demand in the contig-
15 uous 48 States;

16 “(8) the development of Indian energy re-
17 sources would assist—

18 “(A) Indian communities in carrying out
19 community development efforts; and

20 “(B) the United States in securing a
21 greater degree of independence from foreign
22 sources of energy; and

23 “(9) the United States, in accordance with Fed-
24 eral Indian self-determination laws and policies,

1 should assist Indian tribes and individual Indians in
2 developing Indian energy resources.

3 “(b) PURPOSES.—The purposes of this title are—

4 “(1) to assist Indian tribes and individual Indi-
5 ans in the development of Indian energy resources;
6 and

7 “(2) to further the goal of Indian self-deter-
8 mination, particularly through the development of
9 stronger tribal governments and greater degrees of
10 tribal economic self-sufficiency.

11 **“SEC. 2602. DEFINITIONS.**

12 “In this title:

13 “(1) COMMISSION.—The term ‘Commission’
14 means the Indian Energy Resource Commission es-
15 tablished by section 2606(a).

16 “(2) DIRECTOR.—The term ‘Director’ means
17 the Director of the Office of Indian Energy Policy
18 and Programs.

19 “(3) INDIAN.—The term ‘Indian’ means an in-
20 dividual member of an Indian tribe who owns land
21 or an interest in land, the title to which land—

22 “(A) is held in trust by the United States;

23 or

24 “(B) is subject to a restriction against
25 alienation imposed by the United States.

1 “(4) INDIAN LAND.—The term ‘Indian land’
2 means—

3 “(A) any land located within the bound-
4 aries of an Indian reservation, pueblo, or
5 rancheria;

6 “(B) any land not located within the
7 boundaries of an Indian reservation, pueblo, or
8 rancheria, the title to which is held—

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

11 “(ii) by an Indian tribe, subject to re-
12 striction by the United States against
13 alienation; or

14 “(iii) by a dependent Indian commu-
15 nity; and

16 “(C) land conveyed to a Native Corpora-
17 tion under the Alaska Native Claims Settlement
18 Act (43 U.S.C. 1601 et seq.).

19 “(5) INDIAN RESERVATION.—The term ‘Indian
20 reservation’ includes—

21 “(A) an Indian reservation in existence as
22 of the date of enactment of this paragraph;

23 “(B) a public domain Indian allotment;

24 “(C) a former reservation in the State of
25 Oklahoma;

1 “(D) a parcel of land owned by a Native
2 Corporation under the Alaska Native Claims
3 Settlement Act (43 U.S.C. 1601 et seq.); and

4 “(E) a dependent Indian community lo-
5 cated within the borders of the United States,
6 regardless of whether the community is lo-
7 cated—

8 “(i) on original or acquired territory
9 of the community; or

10 “(ii) within or outside the boundaries
11 of any particular State.

12 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
13 has the meaning given the term in section 4 of the
14 Indian Self-Determination and Education Assistance
15 Act (25 U.S.C. 450b).

16 “(7) NATIVE CORPORATION.—The term ‘Native
17 Corporation’ has the meaning given the term in sec-
18 tion 3 of the Alaska Native Claims Settlement Act
19 (43 U.S.C. 1602).

20 “(8) PROGRAM.—The term ‘Program’ means
21 the Indian energy resource development program es-
22 tablished under section 2603(a).

23 “(9) SECRETARY.—The term ‘Secretary’ means
24 the Secretary of Energy.

1 “(10) TRIBAL CONSORTIUM.—The term ‘tribal
2 consortium’ means an organization that consists of
3 at least 3 entities, 1 of which is an Indian tribe.

4 “(11) VERTICAL INTEGRATION OF ENERGY RE-
5 SOURCES.—The term ‘vertical integration of energy
6 resources’ means—

7 “(A) the discovery and development of re-
8 newable and nonrenewable energy resources;

9 “(B) electricity transmission; and

10 “(C) any other activity that is carried out
11 to achieve the purposes of this title, as deter-
12 mined by the Secretary.

13 **“SEC. 2603. INDIAN ENERGY RESOURCE DEVELOPMENT**
14 **PROGRAM.**

15 “(a) IN GENERAL.—The Secretary shall establish
16 and implement an Indian energy resource development
17 program to assist Indian tribes and tribal consortia in
18 achieving the purposes of this title.

19 “(b) GRANTS AND LOANS.—In carrying out the Pro-
20 gram, the Secretary shall, at a minimum—

21 “(1) provide development grants to Indian
22 tribes and tribal consortia for use in developing or
23 obtaining the managerial and technical capacity
24 needed to develop energy resources on Indian land;

1 “(2) provide grants to Indian tribes and tribal
2 consortia for use in carrying out projects to promote
3 the vertical integration of energy resources, and to
4 process, use, or develop those energy resources, on
5 Indian land; and

6 “(3) provide low-interest loans to Indian tribes
7 and tribal consortia for use in the promotion of en-
8 ergy resource development and vertical integration
9 or energy resources on Indian land.

10 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this section
12 such sums as are necessary for each of fiscal years 2004
13 through 2014.

14 **“SEC. 2604. INDIAN TRIBAL RESOURCE REGULATION.**

15 “(a) IN GENERAL.—The Secretary may provide to
16 Indian tribes and tribal consortia, on an annual basis,
17 grants for use in developing, administering, implementing,
18 and enforcing tribal laws (including regulations) governing
19 the development and management of energy resources on
20 Indian land.

21 “(b) USE OF FUNDS.—Funds from a grant provided
22 under this section may be used by an Indian tribe or tribal
23 consortium for—

24 “(1) the development of a tribal energy resource
25 inventory or tribal energy resource;

1 “(2) the development of a feasibility study or
2 other report necessary to the development of energy
3 resources;

4 “(3) the development of tribal laws and tech-
5 nical infrastructure to protect the environment
6 under applicable law; or

7 “(4) the training of employees that—

8 “(A) are engaged in the development of en-
9 ergy resources; or

10 “(B) are responsible for protecting the en-
11 vironment.

12 “(c) OTHER ASSISTANCE.—To the maximum extent
13 practicable, the Secretary and the Secretary of the Interior
14 shall make available to Indian tribes and tribal consortia
15 scientific and technical data for use in the development
16 and management of energy resources on Indian land.

17 **“SEC. 2605. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-**
18 **OF-WAY INVOLVING ENERGY DEVELOPMENT**
19 **OR TRANSMISSION.**

20 “(a) IN GENERAL.—Notwithstanding any other pro-
21 vision of law—

22 “(1) an Indian or Indian tribe may enter into
23 a lease or business agreement for the purpose of en-
24 ergy development, including a lease or business
25 agreement for—

1 “(A) exploration for, extraction of, proc-
2 essing of, or other development of energy re-
3 sources; and

4 “(B) construction or operation of—

5 “(i) an electric generation, trans-
6 mission, or distribution facility located on
7 tribal land; or

8 “(ii) a facility to process or refine en-
9 ergy resources developed on tribal land;
10 and

11 “(2) a lease or business agreement described in
12 paragraph (1) shall not require the approval of the
13 Secretary if—

14 “(A) the lease or business agreement is ex-
15 ecuted under tribal regulations approved by the
16 Secretary under subsection (e); and

17 “(B) the term of the lease or business
18 agreement does not exceed 30 years.

19 “(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC
20 TRANSMISSION OR DISTRIBUTION LINES.—An Indian
21 tribe may grant a right-of-way over the tribal land of the
22 Indian tribe for a pipeline or an electric transmission or
23 distribution line without specific approval by the Secretary
24 if—

1 “(1) the right-of-way is executed under and
2 complies with tribal regulations approved by the Sec-
3 retary under subsection (e);

4 “(2) the term of the right-of-way does not ex-
5 ceed 30 years; and

6 “(3) the pipeline or electric transmission or dis-
7 tribution line serves—

8 “(A) an electric generation, transmission,
9 or distribution facility located on tribal land; or

10 “(B) a facility located on tribal land that
11 processes or refines renewable or nonrenewable
12 energy resources developed on tribal land.

13 “(c) RENEWALS.—A lease or business agreement en-
14 tered into or a right-of-way granted by an Indian tribe
15 under this section may be renewed at the discretion of the
16 Indian tribe in accordance with this section.

17 “(d) VALIDITY.—No lease, business agreement, or
18 right-of-way under this section shall be valid unless the
19 lease, business agreement, or right-of-way is authorized in
20 accordance with tribal regulations approved by the Sec-
21 retary under subsection (e).

22 “(e) TRIBAL REGULATORY REQUIREMENTS.—

23 “(1) IN GENERAL.—An Indian tribe may sub-
24 mit to the Secretary for approval tribal regulations

1 governing leases, business agreements, and rights-of-
2 way under this section.

3 “(2) APPROVAL OR DISAPPROVAL.—

4 “(A) IN GENERAL.—Not later than 120
5 days after the date on which the Secretary re-
6 ceives tribal regulations submitted by an Indian
7 tribe under paragraph (1) (or such later date as
8 may be agreed to by the Secretary and the In-
9 dian tribe), the Secretary shall approve or dis-
10 approve the regulations.

11 “(B) CONDITIONS FOR APPROVAL.—The
12 Secretary shall approve tribal regulations sub-
13 mitted under paragraph (1) only if the regula-
14 tions include provisions that, with respect to a
15 lease, business agreement, or right-of-way
16 under this section—

17 “(i) ensure the acquisition of nec-
18 essary information from the applicant for
19 the lease, business agreement, or right-of-
20 way;

21 “(ii) address the term of the lease or
22 business agreement or the term of convey-
23 ance of the right-of-way;

24 “(iii) address amendments and renew-
25 als;

1 “(iv) address consideration for the
2 lease, business agreement, or right-of-way;

3 “(v) address technical or other rel-
4 evant requirements;

5 “(vi) establish requirements for envi-
6 ronmental review in accordance with sub-
7 paragraph (C);

8 “(vii) ensure compliance with all ap-
9 plicable environmental laws;

10 “(viii) identify final approval author-
11 ity;

12 “(ix) provide for public notification of
13 final approvals; and

14 “(x) establish a process for consulta-
15 tion with any affected States concerning
16 potential off-reservation impacts associated
17 with the lease, business agreement, or
18 right-of-way.

19 “(C) ENVIRONMENTAL REVIEW PROC-
20 ESS.—Tribal regulations submitted under para-
21 graph (1) shall establish, and include provisions
22 to ensure compliance with, an environmental re-
23 view process that, with respect to a lease, busi-
24 ness agreement, or right-of-way under this sec-
25 tion, provides for—

1 “(i) the identification and evaluation
2 of all significant environmental impacts (as
3 compared with a no-action alternative);

4 “(ii) the identification of proposed
5 mitigation;

6 “(iii) a process for ensuring that the
7 public is informed of and has an oppor-
8 tunity to comment on any proposed lease,
9 business agreement, or right-of-way before
10 tribal approval of the lease, business agree-
11 ment, or right-of-way (or any amendment
12 to or renewal of a lease, business agree-
13 ment, or right-of-way); and

14 “(iv) sufficient administrative support
15 and technical capability to carry out the
16 environmental review process.

17 “(3) PUBLIC PARTICIPATION.—The Secretary
18 may provide notice and opportunity for public com-
19 ment on tribal regulations submitted under para-
20 graph (1).

21 “(4) DISAPPROVAL.—If the Secretary dis-
22 approves tribal regulations submitted by an Indian
23 tribe under paragraph (1), the Secretary shall—

24 “(A) notify the Indian tribe in writing of
25 the basis for the disapproval;

1 “(B) identify what changes or other ac-
2 tions are required to address the concerns of
3 the Secretary; and

4 “(C) provide the Indian tribe with an op-
5 portunity to revise and resubmit the regula-
6 tions.

7 “(5) EXECUTION OF LEASE OR BUSINESS
8 AGREEMENT OR GRANTING OF RIGHT-OF-WAY.—If
9 an Indian tribe executes a lease or business agree-
10 ment or grants a right-of-way in accordance with
11 tribal regulations approved under this subsection,
12 the Indian tribe shall provide to the Secretary—

13 “(A) a copy of the lease, business agree-
14 ment, or right-of-way document (including all
15 amendments to and renewals of the document);
16 and

17 “(B) in the case of tribal regulations or a
18 lease, business agreement, or right-of-way that
19 permits payment to be made directly to the In-
20 dian tribe, documentation of those payments
21 sufficient to enable the Secretary to discharge
22 the trust responsibility of the United States as
23 appropriate under applicable law.

24 “(6) LIABILITY.—The United States shall not
25 be liable for any loss or injury sustained by any

1 party (including an Indian tribe or any member of
2 an Indian tribe) to a lease, business agreement, or
3 right-of-way executed in accordance with tribal regu-
4 lations approved under this subsection.

5 “(7) COMPLIANCE REVIEW.—

6 “(A) IN GENERAL.—After exhaustion of
7 tribal remedies, any person may submit to the
8 Secretary, in a timely manner, a petition to re-
9 view compliance of an Indian tribe with tribal
10 regulations of the Indian tribe approved under
11 this subsection.

12 “(B) ACTION BY SECRETARY.—The Sec-
13 retary shall—

14 “(i) not later than 60 days after the
15 date on which the Secretary receives a pe-
16 tition under subparagraph (A), review
17 compliance of an Indian tribe described in
18 subparagraph (A); and

19 “(ii) on completion of the review, if
20 the Secretary determines that an Indian
21 tribe is not in compliance with tribal regu-
22 lations approved under this subsection,
23 take such action as is necessary to compel
24 compliance, including—

1 “(I)(aa) rescinding a lease, busi-
2 ness agreement, or right-of-way under
3 this section; or

4 “(bb) suspending a lease, busi-
5 ness agreement, or right-of-way under
6 this section until an Indian tribe is in
7 compliance with tribal regulations;
8 and

9 “(II) rescinding approval of the
10 tribal regulations and reassuming the
11 responsibility for approval of leases,
12 business agreements, or rights-of-way
13 associated with an energy pipeline or
14 distribution line described in sub-
15 section (b).

16 “(C) COMPLIANCE.—If the Secretary seeks
17 to compel compliance of an Indian tribe with
18 tribal regulations under subparagraph (B)(ii),
19 the Secretary shall—

20 “(i) make a written determination
21 that describes the manner in which the
22 tribal regulations have been violated;

23 “(ii) provide the Indian tribe with a
24 written notice of the violation together
25 with the written determination; and

1 “(iii) before taking any action de-
2 scribed in subparagraph (B)(ii) or seeking
3 any other remedy, provide the Indian tribe
4 with a hearing and a reasonable oppor-
5 tunity to attain compliance with the tribal
6 regulations.

7 “(D) APPEAL.—An Indian tribe described
8 in subparagraph (C) shall retain all rights to
9 appeal as provided in regulations promulgated
10 by the Secretary.

11 “(f) AGREEMENTS.—

12 “(1) IN GENERAL.—Any agreement by an In-
13 dian tribe that relates to the development of an elec-
14 tric generation, transmission, or distribution facility,
15 or a facility to process or refine renewable or non-
16 renewable energy resources developed on tribal land,
17 shall not require the specific approval of the Sec-
18 retary under section 2103 of the Revised Statutes
19 (25 U.S.C. 81) if the activity that is the subject of
20 the agreement is carried out in accordance with this
21 section.

22 “(2) LIABILITY.—The United States shall not
23 be liable for any loss or injury sustained by any per-
24 son (including an Indian tribe or any member of an
25 Indian tribe) resulting from an action taken in per-

1 formance of an agreement entered into under this
2 subsection.

3 “(g) NO EFFECT ON OTHER LAW.—Nothing in this
4 section affects the application of any provision of—

5 “(1) the Act of May 11, 1938 (commonly
6 known as the ‘Indian Mineral Leasing Act of 1938’)
7 (25 U.S.C. 396a et seq.);

8 “(2) the Indian Mineral Development Act of
9 1982 (25 U.S.C. 2101 et seq.);

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

12 “(4) any Federal environmental law.

13 **“SEC. 2606. INDIAN ENERGY RESOURCE COMMISSION.**

14 “(a) ESTABLISHMENT.—There is established a com-
15 mission to be known as the ‘Indian Energy Resource Com-
16 mission’.

17 “(b) MEMBERS.—The Commission shall consist of—

18 “(1) 8 members appointed by the Secretary of
19 Interior, based on recommendations submitted by
20 Indian tribes with developable energy resources, at
21 least 4 of whom shall be elected tribal leaders;

22 “(2) 3 members appointed by the Secretary of
23 Interior, based on recommendations submitted by
24 the Governors of States in which are located—

25 “(A) 1 or more Indian reservations; or

1 “(B) Indian land with developable energy
2 resources;

3 “(3) 2 members appointed by the Secretary of
4 Interior from among individuals in the private sector
5 with expertise in tribal and State taxation of energy
6 resources;

7 “(4) 2 members appointed by the Secretary of
8 Interior from among individuals with expertise in oil
9 and gas royalty management administration, includ-
10 ing auditing and accounting;

11 “(5) 2 members appointed by the Secretary of
12 Interior from among individuals in the private sector
13 with expertise in energy development;

14 “(6) 1 member appointed by the Secretary of
15 Interior, based on recommendations submitted by
16 national environmental organizations;

17 “(7) the Secretary of the Interior; and

18 “(8) the Secretary.

19 “(c) APPOINTMENTS.—Members of the Commission
20 shall be appointed not later than 120 days after the date
21 of enactment of the Native American Energy Development
22 and Self-Determination Act of 2003.

23 “(d) VACANCIES.—A vacancy in the Commission—

24 “(1) shall be filled in the same manner as the
25 original appointment was made; and

1 “(2) shall not affect the powers of the Commis-
2 sion.

3 “(e) CHAIRPERSON.—The members of the Commis-
4 sion shall elect a Chairperson from among the members
5 of the Commission.

6 “(f) QUORUM.—Eleven members of the Commission
7 shall constitute a quorum, but a lesser number may hold
8 hearings and convene meetings.

9 “(g) ORGANIZATIONAL MEETING.—Not later than 30
10 days after the date on which at least 11 members have
11 been appointed to the Commission, the Commission shall
12 hold an organizational meeting to establish the rules and
13 procedures of the Commission.

14 “(h) COMPENSATION OF MEMBERS.—

15 “(1) NON-FEDERAL EMPLOYEES.—A member
16 of the Commission who is not an officer or employee
17 of the Federal Government shall be compensated at
18 a rate equal to the daily equivalent of the annual
19 rate of basic pay prescribed for level IV of the Exec-
20 utive Schedule under section 5315 of title 5, United
21 States Code, for each day (including travel time)
22 during which the member is engaged in the perform-
23 ance of the duties of the Commission.

24 “(2) FEDERAL EMPLOYEES.—A member of the
25 Commission who is an officer or employee of the

1 Federal Government shall serve without compensa-
2 tion in addition to the compensation received for the
3 services of the member as an officer or employee of
4 the Federal Government.

5 “(i) TRAVEL EXPENSES.—A member of the Commis-
6 sion shall be allowed travel expenses, including per diem
7 in lieu of subsistence, at rates authorized for an employee
8 of an agency under subchapter I of chapter 57 of title
9 5, United States Code, while away from the home or reg-
10 ular place of business of the member in the performance
11 of the duties of the Commission.

12 “(j) STAFF.—

13 “(1) IN GENERAL.—The Chairperson of the
14 Commission may, without regard to the civil service
15 laws (including regulations), appoint and terminate
16 an executive director and such other additional per-
17 sonnel as are necessary to enable the Commission to
18 perform the duties of the Commission.

19 “(2) CONFIRMATION OF EXECUTIVE DIREC-
20 TOR.—The employment of an executive director shall
21 be subject to confirmation by the Commission.

22 “(3) COMPENSATION.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), the Chairperson of the Com-
25 mission may fix the compensation of the execu-

1 tive director and other personnel without regard
2 to the provisions of chapter 51 and subchapter
3 III of chapter 53 of title 5, United States Code,
4 relating to classification of positions and Gen-
5 eral Schedule pay rates.

6 “(B) MAXIMUM RATE OF PAY.—The rate
7 of pay for the executive director and other per-
8 sonnel shall not exceed the rate payable for
9 level IV of the Executive Schedule under section
10 5316 of title 5, United States Code.

11 “(4) EXPERTS AND CONSULTANTS.—With the
12 approval of the Commission, the executive director
13 may retain and fix the compensation of experts and
14 consultants as the executive director considered nec-
15 essary to carry out the duties of the Commission.

16 “(5) DETAIL OF FEDERAL GOVERNMENT EM-
17 PLOYEES.—

18 “(A) IN GENERAL.—An employee of the
19 Federal Government may be detailed to the
20 Commission without reimbursement.

21 “(B) CIVIL SERVICE STATUS.—The detail
22 of the employee shall be without interruption or
23 loss of civil service status or privilege.

24 “(k) DUTIES OF COMMISSION.—The Commission
25 shall—

1 “(1) develop proposals to address dual taxation
2 by Indian tribes and States of the extraction of en-
3 ergy minerals on Indian land;

4 “(2) make recommendations to improve the
5 management, administration, accounting, and audit-
6 ing of royalties associated with the production of en-
7 ergy minerals on Indian land;

8 “(3) develop alternatives for the collection and
9 distribution of royalties associated with the produc-
10 tion of energy minerals on Indian land;

11 “(4) develop proposals for incentives to foster
12 the development of energy resources on Indian land;

13 “(5) identify barriers or obstacles to the devel-
14 opment of energy resources on Indian land, and
15 make recommendations designed to foster the devel-
16 opment of energy resources on Indian land, in order
17 to promote economic development;

18 “(6) develop proposals for the promotion of
19 vertical integration of energy resources on Indian
20 land; and

21 “(7) develop proposals on taxation incentives to
22 foster the development of energy resources on Indian
23 land, including investment tax credits and enterprise
24 zone credits.

1 “(1) POWERS OF COMMISSION.—The Commission or,
2 at the direction of the Commission, any subcommittee or
3 member of the Commission, may, for the purpose of car-
4 rying out this title—

5 “(1) hold such hearings, meet and act at such
6 times and places, take such testimony, receive such
7 evidence, and administer such oaths;

8 “(2) secure directly from any Federal agency
9 such information; and

10 “(3) require, by subpoena or otherwise, the at-
11 tendance and testimony of such witnesses and the
12 production of such books, records, correspondence,
13 memoranda, papers, documents, tapes, and mate-
14 rials;

15 as the Commission, subcommittee, or member considers
16 advisable.

17 “(m) COMMISSION REPORT.—

18 “(1) IN GENERAL.—Not later than 2 years
19 after the date of enactment of the Native American
20 Energy Development and Self-Determination Act of
21 2003, the Commission shall submit to the President,
22 the Committee on Resources of the House of Rep-
23 resentatives, and the Committee on Indian Affairs
24 and the Committee on Energy and Natural Re-
25 sources of the Senate, a report that describes the

1 proposals, recommendations, and alternatives de-
2 scribed in subsection (k).

3 “(2) REVIEW AND COMMENT.—Before submis-
4 sion of the report required under this subsection, the
5 Chairperson of the Commission shall provide to each
6 interested Indian tribe and each State in which is lo-
7 cated 1 or more Indian reservations or Indian land
8 with developable energy resources, a draft of the re-
9 port for review and comment.

10 “(n) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Commission such
12 sums as are necessary to carry out this section, to remain
13 available until expended.

14 “(o) TERMINATION.—The Commission shall termi-
15 nate 30 days after the date of submission of the report
16 under subsection (m)(1).

17 **“SEC. 2607. ENERGY EFFICIENCY AND STRUCTURES ON IN-
18 DIAN LAND.**

19 “(a) TECHNICAL ASSISTANCE TO NONPROFIT AND
20 COMMUNITY ORGANIZATIONS.—The Secretary of Housing
21 and Urban Development, in cooperation with Indian tribes
22 or tribally-designated housing entities of Indian tribes,
23 shall provide, to eligible (as determined by the Secretary
24 of Housing and Urban Development) nonprofit and com-

1 munity organizations, technical assistance to initiate and
2 expand the use of energy-saving technologies in—

3 “(1) new home construction;

4 “(2) housing rehabilitation; and

5 “(3) housing in existence as of the date of en-
6 actment of the Native American Energy Develop-
7 ment and Self-Determination Act of 2003.

8 “(b) REVIEW.—The Secretary of Housing and Urban
9 Development and the Secretary of the Interior, in con-
10 sultation with Indian tribes or tribally-designated housing
11 entities of Indian tribes, shall—

12 “(1) complete a review of regulations promul-
13 gated by the Secretary of Housing and Urban Devel-
14 opment and the Secretary of the Interior to identify
15 any feasible measures that may be taken to promote
16 greater use of energy efficient technologies in hous-
17 ing for which Federal assistance is provided under
18 the Native American Housing Assistance and Self-
19 Determination Act of 1996 (25 U.S.C. 4101 et
20 seq.);

21 “(2) develop energy efficiency and conservation
22 measures for use in connection with housing that
23 is—

24 “(A) located on Indian land; and

1 “(B) constructed, repaired, or rehabilitated
2 using assistance provided under any law or pro-
3 gram administered by the Secretary of Housing
4 and Urban Development or the Secretary of the
5 Interior, including—

6 “(i) the Native American Housing As-
7 sistance and Self-Determination Act of
8 1996 (25 U.S.C. 4101 et seq.); and

9 “(ii) the Indian Home Improvement
10 Program of the Bureau of Indian Affairs;
11 and

12 “(3) promote the use of the measures described
13 in paragraph (2) in programs administered by the
14 Secretary of Housing and Urban Development and
15 the Secretary of the Interior, as appropriate.

16 **“SEC. 2608. INDIAN MINERAL DEVELOPMENT REVIEW BY**
17 **SECRETARY OF THE INTERIOR.**

18 “(a) IN GENERAL.—As soon as practicable after the
19 date of enactment of the Native American Energy Devel-
20 opment and Self-Determination Act of 2003, the Secretary
21 of the Interior shall conduct and provide to the Secretary
22 a review of all activities being conducted under the Indian
23 Mineral Development Act of 1982 (25 U.S.C. 2101 et
24 seq.) as of that date.

1 “(b) REPORT.—Not later than 1 year after the date
2 of enactment of the Native American Energy Development
3 and Self-Determination Act of 2003, the Secretary shall
4 submit to the Committee on Resources and the Committee
5 on Energy and Commerce of the House of Representatives
6 and the Committee on Indian Affairs and the Committee
7 on Energy and Natural Resources of the Senate a report
8 that includes—

9 “(1) the results of the review;

10 “(2) recommendations to ensure that Indian
11 tribes have the opportunity to develop Indian energy
12 resources; and

13 “(3)(A) an analysis of the barriers to the devel-
14 opment of energy resources on Indian land (includ-
15 ing legal, fiscal, market, and other barriers); and

16 “(B) recommendations for the removal of those
17 barriers.

18 **“SEC. 2609. INDIAN ENERGY STUDY BY SECRETARY OF EN-**
19 **ERGY.**

20 “(a) IN GENERAL.—Not later than 2 years after the
21 date of enactment of the Native American Energy Devel-
22 opment and Self-Determination Act of 2003, and every 2
23 years thereafter, the Secretary shall submit to the Com-
24 mittees on Energy and Commerce and Resources of the
25 House of Representatives and the Committee on Energy

1 and Natural Resources and the Committee on Indian Af-
 2 fairs of the Senate a report on energy development poten-
 3 tial on Indian land.

4 “(b) REQUIREMENTS.—The report shall—

5 “(1) identify barriers to the development of re-
 6 newable energy by Indian tribes (including legal,
 7 regulatory, fiscal, and market barriers); and

8 “(2) include recommendations for the removal
 9 of those barriers.

10 **“SEC. 2610. CONSULTATION WITH INDIAN TRIBES.**

11 “In carrying out this title, the Secretary and the Sec-
 12 retary of Interior shall, as appropriate and to the max-
 13 imum extent practicable, involve and consult with Indian
 14 tribes in a manner that is consistent with the Federal
 15 trust and the government-to-government relationships be-
 16 tween Indian tribes and the Federal Government.”.

17 (b) ENERGY EFFICIENCY IN FEDERALLY-ASSISTED
 18 HOUSING.—

19 (1) FINDING.—Congress finds that the Sec-
 20 retary of Housing and Urban Development should
 21 promote energy conservation in housing that is lo-
 22 cated on Indian land and assisted with Federal re-
 23 sources through—

24 (A) the use of energy-efficient technologies
 25 and innovations (including the procurement of

1 energy-efficient refrigerators and other appli-
2 ances);

3 (B) the promotion of shared savings con-
4 tracts; and

5 (C) the use and implementation of such
6 other similar technologies and innovations as
7 the Secretary of Housing and Urban Develop-
8 ment considers to be appropriate.

9 (2) AMENDMENT.—Section 202(2) of the Na-
10 tive American Housing and Self-Determination Act
11 of 1996 (25 U.S.C. 4132(2)) is amended by insert-
12 ing “improvement to achieve greater energy effi-
13 ciency,” after “planning.”

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