

111TH CONGRESS  
2D SESSION

# S. 3752

To amend the Energy Policy Act of 1992 to 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

AUGUST 5, 2010

Mr. DORGAN (for himself, Mr. JOHNSON, Mr. THUNE, Mr. TESTER, Mr. UDALL of New Mexico, and Mr. FRANKEN) 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 streamline Indian energy development, to enhance programs to support Indian energy development and efficiency, to make technical corrections, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Indian Energy Parity Act of 2010”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings; purpose.

Sec. 3. Definitions.

#### TITLE I—ENERGY PLANNING

Sec. 101. Indian energy integration demonstration projects.

Sec. 102. Indian land predevelopment feasibility activities.

Sec. 103. Indian energy planning.

Sec. 104. Department of Energy Indian energy education planning and management assistance program.

Sec. 105. Appraisals.

Sec. 106. Technical assistance for Indian tribal governments.

Sec. 107. Indian hydroelectric provisions.

Sec. 108. Study on inclusion of Indian tribes in national and regional electrical infrastructure planning.

Sec. 109. Treatment of certain activities and resources as sustainable management practices.

Sec. 110. Indian land consolidation.

#### TITLE II—INDIAN ENERGY FINANCING

Sec. 201. Indian Energy Loan Guarantee Program.

Sec. 202. Improving access to capital for Indian tribes.

#### TITLE III—INDIAN ENERGY DEVELOPMENT AND ENERGY EFFICIENCY

Sec. 301. Leases on Indian land.

Sec. 302. Oil and gas fees on Indian land.

Sec. 303. Indian distributed energy and community transmission demonstration projects.

Sec. 304. Indian energy efficiency.

Sec. 305. Weatherization assistance for Indian tribes.

Sec. 306. Tribal Biomass Demonstration Project Act of 2010.

Sec. 307. Tribal energy resource agreements.

#### 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-  
 6 dian tribes to play an active role in developing tribal  
 7 energy resources;

8 (2) the laws described in paragraph (1)—

1 (A) are being implemented slowly; and

2 (B) require modification to overcome a  
3 century of Federal policies that have created  
4 uncertainty and inequality regarding tribal en-  
5 ergy development; and

6 (3) other Federal laws in effect on the date of  
7 enactment of this Act—

8 (A) create disincentives for investment in  
9 Indian country; and

10 (B) discourage Indian tribes from initi-  
11 ating energy development efforts.

12 (b) PURPOSE.—The purpose of this Act is to address  
13 problems relating to Indian energy development and effi-  
14 ciency, including—

15 (1) outdated laws and cumbersome regulations  
16 relating to tribal energy development;

17 (2) lack of tribal access to the transmission  
18 grid; and

19 (3) difficulty in obtaining financing and invest-  
20 ment for energy projects.

21 **SEC. 3. DEFINITIONS.**

22 Except as otherwise provided in this Act, in this Act:

23 (1) DEPARTMENT.—The term “Department”  
24 means the Department of the Interior.

1           (2) INDIAN LAND.—The term “Indian land”  
 2           has the meaning given the term in section 2601 of  
 3           the Energy Policy Act of 1992 (25 U.S.C. 3501).

4           (3) INDIAN TRIBE.—The term “Indian tribe”  
 5           has the meaning given the term in section 4 of the  
 6           Indian Self-Determination and Education Assistance  
 7           Act (25 U.S.C. 450b).

8           (4) SECRETARY.—The term “Secretary” means  
 9           the Secretary of the Interior.

## 10       **TITLE I—ENERGY PLANNING**

### 11       **SEC. 101. INDIAN ENERGY INTEGRATION DEMONSTRATION** 12               **PROJECTS.**

13       (a) DEFINITIONS.—In this section:

14           (1) AGENCY.—The term “agency” has the  
 15           meaning given the term in section 551 of title 5,  
 16           United States Code.

17           (2) AGENCY LEADER.—The term “Agency lead-  
 18           er” means 1 or more of the following:

19                   (A) The Secretary of Agriculture.

20                   (B) The Secretary of Commerce.

21                   (C) The Secretary of Energy.

22                   (D) The Secretary of Housing and Urban  
 23           Development.

24                   (E) The Administrator of the Environ-  
 25           mental Protection Agency.

1 (F) The Secretary of the Interior.

2 (G) The Secretary of Labor.

3 (H) The Secretary of Transportation.

4 (3) TRIBAL ENERGY DEVELOPMENT ORGANIZA-  
5 TION.—The term “tribal energy development organi-  
6 zation” has the meaning given the term in section  
7 2601 of the Energy Policy Act of 1992 (25 U.S.C.  
8 3501).

9 (b) SINGLE INTEGRATED PROGRAM.—

10 (1) IN GENERAL.—An Indian tribe or tribal en-  
11 ergy development organization may submit to the  
12 Secretary, and to applicable Agency leaders, a plan  
13 to fully integrate into a single, coordinated, com-  
14 prehensive program federally funded energy-related  
15 activities and programs (including programs for em-  
16 ployment training, energy planning, financing, con-  
17 struction, and related physical infrastructure and  
18 equipment).

19 (2) NO ADDITIONAL REQUIREMENTS.—The  
20 Agency leaders shall not impose any additional re-  
21 quirement or condition, additional budget, report,  
22 audit, or supplemental audit, or require additional  
23 documentation from, an Indian tribe or tribal energy  
24 development organization that has satisfied the plan  
25 criteria described in subsection (c).

## 1 (3) PROCEDURE.—

2 (A) IN GENERAL.—On receipt of a plan of  
3 an Indian tribe or a tribal energy development  
4 organization described in paragraph (1) that is  
5 in a form that the Secretary determines to be  
6 acceptable, the Secretary shall consult with the  
7 applicable Agency leaders to determine whether  
8 the proposed use of programs and services is in  
9 accordance with the eligibility rules and guide-  
10 lines on the use of agency funds.

11 (B) INTEGRATION.—If the Secretary and  
12 the applicable Agency leaders make a favorable  
13 determination pursuant to subparagraph (A),  
14 the Secretary shall authorize the Indian tribe or  
15 tribal energy development organization—

16 (i) to integrate and coordinate the  
17 programs and services described in para-  
18 graph (4) into a single, coordinated, and  
19 comprehensive program; and

20 (ii) to reduce administrative costs by  
21 consolidating administrative functions.

22 (4) DESCRIPTION OF ACTIVITIES.—The activi-  
23 ties referred to in paragraph (1) are federally funded  
24 energy-related activities and programs (including  
25 programs for employment training, energy planning,

1 financing, construction, and related physical infra-  
2 structure and equipment), including—

3 (A) any program under which an Indian  
4 tribe or tribal energy development organization  
5 is eligible to receive funds under a statutory or  
6 administrative formula;

7 (B) activities carried out using any funds  
8 an Indian tribe or members of the Indian tribe  
9 are entitled to under Federal law; and

10 (C) activities carried out using any funds  
11 an Indian tribe or a tribal energy development  
12 organization may secure as a result of a com-  
13 petitive process for the purpose of planning, de-  
14 signing, constructing, operating, or managing a  
15 renewable or nonrenewable energy project on  
16 Indian land.

17 (5) INVENTORY OF AFFECTED PROGRAMS.—

18 (A) REPORTS.—Not later than 90 days  
19 after the date of enactment of this Act, the  
20 Agency leaders shall—

21 (i) conduct a survey of the programs  
22 and services of the agency that are or may  
23 be included in the plan of an Indian tribe  
24 or tribal energy development organization  
25 under this subsection;

1 (ii) provide a description of the eligi-  
2 bility rules and guidelines on the manner  
3 in which the funds under the jurisdiction  
4 of the agency may be used; and

5 (iii) submit to the Secretary a report  
6 identifying those programs, services, rules,  
7 and guidelines.

8 (B) PUBLICATION.—Not later than 60  
9 days after the date of receipt of each report  
10 under subparagraph (A), the Secretary shall  
11 publish in the Federal Register a comprehensive  
12 list of the programs and services identified in  
13 the reports.

14 (c) PLAN REQUIREMENTS.—A plan submitted by an  
15 Indian tribe or tribal energy development organization  
16 under subsection (b) shall—

17 (1) identify the activities to be integrated;

18 (2) be consistent with the purposes of this sec-  
19 tion regarding the integration of the activities in a  
20 demonstration project;

21 (3) describe—

22 (A) the manner in which services are to be  
23 integrated and delivered; and

24 (B) the expected results of the plan;



1           (4) identify the projected expenditures under  
2 the plan in a single budget;

3           (5) identify each agency of the Indian tribe to  
4 be involved in the administration of activities or de-  
5 livery of the services integrated under the plan;

6           (6) address any applicable requirements of the  
7 Agency leaders for receiving funding from the feder-  
8 ally funded energy-related activities and programs  
9 under the jurisdiction of the Agency leaders, respec-  
10 tively;

11           (7) identify any statutory provisions, regula-  
12 tions, policies, or procedures that the Indian tribe  
13 recommends to be waived to implement the plan, in-  
14 cluding any of the requirements described in para-  
15 graph (6); and

16           (8) be approved by the governing body of the  
17 affected Indian tribe.

18 (d) APPROVAL PROCESS.—

19           (1) IN GENERAL.—Not later than 90 days after  
20 the receipt of a plan of an Indian tribe or tribal en-  
21 ergy development organization, the Secretary and  
22 applicable Agency leaders shall coordinate a single  
23 response to inform the Indian tribe or tribal energy  
24 development organization in writing of the deter-  
25 mination to approve or disapprove the plan, includ-

1       ing any request for a waiver that is made as part  
2       of the plan.

3               (2) PLAN DISAPPROVAL.—Any issue preventing  
4       approval of a plan under paragraph (1) shall be re-  
5       solved in accordance with subsection (e)(3).

6       (e) PLAN REVIEW; WAIVER AUTHORITY; DISPUTE  
7       RESOLUTION.—

8               (1) IN GENERAL.—On receipt of a plan of an  
9       Indian tribe or tribal energy development organiza-  
10      tion, the Secretary shall consult regarding the plan  
11      with—

12              (A) the applicable Agency leaders; and

13              (B) the governing body of the applicable  
14      Indian tribe.

15              (2) IDENTIFICATION OF WAIVERS.—

16              (A) IN GENERAL.—In carrying out the  
17      consultation described in paragraph (1), the  
18      Secretary, the applicable Agency leaders, and  
19      the governing body of the applicable Indian  
20      tribe shall identify the statutory, regulatory,  
21      and administrative requirements, policies, and  
22      procedures that must be waived to enable the  
23      Indian tribe or tribal energy development orga-  
24      nization to implement the plan.

1           (B) WAIVER AUTHORITY.—Notwith-  
2 standing any other provision of law, the appli-  
3 cable Agency leaders may waive any applicable  
4 regulation, administrative requirement, policy,  
5 or procedure identified under subparagraph (A)  
6 in accordance with the purposes of this section.

7           (C) TRIBAL REQUEST TO WAIVE.—In con-  
8 sultation with the Secretary and the applicable  
9 Agency leaders, an Indian tribe may request the  
10 applicable Agency leaders to waive a regulation,  
11 administrative requirement, policy, or procedure  
12 identified under subparagraph (A).

13           (D) DECLINATION OF WAIVER REQUEST.—  
14 If the applicable Agency leaders decline to  
15 grant a waiver requested under subparagraph  
16 (C), the applicable Agency leaders shall provide  
17 to the requesting Indian tribe and the Secretary  
18 written notice of the declination, including a de-  
19 scription of the reasons for the declination.

20           (3) DISPUTE RESOLUTION.—

21           (A) IN GENERAL.—The Secretary, in con-  
22 sultation with the Agency leaders, shall develop  
23 dispute resolution procedures to carry out this  
24 section.

1 (B) PROCEDURES.—If the Secretary deter-  
2 mines that a declination is inconsistent with the  
3 purposes of this section, or prevents the De-  
4 partment from fulfilling the obligations under  
5 subsection (f), the Secretary shall establish  
6 interagency dispute resolution procedures in-  
7 volving—

8 (i) the participating Indian tribe or  
9 tribal energy development organization;  
10 and

11 (ii) the applicable Agency leaders.

12 (4) FINAL DECISION.—In the event of a failure  
13 of the dispute resolution procedures under para-  
14 graph (3), the Secretary shall inform the applicable  
15 Indian tribe or tribal energy development organiza-  
16 tion of the final determination not later than 180  
17 days after the date of receipt of the plan.

18 (f) RESPONSIBILITIES OF DEPARTMENT.—

19 (1) MEMORANDUM OF AGREEMENT.—Not later  
20 than 180 days after the date of enactment of this  
21 Act, the Secretary and the Agency leaders shall  
22 enter into an interdepartmental memorandum of  
23 agreement that shall require and include—

24 (A) an annual meeting of participating In-  
25 dian tribes, tribal energy development organiza-

1 tions, and Agency leaders, to be co-chaired by  
2 a representative of the President and a rep-  
3 resentative of the participating Indian tribes  
4 and tribal energy development organizations;

5 (B) an annual review of the achievements  
6 made under this section and statutory, regu-  
7 latory, administrative, and policy obstacles that  
8 prevent participating Indian tribes and tribal  
9 energy development organizations from fully  
10 carrying out the purposes of this section;

11 (C) a forum comprised of participating In-  
12 dian tribes, tribal energy development organiza-  
13 tions, and agencies to identify and resolve inter-  
14 agency or Federal-tribal conflicts that occur in  
15 carrying out this section; and

16 (D) the dispute resolution procedures re-  
17 quired by subsection (e)(3).

18 (2) DEPARTMENT RESPONSIBILITIES.—The re-  
19 sponsibilities of the Department include—

20 (A) in accordance with paragraph (3), de-  
21 veloping a model single report for each ap-  
22 proved plan of an Indian tribe or tribal energy  
23 development organization regarding the activi-  
24 ties carried out and expenditures made under  
25 the plan;

1 (B) providing, subject to the consent of an  
2 Indian tribe or tribal energy development orga-  
3 nization with an approved plan under this sec-  
4 tion, technical assistance either directly or pur-  
5 suant to a contract;

6 (C) developing a single monitoring and  
7 oversight system for the plans approved under  
8 this section;

9 (D) receiving and distributing all funds  
10 covered by a plan approved under this section;  
11 and

12 (E) conducting any required investigation  
13 relating to a waiver or an interagency dispute  
14 resolution under this section.

15 (3) MODEL SINGLE REPORT.—The model single  
16 report described in paragraph (2)(A) shall—

17 (A) be developed by the Secretary, in ac-  
18 cordance with the requirements of this section;  
19 and

20 (B) together with records maintained at  
21 the Indian tribal level regarding the plan of the  
22 Indian tribe or tribal resource development or-  
23 ganization, contain such information as would  
24 allow a determination that the Indian tribe or  
25 tribal energy development organization—

1 (i) has complied with the require-  
2 ments incorporated in the applicable plan;  
3 and

4 (ii) will provide assurances to each ap-  
5 plicable agency that the Indian tribe or  
6 tribal energy development organization has  
7 complied with all directly applicable statu-  
8 tory and regulatory requirements.

9 (g) NO REDUCTION, DENIAL, OR WITHHOLDING OF  
10 FUNDS.—No Federal funds may be reduced, denied, or  
11 withheld as a result of participation by an Indian tribe  
12 or tribal energy development organization in the program  
13 under this section.

14 (h) INTERAGENCY FUND TRANSFERS.—

15 (1) IN GENERAL.—If a plan submitted by an  
16 Indian tribe or tribal energy development organiza-  
17 tion under this section is approved, the Secretary  
18 and the applicable Agency leaders shall take all nec-  
19 essary steps to effectuate interagency transfers of  
20 funds to the Department for distribution to the In-  
21 dian tribe or tribal energy development organization.

22 (2) COORDINATED AGENCY ACTION.—As part  
23 of an interagency transfer under paragraph (1), the  
24 applicable Agency leader shall provide the Depart-

1 ment a 1-time transfer of all required funds by not  
2 later than October 1 of each applicable fiscal year.

3 (3) AGENCIES NOT AUTHORIZED TO WITHHOLD  
4 FUNDS.—If a plan is approved under this section,  
5 none of the applicable Agency leaders may withhold  
6 funds for the plan.

7 (i) ADMINISTRATION; RECORDKEEPING; OVERAGE.—

8 (1) ADMINISTRATION OF FUNDS.—

9 (A) IN GENERAL.—The funds for a plan  
10 under this section shall be administered in a  
11 manner that allows for a determination that  
12 funds from a specific program (or an amount  
13 equal to the amount attracted from each pro-  
14 gram) shall be used for activities described in  
15 the plan.

16 (B) SEPARATE RECORDS NOT RE-  
17 QUIRED.—Nothing in this section requires an  
18 Indian tribe or tribal energy development orga-  
19 nization—

20 (i) to maintain separate records relat-  
21 ing to any service or activity conducted  
22 under the applicable plan for the program  
23 under which the funds were authorized; or

24 (ii) to allocate expenditures among  
25 those programs.



1 (2) ADMINISTRATIVE EXPENSES.—

2 (A) COMMINGLING.—Administrative funds  
3 for activities under a plan under this section  
4 may be commingled.

5 (B) ENTITLEMENT.—An Indian tribe or  
6 tribal energy development organization shall be  
7 entitled to the full amount of administrative  
8 costs for the activities of a plan under this sec-  
9 tion, in accordance with applicable regulations.

10 (C) OVERAGES.—No overage of adminis-  
11 trative costs for the activities of a plan under  
12 this section shall be counted for Federal audit  
13 purposes, if the overage is used for the pur-  
14 poses described in this section.

15 (j) SINGLE AUDIT ACT.—Nothing in this section  
16 interferes with the ability of the Secretary to fulfill the  
17 responsibilities for the safeguarding of Federal funds pur-  
18 suant to chapter 75 of title 31, United States Code (com-  
19 monly known as the “Single Audit Act”).

20 (k) TRAINING AND TECHNICAL ASSISTANCE.—

21 (1) IN GENERAL.—The Department, with the  
22 participation and assistance of the Agency leaders,  
23 shall conduct activities for technical assistance and  
24 training relating to plans under this section, includ-  
25 ing—

1 (A) orientation sessions for Indian tribal  
2 leaders;

3 (B) workshops on planning, operations,  
4 and procedures for employees of Indian tribes;

5 (C) training relating to case management,  
6 client assessment, education and training op-  
7 tions, employer involvement, and related topics;  
8 and

9 (D) the development and dissemination of  
10 training and technical assistance materials in  
11 printed form and over the Internet.

12 (2) ADMINISTRATION.—To effectively admin-  
13 ister the training and technical assistance activities  
14 under this subsection, the Department shall collabo-  
15 rate with an Indian tribe that has experience with  
16 federally funded energy-related activities and pro-  
17 grams (including programs for employment training,  
18 energy planning, financing, construction, and related  
19 physical infrastructure and equipment).

20 (3) AUTHORIZATION OF APPROPRIATIONS.—To  
21 carry out this subsection, there is authorized to be  
22 appropriated to the Department, \$500,000 for each  
23 of fiscal years 2011 through 2016, to remain avail-  
24 able until expended.

1 **SEC. 102. INDIAN LAND PREDEVELOPMENT FEASIBILITY**  
2 **ACTIVITIES.**

3 (a) **DEFINITION OF RENEWABLE ENERGY.**—In this  
4 section, the term “renewable energy” means electric en-  
5 ergy generated from—

6 (1) solar energy;

7 (2) wind energy;

8 (3) marine and hydrokinetic renewable energy;

9 (4) geothermal energy;

10 (5) instream hydrokinetic energy or micro-hy-  
11 droelectric projects;

12 (6) biomass; or

13 (7) landfill gas.

14 (b) **APPROVAL REQUIREMENT.**—Notwithstanding  
15 any other provision of law, including section 2103 of the  
16 Revised Statutes (25 U.S.C. 81), United States Code, no  
17 agreement for activities on Indian land shall require the  
18 review or approval of the Secretary of the Interior if the  
19 agreement—

20 (1) involves an activity for the purpose of con-  
21 ducting a scientific, geological, environmental, en-  
22 ergy, or other related and necessary study or assess-  
23 ment;

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

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

4           (4) applies for a period of less than 7 years;  
5 and

6           (5) is executed to study the feasibility of, or in  
7 preparation for, the development of a renewable en-  
8 ergy project on Indian land.

9 **SEC. 103. INDIAN ENERGY PLANNING.**

10       Section 2602(a) of the Energy Policy Act of 1992  
11 (25 U.S.C. 3502(a)) is amended by adding at the end the  
12 following:

13           “(4) PLANNING.—

14               “(A) IN GENERAL.—In carrying out the  
15 program established by paragraph (1), the Sec-  
16 retary shall provide assistance to interested In-  
17 dian tribes to develop energy plans, including—

18                       “(i) plans for electrification;

19                       “(ii) plans for oil and gas permitting,  
20 renewable energy permitting, energy effi-  
21 ciency, electricity generation, transmission  
22 planning, water planning, and other plan-  
23 ning relating to energy issues;

24                       “(iii) plans for the development of en-  
25 ergy resources and to ensure the protection

1 of natural, historic, and cultural resources;  
2 and

3 “(iv) any other plans that would as-  
4 sist an Indian tribe in the development or  
5 use of energy resources.

6 “(B) COOPERATION.—In establishing the  
7 program under paragraph (1), the Secretary  
8 shall work in cooperation with the Office of In-  
9 dian Energy Policy and Programs of the De-  
10 partment of Energy.”.

11 **SEC. 104. DEPARTMENT OF ENERGY INDIAN ENERGY EDU-  
12 CATION PLANNING AND MANAGEMENT AS-  
13 SISTANCE PROGRAM.**

14 Section 2602(b) of the Energy Policy Act of 1992  
15 (25 U.S.C. 3502(b)) is amended—

16 (1) in paragraph (2)—

17 (A) in the matter preceding subparagraph  
18 (A), by inserting “, intertribal organization,”  
19 after “Indian tribe”;

20 (B) by redesignating subparagraphs (C)  
21 and (D) as subparagraphs (D) and (E), respec-  
22 tively; and

23 (C) by inserting after subparagraph (B)  
24 the following:

1           “(C) activities to increase institutional sup-  
2           port of Indian tribes to manage energy develop-  
3           ment and energy efficiency programs;”; and  
4           (2) in paragraph (4)(A), by striking “may” and  
5           inserting “shall”.

6 **SEC. 105. APPRAISALS.**

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

10 **“SEC. 2608. APPRAISALS.**

11           “(a) OPTIONS FOR CONDUCTING APPRAISALS.—With  
12           respect to a transaction involving tribal land or the trust  
13           assets of an Indian tribe that requires the approval of the  
14           Secretary, any appraisal relating to fair market value re-  
15           quired to be conducted under applicable law may be con-  
16           ducted by—

17                   “(1) the Secretary;

18                   “(2) the affected Indian tribe; or

19                   “(3) a certified, third-party appraiser pursuant  
20           to a contract with the Indian tribe.

21           “(b) SECRETARIAL REVIEW AND APPROVAL.—Not  
22           later than 30 days after the date on which the Secretary  
23           receives an appraisal conducted by or for an Indian tribe  
24           pursuant to paragraphs (2) or (3) of subsection (a), the  
25           Secretary shall—

1 “(1) review the appraisal; and

2 “(2) provide to the Indian tribe a written notice  
3 of approval or disapproval of the appraisal.

4 “(c) REGULATIONS.—The Secretary shall develop  
5 regulations for implementing this section, including stand-  
6 ards the Secretary shall use for approving or disapproving  
7 an appraisal.”.

8 (b) CONFORMING AMENDMENT.—The table of con-  
9 tents of the Energy Policy Act of 1992 (42 U.S.C. 13201  
10 note) is amended by adding at the end of the items relat-  
11 ing to title XXVI the following:

“Sec. 2608. Appraisals.”.

12 **SEC. 106. TECHNICAL ASSISTANCE FOR INDIAN TRIBAL**  
13 **GOVERNMENTS.**

14 Section 2602(b) of the Energy Policy Act of 1992  
15 (25 U.S.C. 3502(b)) is amended—

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

18 (2) by inserting after paragraph (2) the fol-  
19 lowing:

20 “(3) TECHNICAL AND SCIENTIFIC RE-  
21 SOURCES.—In addition to providing grants to Indian  
22 tribes under this subsection, the Secretary shall col-  
23 laborate with the Directors of the National Labora-  
24 tories in making the full array of technical and sci-

1       entific resources of the Department of Energy avail-  
2       able for tribal energy activities and projects.”.

3 **SEC. 107. INDIAN HYDROELECTRIC PROVISIONS.**

4       Section 7(a) of the Federal Power Act (16 U.S.C.  
5 800(a)) is amended—

6           (1) by striking “In issuing” and inserting “(1)  
7       IN GENERAL.—In issuing”; and

8           (2) in paragraph (1) (as so designated)—

9               (A) by striking “States and municipalities”  
10              and inserting “States, Indian tribes, and mu-  
11              nicipalities”; and

12              (B) by adding at the end the following:

13              “(2) EFFECT.—Nothing in this subsection shall  
14              affect—

15                      “(A) any preliminary permit or original li-  
16                      cense issued before the date of enactment of the  
17                      Indian Energy Parity Act of 2010; or

18                      “(B) an application for an original license,  
19                      if the Commission has issued a notice accepting  
20                      such application for filing pursuant to section  
21                      4.32(d) of title 18, Code of Federal Regulations  
22                      (or successor regulation) before the date of en-  
23                      actment of the Indian Energy Parity Act of  
24                      2010.



1           “(3) DEFINITION OF INDIAN TRIBE.—In this  
2 section, the term ‘Indian tribe’ has the meaning  
3 given the term in section 4 of the Indian Self-Deter-  
4 mination and Education Assistance Act (25 U.S.C.  
5 450b).”.

6 **SEC. 108. STUDY ON INCLUSION OF INDIAN TRIBES IN NA-**  
7 **TIONAL AND REGIONAL ELECTRICAL INFRA-**  
8 **STRUCTURE PLANNING.**

9 (a) STUDY.—

10 (1) IN GENERAL.—The Secretary of Energy, in  
11 consultation with Indian tribes, intertribal organiza-  
12 tions, the Secretary of the Interior, the Federal En-  
13 ergy Regulatory Commission, the Federal power  
14 marketing administrations, regional transmission op-  
15 erators, national, regional, and local electric trans-  
16 mission providers, electric utilities, electric coopera-  
17 tives, electric utility organizations, and other inter-  
18 ested stakeholders, shall conduct a study to assess—

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

23 (B) the electrical transmission needs relat-  
24 ing to carrying that energy to the market.

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 Conti-  
5 nental Shelf adjacent to Indian land, from re-  
6 newable energy resources;

7           (B) identify existing electrical transmission  
8 infrastructure on, and available to provide serv-  
9 ice to, Indian land;

10          (C) identify relevant potential electric  
11 transmission routes and paths that can carry  
12 electricity 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

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

4 (b) REPORT.—Not later than 1 year after the date  
5 of enactment of this Act, the Secretary shall submit to  
6 Congress a report describing the results of the study under  
7 subsection (a).

8 **SEC. 109. TREATMENT OF CERTAIN ACTIVITIES AND RE-**  
9 **SOURCES AS SUSTAINABLE MANAGEMENT**  
10 **PRACTICES.**

11 (a) NATIONAL INDIAN FOREST RESOURCES MAN-  
12 AGEMENT ACT.—The National Indian Forest Resources  
13 Management Act (25 U.S.C. 3101 et seq.) is amended by  
14 adding at the end the following:

15 **“SEC. 322. TREATMENT OF CERTAIN ACTIVITIES AND RE-**  
16 **SOURCES AS SUSTAINABLE MANAGEMENT**  
17 **PRACTICES.**

18 “Unless otherwise specifically exempted by Federal  
19 law, any activity conducted, or resource harvested or pro-  
20 duced, pursuant to a forest management plan, including  
21 a tribal integrated resource management plan, approved  
22 by the Secretary under this Act shall be considered a sus-  
23 tainable management practice for the purposes of any ap-  
24 plicable Federal standard, benefit, or requirement that re-  
25 quires a demonstration of sustainability.”.

1 (b) AMERICAN INDIAN AGRICULTURAL RESOURCE  
2 MANAGEMENT ACT.—Section 101 of the American Indian  
3 Agricultural Resource Management Act (25 U.S.C. 3711)  
4 is amended by adding at the end the following:

5 “(c) TREATMENT OF CERTAIN ACTIVITIES AND RE-  
6 SOURCES AS SUSTAINABLE MANAGEMENT PRACTICES.—  
7 Unless otherwise specifically exempted by Federal law, any  
8 activity conducted, or resource harvested or produced,  
9 pursuant to an agricultural resource management plan, in-  
10 cluding an integrated resource management plan, ap-  
11 proved by the Secretary under this section shall be consid-  
12 ered to be a sustainable management practice for the pur-  
13 poses of any applicable Federal standard, benefit, or re-  
14 quirement that requires a demonstration of sustain-  
15 ability.”.

16 **SEC. 110. INDIAN LAND CONSOLIDATION.**

17 (a) DEFINITIONS.—Section 202(6) of the Indian  
18 Land Consolidation Act (25 U.S.C. 2201(6)) is amend-  
19 ed—

20 (1) in subparagraph (A), by striking “50 or  
21 more but less than 100” and inserting “not less  
22 than 20, but not more than 49,”; and

23 (2) in subparagraph (B), by striking “100” and  
24 inserting “50”.

1 (b) PURCHASE OF TRUST OR RESTRICTED OR CON-  
2 TROLLED LANDS AT NO LESS THAN FAIR MARKET  
3 VALUE.—Section 205(c) of the Indian Land Consolidation  
4 Act (25 U.S.C. 2204(c)) is amended—

5 (1) in paragraph (1), by striking “paragraph  
6 (2)(B)” and inserting “paragraph (2)(C)”; and

7 (2) in paragraph (2)—

8 (A) in subparagraph (A)—

9 (i) by redesignating clauses (i) and  
10 (ii) as subclauses (I) and (II), respectively,  
11 and indenting the subclauses appropriately;

12 (ii) in the matter preceding subclause  
13 (I) (as so redesignated), by striking “Upon  
14 receipt of any payment or bond required  
15 under subparagraph (B), the” and insert-  
16 ing the following:

17 “(i) IN GENERAL.—Subject to clause  
18 (ii), the”;

19 (iii) in subclause (I) (as so redesign-  
20 ated), by inserting “on the date of sub-  
21 mission of the application” before the  
22 semicolon;

23 (iv) by striking subclause (II) (as so  
24 redesignated) and inserting the following:

25 “(II) any individual who—

1                   “(aa) owns an undivided  
2 trust or restricted interest in the  
3 parcel of land on the date of sub-  
4 mission of the application; and

5                   “(bb) is a member, or is eli-  
6 gible to be a member, of an In-  
7 dian tribe.”; and

8                   (v) in the matter following subclause  
9 (II) (as so redesignated), by striking “pro-  
10 vided that no such application” and insert-  
11 ing the following:

12                   “(ii) DATE OF RECEIPT.—No applica-  
13 tion submitted under clause (i)”;

14                   (B) in subparagraph (B)—

15                   (i) in the first sentence, by striking  
16 “The costs” and inserting the following:

17                   “(i) IN GENERAL.—Except as other-  
18 wise provided in this subparagraph, the  
19 Secretary may require that the costs”;

20                   (ii) in the second sentence, by striking  
21 “Upon receiving” and inserting the fol-  
22 lowing:

23                   “(ii) ACTION ON RECEIPT OF NO-  
24 TICE.—On receipt of a”; and

1 (iii) by striking the third sentence and  
2 inserting the following:

3 “(iii) WAIVER.—The Secretary shall  
4 waive a payment or bond requirement  
5 under this subparagraph if the Secretary  
6 determines that—

7 “(I) the waiver will support the  
8 policies of this Act; or

9 “(II) partitioning the applicable  
10 parcel will result in avoidance of fu-  
11 ture costs and expenses of the United  
12 States in administering the parcel, in  
13 an amount that exceeds the estimated  
14 costs of serving and publishing no-  
15 tice.”;

16 (C) in subparagraph (D)—

17 (i) in clause (i)—

18 (I) by striking the clause des-  
19 ignation and heading and all that fol-  
20 lows through “(III) the owners” and  
21 inserting the following:

22 “(i) CONSENT.—

23 “(I) PARCELS WITH VALUABLE  
24 INTERESTS.—A parcel of land may be  
25 partitioned under this subsection only

1 if the applicant obtains the written  
2 consent of the owners”;

3 (II) by striking “\$1,500.” and  
4 inserting “\$5,000.”;

5 (III) in the second sentence, by  
6 striking “Any consent” and inserting  
7 the following:

8 “(III) REQUIREMENTS.—Any  
9 consent”; and

10 (IV) by inserting before sub-  
11 clause (III) (as so redesignated) the  
12 following:

13 “(II) TRIBAL INTERESTS AND  
14 OWNER OCCUPANTS.—

15 “(aa) IN GENERAL.—Except  
16 as provided in item (bb), the par-  
17 tition sale of a parcel of highly  
18 fractionated Indian land pursu-  
19 ant to this subsection shall not  
20 include, and the purchaser shall  
21 acquire the parcel subject to, any  
22 trust or restricted interest in the  
23 parcel owned by—



1                   “(AA) the Indian tribe  
2                   with jurisdiction over the  
3                   parcel; or

4                   “(BB) an individual  
5                   who, for the 3-year period  
6                   immediately preceding the  
7                   date on which the Secretary  
8                   receives the application for  
9                   the sale, has continuously  
10                  resided or operated a bona  
11                  fide farm, ranch, or other  
12                  business on the parcel.

13                  “(bb) EXCEPTION.—Item  
14                  (aa) shall not apply if the Indian  
15                  tribe or individual described in  
16                  subitem (AA) or (BB), respec-  
17                  tively, of item (aa) consents to  
18                  the sale of the relevant trust or  
19                  restricted interest at the partition  
20                  sale.”; and

21                  (ii) in clause (ii), by striking “clause  
22                  (i)(III)” and inserting “clause (i)(I)”;

23                  (D) in subparagraph (F)(i), in the matter  
24                  preceding subclause (I), by striking “stating”

1 and inserting “that provides to the owner infor-  
2 mation regarding”;

3 (E) in subparagraph (H)—

4 (i) in clause (iii), by striking “para-  
5 graph (2)(D)” and inserting “subpara-  
6 graph (D)(i)(I)”;

7 (ii) in clause (v), by striking subclause  
8 (I) and inserting the following:

9 “(I) the determination that the  
10 parcel of land meets the requirements  
11 of section 202(6); and”;

12 (iii) in clause (vii), by striking  
13 “\$1,500 pursuant to paragraph  
14 (2)(D)(iii)” and inserting “\$5,000 pursu-  
15 ant to subparagraph (D)(i)(I)”;

16 (F) in subparagraph (I)—

17 (i) in clause (i), by striking “para-  
18 graph (2)(D)” and inserting “subpara-  
19 graph (D)(i)(I)”;

20 (ii) in clause (iii)(II), by striking item  
21 (aa) and inserting the following:

22 “(aa) greater than the total  
23 undivided interest held by any  
24 other co-owner; and”;

25 (G) in subparagraph (K)—

1 (i) in clause (i), by striking “may ei-  
 2 ther—” and all that follows through the  
 3 end of subclause (I) and inserting the fol-  
 4 lowing: “may—

5 “(I) purchase the land being  
 6 sold, for the appraised fair market  
 7 value of the land, on behalf of the In-  
 8 dian tribe with jurisdiction over the  
 9 land, subject to the lien and proce-  
 10 dures described in section 214(b); or”;  
 11 and

12 (ii) in clause (ii)—

13 (I) by striking “any applicable  
 14 consent” and inserting “the consent”;  
 15 and

16 (II) by striking “subparagraph  
 17 (D)” and inserting “subparagraph  
 18 (D)(i)(I)”.

19 (c) APPLICATION OF REVENUE FROM ACQUIRED IN-  
 20 TERESTS TO LAND CONSOLIDATION PROGRAM.—Section  
 21 214(b) of the Indian Land Consolidation Act (25 U.S.C.  
 22 2213(b)) is amended by adding at the end the following:

23 “(6) TRIBAL AUTHORITY TO APPLY REVENUES  
 24 AGAINST OTHER LIENS.—

1           “(A) IN GENERAL.—On receipt of a writ-  
2           ten request of the governing body of an Indian  
3           tribe with 1 or more beneficial interests in land  
4           received pursuant to section 213(a)(3), the Sec-  
5           retary shall credit any revenues derived from  
6           those beneficial interests against any lien under  
7           paragraph (1) on revenues from 1 or more  
8           other beneficial interests of that Indian tribe  
9           (regardless of whether such a beneficial interest  
10          is in the same tract of land), as specified in the  
11          request.

12           “(B) AMENDMENT OR REVOCATION OF RE-  
13          QUEST.—The governing body of an Indian tribe  
14          may amend or revoke, in writing, a request sub-  
15          mitted under subparagraph (A) if, as deter-  
16          mined by the Secretary, the amendment or rev-  
17          ocation does not affect the application of reve-  
18          nues made by the Secretary pursuant to that  
19          subparagraph before the date on which the  
20          amendment or revocation is received by the Sec-  
21          retary.”.

22          (d) OWNER-MANAGED INTERESTS.—Section 221 of  
23          the Indian Land Consolidation Act (25 U.S.C. 2220) is  
24          amended—

25                 (1) in subsection (c)—

1 (A) in paragraph (1), by striking “agricul-  
2 tural purposes for a term not to exceed 10  
3 years.” and inserting “any purpose authorized  
4 by the first section of the Act of August 9,  
5 1959 (25 U.S.C. 415), or any applicable law of  
6 the Indian tribe with jurisdiction over the land,  
7 for a term of not more than 25 years, which  
8 may be renewed for an additional period of not  
9 more than 25 years.”; and

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

11 “(3) PROHIBITED USES.—Notwithstanding  
12 paragraph (1), any lease entered into under that  
13 paragraph shall include a provision expressly prohib-  
14 iting the use of the leased parcel for storing or proc-  
15 essing hazardous wastes or materials of any kind.

16 “(4) INCLUSION OF NECESSARY AND REASON-  
17 ABLE ACCESS IN LEASES.—

18 “(A) IN GENERAL.—Notwithstanding any  
19 other provision of law, any lease authorized by  
20 this section may include provisions for 1 or  
21 more access routes to serve, or assist in car-  
22 rying out, the purposes of the lease provided  
23 that the term or renewal term of any access  
24 provisions does not exceed, respectively, the  
25 term or renewal term of the lease.

1           “(B) COMPENSATION.—If provisions re-  
 2           garding necessary and reasonable access are in-  
 3           cluded in a lease under subparagraph (A), com-  
 4           pensation for the provisions regarding access  
 5           shall be included in the lease.

6           “(C) NONAPPLICABILITY.—Any access  
 7           provision in a lease described in subparagraph  
 8           (A) shall not—

9                   “(i) be considered a right-of-way; or

10                   “(ii) invoke any Federal law, regula-  
 11                   tion, or standard relating to rights-of-way,  
 12                   including provisions in the Act of February  
 13                   5, 1948 (25 U.S.C. 323 et seq.).”;

14           (2) in subsection (d)—

15                   (A) in paragraph (1), in the first sen-  
 16                   tence—

17                           (i) by striking “shall approve” and in-  
 18                           serting “may disapprove”; and

19                           (ii) by striking “unless” and inserting  
 20                           “only if”; and

21                   (B) in paragraph (2)—

22                           (i) by striking “Notwithstanding” and  
 23                           inserting the following:

24                           “(A) IN GENERAL.—Notwithstanding”;

25                   and

1 (ii) by adding at the end the fol-  
2 lowing:

3 “(B) EFFECTIVE DATE.—The owner-man-  
4 aged status of a trust or restricted interest in  
5 a parcel of land under subparagraph (A) shall  
6 take effect on the date on which all applications  
7 are approved by the Secretary under that sub-  
8 paragraph.”;

9 (3) in subsection (i)(1)—

10 (A) by striking subparagraph (A) and in-  
11 sserting the following:

12 “(A) subject to subparagraph (B)—

13 “(i) an owner of a trust or restricted  
14 interest in a parcel of land; or”;

15 (B) in subparagraph (B), by striking “(B)  
16 the parent” and inserting the following:

17 “(ii) the parent”; and

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

19 “(B) The term ‘qualified applicant’ does  
20 not include an individual under the age of 18  
21 or an incompetent person.”; and

22 (4) in subsection (j), by striking “(including  
23 leases with terms of a duration in excess of 10  
24 years)” and inserting “(including leases with terms

1 or renewal terms the duration of which exceed 25  
2 years)”.  
3

## 4 **TITLE II—INDIAN ENERGY** 5 **FINANCING**

### 6 **SEC. 201. INDIAN ENERGY LOAN GUARANTEE PROGRAM.**

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

9 (1) in paragraph (1)—

10 (A) by striking the paragraph designation  
11 and all that follows through “may provide” and  
12 inserting the following:

13 “(1) REQUIREMENT.—Subject to paragraph  
14 (4), not later than 1 year after the date of enact-  
15 ment of the Indian Energy Parity Act of 2010, the  
16 Secretary of Energy shall provide”; and

17 (B) by striking “any loan made to an In-  
18 dian tribe for energy development” and insert-  
19 ing “such loans made to Indian tribes or tribal  
20 energy development organizations for energy  
21 development, energy transmission projects, or  
22 the integration of energy resources as the Sec-  
23 retary determines to be appropriate”;

24 (2) in paragraph (3), by striking the paragraph  
25 designation and all that follows through “made by—  
” and inserting the following:



1           “(3) ELIGIBLE PROVIDERS OF LOANS.—A loan  
2           for which a loan guarantee is provided under this  
3           subsection shall be made by—”;

4           (3) in paragraph (4)—

5           (A) by striking “(4) The aggregate” and  
6           inserting the following:

7           “(4) LIMITATIONS.—

8           “(A)        AGGREGATE        OUTSTANDING  
9           AMOUNT.—The aggregate”;

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

11          “(B) SPECIFIC APPROPRIATION OR CON-  
12          TRIBUTION.—No loan guarantee may be pro-  
13          vided under this subsection unless—

14               “(i) an appropriation for the cost of  
15               the guarantee has been made; or

16               “(ii) the Secretary of Energy has—

17                       “(I) received from the borrower a  
18                       payment in full for the cost of the ob-  
19                       ligation; and

20                       “(II) deposited the payment into  
21                       the Treasury.”;

22          (4) in paragraph (5), by striking the paragraph  
23          designation and all that follows through “may issue”  
24          and inserting the following:

1           “(5) REGULATIONS.—The Secretary of Energy  
2 shall promulgate”; and

3           (5) in paragraph (7), by striking “1 year after  
4 the date of enactment of this section” and inserting  
5 “2 years after the date of enactment of the Indian  
6 Energy Parity Act of 2010”.

7 **SEC. 202. IMPROVING ACCESS TO CAPITAL FOR INDIAN**  
8 **TRIBES.**

9           Section 201 of the Indian Financing Act of 1974 (25  
10 U.S.C. 1481) is amended by adding at the end the fol-  
11 lowing:

12           “(c) IMPROVING ACCESS TO CAPITAL FOR INDIAN  
13 TRIBES.—The Secretary shall consider more favorable eq-  
14 uity terms or allow an increase in loan guarantees from  
15 90 percent up to 95 percent of the unpaid principal and  
16 interest due on any loan made under this section for en-  
17 ergy development or manufacturing carried out on Indian  
18 land or within a tribal service area recognized by the Bu-  
19 reau of Indian Affairs.”.

20 **TITLE III—INDIAN ENERGY DE-**  
21 **VELOPMENT AND ENERGY EF-**  
22 **FICIENCY**

23 **SEC. 301. LEASES ON INDIAN LAND.**

24           (a) ACT OF MARCH 3, 1909.—The twelfth undesig-  
25 nated paragraph under the heading “COMMISSIONER” of

1 title I of the Act of March 3, 1909 (25 U.S.C. 396), is  
2 amended—

3 (1) by striking “That all lands” and inserting  
4 the following:

5 “(a) LEASES.—All land”; and

6 (2) by adding at the end the following:

7 “(b) ACCESS.—

8 “(1) IN GENERAL.—To carry out this section,  
9 reasonable and necessary access over allotted land  
10 may be granted in accordance with paragraph (2).

11 “(2) INCLUSION OF NECESSARY AND REASON-  
12 ABLE ACCESS IN LEASES.—

13 “(A) IN GENERAL.—Notwithstanding any  
14 other provision of law, a lease described in sub-  
15 section (a) may include provisions regarding ac-  
16 cess to the land or minerals that are reasonable  
17 and necessary for mining purposes on the  
18 leased land.

19 “(B) COMPENSATION.—If provisions re-  
20 garding necessary and reasonable access are in-  
21 cluded in a lease under subparagraph (A), com-  
22 pensation for the provisions shall be included in  
23 the lease.

1           “(C) NONAPPLICABILITY.—Any access  
2           provision in a lease described in subsection (a)  
3           shall not—

4                     “(i) be considered a right-of-way; or

5                     “(ii) invoke any Federal law, regula-  
6           tion, or standard relating to rights-of-way,  
7           including provisions in the Act of February  
8           5, 1948 (25 U.S.C. 323 et seq.).”.

9           (b) INDIAN MINERAL LEASING ACT OF 1938.—The  
10          first section of the Act of May 11, 1938 (25 U.S.C. 396a)  
11          (commonly known as the “Indian Mineral Leasing Act of  
12          1938”), is amended—

13                   (1) by striking “That hereafter unallotted lands  
14          within” and inserting the following:

15                   “(a) LEASES.—Effective beginning on May 11, 1938,  
16          the unallotted land within”; and

17                   (2) by adding at the end the following:

18                   “(b) ACCESS.—

19                   “(1) IN GENERAL.—To carry out this Act, rea-  
20          sonable and necessary access over the land described  
21          in subsection (a) may be granted in accordance with  
22          paragraph (2).

23                   “(2) INCLUSION OF NECESSARY AND REASON-  
24          ABLE ACCESS IN LEASES.—

1           “(A) IN GENERAL.—Notwithstanding any  
2 other provision of law, a lease described in sub-  
3 section (a) may include provisions regarding ac-  
4 cess to the land or minerals that are necessary  
5 and reasonable for mining purposes on the  
6 leased land.

7           “(B) COMPENSATION.—If provisions re-  
8 garding necessary and reasonable access are in-  
9 cluded in a lease under subparagraph (A), com-  
10 pensation for the provisions regarding access  
11 shall be included in the lease.

12           “(C) NONAPPLICABILITY.—Any access  
13 provision in a lease described in subsection (a)  
14 shall not—

15                   “(i) be considered a right-of-way; or

16                   “(ii) invoke any Federal law, regula-  
17 tion, or standard relating to rights-of-way,  
18 including provisions in the Act of February  
19 5, 1948 (25 U.S.C. 323 et seq.).”.

20           (c) LONG-TERM LEASING ACT.—Subsection (a) of  
21 the first section of the Act of August 9, 1955 (25 U.S.C.  
22 415(a)) (commonly known as the “Long-Term Leasing  
23 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) EXCEPTIONS.—

20           “(i) IN GENERAL.—The term of a  
21           lease of tribally owned or individually  
22           owned restricted Indian land under para-  
23           graph (1) for grazing purposes shall not  
24           exceed 10 years.

1                   “(ii) LAND HELD IN TRUST FOR THE  
2 MORONGO BAND OF MISSION INDIANS.—  
3 The term of a lease of land held in trust  
4 for the Morongo Band of Mission Indians  
5 shall not exceed 50 years.

6                   “(iii) RENEWALS.—A lease of individ-  
7 ually owned restricted land may be re-  
8 newed for a term not to exceed 25 years,  
9 with the consent of both parties to the  
10 lease.”;

11                   (3) in the third sentence, by striking “Leases  
12 for public” and all that follows through “twenty-five  
13 years, and all” and inserting the following:

14                   “(3) APPROVAL BY SECRETARY.—

15                   “(A) IN GENERAL.—All”; and

16                   (4) in the fourth sentence, by striking “Prior to  
17 approval of” and inserting the following:

18                   “(B) REQUIREMENTS FOR APPROVAL.—  
19 Before approving”.

20                   (d) APPROVAL OF, AND REGULATIONS RELATED TO,  
21 TRIBAL LEASES.—The first section of the Act titled “An  
22 Act to authorize the leasing of restricted Indian lands for  
23 public, religious, educational, recreational, residential,  
24 business, and other purposes requiring the grant of long-

1 term leases”, approved August 9, 1955 (25 U.S.C. 415),  
2 is amended as follows:

3 (1) In subsection (d)—

4 (A) in paragraph (4), by striking “the  
5 Navajo Nation” and inserting “an applicable  
6 Indian tribe”;

7 (B) in paragraph (6), by striking “the  
8 Navajo Nation” and inserting “an Indian  
9 tribe”;

10 (C) in paragraph (7), by striking “and”  
11 after the semicolon at the end;

12 (D) in paragraph (8)—

13 (i) by striking “the Navajo Nation”;

14 (ii) by striking “with Navajo Nation  
15 law” and inserting “with applicable tribal  
16 law”; and

17 (iii) by striking the period at the end  
18 and inserting a semicolon; and

19 (E) by adding at the end the following:

20 “(9) the term ‘Indian tribe’ has the meaning  
21 given such term in section 102 of the Federally Rec-  
22 ognized Indian Tribe List Act of 1994 (25 U.S.C.  
23 479a); and

24 “(10) the term ‘individually owned allotted  
25 land’ means a parcel of land that—



1           “(A)(i) is located within the jurisdiction of  
2           an Indian tribe; or

3           “(ii) is held in trust or restricted status by  
4           the United States for the benefit of an Indian  
5           tribe or a member of an Indian tribe; and

6           “(B) is allotted to a member of an Indian  
7           tribe.”.

8           (2) By adding at the end the following:

9           “(h) TRIBAL APPROVAL OF LEASES.—

10           “(1) IN GENERAL.—At the discretion of any In-  
11           dian tribe, any lease by the Indian tribe for the pur-  
12           poses authorized under subsection (a) (including any  
13           amendments to subsection (a)), except a lease for  
14           the exploration, development, or extraction of any  
15           mineral resources, shall not require the approval of  
16           the Secretary, if the lease is executed under the trib-  
17           al regulations approved by the Secretary under this  
18           subsection and the term of the lease does not ex-  
19           ceed—

20           “(A) in the case of a business or agricul-  
21           tural lease, 25 years, except that any such lease  
22           may include an option to renew for up to 2 ad-  
23           ditional terms, each of which may not exceed 25  
24           years; and

1           “(B) in the case of a lease for public, reli-  
2           gious, educational, recreational, or residential  
3           purposes, 75 years, if such a term is provided  
4           for by the regulations issued by the Indian  
5           tribe.

6           “(2) ALLOTTED LAND.—Paragraph (1) shall  
7           not apply to any lease of individually owned Indian  
8           allotted land.

9           “(3) AUTHORITY OF SECRETARY OVER TRIBAL  
10          REGULATIONS.—

11           “(A) IN GENERAL.—The Secretary shall  
12           have the authority to approve or disapprove any  
13           tribal regulations issued in accordance with  
14           paragraph (1).

15           “(B) CONSIDERATIONS FOR APPROVAL.—  
16           The Secretary shall approve any tribal regula-  
17           tion issued in accordance with paragraph (1), if  
18           the tribal regulations—

19                   “(i) are consistent with any regula-  
20                   tions issued by the Secretary under sub-  
21                   section (a) (including any amendments to  
22                   the subsection or regulations); and

23                   “(ii) provide for an environmental re-  
24                   view process that includes—

1           “(I) the identification and eval-  
2           uation of any significant effects of the  
3           proposed action on the environment;  
4           and

5           “(II) a process for ensuring  
6           that—

7                   “(aa) the public is informed  
8                   of, and has a reasonable oppor-  
9                   tunity to comment on, any sig-  
10                  nificant environmental impacts of  
11                  the proposed action identified by  
12                  the Indian tribe; and

13                   “(bb) the Indian tribe pro-  
14                   vides responses to relevant and  
15                   substantive public comments on  
16                   any such impacts before the In-  
17                  dian tribe approves the lease.

18           “(4) REVIEW PROCESS.—

19                   “(A) IN GENERAL.—Not later than 120  
20                  days after the date on which the tribal regula-  
21                  tions described in paragraph (1) are submitted  
22                  to the Secretary, the Secretary shall review and  
23                  approve or disapprove the regulations.

24                   “(B) WRITTEN DOCUMENTATION.—If the  
25                  Secretary disapproves the tribal regulations de-

1           scribed in paragraph (1), the Secretary shall in-  
2           clude written documentation with the dis-  
3           approval notification that describes the basis for  
4           the disapproval.

5           “(C) EXTENSION.—The deadline described  
6           in subparagraph (A) may be extended by the  
7           Secretary, after consultation with the Indian  
8           tribe.

9           “(5) FEDERAL ENVIRONMENTAL REVIEW.—  
10          Notwithstanding paragraphs (3) and (4), if an In-  
11          dian tribe carries out a project or activity funded by  
12          a Federal agency, the Indian tribe shall have the au-  
13          thority to rely on the environmental review process  
14          of the applicable Federal agency rather than any  
15          tribal environmental review process under this sub-  
16          section.

17          “(6) DOCUMENTATION.—If an Indian tribe exe-  
18          cutes a lease pursuant to tribal regulations under  
19          paragraph (1), the Indian tribe shall provide the  
20          Secretary with—

21                  “(A) a copy of the lease, including any  
22                  amendments or renewals to the lease; and

23                  “(B) in the case of tribal regulations or a  
24                  lease that allows for lease payments to be made  
25                  directly to the Indian tribe, documentation of

1 the lease payments that are sufficient to enable  
2 the Secretary to discharge the trust responsi-  
3 bility of the United States under paragraph (7).

4 “(7) TRUST RESPONSIBILITY.—

5 “(A) IN GENERAL.—The United States  
6 shall not be liable for losses sustained by any  
7 party to a lease executed pursuant to tribal reg-  
8 ulations under paragraph (1).

9 “(B) AUTHORITY OF SECRETARY.—Pursu-  
10 ant to the authority of the Secretary to fulfill  
11 the trust obligation of the United States to the  
12 applicable Indian tribe under Federal law (in-  
13 cluding regulations), the Secretary may, upon  
14 reasonable notice from the applicable Indian  
15 tribe and at the discretion of the Secretary, en-  
16 force the provisions of, or cancel, any lease exe-  
17 cuted by the Indian tribe under paragraph (1).

18 “(8) COMPLIANCE.—

19 “(A) IN GENERAL.—An interested party,  
20 after exhausting of any applicable tribal rem-  
21 edies, may submit a petition to the Secretary,  
22 at such time and in such form as the Secretary  
23 determines to be appropriate, to review the  
24 compliance of the applicable Indian tribe with

1 any tribal regulations approved by the Sec-  
2 retary under this subsection.

3 “(B) VIOLATIONS.—If, after carrying out  
4 a review under subparagraph (A), the Secretary  
5 determines that the tribal regulations were vio-  
6 lated, the Secretary may take any action the  
7 Secretary determines to be necessary to remedy  
8 the violation, including rescinding the approval  
9 of the tribal regulations and reassuming respon-  
10 sibility for the approval of leases of tribal trust  
11 lands.

12 “(C) DOCUMENTATION.—If the Secretary  
13 determines that a violation of the tribal regula-  
14 tions has occurred and a remedy is necessary,  
15 the Secretary shall—

16 “(i) make a written determination  
17 with respect to the regulations that have  
18 been violated;

19 “(ii) provide the applicable Indian  
20 tribe with a written notice of the alleged  
21 violation together with such written deter-  
22 mination; and

23 “(iii) prior to the exercise of any rem-  
24 edy, the rescission of the approval of the  
25 regulation involved, or the reassumption of

1                    lease approval responsibilities, provide the  
2                    applicable Indian tribe with—

3                    “(I) a hearing that is on the  
4                    record; and

5                    “(II) a reasonable opportunity to  
6                    cure the alleged violation.

7                    “(9) SAVINGS CLAUSE.—Nothing in this sub-  
8                    section shall affect subsection (e) or any tribal regu-  
9                    lations issued under that subsection.”.

10                  (e) LAND TITLE REPORTS.—Not later than 180 days  
11 after funds are made available for this section, the Bureau  
12 of Indian Affairs shall prepare and submit to the Commit-  
13 tees on Financial Services and Natural Resources in the  
14 House of Representatives and the Committees on Bank-  
15 ing, Housing, and Urban Affairs and Indian Affairs in the  
16 Senate a report regarding the history and experience of  
17 Indian tribes that have chosen to assume responsibility for  
18 operating the Indian Land Title and Records Office (here-  
19 after referred to as the “LTRO”) functions from the Bu-  
20 reau of Indian Affairs. In conducting the review, the Bu-  
21 reau of Indian Affairs shall consult with the Department  
22 of Housing and Urban Development Office of Native  
23 American Programs and those Indian tribes that are man-  
24 aging LTRO functions (hereafter referred to as the “man-

1 aging Indian tribes”). The review shall include an analysis  
2 of the following factors:

3 (1) Whether and how tribal management of the  
4 LTRO functions has expedited the processing and  
5 issuance of Indian land title certifications as com-  
6 pared to when the Bureau of Indian Affairs man-  
7 aged these programs.

8 (2) Whether and how tribal management of the  
9 LTRO functions has increased home ownership  
10 among the managing Indian tribe’s population.

11 (3) What internal preparations and processes  
12 were required of the managing Indian tribes prior to  
13 assuming management of the LTRO functions.

14 (4) Whether tribal management of the LTRO  
15 functions resulting in a transfer of financial re-  
16 sources and manpower from the Bureau of Indian  
17 Affairs to the managing Indian tribes and, if so,  
18 what transfers were undertaken.

19 (5) Whether, in appropriate circumstances and  
20 with the approval of geographically proximate Indian  
21 tribes, the LTRO functions may be performed by a  
22 single Indian tribe or a tribal consortium in a cost  
23 effective manner.

24 (f) INDIAN REORGANIZATION ACT.—Section 17 of  
25 the Act of June 18, 1934 (25 U.S.C. 477) (commonly



1 known as the “Indian Reorganization Act”) is amended  
2 in the second sentence by striking “twenty-five” and in-  
3 serting “99”.

4 **SEC. 302. OIL AND GAS FEES ON INDIAN LAND.**

5 (a) IN GENERAL.—The second undesignated para-  
6 graph of the matter under the heading “MANAGEMENT OF  
7 LANDS AND RESOURCES (INCLUDING RESCISSION OF  
8 FUNDS)” under the heading “BUREAU OF LAND MANAGE-  
9 MENT” of title I of division A of the Department of the  
10 Interior, Environment, and Related Agencies Appropria-  
11 tions Act, 2010 (Public Law 111–88), is amended by  
12 striking “, and in addition” and inserting “, subject to  
13 the condition that no such fee may be collected by the Bu-  
14 reau for any application for a permit to drill on Indian  
15 land (as defined in section 2601 of the Energy Policy Act  
16 of 1992 (25 U.S.C. 3501)); and in addition”.

17 (b) RESTRICTION.—Notwithstanding any other provi-  
18 sion of law, the Secretary shall not collect a fee for an  
19 application for a permit to drill on Indian land.

20 (c) OIL AND GAS INSPECTION FEES.—Notwith-  
21 standing any other provision of law, the Secretary shall  
22 not collect any fee to conduct any oil or gas inspection  
23 activity on Indian land.

24 (d) NONPRODUCING ACREAGE FEES.—Notwith-  
25 standing any other provision of law, the Secretary shall

1 not collect any fee on any oil or gas lease for nonproducing  
2 acreage on Indian land.

3 **SEC. 303. INDIAN DISTRIBUTED ENERGY AND COMMUNITY**  
4 **TRANSMISSION DEMONSTRATION PROJECTS.**

5 (a) DEFINITION OF INDIAN AREA.—In this section,  
6 the term “Indian area” has the meaning given the term  
7 in section 4 of the Native American Housing Assistance  
8 and Self-Determination Act of 1996 (25 U.S.C. 4103).

9 (b) ENERGY DEMONSTRATION PROJECTS.—The Sec-  
10 retary of Energy shall conduct not less than 10 distributed  
11 energy demonstration projects to increase the energy re-  
12 sources available to Indian tribes for use in homes and  
13 community or government buildings.

14 (c) PRIORITY.—In carrying out this section, the Sec-  
15 retary of Energy shall give priority to projects in Indian  
16 areas that—

17 (1) reduce or stabilize energy costs;

18 (2) benefit populations living in poverty;

19 (3) provide a new generation facility or dis-  
20 tribution or replacement system;

21 (4) have populations whose energy needs could  
22 be completely or substantially served by projects  
23 under this section; or

1           (5) transmit electricity or heat to homes and  
2 buildings that previously were not served or were un-  
3 derserved.

4           (d) ELIGIBLE PROJECTS.—A project under this sec-  
5 tion may include a project for—

6           (1) distributed generation, local or community  
7 distribution, or both;

8           (2) biomass combined heat and power systems;

9           (3) municipal solid waste generation;

10          (4) instream hydrokinetic energy;

11          (5) micro-hydroelectric projects;

12          (6) wind-diesel hybrid high-penetration systems;

13          (7) energy storage and smart grid technology  
14 improvements;

15          (8) underground coal gasification systems;

16          (9) solar thermal, distributed solar, geothermal,  
17 or wind generation; or

18          (10) any other project that meets the goals of  
19 this section.

20           (e) INCORPORATION INTO EXISTING INFRASTRUC-  
21 TURE.—As necessary, the Director shall encourage local  
22 utilities and local governments to incorporate demonstra-  
23 tion projects into existing transmission and distribution  
24 infrastructure.

25           (f) EXEMPTIONS.—

1           (1) IN GENERAL.—A project carried out under  
2 this section shall be exempt from all cost-sharing re-  
3 quirements of section 988 of the Energy Policy Act  
4 of 2005 (42 U.S.C. 16352).

5           (2) APPLICATIONS.—An application submitted  
6 to carry out a project under this section shall not be  
7 subject—

8                 (A) to any maximum generation require-  
9                 ments; or

10                (B) to any requirements for maximizing  
11                benefits in relation to the population served.

12           (g) REPORTS.—Not later than 2 years after the date  
13 on which funds are made available for a project under this  
14 section, and annually thereafter, the Secretary shall sub-  
15 mit to Congress a report describing—

16                 (1) the activities carried out under the project,  
17                 including an evaluation of the activity; and

18                 (2) the number of applications received and  
19                 funded under this section.

20           (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
21 authorized to be appropriated to carry out this section  
22 \$20,000,000, to remain available until expended.

1 **SEC. 304. INDIAN ENERGY EFFICIENCY.**

2 Part D of title III of the Energy Policy and Conserva-  
3 tion Act (42 U.S.C. 6321 et seq.) is amended by adding  
4 at the end the following:

5 **“SEC. 367. INDIAN ENERGY EFFICIENCY PROGRAM.**

6 “(a) DEFINITION OF INDIAN TRIBE.—In this section,  
7 the term ‘Indian tribe’ has the meaning given the term  
8 in section 4 of the Indian Self-Determination and Edu-  
9 cation Assistance Act (25 U.S.C. 450b).

10 “(b) PURPOSE.—The purpose of the grants provided  
11 under subsection (d) shall be to assist Indian tribes in im-  
12 plementing strategies—

13 “(1) to reduce fossil fuel emissions created as  
14 a result of activities within the jurisdictions of eligi-  
15 ble entities in a manner that—

16 “(A) is environmentally sustainable; and

17 “(B) to the maximum extent practicable,  
18 maximizes benefits for Indian tribes and tribal  
19 members;

20 “(2) to increase the energy efficiency of Indian  
21 tribes and tribal members; and

22 “(3) to improve energy efficiency in—

23 “(A) the transportation sector;

24 “(B) the building sector; and

25 “(C) other appropriate sectors.

1       “(c) TRIBAL ALLOCATION.—Of the amount of funds  
2 authorized to be appropriated for each fiscal year under  
3 section 365(f) to carry out this part, the Secretary shall  
4 allocate not less than 5 percent of the funds for each fiscal  
5 year to be distributed to Indian tribes in accordance with  
6 subsection (d).

7       “(d) GRANTS.—Of the amounts available for dis-  
8 tribution under subsection (c), the Secretary shall estab-  
9 lish a competitive process for providing grants under this  
10 section that gives priority to projects that—

11           “(1) increase energy efficiency and energy con-  
12 servation rather than new energy generation  
13 projects;

14           “(2) integrate cost-effective renewable energy  
15 with energy efficiency;

16           “(3) move beyond the planning stage and are  
17 ready for implementation;

18           “(4) clearly articulate and demonstrate the abil-  
19 ity to achieve measurable goals;

20           “(5) have the potential to make an impact in  
21 the government buildings, infrastructure, commu-  
22 nities, and land of an Indian tribe; and

23           “(6) maximize the creation or retention of jobs  
24 on Indian land.

1       “(e) USE OF FUNDS.—An Indian tribe may use a  
2 grant received under this section to carry out activities  
3 to achieve the purposes described in subsection (b), includ-  
4 ing—

5               “(1) the development and implementation of en-  
6 ergy efficiency and conservation strategies;

7               “(2) the retention of technical consultant serv-  
8 ices to assist the Indian tribe in the development of  
9 an energy efficiency and conservation strategy, in-  
10 cluding—

11                   “(A) the formulation of energy efficiency,  
12 energy conservation, and energy usage goals;

13                   “(B) the identification of strategies to  
14 achieve the goals—

15                           “(i) through efforts to increase energy  
16 efficiency and reduce energy consumption;  
17 and

18                           “(ii) by encouraging behavioral  
19 changes among the population served by  
20 the Indian tribe;

21                   “(C) the development of methods to meas-  
22 ure progress in achieving the goals;

23                   “(D) the development and publication of  
24 annual reports to the population served by the  
25 eligible entity describing—

1 “(i) the strategies and goals; and

2 “(ii) the progress made in achieving  
3 the strategies and goals during the pre-  
4 ceding calendar year; and

5 “(E) other services to assist in the imple-  
6 mentation of the energy efficiency and con-  
7 servation strategy;

8 “(3) the implementation of residential and com-  
9 mercial building energy audits;

10 “(4) the establishment of financial incentive  
11 programs for energy efficiency improvements;

12 “(5) the provision of grants for the purpose of  
13 performing energy efficiency retrofits;

14 “(6) the development and implementation of en-  
15 ergy efficiency and conservation programs for build-  
16 ings and facilities within the jurisdiction of the In-  
17 dian tribe, including—

18 “(A) the design and operation of the pro-  
19 grams;

20 “(B) the identification of the most effective  
21 methods of achieving maximum participation  
22 and efficiency rates;

23 “(C) the education of the members of an  
24 Indian tribe;



1           “(D) the measurement and verification  
2 protocols of the programs; and

3           “(E) the identification of energy efficient  
4 technologies;

5           “(7) the development and implementation of  
6 programs to conserve energy used in transportation,  
7 including—

8           “(A) the use of—

9           “(i) flextime by employers; or

10           “(ii) satellite work centers;

11           “(B) the development and promotion of  
12 zoning guidelines or requirements that promote  
13 energy-efficient development;

14           “(C) the development of infrastructure, in-  
15 cluding bike lanes, pathways, and pedestrian  
16 walkways;

17           “(D) the synchronization of traffic signals;  
18 and

19           “(E) other measures that increase energy  
20 efficiency and decrease energy consumption;

21           “(8) the development and implementation of  
22 building codes and inspection services to promote  
23 building energy efficiency;

1           “(9) the application and implementation of en-  
2           ergy distribution technologies that significantly in-  
3           crease energy efficiency, including—

4                   “(A) distributed resources; and

5                   “(B) district heating and cooling systems;

6           “(10) the implementation of activities to in-  
7           crease participation and efficiency rates for material  
8           conservation programs, including source reduction,  
9           recycling, and recycled content procurement pro-  
10          grams that lead to increases in energy efficiency;

11          “(11) the purchase and implementation of tech-  
12          nologies to reduce, capture, and, to the maximum  
13          extent practicable, use methane and other green-  
14          house gases generated by landfills or similar sources;

15          “(12) the replacement of traffic signals and  
16          street lighting with energy-efficient lighting tech-  
17          nologies, including—

18                   “(A) light-emitting diodes; and

19                   “(B) any other technology of equal or  
20                   greater energy efficiency;

21          “(13) the development, implementation, and in-  
22          stallation on or in any government building of the  
23          Indian tribe of onsite renewable energy technology  
24          that generates electricity from renewable resources,  
25          including—

1           “(A) solar energy;

2           “(B) wind energy;

3           “(C) fuel cells; and

4           “(D) biomass; and

5           “(14) any other appropriate activity, as deter-  
6           mined by the Secretary, in consultation with—

7           “(A) the Secretary of the Interior;

8           “(B) the Administrator of the Environ-  
9           mental Protection Agency;

10          “(C) the Secretary of Transportation;

11          “(D) the Secretary of Housing and Urban  
12          Development; and

13          “(E) Indian tribes.

14          “(f) GRANT APPLICATIONS.—

15          “(1) IN GENERAL.—

16                 “(A) APPLICATION.—To apply for a grant  
17                 under this section, an Indian tribe shall submit  
18                 to the Secretary a proposed energy efficiency  
19                 and conservation strategy in accordance with  
20                 this paragraph.

21                 “(B) CONTENTS.—A proposed strategy de-  
22                 scribed in subparagraph (A) shall include a de-  
23                 scription of—

24                         “(i) the goals of the Indian tribe for  
25                         increased energy efficiency and conserva-

1                   tion in the jurisdiction of the Indian tribe;  
2                   and

3                   “(ii) the manner in which—

4                                 “(I) the proposed strategy com-  
5                                 plies with the restrictions described in  
6                                 subsection (e); and

7                                 “(II) a grant will allow the In-  
8                                 dian tribe fulfill the goals of the pro-  
9                                 posed strategy.

10                   “(2) APPROVAL.—

11                                 “(A) IN GENERAL.—The Secretary shall  
12                                 approve or disapprove a proposed strategy  
13                                 under paragraph (1) by not later than 120 days  
14                                 after the date of submission of the proposed  
15                                 strategy.

16                                 “(B) DISAPPROVAL.—If the Secretary dis-  
17                                 approves a proposed strategy under paragraph  
18                                 (1)—

19   “(i) the Secretary shall provide to the  
20   Indian tribe the reasons for the dis-  
21   approval; and

22   “(ii) the Indian tribe may revise and  
23   resubmit the proposed strategy as many  
24   times as necessary, until the Secretary ap-  
25   proves a proposed strategy.

1           “(C) REQUIREMENT.—The Secretary shall  
2           not provide to an Indian tribe a grant under  
3           this section until a proposed strategy is ap-  
4           proved by the Secretary.

5           “(3) LIMITATIONS ON USE OF FUNDS.—Of the  
6           amounts provided to an Indian tribe under this sec-  
7           tion, an Indian tribe may use for administrative ex-  
8           penses, excluding the cost of the reporting require-  
9           ments of this section, an amount equal to the great-  
10          er of—

11                  “(A) 10 percent of the administrative ex-  
12                  penses; or

13                  “(B) \$75,000.

14           “(4) ANNUAL REPORT.—Not later than 2 years  
15           after the date on which funds are initially provided  
16           to an Indian tribe under this section, and annually  
17           thereafter, the Indian tribe shall submit to the Sec-  
18           retary a report describing—

19                  “(A) the status of development and imple-  
20                  mentation of the energy efficiency and con-  
21                  servation strategy; and

22                  “(B) to the maximum extent practicable,  
23                  an assessment of energy efficiency gains within  
24                  the jurisdiction of the Indian tribe.”.

1 **SEC. 305. WEATHERIZATION ASSISTANCE FOR INDIAN**  
2 **TRIBES.**

3 Section 413 of the Energy Conservation and Produc-  
4 tion Act (42 U.S.C. 6863) is amended by striking sub-  
5 section (d) and inserting the following:

6 “(d) DIRECT GRANTS TO INDIAN TRIBES FOR  
7 WEATHERIZATION OF INDIAN HOMES.—

8 “(1) DEFINITIONS.—In this subsection:

9 “(A) INDIAN AREA.—The term ‘Indian  
10 area’ has the meaning given the term in section  
11 4 of the Native American Housing Assistance  
12 and Self-Determination Act of 1996 (25 U.S.C.  
13 4103).

14 “(B) INDIAN TRIBE.—The term ‘Indian  
15 tribe’ has the meaning given the term in section  
16 4 of the Indian Self-Determination and Edu-  
17 cation Assistance Act (25 U.S.C. 450b).

18 “(2) IN GENERAL.—Of the amounts made  
19 available for each fiscal year to carry out the Weath-  
20 erization Assistance Program for Low-Income Per-  
21 sons established under part A of title IV, the Sec-  
22 retary shall allocate for Indian tribes not less than  
23 10 percent.

24 “(3) REGULATIONS.—

25 “(A) PROPOSED REGULATIONS.—Not later  
26 than 90 days after the date of enactment of the

1 Indian Energy Parity Act of 2010, the Sec-  
2 retary, after consulting with the Secretary of  
3 the Interior, the Secretary of Housing and  
4 Urban Development, the Secretary of Health  
5 and Human Services, the Secretary of Labor,  
6 Indian tribes, and intertribal organizations,  
7 shall publish in the Federal Register proposed  
8 regulations to carry out this subsection.

9 “(B) FINAL REGULATIONS.—

10 “(i) IN GENERAL.—Not later than  
11 120 days from the date of enactment of  
12 the Indian Energy Parity Act of 2010, the  
13 Secretary shall promulgate final regula-  
14 tions to carry out this subsection, taking  
15 into consideration the comments submitted  
16 in response to the publication of the pro-  
17 posed regulations described in subpara-  
18 graph (A).

19 “(ii) CRITERIA.—Final regulations  
20 promulgated by the Secretary to carry out  
21 this subsection shall—

22 “(I) provide a formula or process  
23 for ensuring that weatherization fund-  
24 ing is available for any Indian tribe  
25 that submits a qualifying weatheriza-

1                   tion funding application under para-  
2                   graph (4)(C);

3                   “(II) promote efficiency in car-  
4                   rying out this subsection by the Sec-  
5                   retary and Indian tribes; and

6                   “(III) consider—

7                   “(aa) the limited resources  
8                   of Indian tribes to carry out this  
9                   subsection;

10                  “(bb) the unique character-  
11                  istics of housing in Indian areas;  
12                  and

13                  “(cc) the remoteness of In-  
14                  dian areas.

15                  “(4) ALLOCATION OF FUNDING.—

16                  “(A) IN GENERAL.—The Secretary shall  
17                  provide financial assistance to an Indian tribe  
18                  from the amounts provided under paragraph  
19                  (2), if the Indian tribe submits to the Secretary  
20                  a weatherization funding application.

21                  “(B) CONTENTS.—A weatherization fund-  
22                  ing application described in subparagraph (A)  
23                  shall—

24                  “(i) describe—



1                   “(I) the estimated number and  
2                   characteristics of the persons and  
3                   dwelling units to be provided weather-  
4                   ization assistance; and

5                   “(II) the criteria and methods to  
6                   be used by the Indian tribe in pro-  
7                   viding the weatherization assistance;  
8                   and

9                   “(ii) contain any other information  
10                  (including information needed for evalua-  
11                  tion purposes) and assurances that are re-  
12                  quired under regulations promulgated by  
13                  the Secretary to carry out this section.

14                  “(C)     QUALIFYING     WEATHERIZATION  
15                  FUNDING.—A weatherization funding applica-  
16                  tion that meets the criteria under subparagraph  
17                  (B) shall be considered a qualifying weatheriza-  
18                  tion funding application.

19                  “(D)     INITIAL DISTRIBUTION OF FUND-  
20                  ING.—The Secretary shall distribute funding  
21                  under this subsection to Indian tribes that sub-  
22                  mit qualifying weatherization funding applica-  
23                  tions—

24                         “(i) on the basis of the relative need  
25                         for weatherization assistance; and

1 “(ii) taking into account—

2 “(I) the number of dwelling units  
3 to be weatherized;

4 “(II) the climatic conditions re-  
5 specting energy conservation, includ-  
6 ing a consideration of annual degree  
7 days;

8 “(III) the type of weatherization  
9 work to be done;

10 “(IV) any data provided in the  
11 most recent version of the Bureau of  
12 Indian Affairs American Indian Popu-  
13 lation and Labor Force Report pre-  
14 pared pursuant to Public Law 102–  
15 477 (106 Stat. 2302), or if not avail-  
16 able, any similar publication; and

17 “(V) any other factors that the  
18 Secretary determines to be necessary,  
19 including the cost of heating and cool-  
20 ing, in order to carry out this section.

21 “(E) COMPETITIVE GRANTS.—For each  
22 fiscal year, if any amounts remain available  
23 after the initial distribution of funding de-  
24 scribed in subparagraph (D), the Secretary

1 shall solicit applications for grants from Indian  
2 tribes—

3 “(i) to carry out weatherization  
4 projects and weatherization training;

5 “(ii) to supply weatherization equip-  
6 ment; and

7 “(iii) to develop tribal governing ca-  
8 pacity to carry out a weatherization pro-  
9 gram consistent with this subsection.

10 “(F) REMAINING FUNDING.—For each fis-  
11 cal year, if any amounts remain available after  
12 distribution under subparagraphs (D) and (E),  
13 the amounts shall remain available to fulfill the  
14 purpose of this subsection in subsequent fiscal  
15 years.

16 “(G) RENEWAL OF QUALIFYING WEATHER-  
17 IZATION FUNDING APPLICATIONS.—

18 “(i) IN GENERAL.—To achieve max-  
19 imum efficiency in the allocation of fund-  
20 ing, an Indian tribe that submits a quali-  
21 fying weatherization funding application  
22 may request that the weatherization fund-  
23 ing application of the Indian tribe be re-  
24 newed in subsequent fiscal years.

1                   “(ii) CONTENTS.—A request to renew  
2                   a qualifying weatherization funding appli-  
3                   cation shall contain such information as  
4                   the Secretary determines to be necessary  
5                   to achieve efficiency in the allocation of  
6                   funding under this subsection.

7                   “(5) USE OF FUNDS.—

8                   “(A) IN GENERAL.—An Indian tribe shall  
9                   use funds provided under paragraph (4) to  
10                  carry out weatherization and energy conserva-  
11                  tion activities that benefit the members of an  
12                  Indian tribe in Indian areas.

13                  “(B) ELIGIBLE ACTIVITIES.—The weather-  
14                  ization and energy conservation activities de-  
15                  scribed in subparagraph (A) include—

16                         “(i) the provision of existing services  
17                         under this section;

18                         “(ii) the acquisition and installation of  
19                         energy-efficient windows and doors and  
20                         heating and cooling equipment; or

21                         “(iii) the repair, replacement, or insu-  
22                         lation of floors, walls, roofs, and ceilings.

23                         “(C) APPLICABILITY OF REQUIRE-  
24                         MENTS.—

1           “(i) IN GENERAL.—Notwithstanding  
2           any other provision of law, the use of  
3           funds under this paragraph by an Indian  
4           tribe shall be subject only to—

5                     “(I) the requirements of this sub-  
6                     section; and

7                     “(II) implementing regulations of  
8                     the Department of Energy.

9           “(ii) OTHER REQUIREMENTS OF  
10           ACT.—In accordance with the government-  
11           to-government and trust relationships be-  
12           tween the United States and Indian tribes,  
13           the income, energy audit, grant limitation,  
14           and other administrative and eligibility re-  
15           quirements of this Act shall not apply to  
16           the use of funds under this paragraph by  
17           an Indian tribe.

18           “(6) REPORT.—Not later than 90 days after  
19           the closing date of each applicable project year, each  
20           Indian tribe that receives funds under this sub-  
21           section shall submit to the Secretary a simple out-  
22           come report that describes, for that project year—

23                     “(A) each activity carried out by the In-  
24                     dian tribe under this subsection, including the  
25                     amounts used for each such activity;

1           “(B) the number of Indian households ben-  
2           effitted by the activities of the Indian tribe  
3           under this subsection; and

4           “(C) the estimated savings in energy costs  
5           realized in the communities served by the In-  
6           dian tribe.

7           “(7) TRAINING AND TECHNICAL ASSISTANCE.—  
8           The Secretary shall carry out technical assistance  
9           and training activities relating to weatherization  
10          under this subsection, including—

11           “(A) orientation sessions for Indian tribes;

12           “(B) workshops on planning, operations,  
13           and procedures for Indian tribes to use the  
14           funding provided under this subsection;

15           “(C) training relating to carrying out  
16           weatherization projects; and

17           “(D) the development and dissemination of  
18           training and technical assistance materials in  
19           printed form and over the Internet.”.

20   **SEC. 306. TRIBAL BIOMASS DEMONSTRATION PROJECT ACT**  
21                           **OF 2010.**

22          The Tribal Forest Protection Act of 2004 (Public  
23   Law 108–278; 118 Stat. 868) is amended—

24           (1) in section 2(a), by striking “In this section”  
25          and inserting “In this Act”; and

1 (2) by adding at the end the following:

2 **“SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

3 “(a) IN GENERAL.—For each of fiscal years 2012  
4 through 2016, the Secretary shall enter into contracts or  
5 other agreements with Indian tribes to carry out dem-  
6 onstration projects to promote biomass energy production  
7 (including biofuel, heat, and electricity generation) on In-  
8 dian forest land and in nearby communities by providing  
9 reliable supplies of woody biomass from Federal land.

10 “(b) DEMONSTRATION PROJECTS.—In each fiscal  
11 year for which amounts are authorized, the Secretary shall  
12 enter into contracts or other agreements described in sub-  
13 section (a) to carry out at least 4 new demonstration  
14 projects that meet the eligibility criteria described in sub-  
15 section (c).

16 “(c) ELIGIBILITY CRITERIA.—To be eligible to enter  
17 into a contract or other agreement under this subsection,  
18 an Indian tribe shall submit to the Secretary an applica-  
19 tion—

20 “(1) containing such information as the Sec-  
21 retary may require; and

22 “(2) that includes a description of—

23 “(A) the Indian forest land or rangeland  
24 under the jurisdiction of the Indian tribe; and

1           “(B) the demonstration project proposed  
2           to be carried out by the Indian tribe.

3           “(d) SELECTION.—In evaluating the applications  
4 submitted under subsection (c), the Secretary shall take  
5 into consideration—

6           “(1) the factors set forth in paragraphs (1) and  
7           (2) of section 2(e); and

8           “(2) whether a proposed demonstration project  
9 would—

10           “(A) increase the availability or reliability  
11 of local or regional energy;

12           “(B) enhance the economic development of  
13 the Indian tribe;

14           “(C) improve the connection of electric  
15 power transmission facilities serving the Indian  
16 tribe with other electric transmission facilities;

17           “(D) improve the forest health of Federal  
18 land or Indian forest land or rangeland; or

19           “(E) otherwise promote the use of woody  
20 biomass.

21           “(e) IMPLEMENTATION.—The Secretary shall—

22           “(1) ensure that the criteria described in sub-  
23 section (c) are publicly available by not later than  
24 120 days after the date of enactment of this section;  
25 and



1           “(2) to the maximum extent practicable, consult  
2           with Indian tribes and appropriate intertribal orga-  
3           nizations likely to be affected in developing the ap-  
4           plication and otherwise carrying out this section.

5           “(f) REPORT.—Not later than September 20, 2015,  
6           the Secretary shall submit to Congress a report that de-  
7           scribes, with respect to the reporting period—

8           “(1) each individual tribal application received  
9           under this section; and

10           “(2) each contract and agreement entered into  
11           pursuant to this section.

12           “(g) INCORPORATION OF MANAGEMENT PLANS.—In  
13           carrying out a contract or agreement under this section,  
14           on receipt of a request from an Indian tribe, the Secretary  
15           shall incorporate, to the maximum extent practicable,  
16           management plans (including forest management and in-  
17           tegrated resource management plans) in effect on the In-  
18           dian forest land or rangeland of the respective Indian  
19           tribe.

20           “(h) TERM.—A contract or agreement entered into  
21           under this section—

22           “(1) shall be for a term of not more than 20  
23           years; and

24           “(2) may be renewed in accordance with this  
25           section for not more than an additional 10 years.”.

1 **SEC. 307. TRIBAL ENERGY RESOURCE AGREEMENTS.**

2 Section 2604 of the Energy Policy Act of 1992 (25  
3 U.S.C. 3504) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)(B)—

6 (i) in clause (i)—

7 (I) by inserting “production,”  
8 after “electric”; and

9 (II) by inserting “(including a fa-  
10 cility that produces electricity from re-  
11 newable energy resources)” after “fa-  
12 cility”; and

13 (ii) in clause (ii), by inserting “, at  
14 least a portion of which have been” after  
15 “energy resources”; and

16 (B) by striking paragraph (2) and insert-  
17 ing the following:

18 “(2) a lease or business agreement described in  
19 paragraph (1) shall not require review by or the ap-  
20 proval of the Secretary under section 2103 of the  
21 Revised Statutes (25 U.S.C. 81), or any other provi-  
22 sion of law, if—

23 “(A) the lease or business agreement—

24 “(i) was executed in accordance with  
25 the requirements of a tribal energy re-  
26 source agreement that was approved by the

1 Secretary pursuant to subsection (e) (in-  
2 cluding the periodic review and evaluation  
3 of the activities of the Indian tribe under  
4 the agreement, to be conducted pursuant  
5 to subparagraphs (D) and (E) of sub-  
6 section (e)(2)); and

7 “(ii) has a term that does not ex-  
8 ceed—

9 “(I) 30 years; or

10 “(II) in the case of a lease for  
11 the production of oil or gas resources,  
12 or both, the sum of 10 years and the  
13 period of time thereafter during which  
14 oil or gas is produced in paying quan-  
15 tities; or

16 “(B)(i) the Indian tribe has carried out a  
17 contract or compact under title I or IV of the  
18 Indian Self-Determination and Education As-  
19 sistance Act (25 U.S.C. 450 et seq.) and, for a  
20 period of not less than 3 years ending on the  
21 date on which the Indian tribe requests a cer-  
22 tification pursuant to subsection (h), the con-  
23 tract or compact—

24 “(I) has been carried out the Indian  
25 tribe without material audit exceptions (or

1 without any such exceptions that were not  
2 corrected within the 3-year period); and

3 “(II) has included programs or activi-  
4 ties relating to the management of tribal  
5 land; and

6 “(ii) the other party to the lease or busi-  
7 ness agreement is, and continues to be through-  
8 out the full term or renewal term (if any) of the  
9 lease or business agreement, a tribal energy de-  
10 velopment organization that is majority owned  
11 and controlled by the Indian tribe.”;

12 (2) by striking subsection (b) and inserting the  
13 following:

14 “(b) RIGHTS-OF-WAY.—An Indian tribe may grant a  
15 right-of-way over tribal land without review or approval  
16 by the Secretary if—

17 “(1) the right-of-way serves—

18 “(A) an electric production, generation,  
19 transmission, or distribution facility (including  
20 a facility that produces electricity from renew-  
21 able energy resources) located on tribal land;

22 “(B) a facility located on tribal land that  
23 extracts, produces, processes, or refines energy  
24 resources; or

1           “(C) the purposes, or assists in carrying  
2           out the purposes, of any lease or business  
3           agreement; and

4           “(2)(A)(i) the right-of-way was executed in ac-  
5           cordance with the requirements of a tribal energy re-  
6           source agreement that was approved by the Sec-  
7           retary pursuant to subsection (e) (including the peri-  
8           odic review and evaluation of the activities of the In-  
9           dian tribe under the agreement, to be conducted  
10          pursuant to subparagraphs (D) and (E) of sub-  
11          section (e)(2)); and

12           “(ii) has a term that does not exceed 30  
13          years; or

14           “(B)(i) the Indian tribe has carried out a  
15          contract or compact under title I or IV of the  
16          Indian Self-Determination and Education As-  
17          sistance Act (25 U.S.C. 458aa et seq.) and, for  
18          a period of not less than 3 years ending on the  
19          date on which the Indian tribe requests a cer-  
20          tification pursuant to subsection (h), the con-  
21          tract or compact—

22           “(I) has been carried out by the In-  
23          dian tribe without material audit excep-  
24          tions (or without any such exceptions that

1           were not corrected within the 3-year pe-  
2           riod); and

3                   “(II) has included programs or activi-  
4           ties relating to the management of tribal  
5           land; and

6                   “(ii) the grantee of the right-of-way is, and  
7           continues to be throughout the full term or re-  
8           newal term (if any) of the right-of-way, a tribal  
9           energy development organization that is major-  
10          ity owned and controlled by the Indian tribe.”;

11          (3) by striking subsection (d) and inserting the  
12          following:

13          “(d) VALIDITY.—No lease or business agreement en-  
14          tered into, or right-of-way granted, pursuant to this sec-  
15          tion shall be valid unless the lease, business agreement,  
16          or right-of-way is authorized by subsection (a) or (b).”;

17          (4) in subsection (e)—

18                  (A) in paragraph (1), by striking “(1) On  
19          the date” and inserting the following:

20                  “(1) IN GENERAL.—On the date”;

21                  (B) in paragraph (2)—

22                          (i) by striking “(2)(A)” and all that  
23          follows through the end of subparagraph  
24          (A) and inserting the following:

25                  “(2) PROCESS FOR APPROVAL.—

1           “(A)(i) The Secretary shall approve or dis-  
2 approve—

3           “(I) a tribal energy resource agree-  
4 ment submitted under paragraph (1) not  
5 later than 270 days after the date on  
6 which the Secretary receives the agree-  
7 ment; or

8           “(II) a revised tribal energy resource  
9 agreement submitted under paragraph  
10 (4)(B) not later than 60 days after the  
11 date on which the Secretary receives the  
12 revised agreement.

13           “(ii) A tribal energy resource agreement  
14 submitted under paragraph (1) or (4)(B) shall  
15 take effect beginning on the date on which the  
16 Secretary approves the agreement.

17           “(iii)(I) If the Secretary has not yet ap-  
18 proved or disapproved a tribal energy resource  
19 agreement submitted under paragraph (1), the  
20 tribal energy resource agreement shall take ef-  
21 fect beginning on the date that is 270 days  
22 after the date on which the Secretary receives  
23 the agreement.

24           “(II) If the Secretary has not yet ap-  
25 proved or disapproved a revised tribal en-

1           ergy resource agreement submitted under  
 2           paragraph (4)(B), the revised tribal energy  
 3           resource agreement shall take effect begin-  
 4           ning on the date that is 60 days after the  
 5           date on which the Secretary receives the  
 6           revised agreement.

7           “(III) A tribal energy resource agree-  
 8           ment that takes effect pursuant to sub-  
 9           clause (I) or (II) shall be considered to  
 10          have been approved by the Secretary for all  
 11          purposes of this section.”;

12          (ii) in subparagraph (B)—

13                 (I) by striking “(B)” and all that  
 14                 follows through “if—” and inserting  
 15                 the following:

16                 “(B) The Secretary may disapprove a trib-  
 17                 al energy resource agreement submitted under  
 18                 paragraph (1) or (4)(B) only if—”;

19                 (II) by striking clause (i) and in-  
 20                 serting the following:

21                 “(i) the Secretary determines that the  
 22                 Indian tribe has not demonstrated that the  
 23                 Indian tribe has sufficient capacity to reg-  
 24                 ulate the development of the specific 1 or  
 25                 more energy resources that would be sub-



1           ject to the tribal energy resource agree-  
2           ment submitted by the Indian tribe.”;

3                   (III) by redesignating clause (iii)  
4           as clause (iv) and indenting appro-  
5           priately;

6                   (IV) by striking clause (ii) and  
7           inserting the following:

8                   “(ii) a provision of the tribal energy  
9           resource agreement would violate a treaty  
10          applicable to the Indian tribe;

11                   “(iii) the tribal energy resource agree-  
12          ment does not include 1 or more provisions  
13          required under subparagraph (D); or”;

14                   (V) in clause (iv) (as redesign-  
15          ated by subclause (III)), in the mat-  
16          ter preceding subclause (I), by strik-  
17          ing “includes” and all that follows  
18          through “section—” and inserting  
19          “does not include provisions that, with  
20          respect to any lease, business agree-  
21          ment, or right-of-way to which the  
22          tribal energy resource agreement ap-  
23          plies—”; and

24                   (iii) in subparagraph (C)—

1 (I) by striking clause (ii) and in-  
2 serting the following:

3 “(ii) the identification of mitigation  
4 measures, if any, that the Indian tribe in  
5 the discretion of the Indian tribe might  
6 propose and the incorporation of any such  
7 measures into the lease, business agree-  
8 ment, or right-of-way;”;

9 (II) in clause (iv), by striking  
10 “and” at the end;

11 (III) in clause (v), by striking the  
12 period at the end and inserting “;  
13 and”; and

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

16 “(vi) the identification of specific  
17 classes or categories of actions, if any, de-  
18 termined by the Indian tribe not to have  
19 significant environmental effects.”;

20 (iv) in subparagraph (D)(ii), by strik-  
21 ing “subparagraph (B)(iii)(XVI)” and in-  
22 serting “subparagraph (B)(iv)(XVI)”;

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

24 “(F)(i) The Secretary shall make a deter-  
25 mination under subparagraph (B)(i) not later

1 than 90 days after the date on which the Indian  
2 tribe submits to the Secretary the tribal energy  
3 resource agreement of the Indian tribe pursuant  
4 to paragraph (1), unless the Secretary and the  
5 Indian tribe mutually agree to an extension of  
6 the deadline for making the determination.

7 “(ii) Any determination that the Indian  
8 tribe lacks the requisite capacity shall be treat-  
9 ed as a disapproval under paragraph (4) and,  
10 not later than 10 days after the date of the de-  
11 termination, the Secretary shall provide to the  
12 Indian tribe—

13 “(I) a detailed, written explanation of  
14 each reason for the determination; and

15 “(II) a description of the steps that  
16 the Indian tribe should take to dem-  
17 onstrate sufficient capacity.

18 “(G) Notwithstanding any other provision  
19 of this section, an Indian tribe shall be consid-  
20 ered to have demonstrated sufficient capacity  
21 under subparagraph (B)(i) to regulate the de-  
22 velopment of the specific 1 or more energy re-  
23 sources of the Indian tribe that would be sub-  
24 ject to the tribal energy resource agreement

1 submitted by the Indian tribe under paragraph

2 (1) if—

3 “(i) the Secretary determines that—

4 “(I) the Indian tribe has carried  
5 out a contract or compact under title  
6 I or IV of the Indian Self-Determina-  
7 tion and Education Assistance Act  
8 (25 U.S.C. 450 et seq.) without mate-  
9 rial audit exceptions for a period of  
10 not less than 3 years ending on the  
11 date on which the Indian tribe sub-  
12 mits the tribal energy resource agree-  
13 ment of the Indian tribe under para-  
14 graph (1) (or without any such excep-  
15 tions that were not corrected within  
16 the 3-year period); or

17 “(II) the Indian tribe meets the  
18 capacity criteria described in the regu-  
19 lations promulgated under paragraph  
20 (8)(A); or

21 “(ii) the Secretary fails to make the  
22 determination within the time allowed  
23 under subparagraph (F) (including any  
24 agreed-to extension under that subpara-  
25 graph).”;

1 (C) in paragraph (3), by striking “(3) The  
2 Secretary” and inserting the following:

3 “(3) NOTICE AND COMMENT; SECRETARIAL RE-  
4 VIEW.—The Secretary”;

5 (D) in paragraph (4)—

6 (i) by striking “(4) If the Secretary”  
7 and inserting the following:

8 “(4) ACTION IN CASE OF DISAPPROVAL.—If the  
9 Secretary”; and

10 (ii) by striking “date of disapproval”  
11 and all that follows through the end of  
12 subparagraph (C) and inserting the fol-  
13 lowing: “date of disapproval, provide the  
14 Indian tribe with—

15 “(A) a detailed written explanation of—

16 “(i) each reason for the disapproval;  
17 and

18 “(ii) the revisions or changes to the  
19 tribal energy resource agreement necessary  
20 to address each reason; and

21 “(B) an opportunity to revise and resubmit  
22 the tribal energy resource agreement.”;

23 (E) in paragraph (5), by striking “(5) If  
24 an Indian tribe” and inserting the following:

1           “(5) PROVISION OF DOCUMENTATION TO SEC-  
2           RETARY.—If an Indian tribe”;

3           (F) in paragraph (6)—

4           (i) by striking “(6)(A) In carrying  
5           out” and inserting the following:

6           “(6) SECRETARIAL OBLIGATIONS AND EFFECT  
7           OF SECTION.—

8           “(A) In carrying out”;

9           (ii) in subparagraph (A), by indenting  
10          clauses (i) and (ii) appropriately;

11          (iii) in subparagraph (B)—

12          (I) by striking “(B) Subject to  
13          the provisions of” and inserting the  
14          following:

15          “(B) Subject only to”; and

16          (II) by striking “the provisions of  
17          subparagraph (D)” and inserting  
18          “subparagraphs (C) and (D)”;

19          (iv) in subparagraph (C), in the mat-  
20          ter preceding clause (i), by inserting “to  
21          perform the obligations of the Secretary  
22          under this section and” before “to ensure”;  
23          and

24          (v) in subparagraph (D), by adding at  
25          the end the following:

1           “(iii) Nothing in this subparagraph  
2           absolves, limits, or otherwise affects the li-  
3           ability of the United States, if any, for  
4           any—

5                   “(I) terms that are not nego-  
6                   tiated terms; or

7                   “(II) losses that are not the re-  
8                   sult of negotiated terms, including the  
9                   failure of the Secretary to perform an  
10                  obligation of the Secretary under this  
11                  section.”; and

12           (G) in paragraph (7)—

13                   (i) by striking “(7)(A) In this para-  
14                   graph” and inserting the following:

15           “(7) PETITIONS BY INTERESTED PARTIES.—

16                   “(A) In this paragraph”; and

17                   (ii) by adding at the end the fol-  
18                   lowing:

19                   “(G) Notwithstanding any other provision  
20                   of this paragraph, the Secretary shall dismiss  
21                   any petition from an interested party that has  
22                   agreed to a resolution of the claims with the In-  
23                   dian tribe.”;

24           (5) by redesignating subsection (g) as sub-  
25           section (i); and

1           (6) by inserting after subsection (f) the fol-  
2           lowing:

3           “(g) APPLICATION OF INDIAN SELF-DETERMINA-  
4           TION AND EDUCATION ASSISTANCE ACT.—

5           “(1) IN GENERAL.—Any activities proposed to  
6           be carried out by the Indian tribe under a tribal en-  
7           ergy resource agreement that would otherwise have  
8           been performed by the Secretary through the Bu-  
9           reau of Indian Affairs or the Office of the Special  
10          Trustee for American Indians shall, at the request  
11          of the Indian tribe, be subject to the Indian Self-De-  
12          termination and Education Assistance Act (25  
13          U.S.C. 450 et seq.).

14          “(2) LIMITATION.—The only activities de-  
15          scribed in paragraph (1) that shall not be subject to  
16          the Indian Self-Determination and Education Assist-  
17          ance Act (25 U.S.C. 450 et seq.) are the specific ac-  
18          tivities required to be performed by the Secretary  
19          under this section.

20          “(h) CERTIFICATION.—

21          “(1) IN GENERAL.—Not later than 90 days  
22          after the date on which an Indian tribe submits a  
23          request in accordance with regulations promulgated  
24          under paragraph (3), the Secretary shall determine  
25          whether—



1           “(A) the Indian tribe meets the require-  
2           ments described in subsections (a)(2)(B)(i) or  
3           (b)(2)(B)(i); and

4           “(B) the tribal energy development organi-  
5           zation is majority owned and controlled by the  
6           Indian tribe.

7           “(2) ACTION BY SECRETARY.—If the Secretary  
8           determines that the Indian tribe meets the require-  
9           ments described in subsections (a)(2)(B)(i) or  
10          (b)(2)(B)(i) and the tribal energy development orga-  
11          nization is majority owned and controlled by the In-  
12          dian tribe, the Secretary shall, not more than 10  
13          days after making the determination—

14           “(A) issue a certification stating that the  
15           Indian tribe meets those requirements and that  
16           the tribal energy development organization is  
17           majority owned and controlled by the Indian  
18           tribe;

19           “(B) deliver a copy of the certification to  
20           the Indian tribe; and

21           “(C) publish the certification in the Fed-  
22           eral Register.

23           “(3) REGULATIONS.—Not later than 1 year  
24           after the date of enactment of this paragraph, the  
25           Secretary shall promulgate regulations to implement

1 subsections (a)(2)(B) and (b)(2)(B) and this sub-  
 2 section, including the process to be followed by, and  
 3 any applicable criteria and documentation required  
 4 for, an Indian tribe to request and obtain the certifi-  
 5 cation.”.

6 **TITLE IV—AMENDMENTS TO**  
 7 **INDIAN ENERGY POLICY LAWS**

8 **SEC. 401. AMENDMENTS TO INDIAN ENERGY POLICY LAWS.**

9 (a) DEFINITION OF SEQUESTRATION.—Section  
 10 2601(10) of the Energy Policy Act of 1992 (25 U.S.C.  
 11 3501(10)) is amended by striking “reforestation or” and  
 12 inserting “agricultural practices, reforestation, or”.

13 (b) DEFINITION OF TRIBAL ENERGY DEVELOPMENT  
 14 ORGANIZATION.—Section 2601(11) of the Energy Policy  
 15 Act of 1992 (25 U.S.C. 3501(11)) is amended—

16 (1) by striking “tribal energy resource develop-  
 17 ment organization” and inserting “tribal energy de-  
 18 velopment organization”; and

19 (2) by inserting before the period at the end the  
 20 following: “or to enter into a lease or business agree-  
 21 ment with, or acquire a right-of-way from, an Indian  
 22 tribe pursuant to subsection (a)(2)(B) or (b)(2) of  
 23 section 2604”.

1           (c) INDIAN TRIBAL ENERGY RESOURCE DEVELOP-  
2     MENT.—Section 2602(a)(2) of the Energy Policy Act of  
3     1992 (25 U.S.C. 3502(a)(2)) is amended—

4           (1) in subparagraph (C), by striking “and” at  
5     the end;

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

8           (3) by adding at the end the following:

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

11                   “(F) provide grants and technical assist-  
12            ance to 1 or more intertribal organizations, as  
13            determined by the Secretary, to establish and  
14            operate a program of assistance to Indian tribes  
15            and tribal energy development organizations to  
16            carry out evaluation, planning, design, financ-  
17            ing, production, transportation, and trans-  
18            mission functions relating to tribal energy re-  
19            source development.”.

20       (d) PROVISION OF ASSISTANCE.—

21           (1) INDIAN TRIBAL ENERGY RESOURCE REGU-  
22     LATION.—Section 2603(c)(2)(B) of the Energy Pol-  
23     icy Act of 1992 (25 U.S.C. 3503(c)(2)(B)) is  
24     amended by inserting “or tribal energy development  
25     organization” after “Indian tribe”.

1           (2) FEDERAL POWER MARKETING ADMINISTRA-  
2           TIONS.—Section 2605 of the Energy Policy Act of  
3           1992 (25 U.S.C. 3505) is amended in subsection  
4           (d)(2)(B), by inserting “or tribal energy develop-  
5           ment organization” after “Indian tribe”.

6           (e) ENERGY EFFICIENCY IN FEDERALLY ASSISTED  
7           HOUSING.—Section 506(a) of the Energy Policy Act of  
8           2005 (42 U.S.C. 16001) is amended—

9           (1) in the matter preceding paragraph (1), by  
10          inserting “weatherization, energy efficiency, and”  
11          after “shall promote”; and

12          (2) in paragraph (1), by striking “technologies”  
13          and inserting “design, technologies,”.

14          (f) CONFORMING AMENDMENTS.—

15          (1) Section 2602 of the Energy Policy Act of  
16          1992 (25 U.S.C. 3502) is amended—

17                  (A) in subsection (a)—

18                          (i) in paragraph (1), by striking “trib-  
19                          al energy resource development organiza-  
20                          tions” and inserting “tribal energy devel-  
21                          opment organizations”; and

22                          (ii) in paragraph (2), by striking  
23                          “tribal energy resource development orga-  
24                          nization” each place it appears and insert-

1           ing “tribal energy development organiza-  
2           tion”; and

3           (B) in subsection (b)(2), by striking “tribal  
4           energy resource development organization” and  
5           inserting “tribal energy development organiza-  
6           tion”.

7           (2) Section 2606(c)(3) of the Energy Policy Act  
8           of 1992 (25 U.S.C. 3506) is amended by striking  
9           “energy resource development” and inserting “en-  
10          ergy development”.

○