

1 “(1) promote Indian tribal energy development,
2 efficiency, and use;

3 “(2) reduce or stabilize energy costs;

4 “(3) enhance and strengthen Indian tribal en-
5 ergy and economic infrastructure relating to natural
6 resource development and electrification; and

7 “(4) electrify Indian land and the homes of
8 tribal members located on Indian lands or acquired,
9 constructed, or improved (in whole or in part) with
10 Federal funds.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) The table of contents of the Department of
13 Energy Organization Act (42 U.S.C. prec. 7101) is
14 amended—

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

17 (B) by striking the items relating to sec-
18 tions 213 through 216 and inserting the fol-
19 lowing:

“Sec. 213. Establishment of policy for National Nuclear Security Adminis-
tration.

“Sec. 214. Establishment of security, counterintelligence, and intelligence
policies.

“Sec. 215. Office of Counterintelligence.

“Sec. 216. Office of Intelligence.

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

20 (2) Section 5315 of title 5, United States Code,
21 is amended by inserting “Director, Office of Indian
22 Energy Policy and Programs, Department of En-

1 ergy.” after “Inspector General, Department of En-
2 ergy.”.

3 **SEC. ___ 03. INDIAN ENERGY.**

4 (a) Title XXVI of the Energy Policy Act of 1992 (25
5 U.S.C. 3501 et seq.) is amended to read as follows:

6 **“TITLE XXVI—INDIAN ENERGY**

7 **“SEC. 2601. DEFINITIONS.**

8 “For purposes of this title:

9 “(1) The term ‘Director’ means the Director of
10 the Office of Indian Energy Policy and Programs,
11 Department of Energy.

12 “(2) The term ‘Indian land’ means—

13 “(A) any land located within the bound-
14 aries of an Indian reservation, pueblo, or
15 rancheria;

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

19 “(i) in trust by the United States for
20 the benefit of an Indian tribe or an indi-
21 vidual Indian;

22 “(ii) by an Indian tribe or an indi-
23 vidual Indian, subject to restriction against
24 alienation under laws of the United States;

25 or

1 “(iii) by a dependent Indian commu-
2 nity; and

3 “(C) land that is owned by an Indian tribe
4 and was conveyed by the United States to a
5 Native Corporation pursuant to the Alaska Na-
6 tive Claims Settlement Act (43 U.S.C. 1601 et
7 seq.), or that was conveyed by the United
8 States to a Native Corporation in exchange for
9 such land.

10 “(3) The term ‘Indian reservation’ includes—

11 “(A) an Indian reservation in existence in
12 any State or States as of the date of enactment
13 of this paragraph;

14 “(B) a public domain Indian allotment;
15 and

16 “(C) a dependent Indian community lo-
17 cated within the borders of the United States,
18 regardless of whether the community is
19 located—

20 “(i) on original or acquired territory
21 of the community; or

22 “(ii) within or outside the boundaries
23 of any particular State.

24 “(4) The term ‘Indian tribe’ has the meaning
25 given the term in section 4 of the Indian Self-Deter-

1 mination and Education Assistance Act (25 U.S.C.
2 450b), except that the term ‘Indian tribe’, for the
3 purpose of paragraph (10) and sections 2603(b)(3)
4 and 2604, shall not include any Native Corporation.

5 “(5) The term ‘Native Corporation’ has the
6 meaning given the term in section 3 of the Alaska
7 Native Claims Settlement Act (43 U.S.C. 1602).

8 “(6) The term ‘organization’ means a partner-
9 ship, joint venture, limited liability company, or
10 other unincorporated association or entity that is es-
11 tablished to develop Indian energy resources.

12 “(7) The term ‘Program’ means the Indian en-
13 ergy resource development program established
14 under section 2602(a).

15 “(8) The term ‘Secretary’ means the Secretary
16 of Interior.

17 “(9) The term ‘tribal energy resource develop-
18 ment organization’ means an organization of 2 or
19 more entities, at least 1 of which is an Indian tribe,
20 that has the written consent of the governing bodies
21 of all Indian tribes participating in the organization
22 to apply for a grant, loan, or other assistance au-
23 thorized by section 2602.

24 “(10) The term ‘tribal land’ means any land or
25 interests in land owned by any Indian tribe, title to

1 which is held in trust by the United States or which
2 is subject to a restriction against alienation under
3 laws of the United States.

4 “(11) The term ‘vertical integration of energy
5 resources’ means any project or activity that pro-
6 motes the location and operation of a facility (in-
7 cluding any pipeline, gathering system, transpor-
8 tation system or facility, or electric transmission fa-
9 cility) on or near Indian land to process, refine, gen-
10 erate electricity from, or otherwise develop energy
11 resources on, Indian land.

12 **“SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**
13 **MENT.**

14 “(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

15 “(1) To assist Indian tribes in the development
16 of energy resources and further the goal of Indian
17 self-determination, the Secretary shall establish and
18 implement an Indian energy resource development
19 program to assist consenting Indian tribes and tribal
20 energy resource development organizations in achiev-
21 ing the purposes of this title.

22 “(2) In carrying out the Program, the Sec-
23 retary shall—

24 “(A) provide development grants to Indian
25 tribes and tribal energy resource development

1 organizations for use in developing or obtaining
2 the managerial and technical capacity needed to
3 develop energy resources on Indian land, and to
4 properly account for resulting energy produc-
5 tion and revenues;

6 “(B) provide grants to Indian tribes and
7 tribal energy resource development organiza-
8 tions for use in carrying out projects to pro-
9 mote the vertical integration of energy re-
10 sources, and to process, use, or develop those
11 energy resources, on Indian land; and

12 “(C) provide low-interest loans to Indian
13 tribes and tribal energy resource development
14 organizations for use in the promotion of en-
15 ergy resource development on Indian land and
16 vertical integration of energy resources.

17 “(3) There are authorized to be appropriated to
18 carry out this subsection such sums as are necessary
19 for each of fiscal years 2004 through 2014.

20 “(b) INDIAN ENERGY EDUCATION PLANNING AND
21 MANAGEMENT ASSISTANCE.—

22 “(1) The Director shall establish programs to
23 assist consenting Indian tribes in meeting energy
24 education, research and development, planning, and
25 management needs.

1 “(2) In carrying out this subsection, the Direc-
2 tor may provide grants, on a competitive basis, to an
3 Indian tribe or tribal energy resource development
4 organization for use in carrying out—

5 “(A) energy, energy efficiency, and energy
6 conservation programs;

7 “(B) studies and other activities sup-
8 porting tribal acquisitions of energy supplies,
9 services, and facilities;

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

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

19 “(3)(A) The Director may develop, in consulta-
20 tion with Indian tribes, a formula for providing
21 grants under this subsection.

22 “(B) In providing a grant under this sub-
23 section, the Director shall give priority to an applica-
24 tion received from an Indian tribe with inadequate
25 electric service (as determined by the Director).

1 “(4) The Secretary of Energy may promulgate
2 such regulations as necessary to carry out this sub-
3 section.

4 “(5) There is authorized to be appropriated to
5 carry out this subsection \$20,000,000 for each of
6 fiscal years 2004 through 2011.

7 “(c) LOAN GUARANTEE PROGRAM.—

8 “(1) Subject to paragraph (3), the Secretary of
9 Energy may provide loan guarantees (as defined in
10 section 502 of the Federal Credit Reform Act of
11 1990 (2 U.S.C. 661a)) for not more than 90 percent
12 of the unpaid principal and interest due on any loan
13 made to any Indian tribe for energy development.

14 “(2) A loan guarantee under this subsection
15 shall be made by—

16 “(A) a financial institution subject to ex-
17 amination by the Secretary of Energy; or

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

20 “(3) The aggregate outstanding amount guar-
21 anteed by the Secretary of Energy at any time under
22 this subsection shall not exceed \$2,000,000,000.

23 “(4) The Secretary of Energy may promulgate
24 such regulations as the Secretary of Energy deter-
25 mines are necessary to carry out this subsection.

1 “(5) There are authorized to be appropriated
2 such sums as are necessary to carry out this sub-
3 section, to remain available until expended.

4 “(6) Not later than 1 year from the date of en-
5 actment of this section, the Secretary of Energy
6 shall report to the Congress on the financing re-
7 quirements of Indian tribes for energy development
8 on Indian land.

9 “(d) INDIAN ENERGY PREFERENCE.—

10 “(1) In purchasing electricity or any other en-
11 ergy product or byproduct, a Federal agency or de-
12 partment may give preference to an energy and re-
13 source production enterprise, partnership, consor-
14 tium, corporation, or other type of business organi-
15 zation the majority of the interest in which is owned
16 and controlled by 1 or more Indian tribes.

17 “(2) In carrying out this subsection, a Federal
18 agency or department shall not—

19 “(A) pay more than the prevailing market
20 price for an energy product or byproduct; or

21 “(B) obtain less than prevailing market
22 terms and conditions.

1 **“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULA-**
2 **TION.**

3 “(a) GRANTS.—The Secretary may provide to Indian
4 tribes, on an annual basis, grants for use in accordance
5 with subsection (b).

6 “(b) USE OF FUNDS.—Funds from a grant provided
7 under this section may be used—

8 “(1) by an Indian tribe for the development of
9 a tribal energy resource inventory or tribal energy
10 resource on Indian land;

11 “(2) by an Indian tribe for the development of
12 a feasibility study or other report necessary to the
13 development of energy resources on Indian land;

14 “(3) by an Indian tribe for the development and
15 enforcement of tribal laws (including regulations) re-
16 lating to tribal energy resource development and the
17 development of technical infrastructure to protect
18 the environment under applicable law; or

19 “(4) by a Native Corporation for the develop-
20 ment and implementation of corporate policies and
21 the development of technical infrastructure to pro-
22 tect the environment under applicable law; and

23 “(5) by an Indian tribe for the training of em-
24 ployees that—

25 “(A) are engaged in the development of en-
26 ergy resources on Indian land; or

1 “(B) are responsible for protecting the en-
2 vironment.

3 “(c) OTHER ASSISTANCE.—In carrying out the obli-
4 gations of the United States under this title, the Secretary
5 shall ensure, to the maximum extent practicable and to
6 the extent of available resources, that upon the request
7 of an Indian tribe, the Indian tribe shall have available
8 scientific and technical information and expertise, for use
9 in the Indian tribe’s regulation, development, and manage-
10 ment of energy resources on Indian land. The Secretary
11 may fulfill this responsibility either directly, through the
12 use of Federal officials, or indirectly, by providing finan-
13 cial assistance to the Indian tribe to secure independent
14 assistance.

15 **“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-**
16 **OF-WAY INVOLVING ENERGY DEVELOPMENT**
17 **OR TRANSMISSION.**

18 “(a) LEASES AND BUSINESS AGREEMENTS.—Subject
19 to the provisions of this section—

20 “(1) an Indian tribe may, at its discretion,
21 enter into a lease or business agreement for the pur-
22 pose of energy resource development on tribal land,
23 including a lease or business agreement for—

24 “(A) exploration for, extraction of, proc-
25 essing of, or other development of the Indian

1 tribe's energy mineral resources located on trib-
2 al land; and

3 “(B) construction or operation of an elec-
4 tric generation, transmission, or distribution fa-
5 cility located on tribal land or a facility to proc-
6 ess or refine energy resources developed on trib-
7 al land; and

8 “(2) such lease or business agreement described
9 in paragraph (1) shall not require the approval of
10 the Secretary under section 2103 of the Revised
11 Statutes (25 U.S.C. 81) or any other provision of
12 law, if—

13 “(A) the lease or business agreement is ex-
14 ecuted pursuant to a tribal energy resource
15 agreement approved by the Secretary under
16 subsection (e);

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

19 “(i) 30 years; or

20 “(ii) in the case of a lease for the pro-
21 duction of oil resources, gas resources, or
22 both, 10 years and as long thereafter as oil
23 or gas is produced in paying quantities;
24 and

1 “(C) the Indian tribe has entered into a
2 tribal energy resource agreement with the Sec-
3 retary, as described in subsection (e), relating
4 to the development of energy resources on tribal
5 land (including the periodic review and evalua-
6 tion of the activities of the Indian tribe under
7 the agreement, to be conducted pursuant to the
8 provisions required by subsection (e)(2)(D)(i)).

9 “(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC
10 TRANSMISSION OR DISTRIBUTION LINES.—An Indian
11 tribe may grant a right-of-way over tribal land for a pipe-
12 line or an electric transmission or distribution line without
13 approval by the Secretary if—

14 “(1) the right-of-way is executed in accordance
15 with a tribal energy resource agreement approved by
16 the Secretary under subsection (e);

17 “(2) the term of the right-of-way does not ex-
18 ceed 30 years;

19 “(3) the pipeline or electric transmission or dis-
20 tribution line serves—

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

23 “(B) a facility located on tribal land that
24 processes or refines energy resources developed
25 on tribal land; and

1 “(4) the Indian tribe has entered into a tribal
2 energy resource agreement with the Secretary, as de-
3 scribed in subsection (e), relating to the development
4 of energy resources on tribal land (including the
5 periodic review and evaluation of the Indian tribe’s
6 activities under such agreement described in sub-
7 paragraphs (D) and (E) of subsection (e)(2)).

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

12 “(d) VALIDITY.—No lease, business agreement, or
13 right-of-way relating to the development of tribal energy
14 resources pursuant to the provisions of this section shall
15 be valid unless the lease, business agreement, or right-of-
16 way is authorized by the provisions of a tribal energy re-
17 source agreement approved by the Secretary under sub-
18 section (e)(2).

19 “(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

20 “(1) On promulgation of regulations under
21 paragraph (8), an Indian tribe may submit to the
22 Secretary for approval a tribal energy resource
23 agreement governing leases, business agreements,
24 and rights-of-way under this section.

1 “(2)(A) Not later than 180 days after the date
2 on which the Secretary receives a tribal energy re-
3 source agreement submitted by an Indian tribe
4 under paragraph (1), or within 60 days after the
5 Secretary receives a revised tribal energy resource
6 agreement submitted by an Indian tribe under para-
7 graph (4)(C), (or such later date as may be agreed
8 to by the Secretary and the Indian tribe), the Sec-
9 retary shall approve or disapprove the tribal energy
10 resource agreement.

11 “(B) The Secretary shall approve a tribal en-
12 ergy resource agreement submitted under paragraph
13 (1) if—

14 “(i) the Secretary determines that the In-
15 dian tribe has demonstrated that the Indian
16 tribe has sufficient capacity to regulate the de-
17 velopment of energy resources of the Indian
18 tribe;

19 “(ii) the tribal energy resource agreement
20 includes provisions required under subpara-
21 graph (D); and

22 “(iii) the tribal energy resource agreement
23 includes provisions that, with respect to a lease,
24 business agreement, or right-of-way under this
25 section—

1 “(I) ensure the acquisition of nec-
2 essary information from the applicant for
3 the lease, business agreement, or right-of-
4 way;

5 “(II) address the term of the lease or
6 business agreement or the term of convey-
7 ance of the right-of-way;

8 “(III) address amendments and re-
9 newals;

10 “(IV) address the economic return to
11 the tribe under leases, business agree-
12 ments, and rights-of-way;

13 “(V) address technical or other rel-
14 evant requirements;

15 “(VI) establish requirements for envi-
16 ronmental review in accordance with sub-
17 paragraph (C);

18 “(VII) ensure compliance with all ap-
19 plicable environmental laws;

20 “(VIII) identify final approval author-
21 ity;

22 “(IX) provide for public notification of
23 final approvals;

24 “(X) establish a process for consulta-
25 tion with any affected States concerning

1 off-reservation impacts, if any, identified
2 pursuant to the provisions required under
3 subparagraph (C)(i);

4 “(XI) describe the remedies for
5 breach of the lease, business agreement, or
6 right-of-way;

7 “(XII) require each lease, business
8 agreement, and right-of-way to include a
9 statement that, in the event that any of its
10 provisions violates an express term or re-
11 quirement set forth in the tribal energy re-
12 source agreement pursuant to which it was
13 executed—

14 “(aa) such provision shall be null
15 and void; and

16 “(bb) if the Secretary determines
17 such provision to be material, the Sec-
18 retary shall have the authority to sus-
19 pend or rescind the lease, business
20 agreement, or right-of-way or take
21 other appropriate action that the Sec-
22 retary determines to be in the best in-
23 terest of the Indian tribe;

24 “(XIII) require each lease, business
25 agreement, and right-of-way to provide

1 that it will not become effective prior to
2 the date on which a copy of the executed
3 lease, business agreement, or right-of-way
4 is delivered to the Secretary in accordance
5 with regulations adopted pursuant to this
6 subsection; and

7 “(XIV) include citations to tribal
8 laws, regulations, or procedures, if any,
9 that set out tribal remedies that must be
10 exhausted before a petition may be sub-
11 mitted to the Secretary pursuant to para-
12 graph (7)(B).

13 “(C) Tribal energy resource agreements sub-
14 mitted under paragraph (1) shall establish, and in-
15 clude provisions to ensure compliance with, an envi-
16 ronmental review process that, with respect to a
17 lease, business agreement, or right-of-way under this
18 section, provides for—

19 “(i) the identification and evaluation of all
20 significant environmental impacts (as compared
21 with a no-action alternative), including effects
22 on cultural resources;

23 “(ii) the identification of proposed mitiga-
24 tion;

1 “(iii) a process for ensuring that the public
2 is informed of and has an opportunity to com-
3 ment on the environmental impacts of the pro-
4 posed action before tribal approval of the lease,
5 business agreement, or right-of-way; and

6 “(iv) sufficient administrative support and
7 technical capability to carry out the environ-
8 mental review process.

9 “(D) A tribal energy resource agreement nego-
10 tiated between the Secretary and an Indian tribe in
11 accordance with this subsection shall include—

12 “(i) provisions requiring the Secretary to
13 conduct a periodic review and evaluation to
14 monitor the performance of the Indian tribe’s
15 activities associated with the development of en-
16 ergy resources under the tribal energy resource
17 agreement; and

18 “(ii) when such review and evaluation re-
19 sult in a finding by the Secretary of imminent
20 jeopardy to a physical trust asset arising from
21 a violation of the tribal energy resource agree-
22 ment or applicable Federal laws, provisions au-
23 thORIZING the Secretary to take appropriate ac-
24 tions determined by the Secretary to be nec-
25 essary to protect such asset, which actions may

1 include reassumption of responsibility for activi-
2 ties associated with the development of energy
3 resources on tribal land until the violation and
4 conditions that gave rise to such jeopardy have
5 been corrected.

6 “(E) The periodic review and evaluation de-
7 scribed in subparagraph (D) shall be conducted on
8 an annual basis, except that, after the third such an-
9 nual review and evaluation, the Secretary and the
10 Indian tribe may mutually agree to amend the tribal
11 energy resource agreement to authorize the review
12 and evaluation required by subparagraph (D) to be
13 conducted once every 2 years.

14 “(3) The Secretary shall provide notice and op-
15 portunity for public comment on tribal energy re-
16 source agreements submitted for approval under
17 paragraph (1). The Secretary’s review of a tribal en-
18 ergy resource agreement under the National Envi-
19 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
20 seq.) shall be limited to the direct effects of that ap-
21 proval.

22 “(4) If the Secretary disapproves a tribal en-
23 ergy resource agreement submitted by an Indian
24 tribe under paragraph (1), the Secretary shall, with-
25 in 10 days of the date of disapproval—

1 “(A) notify the Indian tribe in writing of
2 the basis for the disapproval;

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

6 “(C) provide the Indian tribe with an op-
7 portunity to revise and resubmit the tribal en-
8 ergy resource agreement.

9 “(5) If an Indian tribe executes a lease or busi-
10 ness agreement or grants a right-of-way in accord-
11 ance with a tribal energy resource agreement ap-
12 proved under this subsection, the Indian tribe shall,
13 in accordance with the process and requirements set
14 forth in the Secretary’s regulations adopted pursu-
15 ant to paragraph (8), provide to the Secretary—

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

20 “(B) in the case of a tribal energy resource
21 agreement or a lease, business agreement, or
22 right-of-way that permits payments to be made
23 directly to the Indian tribe, information and
24 documentation of those payments sufficient to
25 enable the Secretary to discharge the trust re-

1 sponsibility of the United States to enforce the
2 terms of, and protect the Indian tribe's rights
3 under, the lease, business agreement, or right-
4 of-way.

5 “(6)(A) For purposes of the activities to be un-
6 dertaken by the Secretary pursuant to this section,
7 the Secretary shall—

8 “(i) carry out such activities in a manner
9 consistent with the trust responsibility of the
10 United States relating to mineral and other
11 trust resources located on tribal land; and

12 “(ii) act in good faith and in the best in-
13 terests of the Indian tribes.

14 “(B) Subject to the provisions of subsections
15 (a)(2), (b), and (c) waiving the requirement of Sec-
16 retarial approval of leases, business agreements, and
17 rights-of-way executed pursuant to tribal energy re-
18 source agreements approved under this section, and
19 the provisions of subparagraph (D), nothing in this
20 section shall absolve the United States from any re-
21 sponsibility to Indians or Indian tribes, including,
22 but not limited to, those which derive from the trust
23 relationship or from any treaties, statutes, and other
24 laws of the United States, Executive Orders, or

1 agreements between the United States and any In-
2 dian tribe.

3 “(C) The Secretary shall continue to have a
4 trust obligation to ensure that the rights and inter-
5 ests of an Indian tribe are protected in the event
6 that—

7 “(i) any other party to any such lease,
8 business agreement, or right-of-way violates any
9 applicable provision of Federal law or the terms
10 of any lease, business agreement, or right-of-
11 way under this section; or

12 “(ii) any provision in such lease, business
13 agreement, or right-of-way violates any express
14 provision or requirement set forth in the tribal
15 energy resource agreement pursuant to which
16 the lease, business agreement, or right-of-way
17 was executed.

18 “(D) Notwithstanding subparagraph (B), the
19 United States shall not be liable to any party (in-
20 cluding any Indian tribe) for any of the negotiated
21 terms of, or any losses resulting from the negotiated
22 terms of, a lease, business agreement, or right-of-
23 way executed pursuant to and in accordance with a
24 tribal energy resource agreement approved by the
25 Secretary under paragraph (2). For the purpose of

1 this subparagraph, the term ‘negotiated terms’
2 means any terms or provisions that are negotiated
3 by an Indian tribe and any other party or parties to
4 a lease, business agreement, or right-of-way entered
5 into pursuant to an approved tribal energy resource
6 agreement.

7 “(7)(A) In this paragraph, the term ‘interested
8 party’ means any person or entity the interests of
9 which have sustained or will sustain a significant ad-
10 verse environmental impact as a result of the failure
11 of an Indian tribe to comply with a tribal energy re-
12 source agreement of the Indian tribe approved by
13 the Secretary under paragraph (2).

14 “(B) After exhaustion of tribal remedies, and in
15 accordance with the process and requirements set
16 forth in regulations adopted by the Secretary pursu-
17 ant to paragraph (8), an interested party may sub-
18 mit to the Secretary a petition to review compliance
19 of an Indian tribe with a tribal energy resource
20 agreement of the Indian tribe approved by the Sec-
21 retary under paragraph (2).

22 “(C)(i) Not later than 120 days after the date
23 on which the Secretary receives a petition under sub-
24 paragraph (B), the Secretary shall determine wheth-
25 er the Indian tribe is not in compliance with the

1 tribal energy resource agreement, as alleged in the
2 petition.

3 “(ii) The Secretary may adopt procedures
4 under paragraph (8) authorizing an extension of
5 time, not to exceed 120 days, for making the deter-
6 mination under clause (i) in any case in which the
7 Secretary determines that additional time is nec-
8 essary to evaluate the allegations of the petition.

9 “(iii) Subject to subparagraph (D), if the Sec-
10 retary determines that the Indian tribe is not in
11 compliance with the tribal energy resource agree-
12 ment as alleged in the petition, the Secretary shall
13 take such action as is necessary to ensure compli-
14 ance with the provisions of the tribal energy resource
15 agreement, which action may include—

16 “(I) temporarily suspending some or all ac-
17 tivities under a lease, business agreement, or
18 right-of-way under this section until the Indian
19 tribe or such activities are in compliance with
20 the provisions of the approved tribal energy re-
21 source agreement; or

22 “(II) rescinding approval of all or part of
23 the tribal energy resource agreement, and if all
24 of such agreement is rescinded, reassuming the
25 responsibility for approval of any future leases,

1 business agreements, or rights-of-way described
2 in subsections (a) and (b).

3 “(D) Prior to seeking to ensure compliance with
4 the provisions of the tribal energy resource agree-
5 ment of an Indian tribe under subparagraph (C)(iii),
6 the Secretary shall—

7 “(i) make a written determination that de-
8 scribes the manner in which the tribal energy
9 resource agreement has been violated;

10 “(ii) provide the Indian tribe with a writ-
11 ten notice of the violations together with the
12 written determination; and

13 “(iii) before taking any action described in
14 subparagraph (C)(iii) or seeking any other rem-
15 edy, provide the Indian tribe with a hearing and
16 a reasonable opportunity to attain compliance
17 with the tribal energy resource agreement.

18 “(E) An Indian tribe described in subparagraph
19 (D) shall retain all rights to appeal as provided in
20 regulations promulgated by the Secretary.

21 “(8) Not later than 1 year after the date of en-
22 actment of the Indian Tribal Energy Development
23 and Self-Determination Act of 2003, the Secretary
24 shall promulgate regulations that implement the pro-
25 visions of this subsection, including—

1 “(A) criteria to be used in determining the
2 capacity of an Indian tribe described in para-
3 graph (2)(B)(i), including the experience of the
4 Indian tribe in managing natural resources and
5 financial and administrative resources available
6 for use by the Indian tribe in implementing the
7 approved tribal energy resource agreement of
8 the Indian tribe;

9 “(B) a process and requirements in accord-
10 ance with which an Indian tribe may—

11 “(i) voluntarily rescind a tribal energy
12 resource agreement approved by the Sec-
13 retary under this subsection; and

14 “(ii) return to the Secretary the re-
15 sponsibility to approve any future leases,
16 business agreements, and rights-of-way de-
17 scribed in this subsection;

18 “(C) provisions setting forth the scope of,
19 and procedures for, the periodic review and
20 evaluation described in subparagraphs (D) and
21 (E) of paragraph (2), including provisions for
22 review of transactions, reports, site inspections,
23 and any other review activities the Secretary
24 determines to be appropriate; and

1 “(D) provisions defining final agency ac-
2 tions after exhaustion of administrative appeals
3 from determinations of the Secretary under
4 paragraph (7).

5 “(f) NO EFFECT ON OTHER LAW.—Nothing in this
6 section affects the application of—

7 “(1) any Federal environment law;

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

10 “(3) except as otherwise provided in this title,
11 the Indian Mineral Development Act of 1982 (25
12 U.S.C. 2101 et seq.) and the National Environ-
13 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

14 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary such
16 sums as are necessary for each of fiscal years 2004
17 through 2010 to implement the provisions of this section
18 and to make grants or provide other appropriate assist-
19 ance to Indian tribes to assist the Indian tribes in devel-
20 oping and implementing tribal energy resource agreements
21 in accordance with the provisions of this section.

22 **“SEC. 2605. INDIAN MINERAL DEVELOPMENT REVIEW.**

23 “(a) IN GENERAL.—The Secretary shall conduct a
24 review of all activities being conducted under the Indian

1 Mineral Development Act of 1982 (25 U.S.C. 2101 et
2 seq.) as of that date.

3 “(b) REPORT.—Not later than 1 year after the date
4 of enactment of the Indian Tribal Energy Development
5 and Self-Determination Act of 2003, the Secretary shall
6 submit to the Congress a report that includes—

7 “(1) the results of the review;

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

11 “(3) an analysis of the barriers to the develop-
12 ment of energy resources on Indian land (including
13 legal, fiscal, market, and other barriers), along with
14 recommendations for the removal of those barriers.”.

15 (b) CONFORMING AMENDMENTS.—The table of con-
16 tents for the Energy Policy Act of 1992 is amended by
17 striking the items relating to title XXVI and inserting the
18 following:

“Sec. 2601. Definitions.

“Sec. 2602. Indian tribal energy resource development.

“Sec. 2603. Indian tribal energy resource regulation.

“Sec. 2604. Leases, business agreements, and rights-of-way involving en-
ergy development or transmission.

“Sec. 2605. Indian mineral development review.”.

19 **SEC. ____04. FOUR CORNERS TRANSMISSION LINE**
20 **PROJECT.**

21 The Dine Power Authority, an enterprise of the Nav-
22 ajo Nation, shall be eligible to receive grants and other

1 assistance as authorized by section ____02 of this title
2 and section 2602 of the Energy Policy Act of 1992, as
3 amended by this title, for activities associated with the de-
4 velopment of a transmission line from the Four Corners
5 Area to southern Nevada, including related power genera-
6 tion opportunities.

7 **SEC. ____05. ENERGY EFFICIENCY IN FEDERALLY ASSISTED**
8 **HOUSING.**

9 (a) IN GENERAL.—The Secretary of Housing and
10 Urban Development shall promote energy conservation in
11 housing that is located on Indian land and assisted with
12 Federal resources through—

13 (1) the use of energy-efficient technologies and
14 innovations (including the procurement of energy-ef-
15 ficient refrigerators and other appliances);

16 (2) the promotion of shared savings contracts;
17 and

18 (3) the use and implementation of such other
19 similar technologies and innovations as the Secretary
20 of Housing and Urban Development considers to be
21 appropriate.

22 (b) AMENDMENT.—Section 202(2) of the Native
23 American Housing and Self-Determination Act of 1996
24 (25 U.S.C. 4132(2)) is amended by inserting “improve-

1 ment to achieve greater energy efficiency,” after “plan-
2 ning,”.

3 **SEC. ___ 06. CONSULTATION WITH INDIAN TRIBES.**

4 In carrying out this title and the amendments made
5 by this title, the Secretary of Energy and the Secretary
6 shall, as appropriate and to the maximum extent prac-
7 ticable, involve and consult with Indian tribes in a manner
8 that is consistent with the Federal trust and the govern-
9 ment-to-government relationships between Indian tribes
10 and the United States.