

107TH CONGRESS
1ST SESSION

H. R. 2412

To establish programs to improve energy development on Indian lands, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. RAHALL (for himself, Mr. YOUNG of Alaska, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. PALLONE, Mr. SMITH of Washington, Mr. UDALL of Colorado, Ms. MCCOLLUM, and Mr. KENNEDY of Rhode Island) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish programs to improve energy development on
Indian lands, 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 “Tribal Energy Self-Sufficiency Act”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.

TITLE I—ESTABLISHMENT OF INDIAN ENERGY PROGRAMS

- Sec. 101. Financing Indian electric energy projects.
 Sec. 102. Transfer of ownership of water and power projects.
 Sec. 103. Review of certain provisions related to oil, gas, and coal on Indian land.
 Sec. 104. Siting.
 Sec. 105. Dams analysis.
 Sec. 106. Application of Buy Indian Act to energy products.
 Sec. 107. Transmission of wind power from Indian lands.
 Sec. 108. Extraction of energy resources.

TITLE II—COMPREHENSIVE INDIAN ENERGY PROGRAMS

- Sec. 201. Comprehensive Indian energy program.
 Sec. 202. Amendment to renewable energy production incentive program.
 Sec. 203. Renewable energy study.
 Sec. 204. Loan guarantees.
 Sec. 205. Net metering for Indian tribes.
 Sec. 206. Transmitting electric power to and from Indian reservations.

TITLE III—TAX INCENTIVES FOR TRIBAL ENERGY PROJECTS

- Sec. 301. Expansion of credit for electricity produced on Indian lands from emerging technologies and waste products; increased credit for facilities on Indian land; tradable credits for Indian tribes.
 Sec. 302. Credit for producing Indian oil or gas.

TITLE IV—TRIBAL GOVERNMENT CONSERVATION AND INFRASTRUCTURE

- Sec. 401. Community development assistance for infrastructure projects.
 Sec. 402. Energy efficiency and conservation in federally assisted housing.

TITLE V—RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS

- Sec. 501. Rural and remote communities electrification grants.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) INDIAN LAND.—The term “Indian land”
 4 means—

5 (A) any land within the limits of any In-
 6 dian reservation, pueblo, or rancheria;

1 (B) any land not within the limits of any
2 Indian reservation, pueblo, or rancharia title to
3 which is either held in trust by the United
4 States for the benefit of any Indian tribe or in-
5 dividual or held by any Indian tribe or indi-
6 vidual subject to restriction by the United
7 States against alienation; and

8 (C) any land conveyed to any Regional
9 Corporation as defined in section 3(g) of the
10 Alaska Native Claims Settlement Act (43
11 U.S.C. 1602(g)).

12 (2) INDIAN TRIBE.—The term “Indian tribe”
13 means any Indian tribe, band, nation, or other orga-
14 nized group or community, including any Regional
15 Corporation as defined in section 3(g) of the Alaska
16 Native Claims Settlement Act (43 U.S.C. 1602(g)),
17 which is recognized as eligible for the special pro-
18 grams and services provided by the United States to
19 Indians because of their status as Indians.

20 **TITLE I—ESTABLISHMENT OF** 21 **INDIAN ENERGY PROGRAMS**

22 **SEC. 101. FINANCING INDIAN ELECTRIC ENERGY** 23 **PROJECTS.**

24 (a) INDIAN REVOLVING LOAN FUND.—Section 108
25 of the Indian Financing Act of 1974 (25 U.S.C. 1468)

1 is amended by inserting before the period at the end the
2 following: “, and such sums as may be necessary to pro-
3 vide capital and to restore any impairment of capital for
4 the revolving loan fund for energy development, including
5 the development, improvement, operation, and mainte-
6 nance of electric generation, transmission, and distribu-
7 tion facilities.”.

8 (b) LOAN GUARANTY AND INSURANCE.—Section
9 217(b) of such Act (25 U.S.C. 1497(b)) is amended by
10 adding at the end the following new sentence: “The limita-
11 tion under the preceding sentence does not apply to loans
12 guaranteed or insured for the purpose of energy develop-
13 ment, including developing, improving, operating, and
14 maintaining electric generation, transmission, and dis-
15 tribution facilities.”.

16 (c) INTEREST SUBSIDIES AND ADMINISTRATIVE EX-
17 PENSES.—Section 302 of such Act (25 U.S.C. 1512) is
18 amended by inserting before the period at the end of the
19 first sentence the following: “, and such sums as may be
20 necessary to make interest payments on loans that are
21 guaranteed or insured for the purpose of energy develop-
22 ment, including developing, improving, operating, and
23 maintaining electric generation, transmission, and dis-
24 tribution facilities”.

25 (d) INDIAN BUSINESS GRANTS.—

1 (1) Section 402(a) of such Act (25 U.S.C.
2 1522(a)) is amended by adding at the end the fol-
3 lowing new sentence: “The limitation under the pre-
4 ceding sentence does not apply to grants made for
5 the purpose of energy development, including plan-
6 ning for, developing, improving, operating, and
7 maintaining electric generation, transmission, and
8 distribution facilities.”.

9 (2) Section 403 of such Act (25 U.S.C. 1523)
10 is amended by adding at the end the following new
11 sentence: “The limitation under the preceding sen-
12 tence does not apply to grants made for the purpose
13 of energy development, including planning for, devel-
14 oping, improving, operating, and maintaining electric
15 generation, transmission, and distribution facilities.”

16 (e) **ADDITIONAL COMPENSATION TO CONTRACTORS**
17 **OF FEDERAL AGENCY.**—Section 504 of such Act (25
18 U.S.C. 1544) is amended by inserting “providing direct
19 or indirect services to the contractor” after “to a subcon-
20 tractor or supplier”.

21 **SEC. 102. TRANSFER OF OWNERSHIP OF WATER AND**
22 **POWER PROJECTS.**

23 Upon the request of an Indian tribe, the Secretary
24 of the Interior may, in accordance with all applicable Fed-
25 eral laws, transfer ownership of water and power projects

1 owned by the United States and under the jurisdiction of
2 the Secretary of the Interior that are located on Indian
3 land to the Indian tribe upon whose land the project is
4 located if the Indian tribe agrees to hold the United States
5 harmless regarding liability for that project. Such a trans-
6 fer shall not constitute authorization for a change in the
7 purpose or operation of the project.

8 **SEC. 103. REVIEW OF CERTAIN PROVISIONS RELATED TO**
9 **OIL, GAS, AND COAL ON INDIAN LAND.**

10 (a) REVIEW OF TERMS OF TRIBAL DEVELOPMENT
11 AGREEMENTS.—The Secretary of the Interior shall con-
12 tinue, as trustee, to review the terms of agreements that
13 involve Indian land and resources that have been entered
14 into between Indian tribes and any other party. Such re-
15 views shall rely primarily upon an analysis of certified re-
16 ports by qualified representatives of the Indian tribe as
17 to the efficacy of the agreement and the financial benefit
18 to the Indian tribe. Such agreements shall be reviewed in
19 a timely manner and if agreements are not disapproved
20 within 60 days of receipt by the Secretary, they will be
21 deemed approved by the Secretary.

22 (b) FOGRMA REVIEW.—

23 (1) IN GENERAL.—The Secretary of the Inte-
24 rior shall complete a review of the royalty system for
25 oil and gas development on Indian land under the

1 provisions of the Federal Oil and Gas Royalty Man-
2 agement Act of 1982 (30 U.S.C. 1701 et seq.) and
3 leases and prospective leases of Indian land that re-
4 late to oil and gas.

5 (2) REPORT.—Not later than one year after the
6 date of the enactment of this Act, the Secretary
7 shall transmit to the Committee on Resources of the
8 House of Representatives and the Committee on In-
9 dian Affairs of the Senate a report containing the
10 following:

11 (A) The results of the review.

12 (B) Recommendations regarding the best
13 measures for increasing oil and gas revenues to
14 Indian tribes and members of Indian tribes and
15 insuring timely payment of those revenues.

16 (3) RECOMMENDATIONS.—The Secretary shall
17 carry out any recommendations under paragraph
18 (2)(B) for which the Secretary already has authority
19 under Federal law.

20 (c) INDIAN MINERAL DEVELOPMENT ACT RE-
21 VIEW.—

22 (1) IN GENERAL.—The Secretary of the Inte-
23 rior shall conduct a review of the activities that have
24 been conducted by the governments of Indian tribes

1 under the authority of the Indian Mineral Develop-
2 ment Act of 1982 (25 U.S.C. 2101 et seq.).

3 (2) REPORT.—Not later than one year after the
4 date of the enactment of this Act, the Secretary
5 shall transmit to the Committee on Resources of the
6 House of Representatives and the Committee on In-
7 dian Affairs of the Senate a report containing the
8 following:

9 (A) The results of the review.

10 (B) Recommendations designed to help en-
11 sure that Indian tribes have the highest oppor-
12 tunity to develop their nonrenewable energy re-
13 sources.

14 (C) An analysis of the barriers to the de-
15 velopment of energy resources on Indian land
16 and the best means for removal of those bar-
17 riers.

18 (3) RECOMMENDATIONS.—The Secretary shall
19 carry out any recommendations under paragraph
20 (2)(B) for which the Secretary already has authority
21 under Federal law.

22 **SEC. 104. SITING.**

23 Except in Alaska, applicable Federal siting require-
24 ments for projects related to energy development on In-
25 dian land shall be the only governmental requirements

1 that apply to such siting (other than requirements by the
2 relevant Indian tribal government).

3 **SEC. 105. DAMS ANALYSIS.**

4 (a) IN GENERAL.—The Secretary of the Interior shall
5 complete a study of all dams and water impoundments lo-
6 cated on Indian land to determine their suitability for
7 siting for electrical power projects. The study also shall
8 include the following:

9 (1) An analysis of the impact on natural and
10 cultural resources, including fish and wildlife.

11 (2) An analysis of the impact on Indian tribal
12 treaty rights.

13 (3) Recommendations with respect to each dam
14 or impoundment to improve safety, reduce operation
15 and maintenance costs, lessen the risk of system
16 failure, and improve the overall efficiency of the
17 project.

18 (b) REPORT.—Not later than one year after the date
19 of the enactment of this Act, the Secretary shall transmit
20 to the Committee on Resources of the House of Represent-
21 atives and the Committee on Indian Affairs of the Senate
22 a report containing the study required by this section.

23 (c) RECOMMENDATIONS.—The Secretary shall carry
24 out any recommendations under subsection (b) for which
25 the Secretary already has authority under Federal law.

1 **SEC. 106. APPLICATION OF BUY INDIAN ACT TO ENERGY**
2 **PRODUCTS.**

3 Section 23 of the Act of June 25, 1910 (25 U.S.C.
4 47; commonly known as the “Buy Indian Act”) is amend-
5 ed by inserting after “printing,” the following: “energy
6 products, and energy by-products,”.

7 **SEC. 107. TRANSMISSION OF WIND POWER FROM INDIAN**
8 **LANDS.**

9 The Western Area Power Administration is author-
10 ized and directed to construct, and operate and maintain,
11 such electric power transmission facilities, and related fa-
12 cilities in accordance with all applicable Federal law, as
13 may be necessary to facilitate the development of wind
14 power generation on Indian lands located within the area
15 served by the Administration. The costs of such construc-
16 tion, operation, and maintenance shall be nonreimburs-
17 able.

18 **SEC. 108. EXTRACTION OF ENERGY RESOURCES.**

19 The Federal Government and an Indian tribe shall
20 have the sole taxing authority to tax operations engaged
21 in the extraction of energy resources owned by that Indian
22 tribe or by a member of that Indian tribe when such re-
23 sources are held in trust by the United States for the ben-
24 efit of the Indian or Indian tribe.

1 **TITLE II—COMPREHENSIVE**
2 **INDIAN ENERGY PROGRAMS**

3 **SEC. 201. COMPREHENSIVE INDIAN ENERGY PROGRAM.**

4 (a) ESTABLISHMENT OF PROGRAM.—Title XXVI of
5 the Energy Policy Act of 1992 (25 U.S.C. 3501–3506)
6 is amended by adding at the end the following:

7 **“SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.**

8 “(a) DEFINITIONS.—For purposes of this section:

9 “(1) DIRECTOR.—The term ‘Director’ means
10 the Director of the Office of Indian Energy Policy
11 and Programs established by section 217 of the De-
12 partment of Energy Organization Act.

13 “(2) INDIAN LAND.—The term ‘Indian land’
14 means—

15 “(A) any land within the limits of any In-
16 dian reservation, pueblo, or rancheria;

17 “(B) any land not within the limits of any
18 Indian reservation, pueblo, or rancheria title to
19 which is either held in trust by the United
20 States for the benefit of any Indian tribe or in-
21 dividual or held by any Indian tribe or indi-
22 vidual subject to restriction by the United
23 States against alienation; and

24 “(C) any land conveyed to any Regional
25 Corporation as defined in section 3(g) of the

1 Alaska Native Claims Settlement Act (43
2 U.S.C. 1602(g)).

3 “(b) INDIAN ENERGY EDUCATION, PLANNING, AND
4 MANAGEMENT ASSISTANCE.—

5 “(1) ESTABLISHMENT OF PROGRAMS.—The Di-
6 rector shall establish programs within the Office of
7 Indian Energy Policy and Programs to assist Indian
8 tribes to meet their energy education, research and
9 development, planning, and management needs.

10 “(2) GRANTS.—The Director may make grants,
11 on a competitive basis, to an Indian tribe for—

12 “(A) renewable energy, energy efficiency,
13 and energy conservation programs;

14 “(B) studies and other activities sup-
15 porting tribal acquisition and management of
16 energy supplies, services, and facilities; and

17 “(C) planning, constructing, developing,
18 operating, maintaining, and improving tribal
19 electrical generation, transmission, and dis-
20 tribution facilities.

21 “(3) TRIBES NOT SERVED OR INADEQUATELY
22 SERVED GIVEN PRIORITY.—In making a grant under
23 paragraph (2), the Director may give priority to an
24 application received from an Indian tribe that is not
25 served or is served inadequately by an electric util-

1 “(b) PROGRAMS.—The Director, in consultation with
2 appropriate agencies within the Department of Energy,
3 shall provide, direct, foster, coordinate, and implement en-
4 ergy planning, education, management, conservation, and
5 delivery programs of the Department that—

6 “(1) promote tribal energy efficiency and utili-
7 zation;

8 “(2) modernize and develop, for the benefit of
9 Indian tribes, tribal energy and economic and regu-
10 latory infrastructure related to natural resource de-
11 velopment and electrification;

12 “(3) preserve and promote tribal sovereignty
13 and self determination related to energy matters and
14 energy deregulation;

15 “(4) lower or stabilize energy costs; and

16 “(5) electrify tribal members’ homes and tribal
17 lands.

18 “(c) DUTIES OF DIRECTOR.—The Director shall
19 carry out the duties assigned the Secretary under title
20 XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501
21 et seq.).”.

22 (c) CONFORMING AMENDMENTS.—(1) The table of
23 contents of the Energy Policy Act of 1992 is amended by
24 inserting after the item relating to section 2606 the fol-
25 lowing new item:

“Sec. 2607. Comprehensive Indian energy program.”.

1 (2) Section 2603(c) of the Energy Policy Act of 1992
2 (25 U.S.C. 3503(c)) is amended to read as follows:

3 “(c) There are authorized to be appropriated such
4 sums as may be necessary to carry out the purposes of
5 this section.”.

6 (3) The table of contents of the Department of En-
7 ergy Organization Act is amended by inserting after the
8 item relating to section 216 the following new item:

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

9 (4) Section 5315 of title 5, United States Code, is
10 amended by inserting “Director, Office of Indian Energy
11 Policy and Programs, Department of Energy.” after “Di-
12 rector, Office of Science, Department of Energy.”.

13 **SEC. 202. AMENDMENT TO RENEWABLE ENERGY PRODUC-**
14 **TION INCENTIVE PROGRAM.**

15 Section 1212(b) of the Energy Policy Act of 1992
16 (42 U.S.C. 13317(b)) is amended by inserting “an Indian
17 tribal government or subdivision thereof,” after “or a po-
18 litical subdivision),”.

19 **SEC. 203. RENEWABLE ENERGY STUDY.**

20 Not later than 2 years after the date of the enact-
21 ment of this Act, and once every 2 years thereafter, the
22 Secretary of Energy shall transmit to the Committees on
23 Energy and Commerce and Resources of the House of
24 Representatives and the Committees on Energy and Nat-
25 ural Resources and Indian Affairs of the Senate a report

1 on energy consumption and renewable energy development
2 potential on Indian land.

3 **SEC. 204. LOAN GUARANTEES.**

4 (a) **AUTHORITY.**—The Secretary of Energy is author-
5 ized to guarantee not to exceed 90 percent of the unpaid
6 principal and interest due on any loan made to any Indian
7 tribe for energy development, including the planning, de-
8 velopment, construction, and maintenance of electrical
9 generation plants and for transmission and delivery mech-
10 anisms for electricity produced on Indian land. Loans
11 guaranteed shall be restricted to those made by financial
12 institutions subject to examination by the Secretary, and
13 to loans made by Indian tribes from their own funds to
14 other Indian tribes.

15 (b) **FUND.**—There is hereby created an Indian En-
16 ergy Loan Guaranty Fund that shall be available to the
17 Secretary as a revolving fund without fiscal year limitation
18 to carry out the purpose of this subsection. The aggregate
19 of loans guaranteed by the Secretary through the Fund
20 shall be limited to \$2,000,000,000.

21 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
22 are authorized to be appropriated to the Department of
23 Energy such sums as may be necessary to fulfill obliga-
24 tions with respect to losses on loans guaranteed under this

1 subsection. All moneys appropriated under this section
2 shall remain available until expended.

3 **SEC. 205. NET METERING FOR INDIAN TRIBES.**

4 Title VI of the Public Utility Regulatory Policies Act
5 of 1978 is amended by adding at the end the following:

6 **“SEC. 605. NET METERING FOR RENEWABLE ENERGY ON IN-**
7 **DIAN RESERVATIONS.**

8 “(a) DEFINITION.—For purposes of this section, the
9 term ‘eligible Indian generating facility’ means a facility
10 on an Indian reservation with a maximum generating ca-
11 pacity of 100 kilowatts or less that is fueled by solar en-
12 ergy, wind energy, biomass, or geothermal energy.

13 “(b) REQUIREMENT TO PROVIDE NET METERING
14 SERVICE.—Each person supplying retail electric service to
15 a customer on an Indian reservation who is the owner or
16 operator of an eligible Indian generating facility shall
17 make available to such customer, upon such customer’s
18 request, net metering service in accordance with this sec-
19 tion.

20 “(c) RATES AND CHARGES.—

21 “(1) IDENTICAL CHARGES.—A retail electric
22 supplier requested in accordance with subsection (b)
23 to provide net metering service—

24 “(A) shall charge the owner or operator of
25 an eligible Indian generating facility rates and

1 charges that are identical to those that would
2 be charged its other retail electric customers in
3 the same rate class; and

4 “(B) shall not charge the owner or oper-
5 ator of an Indian generating facility any addi-
6 tional standby, capacity, interconnection, or
7 other rate or charge.

8 “(2) MEASUREMENT.—A retail electric supplier
9 providing net metering service under this section to
10 the owner or operator of an eligible Indian gener-
11 ating facility shall measure the quantity of electricity
12 produced by the eligible Indian generating facility
13 and the quantity of electricity consumed by the
14 owner or operator of such facility during a billing
15 period in accordance with normal metering practices.

16 “(3) ELECTRICITY SUPPLIED EXCEEDING ELEC-
17 TRICITY GENERATED.—If the quantity of electricity
18 supplied by a retail electric supplier providing net
19 metering service under this section during a billing
20 period exceeds the quantity of electricity generated
21 by an eligible Indian generating facility and trans-
22 mitted back to the electric distribution system dur-
23 ing the billing period, the supplier may bill the cus-
24 tomer for the net quantity of electricity supplied by

1 the retail electric supplier, in accordance with nor-
2 mal metering practices.

3 “(4) ELECTRICITY GENERATED EXCEEDING
4 ELECTRICITY SUPPLIED.—If the quantity of elec-
5 tricity generated by an eligible Indian generating fa-
6 cility during a billing period exceeds the quantity of
7 electricity supplied by the retail electric supplier dur-
8 ing the billing period the retail electric supplier—

9 “(A) may bill the owner or operator of the
10 eligible Indian generating facility for the appro-
11 priate standard minimum charges for the billing
12 period in accordance with paragraph (1); and

13 “(B) shall provide the owner or operator of
14 the eligible Indian generating facility with a
15 credit (appearing on the bill for the following
16 billing period) equal to such excess kilowatt-
17 hours generated during the billing period.

18 At the end of each 12-month period, the retail electric sup-
19 plier shall reimburse the owner or operator of the eligible
20 Indian generating facility for the amount of any credits
21 under subparagraph (B) that would otherwise appear on
22 the bill for the next month after such 12-month period.
23 Such reimbursement shall be at the average rate for sales
24 of electric energy by the retail electric supplier during such
25 12-month period.

1 “(d) SAFETY AND PERFORMANCE STANDARDS.—(1)
2 An eligible Indian generating facility and net metering
3 system shall be entitled to net metering under this section
4 only if such facility and net metering system meets all ap-
5 plicable safety, performance, reliability, and interconnec-
6 tion standards established by the National Electrical Code,
7 the Institute of Electrical and Electronics Engineers, and
8 Underwriters Laboratories.

9 “(2) The Commission, after consultation with State
10 regulatory authorities and nonregulated local distribution
11 systems and after notice and opportunity for comment,
12 may adopt, by rule, any additional safety, performance,
13 reliability, and interconnection standards, and control and
14 testing requirements, for eligible Indian generating facili-
15 ties and net metering systems that the Commission deter-
16 mines are necessary to protect public safety and system
17 reliability.”.

18 **SEC. 206. TRANSMITTING ELECTRIC POWER TO AND FROM**
19 **INDIAN RESERVATIONS.**

20 (a) INTERCONNECTION WITH TRIBAL ELECTRIC FA-
21 CILITIES.—Section 210 of the Federal Power Act is
22 amended by adding at the end the following new sub-
23 section:

24 “(f) INTERCONNECTION WITH TRIBAL ELECTRIC
25 FACILITIES.—(1) Upon the application of any Indian tribe

1 owning or operating electric generation, transmission, or
2 distribution facilities located on, the Commission shall
3 issue an order under this subsection, consistent with the
4 provisions of section 212 (other than section 212(g)), re-
5 quiring the physical connection of transmission or local
6 distribution facilities owned or operated by any other per-
7 son or entity (notwithstanding section 201(f)) with the fa-
8 cilities of such tribe and requiring other actions referred
9 to in subparagraphs (B) through (D) of subsection (a)(1).

10 “(2) Not later than 1 year after the date of enact-
11 ment of this subsection, the Commission shall promulgate
12 a final rule under this subsection to establish reasonable
13 and appropriate technical standards for the interconnec-
14 tion of any generating facility owned or operated by an
15 Indian tribe with transmission and distribution facilities
16 owned or operated by any other person or entity. To the
17 extent feasible, the Commission shall develop the stand-
18 ards through a process involving interested parties. For
19 purposes of developing such standards, the Commission
20 shall establish an advisory committee composed of quali-
21 fied experts to make recommendations to the Commis-
22 sion.”.

23 (b) WHEELING OF ELECTRIC POWER TO AND FROM
24 INDIAN RESERVATIONS.—Section 211 of the Federal

1 Power Act is amended by adding at the end the following
2 new subsection:

3 “(f) WHEELING OF ELECTRIC POWER TO AND FROM
4 INDIAN RESERVATIONS.—Notwithstanding section 201(f),
5 any Indian tribe may apply to the Commission for an
6 order under this subsection requiring any person or entity
7 owning transmission or local distribution facilities to pro-
8 vide transmission or local distribution services (including
9 any enlargement of transmission or local distribution ca-
10 pacity necessary to provide such services) to such tribe.
11 Within 6 months after receipt of such application, and
12 after public notice and notice to each affected State regu-
13 latory authority, each affected electric utility, and each af-
14 fected Federal power marketing agency, the Commission
15 shall issue such order if it finds that such order meets
16 the requirements of section 212 (other than subsections
17 (g) and (h) of such section). No order may be issued under
18 this subsection unless the applicant has made a request
19 for transmission or distribution services to the person or
20 entity that would be the subject of such order at least 60
21 days prior to its filing of an application for such order.”.

1 **TITLE III—TAX INCENTIVES FOR**
 2 **TRIBAL ENERGY PROJECTS**

3 **SEC. 301. EXPANSION OF CREDIT FOR ELECTRICITY PRO-**
 4 **DUCED ON INDIAN LANDS FROM EMERGING**
 5 **TECHNOLOGIES AND WASTE PRODUCTS; IN-**
 6 **CREASED CREDIT FOR FACILITIES ON IN-**
 7 **DIAN LAND; TRADABLE CREDITS FOR INDIAN**
 8 **TRIBES.**

9 (a) EXPANSION TO INCLUDE ALTERNATIVE RE-
 10 SOURCES.—

11 (1) IN GENERAL.—Section 45(c)(1) of the In-
 12 ternal Revenue Code of 1986 (relating to qualified
 13 energy resources) is amended by striking “and” at
 14 the end of subparagraph (B), by striking the period
 15 at the end of subparagraph (C) and inserting “,
 16 and”, and by adding at the end the following:

17 “(D) alternative resources.”.

18 (2) DEFINITION OF ALTERNATIVE RE-
 19 SOURCES.—Section 45(c) of the Internal Revenue
 20 Code of 1986 (relating to definitions) is amended by
 21 adding at the end the following:

22 “(5) ALTERNATIVE RESOURCES.—

23 “(A) IN GENERAL.—The term ‘alternative
 24 resources’ means—

25 “(i) solar,

1 “(ii) biomass (other than closed loop
2 biomass),

3 “(iii) incremental hydropower,

4 “(iv) geothermal energy, and

5 “(v) fuel cells.

6 “(B) BIOMASS.—The term ‘biomass’
7 means any solid, nonhazardous, cellulosic waste
8 material, which is segregated from other waste
9 materials, and which is derived from—

10 “(i) any of the following forest-related
11 resources: mill residues, precommercial
12 thinnings, slash, and brush, but not includ-
13 ing old-growth timber or black liquor,

14 “(ii) agriculture sources, including or-
15 chard tree crops, vineyard, grain, legumes,
16 sugar, and other crop by-products or resi-
17 dues, or

18 “(iii) waste pallets, crates, and
19 dunnage, and landscape or right-of-way
20 tree trimmings, but not including—

21 “(I) unsegregated municipal solid
22 waste (garbage), or

23 “(II) post-consumer wastepaper
24 which can be recycled affordably.

1 “(C) INCREMENTAL HYDROPOWER.—The
2 term ‘incremental hydropower’ means additional
3 generating capacity achieved from—

4 “(i) increased efficiency, or

5 “(ii) additions of new capacity, at a li-
6 censed non-Federal hydroelectric project
7 originally placed in service before the date
8 of enactment of this paragraph.”.

9 (3) QUALIFIED FACILITY MUST BE ON INDIAN
10 LANDS.—Section 45(c)(3) of the Internal Revenue
11 Code of 1986 (defining qualified facility) is amended
12 by adding at the end the following:

13 “(D) ALTERNATIVE RESOURCES FACIL-
14 ITY.—In the case of a facility using alternative
15 resources to produce electricity, the term ‘quali-
16 fied facility’ means any facility located on In-
17 dian lands (as defined in subsection (b)(5)(B))
18 which is located on Indian land and is wholly or
19 majority owned or operated by an Indian tribe
20 or operated with the explicit written approval of
21 the Indian tribal government and which is origi-
22 nally placed in service after December 31,
23 2001.”.

24 (4) QUALIFIED FACILITIES WITH CO-PRODUC-
25 TION ON INDIAN LANDS.—Section 45(b) of the In-

1 ternal Revenue Code of 1986 (relating to limitations
2 and adjustments) is amended by adding at the end
3 the following:

4 “(4) INCREASED CREDIT FOR CO-PRODUCTION
5 FACILITIES.—

6 “(A) IN GENERAL.—In the case of a quali-
7 fied facility described in subsection (c)(3)(D)
8 which has a co-production facility or a qualified
9 facility described in subparagraph (A), (B), or
10 (C) of subsection (c)(3) which adds a co-pro-
11 duction facility after the date of the enactment
12 of this paragraph, the amount in effect under
13 subsection (a)(1) for an eligible taxable year of
14 the taxpayer shall (after adjustment under
15 paragraphs (1), (2), and (3)) be increased by
16 .25 cents.

17 “(B) CO-PRODUCTION FACILITY.—For
18 purposes of subparagraph (A), the term ‘co-pro-
19 duction facility’ means a facility which—

20 “(i) enables a qualified facility to
21 produce heat, mechanical power, or min-
22 erals from qualified energy resources in ad-
23 dition to electricity, and

24 “(ii) produces such energy on a con-
25 tinuous basis.

1 “(C) ELIGIBLE TAXABLE YEAR.—For pur-
2 poses of subparagraph (A), the term ‘eligible
3 taxable year’ means any taxable year in which
4 the amount of gross receipts attributable to the
5 co-production facility of a qualified facility are
6 at least 10 percent of the amount of gross re-
7 ceipts attributable to electricity produced by
8 such facility.”.

9 (5) QUALIFIED FACILITIES LOCATED ON IN-
10 DIAN LAND.—

11 (A) IN GENERAL.—Section 45(b) of the In-
12 ternal Revenue Code of 1986 (relating to limi-
13 tations and adjustments), as amended by para-
14 graph (4), is amended by adding at the end the
15 following:

16 “(5) INCREASED CREDIT FOR QUALIFIED FA-
17 CILITY LOCATED ON INDIAN LAND.—In the case of
18 a qualified facility described in subsection (c)(3)(D)
19 which is located on Indian land and is wholly or ma-
20 jority owned or operated by an Indian tribe or oper-
21 ated with the explicit written approval of the Indian
22 tribal government, the amount in effect under sub-
23 section (a)(1) for a taxable year shall (after adjust-
24 ment under paragraphs (1), (2), (3), and (4)) be in-
25 creased by 1.5 cents.”.

1 (B) INDIAN LAND DEFINED.—Section
2 45(c) of such Code is amended by adding at the
3 end the following new paragraph:

4 “(6) INDIAN LAND.—The term ‘Indian land’
5 means—

6 “(A) any land within the limits of any In-
7 dian reservation, pueblo, or rancharia,

8 “(B) any land not within the limits of any
9 Indian reservation, pueblo, or rancharia title to
10 which is either held in trust by the United
11 States for the benefit of any Indian tribe or in-
12 dividual or held by any Indian tribe or indi-
13 vidual subject to restriction by the United
14 States against alienation,

15 “(C) any land conveyed to any Regional
16 Corporation as defined in section 3(g) of the
17 Alaska Native Claims Settlement Act (43
18 U.S.C. 1602(g)).”.

19 (b) CREDIT FOR ELECTRICITY PRODUCED FROM AL-
20 TERNATIVE RESOURCES MAY BE TRANSFERRED.—Sec-
21 tion 45(d) of the Internal Revenue Code of 1986 (relating
22 to definitions and special rules) is amended by adding at
23 the end the following:

24 “(8) CREDIT MAY BE ASSIGNED.—If the tax-
25 payer elects the application of this paragraph with

1 respect to a qualified facility described in subsection
2 (c)(1)(D), then the amount of the credit determined
3 under this section with respect to that facility shall
4 be allowed—

5 “(A) to any organization that purchases
6 electricity from, or sells electricity for, such fa-
7 cility and not to the taxpayer, or

8 “(B) to any person designated by the tax-
9 payer and not to the taxpayer if such owner is
10 exempt from tax under this chapter and is pro-
11 ducing electricity from such facility.”.

12 (c) COORDINATION WITH OTHER CREDITS.—Section
13 45(d) of the Internal Revenue Code of 1986, as amended
14 by subsection (b), is amended by adding at the end the
15 following:

16 “(9) COORDINATION WITH OTHER CREDITS.—
17 This section shall not apply to any qualified facility
18 with respect to which the energy credit under section
19 48 is allowed for the taxable year unless the tax-
20 payer elects to waive the application of such credit
21 to such facility.”.

22 (d) EXPANSION TO INCLUDE ANIMAL WASTE.—

23 (1) IN GENERAL.—Section 45 of the Internal
24 Revenue Code of 1986 (relating to electricity pro-

1 duced from certain renewable resources) is
2 amended—

3 (A) in the text and headings of subsections
4 (c) and (d)(6), by inserting “or other animal
5 waste” after “poultry waste” each place it ap-
6 pears, and

7 (B) in subsection (e)(4), by inserting “or
8 other animal” after “poultry”.

9 (2) FACILITY MUST BE LOCATED ON INDIAN
10 LANDS.—Section 45(c)(3) of such Code is amended
11 by adding at the end the following new sentence: “In
12 the case of any such facility which uses other animal
13 waste to produce electricity, such facility shall not be
14 a qualified facility for purposes of the preceding sen-
15 tence unless such facility is located on Indian
16 lands.”.

17 (e) TREATMENT OF QUALIFIED FACILITIES NOT IN
18 COMPLIANCE WITH POLLUTION LAWS.—Section 45(c)(3)
19 of the Internal Revenue Code of 1986 (relating to quali-
20 fied facilities), as amended by section 301(a)(3), is amend-
21 ed by adding at the end the following:

22 “(E) NONCOMPLIANCE WITH POLLUTION
23 LAWS.—For purposes of this paragraph, a facil-
24 ity which is not in compliance with the applica-
25 ble Tribal and Federal pollution prevention,

1 control, and permit requirements for any period
2 of time shall not be considered to be a qualified
3 facility during such period.”.

4 (f) CREDITS FOR CERTAIN TAX-EXEMPT ORGANIZA-
5 TIONS AND GOVERNMENTAL UNITS.—Section 45 of such
6 Code is amended by adding at the end the following new
7 subsection:

8 “(e) INDIAN TRIBES.—

9 “(1) ALLOWANCE OF CREDIT.—Any credit
10 which would be allowable under this section with re-
11 spect to a qualified facility described in subsection
12 (e)(3)(D) shall also be allowable to an Indian tribe.

13 “(2) USE OF CREDIT.—

14 “(A) ASSIGNMENT OF CREDIT.—If an In-
15 dian tribe elects the application of this sub-
16 section with respect to a qualified facility, then
17 the amount of the credit determined under this
18 section with respect to that facility shall be al-
19 lowed to any person designated by the Indian
20 tribe and not to the Indian tribe.

21 “(B) USE OF CREDIT AS AN OFFSET.—

22 Notwithstanding any other provision of law, any
23 credit allowable to such entity under paragraph
24 (1) may be applied by such entity, without pen-
25 alty, as a prepayment of any loan, debt, or

1 other obligation such entity has incurred under
2 the Rural Electrification Act of 1936 (7 U.S.C.
3 901 et seq.).

4 “(3) SPECIAL RULES.—For purposes of this
5 paragraph—

6 “(A) TRANSFER PROCEEDS TREATED AS
7 ARISING FROM ESSENTIAL GOVERNMENTAL
8 FUNCTION.—Any proceeds derived by an Indian
9 tribe from the assignment of any credit under
10 paragraph (2)(A) shall be treated as arising
11 from an essential governmental function.

12 “(B) CREDITS NOT REDUCED BY TAX-EX-
13 EMPT BONDS OR CERTAIN OTHER SUBSIDIES.—
14 Subsection (b)(3) shall not apply to reduce any
15 credit allowable under paragraph (1) with re-
16 spect to—

17 “(i) proceeds described in subsection
18 (b)(3)(A)(ii), or

19 “(ii) any loan, debt, or other obliga-
20 tion incurred under the Rural Electrifica-
21 tion Act of 1936 (7 U.S.C. 901 et seq.)
22 used to provide financing for any qualified
23 facility.

24 “(C) TREATMENT OF UNRELATED PER-
25 SONS.—Sales among and between Indian tribes

1 shall be treated as sales between unrelated par-
2 ties.”.

3 (g) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to electricity and other energy pro-
5 duced in taxable years beginning after the date of the en-
6 actment of this Act.

7 **SEC. 302. CREDIT FOR PRODUCING INDIAN OIL OR GAS.**

8 (a) **IN GENERAL.**—Subpart B of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
10 1986 is amended by inserting after section 29 the fol-
11 lowing new section:

12 **“SEC. 29A. CREDIT FOR PRODUCING INDIAN OIL OR GAS.**

13 “(a) **ALLOWANCE OF CREDIT.**—There shall be al-
14 lowed as a credit against the tax imposed by this chapter
15 for the taxable year an amount equal to—

16 “(1) \$6.12, multiplied by

17 “(2) the barrel-of-oil equivalent of Indian oil or
18 gas—

19 “(A) sold by the taxpayer to an unrelated
20 person during the taxable year, and

21 “(B) the production of which is attrib-
22 utable to the taxpayer.

23 “(b) **LIMITATIONS AND ADJUSTMENTS.**—

24 “(1) **PHASEOUT OF CREDIT.**—The amount of
25 the credit allowable under subsection (a) shall be re-

1 duced by an amount which bears the same ratio to
2 the amount of the credit (determined without regard
3 to this paragraph) as—

4 “(A) the amount by which the reference
5 price for the calendar year in which the sale oc-
6 curs exceeds \$ 23.50, bears to

7 “(B) \$6.

8 “(2) CREDIT AND PHASEOUT ADJUSTMENT
9 BASED ON INFLATION.—The \$6.12 amount in sub-
10 section (a) and the \$23.50 and \$6 amounts in para-
11 graph (1) shall each be adjusted by multiplying such
12 amount by the inflation adjustment factor for the
13 calendar year in which the sale occurs.

14 “(3) LIMITATION BASED ON AMOUNT OF
15 TAX.—The credit allowed by subsection (a) shall not
16 exceed the sum of the regular tax liability and the
17 tax imposed by section 55, reduced by the credits al-
18 lowable under subpart A of this part and by sections
19 27 and 29.

20 “(4) CARRYBACK AND CARRYOVER OF EXCESS
21 CREDITS.—If the sum of the credits allowed by this
22 section for a taxable year plus the amount of the
23 carryforwards to the taxable year under this sub-
24 section exceed the limitation imposed by paragraph
25 (3) for such taxable year (referred to in this para-

1 graph as the ‘excess credit year’), such excess shall
2 be a carryback to each of the three taxable years
3 preceding the excess credit year and a carryforward
4 to each of the twenty taxable years following the ex-
5 cess credit year and, subject to the limitations im-
6 posed by paragraph (3), shall be taken into account
7 under the provisions of subsection (a) in the manner
8 provided in subsection (a). The entire amount of the
9 unused credit for an unused credit year shall be car-
10 ried first to the earliest of the twenty-three taxable
11 years to which (by reason of this paragraph) such
12 credit may be carried. The amount of the unused
13 credit for the unused credit year shall be carried to
14 each of the other twenty-two years to the extent that
15 such unused credit may not be taken into account
16 under subsection (a) for a prior taxable year because
17 of the limitations of paragraph (3).

18 “(c) DEFINITION OF INDIAN OIL OR GAS.—For pur-
19 poses of this section, the term ‘Indian oil or gas’ means
20 oil or gas that is produced—

21 “(1) from oil or gas deposits that are either
22 held by the United States in trust for the benefit of
23 any Indian tribe or individual Indian or held by any
24 Indian tribe or individual Indian subject to a restric-

1 tion imposed by the United States against alien-
2 ation, and

3 “(2) pursuant to a lease or other agreement
4 issued or approved by the United States.

5 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
6 For purposes of this section—

7 “(1) INDIAN TRIBE.—The term ‘Indian tribe’
8 means any Indian tribe, band, nation, or other orga-
9 nized group or community, including any Regional
10 Corporation as defined in section 3(g) of the Alaska
11 Native Claims Settlement Act (43 U.S.C. 1602(g)),
12 which is recognized as eligible for the special pro-
13 grams and services provided by the United States to
14 Indians because of their status as Indians.

15 “(2) COMPUTATION OF INFLATION ADJUST-
16 MENT FACTOR AND REFERENCE PRICE.—

17 “(A) IN GENERAL.—The Secretary shall,
18 not later than April 1 of each calendar year, de-
19 termine and publish in the Federal Register the
20 inflation adjustment factor and the reference
21 price for the preceding calendar year in accord-
22 ance with this paragraph.

23 “(B) INFLATION ADJUSTMENT FACTOR.—
24 The term ‘inflation adjustment factor’ means,
25 with respect to a calendar year, a fraction the

1 numerator of which is the GNP implicit price
2 deflator for the calendar year and the denomi-
3 nator of which is the GNP implicit deflator for
4 calendar year 2001. The term ‘GNP implicit
5 price deflator’ means the first revision of the
6 implicit price deflator for the gross national
7 product as computed and published by the De-
8 partment of Commerce.

9 “(C) REFERENCE PRICE.—The term ‘ref-
10 erence price’ means with respect to a calendar
11 year the Secretary’s estimate of the annual av-
12 erage wellhead price per barrel for all domestic
13 crude oil the price of which is not subject to
14 regulation by the United States.

15 “(3) PRODUCTION ATTRIBUTABLE TO THE TAX-
16 PAYER.—In the case of a property in which more
17 than 1 person has an interest, except to the extent
18 provided in regulations prescribed by the Secretary,
19 production from the property shall be allocated
20 among such persons in proportion to their respective
21 economic interests in the gross sales from such prop-
22 erty.

23 “(4) BARREL-OF-OIL EQUIVALENT.—The term
24 ‘barrel-of-oil equivalent’ with respect to any fuel

1 means that amount of such fuel which has a Btu
2 content of 5.8 million.

3 “(5) BARREL DEFINED.—The term ‘barrel’
4 means 42 United States gallons.

5 “(6) RELATED PERSONS.—Persons shall be
6 treated as related to each other if such persons
7 would be treated as a single employer under the reg-
8 ulations prescribed under section 52(b). In the case
9 of a corporation which is a member of an affiliated
10 group of corporations filing a consolidated return,
11 such corporation shall be treated as selling Indian
12 oil or gas to an unrelated person if such Indian oil
13 or gas is sold to such a person by another member
14 of such group.

15 “(7) PASS-THRU IN THE CASE OF ESTATES OR
16 TRUSTS.—Under regulations prescribed by the Sec-
17 retary, rules similar to the rules of subsection (d) of
18 section 52 shall apply.

19 “(e) APPLICATION OF SECTION.—

20 “(1) IN GENERAL.—This section shall apply
21 with respect to Indian oil or gas which is—

22 “(A) produced from a well placed in service
23 after September 30, 2001, or

1 “(B) produced from a well recompleted
2 after September 30, 2001, where such produc-
3 tion occurs on or after the date of recompletion.

4 “(2) NO DOUBLE BENEFIT.—This section shall
5 not apply with respect to any oil or gas for which
6 a credit is allowed under section 29.”.

7 (b) ALTERNATIVE MINIMUM TAX.—

8 (1) TENTATIVE MINIMUM TAX, NONCORPORATE
9 TAXPAYERS.—Section 55(b)(1)(A)(i) of such Code is
10 amended by inserting “and the Indian oil or gas
11 credit allowed by section 29A” after “alternative
12 minimum tax foreign tax credit”.

13 (2) TENTATIVE MINIMUM TAX, CORPORA-
14 TIONS.—Section 55(b)(1)(B)(ii) of such Code is
15 amended by inserting “and the Indian oil or gas
16 credit allowed by section 29A” after “alternative
17 minimum tax foreign tax credit”.

18 (3) REGULAR TAX.—Section 55(c)(1) of such
19 Code is amended by inserting “the Indian oil or gas
20 credit allowable under section 29A,” after “foreign
21 tax credit allowable under section 27(a),”.

22 (4) ALTERNATIVE MINIMUM TAX.—Section
23 59(b) of such Code is amended by inserting at the
24 end the following: “In the case of any taxpayer for
25 whom the Indian oil or gas credit is allowable under

1 section 29A for the taxable year, alternative min-
2 imum taxable income shall not include any income
3 derived from production for which a credit is allowed
4 under section 29A.”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for subpart B of part IV of subchapter A of chapter 1
7 of such Code is amended by inserting after item relating
8 to section 29 the following new item:

“Sec. 29A. Credit for producing indian oil or gas.”

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years ending after the
11 date of enactment of this Act.

12 **TITLE IV—TRIBAL GOVERNMENT**
13 **CONSERVATION AND INFRA-**
14 **STRUCTURE**

15 **SEC. 401. COMMUNITY DEVELOPMENT ASSISTANCE FOR IN-**
16 **FRAStructure PROJECTS.**

17 Section 105(a) of the Housing and Community De-
18 velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

19 (1) in paragraph (22), by striking “and” at the
20 end;

21 (2) in paragraph (23), by striking the period at
22 the end and inserting a semicolon;

23 (3) by inserting after paragraph (23) the fol-
24 lowing new paragraph:

1 “(24) in the case only of assistance using grant
2 amounts for Indian tribes provided pursuant to sec-
3 tion 106(a)(1)—

4 “(A) planning, development, construction,
5 improvement, operation, or maintenance of fa-
6 cilities for generation, transmission, or distribu-
7 tion of electricity that are owned or controlled
8 by an Indian tribe or tribal entity; and

9 “(B) activities or projects that are de-
10 signed to benefit members of an Indian tribe by
11 increasing energy efficiency or by lowering or
12 stabilizing electric rates.”.

13 **SEC. 402. ENERGY EFFICIENCY AND CONSERVATION IN**
14 **FEDERALLY ASSISTED HOUSING.**

15 The Secretary of Housing and Urban Development
16 and the Secretary of the Interior shall develop energy effi-
17 ciency and conservation measures for use in connection
18 with housing located on Indian lands that is constructed
19 or rehabilitated with assistance provided under any pro-
20 gram administered by such Secretary, including programs
21 under the Native American Housing and Self-Determina-
22 tion Act of 1996 (25 U.S.C. 4101 et seq.) and the Indian
23 Home Improvement Program of the Bureau of Indian Af-
24 fairs, and shall promote the use of such measures in such
25 programs. Such measures shall include home energy ret-

1 rofit programs, conversion from electric to solar energy
2 with propane backup, and replacement of inefficient appli-
3 ances and lighting with high-efficiency alternatives.

4 **TITLE V—RURAL AND REMOTE**
5 **COMMUNITIES ELECTRIFICA-**
6 **TION GRANTS**

7 **SEC. 501. RURAL AND REMOTE COMMUNITIES ELEC-**
8 **TRIFICATION GRANTS.**

9 Section 313 of the Rural Electrification Act of 1936
10 (7 U.S.C. 940c) is amended by adding at the end the fol-
11 lowing new subsection:

12 “(c) RURAL AND REMOTE COMMUNITIES ELEC-
13 TRIFICATION GRANTS.—The Secretary, in consultation
14 with the Secretary of Energy and the Secretary of the In-
15 terior, may provide grants and zero interest loans to eligi-
16 ble borrowers under this Act for the purposes of increasing
17 energy efficiency, lowering or stabilizing electric rates to
18 end users, or providing or modernizing electric facilities
19 for an Indian tribe.”.

○