

AMENDMENT NO. _____

Calendar No. _____

Purpose: To replace “tribal consortia” with “tribal energy resource development organizations”,
and for other purposes.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Session

S. 14

To enhance the energy security of the United States,
and for other purposes.

AMENDMENT intended to be proposed by Mr. CAMPBELL (for himself and Mr. DOMENICI)

Viz:

1 Page 101, line 1, strike “electrify Indian tribal land” and all that follows through page 128, line 24, and

2 insert:

3 “(4) electrify Indian tribal land and the homes of tribal members.”

4 (b) CONFORMING AMENDMENTS.—

5 (1) The table of contents of the Department of Energy Organization Act (42 U.S.C.

6 prec. 7101) is amended—

7 (A) in the item relating to section 209, by striking “Section” and inserting

1 “Sec.”; and

2 (B) by striking the items relating to sections 213 through 216 and inserting the

3 following:

“Sec. 213. Establishment of policy for National Nuclear Security Administration.

“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

1 (2) Section 5315 of title 5, United States Code, is amended by inserting “Director,

2 Office of Indian Energy Policy and Programs, Department of Energy.” after “Inspector General,

3 Department of Energy.”.

4 **SEC. 303. INDIAN ENERGY.**

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

6 as follows:

7 **“TITLE XXVI—INDIAN ENERGY**

8 **“SEC. 2601. DEFINITIONS.**

9 “For purposes of this title:

10 “(1) The term ‘Director’ means the Director of the Office of Indian Energy Policy and

11 Programs, Department of Energy.

12 “(2) The term ‘Indian land’ means—

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

15 “(B) any land not located within the boundaries of an Indian reservation,

1 pueblo, or rancharia, the title to which is held—

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

3 “(ii) by an Indian tribe, subject to restriction by the United States

4 against alienation; or

5 “(iii) by a dependent Indian community; and

6 “(C) land conveyed to a Native Corporation under the Alaska Native Claims
7 Settlement Act (43 U.S.C. 1601 et seq.).

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

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

11 “(B) a public domain Indian allotment;

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

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

15 “(E) a dependent Indian community located within the borders of the United
16 States, regardless of whether the community is located—

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

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

19 “(4) The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian
20 Self-Determination and Education Assistance Act (25 U.S.C. 450b).

21 “(5) The term ‘Native Corporation’ has the meaning given the term in section 3 of the

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

2 “(6) The term ‘organization’ means a partnership, joint venture, limited liability
3 company, or other unincorporated association or entity that is established to develop Indian
4 energy resources.

5 “(7) The term ‘Program’ means the Indian energy resource development program
6 established under section 2602(a).

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

8 “(9) The term ‘tribal energy resource development organization’ means an organization
9 of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the
10 governing bodies of all Indian tribes participating in the organization to apply for a grant, loan,
11 or other guarantee authorized by sections 2602 or 2603 of this title. .

12 “(10) The term ‘tribal land’ means any land or interests in land owned by any Indian
13 tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in
14 trust by the United States or which is subject to a restriction against alienation imposed by the
15 United States.

16 “(11) The term ‘vertical integration of energy resources’ means any project or activity
17 that promotes the location and operation of a facility (including any pipeline, gathering system,
18 transportation system or facility, or electric transmission facility), on or near Indian land to
19 process, refine, generate electricity from, or otherwise develop energy resources on, Indian
20 land.

21 “SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

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

2 “(1) To assist Indian tribes in the development of energy resources and further the goal
3 of Indian self-determination, the Secretary shall establish and implement an Indian energy
4 resource development program to assist Indian tribes and tribal energy resource development
5 organizations in achieving the purposes of this title.

6 “(2) In carrying out the Program, the Secretary shall—

7 “(A) provide development grants to Indian tribes and tribal energy resource
8 development organizations for use in developing or obtaining the managerial and
9 technical capacity needed to develop energy resources on Indian land, and to properly
10 account for resulting energy production and revenues;

11 “(B) provide grants to Indian tribes and tribal energy resource development
12 organizations for use in carrying out projects to promote the vertical integration of
13 energy resources, and to process, use, or develop those energy resources, on Indian
14 land; and

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

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

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

21 “(1) The Director shall establish programs to assist Indian tribes in meeting energy

1 education, research and development, planning, and management needs.

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

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

6 “(B) studies and other activities supporting tribal acquisition of energy supplies,
7 services, and facilities;

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

11 “(D) development, construction, and interconnection of electric power
12 transmission facilities located on Indian land with other electric transmission facilities.

13 “(3)(A) The Director may develop, in consultation with Indian tribes, a formula for
14 providing grants under this section.

15 “(B) In providing a grant under this subsection, the Director shall give priority to an
16 application received from an Indian tribe with inadequate electric service (as determined by the
17 Director).

18 “(4) The Secretary of Energy may promulgate such regulations as necessary to carry
19 out this subsection.

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

1 “(c) LOAN GUARANTEE PROGRAM.—

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

6 “(2) A loan guaranteed under this subsection shall be made by—

7 “(A) a financial institution subject to examination by the Secretary of Energy; or

8 “(B) an Indian tribe, from funds of the Indian tribe.

9 “(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any
10 time under this subsection shall not exceed \$2,000,000,000.

11 “(4) The Secretary may promulgate such regulations as the Secretary of Energy
12 determines are necessary to carry out this subsection.

13 “(5) There are authorized to be appropriated such sums as are necessary to carry out
14 this subsection, to remain available until expended.

15 “(6) Not later than 1 year from the date of enactment of this section, the Secretary of
16 Energy shall report to the Congress on the financing requirements of Indian tribes for energy
17 development on Indian land.

18 “(d) INDIAN ENERGY PREFERENCE.—

19 “(1) In purchasing electricity or any other energy product or byproduct, a Federal
20 agency or department may give preference to an energy and resource production enterprise,
21 partnership, consortium, corporation, or other type of business organization the majority of the

1 interest in which is owned and controlled by 1 or more Indian tribes.

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

3 “(A) pay more than the prevailing market price for an energy product or

4 byproduct; and

5 “(B) obtain less than prevailing market terms and conditions.”.

6 **“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.**

7 “(a) GRANTS.—The Secretary may provide to Indian tribes and tribal energy resource
8 development organizations, on an annual basis, grants for use in developing, administering,
9 implementing, and enforcing tribal laws (including regulations) governing the development and
10 management of energy resources on Indian land.

11 “(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an
12 Indian tribe or tribal energy resource development organization for—

13 “(1) the development of a tribal energy resource inventory or tribal energy resource on
14 Indian land;

15 “(2) the development of a feasibility study or other report necessary to the development
16 of energy resources on Indian land;

17 “(3) the development and enforcement of tribal laws and the development of technical
18 infrastructure to protect the environment under applicable law; or

19 “(4) the training of employees that—

20 “(A) are engaged in the development of energy resources on Indian land; or

21 “(B) are responsible for protecting the environment.

1 “(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the
2 Secretary of Energy shall make available to Indian tribes and tribal energy resource development
3 organizations scientific and technical data for use in the development and management of energy
4 resources on Indian land.

5 **“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY**
6 **DEVELOPMENT OR TRANSMISSION.**

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

8 “(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for
9 the purpose of energy development, including a lease or business agreement for—

10 “(A) exploration for, extraction of, processing of, or other development of
11 energy resources on tribal land; and

12 “(B) construction or operation of an electric generation, transmission, or
13 distribution facility located on tribal land; or a facility to process or refine energy
14 resources developed on tribal land; and

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

18 “(A) the lease or business agreement is executed in accordance with a tribal
19 energy resource agreement approved by the Secretary under subsection (e);

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

21 “(i) 30 years; or

1 “(ii) in the case of a lease for the production of oil and gas resources,

2 10 years and as long thereafter as oil or gas is produced in paying quantities;

3 and

4 “(C) the Indian tribe has entered into a tribal energy resource agreement with

5 the Secretary, as described in subsection (e), relating to the development of energy

6 resources on tribal land (including an annual trust asset evaluation of the activities of the

7 Indian tribe conducted in accordance with the agreement).

8 “(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION

9 LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric

10 transmission or distribution line without specific approval by the Secretary if—

11 “(1) the right-of-way is executed in accordance with a tribal energy resource agreement

12 approved by the Secretary under subsection (e);

13 “(2) the term of the right-of-way does not exceed 30 years;

14 “(3) the pipeline or electric transmission or distribution line serves—

15 “(A) an electric generation, transmission, or distribution facility located on tribal

16 land; or

17 “(B) a facility located on tribal land that processes or refines energy resources

18 developed on tribal land; and

19 “(4) the Indian tribe has entered into a tribal energy resource agreement with the

20 Secretary, as described in subsection (e), relating to the development of energy resources on

21 tribal land (including an annual trust asset evaluation of the activities of the Indian tribe

1 conducted in accordance with the agreement).

2 “(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an
3 Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with
4 this section.

5 “(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of
6 tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business
7 agreement, or right-of-way is authorized in accordance with a tribal energy resource agreement
8 approved by the Secretary under subsection (e)(2).

9 “(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

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

13 “(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal
14 energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date
15 as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or
16 disapprove the tribal energy resource agreement.

17 “(B) The Secretary shall approve a tribal energy resource agreement submitted under
18 paragraph (1) if—

19 “(i) the Secretary determines that the Indian tribe has demonstrated that the
20 Indian tribe has sufficient capacity to regulate the development of energy resources of
21 the Indian tribe; and

1 “(ii) the tribal energy resource agreement includes provisions that, with respect
2 to a lease, business agreement, or right-of-way under this section—

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

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

7 “(III) address amendments and renewals;

8 “(IV) address consideration for the lease, business agreement, or
9 right-of-way;

10 “(V) address technical or other relevant requirements;

11 “(VI) establish requirements for environmental review in accordance
12 with subparagraph (C);

13 “(VII) ensure compliance with all applicable environmental laws;

14 “(VIII) identify final approval authority;

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

16 “(X) establish a process for consultation with any affected States
17 concerning potential off-reservation impacts associated with the lease, business
18 agreement, or right-of-way; and

19 “(XI) describe the remedies for breach of the lease, agreement, or
20 right-of-way.

21 “(C) Tribal energy resource agreements submitted under paragraph (1) shall establish,

1 and include provisions to ensure compliance with, an environmental review process that, with
2 respect to a lease, business agreement, or right-of-way under this section, provides for—

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

5 “(ii) the identification of proposed mitigation;

6 “(iii) a process for ensuring that the public is informed of and has an opportunity
7 to comment on the environmental impacts of the proposed action before tribal approval
8 of the lease, business agreement, or right-of-way; and

9 “(iv) sufficient administrative support and technical capability to carry out the
10 environmental review process.

11 “(D) A tribal energy resource agreement negotiated between the Secretary and an
12 Indian tribe in accordance with this subsection shall include—

13 “(i) provisions requiring the Secretary to conduct an annual trust asset
14 evaluation to monitor the performance of the activities of the Indian tribe associated
15 with the development of energy resources on tribal land by the Indian tribe; and

16 “(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical
17 trust asset, provisions authorizing the Secretary to reassume responsibility for activities
18 associated with the development of energy resources on tribal land.

19 “(3) The Secretary shall provide notice and opportunity for public comment on tribal
20 energy resource agreements submitted under paragraph (1). The Secretary’s review of a tribal
21 energy resource agreement under the National Environmental Policy Act (42 U.S.C. 4321 et

1 seq) shall be limited to the direct effects of that approval.

2 “(4) If the Secretary disapproves a tribal energy resource agreement submitted by an
3 Indian tribe under paragraph (1), the Secretary shall—

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

5 “(B) identify what changes or other actions are required to address the
6 concerns of the Secretary; and

7 “(C) provide the Indian tribe with an opportunity to revise and resubmit the
8 tribal energy resource agreement.

9 “(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way
10 in accordance with a tribal energy resource agreement approved under this subsection, the
11 Indian tribe shall, in accordance with the process and requirements set forth in the Secretary’s
12 regulations adopted pursuant to subsection (e)(8), provide to the Secretary—

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

15 “(B) in the case of a tribal energy resource agreement or a lease, business
16 agreement, or right-of-way that permits payment to be made directly to the Indian tribe,
17 documentation of those payments sufficient to enable the Secretary to discharge the
18 trust responsibility of the United States as appropriate under applicable law.

19 “(6)(A) Nothing in this section shall absolve the United States from any responsibility
20 to Indians or Indian tribes, including those which derive from the trust relationship or from any
21 treaties, Executive Orders, or agreements between the United States and any Indian tribe.

1 “(B) The Secretary shall continue to have a trust obligation to ensure that the rights of
2 an Indian tribe are protected in the event of a violation of federal law or the terms of any lease,
3 business agreement or right-of-way under this section by any other party to any such lease,
4 business agreement or right-of-way.

5 “(C) Notwithstanding subparagraph (A), the United States shall not be liable to any
6 party (including any Indian tribe) for any of the terms of, or any losses resulting from the terms
7 of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a
8 tribal energy resource agreement approved under subsection (e)(2).

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

13 “(B) After exhaustion of tribal remedies, and in accordance with the process and
14 requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(8), an
15 interested party may submit to the Secretary a petition to review compliance of an Indian tribe
16 with a tribal energy resource agreement of the Indian tribe approved under this subsection.

17 “(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal
18 energy resource agreement approved under this subsection, the Secretary shall take such action
19 as is necessary to compel compliance, including—

20 “(i) suspending a lease, business agreement, or right-of-way under this section
21 until an Indian tribe is in compliance with the approved tribal energy resource

1 agreement; and

2 “(ii) rescinding approval of the tribal energy resource agreement and reassuming
3 the responsibility for approval of any future leases, business agreements, or
4 rights-of-way associated with an energy pipeline or distribution line described in
5 subsections (a) and (b).

6 “(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved
7 tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

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

10 “(ii) provide the Indian tribe with a written notice of the violation together with
11 the written determination; and

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

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

17 “(ii) The decision of the Secretary with respect to an appeal described in clause (i),
18 after any agency appeal provided for by regulation, shall constitute a final agency action.

19 “(8) Not later than 180 days after the date of enactment of the Indian Tribal Energy
20 Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations
21 that implement the provisions of this subsection, including—

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

5 “(B) a process and requirements in accordance with which an Indian tribe
6 may—

7 “(i) voluntarily rescind an approved tribal energy resource agreement
8 approved by the Secretary under this subsection; and

9 “(ii) return to the Secretary the responsibility to approve any future
10 leases, business agreements, and rights-of-way described in this subsection.

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

12 “(1) any Federal environmental law;

13 “(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et
14 seq.); or

15 “(3) except as otherwise provided in this title, the Indian Mineral Development Act of
16 1982 (25 U.S.C. 2101 et seq.) and the National Environmental Policy Act (42 U.S.C. 4321 et
17 seq.).

18 **“SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) The term ‘Administrator’ means the Administrator of the Bonneville Power
21 Administration and the Administrator of the Western Area Power Administration.

1 “(2) The term ‘power marketing administration’ means—

2 “(A) the Bonneville Power Administration;

3 “(B) the Western Area Power Administration; and

4 “(C) any other power administration the power allocation of which is used by

5 or for the benefit of an Indian tribe located in the service area of the administration.

6 “(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall
7 encourage Indian tribal energy development by taking such actions as are appropriate, including
8 administration of programs of the Bonneville Power Administration and the Western Area Power
9 Administration, in accordance with this section.

10 “(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with
11 existing law—

12 “(1) each Administrator shall consider the unique relationship that exists between the
13 United States and Indian tribes.

14 “(2) power allocations from the Western Area Power Administration to Indian tribes
15 may be used to meet firming and reserve needs of Indian-owned energy projects on Indian
16 land;

17 “(3) the Administrator of the Western Area Power Administration may purchase power
18 from Indian tribes to meet the firming and reserve requirements of the Western Area Power
19 Administration; and

20 “(4) each Administrator shall not pay more than the prevailing market price for an
21 energy product nor obtain less than prevailing market terms and conditions.

1 “(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

2 “(1) An Administrator may provide technical assistance to Indian tribes seeking to use
3 the high-voltage transmission system for delivery of electric power.

4 “(2) The costs of technical assistance provided under paragraph (1) shall be funded by
5 the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the
6 applicable Indian tribes.

7 “(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the
8 Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall
9 submit to the Congress a report that—

10 “(1) describes the use by Indian tribes of Federal power allocations of the Western
11 Area Power Administration (or power sold by the Southwestern Power Administration) and
12 the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of
13 those administrations; and

14 “(2) identifies—

15 “(A) the quantity of power allocated to Indian tribes by the Western Area
16 Power Administration;

17 “(B) the quantity of power sold to Indian tribes by other power marketing
18 administrations; and

19 “(C) barriers that impede tribal access to and use of Federal power, including
20 an assessment of opportunities to remove those barriers and improve the ability of
21 power marketing administrations to facilitate the use of Federal power by Indian tribes.

1 “(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry
2 out this section \$750,000, which shall remain available until expended and shall not be reimbursable.

3 **“SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.**

4 “(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted
5 under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

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

9 “(1) the results of the review;

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

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

15 **“SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.**

16 “(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the
17 Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that
18 would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of
19 Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

20 “(b) SCOPE OF STUDY.—The study shall—

21 “(1) determine the feasibility of the blending of wind energy and hydropower generated

1 from the Missouri River dams operated by the Army Corps of Engineers;

2 “(2) review historical purchase requirements and projected purchase requirements for
3 firming and the patterns of availability and use of firming energy;

4 “(3) assess the wind energy resource potential on tribal land and projected cost savings
5 through a blend of wind and hydropower over a 30-year period;

6 “(4) determine seasonal capacity needs and associated transmission upgrades for
7 integration of tribal wind generation; and

8 “(5) include an independent tribal engineer as a study team member.

9 “(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and
10 Secretary of the Army shall submit to Congress a report that describes the results of the study,
11 including—

12 “(1) an analysis of the potential energy cost or benefits to the customers of the Western
13 Area Power Administration through the blend of wind and hydropower;

14 “(2) an evaluation of whether a combined wind and hydropower system can reduce
15 reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri
16 River management flexibility;

17 “(3) recommendations for a demonstration project that could be carried out by the
18 Western Area Power Administration in partnership with an Indian tribal government or tribal
19 energy resource development organization to demonstrate the feasibility and potential of using
20 wind energy produced on Indian land to supply firming energy to the Western Area Power
21 Administration or any other Federal power marketing agency; and

1 “(4) an identification of—

2 “(A) the economic and environmental costs or benefits to be realized through
3 such a Federal-tribal partnership; and

4 “(B) the manner in which such a partnership could contribute to the energy
5 security of the United States.

6 “(d) FUNDING.—

7 “(1) There is authorized to be appropriated to carry out this section \$500,000, to
8 remain available until expended.

9 “(2) Costs incurred by the Secretary in carrying out this section shall be
10 nonreimbursable.”.

11 (b) CONFORMING AMENDMENTS.— The table of contents for the Energy Policy Act of 1992
12 (25 U.S.C. 3501 et seq.) is amended by striking items relating to Title XXVI, and inserting:

“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 energy development or transmission.

“Sec. 2605. Federal Power Marketing Administrations.

“Sec. 2606. Indian mineral development review.

“Sec. 2607. Wind and hydropower feasibility study.