

Calendar No. 612

116TH CONGRESS
2D SESSION

S. 2610

[Report No. 116–310]

To reauthorize certain programs under the Office of Indian Energy Policy and Programs of the Department of Energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2019

Ms. MURKOWSKI (for herself, Ms. SMITH, and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

DECEMBER 10, 2020

Reported by Mr. HOEVEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To reauthorize certain programs under the Office of Indian Energy Policy and Programs of the Department of Energy, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “~~Tribal Energy Reau-~~
5 ~~thorization Act~~”.

1 **SEC. 2. INDIAN ENERGY.**

2 (a) DEFINITIONS.—Section 2601 of the Energy Pol-
 3 icy Act of 1992 (25 U.S.C. 3501) is amended—

4 (1) in paragraph (4)—

5 (A) in subparagraph (A), by striking “25
 6 U.S.C. 450b” and inserting “25 U.S.C. 5304”;

7 and

8 (B) in subparagraph (B), by striking
 9 “paragraph (12) and”;

10 (2) by redesignating paragraphs (6) through
 11 (13) as paragraphs (7) through (14), respectively;

12 (3) by inserting after paragraph (5) the fol-
 13 lowing:

14 “(6) NATIVE.—The term ‘Native’ has the
 15 meaning given the term in section 3 of the Alaska
 16 Native Claims Settlement Act (43 U.S.C. 1602).”;

17 (4) in paragraph (13) (as so redesignated)—

18 (A) in subparagraph (A), by striking
 19 “and” at the end;

20 (B) in subparagraph (B), by striking the
 21 period at the end and inserting a semicolon;
 22 and

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

24 “(C) the Tribally designated housing entity
 25 for an Indian tribe that would benefit from a

1 grant, loan, or other assistance provided under
2 section 2602; and

3 “(D) a nonprofit electric utility cooperative
4 that—

5 “(i) serves a population of which more
6 than 50 percent are members of an Indian
7 tribe or Natives; and

8 “(ii) has a governing body controlled
9 by members of an Indian tribe or Natives
10 that would benefit from a grant, loan, or
11 other assistance provided under this title.”;
12 and

13 (5) by adding at the end the following:

14 “(15) TRIBALLY DESIGNATED HOUSING ENTI-
15 TY.—The term ‘Tribally designated housing entity’
16 has the meaning given the term ‘tribally designated
17 housing entity’ in section 4 of the Native American
18 Housing Assistance and Self-Determination Act of
19 1996 (25 U.S.C. 4103).”.

20 (b) DEPARTMENT OF ENERGY INDIAN ENERGY EDU-
21 CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-
22 GRAM.—Section 2602(b) of the Energy Policy Act of 1992
23 (25 U.S.C. 3502(b)) is amended—

24 (1) in paragraph (1), by inserting “and tribal
25 energy development organizations” after “tribes”;

1 (2) in paragraph (2)—

2 (A) by redesignating subparagraphs (A)
3 through (E) as subclauses (I) through (V), re-
4 spectively, and indenting appropriately;

5 (B) in the matter preceding subclause (I)
6 (as so redesignated), by striking “organization
7 for” and inserting the following: “organiza-
8 tion—

9 “(i) that furthers programs described
10 in paragraphs (1) through (4) of section
11 217(b) of the Department of Energy Orga-
12 nization Act (42 U.S.C. 7144e(b)); and

13 “(ii) for”; and

14 (C) in clause (ii) (as so designated)—

15 (i) in subclause (II) (as so redesi-
16 gnated), by striking “on Indian land” and
17 inserting “owned or occupied by an Indian
18 tribe, a member of an Indian tribe, or a
19 Native”;

20 (ii) in subclause (IV) (as so redesi-
21 gnated), by striking “located on Indian
22 land” and inserting the following: “that—

23 “(aa) are located on Indian
24 land; or

1 “(bb) primarily serve homes
 2 of members of an Indian tribe or
 3 Natives that are located on In-
 4 dian land or acquired, con-
 5 structed, or improved wholly or
 6 partially with Federal funds”;
 7 and

8 (iii) in subclause (V) (as so redesi-
 9 gnated), by striking “located on Indian
 10 land” and inserting “that satisfy item (aa)
 11 or (bb) of subclause (IV)”;

12 (D) by striking “(2) In carrying out” and
 13 inserting the following:

14 “(2) GRANTS AUTHORIZED.—

15 “(A) IN GENERAL.—In carrying out”; and
 16 (E) by adding at the end the following:

17 “(B) COST-SHARING.—

18 “(i) IN GENERAL.—In determining
 19 any cost-share requirements for an Indian
 20 tribe, intertribal organization, or tribal en-
 21 ergy development organization that is ap-
 22 plying for a grant under subparagraph (A);
 23 the Director shall—

24 “(I) take into consideration the
 25 fiscal ability of the Indian tribe, inter-

1 tribal organization, or tribal energy
 2 development organization to meet a
 3 cost-share requirement; and

4 “(H) if appropriate, offer flexi-
 5 bility in the grant application process
 6 with respect to the amount of cost-
 7 sharing to be required.

8 “(ii) NONAPPLICABILITY OF CERTAIN
 9 REQUIREMENTS.—Section 988 of the En-
 10 ergy Policy Act of 2005 (42 U.S.C. 16352)
 11 shall not apply to grants awarded under
 12 this paragraph.”;

13 ~~(3)~~ in paragraph (5)—

14 (A) in subparagraph (B), by inserting “or
 15 tribal energy development organization” after
 16 “tribe”; and

17 (B) by striking subparagraph (C) and in-
 18 serting the following:

19 “(C) GRANTS FOR PROVIDING OR EXPAND-
 20 ING PROVISION OF ELECTRICITY.—

21 “(i) IN GENERAL.—In providing a
 22 grant under this subsection for an activity
 23 described in clause (ii), the Director shall
 24 encourage cooperative arrangements be-
 25 tween Indian tribes, tribal energy develop-

1 ment organizations, and utilities that pro-
 2 vide service to Indian tribes, as the Direc-
 3 tor determines to be appropriate.

4 “(ii) ACTIVITY DESCRIBED.—An ac-
 5 tivity referred to in clause (i) is an activity
 6 to provide, or to expand the provision of,
 7 electricity primarily to—

8 “(I) Indian land; or

9 “(II) homes of members of an In-
 10 dian tribe or Natives that are located
 11 on Indian land or are acquired, con-
 12 structed, or improved wholly or par-
 13 tially with Federal funds.”; and

14 (4) in paragraph (7), by striking “\$20,000,000
 15 for each of fiscal years 2006 through 2016” and in-
 16 serting “\$50,000,000 for each of fiscal years 2020
 17 through 2030”.

18 (c) DEPARTMENT OF ENERGY LOAN GUARANTEE
 19 PROGRAM.—Section 2602(c) of the Energy Policy Act of
 20 1992 (25 U.S.C. 3502(c)) is amended by striking para-
 21 graph (6) and inserting the following:

22 “(6) AUTHORIZATION OF APPROPRIATIONS.—

23 There is authorized to be appropriated to carry out
 24 this subsection \$30,000,000 for each of fiscal years
 25 2020 through 2030.”.

1 (d) OFFICE OF INDIAN ENERGY POLICY AND PRO-
2 GRAMS.—Section 217 of the Department of Energy Orga-
3 nization Act (42 U.S.C. 7144e) is amended by adding at
4 the end the following:

5 “(e) LOCAL PARTNERSHIPS FOR TECHNICAL ASSIST-
6 ANCE.—To the maximum extent practicable, in providing
7 technical assistance under the programs of the Office, the
8 Director shall—

9 “(1) give priority to partnering with State and
10 local organizations rather than national or other or-
11 ganizations that do not have comparable local expe-
12 rience, relationships, and knowledge; and

13 “(2) with respect to technical assistance pro-
14 vided to Indian tribes and Native villages (as defined
15 in section 3 of the Alaska Native Claims Settlement
16 Act (43 U.S.C. 1602)), partner with local and re-
17 gional organizations.

18 “(d) FEDERAL GOVERNMENT GRANTS AND OPPOR-
19 TUNITIES LIAISON FOR INDIAN TRIBES AND ALASKA NA-
20 TIVES.—To the maximum extent practicable, in providing
21 technical assistance under the programs of the Office, the
22 Director shall designate appropriate staff to serve as a li-
23 aison to Indian tribes and Native villages (as defined in
24 section 3 of the Alaska Native Claims Settlement Act (43
25 U.S.C. 1602)) to ensure that Indian tribes and Native vil-

1 lages are aware of relevant grants and funding opportuni-
2 ties across all Federal agencies.

3 “(e) INDIAN ENERGY IN THE ARCTIC STRATEGY.—

4 “(1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of the Tribal Energy Re-
6 authorization Act, the Director shall develop, and
7 submit to Congress a report describing, a strategy,
8 to be known as the ‘Indian Energy in the Arctic
9 Strategy’.

10 “(2) REQUIREMENTS.—The strategy developed
11 under paragraph (1) shall—

12 “(A) apply through calendar year 2030;

13 “(B) include recommendations for how
14 best to prepare Indian communities in the Ar-
15 ctic for energy challenges relating to climate
16 change;

17 “(C) plan for how the Office can best as-
18 sist Indian communities in the Arctic with the
19 mission of the Office to drive down energy
20 prices for those communities, while anticipating
21 the effects of a changing Arctic as the climate
22 changes; and

23 “(D) build on, and incorporate as appro-
24 priate, the report by the Office entitled ‘Na-
25 tional Strategy for the Arctic Region (NSAR)—

1 Ten Year Renewable Energy Plan’ and dated
2 April 2015.”.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Tribal Energy Reauthor-*
5 *ization Act”.*

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

7 (a) *DEFINITIONS.—Section 2601 of the Energy Policy*
8 *Act of 1992 (25 U.S.C. 3501) is amended—*

9 (1) *in paragraph (2)(C), by adding before the*
10 *period at the end the following: “, or that is located*
11 *in an Alaska Native Village Statistical Area, as deter-*
12 *mined by the Bureau of the Census”;*

13 (2) *in paragraph (4)—*

14 (A) *in subparagraph (A), by striking “25*
15 *U.S.C. 450b” and inserting “25 U.S.C. 5304”;*
16 *and*

17 (B) *in subparagraph (B), by striking*
18 *“paragraph (12) and”;*

19 (3) *by redesignating paragraphs (6) through (13)*
20 *as paragraphs (7) through (14), respectively;*

21 (4) *by inserting after paragraph (5) the fol-*
22 *lowing:*

23 “(6) *NATIVE.—The term ‘Native’ has the mean-*
24 *ing given the term in section 3 of the Alaska Native*
25 *Claims Settlement Act (43 U.S.C. 1602).”;*

1 (5) *in paragraph (13) (as so redesignated)—*

2 (A) *in subparagraph (A), by striking “and”*
3 *at the end;*

4 (B) *in subparagraph (B), by striking the*
5 *period at the end and inserting a semicolon; and*

6 (C) *by adding at the end the following:*

7 “(C) *the Tribally designated housing entity*
8 *for an Indian tribe that would benefit from a*
9 *grant, loan, or other assistance provided under*
10 *section 2602; and*

11 (D) *a nonprofit electric utility cooperative*
12 *that—*

13 “(i) *serves a population of which more*
14 *than 50 percent are members of an Indian*
15 *tribe or Natives; and*

16 “(ii) *has a governing body controlled*
17 *by members of an Indian tribe or Natives*
18 *that would benefit from a grant, loan, or*
19 *other assistance provided under this title.”;*
20 *and*

21 (6) *by adding at the end the following:*

22 “(15) *TRIBALLY DESIGNATED HOUSING ENTI-*
23 *TY.—The term ‘Tribally designated housing entity’*
24 *has the meaning given the term ‘tribally designated*
25 *housing entity’ in section 4 of the Native American*

1 *Housing Assistance and Self-Determination Act of*
2 *1996 (25 U.S.C. 4103).”.*

3 **(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDU-**
4 **CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-**
5 **GRAM.—Section 2602(b) of the Energy Policy Act of 1992**
6 **(25 U.S.C. 3502(b)) is amended—**

7 (1) *in paragraph (1), by inserting “and tribal*
8 *energy development organizations” after “tribes”;*

9 (2) *in paragraph (2)—*

10 (A) *by redesignating subparagraphs (A)*
11 *through (E) as subclauses (I) through (V), re-*
12 *spectively, and indenting appropriately;*

13 (B) *in the matter preceding subclause (I)*
14 *(as so redesignated), by striking “organization*
15 *for” and inserting the following: “organization—*

16 *“(i) that furthers programs described*
17 *in paragraphs (1) through (4) of section*
18 *217(b) of the Department of Energy Orga-*
19 *nization Act (42 U.S.C. 7144e(b)); and*

20 *“(ii) for”; and*

21 (C) *in clause (ii) (as so designated)—*

22 (i) *in subclause (II) (as so redesign-*
23 *ated), by striking “on Indian land” and*
24 *inserting “owned or occupied by an Indian*

1 *tribe, a member of an Indian tribe, or a*
 2 *Native”;*

3 (ii) *in subclause (IV) (as so redesign-*
 4 *ated), by striking “located on Indian*
 5 *land” and inserting the following: “that—*

6 *“(aa) are located on Indian*
 7 *land; or*

8 *“(bb) primarily serve homes*
 9 *of members of an Indian tribe or*
 10 *Natives that are located on Indian*
 11 *land or acquired, constructed, or*
 12 *improved wholly or partially with*
 13 *Federal funds”;* *and*

14 (iii) *in subclause (V) (as so redesign-*
 15 *ated), by striking “located on Indian*
 16 *land” and inserting “that satisfy item (aa)*
 17 *or (bb) of subclause (IV)”;*

18 (D) *by striking “(2) In carrying out” and*
 19 *inserting the following:*

20 “(2) *GRANTS AUTHORIZED.—*

21 *“(A) IN GENERAL.—In carrying out”;* *and*
 22 *(E) by adding at the end the following:*

23 “(B) *COST-SHARING.—*

24 *“(i) IN GENERAL.—In determining*
 25 *any cost-share requirements for an Indian*

1 *tribe, intertribal organization, or tribal en-*
 2 *ergy development organization that is ap-*
 3 *plying for a grant under subparagraph (A),*
 4 *the Director shall—*

5 *“(I) take into consideration the*
 6 *fiscal ability of the Indian tribe, inter-*
 7 *tribal organization, or tribal energy*
 8 *development organization to meet a*
 9 *cost-share requirement; and*

10 *“(II) if appropriate, offer flexi-*
 11 *bility in the grant application process*
 12 *with respect to the amount of cost-shar-*
 13 *ing to be required, which may include*
 14 *waiving any cost-sharing requirement*
 15 *for grant applicants with limited fi-*
 16 *nancial resources.*

17 *“(ii) NONAPPLICABILITY OF CERTAIN*
 18 *REQUIREMENTS.—Section 988 of the En-*
 19 *ergy Policy Act of 2005 (42 U.S.C. 16352)*
 20 *shall not apply to grants awarded under*
 21 *this paragraph.”;*

22 *(3) in paragraph (5)—*

23 *(A) in subparagraph (B), by inserting “or*
 24 *tribal energy development organization” after*
 25 *“tribe”; and*

1 (B) by striking subparagraph (C) and in-
2 serting the following:

3 “(C) GRANTS FOR PROVIDING OR EXPAND-
4 ING PROVISION OF ELECTRICITY.—

5 “(i) IN GENERAL.—In providing a
6 grant under this subsection for an activity
7 described in clause (ii), the Director shall
8 encourage cooperative arrangements between
9 Indian tribes, tribal energy development or-
10 ganizations, and utilities that provide serv-
11 ice to Indian tribes, as the Director deter-
12 mines to be appropriate.

13 “(ii) ACTIVITY DESCRIBED.—An activ-
14 ity referred to in clause (i) is an activity to
15 provide, or to expand the provision of, elec-
16 tricity primarily to—

17 “(I) Indian land; or

18 “(II) homes of members of an In-
19 dian tribe or Natives that are located
20 on Indian land or are acquired, con-
21 structed, or improved wholly or par-
22 tially with Federal funds.”; and

23 (4) in paragraph (7), by striking “\$20,000,000
24 for each of fiscal years 2006 through 2016” and in-

1 serting “\$50,000,000 for each of fiscal years 2021
2 through 2031”.

3 (c) *DEPARTMENT OF ENERGY LOAN GUARANTEE PRO-*
4 *GRAM.*—Section 2602(c) of the Energy Policy Act of 1992
5 (25 U.S.C. 3502(c)) is amended—

6 (1) in paragraph (5), by striking “(5) Not later”
7 and all that follows through “of 2017” and inserting
8 the following:

9 “(5) *REGULATIONS REQUIRED.*—Not later than 1
10 year after the date of enactment of the Tribal Energy
11 Reauthorization Act”;

12 (2) by striking paragraph (6) and inserting the
13 following:

14 “(6) *AUTHORIZATION OF APPROPRIATIONS.*—
15 There is authorized to be appropriated to carry out
16 this subsection \$30,000,000 for each of fiscal years
17 2021 through 2031.”; and

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

19 “(8) *REPORT ON IMPLEMENTATION.*—Not later
20 than 90 days after the date of enactment of the Tribal
21 Energy Reauthorization Act, and annually thereafter,
22 the Secretary of Energy shall submit to Congress a re-
23 port describing the implementation of the loan guar-
24 antee program under this subsection, including—

1 “(A) the number of applicants for a loan
2 guarantee under this subsection;

3 “(B) the total number and aggregate
4 amount of loan guarantees provided under this
5 subsection;

6 “(C) actions the Secretary of Energy has
7 taken to increase applications for loan guaran-
8 tees under this subsection, separated by each ap-
9 plicant type described in subparagraphs (A),
10 (B), and (C) of paragraph (3); and

11 “(D) efforts of the Secretary of Energy to
12 implement the loan guarantee program in co-
13 ordination with—

14 “(i) the best practices of the Indian
15 loan guarantee and insurance program
16 under title II of the Indian Financing Act
17 of 1974 (25 U.S.C. 1481 et seq.); and

18 “(ii) the Office of Indian Energy Pol-
19 icy and Programs, in order to meet the
20 unique circumstances of energy development
21 on Indian land.”.

22 (d) OFFICE OF INDIAN ENERGY POLICY AND PRO-
23 GRAMS.—Section 217 of the Department of Energy Organi-
24 zation Act (42 U.S.C. 7144e) is amended by adding at the
25 end the following:

1 “(c) *LOCAL PARTNERSHIPS FOR TECHNICAL ASSIST-*
 2 *ANCE.—To the maximum extent practicable, in providing*
 3 *technical assistance under the programs of the Office, the*
 4 *Director shall—*

5 “(1) *give priority to partnering with State and*
 6 *local organizations rather than national or other or-*
 7 *ganizations that do not have comparable local experi-*
 8 *ence, relationships, and knowledge; and*

9 “(2) *with respect to technical assistance provided*
 10 *to Indian tribes and Native villages (as defined in*
 11 *section 3 of the Alaska Native Claims Settlement Act*
 12 *(43 U.S.C. 1602)), partner with local and regional*
 13 *organizations.*

14 “(d) *FEDERAL GOVERNMENT GRANTS AND OPPORTU-*
 15 *NITIES LIAISON FOR INDIAN TRIBES AND ALASKA NA-*
 16 *TIVES.—To the maximum extent practicable, in providing*
 17 *technical assistance under the programs of the Office, the*
 18 *Director shall designate appropriate staff to serve as a liai-*
 19 *son to Indian tribes and Native villages (as defined in sec-*
 20 *tion 3 of the Alaska Native Claims Settlement Act (43*
 21 *U.S.C. 1602)) to ensure that Indian tribes and Native vil-*
 22 *lages are aware of relevant grants and funding opportuni-*
 23 *ties across all Federal agencies.*

24 “(e) *INDIAN ENERGY IN THE ARCTIC STRATEGY.—*

1 “(1) *IN GENERAL.*—Not later than 180 days
2 after the date of enactment of the Tribal Energy Re-
3 authorization Act, the Director shall develop, and sub-
4 mit to Congress a report describing, a strategy, to be
5 known as the ‘Indian Energy in the Arctic Strategy’.

6 “(2) *REQUIREMENTS.*—The strategy developed
7 under paragraph (1) shall—

8 “(A) apply through calendar year 2030;

9 “(B) include recommendations for how best
10 to prepare Indian communities in the Arctic for
11 energy challenges relating to climate change;

12 “(C) plan for how the Office can best assist
13 Indian communities in the Arctic with the mis-
14 sion of the Office to drive down energy prices for
15 those communities, while anticipating the effects
16 of a changing Arctic as the climate changes; and

17 “(D) build on, and incorporate as appro-
18 priate, the report by the Office entitled ‘National
19 Strategy for the Arctic Region (NSAR)—Ten
20 Year Renewable Energy Plan’ and dated April
21 2015.”.

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[Report No. 116-310]

A BILL

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Reported with an amendment