

Calendar No. 271

106TH CONGRESS
1ST Session

S. 614

[Report No. 106-151]

A BILL

To provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands.

SEPTEMBER 8, 1999

Reported with an amendment

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To provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 1999

Mr. CAMPBELL (for himself, Mr. INOUE, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

SEPTEMBER 8, 1999

Reported by Mr. CAMPBELL, with an amendment

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

A BILL

To provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands.

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

3 This Act may be cited as the “Indian Tribal Regu-
4 latory Reform and Business Development Act of 1999”.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) despite the availability of abundant natural
4 resources on Indian lands and a rich cultural legacy
5 that accords great value to self-determination, self-
6 reliance, and independence, American Indians and
7 Alaska Natives suffer rates of unemployment, pov-
8 erty, poor health, substandard housing, and associ-
9 ated social ills to a greater degree than any other
10 group in the United States;

11 (2) the capacity of Indian tribes to build strong
12 tribal governments and vigorous economies is hin-
13 dered by the inability of Indian tribes to engage
14 communities that surround Indian lands and outside
15 investors in economic activities conducted on Indian
16 lands;

17 (3) beginning in 1970, with the issuance by the
18 Nixon Administration of a special message to Con-
19 gress on Indian Affairs, each President has con-
20 firmed the special government-to-government rela-
21 tionship between Indian tribes and the United
22 States; and

23 (4) the United States has an obligation to as-
24 sist Indian tribes with the creation of appropriate
25 economic and political conditions with respect to In-
26 dian lands to—

1 ~~(A) encourage investment from outside~~
 2 ~~sources that do not originate with the Indian~~
 3 ~~tribes; and~~

4 ~~(B) facilitate economic development on In-~~
 5 ~~dian lands.~~

6 ~~(b) PURPOSES.—The purposes of this Act are as fol-~~
 7 ~~lows:~~

8 ~~(1) To provide for a comprehensive review of~~
 9 ~~the laws (including regulations) that affect invest-~~
 10 ~~ment and business decisions concerning activities~~
 11 ~~conducted on Indian lands.~~

12 ~~(2) To determine the extent to which those laws~~
 13 ~~unnecessarily or inappropriately impair—~~

14 ~~(A) investment and business development~~
 15 ~~on Indian lands; or~~

16 ~~(B) the financial stability and management~~
 17 ~~efficiency of tribal governments.~~

18 ~~(3) To establish an authority to conduct the re-~~
 19 ~~view under paragraph (1) and report findings and~~
 20 ~~recommendations that result from the review to Con-~~
 21 ~~gress and the President.~~

22 **SEC. 3. DEFINITIONS.**

23 ~~In this Act:~~

1 (1) **AUTHORITY.**—The term “Authority” means
2 the Regulatory Reform and Business Development
3 on Indian Lands Authority.

4 (2) **FEDERAL AGENCY.**—The term “Federal
5 agency” means an agency, as that term is defined
6 in section 551(1) of title 5, United States Code.

7 (3) **INDIAN.**—The term “Indian” has the mean-
8 ing given that term in section 4(d) of the Indian
9 Self-Determination and Education Assistance Act
10 (25 U.S.C. 450b(d)).

11 (4) **INDIAN LANDS.**—The term “Indian lands”
12 has the meaning given that term in section 4(4) of
13 the Indian Gaming Regulatory Act (25 U.S.C.
14 2703(4)).

15 (5) **INDIAN TRIBE.**—The term “Indian tribe”
16 has the meaning given that term in section 4(e) of
17 the Indian Self-Determination and Education Assist-
18 ance Act (25 U.S.C. 450b(e)).

19 (6) **SECRETARY.**—The term “Secretary” means
20 the Secretary of Commerce.

21 (7) **TRIBAL ORGANIZATION.**—The term “tribal
22 organization” has the meaning given that term in
23 section 4(l) of the Indian Self-Determination and
24 Education Assistance Act (25 U.S.C. 450b(l)).

1 **SEC. 4. ESTABLISHMENT OF AUTHORITY.**

2 ~~(a) ESTABLISHMENT.—~~

3 ~~(1) IN GENERAL.—~~Not later than 60 days after
4 the date of enactment of this Act, the Secretary, in
5 consultation with the Secretary of the Interior and
6 other officials whom the Secretary determines to be
7 appropriate, shall establish an authority to be known
8 as the Regulatory Reform and Business Develop-
9 ment on Indian Lands Authority.

10 ~~(2) PURPOSE.—~~The Secretary shall establish
11 the Authority under this subsection in order to fa-
12 cilitate identifying and subsequently removing obsta-
13 cles to investment, business development, and the
14 creation of wealth with respect to the economies of
15 Indian reservations.

16 ~~(b) MEMBERSHIP.—~~

17 ~~(1) IN GENERAL.—~~The Authority established
18 under this section shall be composed of 21 members.

19 ~~(2) REPRESENTATIVES OF INDIAN TRIBES.—~~12
20 members of the Authority shall be representatives of
21 the Indian tribes from the areas of the Bureau of
22 Indian Affairs. Each such area shall be represented
23 by such a representative.

24 ~~(c) INITIAL MEETING.—~~Not later than 90 days after
25 the date of enactment of this Act, the Authority shall hold
26 its initial meeting.

1 (d) **REVIEW.**—Beginning on the date of the initial
 2 meeting under subsection (c), the Authority shall conduct
 3 a review of laws (including regulations) relating to invest-
 4 ment, business, and economic development that affect in-
 5 vestment and business decisions concerning activities con-
 6 ducted on Indian lands.

7 (e) **MEETINGS.**—The Authority shall meet at the call
 8 of the chairperson.

9 (f) **QUORUM.**—A majority of the members of the Au-
 10 thority shall constitute a quorum, but a lesser number of
 11 members may hold hearings.

12 (g) **CHAIRPERSON.**—The Authority shall select a
 13 chairperson from among its members.

14 **SEC. 5. REPORT.**

15 Not later than 1 year after the date of enactment
 16 of this Act, the Authority shall prepare and submit to the
 17 Committee on Indian Affairs of the Senate, the Committee
 18 on Resources of the House of Representatives, and to the
 19 governing body of each Indian tribe a report that
 20 includes—

- 21 (1) the findings of the Authority concerning the
 22 review conducted under section 4(d); and
- 23 (2) such recommendations concerning the pro-
 24 posed revisions to the laws that were subject to re-
 25 view as the Authority determines to be appropriate.

1 **SEC. 6. POWERS OF THE AUTHORITY.**

2 (a) HEARINGS.—The Authority may hold such hear-
3 ings, sit and act at such times and places, take such testi-
4 mony, and receive such evidence as the Authority con-
5 siderers advisable to carry out the duties of the Authority.

6 (b) INFORMATION FROM FEDERAL AGENCIES.—The
7 Authority may secure directly from any Federal depart-
8 ment or agency such information as the Authority con-
9 siderers necessary to carry out the duties of the Authority.

10 (c) POSTAL SERVICES.—The Authority may use the
11 United States mails in the same manner and under the
12 same conditions as other departments and agencies of the
13 Federal Government.

14 (d) GIFTS.—The Authority may accept, use, and dis-
15 pose of gifts or donations of services or property.

16 **SEC. 7. AUTHORITY PERSONNEL MATTERS.**

17 (a) COMPENSATION OF MEMBERS.—

18 (1) NON-FEDERAL MEMBERS.—Members of the
19 Authority who are not officers or employees of the
20 Federal Government shall serve without compensa-
21 tion, except for travel expenses, as provided under
22 subsection (b).

23 (2) OFFICERS AND EMPLOYEES OF THE FED-
24 ERAL GOVERNMENT.—Members of the Authority
25 who are officers or employees of the United States
26 shall serve without compensation in addition to that

1 received for their services as officers or employees of
2 the United States.

3 ~~(b) TRAVEL EXPENSES.~~—The members of the Au-
4 thority shall be allowed travel expenses, including per diem
5 in lieu of subsistence, at rates authorized for employees
6 of agencies under subchapter I of chapter 57 of title 5,
7 United States Code, while away from their homes or reg-
8 ular places of business in the performance of services for
9 the Authority.

10 ~~(c) STAFF.~~—

11 ~~(1) IN GENERAL.~~—The chairperson of the Au-
12 thority may, without regard to the civil service laws,
13 appoint and terminate such personnel as may be
14 necessary to enable the Authority to perform its du-
15 ties.

16 ~~(2) PROCUREMENT OF TEMPORARY AND INTER-~~
17 ~~MITTENT SERVICES.~~—The chairperson of the Au-
18 thority may procure temporary and intermittent
19 service under section 3109(b) of title 5, United
20 States Code, at rates for individuals that do not ex-
21 ceed the daily equivalent of the annual rate of basic
22 pay prescribed under GS-13 of the General Sched-
23 ule established under section 5332 of title 5, United
24 States Code.

1 **SEC. 8. TERMINATION OF THE AUTHORITY.**

2 The Authority shall terminate 90 days after the date
3 on which the Authority has submitted, to the committees
4 of Congress specified in section 5, and to the governing
5 body of each Indian tribe, a copy of the report prepared
6 under section 5.

7 **SEC. 9. EXEMPTION FROM FEDERAL ADVISORY COM-**
8 **MITTEE ACT.**

9 The activities of the authority conducted under this
10 title shall be exempt from the Federal Advisory Committee
11 Act (5 U.S.C. App.).

12 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as are necessary to carry out this Act, to remain available
15 until expended.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Indian Tribal Regu-*
18 *latory Reform and Business Development Act of 1999”.*

19 **SEC. 2. FINDINGS; PURPOSES.**

20 (a) *FINDINGS.*—Congress finds that—

21 (1) *despite the availability of abundant natural*
22 *resources on Indian lands and a rich cultural legacy*
23 *that accords great value to self-determination, self-re-*
24 *liance, and independence, Native Americans suffer*
25 *rates of unemployment, poverty, poor health, sub-*
26 *standard housing, and associated social ills which are*

1 *greater than the rates for any other group in the*
2 *United States;*

3 *(2) the capacity of Indian tribes to build strong*
4 *Indian tribal governments and vigorous economies is*
5 *hindered by the inability of Indian tribes to engage*
6 *communities that surround Indian lands and outside*
7 *investors in economic activities conducted on Indian*
8 *lands;*

9 *(3) beginning in 1970, with the issuance by the*
10 *Nixon Administration of a special message to Con-*
11 *gress on Indian Affairs, each President has reaffirmed*
12 *the special government-to-government relationship be-*
13 *tween Indian tribes and the United States; and*

14 *(4) the United States has an obligation to assist*
15 *Indian tribes with the creation of appropriate eco-*
16 *nomic and political conditions with respect to Indian*
17 *lands to—*

18 *(A) encourage investment from outside*
19 *sources that do not originate with the Indian*
20 *tribes; and*

21 *(B) facilitate economic development on In-*
22 *dian lands.*

23 *(b) PURPOSES.—The purposes of this Act are as fol-*
24 *lows:*

1 (1) *To provide for a comprehensive review of the*
 2 *laws (including regulations) that affect investment*
 3 *and business decisions concerning activities conducted*
 4 *on Indian lands.*

5 (2) *To determine the extent to which those laws*
 6 *unnecessarily or inappropriately impair—*

7 (A) *investment and business development on*
 8 *Indian lands; or*

9 (B) *the financial stability and management*
 10 *efficiency of Indian tribal governments.*

11 (3) *To establish an authority to conduct the re-*
 12 *view under paragraph (1) and report findings and*
 13 *recommendations that result from the review to Con-*
 14 *gress and the President.*

15 **SEC. 3. DEFINITIONS.**

16 *In this Act:*

17 (1) *AUTHORITY.—The term “Authority” means*
 18 *the Regulatory Reform and Business Development on*
 19 *Indian Lands Authority.*

20 (2) *FEDERAL AGENCY.—The term “Federal agen-*
 21 *cy” means an agency, as that term is defined in sec-*
 22 *tion 551(1) of title 5, United States Code.*

23 (3) *INDIAN.—The term “Indian” has the mean-*
 24 *ing given that term in section 4(d) of the Indian Self-*

Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(4) INDIAN LANDS.—

(A) IN GENERAL.—The term “Indian lands” includes lands under the definition of—

(i) the term “Indian country” under section 1151 of title 18, United States Code; or

(ii) the term “reservation” under—

(I) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)); or

(II) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

(B) FORMER INDIAN RESERVATIONS IN OKLAHOMA.—For purposes of applying section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)) under subparagraph (A)(ii), the term “former Indian reservations in Oklahoma” shall be construed to include lands that are—

(i) within the jurisdictional areas of an Oklahoma Indian tribe (as determined by the Secretary of the Interior); and

1 (ii) recognized by the Secretary of the
 2 Interior as eligible for trust land status
 3 under part 151 of title 25, Code of Federal
 4 Regulations (as in effect on the date of en-
 5 actment of this Act).

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

10 (6) *SECRETARY*.—The term “Secretary” means
 11 the Secretary of Commerce.

12 (7) *TRIBAL ORGANIZATION*.—The term “tribal
 13 organization” has the meaning given that term in
 14 section 4(l) of the Indian Self-Determination and
 15 Education Assistance Act (25 U.S.C. 450b(l)).

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17 (a) *ESTABLISHMENT*.—

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 20 consultation with the Secretary of the Interior and
 21 other officials whom the Secretary determines to be
 22 appropriate, shall establish an authority to be known
 23 as the Regulatory Reform and Business Development
 24 on Indian Lands Authority.

1 (2) *PURPOSE.*—*The Secretary shall establish the*
 2 *Authority under this subsection in order to facilitate*
 3 *the identification and subsequent removal of obstacles*
 4 *to investment, business development, and the creation*
 5 *of wealth with respect to the economies of Native*
 6 *American communities.*

7 (b) *MEMBERSHIP.*—

8 (1) *IN GENERAL.*—*The Authority established*
 9 *under this section shall be composed of 21 members.*

10 (2) *REPRESENTATIVES OF INDIAN TRIBES.*—12
 11 *members of the Authority shall be representatives of*
 12 *the Indian tribes from the areas of the Bureau of In-*
 13 *dian Affairs. Each such area shall be represented by*
 14 *such a representative.*

15 (3) *REPRESENTATIVES OF THE PRIVATE SEC-*
 16 *TOR.*—*No fewer than 4 members of the Authority*
 17 *shall be representatives of nongovernmental economic*
 18 *activities carried out by private enterprises in the*
 19 *private sector.*

20 (c) *INITIAL MEETING.*—*Not later than 90 days after*
 21 *the date of enactment of this Act, the Authority shall hold*
 22 *its initial meeting.*

23 (d) *REVIEW.*—*Beginning on the date of the initial*
 24 *meeting under subsection (c), the Authority shall conduct*
 25 *a review of laws (including regulations) relating to invest-*

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4 *(e) MEETINGS.—The Authority shall meet at the call*
 5 *of the chairperson.*

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 8 *members may hold hearings.*

9 *(g) CHAIRPERSON.—The Authority shall select a chair-*
 10 *person from among its members.*

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 14 *Committee on Indian Affairs of the Senate, the Committee*
 15 *on Resources of the House of Representatives, and to the*
 16 *governing body of each Indian tribe a report that*
 17 *includes—*

18 *(1) the findings of the Authority concerning the*
 19 *review conducted under section 4(d); and*

20 *(2) such recommendations concerning the pro-*
 21 *posed revisions to the laws that were subject to review*
 22 *as the Authority determines to be appropriate.*

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 4 *Authority may secure directly from any Federal depart-*
 5 *ment or agency such information as the Authority considers*
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 8 *United States mails in the same manner and under the*
 9 *same conditions as other departments and agencies of the*
 10 *Federal Government.*

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 12 *pose of gifts or donations of services or property.*

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14 *(a) COMPENSATION OF MEMBERS.—*

15 *(1) NON-FEDERAL MEMBERS.—Members of the*
 16 *Authority who are not officers or employees of the*
 17 *Federal Government shall serve without compensa-*
 18 *tion, except for travel expenses as provided under sub-*
 19 *section (b).*

20 *(2) OFFICERS AND EMPLOYEES OF THE FEDERAL*
 21 *GOVERNMENT.—Members of the Authority who are of-*
 22 *ficers or employees of the United States shall serve*
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 24 *their services as officers or employees of the United*
 25 *States.*

1 (b) *TRAVEL EXPENSES.*—*The members of the Author-*
 2 *ity shall be allowed travel expenses, including per diem in*
 3 *lieu of subsistence, at rates authorized for employees of*
 4 *agencies under subchapter I of chapter 57 of title 5, United*
 5 *States Code, while away from their homes or regular places*
 6 *of business in the performance of services for the Authority.*

7 (c) *STAFF.*—

8 (1) *IN GENERAL.*—*The chairperson of the Au-*
 9 *thority may, without regard to the civil service laws,*
 10 *appoint and terminate such personnel as may be nec-*
 11 *essary to enable the Authority to perform its duties.*

12 (2) *PROCUREMENT OF TEMPORARY AND INTER-*
 13 *MITTENT SERVICES.*—*The chairperson of the Author-*
 14 *ity may procure temporary and intermittent services*
 15 *under section 3109(b) of title 5, United States Code,*
 16 *at rates for individuals that do not exceed the daily*
 17 *equivalent of the annual rate of basic pay prescribed*
 18 *under GS-13 of the General Schedule established*
 19 *under section 5332 of title 5, United States Code.*

20 **SEC. 8. TERMINATION OF THE AUTHORITY.**

21 *The Authority shall terminate 90 days after the date*
 22 *on which the Authority has submitted a copy of the report*
 23 *prepared under section 5 to the committees of Congress spec-*
 24 *ified in section 5 and to the governing body of each Indian*
 25 *tribe.*

1 **SEC. 9. EXEMPTION FROM FEDERAL ADVISORY COMMITTEE**

2 **ACT.**

3 *The activities of the Authority conducted under this*
4 *title shall be exempt from the Federal Advisory Committee*
5 *Act (5 U.S.C. App.).*

6 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

7 *There are authorized to be appropriated such sums as*
8 *are necessary to carry out this Act, to remain available*
9 *until expended.*