

109TH CONGRESS
1ST SESSION

S. 535

To establish grant programs for the development of telecommunications capacities in Indian country.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2005

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

A BILL

To establish grant programs for the development of telecommunications capacities in Indian country.

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 “Native American
5 Connectivity Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1)(A) disparities exist in the areas of edu-
9 cation, health care, workforce training, commerce,

1 and economic activity of Indians due to the rural na-
2 ture of most Indian reservations; and

3 (B) access to basic and advanced telecommuni-
4 cations infrastructure is critical in eliminating those
5 disparities;

6 (2) currently, only 67.9 percent of Indian
7 homes have telephone service, compared with the na-
8 tional average of 95.1 percent;

9 (3) the telephone service penetration rate on
10 some reservations is as low as 39 percent;

11 (4) even on reservations and trust land, non-In-
12 dian homes are more likely to have telephone service
13 than Indian homes;

14 (5) only 10 percent of Indian households on
15 tribal land have Internet access;

16 (6) only 17 percent of Indian tribes have devel-
17 oped comprehensive technology plans;

18 (7) training and technical assistance have been
19 identified as the most significant needs for the devel-
20 opment and effective use of telecommunications and
21 information technology in Indian country;

22 (8) funding for telecommunications and infor-
23 mation technology projects in Indian country re-
24 mains inadequate to address the needs of Indian
25 communities;

1 (9) many Indian tribes are located on or adja-
2 cent to Indian land in which unemployment rates ex-
3 ceed 50 percent;

4 (10) the lack of telecommunications infrastruc-
5 ture and low telephone and Internet penetration
6 rates adversely affects the ability of Indian tribes to
7 pursue economic development opportunities; and

8 (11) primary, secondary, and postsecondary
9 education, job training, health care, disease preven-
10 tion education, and cultural preservation are greatly
11 enhanced with access to and use of telecommuni-
12 cations technology and electronic information.

13 **SEC. 3. PURPOSES.**

14 The purposes of this Act are—

15 (1) to promote affordable and universal access
16 among Indian tribal governments, tribal entities,
17 reservation-based schools, tribal colleges and univer-
18 sities, and Indian households to telecommunications
19 and information technology in Indian country;

20 (2) to encourage and promote tribal economic
21 development, self-sufficiency, and strong tribal gov-
22 ernments;

23 (3) to enhance the health of Indian tribal mem-
24 bers through the availability and use of telemedicine
25 and telehealth;

1 (4) to improve the quality of kindergarten, pri-
2 mary, secondary, postsecondary, and job-related
3 training, through enhanced and sustained informa-
4 tion technology infrastructure; and

5 (5) to assist in the retention and preservation
6 of native languages and cultural traditions.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) **BLOCK GRANT.**—The term “block grant”
10 means a grant provided under section 5.

11 (2) **ELIGIBLE ACTIVITY.**—The term “eligible
12 activity” means an activity carried out—

13 (A) to acquire or lease real property (in-
14 cluding licensed spectrum, water rights, dark
15 fiber, exchanges, and other related interests) to
16 provide telecommunications services, facilities,
17 and improvements;

18 (B) to acquire, construct, reconstruct, or
19 install telecommunications facilities, sites, im-
20 provements (including design features), or utili-
21 ties;

22 (C) to retain any real property acquired
23 under this Act for tribal communications pur-
24 poses;

1 (D) to pay the non-Federal share required
2 by a Federal grant program undertaken as part
3 of activities funded under this Act;

4 (E) to carry out activities necessary—

5 (i) to develop a comprehensive tele-
6 communications development plan; and

7 (ii) to develop a policy, planning, and
8 management capacity so that an eligible
9 entity can more rationally and effectively—

10 (I) determine the needs of the
11 entity;

12 (II) set long term and short term
13 goals;

14 (III) devise programs and activi-
15 ties to meet the goals of the entity, in-
16 cluding, if appropriate, telehealth;

17 (IV) evaluate the progress of the
18 programs and activities in meeting the
19 goals of the entity; and

20 (V) carry out management, co-
21 ordination, and monitoring of activi-
22 ties necessary for effective planning
23 implementation;

24 (F) to pay reasonable administrative costs
25 and carrying charges related to the planning

1 and execution of telecommunications develop-
2 ment activities, including the provision of infor-
3 mation and resources about the planning and
4 execution of the activities to residents of areas
5 in which telecommunications development ac-
6 tivities are to be concentrated;

7 (G) to increase the capacity of an eligible
8 entity to carry out telecommunications activi-
9 ties, including the development of telecommuni-
10 cations regulations and related regulatory mat-
11 ters;

12 (H) to provide assistance to institutions of
13 higher education (including tribal colleges and
14 universities) that have a demonstrated capacity
15 to carry out eligible activities;

16 (I) to enable an eligible entity to facilitate
17 telecommunications development by—

18 (i) providing technical assistance, ad-
19 vice, and business support services (includ-
20 ing services for developing business plans,
21 securing funding, and conducting mar-
22 keting); and

23 (ii) providing general support (includ-
24 ing peer support programs and mentoring

1 programs) to Indian tribes in developing
2 telecommunications projects;

3 (J) to evaluate eligible activities to ascer-
4 tain and promote effective telecommunications
5 and information technology deployment prac-
6 tices and usages among Indian tribes; or

7 (K) to provide research, analysis, data col-
8 lection, data organization, and dissemination of
9 information relevant to telecommunications and
10 information technology in Indian country for
11 the purpose of promoting effective telecommuni-
12 cations and information technology deployment
13 practices and usages among tribes.

14 (3) ELIGIBLE ENTITY.—The term “eligible enti-
15 ty” means—

16 (A) an Indian tribe or consortium of In-
17 dian tribes;

18 (B) a tribally chartered organization; or

19 (C) an Indian organization, intertribal or-
20 ganization, tribal college or university, or a pri-
21 vate or public institution of higher education
22 acting under an agreement with an Indian
23 tribe.

24 (4) INDIAN TRIBE.—The term “Indian tribe”
25 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450b).

3 (5) INFORMATION TECHNOLOGY.—

4 (A) IN GENERAL.—The term “information
5 technology” means any equipment or inter-
6 connected system or subsystem of equipment
7 that is used in the automatic acquisition, stor-
8 age, analysis, evaluation, manipulation, man-
9 agement, movement, control, display, switching,
10 interchange, transmission, or reception of data
11 or information.

12 (B) INCLUSIONS.—The term “information
13 technology” includes computers, ancillary equip-
14 ment (including imaging peripherals, input, out-
15 put, and storage devices necessary for security
16 and surveillance), peripheral equipment de-
17 signed to be controlled by the central processing
18 unit of a computer, software, firmware and
19 similar procedures, services (including support
20 services), and related resources.

21 (6) PLANNING.—The term “planning” means
22 community-based planning developed in consultation
23 with the local community based on the needs of the
24 local community.

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of Commerce.

3 (8) TECHNICAL ASSISTANCE.—The term “tech-
4 nical assistance” means the facilitation of skills and
5 knowledge in planning, developing, assessing, and
6 administering eligible activities.

7 (9) TRAINING AND TECHNICAL ASSISTANCE
8 GRANT.—The term “training and technical assist-
9 ance grant” means a grant provided under section
10 6.

11 (10) TRIBAL COLLEGE OR UNIVERSITY.—The
12 term “tribal college or university” has the meaning
13 given the term “tribally controlled college or univer-
14 sity” in section 2 of the Tribally Controlled Commu-
15 nity College Assistance Act of 1978 (25 U.S.C.
16 1801), except that the term includes an institution
17 listed in the Equity in Educational Land-Grant Sta-
18 tus Act of 1994 (7 U.S.C. 301 note).

19 (11) TELEHEALTH.—The term “telehealth”
20 means the use of electronic information and tele-
21 communications technologies to support long-dis-
22 tance clinical health care, patient and professional
23 health-related education, public health, and health
24 administration.

1 **SEC. 5. BLOCK GRANT PROGRAM.**

2 (a) ESTABLISHMENT.—There is established within
3 the National Telecommunications and Information Ad-
4 ministration a Native American telecommunications block
5 grant program to provide grants on a competitive basis
6 to eligible entities to carry out activities under subsection
7 (c).

8 (b) BLOCK GRANTS.—The Secretary may provide a
9 block grant to an eligible entity that submits a block grant
10 application to the Secretary for approval.

11 (c) ELIGIBLE ACTIVITIES.—A grant under this sec-
12 tion may only be used for an eligible activity.

13 (d) REGULATIONS.—Not later than 180 days after
14 the date of enactment of this Act, the Secretary shall pro-
15 mulgate regulations establishing specific criteria for the
16 competition conducted to select eligible entities to receive
17 grants under this section for each fiscal year.

18 **SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

19 (a) NOTIFICATION AND CRITERIA.—The Secretary—
20 (1) shall provide notice of the availability of
21 training and technical assistance grants; and
22 (2) publish criteria for selecting recipients.

23 (b) GRANTS.—The Secretary may provide training
24 and technical assistance grants to eligible entities with a
25 demonstrated capacity to carry out eligible activities.

1 (c) USE OF FUNDS.—A training and technical assist-
2 ance grant shall be used—

3 (1) to develop a training program to facilitate
4 local use and maintenance of new telecommuni-
5 cations technologies;

6 (2) to develop and implement—

7 (A) telecommunications and information
8 technology work study programs; and

9 (B) postsecondary telecommunications and
10 information technology-related education, devel-
11 opment, planning, and management programs;

12 (3) to develop a training program for tele-
13 communications employees; or

14 (4) to provide assistance to students who—

15 (A) participate in telecommunications or
16 information technology work study programs;
17 and

18 (B) are enrolled in a full-time graduate or
19 undergraduate program in telecommunications-
20 related education, development, planning, or
21 management.

22 (d) SETASIDE.—

23 (1) IN GENERAL.—For each fiscal year, the
24 Secretary shall set aside 10 percent of the amount
25 made available under section 12 for training and

1 technical assistance grants, to remain available until
2 expended.

3 (2) TREATMENT.—A training and technical as-
4 sistance grant to an entity shall be in addition to
5 any block grant provided to the entity.

6 (e) PROVISION OF TECHNICAL ASSISTANCE BY THE
7 SECRETARY.—The Secretary may provide technical assist-
8 ance, directly or through contracts, to—

9 (1) eligible entities; and

10 (2) persons or entities that assist tribal govern-
11 ments.

12 **SEC. 7. COMPLIANCE.**

13 (a) AUDIT BY THE COMPTROLLER GENERAL.—

14 (1) IN GENERAL.—The Comptroller General of
15 the United States may audit any financial trans-
16 action involving grant funds that is carried out by
17 a block grant recipient or training and technical as-
18 sistance grant recipient.

19 (2) SCOPE OF AUTHORITY.—In conducting an
20 audit under paragraph (1), the Comptroller General
21 shall have access to all books, accounts, records, re-
22 ports, files, and other papers, things, or property be-
23 longing to or in use by the grant recipient that re-
24 late to the financial transaction and are necessary to
25 facilitate the audit.

1 (b) ENVIRONMENTAL PROTECTION.—

2 (1) IN GENERAL.—After consultation with In-
3 dian tribes, the Secretary may promulgate regula-
4 tions to carry out this subsection that—

5 (A) ensure that the policies of the National
6 Environmental Policy Act of 1969 (42 U.S.C.
7 4321 et seq.), and other laws that further the
8 purposes of that Act (as specified by the regula-
9 tions), are most effectively implemented in con-
10 nection with the expenditure of funds under
11 this Act; and

12 (B) assure the public of undiminished pro-
13 tection of the environment.

14 (2) SUBSTITUTE MEASURES.—Subject to para-
15 graph (3), the Secretary may provide for the release
16 of funds under this Act for eligible activities to grant
17 recipients that assume all of the responsibilities for
18 environmental review, decisionmaking, and related
19 action under the National Environmental Policy Act
20 of 1969 (42 U.S.C. 4321 et seq.), and other laws
21 that further the purposes of that Act (as specified
22 by the regulations promulgated under paragraph
23 (1)), that would apply to the Secretary if the Sec-
24 retary carried out the eligible activities as Federal
25 projects.

1 (3) RELEASE.—

2 (A) IN GENERAL.—The Secretary shall ap-
3 prove the release of funds under paragraph (2)
4 if, at least 15 days prior to approval, the grant
5 recipient submits to the Secretary a request for
6 release accompanied by a certification that
7 meets the requirements of paragraph (4).

8 (B) APPROVAL.—The approval by the Sec-
9 retary of a certification shall be deemed to sat-
10 isfy the responsibilities of the Secretary under
11 the National Environmental Policy Act of 1969
12 (42 U.S.C. 4321 et seq.) and the laws specified
13 by the regulations promulgated under para-
14 graph (1), to the extent that those responsibil-
15 ities relate to the release of funds for projects
16 described in the certification.

17 (4) CERTIFICATION.—A certification shall—

18 (A) be in a form acceptable to the Sec-
19 retary;

20 (B) be executed by the tribal government;

21 (C) specify that the grant recipient has
22 fully assumed the responsibilities described in
23 paragraph (2); and

24 (D) specify that the tribal officer—

1 (i) assumes the status of a responsible
2 Federal official under the National Envi-
3 ronmental Policy Act of 1969 (42 U.S.C.
4 4321 et seq.) and each law specified by the
5 regulations promulgated under paragraph
6 (1), to the extent that the provisions of
7 that Act or law apply; and

8 (ii) is authorized to consent, and con-
9 sents, on behalf of the grant recipient and
10 on behalf of the tribal officer to accept the
11 jurisdiction of the Federal courts for en-
12 forcement of the responsibilities of the
13 tribal officer as a responsible Federal offi-
14 cial.

15 **SEC. 8. REMEDIES FOR NONCOMPLIANCE.**

16 (a) FAILURE TO COMPLY.—If the Secretary finds, on
17 the record after opportunity for an agency hearing, that
18 a block grant recipient or training and technical assistance
19 grant recipient has failed to comply substantially with any
20 provision of this Act, the Secretary, until satisfied that
21 there is no longer a failure to comply, shall—

- 22 (1) terminate payments to the grant recipient;
23 (2) reduce payments to the grant recipient by
24 an amount equal to the amount of payments that
25 were not expended in accordance with this Act;

1 (3) limit the availability of payments under this
2 Act to programs, projects, or activities not affected
3 by the failure to comply; or

4 (4) refer the matter to the Attorney General
5 with a recommendation that the Attorney General
6 bring an appropriate civil action.

7 (b) ACTION BY THE ATTORNEY GENERAL.—After a
8 referral by the Secretary under subsection (a)(4), the At-
9 torney General may bring a civil action in United States
10 district court for appropriate relief (including mandatory
11 relief, injunctive relief, and recovery of the amount of the
12 assistance provided under this Act that was not expended
13 in accordance with this Act).

14 **SEC. 9. REPORTING REQUIREMENTS.**

15 (a) ANNUAL REPORT TO CONGRESS.—Not later than
16 180 days after the end of each fiscal year in which assist-
17 ance under this Act is provided, the Secretary shall submit
18 to Congress a report that includes—

19 (1) a description of the progress made in ac-
20 complishing the objectives of this Act;

21 (2) a summary of the use of funds under this
22 Act during the preceding fiscal year; and

23 (3) an evaluation of the status of telephone,
24 Internet, and personal computer penetration rates,

1 by type of technology, among Indian households
2 throughout Indian country on a tribe-by-tribe basis.

3 (b) REPORTS TO SECRETARY.—The Secretary may
4 require grant recipients under this Act to submit reports
5 and other information necessary for the Secretary to pre-
6 pare the report under subsection (a).

7 **SEC. 10. CONSULTATION.**

8 In carrying out this Act, the Secretary shall consult
9 with—

10 (1) other Federal agencies administering Fed-
11 eral grant programs relating to the development of
12 telecommunications capacities or infrastructure; and

13 (2) the Government Accountability Office and
14 Indian tribes to determine the proportion of grant
15 funds necessary to address training and technical as-
16 sistance and eligible activity needs.

17 **SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.**

18 A telecommunications project funded under this Act
19 shall comply with the National Historic Preservation Act
20 (16 U.S.C. 470 et seq.) and the Native American Graves
21 Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

22 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) IN GENERAL.—There are authorized to be appro-
24 priated to carry out this Act—

25 (1) \$20,000,000 for fiscal year 2006; and

1 (2) such sums as are necessary for each subse-
2 quent fiscal year.

3 (b) AVAILABILITY.—Funds made available under
4 subsection (a) shall remain available until expended.

○