

111TH CONGRESS  
1ST SESSION

# S. 439

To provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises, to stimulate the development of the private sector of Indian tribal economies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2009

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises, to stimulate the development of the private sector of Indian tribal economies, 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 “Indian Development Finance Corporation Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and policy.
- Sec. 3. Definitions.

#### TITLE I—INDIAN DEVELOPMENT FINANCE CORPORATION

- Sec. 101. Establishment of Corporation.
- Sec. 102. Duties and powers.
- Sec. 103. Loans and obligations.
- Sec. 104. Board of Directors.
- Sec. 105. President of Corporation.
- Sec. 106. Annual shareholder meetings.
- Sec. 107. Annual reports; development plan.

#### TITLE II—CAPITALIZATION

- Sec. 201. Issuance of stock.
- Sec. 202. Borrowing authority.

#### TITLE III—AUTHORIZATION OF APPROPRIATIONS

- Sec. 301. Authorization of appropriations.

### 3 **SEC. 2. FINDINGS AND POLICY.**

4 (a) FINDINGS.—Congress finds that—

5 (1) a special relationship has existed between  
 6 the United States and Indian tribes, which is recog-  
 7 nized in clause 3 of section 8 of article I of the Con-  
 8 stitution of the United States;

9 (2) pursuant to laws, treaties, and administra-  
 10 tive authority, Congress has implemented activities  
 11 to fulfill the responsibility of the United States for  
 12 the protection and preservation of Indian tribes and  
 13 tribal resources;

14 (3) despite the availability of abundant natural  
 15 resources on Indian land and a rich cultural legacy  
 16 that places great value on self-determination, self-re-

1       liance, and independence, Indians and Alaska Na-  
2       tives experience poverty and unemployment, together  
3       with associated incidences of social pathology, to an  
4       extent unequalled by any other group in the United  
5       States;

6               (4)(A) the reasons for that poverty and unem-  
7       ployment have been widely studied and documented  
8       by Congress, the Government Accountability Office,  
9       the Department of the Interior, private academic in-  
10      stitutions, and Indian tribes; and

11              (B) the studies described in subparagraph (A)  
12      have consistently identified as fundamental obstacles  
13      to balanced economic growth and progress by Indi-  
14      ans and Alaska Natives—

15              (i) the very limited availability of long-term  
16      development capital and sources of financial  
17      credit necessary to support in Indian country  
18      the development of a private sector economy  
19      comprised of Indian-owned business enterprises;

20              (ii) the lack of effective control by Indians  
21      over their own land and resources; and

22              (iii) the scarcity of experienced Indian  
23      managers and technicians;

24              (5) previous efforts by the Federal Government  
25      directed at stimulating Indian economic development

1 through the provision of grants, direct loans, loan  
2 guarantees, and interest subsidies have fallen far  
3 short of objectives due to—

4 (A) inadequate funds;

5 (B) lack of coordination;

6 (C) arbitrary project selection criteria;

7 (D) politicization of the delivery system;

8 and

9 (E) other inefficiencies characteristic of a

10 system of publicly administered financial inter-

11 mediation; and

12 (6) the experience acquired by multilateral lend-  
13 ing institutions among “lesser-developed countries”  
14 has demonstrated the value and necessity of develop-  
15 ment financial institutions in achieving economic  
16 growth in underdeveloped economies and societies  
17 that are strikingly similar to Indian and Alaska Na-  
18 tive communities in relation to matters such as—

19 (A) control over natural resource manage-  
20 ment;

21 (B) the absence of experienced, indigenous  
22 managers and technicians; and

23 (C) the availability of long-term develop-  
24 ment capital and private sources of financial  
25 credit.

1 (b) POLICY.—It is the policy of the United States  
2 that, in fulfillment of the special and long-standing re-  
3 sponsibility of the United States to Indian tribes, the  
4 United States should provide assistance to Indians in ef-  
5 forts to break free from the devastating effects of extreme  
6 poverty and unemployment and achieve lasting economic  
7 self-sufficiency through the development of the private sec-  
8 tor of tribal economies by establishing a federally char-  
9 tered, mixed-ownership development financing institution  
10 to provide a broad range of financial intermediary services  
11 (including working capital, direct loans, loan guarantees,  
12 and project development assistance) using the proven effi-  
13 ciencies of the private market mode of operation.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) BOARD.—The term “Board” means the  
17 Board of Directors of the Corporation.

18 (2) CORPORATION.—The term “Corporation”  
19 means the Indian Development Finance Corporation  
20 established by section 101(a).

21 (3) INDIAN.—The term “Indian” means an in-  
22 dividual who is a member of an Indian tribe.

23 (4) INDIAN BUSINESS ENTERPRISE.—

1 (A) IN GENERAL.—The term “Indian busi-  
2 ness enterprise” means any commercial, indus-  
3 trial, or business entity—

4 (i) at least 51 percent of which is  
5 owned by 1 or more Indian tribes;

6 (ii) that produces or provides goods,  
7 services, or facilities on a for-profit basis;

8 (iii) that is chartered or controlled by  
9 an Indian tribe or tribal organization that  
10 is a shareholder/member of the Corpora-  
11 tion;

12 (iv) the principal place of business of  
13 which is located within or adjacent to the  
14 boundaries of a reservation; and

15 (v) the principal business activities of  
16 which, in addition to the production of a  
17 stream of income, as determined by the  
18 Corporation—

19 (I) are directly beneficial to an  
20 Indian tribe; and

21 (II) contribute to the economy of  
22 that Indian tribe.

23 (B) INCLUSION.—The term “Indian busi-  
24 ness enterprise” includes any subsidiary entity

1 owned and controlled by an entity described in  
2 subparagraph (A).

3 (5) INDIAN TRIBE.—The term “Indian tribe”  
4 has the meaning given the term in section 4 of the  
5 Indian Self-Determination and Education Assistance  
6 Act (25 U.S.C. 450b).

7 (6) RESERVATION.—The term “reservation”  
8 has the meaning given the term in section 3 of the  
9 Indian Financing Act of 1974 (25 U.S.C. 1452).

10 (7) SECRETARY.—The term “Secretary” means  
11 the Secretary of the Interior.

12 (8) TRIBAL ORGANIZATION.—The term “tribal  
13 organization” means—

14 (A) the governing body of an Indian tribe;  
15 and

16 (B) any entity established, controlled, or  
17 owned by such a governing body.

18 **TITLE I—INDIAN DEVELOPMENT**  
19 **FINANCE CORPORATION**

20 **SEC. 101. ESTABLISHMENT OF CORPORATION.**

21 (a) IN GENERAL.—There is established a corpora-  
22 tion, to be known as the “Indian Development Finance  
23 Corporation”.

24 (b) POWERS OF CONGRESS.—Congress shall have the  
25 sole authority—

- 1           (1) to amend the charter of the Corporation;  
2           and  
3           (2) to terminate the Corporation.

4 **SEC. 102. DUTIES AND POWERS.**

5           (a) DUTIES.—The Corporation shall—

- 6           (1) provide development capital through finan-  
7           cial services under section 103;  
8           (2) encourage the development of new and ex-  
9           isting Indian business enterprises eligible to receive  
10          assistance from the Corporation by providing, and  
11          coordinating the availability of—  
12                (A) long-term capital and working capital;  
13                (B) loans, loan guarantees, and other  
14                forms of specialized credit; and  
15                (C) technical and managerial assistance  
16                and training;  
17          (3) maintain broad-based control of the Cor-  
18          poration relative to the voting shareholders of the  
19          Corporation;  
20          (4) encourage active participation in the Cor-  
21          poration by Indian tribes through ownership of eq-  
22          uity securities of the Corporation; and  
23          (5) otherwise assist in strengthening Indian  
24          tribal economies through the development of Indian  
25          business enterprises.

1 (b) POWERS.—In carrying out this Act, the Corpora-  
2 tion may—

3 (1) adopt and alter a corporate seal, which shall  
4 be judicially noticed;

5 (2)(A) enter into agreements and contracts with  
6 individuals, Indian tribes, and private or govern-  
7 mental entities; and

8 (B) make payments or advance payments under  
9 those agreements and contracts without regard to  
10 section 3324 of title 31, United States Code, except  
11 that the Corporation shall provide financial assist-  
12 ance only in accordance with this Act;

13 (3) with respect to any real, personal, or mixed  
14 property (or any interest in such property)—

15 (A) lease, purchase, accept gifts or dona-  
16 tions of, or otherwise acquire the property;

17 (B) own, hold, improve, use, or otherwise  
18 deal in or with the property; and

19 (C) sell, convey, mortgage, pledge, lease,  
20 exchange, or otherwise dispose of the property;

21 (4)(A) sue and be sued in corporate name;

22 (B) complain and defend in any court of com-  
23 petent jurisdiction; and

24 (C) represent itself, or contract for representa-  
25 tion, in any judicial, legal, or other proceeding;

1           (5)(A) with the approval of the department or  
2 agency concerned, make use of the services, facili-  
3 ties, and property of any board, commission, inde-  
4 pendent establishment, or Federal department or  
5 agency in carrying out this Act; and

6           (B) pay for that use, with the payments to be  
7 credited to the applicable appropriation that in-  
8 curred the expense;

9           (6) use the United States mails on the same  
10 terms and conditions as a Federal department or  
11 agency;

12           (7) obtain insurance or make other provisions  
13 against losses;

14           (8) participate with 1 or more other financial  
15 institutions, agencies, instrumentalities, trusts, or  
16 foundations in loans or guarantees provided under  
17 this Act on such terms as may be agreed on;

18           (9) accept guarantees from other agencies for  
19 which loans made by the Corporation may be eligi-  
20 ble;

21           (10) establish, as soon as practicable, regional  
22 offices to more efficiently serve the widely disbursed  
23 Indian population;

24           (11) buy and sell—

1 (A) obligations of, or instruments insured  
2 by, the Federal Government; and

3 (B) securities backed by the full faith and  
4 credit of any Federal department or agency;

5 (12) make such investments as the Board de-  
6 termines to be appropriate;

7 (13) establish such offices within the Corpora-  
8 tion as are necessary, including—

9 (A) project development;

10 (B) project evaluation and auditing;

11 (C) fiscal management;

12 (D) research and development; and

13 (E) such other activities as are authorized  
14 by the Board; and

15 (14) exercise all other authority necessarily or  
16 reasonably relating to the establishment of the Cor-  
17 poration to carry out this Act.

18 **SEC. 103. LOANS AND OBLIGATIONS.**

19 (a) IN GENERAL.—The Corporation may—

20 (1) make loans or commitments for loans to  
21 any Indian business enterprise; and

22 (2) purchase, insure, or discount any obligation  
23 of an Indian business enterprise, if the Indian busi-  
24 ness enterprise meets the requirements of subsection

25 (b).

1 (b) REQUIREMENTS.—An Indian business enterprise  
2 meets the requirements of this subsection if the Corpora-  
3 tion determines that—

4 (1) the Indian business enterprise has or will  
5 have—

6 (A) a sound organizational and financial  
7 structure;

8 (B) income in excess of the operating costs  
9 of the Indian business enterprise;

10 (C) assets in excess of the obligations of  
11 the Indian business enterprise; and

12 (D) a reasonable expectation of continuing  
13 demand for—

14 (i) the products, goods, commodities,  
15 or services of the Indian business enter-  
16 prise; or

17 (ii) the facilities of the Indian busi-  
18 ness enterprise; and

19 (2) the loan or obligation proposed to be pur-  
20 chased, insured, or discounted will be fully repayable  
21 by the Indian business enterprise in accordance with  
22 the terms and conditions of the loan or obligation.

23 (c) TERMS, RATES, AND CHARGES.—

24 (1) IN GENERAL.—In establishing the terms,  
25 rates, and charges for a loan provided under this

1 section, the Corporation, to the maximum extent  
2 practicable, shall seek to provide the type of credit  
3 needed by the applicable Indian business enterprise  
4 at the lowest reasonable cost and on a sound busi-  
5 ness basis, taking into consideration—

6 (A) the cost of money to the Corporation;

7 (B) the necessary reserve and expenses of  
8 the Corporation; and

9 (C) the technical and other assistance at-  
10 tributable to loans made available by the Cor-  
11 poration under this section.

12 (2) INTEREST RATES.—The terms of a loan  
13 under this subsection may provide for an interest  
14 rate that varies from time to time during the repay-  
15 ment period of the loan in accordance with the inter-  
16 est rates being charged by the Corporation for new  
17 loans during those periods.

18 (d) ADVANCING AND RELOANING.—A loan provided  
19 under this section may be advanced or reloaned by the  
20 Corporation to any member or shareholder of the Corpora-  
21 tion for the development of an individually owned business  
22 on or adjacent to a reservation, in accordance with the  
23 bylaws of the Corporation.

24 (e) LOAN GUARANTEES.—

1           (1) IN GENERAL.—The Corporation may guar-  
2           antee any part of the principal or interest of a loan  
3           that is provided—

4                   (A) by a State-chartered or federally char-  
5                   tered lending institution to an Indian business  
6                   enterprise that meets the requirements of sub-  
7                   section (b); and

8                   (B) in accordance with such terms and  
9                   conditions (including the rate of interest) as  
10                  would be permissible if the loan was a direct  
11                  loan provided by the Corporation.

12           (2) CHARGES.—The Corporation may impose a  
13           charge for a loan guarantee provided under this sub-  
14           section.

15           (3) LIMITATION.—The Corporation shall not  
16           provide a loan guarantee under this subsection if the  
17           income to the lender from the applicable loan is ex-  
18           cludable from the gross income of the lender for pur-  
19           poses of chapter 1 of the Internal Revenue Code of  
20           1986.

21           (4) ASSIGNABILITY.—A loan guarantee under  
22           this subsection shall be assignable to the extent pro-  
23           vided in the contract for the loan guarantee.

24           (5) INCONTESTABILITY.—A loan guarantee  
25           under this subsection shall be incontestable, except

1 in any case of fraud or misrepresentation of which  
2 the holder of the loan had actual knowledge at the  
3 time the holder acquired the loan.

4 (6) PURCHASE OF GUARANTEED LOANS.—

5 (A) IN GENERAL.—In lieu of requiring the  
6 original lender to service a loan guaranteed  
7 under this subsection until final maturity or liq-  
8 uidation, the Corporation may purchase the  
9 guaranteed loan without penalty, if the Cor-  
10 poration determines that—

11 (i) the purchase would not be detri-  
12 mental to the interests of the Corporation;

13 (ii) liquidation of the guaranteed loan  
14 would—

15 (I) result in the insolvency of the  
16 borrower; or

17 (II) deprive the borrower of an  
18 asset essential to continued operation;

19 and

20 (iii)(I) the guaranteed loan will be re-  
21 payable on revision of the rates, terms,  
22 payment periods, or other conditions of the  
23 loan, consistent with loans made by the  
24 Corporation under subsection (a)(1); but

1 (II) the lender or other holder of the  
2 guaranteed loan is unwilling to make such  
3 a revision.

4 (B) AMOUNT.—The amount paid by the  
5 Corporation to purchase a loan under subpara-  
6 graph (A) shall not exceed an amount equal to  
7 the sum of—

8 (i) the balance of the principal of the  
9 loan; and

10 (ii) the amount of interest accrued on  
11 the loan as of the date of purchase.

12 (f) PURCHASES OF EQUITY AND OWNERSHIP; SU-  
13 PERVISION AND PARTICIPATION.—

14 (1) PURCHASES OF EQUITY AND OWNERSHIP.—

15 For purposes of providing long-term capital and  
16 working capital to Indian business enterprises, the  
17 Corporation may purchase, or make commitments to  
18 purchase, any portion of the equity or ownership in-  
19 terest in the Indian business enterprise if the Cor-  
20 poration determines, after a full and complete ap-  
21 praisal of all project and business plans associated  
22 with the investment, that the investment will not ex-  
23 pose the Corporation to any unreasonable business  
24 risk, taking into consideration applicable develop-  
25 ment finance standards, as applied to Indian eco-

1        nomic development in light of the socioeconomic, po-  
2        litical, and legal conditions unique to reservations.

3            (2) SUPERVISION AND PARTICIPATION.—The  
4        Corporation may supervise or participate in the  
5        management of an Indian business enterprise in  
6        which an investment has been made under para-  
7        graph (1), in accordance with such terms and condi-  
8        tions as are agreed to by the Corporation and the  
9        Indian business enterprise, including the assumption  
10       of a directorship in the corporate body of the Indian  
11       business enterprise by an officer of the Corporation.

12 **SEC. 104. BOARD OF DIRECTORS.**

13        (a) MEMBERSHIP.—The Corporation shall be headed  
14 by a board of directors, to be composed of 21 members,  
15 of whom—

16            (1) 1 shall be a Federal official, to be appointed  
17 by the Secretary;

18            (2) 19 shall be representatives of the share-  
19 holders of the Corporation, to be appointed by the  
20 Secretary—

21                    (A) based on consultation with, and rec-  
22 ommendations from, Indian tribes;

23                    (B) in accordance with subsection (b); and

24                    (C) taking take into consideration the ex-  
25 perience of a representative regarding—

- 1 (i) private business enterprises; and  
2 (ii) development or commercial financ-  
3 ing; and

4 (3) 1 shall be the president of the Corporation.

5 (b) APPOINTMENT OF SHAREHOLDER REPRESENTA-  
6 TIVES.—The initial members of the Board appointed  
7 under subsection (a)(2) shall be appointed by the Sec-  
8 retary, based on recommendations from Indian tribal lead-  
9 ers.

10 (c) TERMS OF SHAREHOLDER REPRESENTATIVES.—  
11 The terms of service of the initial members of the Board  
12 appointed under subsection (a)(2) shall terminate at the  
13 beginning of the first annual meeting of shareholders of  
14 the Corporation held as soon as practicable after the date  
15 on which subscriptions have been paid for at least 10 per-  
16 cent of the common stock of the Corporation initially of-  
17 fered for sale to Indian tribes under section 201(b).

18 (d) VACANCIES.—

19 (1) IN GENERAL.—Subject to paragraph (2), a  
20 vacancy on the Board resulting from the resignation  
21 or removal of a member of the Board shall be filled  
22 by the Board in accordance with the bylaws of the  
23 Corporation.

24 (2) TERM.—The term of service of a member of  
25 the Board appointed under paragraph (1) shall ter-

1       minate at the beginning of the next annual share-  
2       holder meeting of the Corporation occurring after  
3       the date of appointment.

4       (e) REMOVAL.—A member of the Board may be re-  
5       moved from office by the Board only for—

6             (1) neglect of duty; or

7             (2) malfeasance in office.

8       (f) ADMINISTRATIVE DUTIES.—

9             (1) CHAIRPERSON AND VICE-CHAIRPERSON.—

10       The Board shall annually elect from among the  
11       members of the Board described in subsection (a)(2)  
12       a chairperson and vice-chairperson.

13             (2) POLICIES AND MANAGEMENT.—The Board  
14       shall—

15             (A) establish the policies of the Corpora-  
16       tion; and

17             (B) supervise the management of the Cor-  
18       poration.

19             (3) BYLAWS.—The Board shall adopt and  
20       amend, as necessary, such bylaws as are necessary  
21       for the proper management and function of the Cor-  
22       poration.

23             (4) MEETINGS.—

24             (A) IN GENERAL.—The Board shall meet  
25       at the call of the chairperson of the Board, in

1           accordance with the bylaws of the Corporation,  
2           not less frequently than once each quarter.

3           (B) PRIVATE EXECUTIVE SESSIONS.—The  
4           Board may meet in a private executive session  
5           if the matter involved at the meeting may im-  
6           pinge on the right of privacy of an individual.

7           (g) MEMBER APPOINTED BY SECRETARY.—The  
8           member of the Board appointed by the Secretary under  
9           subsection (a)(1) shall—

10           (1) have 20 percent of the share of votes cast  
11           at each annual shareholder meeting; and

12           (2) be overruled only by  $\frac{2}{3}$  majority vote at a  
13           regular meeting of the Board with respect to any  
14           matter regarding—

15           (A) a request by the Board of capital  
16           under subsection (b)(3)(B) or (c)(2)(B) of sec-  
17           tion 201;

18           (B) borrowing by the Corporation of any  
19           amount in excess of \$10,000,000;

20           (C) a loan or investment made by the Cor-  
21           poration in excess of \$10,000,000; or

22           (D) a change to an investment or credit  
23           policy of the Corporation.

24           (h) COMPENSATION.—

1           (1) NON-GOVERNMENTAL EMPLOYEES.—A  
2 member of the Board who is not otherwise employed  
3 by the Federal Government or a State government  
4 shall receive compensation at a rate equal to the  
5 daily rate for GS-18 of the General Schedule under  
6 section 5332 of title 5, United States Code, for each  
7 day, including traveling time, during which the  
8 member carries out a duty as a member of the  
9 Board.

10           (2) GOVERNMENTAL EMPLOYEES.—A member  
11 of the Board who is an officer or employee of the  
12 Federal Government or a State government shall  
13 serve without additional compensation.

14           (3) TRAVEL AND OTHER EXPENSES.—Each  
15 member of the Board shall be reimbursed for travel,  
16 subsistence, and other necessary expenses incurred  
17 by the member in carrying out a duty as a member  
18 of the Board.

19 **SEC. 105. PRESIDENT OF CORPORATION.**

20           (a) APPOINTMENT.—The Board shall appoint a  
21 president of the Corporation.

22           (b) DUTIES AND POWERS.—The president shall—

23               (1) serve as the chief executive officer of the  
24 Corporation; and

1           (2) subject to the direction of the Board and  
2 the general supervision of the chairperson, carry out  
3 the policies and functions of the Corporation;

4           (3) manage the personnel and activities of the  
5 Corporation; and

6           (4) on approval of the Board, appoint and fix  
7 the compensation and duties of such officers and  
8 employees as may be necessary for the efficient ad-  
9 ministration of the Corporation, without regard to—

10                   (A) the provisions of title 5, United States  
11 Code, governing appointments in the competi-  
12 tive service; or

13                   (B) chapter 51 or subchapter III of chap-  
14 ter 53 of title 5, United States Code.

15 **SEC. 106. ANNUAL SHAREHOLDER MEETINGS.**

16           (a) MEETINGS.—

17                   (1) IN GENERAL.—The Corporation shall hold  
18 meetings of the shareholders of the Corporation not  
19 less frequently than once each year.

20                   (2) OPENNESS.—A shareholder meeting under  
21 this section shall be held open to the public.

22                   (3) NOTICE.—The Corporation shall provide to  
23 each shareholder of the Corporation a notice of each  
24 shareholder meeting under this section by not later  
25 than 30 days before the date of the meeting.

1 (b) ACTIVITIES.—

2 (1) CORPORATION.—At a shareholder meeting  
3 under this section, the Corporation—

4 (A) shall provide to shareholders a report  
5 describing—

6 (i) the activities of the Corporation  
7 during the preceding calendar year; and

8 (ii) the financial condition of the Cor-  
9 poration as in effect on the date of the  
10 meeting; and

11 (B) may present to the shareholders pro-  
12 posals for future action and other matters of  
13 general concern to shareholders and Indian  
14 business enterprises eligible to receive services  
15 of the Corporation.

16 (2) SHAREHOLDERS.—At a shareholder meet-  
17 ing under this section, a shareholder of the Corpora-  
18 tion may—

19 (A) present a motion or resolution relating  
20 to any matter within the scope of this Act; and

21 (B) participate in any discussion relating  
22 to such a matter or any other matter on the  
23 agenda of the meeting.

1 (c) VOTING.—Each Indian tribe that is a member of  
2 the Corporation may vote the common stock of the Indian  
3 tribe regarding—

4 (1) any matter on the agenda of a meeting  
5 under this section; or

6 (2) any other matter relating to the election of  
7 a member of the Board.

8 **SEC. 107. ANNUAL REPORTS; DEVELOPMENT PLAN.**

9 (a) ANNUAL REPORTS.—

10 (1) IN GENERAL.—Not later than 1 year after  
11 the date of enactment of this Act and annually  
12 thereafter, the Board shall submit to the appropriate  
13 committees of Congress a report describing—

14 (A) the activities of the Corporation during  
15 the preceding calendar year; and

16 (B) the capital and financial condition of  
17 the Corporation as in effect on the date of sub-  
18 mission of the report.

19 (2) INCLUSION.—Each report under paragraph  
20 (1) shall include recommendations for legislation to  
21 improve the services of the Corporation.

22 (b) DEVELOPMENT PLAN.—Not later than 1 year  
23 after the date of enactment of this Act, the Corporation  
24 shall submit to Congress a comprehensive, 5-year organi-  
25 zational development plan that includes—

- 1 (1) financial projections for the Corporation;
- 2 (2) a description of the corporate structure and  
3 locations of the Corporation; and
- 4 (3) operational guidelines for the Corporation,  
5 particularly regarding the coordinating relationship  
6 the Corporation has, or plans to have, with Federal  
7 domestic assistance programs that allocate financial  
8 resources and services to Indian tribes and reserva-  
9 tions for economic and business development pur-  
10 poses.

## 11 **TITLE II—CAPITALIZATION**

### 12 **SEC. 201. ISSUANCE OF STOCK.**

#### 13 (a) ISSUANCE.—

14 (1) IN GENERAL.—The Corporation may issue  
15 shares of stock in the Corporation, in such quantity  
16 and of such class as the Board determines to be ap-  
17 propriate, in accordance with this section.

18 (2) REQUIREMENT.—A share of stock under  
19 paragraph (1) may be issued to, and held by, only—

20 (A) an Indian tribe; or

21 (B) the Federal Government.

22 (3) REDEMPTION AND REPURCHASE.—The Cor-  
23 poration may redeem or repurchase a share of stock  
24 issued pursuant to paragraph (1) at a price to be  
25 determined by the Board.

1 (b) INITIAL OFFERING OF COMMON STOCK.—

2 (1) IN GENERAL.—The Corporation shall make  
3 an initial offering of common stock of the Corpora-  
4 tion to Indian tribes under this section—

5 (A) in a quantity of not less than 500,000  
6 shares; and

7 (B) at a price of not less than \$50 per  
8 share.

9 (2) FORM OF PAYMENT.—Of the price paid by  
10 an Indian tribe for a share of stock of the Corpora-  
11 tion under this subsection—

12 (A) 20 percent shall be provided in cash or  
13 cash-equivalent securities; and

14 (B) 80 percent shall provided in the form  
15 of a legally binding financial commitment that  
16 is—

17 (i) available at the request of the  
18 Board to meet the obligations of the Cor-  
19 poration; but

20 (ii) not available for any lending activ-  
21 ity or administrative expenses of the Cor-  
22 poration.

23 (c) SUBSCRIPTION BY SECRETARY FOR SHARES OF  
24 CAPITAL STOCK.—

1           (1) IN GENERAL.—The Secretary may subscribe  
2 for not more than 2,000,000 shares of capital stock  
3 of the Corporation.

4           (2) PAYMENTS.—

5           (A) INITIAL PERIOD.—Not later than 2  
6 years after the date of enactment of this Act,  
7 the Secretary shall pay to the Corporation for  
8 subscription for capital stock under paragraph  
9 (1) not less than \$20,000,000.

10          (B) SUBSEQUENT PERIOD.—

11           (i) IN GENERAL.—Beginning in fiscal  
12 year 2012, the Secretary shall pay to the  
13 Corporation for subscription for capital  
14 stock under paragraph (1)—

15                   (I) \$80,000,000; or

16                   (II) such lesser amount as the  
17 Board may request, in accordance  
18 with clause (ii).

19           (ii) REQUESTS BY BOARD.—The  
20 amount of a request by the Board under  
21 clause (i)(II) shall be determined jointly by  
22 the Secretary and the Board based on an  
23 assessment of the need of the Corporation,  
24 taking into consideration a risk analysis of

1 the investment and credit policies and  
2 practices of the Corporation.

3 (iii) LIMITATIONS.—A payment under  
4 this subparagraph—

5 (I) shall be subject to the avail-  
6 ability of appropriations;

7 (II) shall be provided only as  
8 needed to meet the obligations of the  
9 Corporation; and

10 (III) shall not be available for  
11 any lending activity or administrative  
12 expenses of the Corporation.

13 (3) REQUIREMENTS.—A share of capital stock  
14 subscribed for by the Secretary under this sub-  
15 section—

16 (A) shall be valued at not less than \$50  
17 per share;

18 (B) shall be nonvoting stock;

19 (C) shall not accrue dividends; and

20 (D) shall not be transferred to any indi-  
21 vidual or entity other than the Corporation.

22 (d) EXEMPTED SECURITIES.—A share of stock, and  
23 any other security or instrument, issued by the Corpora-  
24 tion shall be considered to be an exempted security for

1 purposes of the laws (including regulations) administered  
2 by the Securities and Exchange Commission.

3 **SEC. 202. BORROWING AUTHORITY.**

4 (a) ISSUANCE OF OBLIGATIONS.—The Corporation  
5 may issue such bonds, notes, and other obligations at such  
6 times, bearing interest at such rates, and containing such  
7 terms and conditions as the Board, in consultation with  
8 the Secretary of the Treasury, determines to be appro-  
9 priate.

10 (b) AMOUNT OF OBLIGATIONS.—The aggregate  
11 amount of the obligations issued pursuant to subsection  
12 (a) shall not exceed an amount equal to the sum of—

13 (1) the product obtained by multiplying—

14 (A) the sum of—

15 (i) the paid-in capital of the Corpora-  
16 tion; and

17 (ii) the retained earnings and profits  
18 of the Corporation; and

19 (B) 10; and

20 (2) the sum of the book values of—

21 (A) the capital subject to request of the  
22 Board represented by the total commitments of  
23 Indian tribal shareholders under section  
24 201(b)(2)(B); and

1 (B) the amount paid by the Secretary  
2 under section 201(c)(2).

3 (c) SALE OF OBLIGATIONS.—An obligation of the  
4 Corporation under subsection (a) may be—

5 (1) issued through an agent by negotiation,  
6 offer, bid, syndicate sale, or otherwise; and

7 (2) completed by book entry, wire transfer, or  
8 any other appropriate method.

## 9 **TITLE III—AUTHORIZATION OF** 10 **APPROPRIATIONS**

### 11 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) GENERAL OPERATIONAL EXPENSES.—There are  
13 authorized to be appropriated—

14 (1) \$2,000,000 for fiscal year 2009 to carry out  
15 this Act;

16 (2) \$2,500,000 for each of fiscal years 2010  
17 through 2014 to carry out project development ac-  
18 tivities under this Act; and

19 (3) such sums as are necessary to carry out this  
20 Act (other than subparagraphs (A) and (B) of sec-  
21 tion 201(c)(2)) for each of fiscal years 2010 through  
22 2014.

23 (b) PAID-IN CAPITAL STOCK.—There are authorized  
24 to be appropriated—

1           (1) for each of fiscal years 2010 and 2011,  
2           \$10,000,000 to carry out section 201(c)(2)(A); and  
3           (2) for fiscal year 2011 and each fiscal year  
4           thereafter, \$80,000,000 to carry out section  
5           201(c)(2)(B).

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