

112TH CONGRESS
1ST SESSION

H. R. 1599

To facilitate economic growth and development in Indian country, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. COLE introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Natural Resources, Financial Services, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate economic growth and development in Indian country, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Indian Country Economic Development Act”.

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

Sec. 1. Short title and table of contents.

TITLE I—AMENDMENT TO NATIONAL LABOR RELATIONS ACT

Sec. 101. Amendment to definition of employer under the National Labor Relations Act.

TITLE II—FICA FORGIVENESS ON STUDENT LOANS

Sec. 201. Exclusion from gross income for payments under Indian Health Service Loan Repayment Program.

TITLE III—STUDENT LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME

Sec. 301. Bureau of Indian Education student loan repayments excluded from gross income.

TITLE IV—INDIAN TRIBAL GOVERNMENT PENSION PLANS

Sec. 401. Treatment of certain pension plans of Indian tribal governments.

TITLE V—ISSUANCE OF TAX-EXEMPT BONDS

Sec. 501. Modifications of authority of Indian tribal governments to issue tax-exempt bonds.

Sec. 502. Essential governmental function.

Sec. 503. Exemption from registration requirements.

TITLE VI—TAX CREDIT FOR TECH COMPANIES IN INDIAN COUNTRY

Sec. 601. Business credit for technology companies in Indian country.

TITLE VII—TRIBAL LEASES

Sec. 701. Approval of, and regulations related to, tribal leases.

Sec. 702. Land title reports; review and report to Congress.

TITLE VIII—EXEMPTIONS FROM TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Sec. 801. Preference on account of tribe membership.

TITLE IX—INDIAN TRIBAL DEVELOPMENT

Sec. 901. Purposes.

Sec. 902. Definitions.

Sec. 903. Lead agency.

Sec. 904. Selection of participating tribes.

Sec. 905. Application requirements, review, and approval.

Sec. 906. Authority of heads of Federal agencies.

Sec. 907. Procedures for processing requests for joint financing.

Sec. 908. Uniform administrative procedures.

Sec. 909. Delegation of supervision of assistance.

Sec. 910. Joint assistance funds and project facilitation.

Sec. 911. Financial management, accountability, and audits.

Sec. 912. Technical assistance and personnel training.

Sec. 913. Joint state financing for Federal-tribal assisted projects.

Sec. 914. Report to Congress.

1 **TITLE I—AMENDMENT TO NA-**
2 **TIONAL LABOR RELATIONS**
3 **ACT**

4 **SEC. 101. AMENDMENT TO DEFINITION OF EMPLOYER**
5 **UNDER THE NATIONAL LABOR RELATIONS**
6 **ACT.**

7 Section 2 of the National Labor Relations Act (29
8 U.S.C. 152) is amended—

9 (1) in paragraph (2), by inserting “or any en-
10 terprise or institution owned and operated by an In-
11 dian tribe and located on its Indian lands,” after
12 “subdivision thereof,”; and

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

14 “(15) The term ‘Indian tribe’ means any Indian
15 tribe, band, nation, pueblo, or other organized group
16 or community which is recognized as eligible for the
17 special programs and services provided by the
18 United States to Indians because of their status as
19 Indians.

20 “(16) The term ‘Indian’ means any individual
21 who is a member of an Indian tribe.

22 “(17) The term ‘Indian lands’ means—

23 “(A) all lands within the limits of any In-
24 dian reservation;

1 “(B) any lands title to which is either held
2 in trust by the United States for the benefit of
3 any Indian tribe or individual or held by any
4 Indian tribe or individual subject to restriction
5 by the United States against alienation; and

6 “(C) any lands in the State of Oklahoma
7 that are within the boundaries of a former res-
8 ervation (as defined by the Secretary of the In-
9 terior) of a federally recognized Indian tribe.”.

10 **TITLE II—FICA FORGIVENESS**
11 **ON STUDENT LOANS**

12 **SEC. 201. EXCLUSION FROM GROSS INCOME FOR PAY-**
13 **MENTS UNDER INDIAN HEALTH SERVICE**
14 **LOAN REPAYMENT PROGRAM.**

15 (a) **IN GENERAL.**—Paragraph (4) of section 108(f)
16 of the Internal Revenue Code of 1986 is amended by in-
17 serting “or under section 108 of the Indian Health Care
18 Improvement Act” before the period at the end.

19 (b) **CONFORMING AMENDMENT.**—The heading for
20 section 108(f)(4) of such Code is amended by striking
21 “AND CERTAIN” and inserting “, INDIAN HEALTH SERVICE
22 LOAN REPAYMENT PROGRAM, AND CERTAIN”.

23 (c) **EFFECTIVE DATE.**—The amendments made by
24 this section shall apply to payments made after the date
25 of the enactment of this Act.

1 **TITLE III—STUDENT LOAN RE-**
2 **PAYMENTS EXCLUDED FROM**
3 **GROSS INCOME**

4 **SEC. 301. BUREAU OF INDIAN EDUCATION STUDENT LOAN**
5 **REPAYMENTS EXCLUDED FROM GROSS IN-**
6 **COME.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to
9 items specifically excluded from gross income) is amended
10 by adding at the end the following new section:

11 **“SEC. 139F. BUREAU OF INDIAN EDUCATION STUDENT**
12 **LOAN REPAYMENTS.**

13 “Gross income does not include amounts remuner-
14 ated under a student loan repayment program authorized
15 under section 5379 of title 5, United States Code, by the
16 Bureau of Indian Education on behalf of an employee of
17 such Bureau whose responsibilities include working with
18 or instructing students who attend schools overseen by
19 such Bureau.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
21 tions for part III of subchapter B of chapter 1 of such
22 Code is amended by adding at the end the following new
23 item:

“Sec. 139F. Bureau of Indian Education student loan repayments.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to student loan repayments made
3 after the date of the enactment of this Act.

4 **TITLE IV—INDIAN TRIBAL**
5 **GOVERNMENT PENSION PLANS**

6 **SEC. 401. TREATMENT OF CERTAIN PENSION PLANS OF IN-**
7 **DIAN TRIBAL GOVERNMENTS.**

8 (a) AMENDMENTS TO THE INTERNAL REVENUE
9 CODE OF 1986.—

10 (1) QUALIFIED PUBLIC SAFETY EMPLOYEE.—
11 Section 72(t)(10)(B) of the Internal Revenue Code
12 of 1986 (definition of qualified public safety em-
13 ployee) is amended by—

14 (A) striking “or political subdivision of a
15 State” and inserting “, political subdivision of
16 a State, or Indian tribe”; and

17 (B) striking “such State or political sub-
18 division” and inserting “such State, political
19 subdivision, or tribe”.

20 (2) GOVERNMENTAL PLAN.—The last sentence
21 of section 414(d) of such Code (definition of govern-
22 mental plan) is amended to read as follows: “The
23 term ‘governmental plan’ includes a plan established
24 or maintained for its employees by an Indian tribal
25 government (as defined in section 7701(a)(40)), a

1 subdivision of an Indian tribal government (deter-
2 mined in accordance with section 7871(d)), an agen-
3 cy, instrumentality, or subdivision of an Indian trib-
4 al government, or an entity established under Fed-
5 eral, State, or tribal law which is wholly owned or
6 controlled by any of the foregoing.”.

7 (3) DOMESTIC RELATIONS ORDER.—Section
8 414(p)(1)(B)(ii) of such Code (definition of domestic
9 relations order) is amended by inserting “or tribal”
10 after “State”.

11 (4) EXEMPT GOVERNMENTAL DEFERRED COM-
12 PENSATION PLAN.—Section 3121(v)(3) of such Code
13 (definition of governmental deferred compensation
14 plan) is amended by inserting “by an Indian tribal
15 government or subdivision thereof,” after “political
16 subdivision thereof,”.

17 (5) DEFERRED COMPENSATION PLANS.—Sec-
18 tion 457 of such Code (deferred compensation plans)
19 is amended by adding at the end the following new
20 subsection:

21 “(h) TRIBAL GOVERNMENTS.—Plans maintained by
22 an Indian tribal government (as defined in section
23 7701(a)(40)), a subdivision of an Indian tribal govern-
24 ment (determined in accordance with section 7871(d)), an
25 agency, instrumentality, or subdivision of an Indian tribal

1 government, or an entity established under Federal, State,
2 or tribal law which is wholly owned or controlled by any
3 of the foregoing, in compliance with Section 457(b) or (f)
4 are treated as if established by an eligible employer under
5 Section 457(e)(1)(A).”.

6 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
7 INCOME SECURITY ACT OF 1974.—

8 (1) IN GENERAL.—The last sentence of section
9 3(32) of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1002(32)) is amended to
11 read as follows: “The term ‘governmental plan’ in-
12 cludes a plan established or maintained for its em-
13 ployees by an Indian tribal government (as defined
14 in section 7701(a)(40) of the Internal Revenue Code
15 of 1986), a subdivision of an Indian tribal govern-
16 ment (determined in accordance with section
17 7871(d) of such Code), an agency, instrumentality,
18 or subdivision of an Indian tribal government, or an
19 entity established under Federal, State, or tribal law
20 which is wholly owned or controlled by any of the
21 foregoing.”.

22 (2) DOMESTIC RELATIONS ORDER.—Section
23 206(d)(3)(B)(ii)(II) of such Act is amended by in-
24 serting “or tribal” after “State”.

25 (3) CONFORMING AMENDMENTS.—

1 (A) Paragraph (2) of section 109(d) of the
2 Worker, Retiree, and Employer Recovery Act of
3 2008 (Public Law 110–458; 122 Stat. 5112) is
4 repealed, and, subject to subparagraph (B), the
5 provisions amended by such paragraph shall
6 read as if such paragraph had not been en-
7 acted.

8 (B) Section 4021(b)(14) of such Act (as in
9 effect on the date of the enactment of the Pen-
10 sion Protection Act of 2006 (Public Law 109–
11 280; 120 Stat. 780) and prior to the enactment
12 of section 109(d)(2) of the Worker, Retiree,
13 and Employer Recovery Act of 2008) is amend-
14 ed to read as follows:

15 “(14) established or maintained for its employ-
16 ees by an Indian tribal government (as defined in
17 section 7701(a)(40) of the Internal Revenue Code of
18 1986), a subdivision of an Indian tribal government
19 (determined in accordance with section 7871(d) of
20 such Code), an agency, instrumentality, or subdivi-
21 sion of an Indian tribal government, or an entity es-
22 tablished under Federal, State, or tribal law which
23 is wholly owned or controlled by any of the fore-
24 going.”.

1 (C) Section 4021(b)(2) of such Act (29
2 U.S.C. 1321(b)(2)) is amended by striking “,
3 or which is described in the last sentence of sec-
4 tion 3(32)” and inserting a period.

5 (c) EFFECTIVE DATE.—The amendments made by
6 subsection (a) and paragraphs (1), (2), (3)(B), and (3)(C)
7 of subsection (b) shall take effect as if included in section
8 906 of the Pension Protection Act of 2006.

9 **TITLE V—ISSUANCE OF TAX-**
10 **EXEMPT BONDS**

11 **SEC. 501. MODIFICATIONS OF AUTHORITY OF INDIAN TRIB-**
12 **AL GOVERNMENTS TO ISSUE TAX-EXEMPT**
13 **BONDS.**

14 Subsection (c) of section 7871 of the Internal Rev-
15 enue Code of 1986 (relating to Indian tribal governments
16 treated as States for certain purposes) is amended to read
17 as follows:

18 “(c) ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT
19 BONDS.—

20 “(1) IN GENERAL.—Section 103 shall apply to
21 any obligation issued by an Indian tribal government
22 (or subdivision thereof), and any private activity
23 bond (as defined in section 141(a)) issued by an In-
24 dian tribal government shall be treated as a qualified
25 bond for the purposes of such section, only if—

1 “(A) such obligation is part of an issue
2 substantially all of the proceeds of which are to
3 be used in the exercise of any essential govern-
4 mental function, or

5 “(B) such obligation is part of an issue 95
6 percent or more of the net proceeds of which
7 are to be used to finance any facility located on
8 an Indian reservation.

9 “(2) EXCLUSION OF GAMING.—An obligation
10 described in subparagraph (A) or (B) of paragraph
11 (1) may not be used to finance any portion of a
12 building in which class II or III gaming (as defined
13 in section 4 of the Indian Gaming Regulatory Act
14 (25 U.S.C. 2703)) is conducted or housed or any
15 other property actually used in the conduct of such
16 gaming.

17 “(3) DEFINITIONS.—For purposes of this sub-
18 section—

19 “(A) INDIAN TRIBE.—The term ‘Indian
20 tribe’ means any Indian tribe, band, nation,
21 pueblo, or other organized group or community
22 which is recognized as eligible for the special
23 programs and services provided by the United
24 States to Indians because of their status as In-
25 dians.

1 1986 (relating to business-related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45S. TECHNOLOGY COMPANIES IN INDIAN COUNTRY.**

4 “(a) GENERAL RULE.—For purposes of section 38,
5 the qualified technology employment credit for any taxable
6 year is an amount equal to \$3,000 multiplied by each cov-
7 ered full-time employee of a qualified high technology busi-
8 ness.

9 “(b) QUALIFIED HIGH TECHNOLOGY BUSINESS.—
10 For purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified high
12 technology business’ means a trade or business
13 that—

14 “(A) provides qualified covered items to
15 the United States Government, and

16 “(B) is located in Indian country (as de-
17 fined by section 1151 of title 18, United States
18 Code).

19 “(2) QUALIFIED COVERED ITEM.—The term
20 ‘qualified covered item’ means a covered item (as de-
21 fined by section 2533a(b) of title 10, United States
22 Code (relating to requirement to buy certain articles
23 from American sources; exceptions)), which is a do-
24 mestic sole-sourced technology and which would re-
25 quire an exception under subsection (c) or (e) of sec-

1 tion 2533a of such title if the United States Govern-
2 ment were to otherwise procure such technology
3 from a source without the United States.

4 “(3) EXCEPTION.—The term ‘qualified covered
5 item’ shall not include any item which ceases to be
6 a domestic sole-sourced technology, as determined by
7 the Secretary of Defense.

8 “(c) COVERED FULL-TIME EMPLOYEE.—For pur-
9 poses of this section, the term ‘covered full-time employe’
10 means, with respect to any qualified covered item pro-
11 duced by the taxpayer, an individual who—

12 “(1) is providing services to the employer as an
13 employee for an average of not less than 32 hours
14 per week for the taxable year of the employer, and

15 “(2) substantially all of whose services are inte-
16 grally related to the production of such qualified cov-
17 ered item.

18 “(d) LOCATED IN INDIAN COUNTRY.—For purposes
19 of this section, a trade or business is located in Indian
20 country if such trade or business would be treated as a
21 qualified business entity using the criteria of paragraphs
22 (1) through (8) of section 1397C(b) or as a qualified pro-
23 prietorship using the criteria of paragraphs (1) through
24 (9) of section 1397C(c), determined for purposes of this

1 section by treating Indian country as an empowerment
2 zone.”.

3 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
4 NESS CREDIT.—Section 38(b) of such Code (defining cur-
5 rent year business credit) is amended by striking “plus”
6 at the end of paragraph (35), by striking the period at
7 the end of paragraph (36) and inserting “, plus”, and by
8 adding at the end the following new paragraph:

9 “(37) the qualified technology employment
10 credit determined under section 45S.”.

11 (c) CONFORMING AMENDMENT.—The table of sec-
12 tions for subpart D of part IV of subchapter A of chapter
13 1 of such Code is amended by adding at the end the fol-
14 lowing new item:

“Sec. 45S. Technology companies in Indian country.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall to items acquired after the date of enact-
17 ment of this Act.

18 **TITLE VII—TRIBAL LEASES**

19 **SEC. 701. APPROVAL OF, AND REGULATIONS RELATED TO,** 20 **TRIBAL LEASES.**

21 The first section of the Act titled “An Act to author-
22 ize the leasing of restricted Indian lands for public, reli-
23 gious, educational, recreational, residential, business, and
24 other purposes requiring the grant of long-term leases”,

1 approved August 9, 1955 (25 U.S.C. 415), is amended
2 as follows:

3 (1) In subsection (d)—

4 (A) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) the term ‘Indian tribe’ has the meaning
7 given such term in section 4(e) of the Indian Self-
8 Determination and Education Assistance Act (25
9 U.S.C. 450b(e));”;

10 (B) in paragraph (3)—

11 (i) in the matter preceding subpara-
12 graph (A), by striking “Navajo”;

13 (ii) in subparagraph (A), by striking
14 “the Navajo Nation” and inserting “an In-
15 dian tribe”;

16 (iii) in subparagraph (B), by striking
17 “Navajo Indians or members of another
18 Indian tribe” and inserting “an Indian
19 tribe or a member of an Indian tribe”; and

20 (iv) in subparagraph (C)(i), by strik-
21 ing “Navajo Indian” and inserting “mem-
22 ber of an Indian tribe”;

23 (C) in paragraph (4), by striking “the
24 Navajo Nation” and inserting “an applicable
25 Indian tribe”;

1 (D) by striking paragraph (5) and redesignig-
2 nating paragraphs (6), (7), and (8) as para-
3 graphs (5), (6), and (7), respectively;

4 (E) in paragraph (5) (as redesignated), by
5 striking “the Navajo Nation” and inserting “an
6 Indian tribe”; and

7 (F) in paragraph (7) (as redesignated)—

8 (i) by striking “the Navajo Nation”;

9 and

10 (ii) by striking “with Navajo Nation
11 law” and inserting “with applicable tribal
12 law”.

13 (2) In subsection (e)—

14 (A) by amending the subsection heading to
15 read as follows: “APPROVAL OF LEASES—TRIB-
16 AL DISCRETION.—”;

17 (B) in paragraph (1)—

18 (i) in the matter preceding subpara-
19 graph (A), by striking “Any leases by the
20 Navajo Nation” and inserting “At the dis-
21 cretion of any Indian tribe, any leases by
22 the applicable Indian tribe”; and

23 (ii) in subparagraph (B), by striking
24 “Navajo Nation” and inserting “applicable
25 Indian tribe”;

1 (C) in paragraph (2), by striking “Nav-
2 ajo”;

3 (D) in paragraph (3)—

4 (i) by striking “the regulations of the
5 Navajo Nation” and inserting “such regu-
6 lations”; and

7 (ii) by striking “with the Navajo Na-
8 tion” and inserting “with the applicable
9 Indian tribe”;

10 (E) in paragraph (4), by striking “Navajo
11 Nation” each place it appears and inserting
12 “applicable Indian tribe”;

13 (F) in paragraph (5)—

14 (i) by striking “paragraph (1), includ-
15 ing the Navajo Nation.” and inserting
16 “paragraph (1).”; and

17 (ii) by striking “to the Navajo Na-
18 tion” and inserting “to the applicable In-
19 dian tribe”;

20 (G) in paragraph (6)(A)—

21 (i) by striking “of the Navajo Nation”
22 and inserting “of the applicable Indian
23 tribe”; and

24 (ii) by striking “Navajo Nation tribal”
25 and inserting “tribal”; and

1 (H) in paragraph (6)(B), by striking
2 “Navajo Nation” both places it appears and in-
3 serting “applicable Indian tribe”.

4 **SEC. 702. LAND TITLE REPORTS; REVIEW AND REPORT TO**
5 **CONGRESS.**

6 Not later than 180 days after funds are made avail-
7 able to carry out this section, the Bureau of Indian Affairs
8 shall prepare and submit to the Committee on Financial
9 Services and the Committee on Natural Resources of the
10 House of Representatives and the Committee on Banking,
11 Housing, and Urban Affairs and the Committee on Indian
12 Affairs of the Senate a report regarding the history and
13 experience of Indian tribes that have chosen to assume
14 responsibility for carrying out Indian Land Titles and
15 Records Office functions (in this section referred to as
16 “LTRO functions”) from the Bureau of Indian Affairs.
17 In conducting the review, the Bureau of Indian Affairs
18 shall consult with the Department of Housing and Urban
19 Development Office of Native American Programs and
20 those Indian tribes that are carrying out LTRO functions.
21 The review shall include an analysis of the following fac-
22 tors:

23 (1) Whether and how the carrying out of LTRO
24 functions by Indian tribes has expedited the proc-
25 essing and issuance of Indian land title certifications

1 as compared to the 10-year period prior to the
2 transfer of such responsibilities from the Bureau of
3 Indian Affairs to the Indian tribes.

4 (2) Whether and how the carrying out of LTRO
5 functions by Indian tribes has increased home own-
6 ership among the members of such Indian tribes on
7 the land involved.

8 (3) What internal preparations and processes
9 were required for Indian tribes to begin carrying out
10 LTRO functions.

11 (4) Whether the carrying out of LTRO func-
12 tions by Indian tribes resulted in a transfer of finan-
13 cial and human resources from the Bureau of Indian
14 Affairs to the Indian tribes carrying out such func-
15 tions and, if so, what transfers were undertaken.

16 (5) Whether, in appropriate circumstances and
17 with the approval of geographically proximate Indian
18 tribes, LTRO functions may be performed by a sin-
19 gle Indian tribe or by a tribal consortium in a cost-
20 effective manner.

1 **TITLE VIII—EXEMPTIONS FROM**
 2 **TITLE VI OF THE CIVIL**
 3 **RIGHTS ACT OF 1964**

4 **SEC. 801. PREFERENCE ON ACCOUNT OF TRIBE MEMBER-**
 5 **SHIP.**

6 Title VI of the Civil Rights Act of 1964 (42 U.S.C.
 7 2000d et seq.) is amended by adding at the end the fol-
 8 lowing new section:

9 “SEC. 607. The granting of a preference to a member
 10 of an Indian tribe by the Indian tribe on account of mem-
 11 bership in the Indian tribe is not a violation of section
 12 601. For purposes of this section, the term ‘Indian tribe’
 13 has the meaning given such term in section 4(e) of the
 14 Indian Self-Determination and Education Assistance Act
 15 (25 U.S.C. 450b(e)).”.

16 **TITLE IX—INDIAN TRIBAL**
 17 **DEVELOPMENT**

18 **SEC. 901. PURPOSES.**

19 The purposes of this title are—

20 (1) to enable Indian tribes and tribal organiza-
 21 tions to use available Federal assistance more effec-
 22 tively and efficiently;

23 (2) to adapt and target such assistance more
 24 readily to particular needs through wider use of
 25 projects that are supported by more than 1 agency,

1 assistance program, or appropriation of the Federal
2 Government;

3 (3) to encourage Federal-tribal arrangements
4 under which Indian tribes and tribal organizations
5 may more effectively and efficiently combine Federal
6 and tribal resources to support economic develop-
7 ment projects;

8 (4) to promote the coordination of Native
9 American economic programs to maximize the bene-
10 fits of those programs to encourage a more consoli-
11 dated, national policy for economic development; and

12 (5) to establish a procedure to aid Indian tribes
13 in obtaining Federal resources and in more effi-
14 ciently administering those resources for the further-
15 ance of tribal self-governance and self-determination.

16 **SEC. 902. DEFINITIONS.**

17 In this title:

18 (1) **APPLICANT.**—The term “applicant” means
19 an Indian tribe or tribal organization, or a consor-
20 tium of Indian tribes or tribal organizations, that
21 submits an application under this title for assistance
22 in carrying out a project.

23 (2) **ASSISTANCE.**—The term “assistance”
24 means the transfer of anything of value for a public
25 purpose, support, or stimulation that is—

1 (A) authorized by a law of the United
2 States;

3 (B) provided by the Federal Government
4 through grant or contractual arrangements (in-
5 cluding technical assistance programs providing
6 assistance by loan, loan guarantee, or insur-
7 ance); and

8 (C) authorized to include an Indian tribe
9 or tribal organization, or a consortium of In-
10 dian tribes or tribal organizations, as eligible
11 for receipt of funds under a statutory or admin-
12 istrative formula for the purposes of commu-
13 nity, economic, or business development.

14 (3) ASSISTANCE PROGRAM.—The term “assist-
15 ance program” means any program of the Federal
16 Government that provides assistance for which In-
17 dian tribes or tribal organizations are eligible.

18 (4) INDIAN TRIBE.—The term “Indian tribe”
19 means any Indian tribe, band, nation, pueblo, or
20 other organized group or community which is recog-
21 nized as eligible for the special programs and serv-
22 ices provided by the United States to Indians be-
23 cause of their status as Indians.

24 (5) PROJECT.—

1 (A) IN GENERAL.—The term “project”
2 means a community, economic, or business de-
3 velopment undertaking that includes compo-
4 nents that contribute materially to carrying out
5 a purpose or closely-related purposes that are
6 proposed or approved for assistance under more
7 than 1 Federal Government program.

8 (B) INCLUSION.—The term “project” in-
9 cludes a project designed to improve the envi-
10 ronment, a housing facility, a community facil-
11 ity, a business or industrial facility, or trans-
12 portation, a road, or a highway, with respect to
13 an Indian tribe, tribal organization, or consor-
14 tium.

15 (6) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 (7) TRIBAL ORGANIZATION.—The term “tribal
18 organization” has the meaning given the term in
19 section 4 of the Indian Self-Determination and Edu-
20 cation Assistance Act (25 U.S.C. 450b).

21 **SEC. 903. LEAD AGENCY.**

22 The Department of the Interior shall be the lead
23 agency for purposes of carrying out this title.

24 **SEC. 904. SELECTION OF PARTICIPATING TRIBES.**

25 (a) PARTICIPANTS.—

1 (1) IN GENERAL.—The Secretary may select
2 from the applicant pool described in subsection (b)
3 Indian tribes or tribal organizations, not to exceed
4 24 in each fiscal year, to submit an application to
5 carry out a project under this title.

6 (2) CONSORTIA.—Two or more Indian tribes or
7 tribal organizations that are otherwise eligible to
8 participate in a program or activity to which this
9 title applies may form a consortium to participate as
10 an applicant under paragraph (1).

11 (b) APPLICANT POOL.—The applicant pool described
12 in this subsection shall consist of each Indian tribe or trib-
13 al organization that—

14 (1) successfully completes the planning phase
15 described in subsection (c);

16 (2) requests participation in a project under
17 this title through a resolution or other official action
18 of the tribal governing body; and

19 (3) demonstrates, for the 3 fiscal years imme-
20 diately preceding the fiscal year for which partici-
21 pation is requested, financial stability and financial
22 management capability as demonstrated by a show-
23 ing by the Indian tribe or tribal organization that
24 there were no material audit exceptions in the re-

1 required annual audit of the self-determination con-
2 tracts of the Indian tribe or tribal organization.

3 (c) **PLANNING PHASE.**—Each applicant—

4 (1) shall complete a planning phase that in-
5 cludes—

6 (A) legal and budgetary research; and

7 (B) internal tribal government and organi-
8 zational preparation; and

9 (2) on completion of the planning phase, shall
10 be eligible for joint assistance with respect to a
11 project.

12 **SEC. 905. APPLICATION REQUIREMENTS, REVIEW, AND AP-**
13 **PROVAL.**

14 (a) **REQUIREMENTS.**—An applicant shall submit to
15 the head of the Federal agency responsible for admin-
16 istering the primary Federal program to be affected by
17 the project an application that—

18 (1) identifies the programs to be integrated;

19 (2) proposes programs that are consistent with
20 the purposes described in section 901;

21 (3) describes—

22 (A) a comprehensive strategy that identi-
23 fies the manner in which Federal funds are to
24 be integrated and delivered under the project;
25 and

1 (B) the results expected from the project;

2 (4) identifies the projected expenditures under
3 the project in a single budget;

4 (5) identifies the agency or agencies of the trib-
5 al government that are to be involved in the project;

6 (6) identifies any Federal statutory provisions,
7 regulations, policies, or procedures that the appli-
8 cant requests be waived in order to implement the
9 project; and

10 (7) is approved by the governing body of the
11 applicant, including, in the case of an applicant that
12 is a consortium or tribes or tribal organizations, the
13 governing body of each affected member tribe or
14 tribal organization.

15 (b) REVIEW.—On receipt of an application that
16 meets the requirements of subsection (a), the head of the
17 Federal agency receiving the application shall—

18 (1) consult with the applicant and with the
19 head of each Federal agency that is proposed to pro-
20 vide funds to implement the project; and

21 (2) consult and coordinate with the Department
22 of the Interior as the lead agency under this title for
23 the purposes of processing the application.

24 (c) APPROVAL.—

25 (1) WAIVERS.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), notwithstanding any other provision
3 of law, the head of the Federal agency respon-
4 sible for administering any statutory provision,
5 regulation, policy, or procedure that is identi-
6 fied in an application in accordance with sub-
7 section (a)(6) or as a result of the consultation
8 required under subsection (b), and that is re-
9 quested by the applicant to be waived, shall
10 waive the statutory provision, regulation, policy,
11 or procedure.

12 (B) LIMITATION.—A statutory provision,
13 regulation, policy, or procedure identified for
14 waiver under subparagraph (A) may not be
15 waived by an agency head if the agency head
16 determines that a waiver would be inconsistent
17 with—

18 (i) the purposes described in section
19 901; or

20 (ii) any provision of the statute gov-
21 erning the program involved that is specifi-
22 cally applicable to Indian programs.

23 (2) PROJECT.—

24 (A) IN GENERAL.—Not later than 90 days
25 after the date of receipt of an application that

1 meets the requirements of subsection (a), the
2 head of the Federal agency receiving the appli-
3 cation shall inform the applicant, in writing, of
4 the approval or disapproval of the application,
5 including the approval or disapproval of any
6 waiver sought under paragraph (1).

7 (B) DISAPPROVAL.—If an application or
8 waiver is disapproved—

9 (i) the written notice shall identify the
10 reasons for the disapproval; and

11 (ii) the applicant shall be provided an
12 opportunity to amend the application or to
13 petition the agency head to reconsider the
14 disapproval.

15 **SEC. 906. AUTHORITY OF HEADS OF FEDERAL AGENCIES.**

16 (a) IN GENERAL.—The President, acting through the
17 heads of the appropriate Federal agencies, shall promul-
18 gate regulations necessary—

19 (1) to carry out this title; and

20 (2) to ensure that this title is applied and im-
21 plemented by all Federal agencies.

22 (b) SCOPE OF COVERAGE.—The Federal agencies
23 that are included within the scope of this title shall in-
24 clude—

25 (1) the Department of Agriculture;

- 1 (2) the Department of Commerce;
- 2 (3) the Department of Defense;
- 3 (4) the Department of Education;
- 4 (5) the Department of Energy;
- 5 (6) the Department of Health and Human
- 6 Services;
- 7 (7) the Department of Homeland Security;
- 8 (8) the Department of Housing and Urban De-
- 9 velopment;
- 10 (9) the Department of the Interior;
- 11 (10) the Department of Justice;
- 12 (11) the Department of Labor;
- 13 (12) the Department of Transportation;
- 14 (13) the Department of the Treasury;
- 15 (14) the Department of Veterans Affairs;
- 16 (15) the Environmental Protection Agency;
- 17 (16) the Small Business Administration; and
- 18 (17) such other agencies as the President deter-
- 19 mines to be appropriate.

20 (c) ACTIVITIES.—Notwithstanding any other provi-

21 sion of law, the head of each Federal agency, acting alone

22 or jointly through an agreement with another Federal

23 agency, may—

- 24 (1) identify related Federal programs that are
- 25 suitable for providing joint financing of specific

1 kinds of projects with respect to Indian tribes or
2 tribal organizations;

3 (2) assist in planning and developing such
4 projects to be financed through different Federal
5 programs;

6 (3) with respect to Federal programs or
7 projects that are identified or developed under para-
8 graphs (1) or (2), develop and prescribe—

9 (A) guidelines;

10 (B) model or illustrative projects;

11 (C) joint or common application forms;

12 and

13 (D) other materials or guidance;

14 (4) review administrative program requirements
15 to identify requirements that may impede the joint
16 financing of such projects and modify the require-
17 ments appropriately;

18 (5) establish common technical and administra-
19 tive regulations for related Federal programs to as-
20 sist in providing joint financing to support a specific
21 project or class of projects; and

22 (6) establish joint or common application proc-
23 essing and project supervision procedures, including
24 procedures for designating—

1 (A) an agency responsible for processing
2 applications; and

3 (B) a lead agency responsible for project
4 supervision.

5 (d) REQUIREMENTS.—In carrying out this title, the
6 head of each Federal agency shall—

7 (1) take all appropriate actions to carry out this
8 title when administering an assistance program;

9 (2) consult and cooperate with the heads of
10 other Federal agencies; and

11 (3) assist in the administration of assistance
12 programs of other Federal agencies that may be
13 used to jointly finance projects undertaken by Indian
14 tribes or tribal organizations.

15 **SEC. 907. PROCEDURES FOR PROCESSING REQUESTS FOR**
16 **JOINT FINANCING.**

17 In processing an application for assistance for a
18 project to be financed in accordance with this title by at
19 least 2 assistance programs, the head of a Federal agency
20 shall take all appropriate actions to ensure that—

21 (1) required reviews and approvals are handled
22 expeditiously;

23 (2) complete account is taken of special consid-
24 erations of timing that are made known to the head

1 of the Federal agency by the applicant that would
2 affect the feasibility of a jointly financed project;

3 (3) an applicant is required to deal with a min-
4 imum number of representatives of the Federal Gov-
5 ernment;

6 (4) an applicant is promptly informed of a deci-
7 sion or problem that could affect the feasibility of
8 providing joint assistance under the application; and

9 (5) an applicant is not required to get informa-
10 tion or assurances from 1 Federal agency for a re-
11 questing Federal agency in a case in which the re-
12 questing agency makes the information or assur-
13 ances directly.

14 **SEC. 908. UNIFORM ADMINISTRATIVE PROCEDURES.**

15 (a) IN GENERAL.—To make participation in a project
16 simpler than would otherwise be practicable because of the
17 application of inconsistent or conflicting technical or ad-
18 ministrative regulations or procedures that are not specifi-
19 cally required by the statute that governs the Federal pro-
20 gram under which the project is funded, the head of a
21 Federal agency may promulgate uniform regulations con-
22 cerning inconsistent or conflicting requirements with re-
23 spect to—

24 (1) the financial administration of the project,
25 including with respect to accounting, reporting, and

1 auditing, and maintaining a separate bank account,
2 to the extent consistent with this title;

3 (2) the timing of payments by the Federal Gov-
4 ernment for the project in a case in which 1 pay-
5 ment schedule or a combined payment schedule is to
6 be established for the project;

7 (3) the provision of assistance by grant rather
8 than procurement contract; and

9 (4) the accountability for, or the disposition of,
10 records, property, or structures acquired or con-
11 structed with assistance from the Federal Govern-
12 ment under the project.

13 (b) REVIEW.—To make the processing of applications
14 for assistance under a project simpler under this title, the
15 head of a Federal agency may provide for review of pro-
16 posals for a project by a single panel, board, or committee
17 in any case in which reviews by separate panels, boards,
18 or committees are not specifically required by the statute
19 that authorizes the Federal program under which the
20 project is funded.

21 **SEC. 909. DELEGATION OF SUPERVISION OF ASSISTANCE.**

22 (a) IN GENERAL.—In accordance with regulations
23 promulgated under section 906(a), the head of a Federal
24 agency may delegate or otherwise enter into an arrange-
25 ment to have another Federal agency carry out or super-

1 vise a project or class of projects jointly financed in ac-
2 cordance with this title.

3 (b) CONDITIONS.—A delegation or other arrange-
4 ment under subsection (a)—

5 (1) shall be made under conditions ensuring
6 that the duties and powers delegated are exercised
7 consistent with Federal law; and

8 (2) may not be made in a manner that relieves
9 the head of a Federal agency of responsibility for
10 the proper and efficient management of a project for
11 which the agency provides assistance.

12 **SEC. 910. JOINT ASSISTANCE FUNDS AND PROJECT FACILI-**
13 **TATION.**

14 (a) JOINT ASSISTANCE FUND.—In providing support
15 for a project in accordance with this title, the head of a
16 Federal agency may provide for the establishment in the
17 Treasury by an applicant of a joint assistance fund to en-
18 sure that amounts received by the applicant from more
19 than 1 assistance program or appropriation are effectively
20 administered.

21 (b) AGREEMENT.—

22 (1) IN GENERAL.—A joint assistance fund may
23 be established under subsection (a) only in accord-
24 ance with an agreement by the Federal agencies in-

1 (1) IN GENERAL.—With respect to each project
2 financed through an account in a joint assistance
3 fund established under section 910, the recipient of
4 amounts from the fund shall maintain records as re-
5 quired by the head of the Federal agency responsible
6 for administering the fund.

7 (2) REQUIREMENTS.—Records described in
8 paragraph (1) shall disclose—

9 (A) the amount and disposition by the re-
10 ipient of assistance received under each Fed-
11 eral assistance program and appropriation;

12 (B) the total cost of the project for which
13 such assistance was given or used;

14 (C) the part of the cost of the project pro-
15 vided from other sources; and

16 (D) such other information as the head of
17 the Federal agency responsible for admin-
18 istering the fund determines will facilitate the
19 conduct of an audit of the project.

20 (c) AVAILABILITY.—Records of a recipient related to
21 an amount received from a joint assistance fund under
22 this title shall be made available, for inspection and audit,
23 to—

24 (1) the head of the Federal agency responsible
25 for administering the fund; and

1 (2) the Comptroller General of the United
2 States.

3 **SEC. 912. TECHNICAL ASSISTANCE AND PERSONNEL TRAIN-**
4 **ING.**

5 Amounts available for technical assistance and per-
6 sonnel training under any Federal assistance program
7 shall be available for technical assistance and training
8 under a project approved for joint financing under this
9 title if the use of the funds involves the Federal assistance
10 program and the project approved for joint financing.

11 **SEC. 913. JOINT STATE FINANCING FOR FEDERAL-TRIBAL**
12 **ASSISTED PROJECTS.**

13 (a) IN GENERAL.—Under regulations promulgated
14 under section 906(a), the head of a Federal agency may
15 enter into an agreement with a State to extend the bene-
16 fits of this title to a project that involves assistance
17 from—

18 (1) at least 1 Federal agency;

19 (2) a State; and

20 (3) at least 1 tribal agency or instrumentality.

21 (b) JOINT ACTION.—An agreement under subsection
22 (a) may include arrangements to process requests or ad-
23 minister assistance on a joint basis.

1 **SEC. 914. REPORT TO CONGRESS.**

2 Not later than 1 year after the date of enactment
3 of this title, the President shall submit to Congress a re-
4 port that includes—

5 (1) a description of actions taken under this
6 title;

7 (2) a detailed evaluation of the implementation
8 of this title, including information on the benefits
9 and costs of jointly financed projects that accrue to
10 participating Indian tribes and tribal organizations;
11 and

12 (3) recommendations (including legislative rec-
13 ommendations) of the President with respect to im-
14 provement of this title.

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