

108TH CONGRESS  
1ST SESSION

# S. 1528

To establish a procedure to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities.

---

## IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

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

---

## A BILL

To establish a procedure to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities.

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. TITLE.**

4       The Act may be cited as the “Indian Tribal Develop-  
5       ment Consolidated Funding Act of 2003”.

6       **SEC. 2. FINDINGS; PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

1           (1) a unique legal and political relationship ex-  
2           ists between the United States and Indian tribes  
3           that is reflected in article I, section 8, clause 3 of  
4           the Constitution, various treaties, Federal statutes,  
5           Supreme Court decisions, executive agreements, and  
6           course of dealing;

7           (2) despite the infusion of a substantial amount  
8           of Federal funds into Native American communities  
9           over several decades, the majority of Native Ameri-  
10          cans remain mired in poverty, unemployment, and  
11          despair;

12          (3) the efforts of the United States to foster  
13          community, economic, and business development in  
14          Native American communities have been hampered  
15          by fragmentation of authority, responsibility, and  
16          performance, and lack of timeliness and coordination  
17          in resources and decisionmaking; and

18          (4) the effectiveness of Federal and tribal ef-  
19          forts in generating employment opportunities and  
20          bringing value-added activities and economic growth  
21          to Native American communities depends on cooper-  
22          ative arrangements among the various Federal agen-  
23          cies and Indian tribes.

24          (b) PURPOSES.—The purposes of this Act are—

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

4           (2) to adapt and target such assistance more  
5           readily to particular needs through wider use of  
6           projects that are supported by more than 1 agency,  
7           assistance program, or appropriation of the Federal  
8           Government;

9           (3) to encourage Federal-tribal arrangements  
10          under which Indian tribes and tribal organizations  
11          may more effectively and efficiently combine Federal  
12          and tribal resources to support economic develop-  
13          ment projects;

14          (4) to promote the coordination of Native  
15          American economic programs to maximize the bene-  
16          fits of those programs to encourage a more consoli-  
17          dated, national policy for economic development; and

18          (5) to establish a procedure to aid Indian tribes  
19          in obtaining Federal resources and in more effi-  
20          ciently administering those resources for the further-  
21          ance of tribal self-governance and self-determination.

22 **SEC. 3. DEFINITIONS.**

23          In this Act:

24           (1) **APPLICANT.**—The term “applicant” means  
25          an Indian tribe or tribal organization, or a consor-

1 tium of Indian tribes or tribal organizations, that  
2 submits an application under this Act for assistance  
3 in carrying out a project.

4 (2) ASSISTANCE.—The term “assistance”  
5 means the transfer of anything of value for a public  
6 purpose, support, or stimulation that is—

7 (A) authorized by a law of the United  
8 States;

9 (B) provided by the Federal Government  
10 through grant or contractual arrangements (in-  
11 cluding technical assistance programs providing  
12 assistance by loan, loan guarantee, or insur-  
13 ance); and

14 (C) authorized to include an Indian tribe  
15 or tribal organization, or a consortium of In-  
16 dian tribes or tribal organizations, as eligible  
17 for receipt of funds under a statutory or admin-  
18 istrative formula for the purposes of commu-  
19 nity, economic, or business development.

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

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) PROJECT.—

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

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

18 (6) SECRETARY.—The term “Secretary” means  
19 the Secretary of the Interior.

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

1 **SEC. 4. LEAD AGENCY.**

2 The Department of the Interior shall be the lead  
3 agency for purposes of carrying out this Act.

4 **SEC. 5. SELECTION OF PARTICIPATING TRIBES.**

5 (a) PARTICIPANTS.—

6 (1) IN GENERAL.—The Secretary may select  
7 from the applicant pool described in subsection (b)  
8 Indian tribes or tribal organizations, not to exceed  
9 24 in each fiscal year, to submit an application to  
10 carry out a project under this Act.

11 (2) CONSORTIA.—Two or more Indian tribes or  
12 tribal organizations that are otherwise eligible to  
13 participate in a program or activity to which this  
14 Act applies may form a consortium to participate as  
15 an applicant under paragraph (1).

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

19 (1) successfully completes the planning phase  
20 described in subsection (c);

21 (2) requests participation in a project under  
22 this Act through a resolution or other official action  
23 of the tribal governing body; and

24 (3) demonstrates, for the 3 fiscal years imme-  
25 diately preceding the fiscal year for which participa-  
26 tion is requested, financial stability and financial

1 management capability as demonstrated by a show-  
 2 ing by the Indian tribe or tribal organization that  
 3 there were no material audit exceptions in the re-  
 4 quired annual audit of the self-determination con-  
 5 tracts of the Indian tribe or tribal organization.

6 (c) PLANNING PHASE.—Each applicant—

7 (1) shall complete a planning phase that in-  
 8 cludes—

9 (A) legal and budgetary research; and

10 (B) internal tribal government and organi-  
 11 zational preparation; and

12 (2) on completion of the planning phase, shall  
 13 be eligible for joint assistance with respect to a  
 14 project.

15 **SEC. 6. APPLICATION REQUIREMENTS, REVIEW, AND AP-**  
 16 **PROVAL.**

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

21 (1) identifies the programs to be integrated;

22 (2) proposes programs that are consistent with  
 23 the purposes described in section 2(b);

24 (3) describes—

1 (A) a comprehensive strategy that identi-  
2 fies the manner in which Federal funds are to  
3 be integrated and delivered under the project;  
4 and

5 (B) the results expected from the project;

6 (4) identifies the projected expenditures under  
7 the project in a single budget;

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

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

14 (7) is approved by the governing body of the  
15 applicant, including, in the case of an applicant that  
16 is a consortium or tribes or tribal organizations, the  
17 governing body of each affected member tribe or  
18 tribal organization.

19 (b) REVIEW.—On receipt of an application that  
20 meets the requirements of subsection (a), the head of the  
21 Federal agency receiving the application shall—

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

1           (2) consult and coordinate with the Department  
2 of the Interior as the lead agency under this Act for  
3 the purposes of processing the application.

4 (c) APPROVAL.—

5           (1) WAIVERS.—

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

17           (B) LIMITATION.—A statutory provision,  
18 regulation, policy, or procedure identified for  
19 waiver under subparagraph (A) may not be  
20 waived by an agency head if the agency head  
21 determines that a waiver would be inconsistent  
22 with—

23                   (i) the purposes described in section  
24                   2(b); or

1 (ii) any provision of the statute gov-  
2 erning the program involved that is specifi-  
3 cally applicable to Indian programs.

4 (2) PROJECT.—

5 (A) IN GENERAL.—Not later than 90 days  
6 after the date of receipt of an application that  
7 meets the requirements of subsection (a), the  
8 head of the Federal agency receiving the appli-  
9 cation shall inform the applicant, in writing, of  
10 the approval or disapproval of the application,  
11 including the approval or disapproval of any  
12 waiver sought under paragraph (1).

13 (B) DISAPPROVAL.—If an application or  
14 waiver is disapproved—

15 (i) the written notice shall identify the  
16 reasons for the disapproval; and

17 (ii) the applicant shall be provided an  
18 opportunity to amend the application or to  
19 petition the agency head to reconsider the  
20 disapproval.

21 **SEC. 7. AUTHORITY OF HEADS OF FEDERAL AGENCIES.**

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

25 (1) to carry out this Act; and

1           (2) to ensure that this Act is applied and imple-  
2           mented by all Federal agencies.

3           (b) SCOPE OF COVERAGE.—The Federal agencies  
4 that are included within the scope of this Act shall in-  
5 clude—

6           (1) the Department of Agriculture;

7           (2) the Department of Commerce;

8           (3) the Department of Defense;

9           (4) the Department of Education;

10          (5) the Department of Energy;

11          (6) the Department of Health and Human  
12          Services;

13          (7) the Department of Homeland Security;

14          (8) the Department of Housing and Urban De-  
15          velopment;

16          (9) the Department of the Interior;

17          (10) the Department of Justice;

18          (11) the Department of Labor;

19          (12) the Department of Transportation;

20          (13) the Department of the Treasury;

21          (14) the Department of Veterans Affairs;

22          (15) the Environmental Protection Agency;

23          (16) the Small Business Administration; and

24          (17) such other agencies as the President deter-  
25          mines to be appropriate.

1 (c) ACTIVITIES.—Notwithstanding any other provi-  
2 sion of law, the head of each Federal agency, acting alone  
3 or jointly through an agreement with another Federal  
4 agency, may—

5 (1) identify related Federal programs that are  
6 suitable for providing joint financing of specific  
7 kinds of projects with respect to Indian tribes or  
8 tribal organizations;

9 (2) assist in planning and developing such  
10 projects to be financed through different Federal  
11 programs;

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

15 (A) guidelines;

16 (B) model or illustrative projects;

17 (C) joint or common application forms;

18 and

19 (D) other materials or guidance;

20 (4) review administrative program requirements  
21 to identify requirements that may impede the joint  
22 financing of such projects and modify the require-  
23 ments appropriately;

24 (5) establish common technical and administra-  
25 tive regulations for related Federal programs to as-

1       sist in providing joint financing to support a specific  
2       project or class of projects; and

3               (6) establish joint or common application proc-  
4       essing and project supervision procedures, including  
5       procedures for designating—

6                       (A) an agency responsible for processing  
7       applications; and

8                       (B) a lead agency responsible for project  
9       supervision.

10       (d) REQUIREMENTS.—In carrying out this Act, the  
11       head of each Federal agency shall—

12               (1) take all appropriate actions to carry out this  
13       Act when administering an assistance program;

14               (2) consult and cooperate with the heads of  
15       other Federal agencies; and

16               (3) assist in the administration of assistance  
17       programs of other Federal agencies that may be  
18       used to jointly finance projects undertaken by Indian  
19       tribes or tribal organizations.

20       **SEC. 8. PROCEDURES FOR PROCESSING REQUESTS FOR**  
21                       **JOINT FINANCING.**

22       In processing an application for assistance for a  
23       project to be financed in accordance with this Act by at  
24       least 2 assistance programs, the head of a Federal agency  
25       shall take all appropriate actions to ensure that—

1 (1) required reviews and approvals are handled  
2 expeditiously;

3 (2) complete account is taken of special consid-  
4 erations of timing that are made known to the head  
5 of the Federal agency by the applicant that would  
6 affect the feasibility of a jointly financed project;

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

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

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

18 **SEC. 9. UNIFORM ADMINISTRATIVE PROCEDURES.**

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

1 cerning inconsistent or conflicting requirements with re-  
2 spect to—

3           (1) the financial administration of the project,  
4           including with respect to accounting, reporting, and  
5           auditing, and maintaining a separate bank account,  
6           to the extent consistent with this Act;

7           (2) the timing of payments by the Federal Gov-  
8           ernment for the project in a case in which 1 pay-  
9           ment schedule or a combined payment schedule is to  
10          be established for the project;

11          (3) the provision of assistance by grant rather  
12          than procurement contract; and

13          (4) the accountability for, or the disposition of,  
14          records, property, or structures acquired or con-  
15          structed with assistance from the Federal Govern-  
16          ment under the project.

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

1 **SEC. 10. DELEGATION OF SUPERVISION OF ASSISTANCE.**

2 (a) IN GENERAL.—In accordance with regulations  
3 promulgated under section 7(a), the head of a Federal  
4 agency may delegate or otherwise enter into an arrange-  
5 ment to have another Federal agency carry out or super-  
6 vise a project or class of projects jointly financed in ac-  
7 cordance with this Act.

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

10 (1) shall be made under conditions ensuring  
11 that the duties and powers delegated are exercised  
12 consistent with Federal law; and

13 (2) may not be made in a manner that relieves  
14 the head of a Federal agency of responsibility for  
15 the proper and efficient management of a project for  
16 which the agency provides assistance.

17 **SEC. 11. JOINT ASSISTANCE FUNDS AND PROJECT FACILI-**  
18 **TATION.**

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

26 (b) AGREEMENT.—

1           (1) IN GENERAL.—A joint assistance fund may  
2           be established under subsection (a) only in accord-  
3           ance with an agreement by the Federal agencies in-  
4           volved concerning the responsibilities of each such  
5           agency.

6           (2) REQUIREMENTS OF AGREEMENT.—An  
7           agreement under paragraph (1) shall—

8                   (A) ensure the availability of necessary in-  
9                   formation to Federal agencies and Congress;  
10                  and

11                   (B) provide that the agency providing for  
12                   the establishment of the fund under subsection  
13                   (a) is responsible and accountable by program  
14                   and appropriation for the amounts provided for  
15                   the purposes of each fund.

16           (c) USE OF EXCESS FUNDS.—In any project con-  
17           ducted under this Act for which a joint assistance fund  
18           has been established under subsection (a) and the actual  
19           costs of the project are less than the estimated costs, use  
20           of the excess funds shall be determined by the head of  
21           the Federal agency administering the joint assistance  
22           fund, after consultation with the applicant.

1 **SEC. 12. FINANCIAL MANAGEMENT, ACCOUNTABILITY, AND**  
2 **AUDITS.**

3 (a) SINGLE AUDIT ACT.—Recipients of funding pro-  
4 vided in accordance with this Act shall be subject to chap-  
5 ter 75 of title 31, United States Code.

6 (b) RECORDS.—

7 (1) IN GENERAL.—With respect to each project  
8 financed through an account in a joint assistance  
9 fund established under section 11, the recipient of  
10 amounts from the fund shall maintain records as re-  
11 quired by the head of the Federal agency responsible  
12 for administering the fund.

13 (2) REQUIREMENTS.—Records described in  
14 paragraph (1) shall disclose—

15 (A) the amount and disposition by the re-  
16 cipient of assistance received under each Fed-  
17 eral assistance program and appropriation;

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

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

22 (D) such other information as the head of  
23 the Federal agency responsible for admin-  
24 istering the fund determines will facilitate the  
25 conduct of an audit of the project.

1 (c) AVAILABILITY.—Records of a recipient related to  
2 an amount received from a joint assistance fund under  
3 this Act shall be made available, for inspection and audit,  
4 to—

5 (1) the head of the Federal agency responsible  
6 for administering the fund; and

7 (2) the Comptroller General of the United  
8 States.

9 **SEC. 13. TECHNICAL ASSISTANCE AND PERSONNEL TRAIN-**  
10 **ING.**

11 Amounts available for technical assistance and per-  
12 sonnel training under any Federal assistance program  
13 shall be available for technical assistance and training  
14 under a project approved for joint financing under this  
15 Act if the use of the funds involves the Federal assistance  
16 program and the project approved for joint financing.

17 **SEC. 14. JOINT STATE FINANCING FOR FEDERAL-TRIBAL**  
18 **ASSISTED PROJECTS.**

19 (a) IN GENERAL.—Under regulations promulgated  
20 under section 7(a), the head of a Federal agency may  
21 enter into an agreement with a State to extend the bene-  
22 fits of this Act to a project that involves assistance from—

23 (1) at least 1 Federal agency;

24 (2) a State; and

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

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

4 **SEC. 15. REPORT TO CONGRESS.**

5 Not later than 1 year after the date of enactment  
6 of this Act, the President shall submit to Congress a re-  
7 port that includes—

8 (1) a description of actions taken under this  
9 Act;

10 (2) a detailed evaluation of the implementation  
11 of this Act, including information on the benefits  
12 and costs of jointly financed projects that accrue to  
13 participating Indian tribes and tribal organizations;  
14 and

15 (3) recommendations (including legislative rec-  
16 ommendations) of the President with respect to im-  
17 provement of this Act.

○