

**Calendar No. 795**108TH CONGRESS  
2D SESSION**S. 519****[Report No. 108-404]**

To establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MARCH 5, 2003

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

NOVEMBER 10, 2004

Reported under authority of the order of the Senate of October 11, 2004, by Mr. CAMPBELL, with an amendment and an amendment to the title  
[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Native American Capital Formation and Economic De-  
 4 velopment Act of 2003”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—NATIVE AMERICAN CAPITAL DEVELOPMENT  
CORPORATION

- Sec. 101. Establishment of the Corporation.
- Sec. 102. Authorized assistance and service functions.
- Sec. 103. Native American lending services grant.
- Sec. 104. Audits.
- Sec. 105. Annual housing and economic development reports.
- Sec. 106. Advisory Council.

TITLE II—CAPITALIZATION OF CORPORATION

- Sec. 201. Capitalization of the Corporation.

TITLE III—REGULATION, EXAMINATION, AND REPORTS

- Sec. 301. Regulation, examination, and reports.
- Sec. 302. Authority of the Secretary of Housing and Urban Development.

TITLE IV—FORMATION OF NEW CORPORATION

- Sec. 401. Formation of new corporation.
- Sec. 402. Adoption and approval of merger plan.
- Sec. 403. Consummation of merger.
- Sec. 404. Transition.
- Sec. 405. Effect of merger.

TITLE V—OTHER NATIVE AMERICAN FUNDS

- Sec. 501. Native American Economics Diagnostic Studies Fund.
- Sec. 502. Native American Economic Incubation Center Fund.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

- Sec. 601. Native American financial institutions.
- Sec. 602. Corporation.
- Sec. 603. Other Native American funds.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) there is a special legal and political relation-  
4 ship between the United States and the Indian  
5 tribes, as grounded in treaties, the Constitution,  
6 Federal statutes and court decisions, executive or-  
7 ders, and course of dealing;

8 (2) despite the availability of abundant natural  
9 resources on Indian land and a rich cultural legacy  
10 that accords great value to self-determination, self-  
11 reliance, and independence, Native Americans suffer  
12 rates of unemployment, poverty, poor health, sub-  
13 standard housing, and associated social ills to a  
14 greater degree than any other group in the United  
15 States;

16 (3) the economic success and material well-  
17 being of Native Americans depends on the combined  
18 efforts and resources of the United States, Indian  
19 tribal governments, the private sector, and individ-  
20 uals;

21 (4) the poor performance of moribund Indian  
22 economies is due in part to the near-complete ab-  
23 sence of private capital and private capital institu-  
24 tions; and

25 (5) the goals of economic self-sufficiency and  
26 political self-determination for Native Americans can

1 best be achieved by making available the resources  
2 and discipline of the private market, adequate cap-  
3 ital, and technical expertise.

4 **SEC. 3. PURPOSES.**

5 The purposes of this Act are—

6 (1) to establish an entity dedicated to capital  
7 development and economic growth policies in Native  
8 American communities;

9 (2) to provide the necessary resources of the  
10 United States, Native Americans, and the private  
11 sector on endemic problems such as fractionated and  
12 unproductive Indian land;

13 (3) to provide a center for economic develop-  
14 ment policy and analysis with particular emphasis  
15 on diagnosing the systemic weaknesses with, and in-  
16 hibitors to greater levels of investment in, Native  
17 American economies;

18 (4) to establish a Native-owned financial entity  
19 to provide financial services to Indian tribes, Native  
20 American organizations, and Native Americans; and

21 (5) to improve the material standard of living  
22 of Native Americans.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

1           (1) ALASKA NATIVE.—The term “Alaska Na-  
2           tive” has the meaning given the term “Native” in  
3           section 3 of the Alaska Native Claims Settlement  
4           Act (43 U.S.C. 1602).

5           (2) BOARD.—The term “Board” means the  
6           Board of Directors of the Corporation.

7           (3) CAPITAL DISTRIBUTION.—The term “cap-  
8           ital distribution” has the meaning given the term in  
9           section 1303 of the Federal Housing Enterprise Fi-  
10          nancial Safety and Soundness Act of 1992 (12  
11          U.S.C. 4502).

12          (4) CHAIRPERSON.—The term “Chairperson”  
13          means the chairperson of the Board.

14          (5) CORPORATION.—The term “Corporation”  
15          means the Native American Capital Development  
16          Corporation established by section 101(a)(1)(A).

17          (6) COUNCIL.—The term “Council” means the  
18          Advisory Council established under section 106(a).

19          (7) DESIGNATED MERGER DATE.—The term  
20          “designated merger date” means the specific cal-  
21          endar date and time of day designated by the Board  
22          under this Act.

23          (8) DEPARTMENT OF HAWAIIAN HOME  
24          LANDS.—The term “Department of Hawaiian Home  
25          Lands” means the agency that is responsible for the

1 administration of the Hawaiian Homes Commission  
2 Act, 1920 (42 Stat. 108 et seq.).

3 (9) FUND.—The term “Fund” means the Com-  
4 munity Development Financial Institutions Fund es-  
5 tablished under section 104 of the Riegle Commu-  
6 nity Development and Regulatory Improvement Act  
7 of 1994 (12 U.S.C. 4703).

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

12 (11) MERGER PLAN.—The term “merger plan”  
13 means the plan of merger adopted by the Board  
14 under this Act.

15 (12) NATIVE AMERICAN.—The term “Native  
16 American” means—

17 (A) a member of an Indian tribe; or

18 (B) a Native Hawaiian.

19 (13) NATIVE AMERICAN FINANCIAL INSTITU-  
20 TION.—The term “Native American financial insti-  
21 tution” means a person (other than an individual)  
22 that—

23 (A) qualifies as a community development  
24 financial institution under section 103 of the

1 Riegle Community Development and Regulatory  
 2 Improvement Act of 1994 (12 U.S.C. 4702);

3 (B) satisfies—

4 (i) requirements established by sub-  
 5 title A of title I of the Riegle Community  
 6 Development and Regulatory Improvement  
 7 Act of 1994 (12 U.S.C. 4701 et seq.); and

8 (ii) requirements applicable to persons  
 9 seeking assistance from the Fund;

10 (C) demonstrates a special interest and ex-  
 11 pertise in serving the primary economic develop-  
 12 ment and mortgage lending needs of the Native  
 13 American community; and

14 (D) demonstrates that the person has the  
 15 endorsement of the Native American commu-  
 16 nity that the person intends to serve.

17 (14) NATIVE AMERICAN LENDER.—The term  
 18 “Native American lender” means a Native American  
 19 governing body, Native American housing authority,  
 20 or other Native American financial institution that  
 21 acts as a primary mortgage or economic develop-  
 22 ment lender in a Native American community.

23 (15) NATIVE HAWAIIAN.—The term “Native  
 24 Hawaiian” has the meaning given the term in sec-

1 tion 201 of the Hawaiian Homes Commission Act,  
2 1920 (42 Stat. 108).

3 (16) NEW CORPORATION.—The term “new cor-  
4 poration” means the corporation formed in accord-  
5 ance with title IV.

6 (17) SECRETARY.—The term “Secretary”  
7 means the Secretary of Housing and Urban Develop-  
8 ment.

9 (18) TOTAL CAPITAL.—The term “total cap-  
10 ital” has the meaning given the term in section 1303  
11 of the Federal Housing Enterprise Financial Safety  
12 and Soundness Act of 1992 (12 U.S.C. 4502).

13 (19) TRANSITION PERIOD.—The term “transi-  
14 tion period” means the period beginning on the date  
15 on which the merger plan is approved by the Sec-  
16 retary and ending on the designated merger date.

17 **TITLE I—NATIVE AMERICAN**  
18 **CAPITAL DEVELOPMENT COR-**  
19 **PORATION**

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

21 (a) ESTABLISHMENT; BOARD OF DIRECTORS; POLI-  
22 CIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

23 (1) ESTABLISHMENT.—

24 (A) IN GENERAL.—There is established  
25 and chartered a corporation, to be known as the

1           “Native American Capital Development Cor-  
2           poration”.

3           (B) PERIOD OF TIME.—The Corporation  
4           shall be a congressionally chartered body cor-  
5           porate until the earlier of—

6                     (i) the designated merger date; or

7                     (ii) the date on which the charter is  
8                     surrendered by the Corporation.

9           (C) CHANGES TO CHARTER.—The right to  
10           revise, amend, or modify the Corporation char-  
11           ter is specifically and exclusively reserved to  
12           Congress.

13           (2) BOARD OF DIRECTORS; PRINCIPAL OF-  
14           FICE.—

15                     (A) BOARD.—The powers of the Corpora-  
16                     tion shall be vested in a Board of Directors,  
17                     which Board shall determine the policies that  
18                     govern the operations and management of the  
19                     Corporation.

20                     (B) PRINCIPAL OFFICE; RESIDENCY.—

21                             (i) PRINCIPAL OFFICE.—The principal  
22                             office of the Corporation shall be in the  
23                             District of Columbia.

1           (ii) VENUE.—For purposes of venue,  
2           the Corporation shall be considered to be a  
3           resident of the District of Columbia.

4           (3) MEMBERSHIP.—

5           (A) IN GENERAL.—

6           (i) NINE MEMBERS.—Except as pro-  
7           vided in clause (ii), the Board shall consist  
8           of 9 members, of which—

9                   (I) 3 members shall be appointed  
10                  by the President; and

11                   (II) 6 members shall be elected  
12                  by the class A stockholders, in accord-  
13                  ance with the bylaws of the Corpora-  
14                  tion.

15           (ii) THIRTEEN MEMBERS.—If class B  
16           stock is issued under section 201(b), the  
17           Board shall consist of 13 members, of  
18           which—

19                   (I) 9 members shall be appointed  
20                  and elected in accordance with clause  
21                  (i); and

22                   (II) 4 members shall be elected  
23                  by the class B stockholders, in accord-  
24                  ance with the bylaws of the Corpora-  
25                  tion.

1           (B) TERMS.—Each member of the Board  
2 shall be elected or appointed for a 4-year term,  
3 except that the members of the initial Board  
4 shall be elected or appointed for the following  
5 terms:

6           (i) Of the 3 members appointed by  
7 the President—

8           (I) 1 member shall be appointed  
9 for a 2-year term;

10           (II) 1 member shall be appointed  
11 for a 3-year term; and

12           (III) 1 member shall be ap-  
13 pointed for a 4-year term;  
14 as designated by the President at the time  
15 of the appointments.

16           (ii) Of the 6 members elected by the  
17 class A stockholders—

18           (I) 2 members shall each be  
19 elected for a 2-year term;

20           (II) 2 members shall each be  
21 elected for a 3-year term; and

22           (III) 2 members shall each be  
23 elected for a 4-year term.

1                   (iii) If class B stock is issued and 4  
2                   additional members are elected by the class  
3                   B stockholders—

4                   (I) 1 member shall be elected for  
5                   a 2-year term;

6                   (II) 1 member shall be elected  
7                   for a 3-year term; and

8                   (III) 2 members shall each be  
9                   elected for a 4-year term.

10                  (C) QUALIFICATIONS.—Each member ap-  
11                  pointed by the President shall have expertise in  
12                  1 or more of the following areas:

13                   (i) Native American housing and eco-  
14                   nomic development matters.

15                   (ii) Financing in Native American  
16                   communities.

17                   (iii) Native American governing bod-  
18                   ies, legal infrastructure, and judicial sys-  
19                   tems.

20                   (iv) Restricted and trust land issues,  
21                   economic development, and small consumer  
22                   loans.

23                  (D) MEMBERS OF INDIAN TRIBES.—Not  
24                  less than 2 of the members appointed by the  
25                  President shall be members of different, feder-

1 ally-recognized Indian tribes enrolled in accord-  
2 ance with the applicable requirements of the In-  
3 dian tribes.

4 (E) CHAIRPERSON.—The Board shall se-  
5 lect a Chairperson from among the members of  
6 the Board, except that the initial Chairperson  
7 shall be selected from among the members of  
8 the initial Board who have been appointed or  
9 elected to serve for a 4-year term.

10 (F) VACANCIES.—

11 (i) APPOINTED MEMBERS.—Any va-  
12 cancy in the appointed membership of the  
13 Board shall be filled by appointment by the  
14 President, but only for the unexpired por-  
15 tion of the term.

16 (ii) ELECTED MEMBERS.—Any va-  
17 cancy in the elected membership of the  
18 Board shall be filled by appointment by the  
19 Board, but only for the unexpired portion  
20 of the term.

21 (G) TRANSITIONS.—Any member of the  
22 Board may continue to serve after the expira-  
23 tion of the term for which the member was ap-  
24 pointed or elected until a qualified successor  
25 has been appointed or elected.

1       (b) POWERS OF THE CORPORATION.—The Corpora-  
2 tion—

3           (1) shall adopt bylaws, consistent with this Act,  
4 regulating, among other things, the manner in  
5 which—

6           (A) the business of the Corporation shall  
7 be conducted;

8           (B) the elected members of the Board shall  
9 be elected;

10          (C) the stock of the Corporation shall be  
11 issued, held, and disposed of;

12          (D) the property of the Corporation shall  
13 be disposed of; and

14          (E) the powers and privileges granted to  
15 the Corporation by this Act and other law shall  
16 be exercised;

17          (2) may make and execute contracts, agree-  
18 ments, and commitments, including entering into a  
19 cooperative agreement with the Secretary;

20          (3) may prescribe and impose fees and charges  
21 for services provided by the Corporation;

22          (4) may, if a settlement, adjustment, com-  
23 promise, release, or waiver of a claim, demand, or  
24 right of, by, or against the Corporation, is not ad-  
25 verse to the interests of the United States—

1           (A) settle, adjust, and compromise on the  
2 claim, demand, or right; and

3           (B) with or without consideration or ben-  
4 efit to the Corporation; release or waive, in  
5 whole or in part, in advance or otherwise, the  
6 claim, demand, or right;

7           (5) may sue and be sued, complain and defend,  
8 in any Federal, State, tribal, or other court;

9           (6) may acquire, take, hold, and own, manage,  
10 and dispose of any property;

11           (7) may—

12           (A) determine the necessary expenditures  
13 of the Corporation and the manner in which  
14 those expenditures shall be incurred, allowed,  
15 and paid; and

16           (B) appoint, employ, and fix and provide  
17 for the compensation and benefits of such offi-  
18 cers, employees, attorneys, and agents as the  
19 Board determines reasonable and not incon-  
20 sistent with this section;

21           (8) may incorporate a new corporation under  
22 State, District of Columbia, or tribal law, as pro-  
23 vided in this Act;

24           (9) may adopt a plan of merger, as provided in  
25 this Act;

1           (10) may consummate the merger of the Cor-  
 2           poration into the new corporation, as provided in  
 3           this Act; and

4           (11) may have succession until the designated  
 5           merger date or any earlier date on which the Cor-  
 6           poration surrenders the Federal charter of the Cor-  
 7           poration.

8           (e) INVESTMENT OF FUNDS; DESIGNATION AS DE-  
 9           POSITARY, CUSTODIAN, OR AGENT.—

10           (1) INVESTMENT OF FUNDS.—Funds of the  
 11           Corporation that are not required to meet current  
 12           operating expenses shall be invested in—

13                   (A) obligations of, or obligations guaran-  
 14                   teed by, the United States (or any agency of  
 15                   the United States); or

16                   (B) in obligations, participations, or other  
 17                   instruments that are lawful investments for fi-  
 18                   ducuary, trust, or public funds.

19           (2) DESIGNATION AS DEPOSITARY, CUSTODIAN,  
 20           OR AGENT.—Any Federal Reserve bank or Federal  
 21           home loan bank, or any bank as to which at the time  
 22           of its designation by the Corporation there is out-  
 23           standing a designation by the Secretary of the  
 24           Treasury as a general or other depository of public  
 25           money, may—

1           (A) be designated by the Corporation as a  
2           depository or custodian or as a fiscal or other  
3           agent of the Corporation; and

4           (B) act as such a depository, custodian, or  
5           agent.

6           (d) ACTIONS BY AND AGAINST THE CORPORATION.—

7           Notwithstanding section 1349 of title 28, United States  
8           Code, or any other provision of law—

9           (1) the Corporation shall be deemed to be an  
10          agency covered under sections 1345 and 1442 of  
11          title 28, United States Code;

12          (2) any civil action to which the Corporation is  
13          a party shall be deemed to arise under the laws of  
14          the United States, and the appropriate district court  
15          of the United States shall have original jurisdiction  
16          over any such action, without regard to amount or  
17          value; and

18          (3) in any case in which all remedies have been  
19          exhausted in accordance with the applicable ordi-  
20          nances of an Indian tribe, in any civil or other ac-  
21          tion, case, or controversy in a tribal court, State  
22          court, or in any court other than a district court of  
23          the United States, to which the Corporation is a  
24          party, may at any time before the commencement of  
25          the civil action be removed by the Corporation, with-

1 out the giving of any bond or security and by fol-  
 2 lowing any procedure for removal of causes in effect  
 3 at the time of the removal—

4 (A) to the district court of the United  
 5 States for the district and division in which the  
 6 action is pending; or

7 (B) if there is no such district court, to the  
 8 United States District Court for the District of  
 9 Columbia.

10 **SEC. 102. AUTHORIZED ASSISTANCE AND SERVICE FUNC-**  
 11 **TIONS.**

12 The Corporation may—

13 (1) assist in the planning, establishment, and  
 14 organization of Native American financial institu-  
 15 tions;

16 (2) develop and provide financial expertise and  
 17 technical assistance to Native American financial in-  
 18 stitutions, including methods of underwriting, secur-  
 19 ing, servicing, packaging, and selling mortgage and  
 20 small commercial and consumer loans;

21 (3) develop and provide specialized technical as-  
 22 sistance on overcoming barriers to primary mortgage  
 23 lending on Native American land, including issues  
 24 relating to—

25 (A) trust land;

1           (~~B~~) discrimination;

2           (~~C~~) high operating costs; and

3           (~~D~~) inapplicability of standard under-  
4           writing criteria;

5           (4) provide mortgage underwriting assistance  
6           (but not in originating loans) under contract to Na-  
7           tive American financial institutions;

8           (5) work with the Federal National Mortgage  
9           Association, the Federal Home Loan Mortgage Cor-  
10          poration, and other participants in the secondary  
11          market for home mortgage instruments in identi-  
12          fying and eliminating barriers to the purchase of  
13          Native American mortgage loans originated by Na-  
14          tive American financial institutions and other lend-  
15          ers in Native American communities;

16          (6) obtain capital investments in the Corpora-  
17          tion from Indian tribes, Native American organiza-  
18          tions, and other entities;

19          (7) act as an information clearinghouse by pro-  
20          viding information on financial practices to Native  
21          American financial institutions;

22          (8) monitor and report to Congress on the per-  
23          formance of Native American financial institutions  
24          in meeting the economic development and housing  
25          credit needs of Native Americans; and

1           (9) provide any of the services described in this  
2 section—

3                   (A) directly; or

4                   (B) under a contract authorizing another  
5 national or regional Native American financial  
6 services provider to assist the Corporation in  
7 carrying out the purposes of this Act.

8 **SEC. 103. NATIVE AMERICAN LENDING SERVICES GRANT.**

9           (a) INITIAL GRANT PAYMENT.—If the Secretary and  
10 the Corporation enter into a cooperative agreement for the  
11 Corporation to provide technical assistance and other serv-  
12 ices to Native American financial institutions, the agree-  
13 ment shall, to the extent that funds are available as pro-  
14 vided in this Act, provide that the initial grant payment,  
15 anticipated to be \$5,000,000, shall be made at the time  
16 at which all members of the initial Board have been ap-  
17 pointed under this Act.

18           (b) PAYMENT OF GRANT BALANCE.—The payment  
19 of the remainder of the grant shall be made to the Cor-  
20 poration not later than 1 year after the date on which  
21 the initial grant payment is made under subsection (a).

22 **SEC. 104. AUDITS.**

23           (a) INDEPENDENT AUDITS.—

24                   (1) IN GENERAL.—The Corporation shall have  
25 an annual independent audit made of the financial

1 statements of the Corporation by an independent  
2 public accountant in accordance with generally ac-  
3 cepted auditing standards.

4 (2) DETERMINATIONS.—In conducting an audit  
5 under this subsection, the independent public ac-  
6 countant shall determine and submit to the Sec-  
7 retary a report on whether the financial statements  
8 of the Corporation—

9 (A) are presented fairly in accordance with  
10 generally accepted accounting principles; and

11 (B) to the extent determined necessary by  
12 the Secretary, comply with any disclosure re-  
13 quirements imposed under section 301.

14 (b) GAO AUDITS.—

15 (1) IN GENERAL.—Beginning on the date that  
16 is 2 years after the date of commencement of oper-  
17 ation of the Corporation, unless an earlier date is re-  
18 quired by any other law, grant, or agreement, the  
19 programs, activities, receipts, expenditures, and fi-  
20 nancial transactions of the Corporation shall be sub-  
21 ject to audit by the Comptroller General of the  
22 United States under such rules and regulations as  
23 may be prescribed by the Comptroller General.

1           (2) ACCESS.—To carry out this subsection, the  
2 representatives of the General Accounting Office  
3 shall—

4           (A) have access to all books, accounts, fi-  
5 nancial records, reports, files, and all other pa-  
6 pers, things, or property belonging to or in use  
7 by the Corporation that are necessary to facili-  
8 tate the audit;

9           (B) be afforded full facilities for verifying  
10 transactions with the balances or securities held  
11 by depositaries, fiscal agents, and custodians;  
12 and

13           (C) have access, on request to the Corpora-  
14 tion or any auditor for an audit of the Corpora-  
15 tion under subsection (a), to any books, ac-  
16 counts, financial records, reports, files, or other  
17 papers, or property belonging to or in use by  
18 the Corporation and used in any such audit and  
19 to any papers, records, files, and reports of the  
20 auditor used in such an audit.

21           (3) REPORTS.—The Comptroller General of the  
22 United States shall submit to Congress a report on  
23 each audit conducted under this subsection.

1           (4) REIMBURSEMENT.—The Corporation shall  
2           reimburse the General Accounting Office for the full  
3           cost of any audit conducted under this subsection.

4 **SEC. 105. ANNUAL HOUSING AND ECONOMIC DEVELOP-**  
5 **MENT REPORTS.**

6           Not later than 1 year after the date of enactment  
7 of this Act, and annually thereafter, the Corporation shall  
8 collect, maintain, and provide to the Secretary, in a form  
9 determined by the Secretary, such data as the Secretary  
10 determines to be appropriate with respect to the activities  
11 of the Corporation relating to economic development.

12 **SEC. 106. ADVISORY COUNCIL.**

13           (a) ESTABLISHMENT.—The Board shall establish an  
14 Advisory Council in accordance with this section.

15           (b) MEMBERSHIP.—

16           (1) IN GENERAL.—The Council shall consist of  
17 13 members, who shall be appointed by the Board,  
18 including—

19           (A) 1 representative from each of the 12  
20 districts established by the Bureau of Indian  
21 Affairs; and

22           (B) 1 representative from the State of Ha-  
23 waii.

24           (2) QUALIFICATIONS.—Of the members of the  
25 Council—

1           (A) not less than 6 members shall have ex-  
2           pertise in financial matters; and

3           (B) not less than 9 members shall be Na-  
4           tive Americans.

5           (3) TERMS.—Each member of the Council shall  
6           be appointed for a 4-year term, except that the ini-  
7           tial Council shall be appointed, as designated by the  
8           Board at the time of appointment, as follows:

9           (A) Each of 4 members shall be appointed  
10          for a 2-year term.

11          (B) Each of 4 members shall be appointed  
12          for a 3-year term.

13          (C) Each of 5 members shall be appointed  
14          for a 4-year term.

15          (c) DUTIES.—The Council shall—

16           (1) advise the Board on all policy matters of  
17           the Corporation; and

18           (2) through the regional representation of mem-  
19           bers of the Council, provide information to the  
20           Board from all sectors of the Native American com-  
21           munity.

1     **TITLE II—CAPITALIZATION OF**  
2                     **CORPORATION**

3     **SEC. 201. CAPITALIZATION OF THE CORPORATION.**

4             (a) **CLASS A STOCK.**—The class A stock of the Cor-  
5 poration shall—

6                     (1) be issued only to Indian tribes and the De-  
7 partment of Hawaiian Home Lands;

8                     (2) be allocated—

9                             (A) with respect to Indian tribes, on the  
10 basis of Indian tribe population, as determined  
11 by the Secretary in consultation with the Sec-  
12 retary of the Interior, in such manner as to  
13 issue 1 share for each member of an Indian  
14 tribe; and

15                             (B) with respect to the Department of Ha-  
16 waiian Home Lands, on the basis of the num-  
17 ber of current leases at the time of allocation;

18                     (3) have such par value and other characteris-  
19 ties as the Corporation shall provide;

20                     (4) be issued in such a manner as to ensure  
21 that voting rights may be vested only on purchase  
22 of those rights from the Corporation by an Indian  
23 tribe or the Department of Hawaiian Home Lands,  
24 with each share being entitled to 1 vote; and

25                     (5) be nontransferable.

1       (b) CLASS B STOCK.—

2           (1) IN GENERAL.—The Corporation may issue  
3       class B stock evidencing capital contributions in the  
4       manner and amount, and subject to any limitations  
5       on concentration of ownership, as may be established  
6       by the Corporation.

7           (2) CHARACTERISTICS.—Any class B stock  
8       issued under paragraph (1) shall—

9           (A) be available for purchase by investors;

10          (B) be entitled to such dividends as may  
11       be declared by the Board in accordance with  
12       subsection (e);

13          (C) have such par value and other charac-  
14       teristics as the Corporation shall provide;

15          (D) be vested with voting rights, with each  
16       share being entitled to 1 vote; and

17          (E) be transferable only on the books of  
18       the Corporation.

19       (c) CHARGES AND FEES; EARNINGS.—

20           (1) CHARGES AND FEES.—The Corporation  
21       may impose charges or fees, which may be regarded  
22       as elements of pricing, with the objectives that—

23           (A) all costs and expenses of the oper-  
24       ations of the Corporation should be within the

1 income of the Corporation derived from such  
2 operations; and

3 ~~(B) those operations would be fully self-~~  
4 ~~supporting.~~

5 (2) EARNINGS.—

6 (A) IN GENERAL.—All earnings from the  
7 operations of the Corporation shall be annually  
8 transferred to the general surplus account of  
9 the Corporation.

10 ~~(B) TRANSFER OF GENERAL SURPLUS~~  
11 ~~FUNDS.—At any time, funds in the general sur-~~  
12 ~~plus account may, in the discretion of the~~  
13 ~~Board, be transferred to the reserves of the~~  
14 ~~Corporation.~~

15 (d) CAPITAL DISTRIBUTIONS.—

16 (1) DISTRIBUTIONS.—

17 (A) IN GENERAL.—Except as provided in  
18 paragraph (2), the Corporation may make such  
19 capital distributions as may be declared by the  
20 Board.

21 ~~(B) CHARGING OF DISTRIBUTIONS.—All~~  
22 ~~capital distributions under subparagraph (A)~~  
23 ~~shall be charged against the general surplus ac-~~  
24 ~~count of the Corporation.~~

1           (2) RESTRICTION.—The Corporation may not  
 2           make any capital distribution that would decrease  
 3           the total capital of the Corporation to an amount  
 4           less than the capital level for the Corporation estab-  
 5           lished under section 301, without prior written ap-  
 6           proval of the distribution by the Secretary.

7                           **TITLE III—REGULATION,**  
 8                           **EXAMINATION, AND REPORTS**

9           **SEC. 301. REGULATION, EXAMINATION, AND REPORTS.**

10           (a) IN GENERAL.—The Corporation shall be subject  
 11           to the regulatory authority of the Department of Housing  
 12           and Urban Development with respect to all matters relat-  
 13           ing to the financial safety and soundness of the Corpora-  
 14           tion.

15           (b) DUTY OF SECRETARY.—The Secretary shall en-  
 16           sure that the Corporation is adequately capitalized and op-  
 17           erating safely as a congressionally chartered body cor-  
 18           porate.

19           (c) REPORTS TO SECRETARY.—

20                           (1) ANNUAL REPORTS.—On such date as the  
 21           Secretary shall require, but not later than 1 year  
 22           after the date of enactment of this Act, and annually  
 23           thereafter, the Corporation shall submit to the Sec-  
 24           retary a report in such form and containing such in-  
 25           formation with respect to the financial condition and

1 operations of the Corporation as the Secretary shall  
2 require.

3 ~~(2) CONTENTS OF REPORTS.—~~Each report sub-  
4 mitted under this subsection shall contain a declara-  
5 tion by the president, vice president, treasurer, or  
6 any other officer of the Corporation designated by  
7 the Board to make the declaration, that the report  
8 is true and correct to the best of the knowledge and  
9 belief of that officer.

10 **SEC. 302. AUTHORITY OF THE SECRETARY OF HOUSING**  
11 **AND URBAN DEVELOPMENT.**

12 The Secretary shall—

13 (1) have general regulatory power over the Cor-  
14 poration; and

15 ~~(2) promulgate such rules and regulations ap-~~  
16 ~~plicable to the Corporation as the Secretary deter-~~  
17 ~~mines to be appropriate to ensure that the purposes~~  
18 ~~specified in section 3 are accomplished.~~

19 **TITLE IV—FORMATION OF NEW**  
20 **CORPORATION**

21 **SEC. 401. FORMATION OF NEW CORPORATION.**

22 (a) ~~IN GENERAL.—~~In order to continue the accom-  
23 plishment of the purposes specified in section 3 beyond  
24 the terms of the charter of the Corporation, the Board  
25 shall, not later than 10 years after the date of enactment

1 of this Act, cause the formation of a new corporation  
 2 under the laws of any tribe, any State, or the District of  
 3 Columbia.

4 (b) POWERS OF NEW CORPORATION NOT PRE-  
 5 SCRIBED.—Except as provided in this section, the new  
 6 corporation may have such corporate powers and at-  
 7 tributes permitted under the laws of the jurisdiction of in  
 8 which the new corporation is incorporated as the Board  
 9 determines to be appropriate.

10 (c) USE OF NAME PROHIBITED.—The new corpora-  
 11 tion may not use in any manner the names “Native Amer-  
 12 ican Capital Development Corporation” or “NACDCO”,  
 13 or any variation of those names.

14 **SEC. 402. ADOPTION AND APPROVAL OF MERGER PLAN.**

15 (a) IN GENERAL.—Not later than 10 years after the  
 16 date of enactment of this Act, after consultation with the  
 17 Indian tribes that are stockholders of class A stock re-  
 18 ferred to in section 201(a), the Board shall prepare, adopt,  
 19 and submit to the Secretary for approval, a plan for merg-  
 20 ing the Corporation into the new corporation.

21 (b) DESIGNATED MERGER DATE.—

22 (1) IN GENERAL.—The Board shall establish  
 23 the designated merger date in the merger plan as a  
 24 specific calendar date on which, and time of day at

1 which, the merger of the Corporation into the new  
2 corporation shall take effect.

3 ~~(2) CHANGES.~~—The Board may change the  
4 designated merger date in the merger plan by adopt-  
5 ing an amended plan of merger.

6 ~~(3) RESTRICTION.~~—Except as provided in para-  
7 graph (4), the designated merger date in the merger  
8 plan or any amended merger plan shall not be later  
9 than 11 years after the date of enactment of this  
10 Act.

11 ~~(4) EXCEPTION.~~—Subject to the restriction  
12 contained in paragraph (5), the Board may adopt an  
13 amended plan of merger that designates a date  
14 under paragraph (3) that is later than 11 years  
15 after the date of enactment of this Act if the Board  
16 submits to the Secretary a report—

17 (A) stating that an orderly merger of the  
18 Corporation into the new corporation is not fea-  
19 sible before the latest date designated by the  
20 Board;

21 (B) explaining why an orderly merger of  
22 the Corporation into the new corporation is not  
23 feasible before the latest date designated by the  
24 Board;

1           (C) describing the steps that have been  
 2 taken to consummate an orderly merger of the  
 3 Corporation into the new corporation not later  
 4 than 11 years after the date of enactment of  
 5 this Act; and

6           (D) describing the steps that will be taken  
 7 to consummate an orderly and timely merger of  
 8 the Corporation into the new corporation.

9           (5) LIMITATION.—The date designated by the  
 10 Board in an amended merger plan shall not be later  
 11 than 12 years after the date of enactment of this  
 12 Act.

13           (6) CONSUMMATION OF MERGER.—The con-  
 14 summation of an orderly and timely merger of the  
 15 Corporation into the new corporation shall not occur  
 16 later than 13 years after the date of enactment of  
 17 this Act.

18           (c) GOVERNMENTAL APPROVALS OF MERGER PLAN  
 19 REQUIRED.—The merger plan or any amended merger  
 20 plan shall take effect on the date on which the plan is  
 21 approved by the Secretary.

22           (d) REVISION OF DISAPPROVED MERGER PLAN RE-  
 23 QUIRED.—If the Secretary disapproves the merger plan or  
 24 any amended merger plan—

25           (1) the Secretary shall—

1           (A) notify the Corporation of the dis-  
2 approval; and

3           (B) indicate the reasons for the dis-  
4 approval; and

5           (2) not later than 30 days after the date of no-  
6 tification of disapproval under paragraph (1), the  
7 Corporation shall submit to the Secretary for ap-  
8 proval, an amended merger plan that responds to  
9 the reasons for the disapproval indicated in that no-  
10 tification.

11        ~~(c) NO STOCKHOLDER APPROVAL OF MERGER PLAN~~  
12 ~~REQUIRED.~~—The approval or consent of the stockholders  
13 of the Corporation shall not be required to accomplish the  
14 merger of the Corporation into the new corporation.

15 **SEC. 403. CONSUMMATION OF MERGER.**

16        The Board shall ensure that the merger of the Cor-  
17 poration into the new corporation is accomplished in ac-  
18 cordance with—

19           (1) a merger plan approved by the Secretary  
20 under section 402; and

21           (2) all applicable laws of the jurisdiction in  
22 which the new corporation is incorporated.

23 **SEC. 404. TRANSITION.**

24        Except as provided in this section, the Corporation  
25 shall, during the transition period, continue to have all of

1 the rights, privileges, duties, and obligations, and shall be  
2 subject to all of the limitations and restrictions, set forth  
3 in this Act.

4 **SEC. 405. EFFECT OF MERGER.**

5 (a) TRANSFER OF ASSETS AND LIABILITIES.—On  
6 the designated merger date—

7 (1) all real, personal, and mixed property, all  
8 debts due on any account, and any other interest, of  
9 or belonging to or due to the Corporation, shall be  
10 transferred to and vested in the new corporation  
11 without further act or deed; and

12 (2) no title to any real, personal, or mixed prop-  
13 erty shall be impaired in any way by reason of the  
14 merger.

15 (b) TERMINATION OF THE CORPORATION AND FED-  
16 ERAL CHARTER.—On the designated merger date—

17 (1) the surviving corporation of the merger  
18 shall be the new corporation;

19 (2) the Federal charter of the Corporation shall  
20 terminate; and

21 (3) the separate existence of the Corporation  
22 shall terminate.

23 (c) REFERENCES TO THE CORPORATION IN LAW.—

24 After the designated merger date, any reference to the

1 Corporation in any law or regulation shall be deemed to  
 2 refer to the new corporation.

3 (d) SAVINGS CLAUSE.—

4 (1) PROCEEDINGS.—The merger of the Cor-  
 5 poration into the new corporation shall not abate  
 6 any proceeding commenced by or against the Cor-  
 7 poration before the designated merger date, except  
 8 that the new corporation shall be substituted for the  
 9 Corporation as a party to any such proceeding as of  
 10 the designated merger date.

11 (2) CONTRACTS AND AGREEMENTS.—All con-  
 12 tracts and agreements to which the Corporation is a  
 13 party and which are in effect on the day before the  
 14 designated merger date shall continue in effect ac-  
 15 cording to their terms, except that the new corpora-  
 16 tion shall be substituted for the Corporation as a  
 17 party to those contracts and agreements as of the  
 18 designated merger date.

## 19 **TITLE V—OTHER NATIVE** 20 **AMERICAN FUNDS**

21 **SEC. 501. NATIVE AMERICAN ECONOMIES DIAGNOSTIC**  
 22 **STUDIES FUND.**

23 (a) ESTABLISHMENT.—There is established within  
 24 the Corporation a fund to be known as the “Native Amer-  
 25 ican Economies Diagnostic Studies Fund” (referred to in

1 this section as the “Diagnostic Fund”); to be used to  
 2 strengthen Indian tribal economies by supporting invest-  
 3 ment policy reforms and technical assistance to eligible In-  
 4 dian tribes, consisting of—

5           (1) any interest earned on investment of  
 6 amounts in the Fund under subsection (d); and

7           (2) such amounts as are appropriated to the  
 8 Diagnostic Fund under subsection (f).

9 (b) USE OF AMOUNTS FROM DIAGNOSTIC FUND.—

10           (1) IN GENERAL.—The Corporation shall use  
 11 amounts in the Diagnostic Fund to establish an  
 12 interdisciplinary mechanism by which the Corpora-  
 13 tion and interested Indian tribes may jointly—

14                   (A) conduct diagnostic studies of Native  
 15 economic conditions; and

16                   (B) provide recommendations for reforms  
 17 in the policy, legal, regulatory, and investment  
 18 areas and general economic environment of the  
 19 interested Indian tribes.

20           (2) CONDITIONS FOR STUDIES.—A diagnostic  
 21 study conducted jointly by the Corporation and an  
 22 Indian tribe under paragraph (1)—

23                   (A) shall be conducted in accordance with  
 24 an agreement between the Corporation and the  
 25 Indian tribe; and

1           (B) at a minimum, shall identify inhibitors  
2           to greater levels of private sector investment  
3           and job creation with respect to the Indian  
4           tribe.

5           (c) EXPENDITURES FROM DIAGNOSTIC FUND.—

6           (1) IN GENERAL.—Subject to paragraph (2), on  
7           request by the Corporation, the Secretary of the  
8           Treasury shall transfer from the Diagnostic Fund to  
9           the Corporation such amounts as the Corporation  
10          determines are necessary to carry out this section.

11          (2) ADMINISTRATIVE EXPENSES.—An amount  
12          not exceeding 12 percent of the amounts in the Di-  
13          agnostic Fund shall be available in each fiscal year  
14          to pay the administrative expenses necessary to  
15          carry out this section.

16          (d) INVESTMENT OF AMOUNTS.—

17          (1) IN GENERAL.—The Secretary of the Treas-  
18          ury shall invest such portion of the Diagnostic Fund  
19          as is not, in the judgment of the Secretary of the  
20          Treasury, required to meet current withdrawals. In-  
21          vestments may be made only in interest-bearing obli-  
22          gations of the United States.

23          (2) ACQUISITION OF OBLIGATIONS.—For the  
24          purpose of investments under paragraph (1), obliga-  
25          tions may be acquired—

1           (A) on original issue at the issue price; or  
2           (B) by purchase of outstanding obligations  
3           at the market price.

4           (3) SALE OF OBLIGATIONS.—Any obligation ac-  
5           quired by the Diagnostic Fund may be sold by the  
6           Secretary of the Treasury at the market price.

7           (4) CREDITS TO FUND.—The interest on, and  
8           the proceeds from the sale or redemption of, any ob-  
9           ligations held in the Diagnostic Fund shall be cred-  
10          ited to and form a part of the Diagnostic Fund.

11          (e) TRANSFERS OF AMOUNTS.—

12           (1) IN GENERAL.—The amounts required to be  
13          transferred to the Diagnostic Fund under this sec-  
14          tion shall be transferred at least monthly from the  
15          general fund of the Treasury to the Diagnostic Fund  
16          on the basis of estimates made by the Secretary of  
17          the Treasury.

18           (2) ADJUSTMENTS.—Proper adjustment shall  
19          be made in amounts subsequently transferred to the  
20          extent prior estimates were in excess of or less than  
21          the amounts required to be transferred.

22          (f) TRANSFERS TO DIAGNOSTIC FUND.—There are  
23          appropriated to the Diagnostic Fund, out of funds made  
24          available under section 603, such sums as are necessary  
25          to carry out this section.

1 **SEC. 502. NATIVE AMERICAN ECONOMIC INCUBATION CEN-**  
 2 **TER FUND.**

3 (a) **ESTABLISHMENT.**—There is established within  
 4 the Corporation a fund to be known as the “Native Amer-  
 5 ican Economic Incubation Center Fund” (referred to in  
 6 this section as the “Economic Fund”), consisting of—

7 (1) any interest earned on investment of  
 8 amounts in the Economic Fund under subsection  
 9 (d); and

10 (2) such amounts as are appropriated to the  
 11 Economic Fund under subsection (f).

12 (b) **USE OF AMOUNTS FROM ECONOMIC FUND.**—

13 (1) **IN GENERAL.**—The Corporation shall use  
 14 amounts in the Economic Fund to ensure that Fed-  
 15 eral development assistance and other resources  
 16 dedicated to Native American economic development  
 17 are provided only to Native American communities  
 18 with demonstrated commitments to—

19 (A) sound economic and political policies;

20 (B) good governance; and

21 (C) practices that promote increased levels  
 22 of economic growth and job creation.

23 (c) **EXPENDITURES FROM ECONOMIC FUND.**—

24 (1) **IN GENERAL.**—Subject to paragraph (2), on  
 25 request by the Corporation, the Secretary of the  
 26 Treasury shall transfer from the Economic Fund to

1 the Corporation such amounts as the Corporation  
 2 determines are necessary to carry out this section.

3 ~~(2) ADMINISTRATIVE EXPENSES.—An amount~~  
 4 ~~not exceeding 12 percent of the amounts in the Eco-~~  
 5 ~~nomie Fund shall be available in each fiscal year to~~  
 6 ~~pay the administrative expenses necessary to carry~~  
 7 ~~out this section.~~

8 ~~(d) INVESTMENT OF AMOUNTS.—~~

9 ~~(1) IN GENERAL.—The Secretary of the Treas-~~  
 10 ~~ury shall invest such portion of the Economic Fund~~  
 11 ~~as is not, in the judgment of the Secretary of the~~  
 12 ~~Treasury, required to meet current withdrawals. In-~~  
 13 ~~vestments may be made only in interest-bearing obli-~~  
 14 ~~gations of the United States.~~

15 ~~(2) ACQUISITION OF OBLIGATIONS.—For the~~  
 16 ~~purpose of investments under paragraph (1), obliga-~~  
 17 ~~tions may be acquired—~~

18 ~~(A) on original issue at the issue price; or~~

19 ~~(B) by purchase of outstanding obligations~~  
 20 ~~at the market price.~~

21 ~~(3) SALE OF OBLIGATIONS.—Any obligation ac-~~  
 22 ~~quired by the Economic Fund may be sold by the~~  
 23 ~~Secretary of the Treasury at the market price.~~

24 ~~(4) CREDITS TO FUND.—The interest on, and~~  
 25 ~~the proceeds from the sale or redemption of, any ob-~~

1       ligations held in the Economic Fund shall be cred-  
2       ited to and form a part of the Economic Fund.

3       (c) TRANSFERS OF AMOUNTS.—

4           (1) IN GENERAL.—The amounts required to be  
5       transferred to the Economic Fund under this section  
6       shall be transferred at least monthly from the gen-  
7       eral fund of the Treasury to the Economic Fund on  
8       the basis of estimates made by the Secretary of the  
9       Treasury.

10          (2) ADJUSTMENTS.—Proper adjustment shall  
11       be made in amounts subsequently transferred to the  
12       extent prior estimates were in excess of or less than  
13       the amounts required to be transferred.

14       (f) TRANSFERS TO ECONOMIC FUND.—There are ap-  
15       propriated to the Economic Fund, out of funds made  
16       available under section 603, such sums as are necessary  
17       to carry out this section.

## 18       **TITLE VI—AUTHORIZATIONS OF** 19       **APPROPRIATIONS**

20       **SEC. 601. NATIVE AMERICAN FINANCIAL INSTITUTIONS.**

21       (a) IN GENERAL.—There are authorized to be appro-  
22       priated to the Fund, without fiscal year limitation, such  
23       sums as are necessary to provide financial assistance to  
24       Native American financial institutions.

1       (b) **NO CONSIDERATION AS MATCHING FUNDS.**—To  
 2 the extent that a Native American financial institution re-  
 3 ceives funds under subsection (a), the funds shall not be  
 4 considered to be matching funds required under section  
 5 108(e) of the Riegle Community Development and Regu-  
 6 latory Improvement Act of 1994 (12 U.S.C. 4707(e)).

7 **SEC. 602. CORPORATION.**

8       There are authorized to be appropriated to the Sec-  
 9 retary, for transfer to the Corporation, such sums as are  
 10 necessary to carry out activities of the Corporation.

11 **SEC. 603. OTHER NATIVE AMERICAN FUNDS.**

12       There are authorized to be appropriated such sums  
 13 as are necessary to carry out sections 501 and 502.

14 **SECTION 1. SHORT TITLE.**

15       *This Act may be cited as the “Indian Tribal Develop-*  
 16 *ment Corporation Feasibility Study Act of 2004”.*

17 **SEC. 2. FEASIBILITY STUDY.**

18       *Section 4(b) of the Native American Business Develop-*  
 19 *ment, Trade Promotion, and Tourism Act of 2000 (25*  
 20 *U.S.C. 4303(b)) is amended—*

21               (1) *by redesignating paragraph (6) as para-*  
 22 *graph (7); and*

23               (2) *by inserting after paragraph (5) the fol-*  
 24 *lowing:*

1           “(6) *TRIBAL DEVELOPMENT CORPORATION FEA-*  
2           *SIBILITY STUDY.—*

3           “(A) *IN GENERAL.—The Secretary shall es-*  
4           *tablish the Tribal Development Corporation Fea-*  
5           *sibility Study Group (referred to in this para-*  
6           *graph as the ‘Group’).*

7           “(B) *MEMBERS.—The Group shall be com-*  
8           *prised of 12 members, as follows:*

9           “(i) *REPRESENTATIVES OF INDIAN*  
10           *TRIBES.—Five members of the Group shall*  
11           *be representatives of federally recognized In-*  
12           *dian tribes.*

13           “(ii) *REPRESENTATIVES OF THE ALAS-*  
14           *KA NATIVE COMMUNITY.—Three members of*  
15           *the Group shall be representatives of the*  
16           *Alaska Native Community.*

17           “(iii) *REPRESENTATIVE OF THE NA-*  
18           *TIVE HAWAIIAN COMMUNITY.—One member*  
19           *of the Group shall be a representative of the*  
20           *Native Hawaiian Community.*

21           “(iv) *REPRESENTATIVE OF THE PRI-*  
22           *VATE SECTOR.—Two members of the Group*  
23           *shall be representatives of nongovernmental*  
24           *economic activities carried out by private*  
25           *enterprises in the private sector.*

1           “(v) *FEDERAL OFFICIALS.*—*One mem-*  
2           *ber of the Group shall be a representative of*  
3           *the Department of the Treasury with dem-*  
4           *onstrated experience in international eco-*  
5           *nomics development and international finan-*  
6           *cial institutions.*

7           “(C) *CHAIRPERSON.*—*The members of the*  
8           *Group shall select a Chairperson.*

9           “(D) *PERSONNEL AND SERVICES.*—

10           “(i) *IN GENERAL.*—*The Chairperson of*  
11           *the Group may appoint and terminate such*  
12           *personnel as are necessary to enable the*  
13           *Group to perform its duties.*

14           “(ii) *PROCUREMENT OF SERVICES.*—  
15           *The Chairperson may procure such services*  
16           *as are necessary to enable the Group to per-*  
17           *form the duties of the Group.*

18           “(E) *STUDY.*—

19           “(i) *IN GENERAL.*—*Not later than 270*  
20           *days after the date of enactment of this sub-*  
21           *paragraph, the Group shall—*

22                   “(I) *conduct a study to determine*  
23                   *the feasibility of establishing an In-*  
24                   *Indian Tribal Development Corporation*

1                   *(referred to in this subparagraph as*  
2                   *the ‘Corporation’); and*

3                   *“(II) submit to the Committee on*  
4                   *Indian Affairs and the Committee on*  
5                   *Appropriations of the Senate and the*  
6                   *Committee on Resources and the Com-*  
7                   *mittee on Appropriations of the House*  
8                   *of Representatives a report that de-*  
9                   *scribes the results of the study and any*  
10                   *recommendations of the Group for fur-*  
11                   *ther legislative action.*

12                   *“(ii) CONTENTS.—The report shall*  
13                   *contain—*

14                   *“(I) a discussion and determina-*  
15                   *tion of the financial feasibility of the*  
16                   *Corporation, including whether the*  
17                   *Corporation can be, over the long term,*  
18                   *financially self-sustainable;*

19                   *“(II) a discussion and determina-*  
20                   *tion of the probable economic impact of*  
21                   *the Corporation, including a dem-*  
22                   *onstration of the quantitative and*  
23                   *qualitative economic impact on Native*  
24                   *American communities;*

1           “(III) a discussion and deter-  
2           mination of the best alternatives in the  
3           structure, organization, and lending  
4           terms and conditions of the  
5           Corporation, including the most ap-  
6           propriate structure of capital contribu-  
7           tions to best serve, and be acceptable  
8           to, Native interests;

9           “(IV) a discussion and determina-  
10          tion of the basic terms and conditions  
11          under which funding would be pro-  
12          vided to member Indian tribes;

13          “(V) a discussion of nonfinancial  
14          and advisory activities to be under-  
15          taken by the Corporation, including  
16          the use of diagnostic studies by the  
17          Corporation to—

18               “(aa) identify tribal, Fed-  
19               eral, or State policies and legal  
20               and regulatory conditions and in-  
21               frastructure deficiencies that im-  
22               pede investment, both private and  
23               public, needed to promote eco-  
24               nomic development;

1           “(bb) provide specific rec-  
2           ommendations for remedial ac-  
3           tions that can be undertaken by  
4           an Indian tribe to overcome such  
5           inhibitors of investment; and

6           “(cc) identify and establish  
7           the terms for pre-appraisal studies  
8           of investment opportunities, both  
9           private and public, that can be  
10          developed and promoted by an In-  
11          dian tribe; and

12          “(VI) a discussion and determina-  
13          tion of—

14               “(aa) the capital structure of  
15               the Corporation, including the op-  
16               timal level of initial capital con-  
17               tributions by both Indian tribes  
18               and the United States Govern-  
19               ment; and

20               “(bb) the financial instru-  
21               ments that will be required by the  
22               Corporation to ensure its success.

23               “(F) *TERMINATION OF STUDY GROUP.*—The  
24               Group shall terminate 120 days after the date on

1           *which the Group submits the report under sub-*  
2           *paragraph (E).*

3                   “(G) *AUTHORIZATION OF APPROPRIA-*  
4           *TIONS.—There are authorized to be appropriated*  
5           *to carry out this paragraph—*

6                           “(i) *\$3,000,000 for fiscal year 2005;*

7                           *and*

8                           “(ii) *\$2,000,000 for fiscal year 2006.”.*

Amend the title so as to read: “A bill to determine the feasibility of establishing an Indian Tribal Development Corporation.”.



**Calendar No. 795**

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 519**

[Report No. 108-404]

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**A BILL**

To establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans, and for other purposes.

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NOVEMBER 10, 2004

Reported with an amendment and an amendment to the title