

111TH CONGRESS
1ST SESSION

H. R. 1607

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2009

Mr. FALEOMAVAEGA introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

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

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

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

TITLE I—ESTABLISHMENT OF CORPORATION

- Sec. 101. Establishment.
- Sec. 102. Duties.
- Sec. 103. Loans and obligations.
- Sec. 104. General powers.
- Sec. 105. Board of Directors.
- Sec. 106. President of the Corporation.
- Sec. 107. Conflicts of interest and financial disclosure.
- Sec. 108. Annual meetings.
- Sec. 109. Reports and plans submitted to Congress.
- Sec. 110. Advisory Council.
- Sec. 111. Conforming amendments.

TITLE II—CAPITALIZATION

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

TITLE III—AUTHORIZATION OF APPROPRIATIONS

- Sec. 301. General operational expenses.
- Sec. 302. Authorizations for paid-in capital stock.

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

4 (a) FINDINGS.—Congress finds that—

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

9 (2) Congress, through statutes, treaties, and
 10 the exercise of administrative authorities, has imple-
 11 mented the Federal Government’s responsibility for
 12 the protection and preservation of Indian tribes and
 13 their resources;

1 (3) despite the availability of abundant natural
2 resources on Indian lands and a rich cultural legacy
3 which places great value on self-determination, self-
4 reliance, and independence, American Indians and
5 Alaskan Natives experience poverty and unemploy-
6 ment, along with the associated incidences of social
7 pathology, to an extent unequaled by any other
8 group in the United States;

9 (4) the reasons for such unparalleled poverty
10 and unemployment have been widely studied and
11 documented by Congress, the General Accounting
12 Office, the Department of the Interior, private aca-
13 demic institutions, and Indian tribes, and such stud-
14 ies have consistently identified as fundamental ob-
15 stacles to balanced economic growth and progress—

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

21 (B) the lack of effective control by the In-
22 dians over their own lands and resources; and

23 (C) the scarcity of experienced Indian
24 managers and technicians;

1 (5) previous efforts of the Federal Government
2 directed at stimulating Indian economic development
3 through the provision of grants, direct loans, loan
4 guarantees, and interest subsidies have fallen far
5 short of their objectives due to—

6 (A) inadequate funds;

7 (B) lack of coordination;

8 (C) arbitrary project selection criteria;

9 (D) politicization of the delivery system;

10 and

11 (E) other inefficiencies characteristic of a
12 system of publicly administered financial inter-
13 mediation; and

14 (6) the experience acquired by multilateral lend-
15 ing institutions among the “lesser developed coun-
16 tries” has demonstrated the value and necessity of
17 development financing institutions in achieving eco-
18 nomic growth in underdeveloped economies and soci-
19 eties that are strikingly similar to Indian and Alas-
20 kan Native communities in relation to such matters
21 as control over natural resource management and
22 the absence of experienced, indigenous managers
23 and technicians, as well as the availability of long-
24 term development capital and private sources of fi-
25 nancial credit.

1 (b) POLICY.—It is hereby declared to be the policy
2 of Congress that, in fulfillment of its special and long-
3 standing responsibility to the Indian tribes, the Federal
4 Government should provide assistance to the Indian people
5 in their efforts to break free from the devastating effects
6 of extreme poverty and unemployment and achieve lasting
7 economic self-sufficiency through the development of the
8 private sector of tribal economies by establishing a feder-
9 ally chartered, mixed ownership development financing in-
10 stitution which shall provide a broad range of financial
11 intermediary services including working capital, direct
12 loans, loan guarantees, and project development assistance
13 utilizing the proven efficiencies of the private market mode
14 of operation.

15 **SEC. 3. DEFINITIONS.**

16 For purposes of this Act:

17 (1) INDIAN.—The term “Indian” means any
18 person who is a member of an Indian tribe.

19 (2) INDIAN TRIBE.—The term “Indian tribe”
20 means any Indian tribe, band, nation, or other orga-
21 nized group or community which is recognized by
22 the United States as eligible for the special pro-
23 grams and services provided by the United States to
24 Indians because of their status as Indians, including
25 any Alaska Native village or regional or village cor-

1 poration as defined in, or established under, the
2 Alaska Native Claims Settlement Act (43 U.S.C.
3 1601 et seq.).

4 (3) RESERVATION.—The term “reservation”
5 means any Indian reservation, public domain Indian
6 allotment, former Indian reservation in Oklahoma,
7 or land held by any Alaska Native village or regional
8 or village corporation (as defined in, or established
9 under, the provisions of the Alaska Native Claims
10 Settlement Act).

11 (4) TRIBAL ORGANIZATION.—The term “tribal
12 organization” means the governing body of any In-
13 dian tribe or any entity established, controlled, or
14 owned by such governing body.

15 (5) INDIAN BUSINESS ENTERPRISE.—The term
16 “Indian business enterprise” means any commercial,
17 industrial, or business entity—

18 (A) at least 51 percent of which is owned
19 by one or more Indian tribes;

20 (B) that produces or furnishes goods, serv-
21 ices, or facilities and is operated or organized
22 on a for-profit basis;

23 (C) that is chartered or controlled by any
24 Indian tribe or tribal organization that is a
25 shareholder of the Corporation; and

1 (D) whose—

2 (i) principal place of business is lo-
3 cated within, or adjacent to, the bound-
4 aries of an Indian reservation; or

5 (ii) principal business activities in ad-
6 dition to the production of a stream of in-
7 come are determined by the Corporation to
8 be directly beneficial to an Indian tribe
9 and contribute to the economy of such In-
10 dian tribe.

11 Such term includes any subsidiary entity that is
12 owned and controlled by any commercial, industrial,
13 or business activity described in the preceding sen-
14 tence.

15 (6) CORPORATION.—The term “Corporation”
16 means the Indian Development Finance Corporation
17 established under section 101.

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

20 **TITLE I—ESTABLISHMENT OF** 21 **CORPORATION**

22 **SEC. 101. ESTABLISHMENT.**

23 There is hereby established the Indian Development
24 Finance Corporation. The Corporation shall have succes-
25 sion until dissolved by an Act of Congress. Congress shall

1 have the sole authority to revise or amend the charter of
2 the Corporation.

3 **SEC. 102. DUTIES.**

4 It shall be the duty of the Corporation to—

5 (1) provide development capital through the fi-
6 nancial services that the Corporation is authorized
7 to provide under subsections (b), (c), and (d) of sec-
8 tion 103;

9 (2) encourage the development of new and ex-
10 isting Indian business enterprises eligible for its as-
11 sistance by providing and coordinating the avail-
12 ability of—

13 (A) long-term capital and working capital;

14 (B) loans, loan guarantees, and other
15 forms of specialized credit; and

16 (C) technical and managerial assistance
17 and training;

18 (3) maintain broad-based control of the Cor-
19 poration in its voting stockholders;

20 (4) encourage active participation in the Cor-
21 poration by Indian tribes by ownership of its equity
22 securities; and

23 (5) assist in strengthening Indian tribal econo-
24 mies through the development of Indian business en-

1 terprises whose activities are directed at contributing
2 to such economies.

3 **SEC. 103. LOANS AND OBLIGATIONS.**

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

5 (1) make loans or commitments for loans to
6 any Indian business enterprise; or

7 (2) purchase, insure, or discount any obliga-
8 tions of an Indian business enterprise, if such enter-
9 prise meets the requirements of subsection (b).

10 (b) REQUIREMENTS.—An Indian business enterprise
11 meets the requirements of this subsection if the Corpora-
12 tion makes an independent determination that—

13 (1) such enterprise has or will have—

14 (A) a sound organizational and financial
15 structure;

16 (B) income in excess of its operating costs;

17 (C) assets in excess of its obligations; and

18 (D) a reasonable expectation of a con-
19 tinuing demand for—

20 (i) its production, goods, commodities,
21 or services; or

22 (ii) its facilities; and

23 (2) the loan or obligation of such enterprise will
24 be fully repayable in accordance with the terms and
25 conditions of such loan or obligation.

1 (c) TERMS, RATES, AND CHARGES.—(1) In setting
2 the terms, rates, and charges for loans made under this
3 section, the objective of the Corporation shall be to provide
4 the type of credit needed by Indian business enterprises
5 at the lowest reasonable cost and on a sound business
6 basis, taking into account—

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

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

10 (C) the technical and other assistance attrib-
11 utable to loans made available by the Corporation
12 under this section.

13 (2) The terms of any loan made under this subsection
14 may provide for interest rates which vary from time to
15 time during the repayment period of the loan in accord-
16 ance with the rates being charged by the Corporation for
17 new loans at such times.

18 (d) USE OF FUNDS.—Funds available from a loan
19 made under this section may be advanced or reloaned by
20 the borrower to its members or stockholders for the devel-
21 opment of individually owned businesses on or adjacent
22 to reservations under circumstances permitted under the
23 bylaws or rules of the Corporation.

24 (e) LOAN GUARANTEES.—(1) The Corporation may
25 guarantee all or any part of the principal and interest of

1 any loan made by any State or federally chartered lending
2 institution to any Indian business enterprise if—

3 (A) such loan is to an Indian business enter-
4 prise that meets the requirements of subsection
5 (b)(2); and

6 (B) such loan was made on terms and condi-
7 tions (including the rate of interest) which would be
8 permissible terms and conditions if such loan were
9 a direct loan made by the Corporation.

10 (2) The Corporation may impose a charge for any
11 loan guarantee made under this subsection.

12 (3) No loan may be guaranteed by the Corporation
13 under this subsection if the income from the loan to the
14 lender is excludable from such lender's gross income for
15 purposes of chapter 1 of the Internal Revenue Code of
16 1986.

17 (4) Any loan guarantee made under this subsection
18 shall be assignable to the extent provided in the contract
19 of guarantee entered into by the Corporation.

20 (5) Any guarantee made under this subsection shall
21 be uncontestable, except in the case of fraud or misrepre-
22 sentation of which the holder had actual knowledge at the
23 time the holder acquired the loan.

24 (6) The Corporation, in lieu of requiring the original
25 lender to service a loan guaranteed under this subsection

1 until final maturity or liquidation, may purchase such
2 guaranteed loan for an amount equal to the balance of
3 the principal and the amount of interest accrued thereon
4 without penalty if the Corporation determines that the
5 purchase would not be detrimental to the interests of the
6 Corporation and—

7 (A) the liquidation of such guaranteed loan
8 would result in the insolvency of the borrower or de-
9 prive the borrower of assets essential to its contin-
10 ued operation;

11 (B) such guaranteed loan will be repayable with
12 revision of the loan rates, terms, payment periods, or
13 other conditions consistent with loans made by the
14 Corporation under subsection (b); and

15 (C) the lender or other holder of such guaran-
16 teed loan is unwilling to make such revision.

17 (f) PURCHASES OF EQUITY AND OWNERSHIP.—(1)

18 For purposes of providing long-term capital and working
19 capital to Indian business enterprises, the Corporation is
20 authorized to purchase, or make commitments to pur-
21 chase, all, or any portion of, the equity or ownership inter-
22 est in any Indian business enterprise if the Corporation
23 determines, after a full and complete appraisal of all
24 project and business plans associated with the investment
25 taking into account the criteria set forth in paragraph (2),

1 that such an investment does not expose the Corporation
2 to any unreasonable business risks considering the appli-
3 cable standards prevailing in the field of development fi-
4 nance as applied to Indian economic development (or, in
5 light of the socioeconomic, political, and legal conditions
6 unique to Indian reservations).

7 (2) The Corporation is also authorized to supervise
8 or participate in the management of Indian business en-
9 terprises in which an investment has been made under
10 paragraph (1) according to such terms and conditions as
11 are agreed to by the Corporation and the principals of the
12 enterprise, including the assumption of a directorship in
13 the corporate body of such Indian business enterprise by
14 an officer of the Corporation.

15 **SEC. 104. GENERAL POWERS.**

16 In carrying out this Act, the Corporation is author-
17 ized—

18 (1) to adopt and alter a corporate seal, which
19 shall be judicially noticed;

20 (2) to make agreements and contracts with per-
21 sons, Indian tribes, and private or governmental en-
22 tities and to make payments or advance payments
23 under such agreements or contracts without regard
24 to section 3324 of title 31, United States Code, ex-

1 cept that the Corporation shall provide financial as-
2 sistance only in accordance with this Act;

3 (3) to—

4 (A) lease, purchase, accept gifts or dona-
5 tions of, or otherwise to acquire;

6 (B) own, hold, improve, use, or otherwise
7 deal in or with; and

8 (C) sell, convey, mortgage, pledge, lease,
9 exchange, or otherwise dispose of;

10 any property, real, personal, or mixed, or any inter-
11 est therein;

12 (4) to sue and be sued in its corporate name
13 and to complain and defend in any court of com-
14 petent jurisdiction;

15 (5) to represent itself, or to contract for rep-
16 resentation, in all judicial, legal, and other pro-
17 ceedings;

18 (6) to make provision for and designate such
19 committees, and the functions thereof, as the Board
20 of Directors may deem necessary or desirable;

21 (7) with the approval of the agency concerned,
22 to make use of services, facilities, and property of
23 any board, commission, independent establishment,
24 or executive agency or department of the executive
25 branch in carrying out the provisions of this Act and

1 to pay for such use (such payments to be credited
2 to the applicable appropriation that incurred the ex-
3 pense);

4 (8) to use the United States mails on the same
5 terms and conditions as the executive departments
6 of the United States Government;

7 (9) to obtain insurance or make other provi-
8 sions against losses;

9 (10) to participate with one or more other fi-
10 nancial institutions, agencies, instrumentalities,
11 trusts, or foundations in loans or guarantees made
12 under this Act on terms as may be agreed upon;

13 (11) to accept guarantees from other agencies
14 for which loans made by the Corporation may be eli-
15 gible;

16 (12) to establish, as soon as practicable, re-
17 gional offices in order to more efficiently serve the
18 widely disbursed Indian population;

19 (13) to buy and sell—

20 (A) obligations of, or instruments insured
21 by, the United States or any agency or instru-
22 mentalities thereof; or

23 (B) securities backed by the full faith and
24 credit of any such agency or instrumentality;

1 (14) to make such investments as may be au-
2 thorized by the Board of Directors of the Corpora-
3 tion;

4 (15) to establish such offices within the Cor-
5 poration as may be necessary including offices for—

6 (A) Project Development;

7 (B) Project Evaluation and Auditing;

8 (C) Fiscal Management;

9 (D) Research and Development; and

10 (E) any other offices as may from time to

11 time be authorized by the Board of Directors;

12 and

13 (16) to exercise all other lawful powers nec-
14 essarily or reasonably related to the establishment of
15 the Corporation in order to carry out the provisions
16 of this Act and the exercise of its powers, purposes,
17 functions, duties, and authorized activities.

18 **SEC. 105. BOARD OF DIRECTORS.**

19 (a) MEMBERS.—The powers of the Corporation shall
20 be vested in the Board of Directors which shall consist
21 of the following 21 members:

22 (1) 1 officer of the United States Government,
23 designated by the Secretary of the Interior.

24 (2) 19 individuals who represent the share-
25 holders in the Corporation, appointed by the Presi-

1 dent by and with the advice and consent of the Sen-
2 ate, taking into account the experience of the indi-
3 vidual in private business enterprises and in develop-
4 ment or commercial financing and shall consult with,
5 and receive recommendations from, Indian tribes.

6 (3) The President of the Corporation.

7 (b) TERMS.—The term of office for the initial mem-
8 bers of the Board of Directors described in subsection
9 (a)(2) shall expire at the commencement of the first an-
10 nual meeting of the shareholders of the Corporation held
11 as soon as is reasonably possible after the date on which
12 subscriptions have been paid for at least 10 percent of the
13 common stock initially offered for sale to Indian tribes.

14 (c) VACANCIES.—(1) Any vacancy on the Board of
15 Directors created by the resignation or removal of a mem-
16 ber described in subsection (a)(2) shall be filled by the
17 Board in accordance with the bylaws of the Corporation
18 except that such appointment shall only be made for a
19 term extending to the next annual shareholders meeting
20 of the Corporation.

21 (2) If a vacancy occurs on the Board of Directors
22 prior to the expiration of the term of office to which the
23 member described in subsection (a)(2) was appointed, the
24 President shall appoint an individual, by and with the con-

1 sent of the Senate, to fill such vacancy until the expiration
2 of such term of office.

3 (d) REMOVAL.—A member of the Board of Directors
4 may be removed from office by the Board only for neglect
5 of duty or malfeasance in office.

6 (e) QUORUM.—A majority of the Board of Directors
7 shall constitute a quorum and except as provided in sub-
8 section (h)(2), any action of the Board of Directors shall
9 be effected by majority vote of all members of the Board
10 of Directors.

11 (f) DUTIES.—The Board of Directors shall—

12 (1) annually elect from among the members de-
13 scribed in subsection (a)(2) a Chairman and Vice
14 Chairman;

15 (2) establish the policies of the Corporation and
16 shall supervise the management of the Corporation;

17 (3) adopt, and may amend, such bylaws as are
18 necessary for the proper management and func-
19 tioning of the Corporation;

20 (4) keep the Council established under section
21 110 fully informed of its activities; and

22 (5) provide the Council with such further infor-
23 mation or data in its possession as the Council may
24 deem necessary to the appropriate discharge of the
25 responsibilities of the Council.

1 (g) MEETINGS.—The Board of Directors shall meet
2 at any time pursuant to the call of the Chairman and as
3 may be provided by the bylaws of the Corporation, but
4 not less than quarterly. Subject to such rules adopted by
5 the Board of Directors as are necessary for the orderly
6 conduct of business, all meetings of the Board of Directors
7 shall be open to representatives of Indian tribes, Indian
8 business enterprises, and Indian organizations and any in-
9 dividual who has an identifiable interest in the affairs of
10 the Corporation. The Board of Directors may meet in pri-
11 vate executive session if the matter under discussion in
12 such session involves any matter which may impinge on
13 the right of privacy of any individual.

14 (h) MEMBER DESIGNATED BY THE SECRETARY.—
15 The member designated by the Secretary shall—

16 (1) have 20 percent of the share of votes cast
17 at annual shareholders meetings; and

18 (2) be overruled only by a two-thirds majority
19 vote at regular board meetings in matters involv-
20 ing—

21 (A) calling of callable capital;

22 (B) borrowing by the Corporation of
23 amounts in excess of \$10,000,000;

24 (C) loans or investments made by the Cor-
25 poration in excess of \$1,000,000; or

1 (D) the adoption of changes to investment
2 and credit policies.

3 (i) COMPENSATION.—Each member of the Board of
4 Directors not otherwise employed by the Federal Govern-
5 ment or a State government shall receive compensation at
6 a rate equal to the daily rate for GS–18 of the General
7 Schedule under section 5332 of title 5, United States
8 Code, for each day, including traveling time, he or she is
9 engaged in the actual performance of his or her duties
10 as a member of the Board of Directors. A member of the
11 Board of Directors who is an officer or employee of the
12 United States Government or of a State government shall
13 serve without additional compensation. All members of the
14 Board of Directors shall be reimbursed for travel, subsist-
15 ence, and other necessary expenses incurred by them in
16 the performance of their duties.

17 **SEC. 106. PRESIDENT OF THE CORPORATION.**

18 (a) PRESIDENT.—The Board of Directors shall ap-
19 point a President of the Corporation. The President of the
20 Corporation may be removed from office by the Board of
21 Directors in accordance with the bylaws of the Corpora-
22 tion.

23 (b) DUTIES AND POWERS.—The President of the
24 Corporation shall have the following duties and powers:

1 (1) Serve as the chief executive officer of the
2 Corporation.

3 (2) Subject to the direction of the Board of Di-
4 rectors and the general supervision of the Chairman,
5 carry out the policies and functions of the Corpora-
6 tion.

7 (3) Have authority over all personnel and ac-
8 tivities of the Corporation.

9 (4) With the approval of the Board of Direc-
10 tors, have the authority to appoint and fix the com-
11 pensation and duties of such officers and employees
12 as may be necessary for the efficient administration
13 of the Corporation. Such appointments and com-
14 pensation may be made without regard to the provi-
15 sions of title 5, United States Code, governing ap-
16 pointments in the competitive service, and chapter
17 51 and subchapter III of chapter 53 of title 5,
18 United States Code.

19 **SEC. 107. CONFLICTS OF INTEREST AND FINANCIAL DIS-**
20 **CLOSURE.**

21 (a) **APPLICABILITY.**—The financial disclosure provi-
22 sions of the Ethics in Government Act of 1978 (92 Stat.
23 1824; Public Law 95–521) applicable to individuals occu-
24 pying positions compensated under the Executive Schedule
25 shall apply—

1 (1) to the members of the Board of Directors;

2 (2) to the officers of the Corporation;

3 (3) to employees of the Corporation whose posi-
4 tion is compensated at a rate equivalent to that pay-
5 able for grade GS-16 or above of the General Sched-
6 ule established by chapter 53 of title 5, United
7 States Code; and

8 (4) to the Corporation as if it were a Federal
9 agency.

10 (b) FINANCIAL INTERESTS.—(1) Except as permitted
11 by paragraph (3), no member of the Board of Directors
12 shall vote on any matter respecting any application, con-
13 tract, claim, or other particular matter pending before the
14 Corporation, in which, to the member's knowledge, a fi-
15 nancial interest is held by—

16 (A) the member;

17 (B) the member's spouse, child, or partner;

18 (C) an organization other than the Corporation
19 in which the member is serving as officer, director,
20 trustee, partner, or employee; or

21 (D) any person or organization with whom the
22 member is negotiating, or has any arrangement con-
23 cerning, prospective employment.

24 (2) Action by any member of the Board of Directors
25 contrary to the prohibition under paragraph (1) shall be

1 cause for removal of such member pursuant to section
2 105(d), but shall not impair or otherwise affect the valid-
3 ity of any otherwise lawful action by the Corporation in
4 which such member participated.

5 (3) The prohibition contained in paragraph (1) shall
6 not apply if the member first advises the Board of Direc-
7 tors of the nature of the particular matter in which he
8 or she proposes to participate and makes full disclosure
9 of such financial interest, and the Board of Directors de-
10 termines by majority vote that the financial interest is too
11 remote or too inconsequential to affect the integrity of
12 such member's services for the Corporation in that matter.
13 The member involved shall not participate in such deter-
14 mination.

15 (c) APPLICABILITY OF CERTAIN LAW.—Subsection
16 (a) of section 207 of title 18, United States Code (and
17 subsections (f), (h), and (j) of such section to the extent
18 they relate to subsection (a)), shall apply to former mem-
19 bers of the Board of Directors, officers, and employees of
20 the Corporation as if they were former officers or employ-
21 ees of the executive branch of the United States Govern-
22 ment. Such section shall apply to the Corporation as if
23 it were an agency of the executive branch of the United
24 States Government.

1 **SEC. 108. ANNUAL MEETINGS.**

2 (a) IN GENERAL.—The Corporation shall hold an an-
3 nual meeting of its shareholders which shall be open to
4 the public. At such meeting, the Corporation shall give a
5 full report of its activities during the year and its financial
6 condition and may present proposals for future action and
7 other matters of general concern to shareholders and In-
8 dian business enterprises eligible for services from the
9 Corporation.

10 (b) SHAREHOLDERS AND REPRESENTATIVES.—
11 Shareholders and representatives of Indian business enter-
12 prises may—

13 (1) present motions or resolutions at the annual
14 meeting of shareholders relating to matters within
15 the scope of this Act; and

16 (2) participate in the discussion thereof and
17 other matters on the agenda of such meeting.

18 (c) NOTICE.—Not less than 30 days notice of the
19 time and place of the annual meeting required under sub-
20 section (a) shall be given to all shareholders.

21 (d) VOTING.—Each member Indian tribe may vote its
22 common stock on all matters before the annual share-
23 holders meeting and on all matters pertaining to election
24 of the Board of Directors. Shareholders may cumulate
25 their votes based on the number of director positions that
26 are standing for election.

1 **SEC. 109. REPORTS AND PLANS SUBMITTED TO CONGRESS.**

2 (a) ANNUAL REPORTS.—The Board of Directors of
3 the Corporation shall report annually to the appropriate
4 committees of the Congress on the Corporation’s capital,
5 operations, and financial condition. Such report shall in-
6 clude recommendations for legislation needed to improve
7 the services of the Corporation.

8 (b) DEVELOPMENT PLAN.—Not later than 1 year
9 after the date of the enactment of this Act, the Corpora-
10 tion shall submit to the Congress a comprehensive, 5-year
11 organizational development plan that includes—

12 (1) financial projections;

13 (2) a description of a corporate structure and
14 locations; and

15 (3) operational guidelines, particularly the co-
16 ordinating relationship the Corporation has, or plans
17 to have, with Federal domestic assistance programs
18 that allocate financial resources and services to In-
19 dian tribes and reservations for economic and busi-
20 ness development purposes.

21 **SEC. 110. ADVISORY COUNCIL.**

22 (a) ESTABLISHMENT.—There is hereby established
23 the Advisory Council to the Indian Development Finance
24 Corporation (hereafter in this section referred to as the
25 “Council”), which shall provide advice on the policies and
26 operations of the Corporation.

1 (b) MEMBERSHIP.—The Council shall consist of—

2 (1) the Comptroller of the Currency;

3 (2) the Secretary of the Interior; and

4 (3) the Chairman of the Board of Governors of
5 the Federal Reserve System.

6 (c) DUTIES.—The Council shall—

7 (1) recommend to the Board of Directors of the
8 Corporation general policy directives;

9 (2) be available to provide financial and tech-
10 nical assistance upon request of the Board of Direc-
11 tors;

12 (3) transmit to the Board of Directors and the
13 Congress an annual report with respect to the poli-
14 cies of the Corporation that contains data on the op-
15 erations and policies of the Corporation, rec-
16 ommendations concerning the Corporation, and such
17 other data and material as the Council may deem
18 appropriate; and

19 (4) make reports and recommendations to the
20 Board of Directors as it may from time to time re-
21 quest or as the Council may consider necessary to
22 more effectively or efficiently accomplish the pur-
23 poses of this section or the purposes for which the
24 Council is created.

1 **SEC. 111. CONFORMING AMENDMENTS.**

2 (a) TITLE 31.—Title 31, United States Code, is
3 amended as follows:

4 (1) In paragraph (2) of section 9101, by adding
5 at the end the following new subparagraph:

6 “(K) the Indian Development Finance Cor-
7 poration.”.

8 (2) In paragraph (3) of section 9107(c), by in-
9 serting “the Indian Development Finance Corpora-
10 tion,” after “the Regional Banks for Cooperatives,”.

11 (3) In paragraph (2) of section 9108(d), by in-
12 serting “the Indian Development Finance Corpora-
13 tion,” after “the Regional Banks for Cooperatives,”.

14 (b) TITLE 5.—Section 5315 of title 5, United States
15 Code, is amended by adding at the end the following new
16 item:

17 “President, Indian Development Finance Corpora-
18 tion.”.

19 **TITLE II—CAPITALIZATION**

20 **SEC. 201. ISSUANCE OF STOCK.**

21 (a) IN GENERAL.—(1) The Corporation is authorized
22 to issue shares of stock in the Corporation in an amount
23 and of such class as may be determined by the Board of
24 Directors subject to the provisions of this section.

1 (2) Shares of stock in the Corporation may only be
2 issued to and may only be held by Indian tribes and the
3 United States.

4 (3) The Corporation is authorized to redeem or re-
5 purchase any share of stock issued by the Corporation at
6 a price determined by the Board of Directors.

7 (b) INITIAL OFFERING.—(1) The Corporation shall
8 make an initial offering of a total of 500,000 shares of
9 common stock of the Corporation for sale at \$50 per share
10 to Indian tribes.

11 (2) The number of such shares of stock required to
12 be purchased by each Indian tribe in order to become a
13 member of the Corporation shall be determined on the
14 basis of an equitable formula established by the Board of
15 Directors taking into account indicators of the economic
16 condition of each Indian tribe applying for membership.
17 Such economic indicators shall be developed by the Board
18 and applied on a uniform basis.

19 (3) Twenty percent of the value of the stock to be
20 purchased by each tribe as a condition of membership
21 shall be paid into the Corporation in the form of cash or
22 cash equivalent securities, and 80 percent shall be in the
23 form of a legally binding commitment available for call
24 by the Board to meet the obligations of the Corporation

1 but not for use of the Corporation in lending activities or
2 for administrative expenses.

3 (c) NUMBER OF SHARES.—(1) The Secretary is au-
4 thorized to subscribe to 2,000,000 shares of capital stock
5 in the Corporation.

6 (2) The Secretary—

7 (A) shall pay \$20,000,000, representing 20 per-
8 cent of the value of the shares of capital stock in the
9 Corporation subscribed under paragraph (1), to the
10 Corporation within a 2-year period beginning on the
11 date of enactment of this Act; and

12 (B) beginning in fiscal year 2012, is authorized
13 to agree on behalf of the United States to pay up
14 to \$80,000,000, representing 80 percent of the value
15 of the shares of capital stock in the Corporation sub-
16 scribed under paragraph (1), or any portion thereof,
17 to the Corporation upon call of the Board of Direc-
18 tors of the Corporation. The amount of this request
19 for funds to establish a reserve for loss will be deter-
20 mined by the Secretary of the Interior and the
21 Board of Directors based upon an assessment of
22 need, taking into account a risk analysis of the in-
23 vestment and credit policies and practices of the
24 Corporation. Any commitment to make such con-
25 tributions shall be made subject to obtaining the

1 necessary appropriations, and shall be made when
2 funds are required to meet obligations of the Cor-
3 poration for funds borrowed by the Corporation or
4 for loans guaranteed by the Corporation, but not for
5 use of the Corporation in lending activities of the
6 Corporation or for administrative expenses of the
7 Corporation.

8 (3) The capital stock subscribed by the Secretary on
9 behalf of the United States under paragraph (1)—

10 (A) shall be valued at \$50 per share;

11 (B) shall be nonvoting stock;

12 (C) shall not accrue dividends; and

13 (D) may not be transferred to any person or
14 entity other than the Corporation.

15 (d) PAYMENT OF DIVIDENDS.—The Board shall es-
16 tablish policies for payment of dividends to the Corpora-
17 tion's shareholders to be based on sound business prac-
18 tices and fiscal management principles and which shall
19 give a priority to providing a return on investment based
20 on shareholders pro rata interest in income generated
21 from the capital contribution of common stock share-
22 holders as compared to income attributable to capital con-
23 tributed by the United States.

24 (e) EXEMPTED SECURITIES.—The stock or other se-
25 curities or instruments issued by the Corporation shall,

1 to the same extent as securities which are the direct obli-
2 gations of the United States, be exempted securities within
3 the meaning of the laws administered by the Securities
4 and Exchange Commission.

5 **SEC. 202. BORROWING AUTHORITY.**

6 (a) IN GENERAL.—The Corporation is authorized to
7 issue bonds, notes, and other evidence of indebtedness.
8 Such obligations shall be issued at such times, bear inter-
9 est at such rates, and contain such terms and conditions
10 as the Board of Directors shall determine after consulta-
11 tion with the Secretary of the Treasury.

12 (b) AMOUNT OF OBLIGATIONS.—The aggregate
13 amount of obligations issued under subsection (a) shall
14 not exceed an amount equal to—

15 (1) the product of 10 multiplied by the sum
16 of—

17 (A) the paid-in capital of the Corporation;

18 plus

19 (B) retained earnings and profits of the
20 Corporation; plus

21 (2) the book value of callable capital rep-
22 resented by the total commitments of tribal share-
23 holders and the \$80,000,000 subscribed to by the
24 United States as provided for in section
25 201(c)(2)(B) of this Act.

1 (c) SALE OF OBLIGATIONS.—An obligation issued
2 under subsection (a) may be sold through an agent by ne-
3 gotiation, offer, bid, syndicate sale, or otherwise and such
4 transaction completed by book entry, wire transfer, or
5 such other means as may be appropriate.

6 **TITLE III—AUTHORIZATION OF**
7 **APPROPRIATIONS**

8 **SEC. 301. GENERAL OPERATIONAL EXPENSES.**

9 In addition to amounts authorized to be appropriated
10 under section 302, there are authorized to be appro-
11 priated—

12 (1) \$2,000,000 for fiscal year 2010 for the pur-
13 pose of carrying out the provisions of this Act;

14 (2) \$2,500,000 for each of the fiscal years
15 2010, 2011, 2012, 2013, and 2014 for the purpose
16 of project development activities; and

17 (3) such sums as may be necessary to carry out
18 the provisions of this Act for each of the fiscal years
19 2010, 2011, 2012, 2013, and 2014.

20 **SEC. 302. AUTHORIZATIONS FOR PAID-IN CAPITAL STOCK.**

21 There are authorized to be appropriated for each of
22 the fiscal years 2010 and 2011, \$10,000,000 for the pur-
23 pose of carrying out the provisions of section 201(c)(2)(A).
24 Such sums shall remain available until expended. Begin-
25 ning in fiscal year 2011, such amounts, not to exceed a

1 total of \$80,000,000, are authorized to be appropriated
2 for the purpose of carrying out the provisions of section
3 201(c)(2)(B).

○