

# Calendar No. 691

108TH CONGRESS  
2D SESSION

# S. 2382

[Report No. 108-335]

To establish grant programs for the development of telecommunications capacities in Indian country.

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IN THE SENATE OF THE UNITED STATES

MAY 4, 2004

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

SEPTEMBER 7, 2004

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To establish grant programs for the development of telecommunications capacities in Indian country.

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.**

4 This Act may be cited as the “Native American  
5 Connectivity Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1)(A) disparities exist in the areas of edu-  
4 cation, health care, workforce training, commerce,  
5 and economic activity of Indians due to the rural na-  
6 ture of most Indian reservations; and

7 (B) access to basic and advanced telecommuni-  
8 cations infrastructure is critical in eliminating those  
9 disparities;

10 (2) currently, only 67.9 percent of Indian  
11 homes have telephone service, compared with the na-  
12 tional average of 95.1 percent;

13 (3) the telephone service penetration rate on  
14 some reservations is as low as 39 percent;

15 (4) even on reservations and trust land, non-In-  
16 dian homes are more likely to have telephone service  
17 than Indian homes;

18 (5) only 10 percent of Indian households on  
19 tribal land have Internet access;

20 (6) only 17 percent of Indian tribes have devel-  
21 oped comprehensive technology plans;

22 (7) training and technical assistance have been  
23 identified as the most significant needs for the devel-  
24 opment and effective use of telecommunications and  
25 information technology in Indian country;

1           (8) funding for telecommunications and infor-  
2           mation technology projects in Indian country re-  
3           mains inadequate to address the needs of Indian  
4           communities;

5           (9) many Indian tribes are located on or adja-  
6           cent to Indian land in which unemployment rates ex-  
7           ceed 50 percent;

8           (10) the lack of telecommunications infrastruc-  
9           ture and low telephone and Internet penetration  
10          rates adversely affects the ability of Indian tribes to  
11          pursue economic development opportunities; and

12          (11) health care, disease prevention education,  
13          and cultural preservation are greatly enhanced with  
14          access to and use of telecommunications technology  
15          and electronic information.

16 **SEC. 3. PURPOSES.**

17          The purposes of this Act are—

18           (1) to promote affordable and universal access  
19           among Indian tribal governments, tribal entities, and  
20           Indian households to telecommunications and infor-  
21           mation technology in Indian country;

22           (2) to encourage and promote tribal economic  
23           development, self-sufficiency, and strong tribal gov-  
24           ernments;

1           (3) to enhance the health of Indian tribal mem-  
 2           bers through the availability and use of telemedicine  
 3           and telehealth; and

4           (4) to assist in the retention and preservation  
 5           of native languages and cultural traditions.

6 **SEC. 4. DEFINITIONS.**

7           In this Act:

8           (1) **BLOCK GRANT.**—The term “block grant”  
 9           means a grant provided under section 5.

10          (2) **ELIGIBLE ACTIVITY.**—The term “eligible  
 11          activity” means an activity carried out—

12                (A) to acquire or lease real property (in-  
 13                cluding licensed spectrum, water rights, dark  
 14                fiber, exchanges, and other related interests) to  
 15                provide telecommunications services, facilities,  
 16                and improvements;

17                (B) to acquire, construct, reconstruct, or  
 18                install telecommunications facilities, sites, or  
 19                improvements (including design features), or  
 20                utilities;

21                (C) to retain any real property acquired  
 22                under this Act for tribal communications pur-  
 23                poses;

1           ~~(D)~~ to pay the non-Federal share required  
2 by a Federal grant program undertaken as part  
3 of activities funded under this Act;

4           ~~(E)~~ to carry out activities necessary—

5               (i) to develop a comprehensive tele-  
6 communications development plan; and

7               (ii) to develop a policy, planning, and  
8 management capacity so that an eligible  
9 entity may more rationally and effec-  
10 tively—

11               (I) determine the needs of the  
12 entity;

13               (II) set long term and short term  
14 goals;

15               (III) devise programs and activi-  
16 ties to meet the goals of the entity, in-  
17 cluding, if appropriate, telehealth;

18               (IV) evaluate the progress of the  
19 programs and activities in meeting the  
20 goals; and

21               (V) carry out management, co-  
22 ordination, and monitoring of activi-  
23 ties necessary for effective planning  
24 implementation;

1           (F) to pay reasonable administrative costs  
2           and carrying charges relating to the planning  
3           and execution of telecommunications develop-  
4           ment activities, including the provision of infor-  
5           mation and resources about the planning and  
6           execution of the activities to residents of areas  
7           in which telecommunications development ac-  
8           tivities are to be concentrated;

9           (G) to increase the capacity of an eligible  
10          entity to carry out telecommunications activi-  
11          ties;

12          (H) to provide assistance to institutions of  
13          higher education that have a demonstrated ca-  
14          pacity to carry out eligible activities;

15          (I) to enable an eligible entity to facilitate  
16          telecommunications development by—

17                 (i) providing technical assistance, ad-  
18                 vice, and business support services (includ-  
19                 ing services for developing business plans,  
20                 securing funding, and conducting mar-  
21                 keting); and

22                 (ii) providing general support (includ-  
23                 ing peer support programs and mentoring  
24                 programs) to Indian tribes in developing  
25                 telecommunications projects;

1           (J) to evaluate eligible activities to ascer-  
 2           tain and promote effective telecommunications  
 3           and information technology deployment prac-  
 4           tices and usages among Indian tribes; or

5           (K) to provide research, analysis, data col-  
 6           lection, data organization, and dissemination of  
 7           information relevant to telecommunications and  
 8           information technology in Indian country for  
 9           the purpose of promoting effective telecommuni-  
 10          cations and information technology deployment  
 11          practices and usages among tribes.

12          (3) **ELIGIBLE ENTITY.**—The term “eligible enti-  
 13          ty” means—

14               (A) an Indian tribe;

15               (B) an Indian organization;

16               (C) a tribal college or university;

17               (D) an intertribal organization; or

18               (E) a private or public institution of higher  
 19          education acting jointly with an Indian tribe.

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

24          (5) **SECRETARY.**—The term “Secretary” means  
 25          the Secretary of Commerce.

1           (6) TECHNICAL ASSISTANCE.—The term “tech-  
 2           nical assistance” means the facilitation of skills and  
 3           knowledge in planning, developing, assessing, and  
 4           administering eligible activities.

5           (7) TRAINING AND TECHNICAL ASSISTANCE  
 6           GRANT.—The term “training and technical assist-  
 7           ance grant” means a grant provided under section  
 8           6.

9           (8) TRIBAL COLLEGE OR UNIVERSITY.—The  
 10          term “tribal college or university” has the meaning  
 11          given the term “tribally controlled college or univer-  
 12          sity” in section 2 of the Tribally Controlled Commu-  
 13          nity College Assistance Act of 1978 (25 U.S.C.  
 14          1801), except that the term also includes an institu-  
 15          tion listed in the Equity in Educational Land-Grant  
 16          Status Act of 1994 (7 U.S.C. 301 note).

17          (9) TELEHEALTH.—The term “telehealth”  
 18          means the use of electronic information and tele-  
 19          communications technologies to support long-dis-  
 20          tance clinical health care, patient and professional  
 21          health-related education, public health, and health  
 22          administration.

23 **SEC. 5. BLOCK GRANT PROGRAM.**

24          (a) ESTABLISHMENT.—There is established within  
 25          the National Telecommunications and Information Ad-



1   ministration a Native American telecommunications block  
 2   grant program to provide grants on a competitive basis  
 3   to eligible entities to carry out eligible activities under sub-  
 4   section (c).

5       (b) BLOCK GRANTS.—The Secretary may provide a  
 6   block grant to an eligible entity that submits a block grant  
 7   application to the Secretary for approval.

8       (c) ELIGIBLE ACTIVITIES.—A grant under this sec-  
 9   tion may only be used for an eligible activity.

10      (d) REGULATIONS.—Not later than 180 days after  
 11   the date of enactment of this Act, the Secretary shall pro-  
 12   mulgate regulations establishing specific criteria for the  
 13   competition conducted to select eligible entities to receive  
 14   grants under this section for each fiscal year.

15   **SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

16      (a) NOTIFICATION AND CRITERIA.—The Secretary—

17          (1) shall provide notice of the availability of  
 18          training and technical assistance grants; and

19          (2) publish criteria for selecting recipients.

20      (b) GRANTS.—The Secretary may provide training  
 21   and technical assistance grants to eligible entities with a  
 22   demonstrated capacity to carry out eligible activities.

23      (c) USE OF FUNDS.—A training and technical assist-  
 24   ance grant shall be used—

1           (1) to develop a training program for tele-  
2       communications employees; or

3           (2) to provide assistance to students who—

4               (A) participate in telecommunications or  
5       information technology work study programs;  
6       and

7               (B) are enrolled in a full-time graduate or  
8       undergraduate program in telecommunications-  
9       related education, development, planning, or  
10      management.

11      (d) ~~SETASIDE.~~—

12           (1) ~~IN GENERAL.~~—For each fiscal year, the  
13      Secretary shall set aside \$2,000,000 of the amount  
14      made available under section 12 for training and  
15      technical assistance grants, to remain available until  
16      expended.

17           (2) ~~TREATMENT.~~—A training and technical as-  
18      sistance grant to an entity shall be in addition to  
19      any block grant provided to the entity.

20      (e) ~~PROVISION OF TECHNICAL ASSISTANCE BY THE~~  
21      ~~SECRETARY.~~—The Secretary may provide technical assist-  
22      ance, directly or through contracts, to—

23           (1) tribal governments; and

24           (2) persons or entities that assist tribal govern-  
25      ments.

1 **SEC. 7. COMPLIANCE.**

2 (a) **AUDIT BY THE COMPTROLLER GENERAL.—**

3 (1) **IN GENERAL.—**The Comptroller General of  
4 the United States may audit any financial trans-  
5 action involving grant funds that is carried out by  
6 a block grant recipient or training and technical as-  
7 sistance grant recipient.

8 (2) **SCOPE OF AUTHORITY.—**In conducting an  
9 audit under paragraph (1), the Comptroller General  
10 shall have access to all books, accounts, records, re-  
11 ports, files, and other papers, things, or property be-  
12 longing to or in use by the grant recipient that re-  
13 late to the financial transaction and are necessary to  
14 facilitate the audit.

15 (3) **REGULATIONS.—**The Comptroller General  
16 shall promulgate regulations to carry out this sub-  
17 section.

18 (b) **ENVIRONMENTAL PROTECTION.—**

19 (1) **IN GENERAL.—**After consultation with In-  
20 dian tribes, the Secretary may promulgate regula-  
21 tions to carry out this subsection that—

22 (A) ensure that the policies of the National  
23 Environmental Policy Act of 1969 (42 U.S.C.  
24 4321 et seq.), and other laws that further the  
25 purposes of that Act (as specified by the regula-  
26 tions), are most effectively implemented in con-

1           nection with the expenditure of funds under  
2           this Act; and

3           (B) assure the public of undiminished pro-  
4           tection of the environment.

5           (2) ~~SUBSTITUTE MEASURES.~~—Subject to para-  
6           graph (3), the Secretary may provide for the release  
7           of funds under this Act for eligible activities to grant  
8           recipients that assume all of the responsibilities for  
9           environmental review, decisionmaking, and related  
10          action under the National Environmental Policy Act  
11          of 1969 (42 U.S.C. 4321 et seq.); and other laws  
12          that further the purposes of that Act (as specified  
13          by the regulations promulgated under paragraph  
14          (1)); that would apply to the Secretary if the Sec-  
15          retary carried out the eligible activities as Federal  
16          projects.

17          (3) ~~RELEASE.~~—

18           (A) ~~IN GENERAL.~~—The Secretary shall ap-  
19           prove the release of funds under paragraph (2)  
20           only if, at least 15 days prior to approval, the  
21           grant recipient submits to the Secretary a re-  
22           quest for release accompanied by a certification  
23           that meets the requirements of paragraph (4).

24           (B) ~~APPROVAL.~~—The approval by the Sec-  
25           retary of a certification shall be deemed to sat-

1 isfy the responsibilities of the Secretary under  
2 the National Environmental Policy Act of 1969  
3 (42 U.S.C. 4321 et seq.) and the laws specified  
4 by the regulations promulgated under para-  
5 graph (1), to the extent that those responsibil-  
6 ities relate to the release of funds for projects  
7 described in the certification.

8 (4) CERTIFICATION.—A certification shall—

9 (A) be in a form acceptable to the Sec-  
10 retary;

11 (B) be executed by the tribal government;

12 (C) specify that the grant recipient has  
13 fully assumed the responsibilities described in  
14 paragraph (2); and

15 (D) specify that the tribal officer—

16 (i) assumes the status of a responsible  
17 Federal official under the National Envi-  
18 ronmental Policy Act of 1969 (42 U.S.C.  
19 4321 et seq.) and each law specified by the  
20 regulations promulgated under paragraph  
21 (1), to the extent that the provisions of  
22 that Act or law apply; and

23 (ii) is authorized to consent, and con-  
24 sents, on behalf of the grant recipient and  
25 on behalf of the tribal officer to accept the

1 jurisdiction of the Federal courts for en-  
2 forcement of the responsibilities of the  
3 tribal officer as a responsible Federal offi-  
4 cial.

5 **SEC. 8. REMEDIES FOR NONCOMPLIANCE.**

6 (a) ~~FAILURE TO COMPLY.~~—If the Secretary finds, on  
7 the record after opportunity for an agency hearing, that  
8 a block grant recipient or training and technical assistance  
9 grant recipient has failed to comply substantially with any  
10 provision of this Act, the Secretary, until satisfied that  
11 there is no longer a failure to comply, shall—

12 (1) terminate payments to the grant recipient;

13 (2) reduce payments to the grant recipient by  
14 an amount equal to the amount of payments that  
15 were not expended in accordance with this Act;

16 (3) limit the availability of payments under this  
17 Act to programs, projects, or activities not affected  
18 by the failure to comply; or

19 (4) refer the matter to the Attorney General  
20 with a recommendation that the Attorney General  
21 bring an appropriate civil action.

22 (b) ~~ACTION BY THE ATTORNEY GENERAL.~~—After a  
23 referral by the Secretary under subsection (a)(4), the At-  
24 torney General may bring a civil action in United States  
25 district court for appropriate relief (including mandatory

1 relief, injunctive relief, and recovery of the amount of the  
2 assistance provided under this Act that was not expended  
3 in accordance with this Act).

4 **SEC. 9. REPORTING REQUIREMENTS.**

5 (a) ANNUAL REPORT TO CONGRESS.—Not later than  
6 180 days after the end of each fiscal year in which assist-  
7 ance under this Act is provided, the Secretary shall submit  
8 to Congress a report that includes—

9 (1) a description of the progress made in ac-  
10 complishing the objectives of this Act;

11 (2) a summary of the use of funds under this  
12 Act during the preceding fiscal year; and

13 (3) an evaluation of the status of telephone,  
14 Internet, and personal computer penetration rates,  
15 by type of technology, among Indian households  
16 throughout Indian country on a tribe-by-tribe basis.

17 (b) REPORTS TO SECRETARY.—The Secretary may  
18 require grant recipients under this Act to submit reports  
19 and other information necessary for the Secretary to pre-  
20 pare the report under subsection (a).

21 **SEC. 10. CONSULTATION.**

22 In carrying out this Act, the Secretary shall consult  
23 with other Federal agencies administering Federal grant  
24 programs.

1 **SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.**

2 A telecommunications project funded under this Act  
3 shall comply with the National Historic Preservation Act  
4 (16 U.S.C. 470 et seq.).

5 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) ~~IN GENERAL.~~—There are authorized to be appro-  
7 priated to carry out this Act—

8 (1) ~~\$20,000,000 for fiscal year 2005; and~~

9 (2) such sums as are necessary for each subse-  
10 quent fiscal year.

11 (b) ~~AVAILABILITY.~~—Funds made available under  
12 subsection (a) shall remain available until expended.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Native American*  
15 *Connectivity Act”.*

16 **SEC. 2. FINDINGS.**

17 *Congress finds that—*

18 (1)(A) *disparities exist in the areas of education,*  
19 *health care, workforce training, commerce, and eco-*  
20 *nom ic activity of Indians due to the rural nature of*  
21 *most Indian reservations; and*

22 (B) *access to basic and advanced telecommuni-*  
23 *cations infrastructure is critical in eliminating those*  
24 *disparities;*



1           (2) currently, only 67.9 percent of Indian homes  
2           have telephone service, compared with the national  
3           average of 95.1 percent;

4           (3) the telephone service penetration rate on  
5           some reservations is as low as 39 percent;

6           (4) even on reservations and trust land, non-Indian  
7           homes are more likely to have telephone service  
8           than Indian homes;

9           (5) only 10 percent of Indian households on tribal  
10          land have Internet access;

11          (6) only 17 percent of Indian tribes have developed  
12          comprehensive technology plans;

13          (7) training and technical assistance have been  
14          identified as the most significant needs for the development  
15          and effective use of telecommunications and  
16          information technology in Indian country;

17          (8) funding for telecommunications and information  
18          technology projects in Indian country remains  
19          inadequate to address the needs of Indian communities;  
20

21          (9) many Indian tribes are located on or adjacent  
22          to Indian land in which unemployment rates exceed  
23          50 percent;

24          (10) the lack of telecommunications infrastructure  
25          and low telephone and Internet penetration rates

1 *adversely affects the ability of Indian tribes to pursue*  
2 *economic development opportunities; and*

3 *(11) primary, secondary, and postsecondary edu-*  
4 *cation, job training, health care, disease prevention*  
5 *education, and cultural preservation are greatly en-*  
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8 **SEC. 3. PURPOSES.**

9 *The purposes of this Act are—*

10 *(1) to promote affordable and universal access*  
11 *among Indian tribal governments, tribal entities, res-*  
12 *ervation-based schools, tribal colleges and universities,*  
13 *and Indian households to telecommunications and in-*  
14 *formation technology in Indian country;*

15 *(2) to encourage and promote tribal economic de-*  
16 *velopment, self-sufficiency, and strong tribal govern-*  
17 *ments;*

18 *(3) to enhance the health of Indian tribal mem-*  
19 *bers through the availability and use of telemedicine*  
20 *and telehealth;*

21 *(4) to improve the quality of kindergarten, pri-*  
22 *mary, secondary, postsecondary, and job-related*  
23 *training, through enhanced and sustained informa-*  
24 *tion technology infrastructure; and*

1           (5) *to assist in the retention and preservation of*  
2           *native languages and cultural traditions.*

3 **SEC. 4. DEFINITIONS.**

4           *In this Act:*

5           (1) *BLOCK GRANT.*—*The term “block grant”*  
6           *means a grant provided under section 5.*

7           (2) *ELIGIBLE ACTIVITY.*—*The term “eligible ac-*  
8           *tivity” means an activity carried out—*

9                   (A) *to acquire or lease real property (in-*  
10                   *cluding licensed spectrum, water rights, dark*  
11                   *fiber, exchanges, and other related interests) to*  
12                   *provide telecommunications services, facilities,*  
13                   *and improvements;*

14                   (B) *to acquire, construct, reconstruct, or in-*  
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16                   *provements (including design features), or utili-*  
17                   *ties;*

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19                   *under this Act for tribal communications pur-*  
20                   *poses;*

21                   (D) *to pay the non-Federal share required*  
22                   *by a Federal grant program undertaken as part*  
23                   *of activities funded under this Act;*

24                   (E) *to carry out activities necessary—*

- 1                   (i) to develop a comprehensive tele-  
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- 3                   (ii) to develop a policy, planning, and  
4                   management capacity so that an eligible en-  
5                   tity may more rationally and effectively—
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- 8                   (II) set long term and short term  
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1           *which telecommunications development activities*  
2           *are to be concentrated;*

3           *(G) to increase the capacity of an eligible*  
4           *entity to carry out telecommunications activities,*  
5           *including the development of telecommunications*  
6           *regulations and related regulatory matters;*

7           *(H) to provide assistance to institutions of*  
8           *higher education (including tribal colleges and*  
9           *universities) that have a demonstrated capacity*  
10          *to carry out eligible activities;*

11          *(I) to enable an eligible entity to facilitate*  
12          *telecommunications development by—*

13                 *(i) providing technical assistance, ad-*  
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3           information relevant to telecommunications and  
4           information technology in Indian country for the  
5           purpose of promoting effective telecommuni-  
6           cations and information technology deployment  
7           practices and usages among tribes.

8           (3) *ELIGIBLE ENTITY*.—The term “eligible enti-  
9           ty” means—

10           (A) an Indian tribe or consortium of In-  
11           dian tribes;

12           (B) a tribally chartered organization; or

13           (C) an Indian organization, intertribal or-  
14           ganization, tribal college or university, or a pri-  
15           vate or public institution of higher education  
16           acting under an agreement with an Indian tribe.

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

21           (5) *INFORMATION TECHNOLOGY*.—

22           (A) *IN GENERAL*.—The term “information  
23           technology” means any equipment or inter-  
24           connected system or subsystem of equipment that  
25           is used in the automatic acquisition, storage,

1           *analysis, evaluation, manipulation, manage-*  
2           *ment, movement, control, display, switching,*  
3           *interchange, transmission, or reception of data*  
4           *or information.*

5           (B) *INCLUSIONS.*—*The term “information*  
6           *technology” includes computers, ancillary equip-*  
7           *ment (including imaging peripherals, input, out-*  
8           *put, and storage devices necessary for security*  
9           *and surveillance), peripheral equipment designed*  
10          *to be controlled by the central processing unit of*  
11          *a computer, software, firmware and similar pro-*  
12          *cedures, services (including support services),*  
13          *and related resources.*

14          (6) *PLANNING.*—*The term “planning” means*  
15          *community-based planning developed in consultation*  
16          *with the local community based on the needs of the*  
17          *local community.*

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

20          (8) *TECHNICAL ASSISTANCE.*—*The term “tech-*  
21          *nical assistance” means the facilitation of skills and*  
22          *knowledge in planning, developing, assessing, and ad-*  
23          *ministering eligible activities.*

1           (9) *TRAINING AND TECHNICAL ASSISTANCE*  
2           *GRANT.*—*The term “training and technical assistance*  
3           *grant” means a grant provided under section 6.*

4           (10) *TRIBAL COLLEGE OR UNIVERSITY.*—*The*  
5           *term “tribal college or university” has the meaning*  
6           *given the term “tribally controlled college or univer-*  
7           *sity” in section 2 of the Tribally Controlled Commu-*  
8           *nity College Assistance Act of 1978 (25 U.S.C. 1801),*  
9           *except that the term also includes an institution listed*  
10          *in the Equity in Educational Land-Grant Status Act*  
11          *of 1994 (7 U.S.C. 301 note).*

12          (11) *TELEHEALTH.*—*The term “telehealth”*  
13          *means the use of electronic information and tele-*  
14          *communications technologies to support long-distance*  
15          *clinical health care, patient and professional health-*  
16          *related education, public health, and health adminis-*  
17          *tration.*

18 **SEC. 5. BLOCK GRANT PROGRAM.**

19          (a) *ESTABLISHMENT.*—*There is established within the*  
20          *National Telecommunications and Information Adminis-*  
21          *tration a Native American telecommunications block grant*  
22          *program to provide grants on a competitive basis to eligible*  
23          *entities to carry out eligible activities under subsection (c).*



1       (b) *BLOCK GRANTS.*—*The Secretary may provide a*  
 2 *block grant to an eligible entity that submits a block grant*  
 3 *application to the Secretary for approval.*

4       (c) *ELIGIBLE ACTIVITIES.*—*A grant under this section*  
 5 *may only be used for an eligible activity.*

6       (d) *REGULATIONS.*—*Not later than 180 days after the*  
 7 *date of enactment of this Act, the Secretary shall promul-*  
 8 *gate regulations establishing specific criteria for the com-*  
 9 *petition conducted to select eligible entities to receive grants*  
 10 *under this section for each fiscal year.*

11 **SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS.**

12       (a) *NOTIFICATION AND CRITERIA.*—*The Secretary—*

13               (1) *shall provide notice of the availability of*  
 14 *training and technical assistance grants; and*

15               (2) *publish criteria for selecting recipients.*

16       (b) *GRANTS.*—*The Secretary may provide training*  
 17 *and technical assistance grants to eligible entities with a*  
 18 *demonstrated capacity to carry out eligible activities.*

19       (c) *USE OF FUNDS.*—*A training and technical assist-*  
 20 *ance grant shall be used—*

21               (1) *to develop a training program to facilitate*  
 22 *local use and maintenance of new telecommunications*  
 23 *technologies;*

24               (2) *to develop and implement—*

1           (A) *telecommunications and information*  
2           *technology work study programs; and*

3           (B) *postsecondary telecommunications and*  
4           *information technology-related education, devel-*  
5           *opment, planning, and management programs;*

6           (3) *to develop a training program for tele-*  
7           *communications employees; or*

8           (4) *to provide assistance to students who—*

9           (A) *participate in telecommunications or*  
10           *information technology work study programs;*  
11           *and*

12           (B) *are enrolled in a full-time graduate or*  
13           *undergraduate program in telecommunications-*  
14           *related education, development, planning, or*  
15           *management.*

16       (d) *SETASIDE.—*

17           (1) *IN GENERAL.—For each fiscal year, the Sec-*  
18           *retary shall set aside 10 percent of the amount made*  
19           *available under section 12 for training and technical*  
20           *assistance grants, to remain available until expended.*

21           (2) *TREATMENT.—A training and technical as-*  
22           *istance grant to an entity shall be in addition to any*  
23           *block grant provided to the entity.*

1       (e) *PROVISION OF TECHNICAL ASSISTANCE BY THE*  
2 *SECRETARY.*—*The Secretary may provide technical assist-*  
3 *ance, directly or through contracts, to—*

4             (1) *eligible entities; and*

5             (2) *persons or entities that assist tribal govern-*  
6 *ments.*

7 **SEC. 7. COMPLIANCE.**

8       (a) *AUDIT BY THE COMPTROLLER GENERAL.*—

9             (1) *IN GENERAL.*—*The Comptroller General of*  
10 *the United States may audit any financial trans-*  
11 *action involving grant funds that is carried out by a*  
12 *block grant recipient or training and technical assist-*  
13 *ance grant recipient.*

14             (2) *SCOPE OF AUTHORITY.*—*In conducting an*  
15 *audit under paragraph (1), the Comptroller General*  
16 *shall have access to all books, accounts, records, re-*  
17 *ports, files, and other papers, things, or property be-*  
18 *longing to or in use by the grant recipient that relate*  
19 *to the financial transaction and are necessary to fa-*  
20 *cilitate the audit.*

21       (b) *ENVIRONMENTAL PROTECTION.*—

22             (1) *IN GENERAL.*—*After consultation with In-*  
23 *Indian tribes, the Secretary may promulgate regulations*  
24 *to carry out this subsection that—*

1           (A) ensure that the policies of the National  
2           *Environmental Policy Act of 1969 (42 U.S.C.*  
3           *4321 et seq.)*, and other laws that further the  
4           purposes of that Act (as specified by the regula-  
5           tions), are most effectively implemented in con-  
6           nection with the expenditure of funds under this  
7           Act; and

8           (B) assure the public of undiminished pro-  
9           tection of the environment.

10          (2) *SUBSTITUTE MEASURES.*—Subject to para-  
11          graph (3), the Secretary may provide for the release  
12          of funds under this Act for eligible activities to grant  
13          recipients that assume all of the responsibilities for  
14          environmental review, decisionmaking, and related  
15          action under the *National Environmental Policy Act*  
16          of 1969 (42 U.S.C. 4321 et seq.), and other laws that  
17          further the purposes of that Act (as specified by the  
18          regulations promulgated under paragraph (1)), that  
19          would apply to the Secretary if the Secretary carried  
20          out the eligible activities as Federal projects.

21          (3) *RELEASE.*—

22                (A) *IN GENERAL.*—The Secretary shall ap-  
23                prove the release of funds under paragraph (2)  
24                only if, at least 15 days prior to approval, the  
25                grant recipient submits to the Secretary a re-

1           *quest for release accompanied by a certification*  
2           *that meets the requirements of paragraph (4).*

3           *(B) APPROVAL.—The approval by the Sec-*  
4           *retary of a certification shall be deemed to sat-*  
5           *isfy the responsibilities of the Secretary under*  
6           *the National Environmental Policy Act of 1969*  
7           *(42 U.S.C. 4321 et seq.) and the laws specified*  
8           *by the regulations promulgated under paragraph*  
9           *(1), to the extent that those responsibilities relate*  
10          *to the release of funds for projects described in*  
11          *the certification.*

12          *(4) CERTIFICATION.—A certification shall—*

13                 *(A) be in a form acceptable to the Secretary;*

14                 *(B) be executed by the tribal government;*

15                 *(C) specify that the grant recipient has*  
16                 *fully assumed the responsibilities described in*  
17                 *paragraph (2); and*

18                 *(D) specify that the tribal officer—*

19                         *(i) assumes the status of a responsible*  
20                         *Federal official under the National Envi-*  
21                         *ronmental Policy Act of 1969 (42 U.S.C.*  
22                         *4321 et seq.) and each law specified by the*  
23                         *regulations promulgated under paragraph*  
24                         *(1), to the extent that the provisions of that*  
25                         *Act or law apply; and*

1                   (ii) is authorized to consent, and con-  
2                   sents, on behalf of the grant recipient and  
3                   on behalf of the tribal officer to accept the  
4                   jurisdiction of the Federal courts for en-  
5                   forcement of the responsibilities of the tribal  
6                   officer as a responsible Federal official.

7 **SEC. 8. REMEDIES FOR NONCOMPLIANCE.**

8           (a) *FAILURE TO COMPLY.*—If the Secretary finds, on  
9           the record after opportunity for an agency hearing, that  
10           a block grant recipient or training and technical assistance  
11           grant recipient has failed to comply substantially with any  
12           provision of this Act, the Secretary, until satisfied that  
13           there is no longer a failure to comply, shall—

- 14                   (1) terminate payments to the grant recipient;
- 15                   (2) reduce payments to the grant recipient by an  
16                   amount equal to the amount of payments that were  
17                   not expended in accordance with this Act;
- 18                   (3) limit the availability of payments under this  
19                   Act to programs, projects, or activities not affected by  
20                   the failure to comply; or
- 21                   (4) refer the matter to the Attorney General with  
22                   a recommendation that the Attorney General bring an  
23                   appropriate civil action.

24           (b) *ACTION BY THE ATTORNEY GENERAL.*—After a re-  
25           ferral by the Secretary under subsection (a)(4), the Attorney

1 *General may bring a civil action in United States district*  
2 *court for appropriate relief (including mandatory relief, in-*  
3 *junctionive relief, and recovery of the amount of the assistance*  
4 *provided under this Act that was not expended in accord-*  
5 *ance with this Act).*

6 **SEC. 9. REPORTING REQUIREMENTS.**

7 (a) *ANNUAL REPORT TO CONGRESS.*—*Not later than*  
8 *180 days after the end of each fiscal year in which assist-*  
9 *ance under this Act is provided, the Secretary shall submit*  
10 *to Congress a report that includes—*

11 (1) *a description of the progress made in accom-*  
12 *plishing the objectives of this Act;*

13 (2) *a summary of the use of funds under this Act*  
14 *during the preceding fiscal year; and*

15 (3) *an evaluation of the status of telephone,*  
16 *Internet, and personal computer penetration rates, by*  
17 *type of technology, among Indian households through-*  
18 *out Indian country on a tribe-by-tribe basis.*

19 (b) *REPORTS TO SECRETARY.*—*The Secretary may re-*  
20 *quire grant recipients under this Act to submit reports and*  
21 *other information necessary for the Secretary to prepare the*  
22 *report under subsection (a).*

23 **SEC. 10. CONSULTATION.**

24 *In carrying out this Act, the Secretary shall consult*  
25 *with—*

1           (1) *other Federal agencies administering Federal*  
2           *grant programs relating to the development of tele-*  
3           *communications capacities or infrastructure; and*

4           (2) *the Government Accountability Office and*  
5           *Indian tribes to determine the proportion of grant*  
6           *funds necessary to address training and technical as-*  
7           *sistance and eligible activity needs.*

8   **SEC. 11. HISTORIC PRESERVATION REQUIREMENTS.**

9           *A telecommunications project funded under this Act*  
10          *shall comply with the National Historic Preservation Act*  
11          *(16 U.S.C. 470 et seq.) and the Native American Graves*  
12          *Protection and Repatriation Act (25 U.S.C. 3001 et seq.).*

13   **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

14          (a) *IN GENERAL.*—*There are authorized to be appro-*  
15          *priated to carry out this Act—*

16                 (1) *\$20,000,000 for fiscal year 2005; and*

17                 (2) *such sums as are necessary for each subse-*  
18                 *quent fiscal year.*

19          (b) *AVAILABILITY.*—*Funds made available under sub-*  
20          *section (a) shall remain available until expended.*





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**S. 2382**

[Report No. 108-335]

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**A BILL**

To establish grant programs for the development of telecommunications capacities in Indian country.

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SEPTEMBER 7, 2004

Reported with an amendment