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117TH CONGRESS *2d Session*	SENATE	REPORT 117–112

PROTECTING INDIAN TRIBES FROM SCAMS ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1880



MAY 18 (legislative day, MAY 17), 2022.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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MAY 18 (legislative day, MAY 17), 2022.—Ordered to be printed

Ms. CANTWELL, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 1880]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1880) to direct the Federal Trade Commission to submit to Congress a report on unfair or deceptive acts or practices targeted at Indian Tribes or members of Indian Tribes, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1880 is to direct the Federal Trade Commission (FTC or Commission) to submit to Congress a report on unfair or deceptive acts or practices targeted at Indian Tribes or members of Indian Tribes and to include information about identifying and avoiding such acts or practices on its website.

BACKGROUND AND NEEDS

Each year, millions of Americans are victims of fraud and scams.[1] In the U.S. marketplace, financial fraud, identity theft, government impostor scams, and COVID–19 scams are among the most commonly reported schemes.[2] While fraud affects every community, FTC data suggests that scams targeting Indian Tribes and

[1] Federal Trade Commission, "New Data Shows FTC Received 2.2 Million Fraud Reports from Consumers in 2020," press release, February 4, 2021 (https://www.ftc.gov/news-events/press-releases/2021/02/new-data-shows-ftc-received-2-2-million-fraud-reports-consumers).

[2] Federal Bureau of Investigation, "Common Scams and Crimes" (https://www.fbi.gov/scams-and-safety/common-scams-and-crimes).

their members have increased in volume during the COVID–19 pandemic, and American Indian and Alaska Native (AI/AN) individuals are more likely to be victims of scams and less likely to report scams than other racial and ethnic groups.[3]

Indian Tribes and Tribal members are considered a particularly attractive target for scammers due, in part, to a steady influx of lump sum payments to Tribal governments and communities.[4] Those payments have historically come from tribal dividend payments, trust fund settlements, land trust consolidation, per capita payments, and Federal lawsuit settlements.[5] In the most recent COVID–19 packages, particularly the CARES Act and the American Rescue Plan, Tribes, Tribal members and individuals have received historic investments from the Federal Government, which places them at greater risk of fraud and scams worthy of warnings by the Commission.[6] In some cases, fraudsters and scammers may know the timing and size of these payouts and attempt to trick AI/AN individuals and Tribes into giving up a portion or all of their allocations or earnings.[7] Identity theft, price gouging, and establishing loans using per capita payments as collateral are some of the fraudulent practices scammers have purportedly used to steal money from Indian Tribes and their members.[8]

The FTC has a broad mandate to protect consumers from unfair or deceptive acts or practices in the marketplace. In recent years, the FTC has produced reports outlining its efforts to protect certain segments of the U.S. population that have been targeted or disproportionately affected by financial schemes or scams.[9] S. 1880, as reported, would require the FTC to develop a report specifically focused on unfair or deceptive practices targeting Indian Tribes and their members. The bill would require the FTC to submit the report to Congress and update the Commission's website with information for consumers and businesses on identifying and avoiding unfair or deceptive acts or practices targeting Indian Tribes and members of Indian Tribes.

LEGISLATIVE HISTORY

S. 1880 was introduced on May 27, 2021, by Senator Luján (for himself and Senator Moran) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Tester and Daines are additional cosponsors. On August 4, 2021, the Committee met in open Executive Session and, by voice vote, ordered S. 1880 reported favorably with an amendment (in the nature of a substitute).

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[3] U.S. Department of the Interior: Indian Affairs, "How to Avoid Getting Scammed" (https://www.bia.gov/service/starting-business/how-avoid-getting-scammed).

[4] Federal Trade Commission, "Fraud Affects Every Community," transcript from FTC workshop, part I/panel I, October 29, 2014 (https://www.ftc.gov/system/files/documents/videos/fraud-affects-every-community-workshop-part-1/ftc_fraud_affects_every_community_workshop_-_transcript_segment_1.pdf); see also First Nations Development Institute, "Fighting Fraud 101" (https://www.firstnations.org/projects/fighting-fraud-101-pamphlet/).

[5] Ibid.

[6] Federal Trade Commission Consumer Information, "Scams Will Follow New Rescue Plan" (https://www.consumer.ftc.gov/blog/2021/03/scams-will-follow-new-covid-19-rescue-plan).

[7] First Nations Development Institute, "Fighting Fraud 101" (https://www.firstnations.org/projects/fighting-fraud-101-pamphlet/).

[8] Ibid.

[9] Federal Trade Commission, *Protecting Older Consumers 2019–2020*, October 18, 2020 (https://www.ftc.gov/system/files/documents/reports/protecting-older-consumers-2019-2020-report-federal-trade-commission/p144400_protecting_older_adults_report_2020.pdf).

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 25, 2022.

Hon. MARIA CANTWELL,
Chair, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1880, the Protecting Indian Tribes from Scams Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 1880, Protecting Indian Tribes from Scams Act
As reported by the Senate Committee on Commerce, Science, and Transportation on December 17, 2021

By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated

Statutory pay-as-you-go procedures apply?	No	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and $500,000.

S. 1880 would require the Federal Trade Commission (FTC) to study and report to the Congress on unfair or deceptive acts or practices that target Indian Tribes or members of Indian Tribes and to update its website to include information for consumers and businesses on avoiding such acts or practices.

Using information from the FTC about the cost of similar activities, CBO estimates that it would cost the agency less than $500,000 to complete the required study and update its website; any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is David Hughes. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY IMPACT STATEMENT

Because S. 1880 does not create any new programs, the legislation will have no additional regulatory impact, and will result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section provides that the bill may be cited as the "Protecting Indian Tribes from Scams Act".

Section 2. Protecting Indian Tribes from unfair or deceptive acts or practices.

Paragraph (a) provides that, not later than 1 year after the date of enactment of this Act, the Commission must, after consulting with Indian Tribes, submit to the appropriate committees in Congress and make publicly available on its website a report regarding unfair or deceptive acts or practices targeting Indian Tribes or their members. The report must include: (1) a description of the types of unfair or deceptive acts or practices that target Indian Tribes or their members; (2) a description of the Commission's consumer education activities regarding such acts or practices; (3) a description of the Commission's efforts to collaborate with Indian Tribes to prevent such unfair or deceptive practices or to pursue perpetrators of such acts or practices; (4) a summary of the Commission's enforcement actions relating to such acts or practices; and (5) any recommendations for legislation to prevent such acts or practices.

Paragraph (b) provides that the Commission must, within 6 months of the bill's enactment, update its website with information that helps consumers and businesses identify and avoid unfair or deceptive acts or practices that target Indian Tribes or their members.

Paragraph (c) defines three terms used in the bill. This section defines "Indian Tribe" as having the same meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act.[10]

[10] 25 U.S.C. 5304.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

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