

## **Native American Business Development, Trade Promotion, and Tourism Act of 2000**

[Public Law 106–464]

[As Amended Through P.L. 116–261, Enacted December 30, 2020]

**[Currency:** This publication is a compilation of the text of Public Law 106–464. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>**]**

**[Note:** While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).**]**

AN ACT To provide for business development and trade promotion for Native Americans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

### **SECTION 1. [25 U.S.C. 4301 note] SHORT TITLE.**

This Act may be cited as the “Native American Business Development, Trade Promotion, and Tourism Act of 2000”.

### **SEC. 2. [25 U.S.C. 4301] FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) clause 3 of section 8 of article I of the United States Constitution recognizes the special relationship between the United States and Indian Tribes;

(2) beginning in 1970, with the inauguration by the Nixon Administration of the Indian self-determination era, each President has reaffirmed the special government-to-government relationship between Indian Tribes and the United States;

(3) in 1994, President Clinton issued an Executive memorandum to the heads of departments and agencies that obligated all Federal departments and agencies, particularly those that have an impact on economic development, to evaluate the potential impacts of their actions on Indian Tribes;

(4) consistent with the principles of inherent Tribal sovereignty and the special relationship between Indian Tribes and the United States, Indian Tribes retain the right to enter into contracts and agreements to trade freely, and seek enforcement of treaty and trade rights;

(5) Congress has carried out the responsibility of the United States for the protection and preservation of Indian Tribes and the resources of Indian Tribes through the endorse-

ment of treaties, and the enactment of other laws, including laws that provide for the exercise of administrative authorities;

(6) the United States has an obligation to guard and preserve the sovereignty of Indian Tribes in order to foster strong Tribal governments, Indian self-determination, and economic self-sufficiency among Indian Tribes;

(7) the capacity of Indian Tribes to build strong Tribal governments and vigorous economies is hindered by the inability of Indian Tribes to engage communities that surround Indian lands and outside investors in economic activities on Indian lands;

(8) despite the availability of abundant natural resources on Indian lands and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer higher rates of unemployment, poverty, poor health, substandard housing, and associated social ills than those of any other group in the United States;

(9) the United States has an obligation to assist Indian Tribes with the creation of appropriate economic and political conditions with respect to Indian lands to—

(A) encourage investment from outside sources that do not originate with the Tribes; and

(B) facilitate economic ventures with outside entities that are not Tribal entities;

(10) the economic success and material well-being of Native American communities depends on the combined efforts of the Federal Government, Tribal governments, the private sector, and individuals;

(11) the lack of employment and entrepreneurial opportunities in the communities referred to in paragraph (7) has resulted in a multigenerational dependence on Federal assistance that is—

(A) insufficient to address the magnitude of needs; and

(B) unreliable in availability; and

(12) the twin goals of economic self-sufficiency and political self-determination for Native Americans can best be served by making available to address the challenges faced by those groups—

(A) the resources of the private market;

(B) adequate capital; and

(C) technical expertise.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To revitalize economically and physically distressed Native American economies by—

(A) encouraging the formation of new businesses by eligible entities, and the expansion of existing businesses; and

(B) facilitating the movement of goods to and from Indian lands and the provision of services by Indians.

(2) To promote private investment in the economies of Indian Tribes and to encourage the sustainable development of resources of Indian Tribes and Indian-owned businesses.

(3) To promote the long-range sustained growth of the economies of Indian Tribes.

(4) To raise incomes of Indians in order to reduce the number of Indians at poverty levels and provide the means for achieving a higher standard of living on Indian reservations.

(5) To encourage intertribal, regional, and international trade and business development in order to assist in increasing productivity and the standard of living of members of Indian Tribes and improving the economic self-sufficiency of the governing bodies of Indian Tribes.

(6) To promote economic self-sufficiency and political self-determination for Indian Tribes and members of Indian Tribes.

(c) **APPLICABILITY TO INDIAN-OWNED BUSINESSES.**—The findings and purposes in subsections (a) and (b) shall apply to any Indian-owned business governed—

(1) by Tribal laws regulating trade or commerce on Indian lands; or

(2) pursuant to section 5 of the Act of August 15, 1876 (19 Stat. 200, chapter 289; 25 U.S.C. 261).

**SEC. 3.<sup>1</sup> [25 U.S.C. 4302] DEFINITIONS.**

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Director of Native American Business Development appointed pursuant to section 4(a)(2).

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means an Indian Tribe or Tribal organization, an Indian arts and crafts organization, as that term is defined in section 2 of the Act of August 27, 1935 (commonly known as the “Indian Arts and Crafts Act”) (49 Stat. 891, chapter 748; 25 U.S.C. 305a), a Tribal enterprise, a Tribal marketing cooperative (as that term is defined by the Secretary, in consultation with the Secretary of the Interior), or any other Indian-owned business.

(3) **INDIAN.**—The term “Indian” has the meaning given that term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(4) **INDIAN GOODS AND SERVICES.**—The term “Indian goods and services” means—

(A) Indian goods, within the meaning of section 2 of the Act of August 27, 1935 (commonly known as the “Indian Arts and Crafts Act”) (49 Stat. 891, chapter 748; 25 U.S.C. 305a);

(B) goods produced or originated by an eligible entity; and

(C) services provided by eligible entities.

(5) **INDIAN LANDS.**—

(A) **IN GENERAL.**—The term “Indian lands” includes lands under the definition of—

(i) the term “Indian country” under section 1151 of title 18, United States Code; or

(ii) the term “reservation” under—

<sup>1</sup>Section 3(b) of Public Law 116–261 provides for amendments to add new paragraphs (1) and (8) and renumbers existing paragraphs. Subsection (e)(1) of such section 3 provides for amendments to this section in paragraphs (1), (4), (6), and (8) without reference to the earlier amendments and refers to paragraphs prior to their redesignation. The amendments made by such subsection (e)(1) were carried out first followed by the earlier ones in subsection (b) in order to reflect the probable intent of Congress.

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(I) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)); or

(II) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

(B) FORMER INDIAN RESERVATIONS IN OKLAHOMA.—For purposes of applying section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)) under subparagraph (A)(ii), the term “former Indian reservations in Oklahoma” shall be construed to include lands that are—

(i) within the jurisdictional areas of an Oklahoma Indian Tribe (as determined by the Secretary of the Interior); and

(ii) recognized by the Secretary of the Interior as eligible for trust land status under part 151 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(6) INDIAN-OWNED BUSINESS.—The term “Indian-owned business” means an entity organized for the conduct of trade or commerce with respect to which at least 50 percent of the property interests of the entity are owned by Indians or Indian Tribes (or a combination thereof).

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

(8) OFFICE.—The term “Office” means the Office of Native American Business Development established by section 4(a)(1).

(9) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

(10) TRIBAL ENTERPRISE.—The term “Tribal enterprise” means a commercial activity or business managed or controlled by an Indian Tribe.

(11) TRIBAL ORGANIZATION.—The term “Tribal organization” has the meaning given that term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

**SEC. 4. [25 U.S.C. 4303] OFFICE OF NATIVE AMERICAN BUSINESS DEVELOPMENT.**

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established within the Office of the Secretary an office known as the Office of Native American Business Development.

(2) DIRECTOR.—The Office shall be headed by a Director, appointed by the Secretary, whose title shall be the Director of Native American Business Development. The Director shall be compensated at a rate not to exceed level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary, acting through the Director, shall ensure the coordination of Federal programs that provide assistance, including financial and technical assistance, to eligible entities for increased business, the expansion of trade by eligible entities, and economic development on Indian lands.

(2) INTERAGENCY COORDINATION.—The Secretary, acting through the Director, shall coordinate Federal programs relating to Indian economic development, including any such program of the Department of the Interior, the Small Business Administration, the Department of Labor, or any other Federal agency charged with Indian economic development responsibilities.

(3) ACTIVITIES.—In carrying out the duties described in paragraph (1), the Secretary, acting through the Director, shall ensure the coordination of, or, as appropriate, carry out—

(A) Federal programs designed to provide legal, accounting, or financial assistance to eligible entities;

(B) market surveys;

(C) the development of promotional materials;

(D) the financing of business development seminars;

(E) the facilitation of marketing;

(F) the participation of appropriate Federal agencies or eligible entities in trade fairs;

(G) any activity that is not described in subparagraphs (A) through (F) that is related to the development of appropriate markets; and

(H) any other activity that the Secretary, in consultation with the Director, determines to be appropriate to carry out this section.

(4) ASSISTANCE.—In conjunction with the activities described in paragraph (3), the Secretary, acting through the Director, shall provide—

(A) financial assistance, technical assistance, and administrative services to eligible entities to assist those entities with—

(i) identifying and taking advantage of business development opportunities; and

(ii) compliance with appropriate laws and regulatory practices; and

(B) such other assistance as the Secretary, in consultation with the Director, determines to be necessary for the development of business opportunities for eligible entities to enhance the economies of Indian Tribes.

(5) PRIORITIES.—In carrying out the duties and activities described in paragraphs (3) and (4), the Secretary, acting through the Director, shall give priority to activities that—

(A) provide the greatest degree of economic benefits to Indians; and

(B) foster long-term stable economies of Indian Tribes.

(6) PROHIBITION.—The Secretary may not provide under this section assistance for any activity related to the operation of a gaming activity on Indian lands pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.).

(c) DUTIES OF DIRECTOR.—

(1) IN GENERAL.—The Director shall serve as—

(A) the program and policy advisor to the Secretary with respect to the trust and governmental relationship between the United States and Indian Tribes; and

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(B) the point of contact for Indian Tribes, Tribal organizations, and Indians regarding—

(i) policies and programs of the Department of Commerce; and

(ii) other matters relating to economic development and doing business in Indian lands.

(2) DEPARTMENTAL COORDINATION.—The Director shall coordinate with all offices and agencies within the Department of Commerce to ensure that each office and agency has an accountable process to ensure—

(A) meaningful and timely coordination and assistance, as required by this Act; and

(B) consultation with Indian Tribes regarding the policies, programs, assistance, and activities of the offices and agencies.

(3) OFFICE OPERATIONS.—There are authorized to be appropriated to carry out this section not more than \$2,000,000 for each fiscal year.

**SEC. 5. [25 U.S.C. 4304] NATIVE AMERICAN TRADE AND EXPORT PROMOTION.**

(a) IN GENERAL.—The Secretary, acting through the Director, shall carry out a Native American export and trade promotion program (referred to in this section as the “program”).

(b) COORDINATION OF FEDERAL PROGRAMS AND SERVICES.—In carrying out the program, the Secretary, acting through the Director, and in cooperation with the heads of appropriate Federal agencies, shall ensure the coordination of Federal programs and services designed to—

(1) develop the economies of Indian Tribes; and

(2) stimulate the demand for Indian goods and services that are available from eligible entities.

(c) ACTIVITIES.—In carrying out the duties described in subsection (b), the Secretary, acting through the Director, shall ensure the coordination of, or, as appropriate, carry out—

(1) Federal programs designed to provide technical or financial assistance to eligible entities;

(2) the development of promotional materials;

(3) the financing of appropriate trade missions;

(4) the marketing of Indian goods and services;

(5) the participation of appropriate Federal agencies or eligible entities in international trade fairs; and

(6) any other activity related to the development of markets for Indian goods and services.

(d) TECHNICAL ASSISTANCE.—In conjunction with the activities described in subsection (c), the Secretary, acting through the Director, shall provide technical assistance and administrative services to eligible entities to assist those entities with—

(1) the identification of appropriate markets for Indian goods and services;

(2) entering the markets referred to in paragraph (1);

(3) compliance with foreign or domestic laws and practices with respect to financial institutions with respect to the export and import of Indian goods and services; and

(4) entering into financial arrangements to provide for the export and import of Indian goods and services.

(e) PRIORITIES.—In carrying out the duties and activities described in subsections (b) and (c), the Secretary, acting through the Director, shall give priority to activities that—

(1) provide the greatest degree of economic benefits to Indians; and

(2) foster long-term stable international markets for Indian goods and services.

**SEC. 6. [25 U.S.C. 4305] INTERTRIBAL TOURISM DEMONSTRATION PROJECTS.**

(a) PROGRAM TO CONDUCT TOURISM PROJECTS.—

(1) IN GENERAL.—The Secretary, acting through the Director, shall conduct a Native American tourism program to facilitate the development and conduct of tourism demonstration projects by Indian Tribes, on a Tribal, intertribal, or regional basis.

(2) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Under the program established under this section, in order to assist in the development and promotion of tourism on and in the vicinity of Indian lands, the Secretary, acting through the Director, shall, in coordination with the Under Secretary of Agriculture for Rural Development, assist eligible entities in the planning, development, and implementation of tourism development demonstration projects that meet the criteria described in subparagraph (B).

(B) PROJECTS DESCRIBED.—In selecting tourism development demonstration projects under this section, the Secretary, acting through the Director, shall select projects that have the potential to increase travel and tourism revenues by attracting visitors to Indian lands and lands in the vicinity of Indian lands, including projects that provide for—

(i) the development and distribution of educational and promotional materials pertaining to attractions located on and near Indian lands;

(ii) the development of educational resources to assist in private and public tourism development on and in the vicinity of Indian lands; and

(iii) the coordination of tourism-related joint ventures and cooperative efforts between eligible entities and appropriate State and local governments that have jurisdiction over areas in the vicinity of Indian lands.

(3) GRANTS.—To carry out the program under this section, the Secretary, acting through the Director, may award grants or enter into other appropriate arrangements with Indian Tribes, Tribal organizations, intertribal consortia, or other Tribal entities that the Secretary, in consultation with the Director, determines to be appropriate.

(4) LOCATIONS.—In providing for tourism development demonstration projects under the program under this section,

the Secretary, acting through the Director, shall provide for a demonstration project to be conducted—

(A) for Indians of the Four Corners area located in the area adjacent to the border between Arizona, Utah, Colorado, and New Mexico;

(B) for Indians of the northwestern area that is commonly known as the Great Northwest (as determined by the Secretary);

(C) for the Oklahoma Indians in Oklahoma;

(D) for the Indians of the Great Plains area (as determined by the Secretary); and

(E) for Alaska Natives in Alaska.

(b) ASSISTANCE.—The Secretary, acting through the Director, shall provide financial assistance, technical assistance, and administrative services to participants that the Secretary, acting through the Director, selects to carry out a tourism development project under this section, with respect to—

(1) feasibility studies conducted as part of that project;

(2) market analyses;

(3) participation in tourism and trade missions; and

(4) any other activity that the Secretary, in consultation with the Director, determines to be appropriate to carry out this section.

(c) INFRASTRUCTURE DEVELOPMENT.—The demonstration projects conducted under this section shall include provisions to facilitate the development and financing of infrastructure, including the development of Indian reservation roads in a manner consistent with title 23, United States Code.

#### **SEC. 7. [25 U.S.C. 4306] REPORT TO CONGRESS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary, in consultation with the Director, shall prepare and submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a report on the operation of the Office.

(b) CONTENTS OF REPORT.—Each report prepared under subsection (a) shall include—

(1) for the period covered by the report, a summary of the activities conducted by the Secretary, acting through the Director, in carrying out sections 4 through 6; and

(2) any recommendations for legislation that the Secretary, in consultation with the Director, determines to be necessary to carry out sections 4 through 6.

#### **SEC. 8. [25 U.S.C. 4306a] INDIAN COMMUNITY DEVELOPMENT INITIATIVES.**

(a) INTERAGENCY COORDINATION.—Not later than 1 year after the enactment of this section, the Secretary, the Secretary of the Interior, and the Secretary of the Treasury shall coordinate—

(1) to develop initiatives that—

(A) encourage, promote, and provide education regarding investments in Indian communities through—



(i) the loan guarantee program of Bureau of Indian Affairs under section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481);

(ii) programs carried out using amounts in the Community Development Financial Institutions Fund established under section 104(a) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(a)); and

(iii) other capital development programs;

(B) examine and develop alternatives that would qualify as collateral for financing in Indian communities; and

(C) provide entrepreneur and other training relating to economic development through tribally controlled colleges and universities and other Indian organizations with experience in providing such training;

(2) to consult with Indian Tribes and with the Securities and Exchange Commission to study, and collaborate to establish, regulatory changes necessary to qualify an Indian Tribe as an accredited investor for the purposes of sections 230.500 through 230.508 of title 17, Code of Federal Regulations (or successor regulations), consistent with the goals of promoting capital formation and ensuring qualifying Indian Tribes have the ability to withstand investment loss, on a basis comparable to other legal entities that qualify as accredited investors who are not natural persons;

(3) to identify regulatory, legal, or other barriers to increasing investment, business, and economic development, including qualifying or approving collateral structures, measurements of economic strength, and contributions of Indian economies in Indian communities through the Authority established under section 4 of the Indian Tribal Regulatory Reform and Business Development Act of 2000 (25 U.S.C. 4301 note);

(4) to ensure consultation with Indian Tribes regarding increasing investment in Indian communities and the development of the report required in paragraph (5); and

(5) not less than once every 2 years, to provide a report to Congress regarding—

(A) improvements to Indian communities resulting from such initiatives and recommendations for promoting sustained growth of the Tribal economies;

(B) results of the study and collaboration regarding the necessary changes referenced in paragraph (2) and the impact of allowing Indian Tribes to qualify as an accredited investor; and

(C) the identified regulatory, legal, and other barriers referenced in paragraph (3).

(b) **WAIVER.**—For assistance provided pursuant to section 108 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4707) to benefit Native Community Development Financial Institutions, as defined by the Secretary of the Treasury, section 108(e) of such Act shall not apply.

(c) **INDIAN ECONOMIC DEVELOPMENT FEASIBILITY STUDY.**—

(1) **IN GENERAL.**—The Government Accountability Office shall conduct a study and, not later than 18 months after the

date of enactment of this subsection, submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report on the findings of the study and recommendations.

(2) CONTENTS.—The study shall include an assessment of each of the following:

(A) IN GENERAL.—The study shall assess current Federal capitalization and related programs and services that are available to assist Indian communities with business and economic development, including manufacturing, physical infrastructure (such as telecommunications and broadband), community development, and facilities construction for such purposes. For each of the Federal programs and services identified, the study shall assess the current use and demand by Indian Tribes, individuals, businesses, and communities of the programs, the capital needs of Indian Tribes, businesses, and communities related to economic development, the extent to which the programs and services overlap or are duplicative, and the extent that similar programs have been used to assist non-Indian communities compared to the extent used for Indian communities.

(B) FINANCING ASSISTANCE.—The study shall assess and quantify the extent of assistance provided to non-Indian borrowers and to Indian (both Tribal and individual) borrowers (including information about such assistance as a percentage of need for Indian borrowers and for non-Indian borrowers, assistance to Indian borrowers and to non-Indian borrowers as a percentage of total applicants, and such assistance to Indian borrowers as individuals as compared to such assistance to Indian Tribes) through the loan programs, the loan guarantee programs, or bond guarantee programs of the—

- (i) Department of the Interior;
- (ii) Department of Agriculture;
- (iii) Department of Housing and Urban Development;
- (iv) Department of Energy;
- (v) Small Business Administration; and
- (vi) Community Development Financial Institutions Fund of the Department of the Treasury.

(C) TAX INCENTIVES.—The study shall assess and quantify the extent of the assistance and allocations afforded for non-Indian projects and for Indian projects pursuant to each of the following tax incentive programs:

- (i) New market tax credit.
- (ii) Low income housing tax credit.
- (iii) Investment tax credit.
- (iv) Renewable energy tax incentives.
- (v) Accelerated depreciation.

(D) TRIBAL INVESTMENT INCENTIVE.—The study shall assess various alternative incentives that could be provided to enable and encourage Tribal governments to in-

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vest in an Indian community development investment fund  
or bank.

**SEC. 10.<sup>2</sup> [25 U.S.C. 4307] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

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<sup>2</sup>There is no section 9 in law. See amendments made by section 3(d) of Public Law 116-261.