

INDIAN COMMUNITY ECONOMIC ENHANCEMENT ACT OF
2019

DECEMBER 2, 2020.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany S. 212]

The Committee on Natural Resources, to whom was referred the bill (S. 212) to amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000, the Buy Indian Act, and the Native American Programs Act of 1974 to provide industry and economic development opportunities to Indian communities, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 212 is to amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000, the Buy Indian Act, and the Native American Programs Act of 1974 to provide industry and economic development opportunities to Indian communities.

BACKGROUND AND NEED FOR LEGISLATION

S. 212 amends three federal laws relating to business, economic, and trade development in Indian communities. These amendments are intended to increase access to capital for Indian tribes and businesses, increase opportunities for Indian business promotion, and create mechanisms and tools to attract investments in Indian communities.¹

¹For additional information, see generally S. REP. NO. 116-28 (2019), <https://www.congress.gov/116/crpt/srpt28/CRPT-116srpt28.pdf>, which describes the bill as reported by the Senate Committee. Since then, the bill has been amended only once, on the Senate floor,

Continued

COMMITTEE ACTION

S. 212 was introduced on January 24, 2019, by Senator John Hoeven (R–ND) and was referred to the Senate Committee on Indian Affairs.² On January 29, 2019, the Senate Committee met to consider the bill. The Senate Committee ordered the bill, without amendment, ordered favorably reported to the Senate by voice vote. On April 8, 2019, the bill was favorably reported to the Senate with a written report.³ On June 27, 2019, the bill was laid before the Senate by unanimous consent. S. Amdt. 905, proposed by Senator Mitch McConnell (R–KY) for Senator Hoeven, was agreed to by unanimous consent. The Senate passed the bill, as amended, by voice vote.

The House received the engrossed Senate bill on June 28, 2019. The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Education and Labor. Within the Natural Resources Committee, the bill was referred to the Subcommittee for Indigenous Peoples of the United States. On September 30, 2020, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider S. 212: oversight hearing entitled “Reviewing the Broken Promises Report: Examining the Chronic Federal Funding Shortfalls in Indian Country” by the Subcommittee for Indigenous Peoples of the United States held on November 19, 2019.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should

to slightly revise the scope of a study that the bill requires the Government Accountability Office to conduct.

²An identical House companion bill, H.R. 1937, was introduced on March 27, 2019, by Representative Norma Torres (D–CA).

³S. REP. NO. 116–28 (2019), <https://www.congress.gov/116/crpt/srpt28/CRPT-116srpt28.pdf>.

such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

CBO estimated that the bill, as reported by the Senate Committee on Indian Affairs, would not have any net deficit effect.⁴ The bill was subsequently amended by the full Senate only to slightly revise the scope of a Government Accountability Office study, so the House Committee on Natural Resources does not anticipate that an updated CBO estimate will find differently.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000, the Buy Indian Act, and the Native American Programs Act of 1974 to provide industry and economic development opportunities to Indian communities.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (UMRA) was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

CBO estimated that the bill, as reported by the Senate Committee on Indian Affairs, did not contain any unfunded mandates as defined by UMRA.⁵ The bill was subsequently amended by the full Senate only to slightly revise the scope of a Government Accountability Office study, so the House Committee on Natural Resources does not anticipate that an updated CBO estimate will find differently.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The bill would reauthorize the Department of Commerce Office of Native American Business Development (ONABD), which is empowered to award grants. However, funds have never been appropriated for the ONABD, so the Catalog of Federal Do-

⁴ Available at <https://www.cbo.gov/system/files/2019-03/s212.pdf>.

⁵ Available at <https://www.cbo.gov/system/files/2019-03/s212.pdf>.

mestic Assistance published pursuant to 31 U.S.C. § 6104 has not identified any programs as related. The Department of Health and Human Services Administration for Native Americans (ANA) Native American Programs (CFDA No. 93.612) reauthorized by this bill is related and complementary to, but not duplicative of, the following programs identified in the most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. § 6104: Improving the Capability of Indian Tribal Governments to Regulate Environmental Quality (CFDA No. 93.581) and Promote the Survival and Continuing Vitality of Native American Languages (CFDA No. 93.587). The latter program, which is also reauthorized by this bill, is itself related and complementary to, but not duplicative of, the following programs identified in the most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. § 6104: Improving the Capability of Indian Tribal Governments to Regulate Environmental Quality (CFDA No. 93.581) and Native American Programs (CFDA No. 93.612).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

NATIVE AMERICAN BUSINESS DEVELOPMENT, TRADE PROMOTION, AND TOURISM ACT OF 2000

SECTION 1. SHORT TITLE.

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

SEC. 2. 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]** *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]** *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] *Tribes*;

(4) consistent with the principles of inherent [tribal] *Tribal* sovereignty and the special relationship between Indian [tribes] *Tribes* and the United States, Indian [tribes] *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] *Tribes* and the resources of Indian [tribes] *Tribes* through the endorsement 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] *Tribes* in order to foster strong [tribal] *Tribal* governments, Indian self-determination, and economic self-sufficiency among Indian [tribes] *Tribes*;

(7) the capacity of Indian [tribes] *Tribes* to build strong [tribal] *Tribal* governments and vigorous economies is hindered by the inability of Indian [tribes] *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] *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] *Tribes*; and

(B) facilitate economic ventures with outside entities that are not [tribal] *Tribal* entities;

(10) the economic success and material well-being of Native American communities depends on the combined efforts of the Federal Government, [tribal] *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 Tribes** and to encourage the sustainable development of resources of Indian **tribes Tribes** and Indian-owned businesses.

(3) To promote the long-range sustained growth of the economies of Indian **tribes 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 Tribes** and improving the economic self-sufficiency of the governing bodies of Indian **tribes Tribes**.

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

In this Act:

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

tribe Tribe or **tribal 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 Tribal** enterprise, a **tribal 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.

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tribe Tribe or **tribal 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 Tribal** enterprise, a **tribal 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.

(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.

[(4)] (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—

(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]** *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).

[(5)] (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]** *Tribes* (or a combination thereof).

[(6)] (7) INDIAN TRIBE.—**[(The term “Indian tribe” has the meaning given that term)]** *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).*

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

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

[(9)] (11) TRIBAL ORGANIZATION.—The term “**[tribal]** *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(1)).

SEC. 4. OFFICE OF NATIVE AMERICAN BUSINESS DEVELOPMENT.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established within the **[Department of Commerce]** *Office of the Secretary* an office known as the Office of Native American Business Development **[(referred to in this Act as the “Office”)]**.

(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 **[(referred to in this**

Act as the “Director”)]. 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] 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] 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*

(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. 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] 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. 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] *Tribes*, on a [tribal] *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] *Tribes*, [tribal] *Tribal* organizations, intertribal con-

sortia, or other **[tribal]** *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.

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SEC. 8. 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 invest in an Indian community development investment fund or bank.

SEC. [8.] 10. 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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ACT OF JUNE 25, 1910

[SEC. 23. So far as may be practicable Indian labor shall be employed, and purchases of the products (including, but not limited to printing, notwithstanding any other law). of Indian industry may be made in open market in the discretion of the Secretary of the Interior. All Acts and parts of Acts in conflict with the provisions of this section are hereby repealed. Participation in the Mentor-Protege Program established under section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note)

or receipt of assistance pursuant to any developmental assistance agreement authorized under such program shall not render Indian labor or Indian industry ineligible to receive any assistance authorized under this section. For the purposes of this section—

【(1) no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f) of section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note); and

【(2) the terms “protege firm” and “mentor firm” have the meaning given such terms in subsection (c) of such section 831.】

SEC. 23. EMPLOYMENT OF INDIAN LABOR AND PURCHASE OF PRODUCTS OF INDIAN INDUSTRY; PARTICIPATION IN MENTOR-PROTEGE PROGRAM.

(a) **DEFINITIONS.**—*In this section:*

(1) **INDIAN ECONOMIC ENTERPRISE.**—*The term “Indian economic enterprise” has the meaning given the term in section 1480.201 of title 48, Code of Federal Regulations (or successor regulations).*

(2) **MENTOR FIRM; PROTEGE FIRM.**—*The terms “mentor firm” and “protege firm” have the meanings given those terms in section 831(c) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note; Public Law 101–510).*

(3) **SECRETARIES.**—*The term “Secretaries” means—*

(A) *the Secretary of the Interior; and*

(B) *the Secretary of Health and Human Services.*

(b) **ENTERPRISE DEVELOPMENT.**—

(1) **IN GENERAL.**—*Unless determined by one of the Secretaries to be impracticable and unreasonable—*

(A) *Indian labor shall be employed; and*

(B) *purchases of Indian industry products (including printing and facilities construction, notwithstanding any other provision of law) may be made in open market by the Secretaries.*

(2) **MENTOR-PROTEGE PROGRAM.**—

(A) **IN GENERAL.**—*Participation in the Mentor-Protege Program established under section 831(a) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note; Public Law 101–510) or receipt of assistance under a developmental assistance agreement under that program shall not render any individual or entity involved in the provision of Indian labor or an Indian industry product ineligible to receive assistance under this section.*

(B) **TREATMENT.**—*For purposes of this section, no determination of affiliation or control (whether direct or indirect) may be found between a protege firm and a mentor firm on the basis that the mentor firm has provided, or agreed to provide, to the protege firm, pursuant to a mentor-protege agreement, any form of developmental assistance described in section 831(f) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note; Public Law 101–510).*

(c) *IMPLEMENTATION.*—*In carrying out this section, the Secretaries shall—*

- (1) *conduct outreach to Indian industrial entities;*
- (2) *provide training;*
- (3) *promulgate regulations in accordance with this section and with the regulations under part 1480 of title 48, Code of Federal Regulations (or successor regulations), to harmonize the procurement procedures of the Department of the Interior and the Department of Health and Human Services, to the maximum extent practicable;*
- (4) *require regional offices of the Bureau of Indian Affairs and the Indian Health Service to aggregate data regarding compliance with this section;*
- (5) *require procurement management reviews by their respective Departments to include a review of the implementation of this section; and*
- (6) *consult with Indian Tribes, Indian industrial entities, and other stakeholders regarding methods to facilitate compliance with—*
 - (A) *this section; and*
 - (B) *other small business or procurement goals.*

(d) *REPORT.*—

(1) *IN GENERAL.*—*Not later than 1 year after the date of enactment of this section, and not less frequently than once every 2 years thereafter, each of the Secretaries shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report describing, during the period covered by the report, the implementation of this section by each of the respective Secretaries.*

(2) *CONTENTS.*—*Each report under this subsection shall include, for each fiscal year during the period covered by the report—*

(A) *the names of each agency under the respective jurisdiction of each of the Secretaries to which this section has been applied, and efforts made by additional agencies within the Secretaries' respective Departments to use the procurement procedures under this Act;*

(B) *a summary of the types of purchases made from, and contracts (including any relevant modifications, extensions, or renewals) awarded to, Indian economic enterprises, expressed by agency region;*

(C) *a description of the percentage increase or decrease in total dollar value and number of purchases and awards made within each agency region, as compared to the totals of the region for the preceding fiscal year;*

(D) *a description of the methods used by applicable contracting officers and employees to conduct market searches to identify qualified Indian economic enterprises;*

(E) *a summary of all deviations granted under section 1480.403 of title 48, Code of Federal Regulations (or successor regulations), including a description of—*

- (i) *the types of alternative procurement methods used, including any Indian owned businesses reported under other procurement goals; and*

(ii) the dollar value of any awards made pursuant to those deviations;

(F) a summary of all determinations made to provide awards to Indian economic enterprises, including a description of the dollar value of the awards;

(G) a description or summary of the total number and value of all purchases of, and contracts awarded for, supplies, services, and construction (including the percentage increase or decrease, as compared to the preceding fiscal year) from—

(i) Indian economic enterprises; and

(ii) non-Indian economic enterprises;

(H) any administrative, procedural, legal, or other barriers to achieving the purposes of this section, together with recommendations for legislative or administrative actions to address those barriers; and

(I) for each agency region—

(i) the total amount spent on purchases made from, and contracts awarded to, Indian economic enterprises; and

(ii) a comparison of the amount described in clause (i) to the total amount that the agency region would likely have spent on the same purchases made from a non-Indian economic enterprise or contracts awarded to a non-Indian economic enterprise.

(e) GOALS.—Each agency shall establish an annual minimum percentage goal for procurement in compliance with this section.

NATIVE AMERICAN PROGRAMS ACT OF 1974

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TITLE VIII—NATIVE AMERICAN PROGRAMS

* * * * *

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

SEC. 803. (a) The Commissioner is authorized to provide financial assistance, on a single year or multiyear basis, to public and non-profit private agencies, including but not limited to, governing bodies of Indian **tribes** Tribes on Federal and State reservations, Alaska Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and non-profit private agencies serving Native Hawaiians, and Indian and Alaska Native organizations in urban or rural areas that are not Indian reservations or Alaska Native villages, for project pertaining to the purposes of this title. The Commissioner is authorized to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act. In determining the projects to be assisted under this title, the Commissioner shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or project and for the purpose of determining whether the findings resulting from those projects may be incorporated into one

or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized **[tribe]** *Tribe*. To the greatest extent practicable, the Commissioner shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance.

(b) *ECONOMIC DEVELOPMENT.*—

(1) *IN GENERAL.*—*The Commissioner may provide assistance under subsection (a) for projects relating to the purposes of this title to a Native community development financial institution, as defined by the Secretary of the Treasury.*

(2) *PRIORITY.*—*With regard to not less than 50 percent of the total amount available for assistance under this section, the Commissioner shall give priority to any application seeking assistance for—*

(A) *the development of a Tribal code or court system for purposes of economic development, including commercial codes, training for court personnel, regulation pursuant to section 5 of the Act of August 15, 1876 (19 Stat. 200, chapter 289; 25 U.S.C. 261), and the development of nonprofit subsidiaries or other Tribal business structures;*

(B) *the development of a community development financial institution, including training and administrative expenses; or*

(C) *the development of a Tribal master plan for community and economic development and infrastructure.*

[(b)] (c) Financial assistance extended to an agency under this title shall not exceed 80 per centum of the approved costs of the assisted project, except that the Commissioner may approve assistance in excess of such percentage if the Commissioner determines, in accordance with regulations establishing objective criteria, that such action required in furtherance of the purposes of this title. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Commissioner shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this title.

[(c)] (d)(1) No project shall be approved for assistance under this title unless the Commissioner is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Commissioner may waive this requirement in any case in which the Commissioner determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this title.

(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.

[(d)] (e)(1) The Commissioner shall award grants to Indian [tribes] Tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian [tribe] Tribe to regulate environmental quality pursuant to Federal and [tribal] Tribal environmental laws.

(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

(B) the development of [tribal] Tribal laws on environmental quality, and

(C) the enforcement and monitoring of environmental quality laws.

(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian [tribes] Tribes to the Commissioner in such form as the Commissioner shall prescribe.

* * * * *

ESTABLISHMENT OF ADMINISTRATION FOR NATIVE AMERICANS

SEC. 803B. (a) There is established in the Department of Health and Human Services (referred to in this title as the “Department”) the Administration for Native Americans (referred to in this title as the “Administration”), which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this title as the “Commissioner”). The Administration shall be the agency responsible for carrying out the provisions of this title.

(b) The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Commissioner shall—

(1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this title;

(2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other departments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;

(3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1), coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native Americans, and provide quarterly reports and recommendations to the Secretary;

(4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the

Secretary in preparing an annual report to the Congress about such conditions;

(5) give preference to agencies described in section 803(a) that are eligible for assistance under this title, in entering into contracts for technical assistance, training, and evaluation under this title; and

(6) encourage agencies that carry out projects under this title, to give preference to Native Americans, in hiring and entering into contracts to carry out such projects.

(d)(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.

(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

(3) In addition to the duties described in subsection (c)(3), the Council shall, within 180 days following the date of the enactment of the Native American Programs Act Amendments of 1992, prepare a plan, including legislative recommendations, to allow [tribal] *Tribal* governments and other organizations described in section 803(a) to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

(e) The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this title. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.

SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

(a) **AUTHORITY TO AWARD GRANTS.**—The Secretary shall award a grant to any agency or organization that is—

- (1) eligible for financial assistance under section 803(a); and
- (2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

(b) **PURPOSES FOR WHICH GRANTS MAY BE USED.**—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

- (1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language;

(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project; and

(7)(A) Native American language nests, which are site-based educational programs that—

(i) provide instruction and child care through the use of a Native American language for at least 5 children under the age of 7 for an average of at least 500 hours per year per student;

(ii) provide classes in a Native American language for parents (or legal guardians) of students enrolled in a Native American language nest (including Native American language-speaking parents); and

(iii) ensure that a Native American language is the dominant medium of instruction in the Native American language nest;

(B) Native American language survival schools, which are site-based educational programs for school-age students that—

(i) provide an average of at least 500 hours of instruction through the use of 1 or more Native American languages for at least 10 students for whom a Native American language survival school is their principal place of instruction;

(ii) develop instructional courses and materials for learning Native American languages and for instruction through the use of Native American languages;

(iii) provide for teacher training;

(iv) work toward a goal of all students achieving—

(I) fluency in a Native American language; and

(II) academic proficiency in mathematics, reading (or language arts), and science; and

(v) are located in areas that have high numbers or percentages of Native American students; and

(C) Native American language restoration programs, which are educational programs that—

(i) operate at least 1 Native American language program for the community in which it serves;

(ii) provide training programs for teachers of Native American languages;

(iii) develop instructional materials for the programs;

(iv) work toward a goal of increasing proficiency and fluency in at least 1 Native American language;

(v) provide instruction in at least 1 Native American language; and

(vi) may use funds received under this section for—

(I) Native American language programs, such as Native American language immersion programs, Native American language and culture camps, Native American language programs provided in coordination and cooperation with educational entities, Native American language programs provided in coordination and cooperation with local universities and colleges, Native American language programs that use a master-apprentice model of learning languages, and Native American language programs provided through a regional program to better serve geographically dispersed students;

(II) Native American language teacher training programs, such as training programs in Native American language translation for fluent speakers, training programs for Native American language teachers, training programs for teachers in schools to utilize Native American language materials, tools, and interactive media to teach Native American language; and

(III) the development of Native American language materials, such as books, audio and visual tools, and interactive media programs.

(c) APPLICATIONS.—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

(2) a detailed description of the project for which such grant is requested;

(3) a statement of objectives that are consonant with the purpose described in subsection (a);

(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans;

(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons; and

(7) in the case of an application for a grant to carry out any purpose specified in subsection (b)(7)(B), a certification by the applicant that the applicant has not less than 3 years of experience in operating and administering a Native American lan-

guage survival school, a Native American language nest, or any other educational program in which instruction is conducted in a Native American language.

(d) PARTICIPATING ORGANIZATIONS.—If a [tribal] *Tribal* organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

(e) LIMITATIONS ON FUNDING.—

(1) SHARE.—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(B)(i) may be provided from any private or non-Federal source; and

(ii) may include funds (including interest) distributed to a [tribe] *Tribe*—

(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

(II) from funds collected and administered by the Federal Government on behalf of such [tribe] *Tribe* or its constituent members; or

(III) by the Federal Government for general [tribal] *Tribal* administration or [tribal] *Tribal* development under a formula or subject to a [tribal] *Tribal* budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or [tribal] *Tribal* budget priority system.

(2) DURATION.—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, 3-year, 4-year, or 5-year basis, except that grants made under such subsection for any purpose specified in subsection (b)(7) may be made only on a 3-year, 4-year, or 5-year basis.

(f) ADMINISTRATION.—(1) The Secretary shall carry out this section through the Administration for Native Americans.

(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

(i) applications submitted under subsection (a);

(ii) evaluations carried out to comply with subsection (c)(4); and

(iii) the preservation of products required by subsection (c)(5).

(B) Such panel shall include, but not be limited to—

(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

(iii) representatives of national, [tribal] *Tribal*, and regional organizations that focus on Native American language, or Native American cultural, research, development, or training; and

(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian [tribes] *Tribes* and [tribal] *Tribal* organizations.

(C) The duties of such panel include—

(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

(ii) reviewing applications received under subsection (c);

(iii) providing to the Secretary a list of recommendations for the approval of such applications—

(I) in accordance with regulations issued by the Secretary; and

(II) the relative need for the project; and

(iv) reviewing evaluations submitted to comply with subsection (c)(4).

(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

(ii) Based on the Federal recognition of the sovereign authority of Indian [tribes] *Tribes* over all aspects of their cultures and language and except as provided in clause (iii), an Indian [tribe] *Tribe* may make a determination—

(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

(iii) Clause (ii) shall not be construed to authorize Indian [tribes] *Tribes*—

(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).

TECHNICAL ASSISTANCE AND TRAINING

SEC. 804. [The Commissioner] (a) *IN GENERAL.*—*The Commissioner* shall provide, directly or through other arrangements—

(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this title;

(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this title; and

(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.

(b) *PRIORITY.*—*In providing assistance under subsection (a), the Commissioner shall give priority to any application described in section 803(b)(2).*

* * * * *

DEFINITIONS

SEC. 815. As used in this title, the term—

(1) “average” means the aggregate number of hours of instruction through the use of a Native American language to all students enrolled in a native language immersion program during a school year divided by the total number of students enrolled in the immersion program;

(2) “financial assistance” includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(3) “Indian reservation or Alaska Native village” includes the reservation of any federally or State recognized Indian **Tribe**, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community under the jurisdiction of an Indian **Tribe**, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaska Native village or group, including any lands selected by Alaska Natives or Alaska Natives organizations under the Alaska Native Claims Settlement Act;

(4) “Native Hawaiian” means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778;

(5) the term “rule” has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time;

(6) “Secretary” means the Secretary of Health and Human Services; and

(7) the term “Native American Pacific Islander” means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 816. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title (other than sections **803(d)** **803(e)**, 803A, 803C, 804, subsection (d) of this section, and any other provision of this title for which there is an express authorization of appropriations), **such sums as may be necessary** \$34,000,000 for each of fiscal years **1999, 2000, 2001, and 2002** *2020 through 2024*.

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title (other than sections **803(d)** **803(e)**, 803A, 803C, 804, subsection (d) of this section, and any

other provision of this title for which there is an express authorization of appropriations) for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.

(c) There is authorized to be appropriated \$8,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, for the purpose of carrying out the provisions of section ~~803(d)~~ 803(e).

(d)(1) For fiscal year 1994, there are authorized to be appropriated such sums as may be necessary for the purpose of—

(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

(2) Such a plan shall be delivered to the Congress not later than 30 days after the date of enactment of this subsection.

(e) There are authorized to be appropriated to carry out section 803C \$13,000,000 for each of fiscal years 2020 through 2024.

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TITLE X—LEGAL SERVICES CORPORATION ACT

* * * * *

GRANTS AND CONTRACTS

SEC. 1007. (a) With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall—

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this title;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

- (i) the liquid assets and income level of the client,
- (ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,
- (iii) the cost of living in the locality, and
- (iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assist-

ance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof—

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

(6) insure that all attorneys engaged in legal assistant activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or

regulations shall in no way interfere with attorneys' professional responsibilities);

(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this title and give preference in filling such positions to qualified persons who reside in the community to be served;

(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act;

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities; and

(11) ensure that an indigent individual whose primary residence is subject to civil forfeiture is represented by an attorney for the Corporation in such civil action.

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used—

(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with an offense in an Indian **[tribal]** *Tribal* court;

(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(4) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the board interests of a majority of the public;

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the train-

ing of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;

(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law; or

(11) to provide legal assistance in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.

(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 222(a)(3) of the Economic Opportunity Act of 1964, which on the date of enactment of this title has a majority of persons who are not attorneys on its policy-making board to continue such a nonattorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out.

(e) The president of the Corporation is authorized to make grants and enter into contracts under this title.

(f) At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

(h) The Corporation shall conduct a study on whether eligible clients who are—

- (1) veterans,
- (2) native Americans,
- (3) migrants or seasonal farm workers,
- (4) persons with limited English-speaking abilities, and
- (5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services.

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress not later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations.

* * * * *

FINANCING

SEC. 1010. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, \$90,000,000 for fiscal year 1975, \$100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation,

shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this title, except that this provision shall not be construed to prevent recipients from receiving other public funds or **tribal** *Tribal* funds (including foundation funds benefiting Indians or Indian **tribes** *Tribes*) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title.

(d) Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 1006(a)(3) in any such year.

* * * * *

RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

COMMITTEE CORRESPONDENCE

ROB BISHOP OF UTAH
RANKING REPUBLICAN

DAVID WATKINS
STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

PARISH BRADEN
REPUBLICAN STAFF DIRECTOR

November 30, 2020

The Honorable Bobby Scott
Chair
Committee on Education and Labor
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Scott:

I write to you concerning S. 212, the "Indian Community Economic Enhancement Act of 2019."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Education and Labor. I acknowledge that your Committee will not formally consider S. 212 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee

Cc: The Honorable Rob Bishop, Ranking Member
The Honorable Jason Smith, Parliamentarian



COMMITTEE ON
EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

November 30, 2020

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The Honorable Raúl M. Grijalva
Chairman
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Grijalva:

I write concerning S. 212, the *Indian Community Economic Enhancement Act of 2019*. This bill was primarily referred to the Committee on Natural Resources, and additionally to the Committee on Education and Labor. As a result of Leadership and the Committee on Natural Resources having consulted with me concerning this bill generally, I agree to forgo formal consideration of the bill so the bill may proceed expeditiously to the House floor.

The Committee on Education and Labor takes this action with our mutual understanding that by forgoing formal consideration of S. 212, we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and we will be appropriately consulted and involved as the bill or similar legislation moves forward so we may address any remaining issues within our Rule X jurisdiction. I also request that you support my request to name members of the Committee on Education and Labor to any conference committee to consider such provisions.

Finally, I would appreciate a response confirming this understanding and ask that a copy of our exchange of letters on this matter be included in the committee report for S. 212 and in the *Congressional Record* during floor consideration thereof.

Sincerely,

ROBERT C. "BOBBY" SCOTT
Chairman

cc: The Honorable Virginia Foxx, Ranking Member, Committee on Education and Labor
The Honorable Rob Bishop, Ranking Member, Committee on Natural Resources
The Honorable Nancy Pelosi, Speaker
The Honorable Steny Hoyer, Majority Leader
The Honorable Jason Smith, Parliamentarian

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS
None.

