

106TH CONGRESS  
1ST SESSION

# S. 401

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## AN ACT

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

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Native American Busi-  
5       ness Development, Trade Promotion, and Tourism Act of  
6       1999”.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) clause 3 of section 8 of article I of the  
4 United States Constitution recognizes the special re-  
5 lationship between the United States and Indian  
6 tribes;

7 (2) beginning in 1970, with the inauguration by  
8 the Nixon Administration of the Indian self-deter-  
9 mination era, each President has reaffirmed the spe-  
10 cial government-to-government relationship between  
11 Indian tribes and the United States;

12 (3) in 1994, President Clinton issued an Execu-  
13 tive memorandum to the heads of departments and  
14 agencies that obligated all Federal departments and  
15 agencies, particularly those that have an impact on  
16 economic development, to evaluate the potential im-  
17 pacts of their actions on Indian tribes;

18 (4) consistent with the principles of inherent  
19 tribal sovereignty and the special relationship be-  
20 tween Indian tribes and the United States, Indian  
21 tribes retain the right to enter into contracts and  
22 agreements to trade freely, and seek enforcement of  
23 treaty and trade rights;

24 (5) Congress has carried out the responsibility  
25 of the United States for the protection and preserva-  
26 tion of Indian tribes and the resources of Indian

1 tribes through the endorsement of treaties, and the  
2 enactment of other laws, including laws that provide  
3 for the exercise of administrative authorities;

4 (6) the United States has an obligation to  
5 guard and preserve the sovereignty of Indian tribes  
6 in order to foster strong tribal governments, Indian  
7 self-determination, and economic self-sufficiency  
8 among Indian tribes;

9 (7) the capacity of Indian tribes to build strong  
10 tribal governments and vigorous economies is hin-  
11 dered by the inability of Indian tribes to engage  
12 communities that surround Indian lands and outside  
13 investors in economic activities on Indian lands;

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

21 (9) the United States has an obligation to as-  
22 sist Indian tribes with the creation of appropriate  
23 economic and political conditions with respect to In-  
24 dian lands to—

1           (A) encourage investment from outside  
2           sources that do not originate with the tribes;  
3           and

4           (B) facilitate economic ventures with out-  
5           side entities that are not tribal entities;

6           (10) the economic success and material well-  
7           being of Native American communities depends on  
8           the combined efforts of the Federal Government,  
9           tribal governments, the private sector, and individ-  
10          uals;

11          (11) the lack of employment and entrepre-  
12          neurial opportunities in the communities referred to  
13          in paragraph (7) has resulted in a multigenerational  
14          dependence on Federal assistance that is—

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

17               (B) unreliable in availability; and

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

22               (A) the resources of the private market;

23               (B) adequate capital; and

24               (C) technical expertise.

1 (b) PURPOSES.—The purposes of this Act are as fol-  
2 lows:

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

5 (A) encouraging the formation of new busi-  
6 nesses by eligible entities, and the expansion of  
7 existing businesses; and

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

11 (2) To promote private investment in the econo-  
12 mies of Indian tribes and to encourage the sustain-  
13 able development of resources of Indian tribes and  
14 Indian-owned businesses.

15 (3) To promote the long-range sustained growth  
16 of the economies of Indian tribes.

17 (4) To raise incomes of Indians in order to re-  
18 duce the number of Indians at poverty levels and  
19 provide the means for achieving a higher standard of  
20 living on Indian reservations.

21 (5) To encourage intertribal, regional, and  
22 international trade and business development in  
23 order to assist in increasing productivity and the  
24 standard of living of members of Indian tribes and

1 improving the economic self-sufficiency of the gov-  
2 erning bodies of Indian tribes.

3 (6) To promote economic self-sufficiency and  
4 political self-determination for Indian tribes and  
5 members of Indian tribes.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) BOARD.—The term “Board” has the mean-  
9 ing given that term in the first section of the Act  
10 entitled “To provide for the establishment, oper-  
11 ation, and maintenance of foreign-trade zones in  
12 ports of entry in the United States, to expedite and  
13 encourage foreign commerce, and for other pur-  
14 poses”, approved June 18, 1934 (19 U.S.C. 81a).

15 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
16 ty” means an Indian tribe or tribal organization, an  
17 Indian arts and crafts organization, as that term is  
18 defined in section 2 of the Act of August 27, 1935  
19 (commonly known as the “Indian Arts and Crafts  
20 Act”) (49 Stat. 891, chapter 748; 25 U.S.C. 305a),  
21 a tribal enterprise, a tribal marketing cooperative  
22 (as that term is defined by the Secretary, in con-  
23 sultation with the Secretary of the Interior), or any  
24 other Indian-owned business.

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

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

7                   (A) Indian goods, within the meaning of  
 8                   section 2 of the Act of August 27, 1935 (com-  
 9                   monly known as the “Indian Arts and Crafts  
 10                  Act”) (49 Stat. 891, chapter 748; 25 U.S.C.  
 11                  305a);

12                  (B) goods produced or originated by an eli-  
 13                  gible entity; and

14                  (C) services provided by eligible entities.

15           (5) INDIAN LANDS.—

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

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

21                           (ii) the term “reservation” under—

22                                   (I) section 3(d) of the Indian Fi-  
 23                                   nancing Act of 1974 (25 U.S.C.  
 24                                   1452(d)); or

1 (II) section 4(10) of the Indian  
2 Child Welfare Act of 1978 (25 U.S.C.  
3 1903(10)).

4 (B) FORMER INDIAN RESERVATIONS IN  
5 OKLAHOMA.—For purposes of applying section  
6 3(d) of the Indian Financing Act of 1974 (25  
7 U.S.C. 1452(d)) under subparagraph (A)(ii),  
8 the term “former Indian reservations in Okla-  
9 homa” shall be construed to include lands that  
10 are—

11 (i) within the jurisdictional areas of  
12 an Oklahoma Indian tribe (as determined  
13 by the Secretary of the Interior); and

14 (ii) recognized by the Secretary of the  
15 Interior as eligible for trust land status  
16 under part 151 of title 25, Code of Federal  
17 Regulations (as in effect on the date of en-  
18 actment of this Act).

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



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

5           (8) SECRETARY.—The term “Secretary” means  
 6           the Secretary of Commerce.

7           (9) TRIBAL ENTERPRISE.—The term “tribal en-  
 8           terprise” means a commercial activity or business  
 9           managed or controlled by an Indian tribe.

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

14   **SEC. 4. OFFICE OF NATIVE AMERICAN BUSINESS DEVELOP-**  
 15                           **MENT.**

16          (a) IN GENERAL.—

17           (1) ESTABLISHMENT.—There is established  
 18           within the Department of Commerce an office  
 19           known as the Office of Native American Business  
 20           Development (referred to in this Act as the “Of-  
 21           fice”).

22           (2) DIRECTOR.—The Office shall be headed by  
 23           a Director, appointed by the Secretary, whose title  
 24           shall be the Director of Native American Business  
 25           Development (referred to in this Act as the “Direc-

1 tor’’). The Director shall be compensated at a rate  
2 not to exceed level V of the Executive Schedule  
3 under section 5316 of title 5, United States Code.

4 (b) DUTIES OF THE SECRETARY.—

5 (1) IN GENERAL.—The Secretary, acting  
6 through the Director, shall ensure the coordination  
7 of Federal programs that provide assistance, includ-  
8 ing financial and technical assistance, to eligible en-  
9 tities for increased business, the expansion of trade  
10 by eligible entities, and economic development on In-  
11 dian lands.

12 (2) INTERAGENCY COORDINATION.—The Sec-  
13 retary, acting through the Director, shall coordinate  
14 Federal programs relating to Indian economic devel-  
15 opment, including any such program of the Depart-  
16 ment of the Interior, the Small Business Adminis-  
17 tration, the Department of Labor, or any other Fed-  
18 eral agency charged with Indian economic develop-  
19 ment responsibilities.

20 (3) ACTIVITIES.—In carrying out the duties de-  
21 scribed in paragraph (1), the Secretary, acting  
22 through the Director, shall ensure the coordination  
23 of, or, as appropriate, carry out—

1 (A) Federal programs designed to provide  
2 legal, accounting, or financial assistance to eli-  
3 gible entities;

4 (B) market surveys;

5 (C) the development of promotional mate-  
6 rials;

7 (D) the financing of business development  
8 seminars;

9 (E) the facilitation of marketing;

10 (F) the participation of appropriate Fed-  
11 eral agencies or eligible entities in trade fairs;

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

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

18 (4) ASSISTANCE.—In conjunction with the ac-  
19 tivities described in paragraph (3), the Secretary,  
20 acting through the Director, shall provide—

21 (A) financial assistance, technical assist-  
22 ance, and administrative services to eligible en-  
23 tities to assist those entities with—

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

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

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

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

12 (A) provide the greatest degree of eco-  
13 nomic benefits to Indians; and

14 (B) foster long-term stable economies of  
15 Indian tribes.

16 (6) PROHIBITION.—The Secretary may not pro-  
17 vide under this section assistance for any activity re-  
18 lated to the operation of a gaming activity on Indian  
19 lands pursuant to the Indian Gaming Regulatory  
20 Act (25 U.S.C. 2710 et seq.).

21 **SEC. 5. NATIVE AMERICAN TRADE AND EXPORT PRO-**  
22 **MOTION.**

23 (a) IN GENERAL.—The Secretary, acting through the  
24 Director, shall carry out a Native American export and

1 trade promotion program (referred to in this section as  
2 the “program”).

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

8 (1) develop the economies of Indian tribes; and

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

11 (c) ACTIVITIES.—In carrying out the duties described  
12 in subsection (b), the Secretary, acting through the Direc-  
13 tor, shall ensure the coordination of, or, as appropriate,  
14 carry out—

15 (1) Federal programs designed to provide tech-  
16 nical or financial assistance to eligible entities;

17 (2) the development of promotional materials;

18 (3) the financing of appropriate trade missions;

19 (4) the marketing of Indian goods and services;

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

23 (6) any other activity related to the develop-  
24 ment of markets for Indian goods and services.

1       (d) TECHNICAL ASSISTANCE.—In conjunction with  
2 the activities described in subsection (c), the Secretary,  
3 acting through the Director, shall provide technical assist-  
4 ance and administrative services to eligible entities to as-  
5 sist those entities with—

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

8           (2) entering the markets referred to in para-  
9 graph (1);

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

14          (4) entering into financial arrangements to pro-  
15 vide for the export and import of Indian goods and  
16 services.

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

21           (1) provide the greatest degree of economic ben-  
22 efits to Indians; and

23           (2) foster long-term stable international mar-  
24 kets for Indian goods and services.

1 **SEC. 6. INTERTRIBAL TOURISM DEMONSTRATION**  
2 **PROJECTS.**

3 (a) PROGRAM TO CONDUCT TOURISM PROJECTS.—

4 (1) IN GENERAL.—The Secretary, acting  
5 through the Director, shall conduct a Native Amer-  
6 ican tourism program to facilitate the development  
7 and conduct of tourism demonstration projects by  
8 Indian tribes, on a tribal, intertribal, or regional  
9 basis.

10 (2) DEMONSTRATION PROJECTS.—

11 (A) IN GENERAL.—Under the program es-  
12 tablished under this section, in order to assist  
13 in the development and promotion of tourism  
14 on and in the vicinity of Indian lands, the Sec-  
15 retary, acting through the Director, shall, in co-  
16 ordination with the Under Secretary of Agri-  
17 culture for Rural Development, assist eligible  
18 entities in the planning, development, and im-  
19 plementation of tourism development dem-  
20 onstration projects that meet the criteria de-  
21 scribed in subparagraph (B).

22 (B) PROJECTS DESCRIBED.—In selecting  
23 tourism development demonstration projects  
24 under this section, the Secretary, acting  
25 through the Director, shall select projects that  
26 have the potential to increase travel and tour-

1           ism revenues by attracting visitors to Indian  
2           lands and lands in the vicinity of Indian lands,  
3           including projects that provide for—

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

8                   (ii) the development of educational re-  
9                   sources to assist in private and public tour-  
10                  ism development on and in the vicinity of  
11                  Indian lands; and

12                  (iii) the coordination of tourism-re-  
13                  lated joint ventures and cooperative efforts  
14                  between eligible entities and appropriate  
15                  State and local governments that have ju-  
16                  risdiction over areas in the vicinity of In-  
17                  dian lands.

18           (3) GRANTS.—To carry out the program under  
19           this section, the Secretary, acting through the Direc-  
20           tor, may award grants or enter into other appro-  
21           priate arrangements with Indian tribes, tribal orga-  
22           nizations, intertribal consortia, or other tribal enti-  
23           ties that the Secretary, in consultation with the Di-  
24           rector, determines to be appropriate.



1           (4) LOCATIONS.—In providing for tourism de-  
2       velopment demonstration projects under the pro-  
3       gram under this section, the Secretary, acting  
4       through the Director, shall provide for a demonstra-  
5       tion project to be conducted—

6           (A) for Indians of the Four Corners area  
7       located in the area adjacent to the border be-  
8       tween Arizona, Utah, Colorado, and New Mex-  
9       ico;

10          (B) for Indians of the northwestern area  
11       that is commonly known as the Great North-  
12       west (as determined by the Secretary);

13          (C) for the Oklahoma Indians in Okla-  
14       homa;

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

17          (E) for Alaska Natives in Alaska.

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

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

1 (2) market analyses;

2 (3) participation in tourism and trade missions;

3 and

4 (4) any other activity that the Secretary, in  
5 consultation with the Director, determines to be ap-  
6 propriate to carry out this section.

7 (c) INFRASTRUCTURE DEVELOPMENT.—The dem-  
8 onstration projects conducted under this section shall in-  
9 clude provisions to facilitate the development and financ-  
10 ing of infrastructure, including the development of Indian  
11 reservation roads in a manner consistent with title 23,  
12 United States Code.

13 **SEC. 7. REPORT TO CONGRESS.**

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

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

22 (1) for the period covered by the report, a sum-  
23 mary of the activities conducted by the Secretary,  
24 acting through the Director, in carrying out sections  
25 4 through 6; and

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

5 **SEC. 8. FOREIGN-TRADE ZONE PREFERENCES.**

6           (a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-  
 7 TRADE ZONES IN INDIAN ENTERPRISE ZONES.—In proc-  
 8 essing applications for the establishment of foreign-trade  
 9 zones pursuant to the Act entitled “An Act to provide for  
 10 the establishment, operation, and maintenance of foreign-  
 11 trade zones in ports of entry of the United States, to expe-  
 12 dite and encourage foreign commerce, and for other pur-  
 13 poses”, approved June 18, 1934 (19 U.S.C. 81a et seq.),  
 14 the Board shall consider, on a priority basis, and expedite,  
 15 to the maximum extent practicable, the processing of any  
 16 application involving the establishment of a foreign-trade  
 17 zone on Indian lands, including any Indian lands des-  
 18 ignated as an empowerment zone or enterprise community  
 19 pursuant to section 1391 of the Internal Revenue Code  
 20 of 1986.

21           (b) APPLICATION PROCEDURE.—In processing appli-  
 22 cations for the establishment of ports of entry pursuant  
 23 to the Act entitled “An Act making appropriations for  
 24 sundry civil expenses of the Government for the fiscal year  
 25 ending June thirtieth, nineteen hundred and fifteen, and

1 for other purposes”, approved August 1, 1914 (19 U.S.C.  
 2 2), the Secretary of the Treasury shall, with respect to  
 3 any application involving the establishment of a port of  
 4 entry that is necessary to permit the establishment of a  
 5 foreign-trade zone on Indian lands—

6 (1) consider that application on a priority basis;

7 and

8 (2) expedite, to the maximum extent prac-  
 9 ticable, the processing of that application.

10 (c) APPLICATION EVALUATION.—In evaluating appli-  
 11 cations for the establishment of foreign-trade zones and  
 12 ports of entry in connection with Indian lands, to the max-  
 13 imum extent practicable and consistent with applicable  
 14 law, the Board and the Secretary of the Treasury shall  
 15 approve the applications.

16 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

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

Passed the Senate September 15, 1999.

Attest:

*Secretary.*

106TH CONGRESS  
1ST SESSION

**S. 401**

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**AN ACT**

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