

JOBS FOR TRIBES ACT

DECEMBER 3, 2018.—Ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 4506]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4506) to provide incentives to encourage tribal job creation and economic activity, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Jobs for Tribes Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—INDIAN ECONOMIC ENHANCEMENT ACT OF 2018

Sec. 101. Short title.
Sec. 102. Native American Business Development, Trade Promotion, and Tourism Act of 2000.
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TITLE II—NATIVE AMERICAN BUSINESS INCUBATORS PROGRAM ACT

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TITLE I—INDIAN ECONOMIC ENHANCEMENT ACT OF 2018

SEC. 101. SHORT TITLE.

This title may be cited as the “Indian Community Economic Enhancement Act of 2018”.

SEC. 102. NATIVE AMERICAN BUSINESS DEVELOPMENT, TRADE PROMOTION, AND TOURISM ACT OF 2000.

(a) FINDINGS; PURPOSES.—Section 2 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4301) is amended by adding at the end the following:

“(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).”.

(b) DEFINITIONS.—Section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302) is amended—

(1) by redesignating paragraphs (1) through (6) and paragraphs (7) through (9), as paragraphs (2) through (7) and paragraphs (9) through (11), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

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

(3) by inserting after paragraph (7) (as redesignated by paragraph (1)) the following:

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

(c) OFFICE OF NATIVE AMERICAN BUSINESS DEVELOPMENT.—Section 4 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4303) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “Department of Commerce” and inserting “Office of the Secretary”; and

(ii) by striking “(referred to in this Act as the ‘Office’)”; and

(B) in paragraph (2), in the first sentence, by striking “(referred to in this Act as the ‘Director’)”; and

(2) by adding at the end the following:

“(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.”.

(d) INDIAN COMMUNITY DEVELOPMENT INITIATIVES.—The Native American Business Development, Trade Promotion, and Tourism Act of 2000 is amended—

(1) by redesignating section 8 (25 U.S.C. 4307) as section 9; and

(2) by inserting after section 7 (25 U.S.C. 4306) the following:

“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) to provide a report to Congress regarding improvements to Indian communities resulting from such initiatives and recommendations for promoting sustained growth of the tribal economies.

“(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, 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. 103. BUY INDIAN ACT.

Section 23 of the Act of June 25, 1910 (commonly known as the “Buy Indian Act”) (36 Stat. 861, chapter 431; 25 U.S.C. 47), is amended to read as follows:

“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; and
- “(4) require procurement management reviews by their respective Departments to include a review of the implementation of this section.”.

SEC. 104. NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS.—Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following:

“(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) TECHNICAL ASSISTANCE AND TRAINING.—Section 804 of the Native American Programs Act of 1974 (42 U.S.C. 2991c) is amended—

(1) in the matter preceding paragraph (1), by striking “The Commissioner” and inserting the following:

“(a) IN GENERAL.—The Commissioner”; and

(2) by adding at the end the following:

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

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended by striking “803(d)” each place it appears and inserting “803(e)”.

TITLE II—NATIVE AMERICAN BUSINESS INCUBATORS PROGRAM ACT

SEC. 201. SHORT TITLE.

This title may be cited as the “Native American Business Incubators Program Act”.

SEC. 202. DEFINITIONS.

In this title:

(1) BUSINESS INCUBATOR.—The term “business incubator” means an organization that—

(A) provides physical workspace and facilities resources to startups and established businesses; and

(B) is designed to accelerate the growth and success of businesses through a variety of business support resources and services, including—

(i) access to capital, business education, and counseling;

(ii) networking opportunities;

(iii) mentorship opportunities; and

(iv) other services intended to aid in developing a business.

(2) ELIGIBLE APPLICANT.—The term “eligible applicant” means an applicant eligible to apply for a grant under section 203(b).

(3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(4) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(5) NATIVE AMERICAN; NATIVE.—The terms “Native American” and “Native” have the meaning given the term “Indian” in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(6) NATIVE BUSINESS.—The term “Native business” means a business concern that is at least 51-percent owned and controlled by one or more Native Americans.

(7) NATIVE ENTREPRENEUR.—The term “Native entrepreneur” means an entrepreneur who is a Native American.

(8) PROGRAM.—The term “program” means the program established under section 203(a).

(9) RESERVATION.—The term “reservation” has the meaning given the term in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

(10) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(11) TRIBAL COLLEGE OR UNIVERSITY.—The term “tribal college or university” has the meaning given the term “Tribal College or University” in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

SEC. 203. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program in the Office of Indian Energy and Economic Development’s Division of Economic Development under which the Secretary shall provide financial assistance in the form of competitive grants to eligible applicants for the establishment and operation of business incubators that serve reservation communities by providing business incubation and other business services to Native businesses and Native entrepreneurs.

(b) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—To be eligible to receive a grant under the program, an applicant shall—

(A) be—

- (i) an Indian tribe;
- (ii) a tribal college or university;
- (iii) an institution of higher education; or
- (iv) a private nonprofit organization or tribal nonprofit organization

that—

- (I) provides business and financial technical assistance; and
- (II) will commit to serving one or more reservation communities;

(B) be able to provide the physical workspace, equipment, and connectivity necessary for Native businesses and Native entrepreneurs to collaborate and conduct business on a local, regional, national, and international level; and

(C) in the case of an entity described in clauses (ii) through (iv) of subparagraph (A), have been operational for not less than 1 year before receiving a grant under the program.

(2) JOINT PROJECT.—

(A) IN GENERAL.—Two or more entities may submit a joint application for a project that combines the resources and expertise of those entities at a physical location dedicated to assisting Native businesses and Native entrepreneurs under the program.

(B) CONTENTS.—A joint application submitted under subparagraph (A) shall—

- (i) contain a certification that each participant of the joint project is one of the eligible entities described in paragraph (1)(A); and
- (ii) demonstrate that together the participants meet the requirements of subparagraphs (B) and (C) of paragraph (1).

(c) APPLICATION AND SELECTION PROCESS.—

(1) APPLICATION REQUIREMENTS.—Each eligible applicant desiring a grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a certification that the applicant—

- (i) is an eligible applicant;
- (ii) will designate an executive director or program manager, if such director or manager has not been designated, to manage the business incubator; and
- (iii) agrees—

(I) to a site evaluation by the Secretary as part of the final selection process;

(II) to an annual programmatic and financial examination for the duration of the grant; and

(III) to the maximum extent practicable, to remedy any problems identified pursuant to the site evaluation under subclause (I) or an examination under subclause (II);

(B) a description of the one or more reservation communities to be served by the business incubator;

(C) a 3-year plan that describes—

- (i) the number of Native businesses and Native entrepreneurs to be participating in the business incubator;

- (ii) whether the business incubator will focus on a particular type of business or industry;
 - (iii) a detailed breakdown of the services to be offered to Native businesses and Native entrepreneurs participating in the business incubator; and
 - (iv) a detailed breakdown of the services, if any, to be offered to Native businesses and Native entrepreneurs not participating in the business incubator;
- (D) information demonstrating the effectiveness and experience of the eligible applicant in—
- (i) conducting financial, management, and marketing assistance programs designed to educate or improve the business skills of current or prospective businesses;
 - (ii) working in and providing services to Native American communities;
 - (iii) providing assistance to entities conducting business in reservation communities;
 - (iv) providing technical assistance under Federal business and entrepreneurial development programs for which Native businesses and Native entrepreneurs are eligible; and
 - (v) managing finances and staff effectively; and
- (E) a site description of the location at which the eligible applicant will provide physical workspace, including a description of the technologies, equipment, and other resources that will be available to Native businesses and Native entrepreneurs participating in the business incubator.
- (2) EVALUATION CONSIDERATIONS.—
- (A) IN GENERAL.—In evaluating each application, the Secretary shall consider—
- (i) the ability of the eligible applicant—
 - (I) to operate a business incubator that effectively imparts entrepreneurship and business skills to Native businesses and Native entrepreneurs, as demonstrated by the experience and qualifications of the eligible applicant;
 - (II) to commence providing services within a minimum period of time, to be determined by the Secretary; and
 - (III) to provide quality incubation services to a significant number of Native businesses and Native entrepreneurs;
 - (ii) the experience of the eligible applicant in providing services in Native American communities, including in the one or more reservation communities described in the application; and
 - (iii) the proposed location of the business incubator.
- (B) PRIORITY.—
- (i) IN GENERAL.—In evaluating the proposed location of the business incubator under subparagraph (A)(iii), the Secretary shall—
- (I) consider the program goal of achieving broad geographic distribution of business incubators; and
 - (II) except as provided in clause (ii), give priority to eligible applicants that will provide business incubation services on or near the reservation of the one or more communities that were described in the application.
- (ii) EXCEPTION.—The Secretary may give priority to an eligible applicant that is not located on or near the reservation of the one or more communities that were described in the application if the Secretary determines that—
- (I) the location of the business incubator will not prevent the eligible applicant from providing quality business incubation services to Native businesses and Native entrepreneurs from the one or more reservation communities to be served; and
 - (II) siting the business incubator in the identified location will serve the interests of the one or more reservation communities to be served.
- (3) SITE EVALUATION.—
- (A) IN GENERAL.—Before making a grant to an eligible applicant, the Secretary shall conduct a site visit, evaluate a video submission, or evaluate a written site proposal (if the applicant is not yet in possession of the site) of the proposed site to ensure the proposed site will permit the eligible applicant to meet the requirements of the program.
- (B) WRITTEN SITE PROPOSAL.—A written site proposal shall meet the requirements described in paragraph (1)(E) and contain—

- (i) sufficient detail for the Secretary to ensure in the absence of a site visit or video submission that the proposed site will permit the eligible applicant to meet the requirements of the program; and
 - (ii) a timeline describing when the eligible applicant will be—
 - (I) in possession of the proposed site; and
 - (II) operating the business incubator at the proposed site.
- (C) FOLLOWUP.—Not later than 1 year after awarding a grant to an eligible applicant that submits an application with a written site proposal, the Secretary shall conduct a site visit or evaluate a video submission of the site to ensure the site is consistent with the written site proposal.
- (d) ADMINISTRATION.—
 - (1) DURATION.—Each grant awarded under the program shall be for a term of 3 years.
 - (2) PAYMENT.—
 - (A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall disburse grant funds awarded to an eligible applicant in annual installments.
 - (B) MORE FREQUENT DISBURSEMENTS.—On request by the applicant, the Secretary may make disbursements of grant funds more frequently than annually, on the condition that disbursements shall be made not more frequently than quarterly.
 - (3) NON-FEDERAL CONTRIBUTIONS FOR INITIAL ASSISTANCE.—
 - (A) IN GENERAL.—Except as provided in subparagraph (B), an eligible applicant that receives a grant under the program shall provide non-Federal contributions in an amount equal to not less than 25 percent of the grant amount disbursed each year.
 - (B) WAIVER.—The Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to an eligible applicant if, after considering the ability of the eligible applicant to provide non-Federal contributions, the Secretary determines that—
 - (i) the proposed business incubator will provide quality business incubation services; and
 - (ii) the one or more reservation communities to be served are unlikely to receive similar services because of remoteness or other reasons that inhibit the provision of business and entrepreneurial development services.
 - (4) RENEWALS.—
 - (A) IN GENERAL.—The Secretary may renew a grant award under the program for a term not to exceed 3 years.
 - (B) CONSIDERATIONS.—In determining whether to renew a grant award, the Secretary shall consider with respect to the eligible applicant—
 - (i) the results of the annual evaluations of the eligible applicant under subsection (f)(1);
 - (ii) the performance of the business incubator of the eligible applicant, as compared to the performance of other business incubators receiving assistance under the program;
 - (iii) whether the eligible applicant continues to be eligible for the program; and
 - (iv) the evaluation considerations for initial awards under subsection (c)(2).
 - (C) NON-FEDERAL CONTRIBUTIONS FOR RENEWALS.—An eligible applicant that receives a grant renewal under subparagraph (A) shall provide non-Federal contributions in an amount equal to not less than 33 percent of the total amount of the grant.
 - (5) NO DUPLICATIVE GRANTS.—An eligible applicant shall not be awarded a grant under the program that is duplicative of existing Federal funding from another source.
- (e) PROGRAM REQUIREMENTS.—
 - (1) USE OF FUNDS.—An eligible applicant receiving a grant under the program may use grant amounts—
 - (A) to provide physical workspace and facilities for Native businesses and Native entrepreneurs participating in the business incubator;
 - (B) to establish partnerships with other institutions and entities to provide comprehensive business incubation services to Native businesses and Native entrepreneurs participating in the business incubator; and
 - (C) for any other uses typically associated with business incubators that the Secretary determines to be appropriate and consistent with the purposes of the program.

(2) **MINIMUM REQUIREMENTS.**—Each eligible applicant receiving a grant under the program shall—

(A) offer culturally tailored incubation services to Native businesses and Native entrepreneurs;

(B) use a competitive process for selecting Native businesses and Native entrepreneurs to participate in the business incubator;

(C) provide physical workspace that permits Native businesses and Native entrepreneurs to conduct business and collaborate with other Native businesses and Native entrepreneurs;

(D) provide entrepreneurship and business skills training and education to Native businesses and Native entrepreneurs including—

(i) financial education, including training and counseling in—

(I) applying for and securing business credit and investment capital;

(II) preparing and presenting financial statements; and

(III) managing cash flow and other financial operations of a business;

(ii) management education, including training and counseling in planning, organization, staffing, directing, and controlling each major activity or function of a business or startup; and

(iii) marketing education, including training and counseling in—

(I) identifying and segmenting domestic and international market opportunities;

(II) preparing and executing marketing plans;

(III) locating contract opportunities;

(IV) negotiating contracts; and

(V) using varying public relations and advertising techniques;

(E) provide direct mentorship or assistance finding mentors in the industry in which the Native business or Native entrepreneur operates or intends to operate; and

(F) provide access to networks of potential investors, professionals in the same or similar fields, and other business owners with similar businesses.

(3) **TECHNOLOGY.**—Each eligible applicant shall leverage technology to the maximum extent practicable to provide Native businesses and Native entrepreneurs with access to the connectivity tools needed to compete and thrive in 21st-century markets.

(f) **OVERSIGHT.**—

(1) **ANNUAL EVALUATIONS.**—Not later than 1 year after the date on which the Secretary awards a grant to an eligible applicant under the program, and annually thereafter for the duration of the grant, the Secretary shall conduct an evaluation of the eligible applicant, which shall—

(A) describe the performance of the eligible applicant; and

(B) be used in determining the ongoing eligibility of the eligible applicant.

(2) **ANNUAL REPORT.**—

(A) **IN GENERAL.**—Not later than 1 year after the date on which the Secretary awards a grant to an eligible applicant under the program, and annually thereafter for the duration of the grant, each eligible applicant receiving an award under the program shall submit to the Secretary a report describing the services the eligible applicant provided under the program during the preceding year.

(B) **REPORT CONTENT.**—The report described in subparagraph (A) shall include—

(i) a detailed breakdown of the Native businesses and Native entrepreneurs receiving services from the business incubator, including, for the year covered by the report—

(I) the number of Native businesses and Native entrepreneurs participating in or receiving services from the business incubator and the types of services provided to those Native businesses and Native entrepreneurs;

(II) the number of Native businesses and Native entrepreneurs established and jobs created or maintained; and

(III) the performance of Native businesses and Native entrepreneurs while participating in the business incubator and after graduation or departure from the business incubator; and

(ii) any other information the Secretary may require to evaluate the performance of a business incubator to ensure appropriate implementation of the program.

(C) **LIMITATIONS.**—To the maximum extent practicable, the Secretary shall not require an eligible applicant to report under subparagraph (A) in-

formation provided to the Secretary by the eligible applicant under other programs.

(D) COORDINATION.—The Secretary shall coordinate with the heads of other Federal agencies to ensure that, to the maximum extent practicable, the report content and form under subparagraphs (A) and (B) are consistent with other reporting requirements for Federal programs that provide business and entrepreneurial assistance.

SEC. 204. SCHOOLS TO BUSINESS INCUBATOR PIPELINE.

The Secretary shall facilitate the establishment of relationships between eligible applicants receiving funds through the program and educational institutions serving Native American communities, including tribal colleges and universities.

SEC. 205. AGENCY PARTNERSHIPS.

The Secretary shall coordinate with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, and the Administrator of the Small Business Administration to ensure, to the maximum extent practicable, that business incubators receiving grant funds under the program have the information and materials needed to provide Native businesses and Native entrepreneurs with the information and assistance necessary to apply for business and entrepreneurial development programs administered by the Department of Agriculture, the Department of Commerce, the Department of the Treasury, and the Small Business Administration.

TITLE III—INDIGENOUS PEOPLES EXCHANGE AND ECONOMIC COOPERATION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the “Indigenous Peoples Exchange and Economic Cooperation Act”.

SEC. 302. STATEMENT OF POLICY.

It shall be the policy of the United States to facilitate contacts and cooperation, including commercial relationships, between Native American tribes and indigenous peoples in the Western Hemisphere.

SEC. 303. DEFINITIONS.

In this title:

- (1) NATIVE AMERICAN TRIBES.—The term “Native American tribe” means any federally recognized tribe.
- (2) INDIGENOUS PEOPLES.—The term “indigenous peoples” means peoples residing in foreign countries in the Western Hemisphere who have historical ties to a particular territory and are culturally or historically distinct from the politically dominant population.

SEC. 304. STRATEGY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a strategy, in consultation with the individuals listed in subsection (b), to promote and facilitate—

- (1) cross-investments between Native American tribes and indigenous peoples in tribal businesses and commercial enterprises that involve indigenous peoples, such as sustainable natural resource management, agricultural development, or handicraft production; and
- (2) the development of supply chains for United States entities that include products produced by Native American tribes and indigenous peoples.

(b) CONSULTATION REQUIRED.—The individuals listed in this subsection are the following:

- (1) The Secretary of Commerce.
- (2) The Secretary of State.
- (3) The Secretary of the Interior.
- (4) The United States Trade Representative.
- (5) The Administrator and the Advisor for Indigenous Peoples Issues of the United States Agency for International Development.
- (6) The President of the Overseas Private Investment Corporation.
- (7) The Chief Executive Officer of the Millennium Challenge Corporation.
- (8) The President of the Inter-American Foundation.
- (9) Representatives of Native American tribes.

(10) Representatives of civil society organizations advocating for the rights or interests of indigenous peoples.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Affairs and the Committee on Natural Resources of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Energy and Natural Resources, and the Committee on Indian Affairs of the Senate.

SEC. 305. UNITED STATES ASSISTANCE TO SUPPORT INDIGENOUS PEOPLES.

In order to improve the capacity of indigenous peoples to engage in and benefit from increased trade and investment relationships, the Secretary of State shall—

(1) consult with—

(A) the Administrator of the United States Agency for International Development; and

(B) representatives of civil society organizations, especially organizations comprised of or representing the interests of indigenous peoples; and

(2) provide assistance to countries in the Western Hemisphere in a manner that promotes and facilitates entrepreneurship among indigenous peoples—

(A) by strengthening the capacity of civil society organizations and local governments; and

(B) by supporting projects involving sustainable natural resource management, agricultural development, and handicraft production.

PURPOSE OF THE BILL

The purpose of H.R. 4506 is to provide incentives to encourage tribal job creation and economic activity.

BACKGROUND AND NEED FOR LEGISLATION

Title I of H.R. 4506 would amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000,¹ the Buy Indian Act,² and the Native Programs Act of 1974³ to increase access to capital for Indian tribes and businesses. Title II would establish within the Department of the Interior a “business incubator” program to promote entrepreneurship and economic development on Indian reservations. Title II would also require the Department of the Interior to coordinate its business incubator activities with other federal agencies to promote Native American business development. Title III would direct the Secretary of State to aid countries in the Western Hemisphere to promote and facilitate entrepreneurship among their indigenous peoples by strengthening the capacity of civil society organizations and local governments, and supporting projects involving sustainable natural resource management, agricultural development, and handicraft production.

For decades, Native American⁴ communities have struggled with a wide array of difficulties relating to economic development on their land, including poor access to capital, remote and rural locations, and degradation of the local infrastructure. Only around half of all Native Americans (16 or older) residing on or near tribal communities have jobs, and a quarter of Native families earn an income that is below the federal poverty line.⁵

Today, approximately 56 million acres of land are held in trust by the United States (through the Department of the Interior) for

¹25 U.S.C. 4301 et seq.

²25 U.S.C. 47.

³42 U.S.C. 2991 et seq.

⁴In this report, the terms “Native American,” “Native” and “Indian” are used interchangeably.

⁵2013 American Indian Population and Labor Force Report, Department of the Interior.

the benefit of individual Indians and Indian tribes.⁶ Many of these lands are in remote areas, and none may be leased for business, agriculture, and mineral uses without the approval of the Secretary of the Interior. Trust land is generally a prerequisite for a tribe to conduct gambling under the Indian Gaming Regulatory Act.⁷

The economies of Indian reservations in remote areas, where casinos may be a break-even proposition at best, suffer from great poverty. Many reservations and other Indian communities lack grocery stores, retail outlets, or banks. Residents may have to travel great distances (sometimes up to a two-hour drive) to buy groceries or go to a bank, while spending their disposable income on purchases off the reservation. Tribes have sought to keep dollars on their reservations to create sustainable economies, but they face a variety of challenges:

- *Federal Approval.* Tribes and individual Indians may not lease their trust land without the permission of the Secretary of the Interior (this problem is not directly addressed by H.R. 4506).

- *Legal Systems and Infrastructure.* To attract businesses to the reservations, tribal governments need to provide business-friendly laws and independent court systems. Companies and investors, Indian and non-Indian alike, rely on governments to ensure fair competition, maintain law and order, and create laws and judicial systems that help enforce contracts and property rights. Not all tribal governments have enacted the kinds of business and commercial codes that businesses and banks need before they will locate and operate on reservations. Additionally, many components of tribal infrastructure need significant repair or replacement.

- *Access to Capital.* In many Native American communities, there is a lack of equity resources, such as home equity or intergenerational family assets. Likewise, trust land cannot be used as collateral, so access to capital is complicated further in Indian Country. Even if access to private capital is available, it may come at a higher cost.

- *Remote Locations.* The remoteness of many Indian communities diminishes the possibility of building commercial markets for goods and services or developing many types of industrial or manufacturing economies.

- *Sovereign Immunity.* Under a legal doctrine developed by federal courts, Indian tribes enjoy sovereign immunity against States and private citizens. Such sovereign immunity exists on and off an Indian reservation. A tribe may not be sued unless its sovereign immunity is waived by the tribe or by Congress, which has not debated this issue in many years. Tribes consider sovereign immunity a valid exercise of self-governance which promotes economic development. Developers or investors unfamiliar with a tribe's use of sovereign immunity may be reluctant to engage in business ventures with it.

In recent years, Congress has enacted laws to grant tribes stronger, more comprehensive control over business, agricultural, and residential leasing of tribal lands. One example is the Helping

⁶ <http://nationalmap.gov/small-scale/mld/indlanp.html>

⁷ 25 U.S.C. 2701 et seq.

Expedite and Advance Responsible Tribal Home Ownership Act of 2012, or the HEARTH Act.⁸ Congress has also enacted multiple laws to assist these communities in obtaining access to capital in the forms of loan guarantees, procurement programs, and community development financial institutions (CDFI). One of these laws, the Native American Business Development, Trade Promotion, and Tourism Act of 2000,⁹ assists tribes with business development and in ensuring tribal businesses follow all legal and regulatory requirements, among other things.

While Congress has attempted to alleviate challenges experienced by tribal businesses, various challenges remain. As mentioned previously, many Indian reservations and communities are in predominantly rural, remote locations, and enticing entrepreneurs to fund and support businesses in these areas can be difficult.

Title II of H.R. 4506 is premised on the idea that federal grant programs supporting business incubators are uniquely able to support tribal businesses in ways that broad legislation cannot, as incubators can be tailored to fit the needs of the various regions where tribal businesses exist. By offering services that range from workplace enhancement, comprehensive skills training, and networking assistance, business incubators have been a reliable and consistent solution to the many problems that continue to plague Indian Country.

SECTION-BY-SECTION ANALYSIS OF MAJOR PROVISIONS OF THE BILL
AS REPORTED

TITLE I—INDIAN ECONOMIC ENHANCEMENT ACT OF 2018

Sec. 102. Native American Business Development, Trade Promotion, and Tourism Act of 2000

- Amends current law to enhance the Office of Native American Business Development (ONABD) by establishing a budget, having the Director report directly to the Secretary of Commerce, and augmenting the Director's duties, including: (1) advising the Department of Commerce regarding the relationship between the United States and Indian tribes; and (2) serving as the point of contact for tribes, tribal organizations, and members of tribes regarding economic development and doing business in Indian lands.

- The ONABD, the Office of the Assistant Secretary for Indian Affairs, and the Community Development Financial Institutions (CDFI) fund must coordinate to support economic development in Native American communities.

- Waives a matching funds requirement in a CDFI assistance program benefiting Native American community development.

- Government Accountability Office must conduct a study that assesses: (1) current programs and services that assist Native American communities with business and economic development; (2) assistance provided to Native Americans pursuant to loan, bond, and tax incentive programs; and (3) alternative incentives for tribal governments to invest in a Native American community development investment fund or bank.

⁸Public Law 112–151, 25 U.S.C. 415.

⁹25 U.S.C. 4301 et seq.

Sec. 103. Buy Indian Act

- Amends the Buy Indian Act to require the Departments of the Interior and Health and Human Services to use Native American labor and purchase Native American industry products when applicable and unless impracticable and unreasonable.

Sec. 104. Native American Programs Act of 1974

- Amends the Native American Programs Act of 1974 to permit the Administration for Native Americans to award competitive economic development grant assistance to certain Native American CDFIs and to prioritize grants to develop tribal codes, court systems or master plans relating to economic development.

TITLE II—NATIVE AMERICAN BUSINESS INCUBATORS PROGRAM ACT

Sec. 203. Establishment of program

- Requires the Department of the Interior to establish a grant program in the Office of Indian Energy and Economic Development's Division of Economic Development for establishing and operating business incubators that serve Native American communities. A business incubator is an organization that: (1) provides physical workspace and facilities resources to startups and established businesses; and (2) is designed to accelerate the growth and success of businesses through a variety of business support resources and services. Grant applicants may be institutions of higher education, private nonprofits, Native American tribes or tribal nonprofits.

Sec. 204. Schools to business incubator pipeline

- The Secretary of the Interior must facilitate the establishment of relationships between grant recipients and educational institutions serving Native American communities.

Sec. 205. Agency partnerships

- Directs the Secretary of the Interior to coordinate with the Secretary of Agriculture, Secretary of Commerce, Secretary of Treasury and the Administrator of the Small Business Administration to ensure that business incubators receiving grant funds under the program have the information and materials they need to apply for each agency's business and entrepreneurial development programs.

TITLE III—INDIGENOUS PEOPLES EXCHANGE AND ECONOMIC COOPERATION ACT

Sec. 304. Strategy

- Requires the President to develop a strategy to promote and facilitate cross-investments between Native American tribes and indigenous peoples in tribal businesses and commercial enterprises that involve indigenous peoples, such as sustainable natural resource management, agricultural development and handicraft production.

Sec. 305. United States assistance to support indigenous peoples

- Directs the Secretary of State to assist countries in the Western Hemisphere in a manner that promotes and facilitates entre-

preneurship among indigenous peoples by strengthening the capacity of civil society organizations and local governments, and supporting projects involving sustainable natural resource management, agricultural development and handicraft production.

COMMITTEE ACTION

H.R. 4506 was introduced on November 30, 2017, by Congresswoman Norma J. Torres (D–CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. Additionally, the bill was referred to the Committee on Foreign Affairs and the Committee on Education and the Workforce. On February 6, 2018, the Indian, Insular, and Alaska Native Affairs Subcommittee held a hearing on the bill. On January 17, 2018, the Subcommittee on Indian, Insular and Alaska Native Affairs held a hearing on the bill. On May 8, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Raul M. Grijalva (D–AZ) offered an amendment designated 087; it was adopted by unanimous consent. No additional amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

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) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4506, the Jobs for Tribes Act.

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

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director)

Enclosure.

H.R. 4506—Jobs for Tribes Act

Summary: H.R. 4506 would authorize and amend several programs across the government to encourage job creation and economic activity within Indian communities. The bill would create programs within the Department of Commerce (DOC), Bureau of Indian Affairs (BIA), Department of State, and Department of Health and Human Services.

CBO estimates that implementing H.R. 4506 would cost \$46 million over the 2019–2023 period, assuming appropriation of the necessary amounts.

Enacting H.R. 4506 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4506 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 4506 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 4506 is shown in the following table. The costs of the legislation fall within budget functions 450 (community and regional development) and 150 (international affairs).

| | By fiscal year, in millions of dollars— | | | | | |
|--|---|------|------|------|------|-----------|
| | 2019 | 2020 | 2021 | 2022 | 2023 | 2019–2023 |
| INCREASES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Department of Commerce: | | | | | | |
| Estimated Authorization Level | 4 | 4 | 4 | 4 | 4 | 20 |
| Estimated Outlays | 3 | 4 | 4 | 4 | 4 | 19 |
| Bureau of Indian Affairs: | | | | | | |
| Estimated Authorization Level | 7 | 7 | 8 | 8 | 8 | 38 |
| Estimated Outlays | 2 | 4 | 6 | 7 | 8 | 27 |
| Total Changes: | | | | | | |
| Estimated Authorization Level | 11 | 11 | 12 | 12 | 12 | 58 |
| Estimated Outlays | 5 | 8 | 10 | 11 | 12 | 46 |

Basis of estimate: For this estimate, CBO assumes H.R. 4506 will be enacted near the end of 2018 and that the necessary amounts will be appropriated for each year beginning in 2019. Estimated outlays are based on historical spending patterns for similar programs.

Department of Commerce

Section 103 would reorganize the Office of Native American Business Development (ONABD) within DOC. That office would be required to serve as the liaison between DOC and Indian tribes. Current law authorizes the annual appropriation of whatever amounts are necessary for ONABD operations; however, no funds have been specifically appropriated for such purposes since ONABD was originally authorized.

Using information from DOC, CBO estimates that implementing this section would cost \$19 million over the 2019–2023 period. That spending would cover the costs of a Washington, D.C. based director for the office and support staff along with four small regional offices.

Bureau of Indian Affairs

Title II would authorize a grant program to aid development of Native American businesses. The program would be managed by BIA and would involve providing physical workplaces, business skills training, and access to networks of potential investors, among other services. All grants would be awarded for three-year periods and could be renewed for additional three-year terms.

Using information on the cost of a similar program previously run by the Small Business Administration and accounting for anticipated inflation, CBO estimates that implementing the program would cost \$27 million over the 2019–2023 period.

Other agencies

Section 305 would authorize the Department of State to provide foreign assistance to facilitate entrepreneurship among indigenous peoples in countries of the Western Hemisphere. The department and the U.S. Agency for International Development currently provide such assistance in several countries, including Colombia, Brazil, Peru, Guatemala, and Paraguay. Although they could increase the amount of that assistance under the bill, CBO has no basis for estimating any such increase.

Section 105 would amend the Native American Programs Act of 1974 to slightly expand the number of institutions eligible for social and economic development grants under that act and to prioritize financial and technical assistance for applicants that seek assistance for certain types of community and economic development. The authorization of appropriations for the social and economic development grant programs under the Native American Programs Act of 1974 expired at the end of fiscal year 2002. However, the Congress has continued to appropriate funds for those programs, including about \$34 million in 2018. The bill would not reauthorize those programs, and CBO estimates that implementing section 105 would have no significant budgetary effects.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 4506 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: H.R. 4506 contains no intergovernmental or private-sector mandates as defined in UMRA. Tribal governments would benefit from grants established in the bill to support the growth of Native American businesses and Native American entrepreneurs. Any costs to tribal governments would result from complying with conditions of assistance.

Previous CBO estimates: Portions of H.R. 4506 are similar to other pieces of legislation for which CBO has published estimates:

- On June 22, 2017, CBO transmitted a cost estimate for S. 1116, the Indian Community Economic Enhancement Act of 2017, as ordered reported by the Senate Committee on Indian Affairs on May 17, 2017. Title I of H.R. 4506 is similar to S. 1116. Differences in CBO's estimates reflect differences in the authorization language in the two pieces of legislation.
- On April 21, 2017, CBO transmitted a cost estimate for S. 607, the Native American Business Incubators Program Act, as ordered reported by the Senate Committee on Indian Affairs on

March 29, 2017. Title II of H.R. 4506 is similar to S. 607. Differences in CBO’s estimates reflect differences in the authorization language in the two pieces of legislation.

Estimate prepared by: Federal Costs: Sunita D’Monte (Department of State), Jennifer Gray (Department of Health and Human Services), Robert Reese (Other Agencies), Mandates: Zach Byrum.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Cost Estimates Unit, Sheila Dacey, Chief, Income Security and Education Cost Estimates Unit; David Newman, Chief, Defense, International Affairs, and Veterans’ Affairs Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide incentives to encourage tribal job creation and economic activity.

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.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of 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 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

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 italic, and existing law in which no change is proposed is shown in roman):

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;

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

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

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

(5) Congress has carried out the responsibility of the United States for the protection and preservation of Indian tribes and the resources of Indian tribes through the 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 in order to foster strong tribal governments, Indian self-determination, and economic self-sufficiency among Indian tribes;

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

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

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

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

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

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

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

- (A) insufficient to address the magnitude of needs; and
- (B) unreliable in availability; and
- (12) the twin goals of economic self-sufficiency and political self-determination for Native Americans can best be served by making available to address the challenges faced by those groups—
 - (A) the resources of the private market;
 - (B) adequate capital; and
 - (C) technical expertise.

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

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

- (A) encouraging the formation of new businesses by eligible entities, and the expansion of existing businesses; and
- (B) facilitating the movement of goods to and from Indian lands and the provision of services by Indians.

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

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

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

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

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

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

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

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

SEC. 3. DEFINITIONS.

In this Act:

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

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

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

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

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

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

(C) services provided by eligible entities.

[(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 (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 (or a combination thereof).

[(6)] (7) INDIAN TRIBE.—The term “Indian tribe” has the meaning given that term 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 enterprise” means a commercial activity or business managed or controlled by an Indian tribe.

[(9)] (11) TRIBAL ORGANIZATION.—The term “tribal organization” has the meaning given that term in section 4(1) 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.

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

- (A) provide the greatest degree of economic benefits to Indians; and
 - (B) foster long-term stable economies of Indian tribes.
- (6) PROHIBITION.—The Secretary may not provide under this section assistance for any activity related to the operation of a gaming activity on Indian lands pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.).
- (c) DUTIES OF DIRECTOR.—
- (1) IN GENERAL.—*The Director shall serve as—*
 - (A) *the program and policy advisor to the Secretary with respect to the trust and governmental relationship between the United States and Indian tribes; and*
 - (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.*

* * * * *

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) to provide a report to Congress regarding improvements to Indian communities resulting from such initiatives and recommendations for promoting sustained growth of the tribal economies.

(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, 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.] 9. AUTHORIZATION OF APPROPRIATIONS.

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

SECTION 23 OF THE 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; and*

(4) *require procurement management reviews by their respective Departments to include a review of the implementation of this section.*

NATIVE AMERICAN PROGRAMS ACT OF 1974

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 nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaska Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and nonprofit 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. 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 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 to regulate environmental quality pursuant to Federal and 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 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 to the Commissioner in such form as the Commissioner shall prescribe.

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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).*

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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 (e) 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 for each of fiscal years 1999, 2000, 2001, and 2002.

(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 (e) 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 such sums as may be necessary for each of fiscal years 2008, 2009, 2010, 2011, and 2012.

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