

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 25 - INDIANS

CHAPTER 44—NATIVE AMERICAN BUSINESS DEVELOPMENT, TRADE PROMOTION, AND TOURISM

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TITLE 25 INDIANS

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CHAPTER 44—NATIVE AMERICAN BUSINESS DEVELOPMENT, TRADE PROMOTION, AND TOURISM

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§ 4301. Findings; purposes

(a) Findings

Congress finds that—

- (1) clause 3 of section 8 of article I of the United States Constitution recognizes the special relationship between the United States and Indian tribes;
- (2) beginning in 1970, with the inauguration by the Nixon Administration of the Indian self-determination era, each President has reaffirmed the special government-to-government relationship between Indian tribes and the United States;
- (3) in 1994, President Clinton issued an Executive memorandum to the heads of departments and agencies that obligated all Federal departments and agencies, particularly those that have an impact on economic development, to evaluate the potential impacts of their actions on Indian tribes;
- (4) consistent with the principles of inherent tribal sovereignty and the special relationship between Indian tribes and the United States, Indian tribes retain the right to enter into contracts and agreements to trade freely, and seek enforcement of treaty and trade rights;
- (5) Congress has carried out the responsibility of the United States for the protection and preservation of Indian tribes and the resources of Indian tribes through the 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;

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- (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 chapter 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.

(Pub. L. 106–464, § 2, Nov. 7, 2000, 114 Stat. 2012.)

Short Title

Pub. L. 106–464, § 1, Nov. 7, 2000, 114 Stat. 2012, provided that: “This Act [enacting this chapter] may be cited as the ‘Native American Business Development, Trade Promotion, and Tourism Act of 2000’.”

General Accounting Office Study

Pub. L. 106–568, title IV, § 421, Dec. 27, 2000, 114 Stat. 2906, directed the Comptroller General to conduct a study and make findings and recommendations with respect to Federal programs designed to assist Indian tribes and tribal members with economic development, job creation, entrepreneurship, and business development, and to report to Congress not later than 1 year after Dec. 27, 2000.

Indian Tribal Regulatory Reform and Business Development

Pub. L. 106–447, Nov. 6, 2000, 114 Stat. 1934, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Indian Tribal Regulatory Reform and Business Development Act of 2000’.

“SEC. 2. FINDINGS; PURPOSES.

“(a) Findings.—Congress finds that—

“(1) 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 rates of unemployment, poverty,

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poor health, substandard housing, and associated social ills which are greater than the rates for any other group in the United States;

“(2) the capacity of Indian tribes to build strong Indian 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 conducted on Indian lands;

“(3) beginning in 1970, with the issuance by the Nixon Administration of a special message to Congress on Indian Affairs, each President has reaffirmed the special government-to-government relationship between Indian tribes and the United States; and

“(4) 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 Indian tribes; and

“(B) facilitate economic development on Indian lands.

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

“(1) To provide for a comprehensive review of the laws (including regulations) that affect investment and business decisions concerning activities conducted on Indian lands.

“(2) To determine the extent to which those laws unnecessarily or inappropriately impair—

“(A) investment and business development on Indian lands; or

“(B) the financial stability and management efficiency of Indian tribal governments.

“(3) To establish an authority to conduct the review under paragraph (1) and report findings and recommendations that result from the review to Congress and the President.

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) Authority.—The term ‘Authority’ means the Regulatory Reform and Business Development on Indian Lands Authority.

“(2) Federal agency.—The term ‘Federal agency’ means an agency, as that term is defined in section 551 (1) of title 5, United States Code.

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

“(4) Indian 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 [Nov. 6, 2000]).

“(5) 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)).

“(6) Secretary.—The term ‘Secretary’ means the Secretary of Commerce.

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

“SEC. 4. ESTABLISHMENT OF AUTHORITY.

“(a) Establishment.—

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“(1) In general.—Not later than 60 days after the date of enactment of this Act [Nov. 6, 2000], the Secretary, in consultation with the Secretary of the Interior and other officials whom the Secretary determines to be appropriate, shall establish an authority to be known as the Regulatory Reform and Business Development on Indian Lands Authority.

“(2) Purpose.—The Secretary shall establish the Authority under this subsection in order to facilitate the identification and subsequent removal of obstacles to investment, business development, and the creation of wealth with respect to the economies of Native American communities.

“(b) Membership.—

“(1) In general.—The Authority established under this section shall be composed of 21 members.

“(2) Representatives of Indian tribes.—12 members of the Authority shall be representatives of the Indian tribes from the areas of the Bureau of Indian Affairs. Each such area shall be represented by such a representative.

“(3) Representatives of the private sector.—No fewer than 4 members of the Authority shall be representatives of nongovernmental economic activities carried out by private enterprises in the private sector.

“(c) Initial Meeting.—Not later than 90 days after the date of enactment of this Act [Nov. 6, 2000], the Authority shall hold its initial meeting.

“(d) Review.—Beginning on the date of the initial meeting under subsection (c), the Authority shall conduct a review of laws (including regulations) relating to investment, business, and economic development that affect investment and business decisions concerning activities conducted on Indian lands.

“(e) Meetings.—The Authority shall meet at the call of the chairperson.

“(f) Quorum.—A majority of the members of the Authority shall constitute a quorum, but a lesser number of members may hold hearings.

“(g) Chairperson.—The Authority shall select a chairperson from among its members.

“SEC. 5. REPORT.

“Not later than 1 year after the date of enactment of this Act [Nov. 6, 2000], the Authority shall prepare and submit to the Committee on Indian Affairs of the Senate, the Committee on Resources [now Committee on Natural Resources] of the House of Representatives, and to the governing body of each Indian tribe a report that includes—

“(1) the findings of the Authority concerning the review conducted under section 4 (d); and

“(2) such recommendations concerning the proposed revisions to the laws that were subject to review as the Authority determines to be appropriate.

“SEC. 6. POWERS OF THE AUTHORITY.

“(a) Hearings.—The Authority may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Authority considers advisable to carry out the duties of the Authority.

“(b) Information From Federal Agencies.—The Authority may secure directly from any Federal department or agency such information as the Authority considers necessary to carry out the duties of the Authority.

“(c) Postal Services.—The Authority may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(d) Gifts.—The Authority may accept, use, and dispose of gifts or donations of services or property.

“SEC. 7. AUTHORITY PERSONNEL MATTERS.

“(a) Compensation of Members.—

“(1) Non-federal members.—Members of the Authority who are not officers or employees of the Federal Government shall serve without compensation, except for travel expenses as provided under subsection (b).

“(2) Officers and employees of the federal government.—Members of the Authority who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(b) Travel Expenses.—The members of the Authority shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Authority.

“(c) Staff.—

“(1) In general.—The chairperson of the Authority may, without regard to the civil service laws, appoint and terminate such personnel as may be necessary to enable the Authority to perform its duties.

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“(2) Procurement of temporary and intermittent services.—The chairperson of the Authority may procure temporary and intermittent services under section 3109 (b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed under GS–13 of the General Schedule established under section 5332 of title 5, United States Code.

“SEC. 8. TERMINATION OF THE AUTHORITY.

“The Authority shall terminate 90 days after the date on which the Authority has submitted a copy of the report prepared under section 5 to the committees of Congress specified in section 5 and to the governing body of each Indian tribe.

“SEC. 9. EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.

“The activities of the Authority conducted under this Act shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

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

.....

§ 4302. Definitions

In this chapter:

(1) 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 305a of this title, 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) Indian

The term “Indian” has the meaning given that term in section 450b (d) of this title.

(3) Indian goods and services

The term “Indian goods and services” means—

- (A) Indian goods, within the meaning of section 305a of this title;
- (B) goods produced or originated by an eligible entity; and
- (C) services provided by eligible entities.

(4) 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; or
- (ii) the term “reservation” under—
 - (I) section 1452 (d) of this title; or
 - (II) section 1903 (10) of this title.

(B) Former Indian reservations in Oklahoma

For purposes of applying section 1452 (d) of this title 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 November 7, 2000).

(5) 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) Indian tribe

The term “Indian tribe” has the meaning given that term in section 450b (e) of this title.

(7) Secretary

The term “Secretary” means the Secretary of Commerce.

(8) Tribal enterprise

The term “tribal enterprise” means a commercial activity or business managed or controlled by an Indian tribe.

(9) Tribal organization

The term “tribal organization” has the meaning given that term in section 450b (l) of this title.

(Pub. L. 106–464, § 3, Nov. 7, 2000, 114 Stat. 2013.)

.....

§ 4303. Office of Native American Business Development

(a) In general

(1) Establishment

There is established within the Department of Commerce an office known as the Office of Native American Business Development (referred to in this chapter 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 chapter 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.

(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. 2701 et seq.].

(Pub. L. 106–464, § 4, Nov. 7, 2000, 114 Stat. 2015.)

References in Text

The Indian Gaming Regulatory Act, referred to in subsec. (b)(6), is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

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§ 4304. Native American trade and export promotion

(a) In general

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

(b) Coordination of Federal programs and services

In carrying out the program, the Secretary, acting through the Director, and in cooperation with the heads of appropriate Federal agencies, shall ensure the coordination of Federal programs and services designed to—

- (1) develop the economies of Indian tribes; and
- (2) stimulate the demand for Indian goods and services that are available from eligible entities.

(c) Activities

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

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- (1) Federal programs designed to provide technical or financial assistance to eligible entities;
- (2) the development of promotional materials;
- (3) the financing of appropriate trade missions;
- (4) the marketing of Indian goods and services;
- (5) the participation of appropriate Federal agencies or eligible entities in international trade fairs; and
- (6) any other activity related to the development of markets for Indian goods and services.

(d) Technical assistance

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

- (1) the identification of appropriate markets for Indian goods and services;
- (2) entering the markets referred to in paragraph (1);
- (3) compliance with foreign or domestic laws and practices with respect to financial institutions with respect to the export and import of Indian goods and services; and
- (4) entering into financial arrangements to provide for the export and import of Indian goods and services.

(e) Priorities

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

- (1) provide the greatest degree of economic benefits to Indians; and
- (2) foster long-term stable international markets for Indian goods and services.

(Pub. L. 106-464, § 5, Nov. 7, 2000, 114 Stat. 2016.)

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§ 4305. Intertribal tourism demonstration projects

(a) Program to conduct tourism projects

(1) In general

The Secretary, acting through the Director, shall conduct a Native American tourism program to facilitate the development and conduct of tourism demonstration projects by Indian tribes, on a tribal, intertribal, or regional basis.

(2) Demonstration projects

(A) In general

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

(B) Projects described

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

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

- (ii) the development of educational resources to assist in private and public tourism development on and in the vicinity of Indian lands; and
- (iii) the coordination of tourism-related joint ventures and cooperative efforts between eligible entities and appropriate State and local governments that have jurisdiction over areas in the vicinity of Indian lands.

(3) Grants

To carry out the program under this section, the Secretary, acting through the Director, may award grants or enter into other appropriate arrangements with Indian tribes, tribal organizations, intertribal consortia, or other tribal entities that the Secretary, in consultation with the Director, determines to be appropriate.

(4) Locations

In providing for tourism development demonstration projects under the program under this section, the Secretary, acting through the Director, shall provide for a demonstration project to be conducted—

- (A) for Indians of the Four Corners area located in the area adjacent to the border between Arizona, Utah, Colorado, and New Mexico;
- (B) for Indians of the northwestern area that is commonly known as the Great Northwest (as determined by the Secretary);
- (C) for the Oklahoma Indians in Oklahoma;
- (D) for the Indians of the Great Plains area (as determined by the Secretary); and
- (E) for Alaska Natives in Alaska.

(b) Assistance

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

- (1) feasibility studies conducted as part of that project;
- (2) market analyses;
- (3) participation in tourism and trade missions; and
- (4) any other activity that the Secretary, in consultation with the Director, determines to be appropriate to carry out this section.

(c) Infrastructure development

The demonstration projects conducted under this section shall include provisions to facilitate the development and financing of infrastructure, including the development of Indian reservation roads in a manner consistent with title 23.

(Pub. L. 106-464, § 6, Nov. 7, 2000, 114 Stat. 2016.)

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§ 4306. Report to Congress

(a) In general

Not later than 1 year after November 7, 2000, and annually thereafter, the Secretary, in consultation with the Director, shall prepare and submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a report on the operation of the Office.

(b) Contents of report

Each report prepared under subsection (a) of this section shall include—

- (1) for the period covered by the report, a summary of the activities conducted by the Secretary, acting through the Director, in carrying out sections 4303 through 4305 of this title; and

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(2) any recommendations for legislation that the Secretary, in consultation with the Director, determines to be necessary to carry out sections 4303 through 4305 of this title.

(Pub. L. 106–464, § 7, Nov. 7, 2000, 114 Stat. 2018.)

Change of Name

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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§ 4307. Authorization of appropriations

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

(Pub. L. 106–464, § 8, Nov. 7, 2000, 114 Stat. 2018.)