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### PROVIDING FOR BUSINESS DEVELOPMENT AND TRADE PROMOTION FOR NATIVE AMERICANS, AND FOR OTHER PURPOSES

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SEPTEMBER 8, 1999.—Ordered to be printed

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Mr. CAMPBELL, from the Committee on Indian Affairs,  
submitted the following

### REPORT

[To accompany S. 401]

The Committee on Indian Affairs, to which was referred the bill (S. 401) to provide for business development and trade promotion for Native Americans, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

#### PURPOSE

The purpose of S. 401 is to provide for business development and trade promotion for Native Americans, and for other purposes.

#### BACKGROUND

Native Americans suffer from high unemployment and poverty rates, poor housing and health care, and substandard education. By all measures and compared to all other groups in the United States, Native Americans occupy the bottom rung on the social and economic ladder. Various studies and congressional oversight hearings on barriers to economic development on Indian lands continue to identify, among other factors, the lack of a vigorous private sector as a major impediment to Native American economic progress.<sup>1</sup>

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<sup>1</sup> The numerous regulatory and structural impediments to Native American economic development have been well-documented. SAR A. Levitan and Elizabeth I. Miller, *The Equivocal Prospects for Indian Reservations: An Occasional Paper* (May 1993) (an unpublished manuscript, on file with the Center for Social Policy Studies); Department of Interior, Report of the Task Force

Continued

The following are some statistical measurements illustrating the dire need for economic and community development in Indian country:

**Employment and Income.**—In March of 1999, the United States reached a 29-year low with an unemployment rate of 4.2%. However, the unemployment rate for American Indian and Alaskan Native populations continues to hover at 50%, with some Native communities suffering unemployment rates of 80–90%. In addition, American Indians and Alaskan Natives have the highest poverty rate in the country at 30%. These statistics reflect a variety of factors including poor physical infrastructure, lack of human capital, lack of access to financial capital, a long-standing dependence on federal transfer payments, and an almost non-existent private sector economy in Native communities.<sup>2</sup>

**Housing.**—The American Indian and Alaskan Native populations live in housing that is often, and justifiably, compared to third world nations. One out of every five Indian homes lacks complete plumbing facilities. Over 90,000 American Indians and Alaskan Natives are homeless or under-housed. In addition to scarce and poor quality housing stock, an aggravating factor in the housing market is the lack of private sector capital and mortgage lending.

**Infrastructure.**—In 1995, the National Tribal Development Association (NTDA) conducted a study and determined that most tribes lack the basic physical infrastructure that is necessary for economic and community development. Tribes have limited access to energy, water, transportation, and technical assistance designed to develop this infrastructure. For example, there are over 50,000 miles of roads in Indian country and less than half these roads are paved. In addition, 73% of all tribal water treatment facilities are considered inadequate.

After years of failed federal programs, Indian economies remain stagnant. For Indian country to prosper and foster healthy economies, private investment is necessary. S. 401 is fueled by the belief that the federal government can work more efficiently with tribal governments, along with the private sector, to boost economic development in Indian country. As a complementary matter, better coordination of federal Indian economic development programs and resources will promote greater efficiency as tribes, tribal members, private sector representatives, and individuals engage in business development on Indian lands.

#### SUMMARY OF THE PROVISIONS OF S. 401

S. 401 addresses several barriers to job creation and economic development in Indian country and establishes an Office of Native American Business Development in the Department of Commerce to promote both intra-agency and inter-agency coordination of federal programs that affect Indian economic development.<sup>3</sup> In addi-

on Indian Economic Development (July 1986); Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States (November 1984).

<sup>2</sup>Stephen Cornell and Joseph P. Kalt, What Can Tribes Do? Strategies and Institutions in American Indian Economic Development 3 (1992).

<sup>3</sup>The General Accounting Office has previously recommended the creation of an agency solely responsible and accountable for the coordination of Indian economic programs to develop a consolidated, national Indian economic development policy. General Accounting Office, Improving

tion, this Office will coordinate a Native American trade and export promotion program to encourage Native American entry into international trade and commercial transactions. S. 401 also authorizes the Secretary to facilitate the development of five tourism demonstration projects. Finally, S. 401 requires the Free Trade Zone Board and the Secretary of Treasury to expedite the processing of any applications involving the establishment of a foreign-trade zone (FTZ) and port of entry on Indian lands, respectively.

It is the Committee's view that because of its many business and economic development offices and missions that the Department of Commerce is the best suited government entity to undertake the provisions of S. 401. Both the mission and the supporting agencies of the Department of Commerce provide a solid foundation for Indian economic development. The mission of the Department of Commerce is to "\* \* \* promote job creation, economic growth, sustainable development and improved living standards for all Americans by working in partnership with business, universities, communities, and workers." In addition, key economic development resources are housed in the department, including the International Trade Administration, Technology Administration, National Telecommunications and Information Administration, the Patent and Trademark Office, the Economic Development Administration, and the Minority Business Development Agency, among others.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

The title of this bill is the Native American Business Development, Trade Promotion, and Tourism Act of 1999.

##### *Section 2. Findings; purposes*

This section sets forth the findings of the Congress which recognizes the special government-to-government relationship between Indian tribes and the United States. The United States has an obligation to guard and preserve tribal sovereignty and to foster strong tribal governments, Indian self-determination, and tribal economic self-sufficiency. Presently, American Indians and Alaskan Natives suffer the highest rates of unemployment, poverty, poor health, substandard housing, and associated social ills in the nation.

The United States has an obligation to assist Indian tribes in the creation of appropriate economic and political conditions to encourage investment from outside sources and to facilitate economic ventures with outside entities. The economic success of Native American communities often depends on the combined and coordinated efforts of the federal government, tribal governments, the private sector, and individuals. The goals of economic self-sufficiency and political self-determination are furthered if private sector resources, economic capital, and technical expertise are available to Native American Communities.

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Federally Assisted Business Development on Indian Reservations (June 27, 1975). Based on the reasoning of this GAO report, the Committee believes that greater intra-agency and inter-agency coordination undertaken by the Department of Commerce would significantly improve business and community development in Native communities.

The purposes of this Act are: (1) to revitalize economically and physically distressed Indian reservations and Indian lands, (2) to promote private investment in Indian economies, (3) to promote long-range sustained growth in Native economies, (4) to reduce poverty levels and achieve a higher standard of living in Native Communities, (5) to encourage trade and business development for tribal members and governments, and (6) to promote economic self-sufficiency and political self-determination for Indian tribes and their members.

### *Section 3. Definitions*

The following terms are defined in this section: Board, Eligible Entity, Indian, Indian Goods and Services, Indian Lands, Indian-Owned Business, Indian Tribe, Secretary, Tribal Enterprise, and Tribal Organization.

### *Section 4. Office of Native American Business Development*

This section establishes an Office of Native American Business Development (hereinafter "Office") within the Department of Commerce. This Office is to be headed by a Director. The Secretary of Commerce (hereinafter "Secretary") through the Director is to coordinate federal technical and financial assistance programs to aid eligible entities in the development of business opportunities, the expansion of trade, and economic development.

The Office is also to engage in inter-agency coordination of federal programs and resources relating to Indian economic development, including, but not limited to, any programs in the Departments of Commerce, Interior, the Small Business Administration, and Labor. For example, the American Indian Business Leaders organization has undertaken an initiative to develop an Indian youth education curriculum that is centered on business development in Native communities. This innovative education curriculum is a good example of a project where joint participation from the Departments of Education and Commerce would be highly beneficial.

Other duties to be undertaken by this Office are the coordination of intra-agency programs within the Department of Commerce including, but not limited to, the following: (1) federal programs that provide legal, accounting, and financial assistance, (2) market surveys, (3) development of promotional materials, (4) business development seminars, (5) facilitation of marketing, (6) participation in trade fairs, (7) other related activity that promotes the development or appropriate markets, and (8) other appropriate activity. Other assistance the Secretary is to provide includes financial, technical, and administrative services, and other such assistance that the Secretary in consultation with the Director, determines to be necessary for the development of business opportunities on Indian lands.

The Secretary is directed to give priority to economic development programs that provide the greatest degree of economic benefit to Indians and foster long-term stable economies. This Office is prohibited from assisting any activity directly related to the operation of Indian gaming activities pursuant to the Indian Gaming Regulatory Act.

*Section 5. Native American trade and export promotion*

The Secretary is authorized to out a Native American export and trade promotion program. The Secretary is to ensure the coordination of federal programs to develop tribal economies and stimulate the demand for Indian goods and services. In the process of coordinating federal programs, the Secretary is to provide federal technical or financial assistance, development of promotional material, the financing of appropriate trade missions, the marketing of Indian goods and services, the participation of the appropriate federal agencies or entities in international trade fairs, and any other activity related to the development of markets for Indian goods and services. In addition, the Secretary is to provide technical assistance to help eligible entities identify and enter markets, comply with foreign and domestic laws, and develop financial arrangements to aid in importing and exporting Indian goods and services. Priority is to be given to activities that provide the greatest degree of economic benefit to Indians and foster long-term international markets for Indian goods and services.

*Section 6. Intertribal tourism demonstration projects*

This section requires the Secretary to institute a Native American tourism program through the development of tourism demonstration projects. The intent of this legislation is to encourage the development of tourism projects by Indian tribes on a tribal, intertribal, and regional basis. The Secretary is to work with the Secretary of Agriculture in the planning, development, and implementation of these tourism development demonstration projects.

The Secretary, through the Director, is directed to select certain pilot projects to participate in this program. Selection of the pilot projects is to be based on the following: (1) development of educational and promotional materials, (2) development of educational resources to assist both public and private tourism development, (3) and the coordination of tourism related joint ventures between eligible entities and state or local governments. The Secretary is authorized to award grants to carry out these pilot projects in the following locations: the Four Corners Area, the Pacific Northwest (as determined by the Secretary), Oklahoma, the Great Plains (as determined by the Secretary), and Alaska.

The Secretary is directed to provide financial, technical, and administrative assistance to the participants that are selected to carry out these tourism projects. This assistance is to aid in feasibility studies of the projects, market analyses, participation in tourism and trade missions, and other activity deemed appropriate. In addition, the tourism projects are to include provisions to facilitate the development and financing of tourism-related infrastructure, including reservation roads.

*Section 7. Report to Congress*

Within one year of the date of enactment, the Secretary is required to prepare and submit a report to Congress summarizing the activities conducted by the Secretary in carrying out Sections 4 (Office of Native American Business Development), 5 (Native American Trade and Export Promotion), and 6 (Intertribal Tourism Demonstration Projects) of this Act. The report is to include rec-

ommendations for legislation that the Secretary determines is necessary to aid in furthering Sections 4 through 6 of this Act.

*Section 8. Foreign-trade zone preferences*

In this section, the Free Trade Zone Board shall expedite, to the maximum extent practicable, the processing of any application involving the establishment of a foreign trade zone on Indian lands, including Indian lands that have been designated as an empowerment zone or enterprise community. As part of this process, the Secretary of the Treasury is to give priority to applications for ports of entry on Indian lands and expedite the processing of these applications. In evaluating the foreign-trade zone applications, both the Foreign Trade Zone Board and the Secretary of Treasury are required, to the maximum extent possible, to approve foreign-trade zones and ports of entry applications in connection with Indian lands.

*Section 9. Authorization of appropriations*

This section authorizes the appropriation of such sums as are necessary to carry out this Act.

LEGISLATIVE HISTORY

The Native American Business Development, Trade Promotion, and Tourism Act of 1999 (S. 401) was introduced on February 10, 1999, by Senator Campbell, for himself, and for Senator Inouye, with Senators Hatch, Murkowski, and Wellstone becoming cosponsors at later dates. An earlier and similar version of S. 401, was introduced on April 30, 1998 by Senator Campbell, and was referred to the Committee on Indian Affairs where a hearing was held on October 1, 1998. S. 401 was referred to the Committee on Indian Affairs and a hearing was held on the bill on April 21, 1999. On June 16, 1999, the Committee on Indian Affairs convened a business meeting to consider S. 401 and other measures that had been referred to it. The Committee favorably reported a substitute amendment to S. 401.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On June 16, 1999, the Committee on Indian Affairs, in an open business session, adopted an amendment-in-the-nature of a substitute to S. 401 by voice vote and ordered the bill, as amended, reported favorably to the Senate.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 401 as calculated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 9, 1999.*

Hon. BEN NIGHORSE CAMPBELL,  
*Chairman, Committee on Indian Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 401, the Native American Business Development, Trade Promotion, and Tourism Act of 1999.

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

Sincerely,

BARRY B. ANDERSON  
 (For Dan L. Crippen, Director).

Enclosure.

*S. 401—Native American Business Development, Trade Promotion, and Tourism Act of 1999*

CBO estimates that implementing S. 401 would cost \$23 million over the 2000–2004 period, assuming appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 401 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. This bill would authorize activities intended to benefit Indian tribes.

S. 401 would direct the Secretary of Commerce to establish the Office of Native American Business Development to provide financial, technical, and administrative assistance to eligible Indian entities to enhance the economies of Indian tribes. The bill would authorize the appropriation of whatever funds are necessary for that purpose. S. 401 would direct the new office to establish a Native American export and trade promotion program and would authorize grants to eligible Indian entities to develop intertribal tourism demonstration projects in five Indian area. The bill also would require the office to report annually to the Congress on these programs. Finally, S. 401 would direct the Secretary of the Treasury to expedite the processing of applications to establish foreign trade zones in Indian enterprise zones.

Based on information from the Department of Commerce, CBO estimates that implementing these provisions would require a total of about \$25 million in new budget authority over the 2000–2004 period. Assuming appropriation of the necessary amounts, CBO estimates outlays of \$3 million in 2000 and about \$5 million in each of fiscal years 2001 through 2004.

The CBO staff contact is Megan Carroll. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill to evaluate the regulatory paperwork impact that would be incurred in imple-

menting the legislation. The Committee has concluded that enactment of S. 401 will create only *de minimis* regulatory or paperwork burdens.

EXECUTIVE COMMUNICATIONS

The Committee has received no official communication from the Administration on the provisions of the bill.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are required to be set out in that accompanying Committee report. The Committee finds that enactment of S. 401 will not result in any changes in existing law.