In the House of Representatives, U. S.,

December 3, 2020.

Resolved, That the bill from the Senate (S. 212) entitled "An Act to amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000, the Buy Indian Act, and the Native American Programs Act of 1974 to provide industry and economic development opportunities to Indian communities.", do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Community Economic Enhancement Act of 2020".

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) to bring industry and economic development to Indian communities, Indian Tribes must overcome a number of barriers, including—

(i) geographical location;

(ii) lack of infrastructure or capacity;

(iii) lack of sufficient collateral and capital; and

(iv) regulatory bureaucracy relating to—

(I) development; and

(II) access to services provided by the Federal Government; and

(B) the barriers described in subparagraph (A) often add to the cost of doing business in Indian communities;

(2) Indian Tribes—

(A) enact laws and exercise sovereign governmental powers;

(B) determine policy for the benefit of Tribal members; and

(C) produce goods and services for consumers;

(3) the Federal Government has—

(A) an important government-to-government relationship with Indian Tribes; and

(B) a role in facilitating healthy and sustainable Tribal economies;

(4) the input of Indian Tribes in developing Federal policy and programs leads to more meaningful and effective measures to assist Indian Tribes and Indian entrepreneurs in building Tribal economies;

(5)(A) many components of Tribal infrastructure need significant repair or replacement; and

(B) access to private capital for projects in Indian communities—

(i) may not be available; or

(ii) may come at a higher cost than such access for other projects;

(6)(A) Federal capital improvement programs, such as those that facilitate tax-exempt bond financing and loan guarantees, are tools that help improve or replace crumbling infrastructure;

(B) lack of parity in treatment of an Indian Tribe as a governmental entity under Federal tax and certain other regulatory laws impedes, in part, the ability of Indian Tribes to raise capital through issuance of tax exempt debt, invest as an accredited investor, and benefit from other investment incentives accorded to State and local governmental entities; and

(C) as a result of the disparity in treatment of Indian Tribes described in subparagraph (B), investors may avoid financing, or demand a premium to finance, projects in Indian communities, making the projects more costly or inaccessible;

(7) there are a number of Federal loan guarantee programs available to facilitate financing of business, energy, economic, housing, and community development projects in Indian communities, and those programs may support public-private partnerships for infrastructure development, but improvements and

support are needed for those programs specific to Indian communities to facilitate more effectively private financing for infrastructure and other urgent development needs; and

(8)(A) most real property held by Indian Tribes is trust or restricted land that essentially cannot be held as collateral; and

(B) while creative solutions, such as leasehold mortgages, have been developed in response to the problem identified in subparagraph (A), some solutions remain subject to review and approval by the Bureau of Indian Affairs, adding additional costs and delay to Tribal projects.

SEC. 3. 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.

"(3) OFFICE OPERATIONS.—There are authorized to be appropriated to carry out this section not more than $2,000,000 for each fiscal year.".

(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 10; 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) not less than once every 2 years, to provide a report to Congress regarding—

"(A) improvements to Indian communities resulting from such initiatives and recommendations for promoting sustained growth of the Tribal economies;

"(B) results of the study and collaboration regarding the necessary changes referenced in paragraph (2) and the impact of allowing Indian Tribes to qualify as an accredited investor; and

"(C) the identified regulatory, legal, and other barriers referenced in paragraph (3).

"(b) WAIVER.—For assistance provided pursuant to section 108 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4707) to benefit Native Community Development Financial Institutions, as defined by the Secretary of the Treasury, section 108(e) of such Act shall not apply.

"(c) INDIAN ECONOMIC DEVELOPMENT FEASIBILITY STUDY.—

"(1) IN GENERAL.—The Government Accountability Office shall conduct a study and, not later than 18 months after the date of enactment of this subsection, submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Re-

sources of the House of Representatives a report on the findings of the study and recommendations.

"(2) CONTENTS.—The study shall include an assessment of each of the following:

"(A) IN GENERAL.—The study shall assess current Federal capitalization and related programs and services that are available to assist Indian communities with business and economic development, including manufacturing, physical infrastructure (such as telecommunications and broadband), community development, and facilities construction for such purposes. For each of the Federal programs and services identified, the study shall assess the current use and demand by Indian Tribes, individuals, businesses, and communities of the programs, the capital needs of Indian Tribes, businesses, and communities related to economic development, the extent to which the programs and services overlap or are duplicative, and the extent that similar programs have been used to assist non-Indian communities compared to the extent used for Indian communities.

"(B) FINANCING ASSISTANCE.—The study shall assess and quantify the extent of assistance

provided to non-Indian borrowers and to Indian (both Tribal and individual) borrowers (including information about such assistance as a percentage of need for Indian borrowers and for non-Indian borrowers, assistance to Indian borrowers and to non-Indian borrowers as a percentage of total applicants, and such assistance to Indian borrowers as individuals as compared to such assistance to Indian Tribes) through the loan programs, the loan guarantee programs, or bond guarantee programs of the—

"(i) Department of the Interior;

"(ii) Department of Agriculture;

"(iii) Department of Housing and Urban Development;

"(iv) Department of Energy;

"(v) Small Business Administration; and

"(vi) Community Development Financial Institutions Fund of the Department of the Treasury.

"(C) TAX INCENTIVES.—The study shall assess and quantify the extent of the assistance and allocations afforded for non-Indian projects and

for Indian projects pursuant to each of the following tax incentive programs:

"(i) New market tax credit.

"(ii) Low income housing tax credit.

"(iii) Investment tax credit.

"(iv) Renewable energy tax incentives.

"(v) Accelerated depreciation.

"(D) TRIBAL INVESTMENT INCENTIVE.—The study shall assess various alternative incentives that could be provided to enable and encourage Tribal governments to invest in an Indian community development investment fund or bank.".

(e) CONFORMING AND TECHNICAL AMENDMENTS.—The Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4301 et seq.) is amended—

(1) in section 3—

(A) in each of paragraphs (1), (4), and (8), by striking "tribe" and inserting "Tribe"; and

(B) in paragraph (6), by striking "The term 'Indian tribe' has the meaning given that term" and inserting "The term 'Indian Tribe' has the meaning given the term 'Indian tribe'";

(2) by striking "tribes" each place the term appears and inserting "Tribes"; and

(3) by striking "tribal" each place the term appears and inserting "Tribal".

SEC. 4. 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;

"(4) require regional offices of the Bureau of Indian Affairs and the Indian Health Service to aggregate data regarding compliance with this section;

"(5) require procurement management reviews by their respective Departments to include a review of the implementation of this section; and

"(6) consult with Indian Tribes, Indian industrial entities, and other stakeholders regarding methods to facilitate compliance with—

"(A) this section; and

"(B) other small business or procurement goals.

"(d) REPORT.—

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

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

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

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

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

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

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

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

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

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

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

"(i) Indian economic enterprises; and

"(ii) non-Indian economic enterprises;

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

"(I) for each agency region—

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

"(ii) a comparison of the amount described in clause (i) to the total amount that the agency region would likely have spent on the same purchases made from a

non-Indian economic enterprise or contracts awarded to a non-Indian economic enterprise.

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

SEC. 5. 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—

(1) by striking "803(d)" each place it appears and inserting "803(e)"; and

(2) in subsection (a)—

(A) by striking "such sums as may be necessary" and inserting "$34,000,000"; and

(B) by striking "1999, 2000, 2001, and 2002" and inserting "2021 through 2025".

(d) CONFORMING AND TECHNICAL AMENDMENTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

(1) by striking "tribe" each place the term appears and inserting "Tribe";

(2) by striking "tribes" each place the term appears and inserting "Tribes"; and

(3) by striking "tribal" each place the term appears and inserting "Tribal".

Attest:

Clerk.

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2D SESSION

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AMENDMENT