

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:

1	SECTION 1. SHORT TITLE.
2	This Act may be cited as the "Indian Community Eco-
3	nomic Enhancement Act of 2020".
4	SEC. 2. FINDINGS.
5	Congress finds that—
6	(1)(A) to bring industry and economic develop-
7	ment to Indian communities, Indian Tribes must
8	overcome a number of barriers, including—
9	$(i)\ geographical\ location;$
10	(ii) lack of infrastructure or capacity;
11	(iii) lack of sufficient collateral and capital;
12	and
13	(iv) regulatory bureaucracy relating to—
14	(I) development; and

1	(II) access to services provided by the
2	Federal Government; and
3	(B) the barriers described in subparagraph (A)
4	often add to the cost of doing business in Indian com-
5	munities;
6	(2) Indian Tribes—
7	(A) enact laws and exercise sovereign gov-
8	ernmental powers;
9	(B) determine policy for the benefit of Trib-
10	al members; and
11	(C) produce goods and services for con-
12	sumers;
13	(3) the Federal Government has—
14	(A) an important government-to-govern-
15	ment relationship with Indian Tribes; and
16	(B) a role in facilitating healthy and sus-
17	$tainable\ Tribal\ economies;$
18	(4) the input of Indian Tribes in developing
19	Federal policy and programs leads to more meaning-
20	ful and effective measures to assist Indian Tribes and
21	Indian entrepreneurs in building Tribal economies;
22	(5)(A) many components of Tribal infrastructure
23	need significant repair or replacement; and
24	(B) access to private capital for projects in In-
25	dian communities—

1	(i) may not be available; or
2	(ii) may come at a higher cost than such
3	access for other projects;
4	(6)(A) Federal capital improvement programs,
5	such as those that facilitate tax-exempt bond financ-
6	ing and loan guarantees, are tools that help improve
7	or replace crumbling infrastructure;
8	(B) lack of parity in treatment of an Indian
9	Tribe as a governmental entity under Federal tax and
10	certain other regulatory laws impedes, in part, the
11	ability of Indian Tribes to raise capital through
12	issuance of tax exempt debt, invest as an accredited
13	investor, and benefit from other investment incentives
14	accorded to State and local governmental entities; and
15	(C) as a result of the disparity in treatment of
16	Indian Tribes described in subparagraph (B), inves-
17	tors may avoid financing, or demand a premium to
18	finance, projects in Indian communities, making the
19	projects more costly or inaccessible;
20	(7) there are a number of Federal loan guarantee
21	programs available to facilitate financing of business,
22	energy, economic, housing, and community develop-
23	ment projects in Indian communities, and those pro-
24	grams may support public-private partnerships for

infrastructure development, but improvements and

support are needed for those programs specific to In-
dian communities to facilitate more effectively private
financing for infrastructure and other urgent develop-
ment 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 solu-
tions 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 add-
ing at the end the following:
"(c) Applicability to Indian-Owned Busi-
NESSES.—The findings and purposes in subsections (a) and
NESSES.—The findings and purposes in subsections (a) and (b) shall apply to any Indian-owned business governed—

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merce on Indian lands; or

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             "(2) pursuant to section 5 of the Act of August
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        15, 1876 (19 Stat. 200, chapter 289; 25 U.S.C.
 3
        261).".
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        (b) Definitions.—Section 3 of the Native American
    Business Development, Trade Promotion, and Tourism Act
 6
    of 2000 (25 U.S.C. 4302) is amended—
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             (1) by redesignating paragraphs (1) through (6)
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        and paragraphs (7) through (9), as paragraphs (2)
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        through (7) and paragraphs (9) through (11), respec-
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        tively;
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             (2) by inserting before paragraph (2) (as redesig-
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        nated by paragraph (1)) the following:
13
             "(1) Director.—The term 'Director' means the
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        Director of Native American Business Development
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        appointed pursuant to section 4(a)(2)."; and
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             (3) by inserting after paragraph (7) (as redesig-
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        nated by paragraph (1)) the following:
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             "(8) Office.—The term 'Office' means the Office
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        of Native American Business Development established
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        by section 4(a)(1).".
21
        (c) Office of Native American Business Devel-
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    OPMENT.—Section 4 of the Native American Business De-
23
    velopment, Trade Promotion, and Tourism Act of 2000 (25)
    U.S.C. 4303) is amended—
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             (1) in subsection (a)—
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1	(A) in paragraph (1)—
2	(i) by striking "Department of Com-
3	merce" and inserting "Office of the Sec-
4	retary"; and
5	(ii) by striking "(referred to in this
6	Act as the 'Office')"; and
7	(B) in paragraph (2), in the first sentence,
8	by striking "(referred to in this Act as the 'Di-
9	rector')"; and
10	(2) by adding at the end the following:
11	"(c) Duties of Director.—
12	"(1) In general.—The Director shall serve as—
13	"(A) the program and policy advisor to the
14	Secretary with respect to the trust and govern-
15	mental relationship between the United States
16	and Indian Tribes; and
17	"(B) the point of contact for Indian Tribes,
18	Tribal organizations, and Indians regarding—
19	"(i) policies and programs of the De-
20	partment of Commerce; and
21	"(ii) other matters relating to economic
22	development and doing business in Indian
23	lands.
24	"(2) Departmental coordination.—The Di-
25	rector shall coordinate with all offices and agencies

1	within the Department of Commerce to ensure that
2	each office and agency has an accountable process to
3	ensure—
4	"(A) meaningful and timely coordination
5	and assistance, as required by this Act; and
6	"(B) consultation with Indian Tribes re-
7	garding the policies, programs, assistance, and
8	activities of the offices and agencies.
9	"(3) Office operations.—There are authorized
10	to be appropriated to carry out this section not more
11	than \$2,000,000 for each fiscal year.".
12	(d) Indian Community Development Initia-
13	TIVES.—The Native American Business Development,
14	Trade Promotion, and Tourism Act of 2000 is amended—
15	(1) by redesignating section 8 (25 U.S.C. 4307)
16	as section 10; and
17	(2) by inserting after section 7 (25 U.S.C. 4306)
18	$the\ following:$
19	"SEC. 8. INDIAN COMMUNITY DEVELOPMENT INITIATIVES.
20	"(a) Interagency Coordination.—Not later than 1
21	year after the enactment of this section, the Secretary, the
22	Secretary of the Interior, and the Secretary of the Treasury
23	shall coordinate—
24	"(1) to develop initiatives that—

1	"(A) encourage, promote, and provide edu-
2	cation regarding investments in Indian commu-
3	nities through—
4	"(i) the loan guarantee program of Bu-
5	reau of Indian Affairs under section 201 of
6	the Indian Financing Act of 1974 (25
7	U.S.C. 1481);
8	"(ii) programs carried out using
9	amounts in the Community Development
10	Financial Institutions Fund established
11	under section 104(a) of the Community De-
12	velopment Banking and Financial Institu-
13	tions Act of 1994 (12 U.S.C. 4703(a)); and
14	"(iii) other capital development pro-
15	grams;
16	"(B) examine and develop alternatives that
17	would qualify as collateral for financing in In-
18	dian communities; and
19	"(C) provide entrepreneur and other train-
20	ing relating to economic development through
21	tribally controlled colleges and universities and
22	other Indian organizations with experience in
23	providing such training;
24	"(2) to consult with Indian Tribes and with the
25	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
- 24 "(5) not less than once every 2 years, to provide 25 a report to Congress regarding—

1	"(A) improvements to Indian communities
2	resulting from such initiatives and recommenda-
3	tions for promoting sustained growth of the Trib-
4	$al\ economies;$
5	"(B) results of the study and collaboration
6	regarding the necessary changes referenced in
7	paragraph (2) and the impact of allowing In-
8	dian Tribes to qualify as an accredited investor;
9	and
10	"(C) the identified regulatory, legal, and
11	other barriers referenced in paragraph (3).
12	"(b) WAIVER.—For assistance provided pursuant to
13	section 108 of the Community Development Banking and
14	Financial Institutions Act of 1994 (12 U.S.C. 4707) to ben-
15	efit Native Community Development Financial Institu-
16	tions, as defined by the Secretary of the Treasury, section
17	108(e) of such Act shall not apply.
18	"(c) Indian Economic Development Feasibility
19	STUDY.—
20	"(1) In General.—The Government Account-
21	ability Office shall conduct a study and, not later
22	than 18 months after the date of enactment of this
23	subsection, submit to the Committee on Indian Affairs
24	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

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1	provided to non-Indian borrowers and to Indian
2	(both Tribal and individual) borrowers (includ-
3	ing information about such assistance as a per-
4	centage of need for Indian borrowers and for
5	non-Indian borrowers, assistance to Indian bor-
6	rowers and to non-Indian borrowers as a per-
7	centage of total applicants, and such assistance
8	to Indian borrowers as individuals as compared
9	to such assistance to Indian Tribes) through the
10	loan programs, the loan guarantee programs, or
11	bond guarantee programs of the—
12	"(i) Department of the Interior;
13	"(ii) Department of Agriculture;
14	"(iii) Department of Housing and
15	$Urban\ Development;$
16	"(iv) Department of Energy;
17	"(v) Small Business Administration;
18	and
19	"(vi) Community Development Finan-
20	cial Institutions Fund of the Department of
21	the Treasury.
22	"(C) Tax incentives.—The study shall as-
23	sess and quantify the extent of the assistance and
24	allocations afforded for non-Indian projects and

1	for Indian projects pursuant to each of the fol-
2	lowing tax incentive programs:
3	"(i) New market tax credit.
4	"(ii) Low income housing tax credit.
5	"(iii) Investment tax credit.
6	"(iv) Renewable energy tax incentives.
7	"(v) Accelerated depreciation.
8	"(D) Tribal investment incentive.—The
9	study shall assess various alternative incentives
10	that could be provided to enable and encourage
11	Tribal governments to invest in an Indian com-
12	munity development investment fund or bank.".
13	(e) Conforming and Technical Amendments.—The
14	Native American Business Development, Trade Promotion,
15	and Tourism Act of 2000 (25 U.S.C. 4301 et seq.) is amend-
16	ed—
17	(1) in section 3—
18	(A) in each of paragraphs (1), (4), and (8),
19	by striking "tribe" and inserting "Tribe"; and
20	(B) in paragraph (6), by striking "The
21	term 'Indian tribe' has the meaning given that
22	term" and inserting "The term 'Indian Tribe'
23	has the meaning given the term 'Indian tribe'";
24	(2) by striking "tribes" each place the term ap-
25	pears and inserting "Tribes"; and

1	(3) by striking "tribal" each place the term ap-
2	pears and inserting "Tribal".
3	SEC. 4. BUY INDIAN ACT.
4	Section 23 of the Act of June 25, 1910 (commonly
5	known as the "Buy Indian Act") (36 Stat. 861, chapter
6	431; 25 U.S.C. 47), is amended to read as follows:
7	"SEC. 23. EMPLOYMENT OF INDIAN LABOR AND PURCHASE
8	OF PRODUCTS OF INDIAN INDUSTRY; PAR-
9	TICIPATION IN MENTOR-PROTEGE PROGRAM.
10	"(a) Definitions.—In this section:
11	"(1) Indian economic enterprise.—The term
12	'Indian economic enterprise' has the meaning given
13	the term in section 1480.201 of title 48, Code of Fed-
14	eral Regulations (or successor regulations).
15	"(2) Mentor firm; protege firm.—The terms
16	'mentor firm' and 'protege firm' have the meanings
17	given those terms in section 831(c) of the National
18	Defense Authorization Act for Fiscal Year 1991 (10
19	U.S.C. 2302 note; Public Law 101-510).
20	"(3) Secretaries.—The term 'Secretaries'
21	means—
22	"(A) the Secretary of the Interior; and
23	"(B) the Secretary of Health and Human
24	Services.
25	"(b) Enterprise Development.—

1	"(1) In general.—Unless determined by one of
2	the Secretaries to be impracticable and unreason-
3	able—
4	"(A) Indian labor shall be employed; and
5	"(B) purchases of Indian industry products
6	(including printing and facilities construction,
7	notwithstanding any other provision of law)
8	may be made in open market by the Secretaries.
9	"(2) Mentor-protege program.—
10	"(A) In General.—Participation in the
11	Mentor-Protege Program established under sec-
12	tion 831(a) of the National Defense Authoriza-
13	tion Act for Fiscal Year 1991 (10 U.S.C. 2302
14	note; Public Law 101–510) or receipt of assist-
15	ance under a developmental assistance agreement
16	under that program shall not render any indi-
17	vidual or entity involved in the provision of In-
18	dian labor or an Indian industry product ineli-
19	gible to receive assistance under this section.
20	"(B) Treatment.—For purposes of this
21	section, no determination of affiliation or control
22	(whether direct or indirect) may be found be-
23	tween a protege firm and a mentor firm on the
24	basis that the mentor firm has provided, or

agreed to provide, to the protege firm, pursuant

1	to a mentor-protege agreement, any form of de-				
2	velopmental assistance described in section				
3	831(f) of the National Defense Authorization Ac				
4	for Fiscal Year 1991 (10 U.S.C. 2302 note; Pub-				
5	lic Law 101–510).				
6	"(c) Implementation.—In carrying out this section,				
7	the Secretaries shall—				
8	"(1) conduct outreach to Indian industrial enti-				
9	ties;				
10	"(2) provide training;				
11	"(3) promulgate regulations in accordance with				
12	this section and with the regulations under part 1480				
13	of title 48, Code of Federal Regulations (or successor				
14	regulations), to harmonize the procurement proce-				
15	dures of the Department of the Interior and the De-				
16	partment of Health and Human Services, to the max-				
17	imum extent practicable;				
18	"(4) require regional offices of the Bureau of In-				
19	dian Affairs and the Indian Health Service to aggre-				
20	gate data regarding compliance with this section;				
21	"(5) require procurement management reviews				
22	by their respective Departments to include a review of				
23	the implementation of this section; and				

1	"(6) consult with Indian Tribes, Indian indus-
2	trial entities, and other stakeholders regarding meth-
3	ods to facilitate compliance with—
4	"(A) this section; and
5	"(B) other small business or procurement
6	goals.
7	"(d) Report.—
8	"(1) In general.—Not later than 1 year after
9	the date of enactment of this section, and not less fre-
10	quently than once every 2 years thereafter, each of the
11	Secretaries shall submit to the Committee on Indian
12	Affairs of the Senate and the Committee on Natural
13	Resources of the House of Representatives a report de-
14	scribing, during the period covered by the report, the
15	implementation of this section by each of the respec-
16	tive Secretaries.
17	"(2) Contents.—Each report under this sub-
18	section shall include, for each fiscal year during the
19	period covered by the report—
20	"(A) the names of each agency under the re-
21	spective jurisdiction of each of the Secretaries to
22	which this section has been applied, and efforts
23	made by additional agencies within the Secre-
24	taries' respective Departments to use the procure-
25	ment procedures under this Act;

1	"(B) a summary of the types of purchases
2	made from, and contracts (including any rel-
3	evant modifications, extensions, or renewals)
4	awarded to, Indian economic enterprises, ex-
5	pressed by agency region;
6	"(C) a description of the percentage increase
7	or decrease in total dollar value and number of
8	purchases and awards made within each agency
9	region, as compared to the totals of the region for
10	the preceding fiscal year;
11	"(D) a description of the methods used by
12	applicable contracting officers and employees to
13	conduct market searches to identify qualified In-
14	dian economic enterprises;
15	"(E) a summary of all deviations granted
16	under section 1480.403 of title 48, Code of Fed-
17	eral Regulations (or successor regulations), in-
18	cluding a description of—
19	"(i) the types of alternative procure-
20	ment methods used, including any Indian
21	owned businesses reported under other pro-
22	curement goals; and
23	"(ii) the dollar value of any awards
24	made pursuant to those deviations:

1	"(F) a summary of all determinations made
2	to provide awards to Indian economic enter-
3	prises, including a description of the dollar value
4	of the awards;
5	"(G) a description or summary of the total
6	number and value of all purchases of, and con-
7	tracts awarded for, supplies, services, and con-
8	struction (including the percentage increase or
9	decrease, as compared to the preceding fiscal
10	year) from—
11	"(i) Indian economic enterprises; and
12	"(ii) non-Indian economic enterprises;
13	"(H) any administrative, procedural, legal,
14	or other barriers to achieving the purposes of this
15	section, together with recommendations for legis-
16	lative or administrative actions to address those
17	barriers; and
18	"(I) for each agency region—
19	"(i) the total amount spent on pur-
20	chases made from, and contracts awarded
21	to, Indian economic enterprises; and
22	"(ii) a comparison of the amount de-
23	scribed in clause (i) to the total amount
24	that the agency region would likely have
25	spent on the same purchases made from a

1	non-Indian economic enterprise or contracts
2	awarded to a non-Indian economic enter-
3	prise.
4	"(e) Goals.—Each agency shall establish an annual
5	minimum percentage goal for procurement in compliance
6	with this section.".
7	SEC. 5. NATIVE AMERICAN PROGRAMS ACT OF 1974.
8	(a) Financial Assistance for Native American
9	Projects.—Section 803 of the Native American Programs
10	Act of 1974 (42 U.S.C. 2991b) is amended—
11	(1) by redesignating subsections (b) through (d)
12	as subsections (c) through (e), respectively; and
13	(2) by inserting after subsection (a) the fol-
14	lowing:
15	"(b) Economic Development.—
16	"(1) In general.—The Commissioner may pro-
17	vide assistance under subsection (a) for projects relat-
18	ing to the purposes of this title to a Native commu-
19	nity development financial institution, as defined by
20	the Secretary of the Treasury.
21	"(2) Priority.—With regard to not less than 50
22	percent of the total amount available for assistance
23	under this section, the Commissioner shall give pri-
24	ority to any application seeking assistance for—

1	"(A) the development of a Tribal code or				
2	court system for purposes of economic develop-				
3	ment, including commercial codes, training for				
4	court personnel, regulation pursuant to section 5				
5	of the Act of August 15, 1876 (19 Stat. 200,				
6	chapter 289; 25 U.S.C. 261), and the develop-				
7	ment of nonprofit subsidiaries or other Trib				
8	business structures;				
9	"(B) the development of a community devel-				
10	opment financial institution, including training				
11	and administrative expenses; or				
12	"(C) the development of a Tribal master				
13	plan for community and economic development				
14	and infrastructure.".				
15	(b) Technical Assistance and Training.—Section				
16	804 of the Native American Programs Act of 1974 (42				
17	U.S.C. 2991c) is amended—				
18	(1) in the matter preceding paragraph (1), by				
19	striking "The Commissioner" and inserting the fol-				
20	lowing:				
21	"(a) In General.—The Commissioner"; and				
22	(2) by adding at the end the following:				
23	"(b) Priority.—In providing assistance under sub-				
24	section (a), the Commissioner shall give priority to any ap-				
25	nlication described in section 803(b)(2)."				

1	(c) Authorization of Appropriations.—Section
2	816 of the Native American Programs Act of 1974 (42
3	U.S.C. 2992d) is amended—
4	(1) by striking "803(d)" each place it appears
5	and inserting "803(e)"; and
6	(2) in subsection (a)—
7	(A) by striking "such sums as may be nec-
8	essary" and inserting "\$34,000,000"; and
9	(B) by striking "1999, 2000, 2001, and
10	2002" and inserting "2021 through 2025".
11	(d) Conforming and Technical Amendments.—
12	The Native American Programs Act of 1974 (42 U.S.C.
13	2991 et seq.) is amended—
14	(1) by striking "tribe" each place the term ap-
15	pears and inserting "Tribe";
16	(2) by striking "tribes" each place the term ap-
17	pears and inserting "Tribes"; and
18	(3) by striking "tribal" each place the term ap-
19	pears and inserting "Tribal".

Attest:

Clerk.

116TH CONGRESS S. 212

AMENDMENT