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107TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 107–211

NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT ACT

SEPTEMBER 21, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MANZULLO, from the Committee on Small Business, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2538]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 2538) to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 2538 is to create jobs, to foster entrepreneurship, and to stimulate the economies and foster economic development on Indian lands. Further, the purpose of the Act is to help in the creation of new small businesses owned and managed by Indian tribe members, Native Alaskans, and Native Hawaiians and to help expand such small businesses that already exist. The Act will provide much needed management, technical, and research assistance to small businesses owned by Indian tribe members, Native Alaskans, and Native Hawaiians. The Act will help to insure that Indian tribe members, Native Alaskans, and Native Hawaiians have full access to existing counseling and technical assistance provided through the Small Business Development Center (SBDC) program. In providing entrepreneurial assistance, a State receiving a grant under the provisions of the Act is required to seek the ad-

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vice of local Tribal Councils on where small business development assistance is needed.

NEED FOR LEGISLATION

Approximately 60 percent of Indian tribe members and Native Alaskans live on or in the immediate vicinity of Indian lands and suffer from an average unemployment rate of 45 percent. Presently, Indian tribe members and Native Alaskans own more than 197,000 business enterprises and generate revenues in excess of $34 billion.

The service industry, the largest sector, accounts for 17 percent of the businesses, and 15.7 percent of the total revenues. The second largest sector is construction which accounts for 13.9 percent of the businesses and 15.7 percent of the total revenues. The third largest sector, the retail trades, accounts for 7.5 percent of the businesses and 13.4 percent of the total revenues.

The number of businesses owned by Indian tribe members and Native Alaskans grew by 84 percent during the period from 1992 to 1997, while businesses, generally, grew by only seven percent. During the same period, the gross receipts for Indian tribe members and Native Alaskan business owners increased by 179 percent, in comparison with the business community, as a whole, where the gross receipts for the same period grew only by 40 percent.

In the past, the SBDC program with more than 1000 offices throughout the United States has provided cost-effective business counseling and technical assistance to small businesses. For example, clients receiving long-term counseling under the program in 1998 generated additional tax revenues of $468 million, which was approximately six times the cost of the program to the Federal government.

By using the existing infrastructure of the SBDC program, it is anticipated that small businesses owned by Indian tribe members, Native Alaskans, and Native Hawaiians, who receive services under the Act, will have a higher survival rate than the average small businesses not receiving such services. Further, increased assistance through SBDC counseling has in the past been able to reduce defaults under Small Business Administration (SBA) lending programs.

The business counseling and technical assistance, provided for under this Act, is critical on Indian land where, without such assistance, similar services are scarce and expensive. Past and current efforts by SBDCs to assist Native American populations located on or along reservation lands has proven difficult. In addition, the lack of resources makes it difficult to raise an equal amount of matching funds to specifically assist Native Americans.

OVERVIEW OF THE ACT

The Act will establish a three-year pilot project providing grants to SBDCs for assisting Indian tribe members, Native Alaskans, and Native Hawaiian populations with their entrepreneurial needs. The purpose, more fully explained in the prior part of this report, is to stimulate the economies on reservation lands through the creation and expansion of small businesses by ensuring the target popu-

lation has full access to important business counseling and technical assistance through the SBDC program.

Any SBDC in a State, whose Indian tribe members, Native Alaskan, and Native Hawaiian populations are one percent of the State's total population, can apply for a grant from the SBA. Such grants must be used to provide SBDC program assistance to Native Americans. Grants under the Act are limited to $300,000 and the amount authorized to be appropriated annually, in each of the fiscal years 2002, 2003, and 2004, is $7 million.

Services by SBDCs are to be provided to benefit the target population on tribal lands and reservations, but an individual center need not be located on each tribal land location or reservation. If the target population is in more than one location or reservation within a State, the center should be situated in a location that optimizes access by all those serviced by the center. The Act does not limit in any way, the number of centers or subcenters a state program may implement. The Committee expects the Administrator to balance the need for multiple sites with the quality of assistance and counseling when awarding grants. Consultation with the local Tribal Council is required in determining those locations in most need and where the best access may be attained.

SBA is responsible for designing the grant application which should provide essential information, but should not be burdensome to applicants. At a minimum, the application should contain information concerning the applicant's (1) goals and objectives, (2) prior experience in providing entrepreneurial and technical assistance to small businesses, (3) the ability to provide training and services to Indian tribe members, Native Alaskans, and Native Hawaiians, and (4) the extent of consultation with local Tribal Councils. In addition, the applicant should identify the location of a proposed center, and the amount of funding required.

Within 180 days after the enactment of the Act, the Administrator is required to issue final regulations, after a notice and comment period, that implement the requirements of the Act. Such regulations shall include standards for the educational, technical, and support services to be provided and for a work plan for providing assistance to the targeted community.

COMMITTEE ACTION

HEARING ON H.R. 2538

On Thursday, July 19, 2001, the Subcommittee on Workforce, Empowerment and Government Programs of the Committee on Small Business held a hearing, commencing at 10:00 a.m., to hear testimony with regard to H.R. 203, H.R. 2538, and H.R. 2666. The Subcommittees received the testimony of eight witnesses. Panel 1 included: Congressman John E. Sweeney of New York, Congressman Robert A. Brady of Pennsylvania, and Congressman Tom Udall of New Mexico. Panel 2 included: Mr. Thomas G. Grumbles, CIH, Vice President, American Industrial Hygiene Association; Mr. Donald T. Wilson, President and CEO, Association of Small Business Development Centers; Mr. Rudolph Cartier, Jr., Small Business Ombudsman, State of New Hampshire; Mr. Christian Conroy, Associate State Director, Pennsylvania Small Business Develop-

ment Centers; and, Mr. Leonard Lopez, Sun Valley Express, Navajo Reservation, Shiprock, New Mexico.

The hearing showed that some SBDCs were already providing, on a limited basis, the services which are the subject of the three bills. The hearing evidenced a need for expansion of the services to other locations.

CONSIDERATION OF H.R. 2538

At 10:05 a.m. on August 1, 2001, the Committee on Small Business met to consider and report four bills, that included H.R. 2538. The bill H.R. 2538 was introduced. Chairman Manzullo asked unanimous consent that H.R. 2538 be considered as read and open for amendment at any point. No amendments were offered. Chairman Manzullo then moved to pass H.R. 2538 and to report it to the House. At 10:28 a.m., a quorum being present, the Committee passed the bill, H.R. 2538, and ordered it reported.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The section establishes the short title of the bill as the "Native American Small Business Development Act."

Section 2. Findings and purposes

Subsection (a) states the findings of Congress that include the fact that (1) the average unemployment rate for Indian tribe members and Native Alaskans who live on or adjacent to Indian lands is 45 percent, (2) Indian tribe members and Native Alaskans own more than 197,000 businesses that generate more than $34 billion in revenues, (3) for the period 1992–1997, the number of businesses owned by Indian tribe members and Native Alaskans grew by 84 percent and gross receipts grew by 179 percent, as compared with seven percent and 40 percent, respectively, for businesses generally, (4) the SBDC program is cost effective in that additional tax revenues generated by businesses counseled under the program in 1998 were approximately six times the cost of the program, (5) using the existing SBDC infrastructure it is anticipated that those receiving services under the Act will have a higher survival rate than those not receiving such services, (6) business counseling and technical assistance provided on Indian lands is critical because such services are presently scarce and where available are expensive, and (7) SBDC business counseling has proven to be effective in reducing the default rate of businesses who have received counseling and who participated in one or more SBA loan program. The Committee believes that because of the SBDC program's success and proven track record, utilizing the existing SBDC network will enhance the success of H.R. 2538.

Subsection (b) states the purpose of the Act which includes assisting Indian tribe members, Native Alaskans, and Native Hawaiians by: increasing jobs and enhancing economic development on Indian lands; creating new small businesses and expanding existing ones; providing management, technical, and research assistance; seeking the advice of Tribal Councils on where business development assistance is most needed; and, ensuring full access

under the Act to existing business counseling and technical assistance available through the SBDC program.

Section 3. Small Business Development Center assistance to Indian tribe members, Native Alaskans, and Native Hawaiians

The Small Business Act is amended by adding a new subsection providing for an additional grant program to assist Indian tribe members, Native Alaskans, and Native Hawaiians. An SBDC, located in an eligible State and funded by SBA, may apply for an additional grant to be used solely for providing services, as set forth in the Small Business Act with respect to the SBDC program, to assist with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Native Alaskans, and Native Hawaiians.

Because the majority of Native Americans live on or adjacent to Indian lands, where economic opportunities are limited, the Committee expects the SBDCs to be located on or in close proximity to Indian lands. Although Native Americans who do not live on Indian lands may seek the assistance of these centers, the Committee believes that assistance should go to aid with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Native Alaskans, and Native Hawaiians. Native Americans located near existing centers or subcenters are encouraged to continue to utilize those existing resources.

An eligible State is defined as a State that has a combined population of Indian tribe members, Native Alaskans, and Native Hawaiians that comprises at least one percent of the State's total population, as shown by the most recent census. Each applicant is required to complete a grant application that shall include information as to: (1) the applicants ability to provide training and services to a representative number of Indian tribe members, Native Alaskans, and Native Hawaiians, (2) the proposed location of the SBDC site, (3) the amount of grant funds needed, and (4) the extent of prior consultation with local Tribal Councils.

No applicant may receive more than $300,000 in any one fiscal year, but no matching funds are required. Within 180 days after the Act is enacted, the Administrator is required to issue final regulations with respect to the grant program established by the Act. In promulgating the regulations, the Administrator must provide notice of the proposed regulations and an opportunity for public comment. In addition, the Administrator must consult with the Association of Small Business Development Centers. The regulation must establish standards relating to (1) educational, technical, and support services to be provided by SBDCs receiving grants, and (2) any work plan that is required to be submitted by an applicant.

The Committee believes that setting standards will help ensure that the grants will be awarded to the most qualified State programs and provide a mechanism by which the Administrator can evaluate the success of the program.

The section defines the following terms: "Associate Administrator," "Indian Lands," "Indian Tribe," "Indian Tribe Member," "Native Alaskan," and "Native Hawaiian."

The section authorizes $7 million to be appropriated for each of fiscal years 2002 through 2004. Funds appropriated for the pro-

gram created by the Act are in addition to funds appropriated for the SBDC program generally and for other particular SBDC programs. The program created under the Act may only be funded by monies specifically appropriated for that purpose.

Section 4. State consultation with local Tribal Councils

This section amends section 21(c) of the Small Business Act by adding a new subsection (9) that requires that a State receiving grants under the program created by the Act shall request the advice of local Tribal Councils on how best to provide assistance to Indian tribe members, Native Alaskans, and Native Hawaiians and where to locate satellite centers to provide such assistance.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 14, 2001.

Hon. DONALD MANZULLO,
Chairman, Committee on Small Business,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2538, the Native American Small Business Development Act.

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

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2538—Native American Small Business Development Act

Summary: H.R. 2538 would authorize the Small Business Administration (SBA) to issue grants to small business development centers (SBDCs) for new programs that assist Native Americans who are starting or expanding small businesses on tribal lands. SBDCs are jointly funded by the private sector, schools, and federal, state, and local governments to provide management assistance to current and prospective small business owners.

H.R. 2538 would authorize the appropriation of $7 million a year during the 2002–2004 period to fund the new program. Based on the SBA's historical spending patterns, CBO estimates that implementing the bill would cost $20 million over the 2002–2006 period, assuming the appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 2538 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit tribally owned small businesses to the extent that they receive services from SBDCs. The bill would impose no significant costs on state or local governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2538 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	7	7	7	0	0
Estimated Outlays	5	6	7	2	(1)

[1] =Less than $500,000.

Pay as you go considerations: None.

Intergovernmental and private-sector impact: H.R. 2538 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit tribally owned small businesses to the extent that they receive services from SBDCs. The bill would impose no significant costs on state or local governments.

Estimate prepared by: Federal costs: Ken Johnson; impact on State, local, and tribal governments: Susan Sieg Tompkins; impact on the private sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMMITTEE ESTIMATE OF COSTS

Pursuant to the Congressional Budget Act of 1974, the Committee estimates that the amendments to the Small Business Act contained in H.R. 2538 will increase appropriations by no more than $7 million annually over the next three fiscal years, i.e., 2002 through 2004. Furthermore, pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementation of the H.R. 2538 will not significantly increase the administrative costs. This concurs with the estimate of the Congressional Budget Office.

OVERSIGHT FINDINGS

In accordance with clause 4(c)(2) of rule X of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been made by the Committee on Government Reform with respect to the subject matter contained in H.R. 2538.

In accordance with clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 2538 are contained in the descriptive portions of this report.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, Clause 18 of the Constitution of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 21 OF THE SMALL BUSINESS ACT

SEC. 21. (a)(1) * * *

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(7) ADDITIONAL GRANT TO ASSIST INDIAN TRIBE MEMBERS, NATIVE ALASKANS, AND NATIVE HAWAIIANS.—

(A) IN GENERAL.—Any applicant in an eligible State that is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to provide services described in subsection (c)(3) to assist with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Native Alaskans, and Native Hawaiians.

(B) ELIGIBLE STATES.—For purposes of subparagraph (A), an eligible State is a State that has a combined population of Indian tribe members, Native Alaskans, and Native Hawaiians that comprises at least 1 percent of the State's total population, as shown by the latest available census.

(C) GRANT APPLICATIONS.—An applicant for a grant under subparagraph (A) shall submit to the Associate Administrator an application that is in such form as the Associate Administrator may require. The application shall include information regarding the applicant's goals and objectives for the services to be provided using the grant, including—

(i) the capability of the applicant to provide training and services to a representative number of Indian tribe members, Native Alaskans, and Native Hawaiians;

(ii) the location of the Small Business Development Center site proposed by the applicant;

(iii) the required amount of grant funding needed by the applicant to implement the program; and

(iv) the extent to which the applicant has consulted with local Tribal Councils.

(D) APPLICABILITY OF GRANT REQUIREMENTS.—An applicant for a grant under subparagraph (A) shall comply with all of the requirements of this section, except that the matching funds requirements of paragraph (4)(A) shall not apply.

(E) MAXIMUM AMOUNT OF GRANTS.—No applicant may receive more than $300,000 in grants under this paragraph in a fiscal year.

(F) REGULATIONS.—After providing notice and an opportunity for comment and after consulting with the Association recognized by the Administration pursuant to paragraph (3)(A) (but not later than 180 days after the date of enactment of this paragraph), the Administrator shall issue final regulations to carry out this paragraph, including regulations that establish—

(i) standards relating to educational, technical, and support services to be provided by Small Business Development Centers receiving assistance under this paragraph; and

(ii) standards relating to any work plan that the Associate Administrator may require a Small Business Development Center receiving assistance under this paragraph to develop.

(G) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) ASSOCIATE ADMINISTRATOR.—The term "Associate Administrator" means the Associate Administrator for Small Business Development Centers.

(ii) INDIAN LANDS.—The term "Indian lands" has the meaning given the term "Indian country" in section 1151 of title 18, United States Code, the meaning given the term "Indian reservation" in section 151.2 of title 25, Code of Federal Regulations (as in effect on the date of enactment of this paragraph), and the meaning given the term "reservation" in section 4 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903).

(iii) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 8(a)(13).

(iv) INDIAN TRIBE MEMBER.—The term "Indian tribe member" means a member of an Indian tribe (other than a Native Alaskan).

(v) NATIVE ALASKAN.—The term "Native Alaskan" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(vi) NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(H) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $7,000,000 for each of fiscal years 2002 through 2004.

(I) FUNDING LIMITATIONS.—

(i) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Funding under this paragraph shall be in addition to the dollar program limitations specified in paragraph (4).

(ii) LIMITATION ON USE OF FUNDS.—The Administration may carry out this paragraph only with amounts appropriated in advance specifically to carry out this paragraph.

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(c)(1) * * *

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(9) ADVICE OF LOCAL TRIBAL COUNCILS.—A State receiving grants under this section shall request the advice of local Tribal Councils on how best to provide assistance to Indian tribe members, Native Alaskans, and Native Hawaiians and where to locate satellite centers to provide such assistance.

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ADDITIONAL VIEWS

Democrats strongly support providing assistance for the development of small businesses on Native American lands. Under H.R. 2538, the U.S. Small Business Administration's Small Business Development Center (SBDC) Program can and will create more jobs, foster more entrepreneurship, and stimulate economic development on Native American lands. New small businesses located on reservation lands will grow and existing ones will continue to expand.

H.R. 2538 will establish a three-year pilot project providing grants to State SBDC Programs, which can then establish Native American SBDCs to assist Indian Tribe Members, Native Alaskan, and Native Hawaiian populations, with their small business development needs. Under the new section 21(a)(7)(C)(i), established under Section 3 of the Act, State SBDC Programs with the largest population of Indian Tribe Members, Native Alaskans, and Native Hawaiians, will receive priority when awarding grants. In addition, the one-percent population requirement, can be either one percent of any of the three populations, or any combination thereof.

The grants must be used to establish one or more Native American SBDCs, on or near Native American lands. H.R. 2538 does not limit, in any way, the number of centers or subcenters a state program may propose to implement. We expect the Administrator to balance the need of multiple sites with quality assistance and counseling when awarding grants. This is where consultation with the local Tribal Councils will be essential in maximizing the benefits resulting from the program.

H.R. 2538 provides that each State SBDC Program "receiving grants shall request the advice of local Tribal Councils on how best to provide assistance to Indian Tribe Members, Native Alaskans, and Native Hawaiians and where to locate satellite centers to provide such assistance." However, the report language fails to emphasize the important role these groups will play as advisors to the SBDC Program. The cooperative nature of the relationship between the State SBDC Program and the Native American population should be a priority and is essential to the success of the program.

Not only will Indian Tribe Members, Native Alaskans, and Native Hawaiians have access to counseling and technical assistance provided through the pilot program, they will be an integral part in developing that assistance. Other Federal assistance programs have fallen short either because the infrastructure of the delivery system did not exist, or the targeted population had little, if any, involvement in developing the type of assistance to be provided. We believe that a significant factor in developing a successful Federal assistance program for a targeted population, is participation by that population.

In addition, State SBDC Programs are required to complete a grant application that shall include information on the extent of

prior consultation with local Tribal Councils. We believe that this requirement is necessary to ensure that the State SBDC Programs seek the recommendations and suggestions of the targeted populations. We also believe that Section 4 of the Act requires these recommendations and suggestions to be given substantial weight in the Administrator's decisionmaking when awarding grants. We cannot stress enough the importance of the participation by Indian Tribe Members, Native Alaskan, and Native Hawaiian populations, in successfully fulfilling these requirements.

It is also important to emphasize the role the Association for Small Business Development Centers will play in promulgating the regulations required under H.R. 2538. The U.S. Small Business Administration must consult with the Association of Small Business Development Centers in establishing standards relating to (1) educational, technical, and support services to be provided by SBDCs receiving grant monies, and (2) any work plan that is required to be submitted by an applicant. Setting standards will help ensure that grants will be awarded to the most qualified state programs and provide a mechanism by which the Administrator can evaluate the success of the program. In addition, we believe the Administrator must give the Association's recommendations substantial weight.

Lastly, we believe that fees must not be charged in conjunction with this pilot project. Although the SBDCs are permitted to charge fees under limited circumstances, one-on-one counseling is provided free of charge. Current and past Administrations have attempted to implement a fee-for-service structure for SBDC services that are, and have been, historically free. Implementing such a structure would not only be detrimental to the pilot program, but to the entire SBDC Program. Democrats have consistently opposed such a move and will continue to oppose future attempts.

Although initial efforts to assist Native American populations has proven successful, barriers limiting further expansion and development still exist. Difficulties arise because of minimal resources and provisions requiring State SBDC Programs to match their Federal dollars with private funds. In the past, SBDCs have found it difficult to raise matching funds for targeted ventures.

However, we believe that under this pilot program, the Native American SBDCs can provide an effective mechanism for providing counseling and management assistance to small business owners on Native American lands. Utilizing the existing SBDC network can, and will, ensure the success of this pilot program. Therefore, we support this pilot program and the entrepreneurial assistance it will provide.

NYDIA M. VELÁZQUEZ.

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