

**TESTIMONY OF
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ASSISTANT SECRETARY – INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
TO THE
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON
S. 3234
“THE INDIAN COMMUNITY ECONOMIC ENHANCEMENT ACT OF 2016”**

SEPTEMBER 7, 2016

Chairman Barrasso, Vice-Chairman Tester, and members of the Committee, my name is Cheryl Andrews-Maltais, and I am the Senior Advisor to the Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to provide testimony before this Committee on S. 3234, the Indian Community Economic Enhancement Act of 2016, a bill to amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000, the Buy Indian Act, the Indian Trader Act, and the Native American Programs Act of 1974 to provide industry and economic development opportunities to Indian communities.

During the Obama Administration we have consistently supported avenues that foster and promote economic development in Indian Country. For too long, Native communities have experienced disproportional barriers to economic development. Economic development is critical for building capacity in Indian Country in other areas such as law enforcement, health, education, natural resource management, and infrastructure. Even in good economic times, the unemployment rate in these communities and villages is double the national average. As antidotes to these conditions, our Department offers access to capital, technical assistance for Native entrepreneurs and business start-ups, guidance on developing the legal infrastructure necessary for economic progress, and expert assistance in the development of commercially valuable minerals and conventional and renewable energy resources. In reviewing S. 3234, the Department is pleased to see legislation that seeks to directly impact and foster economic development in Indian Country.

We support the goals of S. 3234.

S. 3234 seeks to improve economic conditions in Native communities by expanding capital for Native enterprises, creating Native procurement opportunities, and encouraging tourism as a revenue source. Currently, our Department’s Office of Indian Energy and Economic Development (IEED), which carries out much of the work addressed by the bill, works to foster stronger American Indian and Alaska Native economies. The Division of Capital Investment (DCI) within IEED facilitates access to capital for Indian-owned businesses. In FY 15, the Program was able to guarantee \$99.8 million in loans to Indian Country from an appropriation of \$6.7 million. Since 1992, the Program has encouraged well over \$1.4 billion in Indian business lending that would not otherwise have occurred.

Section 3 of S. 3234 would change the Native American Business Development, Trade Promotion, and Tourism Act of 2000 to expand use of and funding for the Loan Guarantee, Insurance and Interest Subsidy Program created under section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481). S. 3234 would offer an increase in resources for this program. We suggest a number of technical changes to improve S. 3234:

- In Section 8 the bill refers to the "the loan guarantee program of the Bureau of Indian Affairs." This should be changed to "the Indian Loan Guarantee, Insurance and Interest Subsidy Program." (ILGIISP)
- The bill should also be amended to clarify how the additional credit subsidy would be made available pursuant to the Federal Credit Reform Act of 1990, or how the bill would affect procedures developed by the Office of Management and Budget, the Department of the Treasury, and our Department to assure transparent use of funds.

S. 3234, Section 4 the "Buy Indian Act" is an important component of the Department's goal of fostering and supporting American Indian/Alaska Native entrepreneurship. The Buy-Indian Act promotes the federal procurement of goods and services from American Indian- and Alaska Native-owned businesses, thereby supporting economic development in Indian Country. The Bureau of Indian Affairs has obtained services and supplies from Indian sources using the Buy Indian Program since 1965, based on policy memoranda and acquisition. In 2013, we finalized the first rule to implement the Buy Indian Act within the Department.

Section 4 of S. 3234 concerns the Buy Indian Act. We recommend a number of technical changes to these provisions, such as adding language that allows reporting of Buy Indian Act actions in procurement via 8(a), when applicable. It would also be helpful to scale down the reports to reflect summary data only and to include only those set-aside contracts that deviate from this policy. The bill's authors might want to consider adding a category that captures "Other Indian Enterprise," as Indian Affairs does business with Indian Enterprises that may not meet the requirements of Buy Indian Act. Furthermore, we believe the Buy Indian Act could work as a socio-economic set-aside in SBA, whereby the goals can be established on a larger scale and applicable to agencies beyond Indian Health Service and the Department. Finally, we recommend adding language to the reporting requirement to include "action" along with "acquisition."

Section 5 of the bill amends the Indian Trader Act of 1876 to include a provision granting the Secretary the authority to waive any applicable licensing requirements if a tribe has enacted tribal laws to govern licensing, trade, or commerce. Passed in 1876 and 1901, respectively, the Indian Trader Statutes are still vitally important but could be improved to reflect the current policies of Tribal self-determination and self-governance. Tribes have a strong interest in comprehensive tribal regulatory schemes regulating trade on tribal lands. There remains a strong Federal and Tribal interest in a comprehensive framework regarding trade occurring in Indian Country. The Department supports section 5 and offers to work with the Committee and tribes in developing legislation to modernize the Indian Trader Statutes to meet the needs of Indian country.

We understand that other agencies within the Administration may have additional comments on the bill.

Conclusion

Thank you for providing the Department the opportunity to provide input into S. 3234. I am available to answer any questions the Committee may have.