

Union Calendar No. 808

115TH CONGRESS
2D SESSION

S. 607

[Report No. 115–1037]

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2018

Referred to the Committee on Natural Resources

NOVEMBER 20, 2018

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

AN ACT

To establish a business incubators program within the Department of the Interior to promote economic development in Indian reservation communities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Busi-
5 ness Incubators Program Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) entrepreneurs face specific challenges when
9 transforming ideas into profitable business enter-
10 prises;

11 (2) entrepreneurs that want to provide products
12 and services in reservation communities face an ad-
13 ditional set of challenges that requires special knowl-
14 edge;

15 (3) a business incubator is an organization that
16 assists entrepreneurs in navigating obstacles that
17 prevent innovative ideas from becoming viable busi-
18 nesses by providing services that include—

19 (A) workspace and facilities resources;

20 (B) access to capital, business education,
21 and counseling;

22 (C) networking opportunities;

23 (D) mentorship opportunities; and

24 (E) an environment intended to help estab-
25 lish and expand business operations;

1 (4) the business incubator model is suited to ac-
2 celerating entrepreneurship in reservation commu-
3 nities because the business incubator model pro-
4 motes collaboration to address shared challenges and
5 provides individually tailored services for the purpose
6 of overcoming obstacles unique to each participating
7 business; and

8 (5) business incubators will stimulate economic
9 development by providing Native entrepreneurs with
10 the tools necessary to grow businesses that offer
11 products and services to reservation communities.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) BUSINESS INCUBATOR.—The term “busi-
15 ness incubator” means an organization that—

16 (A) provides physical workspace and facili-
17 ties resources to startups and established busi-
18 nesses; and

19 (B) is designed to accelerate the growth
20 and success of businesses through a variety of
21 business support resources and services, includ-
22 ing—

23 (i) access to capital, business edu-
24 cation, and counseling;

25 (ii) networking opportunities;

- 1 (iii) mentorship opportunities; and
2 (iv) other services intended to aid in
3 developing a business.

4 (2) ELIGIBLE APPLICANT.—The term “eligible
5 applicant” means an applicant eligible to apply for
6 a grant under section 4(b).

7 (3) INDIAN TRIBE.—The term “Indian tribe”
8 has the meaning given the term in section 4 of the
9 Indian Self-Determination and Education Assistance
10 Act (25 U.S.C. 5304).

11 (4) INSTITUTION OF HIGHER EDUCATION.—The
12 term “institution of higher education” has the
13 meaning given the term in section 101 of the Higher
14 Education Act of 1965 (20 U.S.C. 1001).

15 (5) NATIVE AMERICAN; NATIVE.—The terms
16 “Native American” and “Native” have the meaning
17 given the term “Indian” in section 4 of the Indian
18 Self-Determination and Education Assistance Act
19 (25 U.S.C. 5304).

20 (6) NATIVE BUSINESS.—The term “Native
21 business” means a business concern that is at least
22 51-percent owned and controlled by 1 or more Na-
23 tive Americans.

1 (7) NATIVE ENTREPRENEUR.—The term “Na-
 2 tive entrepreneur” means an entrepreneur who is a
 3 Native American.

4 (8) PROGRAM.—The term “program” means
 5 the program established under section 4(a).

6 (9) RESERVATION.—The term “reservation”
 7 has the meaning given the term in section 3 of the
 8 Indian Financing Act of 1974 (25 U.S.C. 1452).

9 (10) SECRETARY.—The term “Secretary”
 10 means the Secretary of the Interior.

11 (11) TRIBAL COLLEGE OR UNIVERSITY.—The
 12 term “tribal college or university” has the meaning
 13 given the term “Tribal College or University” in sec-
 14 tion 316(b) of the Higher Education Act of 1965
 15 (20 U.S.C. 1059c(b)).

16 **SEC. 4. ESTABLISHMENT OF PROGRAM.**

17 (a) IN GENERAL.—The Secretary shall establish a
 18 program in the Office of Indian Energy and Economic De-
 19 velopment under which the Secretary shall provide finan-
 20 cial assistance in the form of competitive grants to eligible
 21 applicants for the establishment and operation of business
 22 incubators that serve reservation communities by pro-
 23 viding business incubation and other business services to
 24 Native businesses and Native entrepreneurs.

25 (b) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—To be eligible to receive a grant under the program, an applicant shall—

(A) be—

(i) an Indian tribe;

(ii) a tribal college or university;

(iii) an institution of higher education;

or

(iv) a private nonprofit organization or tribal nonprofit organization that—

(I) provides business and financial technical assistance; and

(II) will commit to serving 1 or more reservation communities;

(B) be able to provide the physical workspace, equipment, and connectivity necessary for Native businesses and Native entrepreneurs to collaborate and conduct business on a local, regional, national, and international level; and

(C) in the case of an entity described in clauses (ii) through (iv) of subparagraph (A), have been operational for not less than 1 year before receiving a grant under the program.

(2) JOINT PROJECT.—

(A) IN GENERAL.—Two or more entities may submit a joint application for a project

that combines the resources and expertise of those entities at a physical location dedicated to assisting Native businesses and Native entrepreneurs under the program.

(B) CONTENTS.—A joint application submitted under subparagraph (A) shall—

(i) contain a certification that each participant of the joint project is one of the eligible entities described in paragraph (1)(A); and

(ii) demonstrate that together the participants meet the requirements of subparagraphs (B) and (C) of paragraph (1).

(c) APPLICATION AND SELECTION PROCESS.—

(1) APPLICATION REQUIREMENTS.—Each eligible applicant desiring a grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a certification that the applicant—

(i) is an eligible applicant;

(ii) will designate an executive director or program manager, if such director or manager has not been designated, to manage the business incubator; and

1 (iii) agrees—

2 (I) to a site evaluation by the
3 Secretary as part of the final selection
4 process;

5 (II) to an annual programmatic
6 and financial examination for the du-
7 ration of the grant; and

8 (III) to the maximum extent
9 practicable, to remedy any problems
10 identified pursuant to the site evalua-
11 tion under subclause (I) or an exam-
12 ination under subclause (II);

13 (B) a description of the 1 or more reserva-
14 tion communities to be served by the business
15 incubator;

16 (C) a 3-year plan that describes—

17 (i) the number of Native businesses
18 and Native entrepreneurs to be partici-
19 pating in the business incubator;

20 (ii) whether the business incubator
21 will focus on a particular type of business
22 or industry;

23 (iii) a detailed breakdown of the serv-
24 ices to be offered to Native businesses and

Native entrepreneurs participating in the business incubator; and

(iv) a detailed breakdown of the services, if any, to be offered to Native businesses and Native entrepreneurs not participating in the business incubator;

(D) information demonstrating the effectiveness and experience of the eligible applicant in—

(i) conducting financial, management, and marketing assistance programs designed to educate or improve the business skills of current or prospective businesses;

(ii) working in and providing services to Native American communities;

(iii) providing assistance to entities conducting business in reservation communities;

(iv) providing technical assistance under Federal business and entrepreneurial development programs for which Native businesses and Native entrepreneurs are eligible; and

(v) managing finances and staff effectively; and

1 (E) a site description of the location at
2 which the eligible applicant will provide physical
3 workspace, including a description of the tech-
4 nologies, equipment, and other resources that
5 will be available to Native businesses and Na-
6 tive entrepreneurs participating in the business
7 incubator.

8 (2) EVALUATION CONSIDERATIONS.—

9 (A) IN GENERAL.—In evaluating each ap-
10 plication, the Secretary shall consider—

11 (i) the ability of the eligible appli-
12 cant—

13 (I) to operate a business incu-
14 bator that effectively imparts entre-
15 preneurship and business skills to Na-
16 tive businesses and Native entre-
17 preneurs, as demonstrated by the ex-
18 perience and qualifications of the eli-
19 gible applicant;

20 (II) to commence providing serv-
21 ices within a minimum period of time,
22 to be determined by the Secretary;
23 and

24 (III) to provide quality incuba-
25 tion services to a significant number

1 of Native businesses and Native entre-
2 preneurs;

3 (ii) the experience of the eligible appli-
4 cant in providing services in Native Amer-
5 ican communities, including in the 1 or
6 more reservation communities described in
7 the application; and

8 (iii) the proposed location of the busi-
9 ness incubator.

10 (B) PRIORITY.—

11 (i) IN GENERAL.—In evaluating the
12 proposed location of the business incubator
13 under subparagraph (A)(iii), the Secretary
14 shall—

15 (I) consider the program goal of
16 achieving broad geographic distribu-
17 tion of business incubators; and

18 (II) except as provided in clause
19 (ii), give priority to eligible applicants
20 that will provide business incubation
21 services on or near the reservation of
22 the 1 or more communities that were
23 described in the application.

24 (ii) EXCEPTION.—The Secretary may
25 give priority to an eligible applicant that is

1 not located on or near the reservation of
2 the 1 or more communities that were de-
3 scribed in the application if the Secretary
4 determines that—

5 (I) the location of the business
6 incubator will not prevent the eligible
7 applicant from providing quality busi-
8 ness incubation services to Native
9 businesses and Native entrepreneurs
10 from the 1 or more reservation com-
11 munities to be served; and

12 (II) siting the business incubator
13 in the identified location will serve the
14 interests of the 1 or more reservation
15 communities to be served.

16 (3) SITE EVALUATION.—

17 (A) IN GENERAL.—Before making a grant
18 to an eligible applicant, the Secretary shall con-
19 duct a site visit, evaluate a video submission, or
20 evaluate a written site proposal (if the applicant
21 is not yet in possession of the site) of the pro-
22 posed site to ensure the proposed site will per-
23 mit the eligible applicant to meet the require-
24 ments of the program.

1 (B) WRITTEN SITE PROPOSAL.—A written
2 site proposal shall meet the requirements de-
3 scribed in paragraph (1)(E) and contain—

4 (i) sufficient detail for the Secretary
5 to ensure in the absence of a site visit or
6 video submission that the proposed site will
7 permit the eligible applicant to meet the
8 requirements of the program; and

9 (ii) a timeline describing when the eli-
10 gible applicant will be—

11 (I) in possession of the proposed
12 site; and

13 (II) operating the business incu-
14 bator at the proposed site.

15 (C) FOLLOWUP.—Not later than 1 year
16 after awarding a grant to an eligible applicant
17 that submits an application with a written site
18 proposal, the Secretary shall conduct a site visit
19 or evaluate a video submission of the site to en-
20 sure the site is consistent with the written site
21 proposal.

22 (d) ADMINISTRATION.—

23 (1) DURATION.—Each grant awarded under the
24 program shall be for a term of 3 years.

25 (2) PAYMENT.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Secretary shall disburse
3 grant funds awarded to an eligible applicant in
4 annual installments.

5 (B) MORE FREQUENT DISBURSEMENTS.—
6 On request by the applicant, the Secretary may
7 make disbursements of grant funds more fre-
8 quently than annually, on the condition that
9 disbursements shall be made not more fre-
10 quently than quarterly.

11 (3) NON-FEDERAL CONTRIBUTIONS FOR INI-
12 TIAL ASSISTANCE.—

13 (A) IN GENERAL.—Except as provided in
14 subparagraph (B), an eligible applicant that re-
15 ceives a grant under the program shall provide
16 non-Federal contributions in an amount equal
17 to not less than 25 percent of the grant amount
18 disbursed each year.

19 (B) WAIVER.—The Secretary may waive,
20 in whole or in part, the requirements of sub-
21 paragraph (A) with respect to an eligible appli-
22 cant if, after considering the ability of the eligi-
23 ble applicant to provide non-Federal contribu-
24 tions, the Secretary determines that—

1 (i) the proposed business incubator
2 will provide quality business incubation
3 services; and

4 (ii) the 1 or more reservation commu-
5 nities to be served are unlikely to receive
6 similar services because of remoteness or
7 other reasons that inhibit the provision of
8 business and entrepreneurial development
9 services.

10 (4) RENEWALS.—

11 (A) IN GENERAL.—The Secretary may
12 renew a grant award under the program for a
13 term not to exceed 3 years.

14 (B) CONSIDERATIONS.—In determining
15 whether to renew a grant award, the Secretary
16 shall consider with respect to the eligible appli-
17 cant—

18 (i) the results of the annual evalua-
19 tions of the eligible applicant under sub-
20 section (f)(1);

21 (ii) the performance of the business
22 incubator of the eligible applicant, as com-
23 pared to the performance of other business
24 incubators receiving assistance under the
25 program;

- 1 (iii) whether the eligible applicant con-
 2 tinues to be eligible for the program; and
 3 (iv) the evaluation considerations for
 4 initial awards under subsection (c)(2).

5 (C) NON-FEDERAL CONTRIBUTIONS FOR
 6 RENEWALS.—An eligible applicant that receives
 7 a grant renewal under subparagraph (A) shall
 8 provide non-Federal contributions in an amount
 9 equal to not less than 33 percent of the total
 10 amount of the grant.

11 (5) NO DUPLICATIVE GRANTS.—An eligible ap-
 12 plicant shall not be awarded a grant under the pro-
 13 gram that is duplicative of existing Federal funding
 14 from another source.

15 (e) PROGRAM REQUIREMENTS.—

16 (1) USE OF FUNDS.—An eligible applicant re-
 17 ceiving a grant under the program may use grant
 18 amounts—

19 (A) to provide physical workspace and fa-
 20 cilities for Native businesses and Native entre-
 21 preneurs participating in the business incu-
 22 bator;

23 (B) to establish partnerships with other in-
 24 stitutions and entities to provide comprehensive
 25 business incubation services to Native busi-

1 nesses and Native entrepreneurs participating
2 in the business incubator; and

3 (C) for any other uses typically associated
4 with business incubators that the Secretary de-
5 termines to be appropriate and consistent with
6 the purposes of the program.

7 (2) MINIMUM REQUIREMENTS.—Each eligible
8 applicant receiving a grant under the program
9 shall—

10 (A) offer culturally tailored incubation
11 services to Native businesses and Native entre-
12 preneurs;

13 (B) use a competitive process for selecting
14 Native businesses and Native entrepreneurs to
15 participate in the business incubator;

16 (C) provide physical workspace that per-
17 mits Native businesses and Native entre-
18 preneurs to conduct business and collaborate
19 with other Native businesses and Native entre-
20 preneurs;

21 (D) provide entrepreneurship and business
22 skills training and education to Native busi-
23 nesses and Native entrepreneurs including—

24 (i) financial education, including
25 training and counseling in—

- 1 (I) applying for and securing
- 2 business credit and investment cap-
- 3 ital;
- 4 (II) preparing and presenting fi-
- 5 nancial statements; and
- 6 (III) managing cash flow and
- 7 other financial operations of a busi-
- 8 ness;
- 9 (ii) management education, including
- 10 training and counseling in planning, orga-
- 11 nization, staffing, directing, and controlling
- 12 each major activity or function of a busi-
- 13 ness or startup; and
- 14 (iii) marketing education, including
- 15 training and counseling in—
- 16 (I) identifying and segmenting
- 17 domestic and international market op-
- 18 portunities;
- 19 (II) preparing and executing
- 20 marketing plans;
- 21 (III) locating contract opportuni-
- 22 ties;
- 23 (IV) negotiating contracts; and
- 24 (V) using varying public relations
- 25 and advertising techniques;

1 (E) provide direct mentorship or assistance
2 finding mentors in the industry in which the
3 Native business or Native entrepreneur operates
4 or intends to operate; and

5 (F) provide access to networks of potential
6 investors, professionals in the same or similar
7 fields, and other business owners with similar
8 businesses.

9 (3) TECHNOLOGY.—Each eligible applicant
10 shall leverage technology to the maximum extent
11 practicable to provide Native businesses and Native
12 entrepreneurs with access to the connectivity tools
13 needed to compete and thrive in 21st-century mar-
14 kets.

15 (f) OVERSIGHT.—

16 (1) ANNUAL EVALUATIONS.—Not later than 1
17 year after the date on which the Secretary awards
18 a grant to an eligible applicant under the program,
19 and annually thereafter for the duration of the
20 grant, the Secretary shall conduct an evaluation of,
21 and prepare a report on, the eligible applicant, which
22 shall—

23 (A) describe the performance of the eligible
24 applicant; and

(B) be used in determining the ongoing eligibility of the eligible applicant.

(2) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary awards a grant to an eligible applicant under the program, and annually thereafter for the duration of the grant, each eligible applicant receiving an award under the program shall submit to the Secretary a report describing the services the eligible applicant provided under the program during the preceding year.

(B) REPORT CONTENT.—The report described in subparagraph (A) shall include—

(i) a detailed breakdown of the Native businesses and Native entrepreneurs receiving services from the business incubator, including, for the year covered by the report—

(I) the number of Native businesses and Native entrepreneurs participating in or receiving services from the business incubator and the types of services provided to those Native businesses and Native entrepreneurs;

1 (II) the number of Native busi-
2 nesses and Native entrepreneurs es-
3 tablished and jobs created or main-
4 tained; and

5 (III) the performance of Native
6 businesses and Native entrepreneurs
7 while participating in the business in-
8 cubator and after graduation or de-
9 parture from the business incubator;
10 and

11 (ii) any other information the Sec-
12 retary may require to evaluate the per-
13 formance of a business incubator to ensure
14 appropriate implementation of the pro-
15 gram.

16 (C) LIMITATIONS.—To the maximum ex-
17 tent practicable, the Secretary shall not require
18 an eligible applicant to report under subpara-
19 graph (A) information provided to the Secretary
20 by the eligible applicant under other programs.

21 (D) COORDINATION.—The Secretary shall
22 coordinate with the heads of other Federal
23 agencies to ensure that, to the maximum extent
24 practicable, the report content and form under
25 subparagraphs (A) and (B) are consistent with

1 other reporting requirements for Federal pro-
2 grams that provide business and entrepre-
3 neurial assistance.

4 (3) REPORT TO CONGRESS.—

5 (A) IN GENERAL.—Not later than 2 years
6 after the date on which the Secretary first
7 awards funding under the program, and bienni-
8 ally thereafter, the Secretary shall submit to
9 the Committee on Indian Affairs of the Senate
10 and the Committee on Natural Resources of the
11 House of Representatives a report on the per-
12 formance and effectiveness of the program.

13 (B) CONTENTS.—Each report submitted
14 under subparagraph (A) shall—

15 (i) account for each program year;

16 and

17 (ii) include with respect to each busi-
18 ness incubator receiving grant funds under
19 the program—

20 (I) the number of Native busi-
21 nesses and Native entrepreneurs that
22 received business incubation or other
23 services;

1 (II) the number of businesses es-
2 tablished with the assistance of the
3 business incubator;

4 (III) the number of jobs estab-
5 lished or maintained by Native busi-
6 nesses and Native entrepreneurs re-
7 ceiving business incubation services,
8 including a description of where the
9 jobs are located with respect to res-
10 ervation communities;

11 (IV) to the maximum extent
12 practicable, the amount of capital in-
13 vestment and loan financing accessed
14 by Native businesses and Native en-
15 trepreneurs receiving business incuba-
16 tion services; and

17 (V) an evaluation of the overall
18 performance of the business incu-
19 bator.

20 **SEC. 5. REGULATIONS.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Secretary shall promulgate regulations to
23 implement the program.

1 **SEC. 6. SCHOOLS TO BUSINESS INCUBATOR PIPELINE.**

2 The Secretary shall facilitate the establishment of re-
3 lationships between eligible applicants receiving funds
4 through the program and educational institutions serving
5 Native American communities, including tribal colleges
6 and universities.

7 **SEC. 7. AGENCY PARTNERSHIPS.**

8 The Secretary shall coordinate with the Secretary of
9 Agriculture, the Secretary of Commerce, the Secretary of
10 the Treasury, and the Administrator of the Small Busi-
11 ness Administration to ensure, to the maximum extent
12 practicable, that business incubators receiving grant funds
13 under the program have the information and materials
14 needed to provide Native businesses and Native entre-
15 preneurs with the information and assistance necessary to
16 apply for business and entrepreneurial development pro-
17 grams administered by the Department of Agriculture, the
18 Department of Commerce, the Department of the Treas-
19 ury, and the Small Business Administration.

20 **SEC. 8. AUTHORIZATIONS OF APPROPRIATIONS.**

21 There are authorized to be appropriated to carry out
22 the program \$5,000,000 for each of fiscal years 2019
23 through 2023.

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