

114TH CONGRESS
2D SESSION

S. 3261

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

IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. TESTER (for himself, Ms. CANTWELL, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

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—

1 (1) entrepreneurs face specific challenges when
2 transforming ideas into profitable business enter-
3 prises;

4 (2) entrepreneurs that want to provide products
5 and services in reservation communities face an ad-
6 ditional set of challenges that requires special knowl-
7 edge;

8 (3) a business incubator is an organization that
9 assists entrepreneurs in navigating obstacles that
10 prevent innovative ideas from becoming viable busi-
11 nesses by providing services that include—

12 (A) workspace and facilities resources;

13 (B) access to capital, business education,
14 and counseling;

15 (C) networking opportunities;

16 (D) mentorship opportunities; and

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

19 (4) the business incubator model is suited to ac-
20 celerating entrepreneurship in reservation commu-
21 nities because the business incubator model pro-
22 motes collaboration to address shared challenges and
23 provides individually tailored services for the purpose
24 of overcoming obstacles unique to each participating
25 business; and

1 (5) business incubators will stimulate economic
2 development by providing Native entrepreneurs with
3 the tools necessary to grow businesses that offer
4 products and services to reservation communities.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

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

9 (A) provides physical workspace and facili-
10 ties resources to startups and established busi-
11 nesses; and

12 (B) is designed to accelerate the growth
13 and success of businesses through a variety of
14 business support resources and services, includ-
15 ing—

16 (i) access to capital, business edu-
17 cation, and counseling;

18 (ii) networking opportunities;

19 (iii) mentorship opportunities; and

20 (iv) other services intended to aid in
21 developing a business.

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

1 (3) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 450b).

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

9 (5) NATIVE AMERICAN; NATIVE.—The terms
10 “Native American” and “Native” have the meaning
11 given the term “Indian” in section 4 of the Indian
12 Self-Determination and Education Assistance Act
13 (25 U.S.C. 450b).

14 (6) NATIVE BUSINESS.—The term “Native
15 business” means a business concern that is at least
16 51-percent owned and controlled by 1 or more Na-
17 tive Americans.

18 (7) NATIVE ENTREPRENEUR.—The term “Na-
19 tive entrepreneur” means an entrepreneur who is a
20 Native American.

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

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

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

3 (11) TRIBAL COLLEGE OR UNIVERSITY.—The
4 term “tribal college or university” has the meaning
5 given the term “Tribal College or University” in sec-
6 tion 316(b) of the Higher Education Act of 1965
7 (20 U.S.C. 1059c(b)).

8 **SEC. 4. ESTABLISHMENT OF PROGRAM.**

9 (a) IN GENERAL.—The Secretary shall establish a
10 program in the Office of Indian Energy and Economic De-
11 velopment under which the Secretary shall provide finan-
12 cial assistance in the form of competitive grants to eligible
13 applicants for the establishment and operation of business
14 incubators that serve reservation communities by pro-
15 viding business incubation and other business services to
16 Native businesses and Native entrepreneurs.

17 (b) ELIGIBLE APPLICANTS.—

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

20 (A) be—

21 (i) an Indian tribe;

22 (ii) a tribal college or university;

23 (iii) an institution of higher education;

24 or

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

3 (I) provides business and finan-
4 cial technical assistance; and

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

7 (B) be able to provide the physical work-
8 space, equipment, and connectivity necessary
9 for Native businesses and Native entrepreneurs
10 to collaborate and conduct business on a local,
11 regional, national, and international level; and

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

16 (2) JOINT PROJECT.—

17 (A) IN GENERAL.—Two or more entities
18 may submit a joint application for a project
19 that combines the resources and expertise of
20 those entities at a physical location dedicated to
21 assisting Native businesses and Native entre-
22 preneurs under the program.

23 (B) CONTENTS.—A joint application sub-
24 mitted under subparagraph (A) shall—

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

5 (ii) demonstrate that together the par-
6 ticipants meet the requirements of sub-
7 paragraphs (B) and (C) of paragraph (1).

8 (c) APPLICATION AND SELECTION PROCESS.—

9 (1) APPLICATION REQUIREMENTS.—Each eligi-
10 ble applicant desiring a grant under the program
11 shall submit to the Secretary an application at such
12 time, in such manner, and containing such informa-
13 tion the Secretary may require, including—

14 (A) a certification that the applicant—

15 (i) is an eligible applicant;

16 (ii) will designate an executive direc-
17 tor or program manager, if such director
18 or manager has not been designated, to
19 manage the business incubator; and

20 (iii) agrees—

21 (I) to a site evaluation by the
22 Secretary as part of the final selection
23 process;

1 (II) to an annual programmatic
2 and financial examination for the du-
3 ration of the grant; and

4 (III) to the maximum extent
5 practicable, to remedy any problems
6 identified pursuant to the site evalua-
7 tion under subclause (I) or an exam-
8 ination under subclause (II);

9 (B) a description of the 1 or more reserva-
10 tion communities to be served by the business
11 incubator;

12 (C) a 3-year plan that describes—

13 (i) the number of Native businesses
14 and Native entrepreneurs to be partici-
15 pating in the business incubator;

16 (ii) whether the business incubator
17 will focus on a particular type of business
18 or industry;

19 (iii) a detailed breakdown of the serv-
20 ices to be offered to Native businesses and
21 Native entrepreneurs participating in the
22 business incubator; and

23 (iv) a detailed breakdown of the serv-
24 ices, if any, to be offered to Native busi-

1 nesses and Native entrepreneurs not par-
2 ticipating in the business incubator;

3 (D) information demonstrating the effec-
4 tiveness and experience of the eligible applicant
5 in—

6 (i) conducting financial, management,
7 and marketing assistance programs de-
8 signed to educate or improve the business
9 skills of current or prospective businesses;

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

12 (iii) providing assistance to entities
13 conducting business in reservation commu-
14 nities;

15 (iv) providing technical assistance
16 under Federal business and entrepre-
17 neurial development programs for which
18 Native businesses and Native entre-
19 preneurs are eligible; and

20 (v) managing finances and staff effec-
21 tively; and

22 (E) a site description of the location at
23 which the eligible applicant will provide physical
24 workspace, including a description of the tech-
25 nologies, equipment, and other resources that

1 will be available to Native businesses and Na-
2 tive entrepreneurs participating in the business
3 incubator.

4 (2) EVALUATION CONSIDERATIONS.—

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

7 (i) the ability of the eligible appli-
8 cant—

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

16 (II) to commence providing serv-
17 ices within a minimum period of time,
18 to be determined by the Secretary;
19 and

20 (III) to provide quality incuba-
21 tion services to a significant number
22 of Native businesses and Native entre-
23 preneurs;

24 (ii) the experience of the eligible appli-
25 cant in providing services in Native Amer-

1 ican communities, including in the 1 or
2 more reservation communities described in
3 the application; and

4 (iii) the proposed location of the busi-
5 ness incubator.

6 (B) PRIORITY.—

7 (i) IN GENERAL.—In evaluating the
8 proposed location of the business incubator
9 under subparagraph (A)(iii), the Secretary
10 shall—

11 (I) consider the program goal of
12 achieving broad geographic distribu-
13 tion of business incubators; and

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

20 (ii) EXCEPTION.—The Secretary may
21 give priority to an eligible applicant that is
22 not located on or near the reservation of
23 the 1 or more communities that were de-
24 scribed in the application if the Secretary
25 determines that—

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

8 (II) siting the business incubator
9 in the identified location will serve the
10 interests of the 1 or more reservation
11 communities to be served.

12 (3) SITE EVALUATION.—

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

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

24 (i) sufficient detail for the Secretary
25 to ensure in the absence of a site visit or

1 video submission that the proposed site will
2 permit the eligible applicant to meet the
3 requirements of the program; and

4 (ii) a timeline describing when the eli-
5 gible applicant will be—

6 (I) in possession of the proposed
7 site; and

8 (II) operating the business incu-
9 bator at the proposed site.

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

17 (d) ADMINISTRATION.—

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

20 (2) PAYMENT.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), the Secretary shall disburse
23 grant funds awarded to an eligible applicant in
24 annual installments.

1 (B) MORE FREQUENT DISBURSEMENTS.—

2 On request by the applicant, the Secretary may
3 make disbursements of grant funds more fre-
4 quently than annually, on the condition that
5 disbursements shall be made not more fre-
6 quently than quarterly.

7 (3) NON-FEDERAL CONTRIBUTIONS FOR INI-
8 TIAL ASSISTANCE.—

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

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

21 (i) the proposed business incubator
22 will provide quality business incubation
23 services; and

24 (ii) the 1 or more reservation commu-
25 nities to be served are unlikely to receive

1 similar services because of remoteness or
2 other reasons that inhibit the provision of
3 business and entrepreneurial development
4 services.

5 (4) RENEWALS.—

6 (A) IN GENERAL.—The Secretary may
7 renew a grant award for a term not to exceed
8 3 years.

9 (B) CONSIDERATIONS.—In determining
10 whether to renew a grant award, the Secretary
11 shall consider with respect to the eligible appli-
12 cant—

13 (i) the results of the annual evalua-
14 tions of the eligible applicant under sub-
15 section (f)(1);

16 (ii) the performance of the business
17 incubator of the eligible applicant, as com-
18 pared to the performance of other business
19 incubators receiving assistance under the
20 program;

21 (iii) whether the eligible applicant con-
22 tinues to be eligible for the program; and

23 (iv) the evaluation considerations for
24 initial awards under subsection (c)(2).

1 (C) NON-FEDERAL CONTRIBUTIONS FOR
2 RENEWALS.—

3 (i) IN GENERAL.—Except as provided
4 in clause (ii), an eligible applicant that re-
5 ceives a grant renewal under subparagraph
6 (A) shall provide non-Federal contributions
7 in an amount equal to not less than 33
8 percent of the total amount of the grant.

9 (ii) WAIVER.—The Secretary may
10 waive, in whole or in part, the require-
11 ments of clause (i) with respect to an eligi-
12 ble applicant if, after considering the abil-
13 ity of the eligible applicant to provide non-
14 Federal contributions, the Secretary deter-
15 mines that—

16 (I) the business incubator has
17 provided and will continue to provide
18 quality business incubation services to
19 the 1 or more reservation commu-
20 nities served by the business incu-
21 bator;

22 (II) the 1 or more reservation
23 communities served by the business
24 incubator have benefited and will con-

1 tinue to benefit from the services of
2 the business incubator; and

3 (III) the 1 or more reservation
4 communities to be served are unlikely
5 to receive similar services because of
6 remoteness or other reasons that in-
7 hibit the provision of business and en-
8 trepreneurial development services.

9 (e) PROGRAM REQUIREMENTS.—

10 (1) USE OF FUNDS.—An eligible applicant re-
11 ceiving a grant under the program may use grant
12 amounts—

13 (A) to provide physical workspace and fa-
14 cilities for Native businesses and Native entre-
15 preneurs participating in the business incu-
16 bator;

17 (B) to establish partnerships with other in-
18 stitutions and entities to provide comprehensive
19 business incubation services to Native busi-
20 nesses and Native entrepreneurs participating
21 in the business incubator; and

22 (C) for any other uses typically associated
23 with business incubators that the Secretary de-
24 termines to be appropriate and consistent with
25 the purposes of the program.

1 (2) MINIMUM REQUIREMENTS.—Each eligible
2 applicant receiving a grant under the program
3 shall—

4 (A) offer culturally tailored incubation
5 services to Native businesses and Native entre-
6 preneurs;

7 (B) use a competitive process for selecting
8 Native businesses and Native entrepreneurs to
9 participate in the business incubator;

10 (C) provide physical workspace that per-
11 mits Native businesses and Native entre-
12 preneurs to conduct business and collaborate
13 with other Native businesses and Native entre-
14 preneurs;

15 (D) provide entrepreneurship and business
16 skills training and education to Native busi-
17 nesses and Native entrepreneurs including—

18 (i) financial education, including
19 training and counseling in—

20 (I) applying for and securing
21 business credit and investment cap-
22 ital;

23 (II) preparing and presenting fi-
24 nancial statements; and

- 1 (III) managing cash flow and
2 other financial operations of a busi-
3 ness;
- 4 (ii) management education, including
5 training and counseling in planning, orga-
6 nization, staffing, directing, and controlling
7 each major activity or function of a busi-
8 ness or startup; and
- 9 (iii) marketing education, including
10 training and counseling in—
- 11 (I) identifying and segmenting
12 domestic and international market op-
13 portunities;
- 14 (II) preparing and executing
15 marketing plans;
- 16 (III) locating contract opportuni-
17 ties;
- 18 (IV) negotiating contracts; and
- 19 (V) using varying public relations
20 and advertising techniques;
- 21 (E) provide direct mentorship or assistance
22 finding mentors in the industry in which the
23 Native business or Native entrepreneur operates
24 or intends to operate; and

1 (F) provide access to networks of potential
2 investors, professionals in the same or similar
3 fields, and other business owners with similar
4 businesses.

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

11 (f) OVERSIGHT.—

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

19 (A) describe the performance of the eligible
20 applicant; and

21 (B) be used in determining the ongoing eli-
22 gibility of the eligible applicant.

23 (2) ANNUAL REPORT.—

24 (A) IN GENERAL.—Not later than 1 year
25 after the date on which the Secretary awards a

1 grant to an eligible applicant under the pro-
2 gram, and annually thereafter for the duration
3 of the grant, each eligible applicant receiving an
4 award under the program shall submit to the
5 Secretary a report describing the services the
6 eligible applicant provided under the program
7 during the preceding year.

8 (B) REPORT CONTENT.—The report de-
9 scribed in subparagraph (A) shall include—

10 (i) a detailed breakdown of the Native
11 businesses and Native entrepreneurs re-
12 ceiving services from the business incu-
13 bator, including, for the year covered by
14 the report—

15 (I) the number of Native busi-
16 nesses and Native entrepreneurs par-
17 ticipating in or receiving services from
18 the business incubator and the types
19 of services provided to those Native
20 businesses and Native entrepreneurs;

21 (II) the number of Native busi-
22 nesses and Native entrepreneurs es-
23 tablished and jobs created or main-
24 tained; and

1 (III) the performance of Native
2 businesses and Native entrepreneurs
3 while participating in the business in-
4 cubator and after graduation or de-
5 parture from the business incubator;
6 and

7 (ii) any other information the Sec-
8 retary may require to evaluate the per-
9 formance of a business incubator to ensure
10 appropriate implementation of the pro-
11 gram.

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

17 (D) COORDINATION.—The Secretary shall
18 coordinate with the heads of other Federal
19 agencies to ensure that, to the maximum extent
20 practicable, the report content and form under
21 subparagraph (A) are consistent with other re-
22 porting requirements for Federal programs that
23 provide business and entrepreneurial assistance.

24 (3) REPORT TO CONGRESS.—

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

9 (B) CONTENTS.—Each report submitted
10 under subparagraph (A) shall—

11 (i) account for each program year;

12 and

13 (ii) include with respect to each busi-
14 ness incubator receiving grant funds under
15 the program—

16 (I) the number of Native busi-
17 nesses and Native entrepreneurs that
18 received business incubation or other
19 services;

20 (II) the number of businesses es-
21 tablished with the assistance of the
22 business incubator;

23 (III) the number of jobs estab-
24 lished or maintained by Native busi-
25 nesses and Native entrepreneurs re-

1 ceiving business incubation services,
2 including a description of where the
3 jobs are located with respect to res-
4 ervation communities;

5 (IV) to the maximum extent
6 practicable, the amount of capital in-
7 vestment and loan financing accessed
8 by Native businesses and Native en-
9 trepreneurs receiving business incuba-
10 tion services; and

11 (V) an evaluation of the overall
12 performance of the business incu-
13 bator.

14 **SEC. 5. REGULATIONS.**

15 Not later than 180 days after the date of enactment
16 of this Act, the Secretary shall promulgate regulations to
17 implement the program.

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

19 The Secretary shall facilitate the establishment of re-
20 lationships between eligible applicants receiving funds
21 through the program and educational institutions serving
22 Native American communities, including tribal colleges
23 and universities.

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

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

14 **SEC. 8. AUTHORIZATIONS OF APPROPRIATIONS.**

15 There are authorized to be appropriated to carry out
16 the program—

17 (1) for each of fiscal years 2017 through 2022,
18 \$5,000,000; and

19 (2) for fiscal year 2023 and each fiscal year
20 thereafter, such sums as may be necessary.

○