

116TH CONGRESS
1ST SESSION

S. 126

To direct the Secretary of the Interior to establish a demonstration program to adapt the successful practices of providing foreign aid to underdeveloped economies to the provision of Federal economic development assistance to Native communities in similarly situated remote areas in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2019

Ms. MURKOWSKI (for herself and Mr. SCHATZ) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To direct the Secretary of the Interior to establish a demonstration program to adapt the successful practices of providing foreign aid to underdeveloped economies to the provision of Federal economic development assistance to Native communities in similarly situated remote areas in the United States, and for other purposes.

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 Mil-
5 lennium Challenge Demonstration Act”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to adapt the lessons of foreign aid to under-
4 developed economies, such as the experience of the
5 Millennium Challenge Corporation, to the provision
6 of Federal economic development assistance to simi-
7 larly situated remote Native American communities;

8 (2) to provide Federal economic development
9 assistance for Native American communities through
10 the Native American Challenge Demonstration
11 Project;

12 (3) to administer Federal economic development
13 assistance in a manner that—

14 (A) promotes economic growth and the
15 elimination of poverty;

16 (B) strengthens good governance, entrepre-
17 neurship, and investment in Native American
18 communities; and

19 (C) builds the capacity of Native people to
20 grow sustainable local economies;

21 (4) to improve the effectiveness of Federal eco-
22 nomic development assistance by encouraging the in-
23 tegration and coordination of the assistance in re-
24 mote Native American communities;

25 (5) to promote sustainable economic growth and
26 poverty reduction policies in remote Native American

communities in a manner that promotes self-determination and self-sufficiency among remote Native American communities while preserving the cultural values of those communities; and

(6) to establish a demonstration project within remote areas of noncontiguous States that experience high levels of poverty and lack access to traditional transportation infrastructure (highways, railways, and ports), which, if successful, could potentially benefit other Native American communities in the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMPACT.—The term “compact” means a binding agreement with the United States entered into pursuant to this Act.

(2) ECONOMIC DEVELOPMENT STRATEGY.—The term “economic development strategy” means a strategy—

(A) written by an eligible entity and designed to achieve sustainable economic growth and reduce poverty over a defined period; and

(B) developed in consultation with public and private sector entities, as appropriate to

1 the geographic area and intended beneficiaries
 2 of the compact.

3 (3) ELIGIBLE ENTITY.—

4 (A) IN GENERAL.—The term “eligible enti-
 5 ty” means a consortium of Native organizations
 6 in a noncontiguous State, with priority given to
 7 organizations serving regions with the highest
 8 poverty levels.

9 (B) ALASKA.—In the State of Alaska, a
 10 consortium shall be comprised of not more than
 11 2 regional Alaska Native nonprofit organiza-
 12 tions, to be determined by the Secretary, in
 13 consultation with statewide Alaska Native orga-
 14 nizations.

15 (C) HAWAII.—In the State of Hawaii, a
 16 consortium shall be comprised of local Native
 17 Hawaiian nonprofit organizations that serve the
 18 interests of Native Hawaiians and in which Na-
 19 tive Hawaiians serve in leadership and sub-
 20 stantive policymaking positions.

21 (4) INDIAN TRIBE.—The term “Indian Tribe”
 22 has the meaning given the term in section 4 of the
 23 Indian Self-Determination and Education Assistance
 24 Act (25 U.S.C. 5304).

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

3 **SEC. 4. MILLENNIUM CHALLENGE DEMONSTRATION**
4 **PROJECT.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 and implement in the Department of the Interior a dem-
7 onstration project, to be known as the “Native American
8 Millennium Challenge Demonstration Project” (referred
9 to in this section as the “demonstration project”).

10 (b) AUTHORIZATION OF ASSISTANCE.—In carrying
11 out the demonstration project, the Secretary may provide
12 assistance to any eligible entity that enters into a compact
13 with the United States pursuant to this Act.

14 (c) FORM OF ASSISTANCE.—Assistance under the
15 demonstration project—

16 (1) shall be provided in the form of funding
17 agreements established under the applicable com-
18 pact;

19 (2) may not be provided in the form of loans;
20 and

21 (3) may not be used for gaming activities con-
22 ducted under the Indian Gaming Regulatory Act (25
23 U.S.C. 2701 et seq.).

24 (d) COORDINATION.—

1 (1) IN GENERAL.—The Secretary shall coordi-
2 nate the provision of assistance under the dem-
3 onstration project, to the maximum extent prac-
4 ticable, with the Federal agencies listed in para-
5 graph (2) that administer economic development as-
6 sistance programs for Native Americans and in con-
7 sultation with the Millennium Challenge Corpora-
8 tion. The Department of the Interior shall be the
9 lead Federal agency responsible for the coordination
10 and consultation under this paragraph.

11 (2) AGENCIES.—The Federal agencies referred
12 to in paragraph (1) are—

- 13 (A) the Department of Agriculture;
- 14 (B) the Department of Commerce;
- 15 (C) the Department of Energy;
- 16 (D) the Department of Health and Human
17 Services;
- 18 (E) the Department of Housing and Urban
19 Development; and
- 20 (F) the Small Business Administration.

21 (3) INTEGRATED FUNDING.—Notwithstanding
22 any other provision of law, the Secretary's execution
23 of a compact with an eligible entity shall authorize
24 the eligible entity to be the designated applicant for,
25 or recipient of, funds appropriated pursuant to sec-

tion 7 and economic development assistance program funding that would otherwise be provided to an Indian Tribe located in the region or regions served by the eligible entity. The eligible entity shall integrate funds appropriated pursuant to section 7 and any such program funding and the operation of the programs' services into a single, coordinated program under a demonstration project.

(4) COMPETITIVE FUNDING.—An eligible entity may only be considered a designated applicant for funding from a competitive program that would otherwise be provided to an Indian Tribe located in the region or regions served by the eligible entity if—

(A) an Indian Tribe located in the region or regions served by the eligible entity designates the eligible entity in a resolution passed by its governing body as authorized to apply for the funding in lieu of the Indian Tribe and forgoes applying for the funding;

(B) the Indian Tribe has submitted the resolution to the Secretary and any Secretary who administers the program; and

(C) the applicable Secretaries have certified in writing to the eligible entity that they are in receipt of the resolution.

1 (5) OTHER FUNDING.—An eligible entity may
 2 only be considered a designated recipient of funding
 3 from a formula based program or noncompetitive
 4 program that is otherwise provided to a particular
 5 Indian Tribe located in the region or regions served
 6 by the eligible entity if—

7 (A) the Indian Tribe designates the eligible
 8 entity in a resolution passed by its governing
 9 body as authorized to receive the funding in lieu
 10 of the Indian Tribe and forgoes receipt of the
 11 funding;

12 (B) the Indian Tribe has submitted the
 13 resolution to the Secretary and any Secretary
 14 that administers the program; and

15 (C) the applicable Secretaries have cer-
 16 tified in writing to the eligible entity that they
 17 are in receipt of the resolution.

18 (6) AUTHORITY TO RESCIND.—An Indian Tribe
 19 that has submitted a designating resolution under
 20 this subsection may, at any time, submit to the ap-
 21 plicable Secretaries a resolution passed by its gov-
 22 erning body that rescinds the designating resolution.

23 (e) WAIVER AUTHORITY.—

24 (1) IN GENERAL.—On receipt of an executed
 25 compact, the Secretary shall consult with the eligible

entity that is a party to the compact and coordinate with the Secretary of each Federal agency that provides funds to be used to implement the compact to identify any waiver of statutory requirements or applicable regulations, policies, or procedures necessary to enable the eligible entity to implement the compact.

(2) AGENCIES.—The head of the Federal agency to which the Federal funds were appropriated may waive (in whole or in part) the application, solely to such funds that are being used to implement the compact, of any statutory, regulatory, or administrative requirement that such agency head—

(A) is otherwise authorized to waive (in accordance with the terms and conditions of such other authority); and

(B) is not otherwise authorized to waive, provided that in such case the agency head shall—

(i) not waive any requirement related to nondiscrimination, wage and labor standards, or allocation of funds to State and sub-State levels;

(ii) issue a written determination, prior to granting the waiver, with respect

1 to such discretionary funds that the grant-
2 ing of such waiver for purposes of the com-
3 pact—

4 (I) is consistent with both—

5 (aa) the statutory purposes
6 of the Federal program for which
7 such funds were appropriated;
8 and

9 (bb) the other provisions of
10 this section;

11 (II) is necessary to achieve the
12 outcomes of the compact, and is no
13 broader in scope than is necessary to
14 achieve such outcomes; and

15 (III) will result in either—

16 (aa) realizing efficiencies by
17 simplifying reporting burdens or
18 reducing administrative barriers
19 with respect to such funds; or

20 (bb) increasing the ability of
21 individuals to obtain access to
22 services that are provided by
23 such funds; and

24 (iii) provide at least 60 days advance
25 written notice to the Committee on Nat-

1 ural Resources of the House of Represent-
2 atives and the Committee on Indian Af-
3 fairs of the Senate.

4 **SEC. 5. CHALLENGE COMPACTS.**

5 (a) COMPACTS.—

6 (1) IN GENERAL.—The Secretary shall develop
7 and recommend procedures for consideration of pro-
8 posals for compacts submitted by eligible entities.

9 (2) ASSISTANCE.—The Secretary may provide
10 assistance to an eligible entity only if the eligible en-
11 tity enters into a compact with the United States, to
12 be known as a Native American Challenge Compact,
13 that establishes a multiyear plan for achieving devel-
14 opment objectives in furtherance of the purposes of
15 this Act.

16 (b) APPLICATIONS.—The Secretary shall develop and
17 recommend procedures for considering applications for
18 compacts submitted by eligible entities.

19 (c) CRITERIA FOR SELECTION OF ELIGIBLE ENTI-
20 TIES.—The Secretary shall develop an application process
21 and criteria for selecting eligible entities to enter into com-
22 pacts under this Act, taking into consideration—

23 (1) the purposes of this Act;

24 (2) the economic development strategy of the el-
25 igible entity;

1 (3) the remoteness of the communities to be
2 served by the eligible entity;

3 (4) the general economic status of the commu-
4 nities to be served by the eligible entity; and

5 (5) poverty rates within the communities to be
6 served by the eligible entity.

7 (d) ASSISTANCE FOR DEVELOPMENT OF COM-
8 PACTS.—To the extent that funds are appropriated in ad-
9 vance to carry out this section, the Secretary may enter
10 into contracts with, or make grants to, any eligible entity
11 for the purposes of facilitating the development and imple-
12 mentation of a compact between the United States and
13 the eligible entity.

14 (e) DURATION AND EXTENSION.—

15 (1) DURATION.—The term of an initial compact
16 under this section shall be for 5 years.

17 (2) SUBSEQUENT COMPACTS.—An eligible enti-
18 ty and the United States may enter into 1 or more
19 subsequent compacts in accordance with this Act.

20 (3) EXTENSIONS.—If a compact is approaching
21 expiration or has expired, the eligible entity that is
22 a party to the compact and the United States may
23 renegotiate or extend the compact for such number
24 of terms as the parties may agree, with each term
25 not to exceed 10 years.

1 (f) ELEMENTS.—In furtherance of the economic de-
2 velopment strategy of the applicable eligible entity, each
3 compact shall contain—

4 (1) a description of the specific objectives for
5 the sustainable economic development and reduction
6 of poverty that the eligible entity and the United
7 States expect to achieve during the term of the com-
8 pact;

9 (2) a description of the respective roles and re-
10 sponsibilities of the eligible entity and the United
11 States in the achievement of those objectives;

12 (3) a list and description of regular benchmarks
13 to measure progress toward achieving those objec-
14 tives;

15 (4) an identification of the intended bene-
16 ficiaries, disaggregated by income level, gender, and
17 age, to the maximum extent practicable; and

18 (5) a multiyear financial plan to guide the im-
19 plementation of the compact, including the estimated
20 level of funding and other contributions by the
21 United States and the eligible entity, proposed
22 mechanisms to execute the plan, and periodic assess-
23 ments to determine whether the requirements of
24 paragraphs (1) through (4) are being met.

1 (g) SUSPENSION AND TERMINATION OF ASSIST-
2 ANCE.—

3 (1) IN GENERAL.—The Secretary may suspend
4 or terminate assistance, in whole or in part, for an
5 eligible entity that has entered into a compact with
6 the United States if the Secretary determines that
7 the eligible entity—

8 (A) failed to meet the responsibilities of
9 the eligible entity under the compact; or

10 (B) engaged in a pattern of actions that is
11 inconsistent with the purposes of this Act.

12 (2) REINSTATEMENT.—The Secretary may re-
13 instate assistance for an eligible entity only if the
14 Secretary determines that the eligible entity has
15 demonstrated a commitment to correcting each con-
16 dition for which assistance was suspended or termi-
17 nated under paragraph (1).

18 **SEC. 6. PROGRAM ASSESSMENTS AND REPORTS.**

19 (a) REPORTS OF ELIGIBLE ENTITIES.—Not later
20 than March 15 each year, each eligible entity shall prepare
21 and submit to the Secretary a written report describing
22 the assistance provided to the eligible entity under this
23 Act during the preceding fiscal year.

24 (b) REPORT CONTENTS.—A report required under
25 subsection (a) shall include—

1 (1) a description of the amount of obligations
2 and expenditures for assistance provided during the
3 preceding fiscal year;

4 (2) a description of the programs and activities
5 conducted by the eligible entity in furtherance of the
6 economic development strategy of the eligible entity
7 and the purposes of this Act;

8 (3) an assessment of the effectiveness of the as-
9 sistance provided and progress made by the eligible
10 entity toward achieving the economic development
11 strategy of the eligible entity and the purposes of
12 this Act; and

13 (4) such other information as the eligible entity
14 considers to be relevant, taking into consideration
15 the purposes of this Act.

16 (c) SUBMISSION TO CONGRESS.—Not later than May
17 15 each year, the Secretary shall submit the reports re-
18 quired under subsection (a), with such other information
19 as the Secretary considers to be relevant, to—

20 (1) the Committee on Natural Resources of the
21 House of Representatives; and

22 (2) the Committee on Indian Affairs of the Sen-
23 ate.

24 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

25 (a) AUTHORIZATION.—

1 (1) IN GENERAL.—There is authorized to be
2 appropriated to carry out this Act \$8,000,000 for
3 each of fiscal years 2020 through 2025, to remain
4 available until expended.

5 (2) UNAPPROPRIATED AMOUNTS.—Any funds
6 authorized but not appropriated for any fiscal year
7 under paragraph (1) may be appropriated for a sub-
8 sequent fiscal year, subject to the condition that the
9 cumulative amount authorized to be appropriated for
10 any of fiscal years 2020 through 2025 shall not ex-
11 ceed \$40,000,000.

12 (b) ADMINISTRATIVE FUNDS.—Of the funds made
13 available to carry out this Act, not more than 5 percent
14 may be used by the Secretary for the administrative ex-
15 penses of carrying out this Act and oversight of programs
16 under this Act.

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