

110TH CONGRESS
2D SESSION

S. 2062

AN ACT

To amend the Native American Housing Assistance and Self-Determination Act of 1996 to reauthorize that Act, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Native American Housing Assistance and Self-Deter-
 4 mination Reauthorization Act of 2007”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Congressional findings.
 Sec. 3. Definitions.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. Block grants.
 Sec. 102. Indian housing plans.
 Sec. 103. Review of plans.
 Sec. 104. Treatment of program income and labor standards.
 Sec. 105. Regulations.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Sec. 201. National objectives and eligible families.
 Sec. 202. Eligible affordable housing activities.
 Sec. 203. Program requirements.
 Sec. 204. Low-income requirement and income targeting.
 Sec. 205. Availability of records.
 Sec. 206. Self-determined housing activities for tribal communities program.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Sec. 301. Allocation formula.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

Sec. 401. Remedies for noncompliance.
 Sec. 402. Monitoring of compliance.
 Sec. 403. Performance reports.

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES
 UNDER INCORPORATED PROGRAMS

Sec. 501. Effect on Home Investment Partnerships Act.

TITLE VI—GUARANTEED LOANS TO FINANCE TRIBAL
 COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES

Sec. 601. Demonstration program for guaranteed loans to finance tribal com-
 munity and economic development activities.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 Section 2 of the Native American Housing Assistance
3 and Self-Determination Act of 1996 (25 U.S.C. 4101) is
4 amended in paragraphs (6) and (7) by striking “should”
5 each place it appears and inserting “shall”.

6 **SEC. 3. DEFINITIONS.**

7 Section 4 of the Native American Housing Assistance
8 and Self-Determination Act of 1996 (25 U.S.C. 4103) is
9 amended—

10 (1) by striking paragraph (22);

11 (2) by redesignating paragraphs (8) through
12 (21) as paragraphs (9) through (22), respectively;
13 and

14 (3) by inserting after paragraph (7) the fol-
15 lowing:

16 “(8) HOUSING RELATED COMMUNITY DEVELOP-
17 MENT.—

18 “(A) IN GENERAL.—The term ‘housing re-
19 lated community development’ means any facil-
20 ity, community building, business, activity, or
21 infrastructure that—

22 “(i) is owned by an Indian tribe or a
23 tribally designated housing entity;

24 “(ii) is necessary to the provision of
25 housing in an Indian area; and

“(iii)(I) would help an Indian tribe or tribally designated housing entity to reduce the cost of construction of Indian housing;

“(II) would make housing more affordable, accessible, or practicable in an Indian area; or

“(III) would otherwise advance the purposes of this Act.

“(B) EXCLUSION.—The term ‘housing and community development’ does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).”.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

SEC. 101. BLOCK GRANTS.

Section 101 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking “For each” and inserting the following:

“(1) IN GENERAL.—For each”;

1 (ii) by striking “tribes to carry out af-
2 fordable housing activities.” and inserting
3 the following: “tribes—

4 “(A) to carry out affordable housing activi-
5 ties under subtitle A of title II; and”;

6 (iii) by adding at the end the fol-
7 lowing:

8 “(B) to carry out self-determined housing
9 activities for tribal communities programs
10 under subtitle B of that title.”; and

11 (B) in the second sentence, by striking
12 “Under” and inserting the following:

13 “(2) PROVISION OF AMOUNTS.—Under”;

14 (2) in subsection (g), by inserting “of this sec-
15 tion and subtitle B of title II” after “subsection
16 (h)”;

17 (3) by adding at the end the following:

18 “(j) FEDERAL SUPPLY SOURCES.—For purposes of
19 section 501 of title 40, United States Code, on election
20 by the applicable Indian tribe—

21 “(1) each Indian tribe or tribally designated
22 housing entity shall be considered to be an Executive
23 agency in carrying out any program, service, or
24 other activity under this Act; and

1 “(2) each Indian tribe or tribally designated
 2 housing entity and each employee of the Indian tribe
 3 or tribally designated housing entity shall have ac-
 4 cess to sources of supply on the same basis as em-
 5 ployees of an Executive agency.

6 “(k) TRIBAL PREFERENCE IN EMPLOYMENT AND
 7 CONTRACTING.—Notwithstanding any other provision of
 8 law, with respect to any grant (or portion of a grant) made
 9 on behalf of an Indian tribe under this Act that is in-
 10 tended to benefit 1 Indian tribe, the tribal employment
 11 and contract preference laws (including regulations and
 12 tribal ordinances) adopted by the Indian tribe that re-
 13 ceives the benefit shall apply with respect to the adminis-
 14 tration of the grant (or portion of a grant).”.

15 **SEC. 102. INDIAN HOUSING PLANS.**

16 Section 102 of the Native American Housing Assist-
 17 ance and Self-Determination Act of 1996 (25 U.S.C.
 18 4112) is amended—

19 (1) in subsection (a)(1)—

20 (A) by striking “(1)(A) for” and all that
 21 follows through the end of subparagraph (A)
 22 and inserting the following:

23 “(1)(A) for an Indian tribe to submit to the
 24 Secretary, by not later than 75 days before the be-

1 ginning of each tribal program year, a 1-year hous-
 2 ing plan for the Indian tribe; or”; and

3 (B) in subparagraph (B), by striking “sub-
 4 section (d)” and inserting “subsection (c)”;

5 (2) by striking subsections (b) and (c) and in-
 6 serting the following:

7 “(b) 1-YEAR PLAN REQUIREMENT.—

8 “(1) IN GENERAL.—A housing plan of an In-
 9 dian tribe under this section shall—

10 “(A) be in such form as the Secretary may
 11 prescribe; and

12 “(B) contain the information described in
 13 paragraph (2).

14 “(2) REQUIRED INFORMATION.—A housing
 15 plan shall include the following information with re-
 16 spect to the tribal program year for which assistance
 17 under this Act is made available:

18 “(A) DESCRIPTION OF PLANNED ACTIVI-
 19 TIES.—A statement of planned activities, in-
 20 cluding—

21 “(i) the types of household to receive
 22 assistance;

23 “(ii) the types and levels of assistance
 24 to be provided;

1 “(iii) the number of units planned to
2 be produced;

3 “(iv)(I) a description of any housing
4 to be demolished or disposed of;

5 “(II) a timetable for the demolition or
6 disposition; and

7 “(III) any other information required
8 by the Secretary with respect to the demo-
9 lition or disposition;

10 “(v) a description of the manner in
11 which the recipient will protect and main-
12 tain the viability of housing owned and op-
13 erated by the recipient that was developed
14 under a contract between the Secretary
15 and an Indian housing authority pursuant
16 to the United States Housing Act of 1937
17 (42 U.S.C. 1437 et seq.); and

18 “(vi) outcomes anticipated to be
19 achieved by the recipient.

20 “(B) STATEMENT OF NEEDS.—A state-
21 ment of the housing needs of the low-income In-
22 dian families residing in the jurisdiction of the
23 Indian tribe, and the means by which those
24 needs will be addressed during the applicable
25 period, including—

1 “(i) a description of the estimated
2 housing needs and the need for assistance
3 for the low-income Indian families in the
4 jurisdiction, including a description of the
5 manner in which the geographical distribu-
6 tion of assistance is consistent with the
7 geographical needs and needs for various
8 categories of housing assistance; and

9 “(ii) a description of the estimated
10 housing needs for all Indian families in the
11 jurisdiction.

12 “(C) FINANCIAL RESOURCES.—An oper-
13 ating budget for the recipient, in such form as
14 the Secretary may prescribe, that includes—

15 “(i) an identification and description
16 of the financial resources reasonably avail-
17 able to the recipient to carry out the pur-
18 poses of this Act, including an explanation
19 of the manner in which amounts made
20 available will leverage additional resources;
21 and

22 “(ii) the uses to which those resources
23 will be committed, including eligible and
24 required affordable housing activities
25 under title II and administrative expenses.

1 “(D) CERTIFICATION OF COMPLIANCE.—
2 Evidence of compliance with the requirements
3 of this Act, including, as appropriate—

4 “(i) a certification that, in carrying
5 out this Act, the recipient will comply with
6 the applicable provisions of title II of the
7 Civil Rights Act of 1968 (25 U.S.C. 1301
8 et seq.) and other applicable Federal laws
9 and regulations;

10 “(ii) a certification that the recipient
11 will maintain adequate insurance coverage
12 for housing units that are owned and oper-
13 ated or assisted with grant amounts pro-
14 vided under this Act, in compliance with
15 such requirements as the Secretary may
16 establish;

17 “(iii) a certification that policies are
18 in effect and are available for review by the
19 Secretary and the public governing the eli-
20 gibility, admission, and occupancy of fami-
21 lies for housing assisted with grant
22 amounts provided under this Act;

23 “(iv) a certification that policies are
24 in effect and are available for review by the
25 Secretary and the public governing rents

1 and homebuyer payments charged, includ-
2 ing the methods by which the rents or
3 homebuyer payments are determined, for
4 housing assisted with grant amounts pro-
5 vided under this Act;

6 “(v) a certification that policies are in
7 effect and are available for review by the
8 Secretary and the public governing the
9 management and maintenance of housing
10 assisted with grant amounts provided
11 under this Act; and

12 “(vi) a certification that the recipient
13 will comply with section 104(b).”;

14 (3) by redesignating subsections (d) through (f)
15 as subsections (c) through (e), respectively; and

16 (4) in subsection (d) (as redesignated by para-
17 graph (3)), by striking “subsection (d)” and insert-
18 ing “subsection (c)”.

19 **SEC. 103. REVIEW OF PLANS.**

20 Section 103 of the Native American Housing Assist-
21 ance and Self-Determination Act of 1996 (25 U.S.C.
22 4113) is amended—

23 (1) in subsection (d)—

24 (A) in the first sentence—

1 (i) by striking “fiscal” each place it
2 appears and inserting “tribal program”;
3 and

4 (ii) by striking “(with respect to” and
5 all that follows through “section 102(c))”;
6 and

7 (B) by striking the second sentence; and

8 (2) by striking subsection (e) and inserting the
9 following:

10 “(e) SELF-DETERMINED ACTIVITIES PROGRAM.—

11 Notwithstanding any other provision of this section, the
12 Secretary—

13 “(1) shall review the information included in an
14 Indian housing plan pursuant to subsections (b)(4)
15 and (c)(7) only to determine whether the informa-
16 tion is included for purposes of compliance with the
17 requirement under section 232(b)(2); and

18 “(2) may not approve or disapprove an Indian
19 housing plan based on the content of the particular
20 benefits, activities, or results included pursuant to
21 subsections (b)(4) and (c)(7).”.

1 **SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR**
2 **STANDARDS.**

3 Section 104(a) of the Native American Housing As-
4 sistance and Self-Determination Act of 1996 (25 U.S.C.
5 4114(a)) is amended by adding at the end the following:

6 “(4) EXCLUSION FROM PROGRAM INCOME OF
7 REGULAR DEVELOPER’S FEES FOR LOW-INCOME
8 HOUSING TAX CREDIT PROJECTS.—Notwithstanding
9 any other provision of this Act, any income derived
10 from a regular and customary developer’s fee for
11 any project that receives a low-income housing tax
12 credit under section 42 of the Internal Revenue
13 Code of 1986, and that is initially funded using a
14 grant provided under this Act, shall not be consid-
15 ered to be program income if the developer’s fee is
16 approved by the State housing credit agency.”.

17 **SEC. 105. REGULATIONS.**

18 Section 106(b)(2) of the Native American Housing
19 Assistance and Self-Determination Act of 1996 (25 U.S.C.
20 4116(b)(2)) is amended—

21 (1) in subparagraph (B)(i), by striking “The
22 Secretary” and inserting “Not later than 180 days
23 after the date of enactment of the Native American
24 Housing Assistance and Self-Determination Reau-
25 thorization Act of 2007 and any other Act to reau-
26 thorize this Act, the Secretary”; and

1 (2) by adding at the end the following:

2 “(C) SUBSEQUENT NEGOTIATED RULE-
3 MAKING.—The Secretary shall—

4 “(i) initiate a negotiated rulemaking
5 in accordance with this section by not later
6 than 90 days after the date of enactment
7 of the Native American Housing Assist-
8 ance and Self-Determination Reauthoriza-
9 tion Act of 2007 and any other Act to re-
10 authorize this Act; and

11 “(ii) promulgate regulations pursuant
12 to this section by not later than 2 years
13 after the date of enactment of the Native
14 American Housing Assistance and Self-De-
15 termination Reauthorization Act of 2007
16 and any other Act to reauthorize this Act.

17 “(D) REVIEW.—Not less frequently than
18 once every 7 years, the Secretary, in consulta-
19 tion with Indian tribes, shall review the regula-
20 tions promulgated pursuant to this section in
21 effect on the date on which the review is con-
22 ducted.”.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.

Section 201(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)) is amended—

(1) in paragraph (1), by inserting “and except with respect to loan guarantees under the demonstration program under title VI,” after “paragraphs (2) and (4),”;

(2) in paragraph (2)—

(A) by striking the first sentence and inserting the following:

“(A) EXCEPTION TO REQUIREMENT.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance through affordable housing activities for which a grant is provided under this Act to any family that is not a low-income family, to the extent that the Secretary approves the activities due to a need for housing for those families that cannot reasonably be met without that assistance.”; and

(B) in the second sentence, by striking “The Secretary” and inserting the following:

“(B) LIMITS.—The Secretary”;

1 (3) in paragraph (3)—

2 (A) in the paragraph heading, by striking
3 “NON-INDIAN” and inserting “ESSENTIAL”;
4 and

5 (B) by striking “non-Indian family” and
6 inserting “family”; and

7 (4) in paragraph (4)(A)(i), by inserting “or
8 other unit of local government,” after “county,”.

9 **SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.**

10 Section 202 of the Native American Housing Assist-
11 ance and Self-Determination Act of 1996 (25 U.S.C.
12 4132) is amended—

13 (1) in the matter preceding paragraph (1), by
14 striking “to develop or to support” and inserting “to
15 develop, operate, maintain, or support”;

16 (2) in paragraph (2)—

17 (A) by striking “development of utilities”
18 and inserting “development and rehabilitation
19 of utilities, necessary infrastructure,”; and

20 (B) by inserting “mold remediation,” after
21 “energy efficiency,”;

22 (3) in paragraph (4), by inserting “the costs of
23 operation and maintenance of units developed with
24 funds provided under this Act,” after “rental assist-
25 ance,”; and

1 (4) by adding at the end the following:

2 “(9) RESERVE ACCOUNTS.—

3 “(A) IN GENERAL.—Subject to subpara-
 4 graph (B), the deposit of amounts, including
 5 grant amounts under section 101, in a reserve
 6 account established for an Indian tribe only for
 7 the purpose of accumulating amounts for ad-
 8 ministration and planning relating to affordable
 9 housing activities under this section, in accord-
 10 ance with the Indian housing plan of the Indian
 11 tribe.

12 “(B) MAXIMUM AMOUNT.—A reserve ac-
 13 count established under subparagraph (A) shall
 14 consist of not more than an amount equal to $\frac{1}{4}$
 15 of the 5-year average of the annual amount
 16 used by a recipient for administration and plan-
 17 ning under paragraph (2).”.

18 **SEC. 203. PROGRAM REQUIREMENTS.**

19 Section 203 of the Native American Housing Assist-
 20 ance and Self-Determination Act of 1996 (25 U.S.C.
 21 4133) is amended by adding at the end the following:

22 “(f) USE OF GRANT AMOUNTS OVER EXTENDED PE-
 23 RIODS.—

24 “(1) IN GENERAL.—To the extent that the In-
 25 dian housing plan for an Indian tribe provides for

1 the use of amounts of a grant under section 101 for
 2 a period of more than 1 fiscal year, or for affordable
 3 housing activities for which the amounts will be com-
 4 mitted for use or expended during a subsequent fis-
 5 cal year, the Secretary shall not require those
 6 amounts to be used or committed for use at any
 7 time earlier than otherwise provided for in the In-
 8 dian housing plan.

9 “(2) CARRYOVER.—Any amount of a grant pro-
 10 vided to an Indian tribe under section 101 for a fis-
 11 cal year that is not used by the Indian tribe during
 12 that fiscal year may be used by the Indian tribe dur-
 13 ing any subsequent fiscal year.

14 “(g) DE MINIMIS EXEMPTION FOR PROCUREMENT
 15 OF GOODS AND SERVICES.—Notwithstanding any other
 16 provision of law, a recipient shall not be required to act
 17 in accordance with any otherwise applicable competitive
 18 procurement rule or procedure with respect to the procure-
 19 ment, using a grant provided under this Act, of goods and
 20 services the value of which is less than \$5,000.”.

21 **SEC. 204. LOW-INCOME REQUIREMENT AND INCOME TAR-**
 22 **GETING.**

23 Section 205 of the Native American Housing Assist-
 24 ance and Self-Determination Act of 1996 (25 U.S.C.
 25 4135) is amended by adding at the end the following:

1 “(c) APPLICABILITY.—The provisions of paragraph
 2 (2) of subsection (a) regarding binding commitments for
 3 the remaining useful life of property shall not apply to
 4 a family or household member who subsequently takes
 5 ownership of a homeownership unit.”.

6 **SEC. 205. AVAILABILITY OF RECORDS.**

7 Section 208(a) of the Native American Housing As-
 8 sistance and Self-Determination Act of 1996 (25 U.S.C.
 9 4138(a)) is amended by inserting “applicants for employ-
 10 ment, and of” after “records of”.

11 **SEC. 206. SELF-DETERMINED HOUSING ACTIVITIES FOR**
 12 **TRIBAL COMMUNITIES PROGRAM.**

13 (a) ESTABLISHMENT OF PROGRAM.—Title II of the
 14 Native American Housing Assistance and Self-Determina-
 15 tion Act of 1996 (25 U.S.C. 4131 et seq.) is amended—

16 (1) by inserting after the title designation and
 17 heading the following:

18 **“Subtitle A—General Block Grant**
 19 **Program”;**

20 and

21 (2) by adding at the end the following:

1 **“Subtitle B—Self-Determined Hous-**
 2 **ing Activities for Tribal Commu-**
 3 **nities**

4 **“SEC. 231. PURPOSE.**

5 “The purpose of this subtitle is to establish a pro-
 6 gram for self-determined housing activities for the tribal
 7 communities to provide Indian tribes with the flexibility
 8 to use a portion of the grant amounts under section 101
 9 for the Indian tribe in manners that are wholly self-deter-
 10 mined by the Indian tribe for housing activities involving
 11 construction, acquisition, rehabilitation, or infrastructure
 12 relating to housing activities or housing that will benefit
 13 the community served by the Indian tribe.

14 **“SEC. 232. PROGRAM AUTHORITY.**

15 “(a) DEFINITION OF QUALIFYING INDIAN TRIBE.—
 16 In this section, the term ‘qualifying Indian tribe’ means,
 17 with respect to a fiscal year, an Indian tribe or tribally
 18 designated housing entity—

19 “(1) to or on behalf of which a grant is made
 20 under section 101;

21 “(2) that has complied with the requirements of
 22 section 102(b)(6); and

23 “(3) that, during the preceding 3-fiscal-year pe-
 24 riod, has no unresolved significant and material
 25 audit findings or exceptions, as demonstrated in—

1 “(A) the annual audits of that period com-
 2 pleted under chapter 75 of title 31, United
 3 States Code (commonly known as the ‘Single
 4 Audit Act’); or

5 “(B) an independent financial audit pre-
 6 pared in accordance with generally accepted au-
 7 diting principles.

8 “(b) AUTHORITY.—Under the program under this
 9 subtitle, for each of fiscal years 2008 through 2012, the
 10 recipient for each qualifying Indian tribe may use the
 11 amounts specified in subsection (c) in accordance with this
 12 subtitle.

13 “(c) AMOUNTS.—With respect to a fiscal year and a
 14 recipient, the amounts referred to in subsection (b) are
 15 amounts from any grant provided under section 101 to
 16 the recipient for the fiscal year, as determined by the re-
 17 cipient, but in no case exceeding the lesser of—

18 “(1) an amount equal to 20 percent of the total
 19 grant amount for the recipient for that fiscal year;
 20 and

21 “(2) \$2,000,000.

22 **“SEC. 233. USE OF AMOUNTS FOR HOUSING ACTIVITIES.**

23 “(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts
 24 made available for use under this subtitle by a recipient
 25 for an Indian tribe shall be used only for housing activi-

1 ties, as selected at the discretion of the recipient and de-
 2 scribed in the Indian housing plan for the Indian tribe
 3 pursuant to section 102(b)(6), for the construction, acqui-
 4 sition, or rehabilitation of housing or infrastructure in ac-
 5 cordance with section 202 to provide a benefit to families
 6 described in section 201(b)(1).

7 “(b) PROHIBITION ON CERTAIN ACTIVITIES.—
 8 Amounts made available for use under this subtitle may
 9 not be used for commercial or economic development.

10 **“SEC. 234. INAPPLICABILITY OF OTHER PROVISIONS.**

11 “(a) IN GENERAL.—Except as otherwise specifically
 12 provided in this Act, title I, subtitle A of title II, and titles
 13 III through VIII shall not apply to—

14 “(1) the program under this subtitle; or

15 “(2) amounts made available in accordance with
 16 this subtitle.

17 “(b) APPLICABLE PROVISIONS.—The following provi-
 18 sions of titles I through VIII shall apply to the program
 19 under this subtitle and amounts made available in accord-
 20 ance with this subtitle:

21 “(1) Section 101(c) (relating to local coopera-
 22 tion agreements).

23 “(2) Subsections (d) and (e) of section 101 (re-
 24 lating to tax exemption).

1 “(3) Section 101(j) (relating to Federal supply
2 sources).

3 “(4) Section 101(k) (relating to tribal pref-
4 erence in employment and contracting).

5 “(5) Section 102(b)(4) (relating to certification
6 of compliance).

7 “(6) Section 104 (relating to treatment of pro-
8 gram income and labor standards).

9 “(7) Section 105 (relating to environmental re-
10 view).

11 “(8) Section 201(b) (relating to eligible fami-
12 lies).

13 “(9) Section 203(c) (relating to insurance cov-
14 erage).

15 “(10) Section 203(g) (relating to a de minimis
16 exemption for procurement of goods and services).

17 “(11) Section 206 (relating to treatment of
18 funds).

19 “(12) Section 209 (relating to noncompliance
20 with affordable housing requirement).

21 “(13) Section 401 (relating to remedies for
22 noncompliance).

23 “(14) Section 408 (relating to public avail-
24 ability of information).

1 “(15) Section 702 (relating to 50-year leasehold
2 interests in trust or restricted lands for housing pur-
3 poses).

4 **“SEC. 235. REVIEW AND REPORT.**

5 “(a) REVIEW.—During calendar year 2011, the Sec-
6 retary shall conduct a review of the results achieved by
7 the program under this subtitle to determine—

8 “(1) the housing constructed, acquired, or reha-
9 bilitated under the program;

10 “(2) the effects of the housing described in
11 paragraph (1) on costs to low-income families of af-
12 fordable housing;

13 “(3) the effectiveness of each recipient in
14 achieving the results intended to be achieved, as de-
15 scribed in the Indian housing plan for the Indian
16 tribe; and

17 “(4) the need for, and effectiveness of, extend-
18 ing the duration of the program and increasing the
19 amount of grants under section 101 that may be
20 used under the program.

21 “(b) REPORT.—Not later than December 31, 2011,
22 the Secretary shall submit to Congress a report describing
23 the information obtained pursuant to the review under
24 subsection (a) (including any conclusions and rec-

1 ommendations of the Secretary with respect to the pro-
2 gram under this subtitle), including—

3 “(1) recommendations regarding extension of
4 the program for subsequent fiscal years and increas-
5 ing the amounts under section 232(c) that may be
6 used under the program; and

7 “(2) recommendations for—

8 “(A)(i) specific Indian tribes or recipients
9 that should be prohibited from participating in
10 the program for failure to achieve results; and

11 “(ii) the period for which such a prohibi-
12 tion should remain in effect; or

13 “(B) standards and procedures by which
14 Indian tribes or recipients may be prohibited
15 from participating in the program for failure to
16 achieve results.

17 “(c) PROVISION OF INFORMATION TO SECRETARY.—
18 Notwithstanding any other provision of this Act, recipients
19 participating in the program under this subtitle shall pro-
20 vide such information to the Secretary as the Secretary
21 may request, in sufficient detail and in a timely manner
22 sufficient to ensure that the review and report required
23 by this section is accomplished in a timely manner.”.

24 (b) TECHNICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Native American Housing Assistance

1 and Self-Determination Act of 1996 (25 U.S.C. 4101
2 note) is amended—

3 (1) by inserting after the item for title II the
4 following:

“Subtitle A—General Block Grant Program”;

5 (2) by inserting after the item for section 205
6 the following:

“Sec. 206. Treatment of funds.”;

7 and

8 (3) by inserting before the item for title III the
9 following:

“Subtitle B—Self-Determined Housing Activities for Tribal Communities

“Sec. 231. Purposes.

“Sec. 232. Program authority.

“Sec. 233. Use of amounts for housing activities.

“Sec. 234. Inapplicability of other provisions.

“Sec. 235. Review and report.”.

10 **TITLE III—ALLOCATION OF** 11 **GRANT AMOUNTS**

12 **SEC. 301. ALLOCATION FORMULA.**

13 Section 302 of the Native American Housing Assist-
14 ance and Self-Determination Act of 1996 (25 U.S.C.
15 4152) is amended—

16 (1) in subsection (a)—

17 (A) by striking “The Secretary” and in-
18 serting the following:

19 “(1) IN GENERAL.—The Secretary”; and

20 (B) by adding at the end the following:

1 “(2) STUDY OF NEED DATA.—

2 “(A) IN GENERAL.—The Secretary shall
3 enter into a contract with an organization with
4 expertise in housing and other demographic
5 data collection methodologies under which the
6 organization, in consultation with Indian tribes
7 and Indian organizations, shall—

8 “(i) assess existing data sources, in-
9 cluding alternatives to the decennial cen-
10 sus, for use in evaluating the factors for
11 determination of need described in sub-
12 section (b); and

13 “(ii) develop and recommend meth-
14 odologies for collecting data on any of
15 those factors, including formula area, in
16 any case in which existing data is deter-
17 mined to be insufficient or inadequate, or
18 fails to satisfy the requirements of this
19 Act.

20 “(B) AUTHORIZATION OF APPROPRIA-
21 TIONS.—There are authorized to be appro-
22 priated such sums as are necessary to carry out
23 this section, to remain available until ex-
24 pended.”; and

1 (2) in subsection (b), by striking paragraph (1)
2 and inserting the following:

3 “(1)(A) The number of low-income housing
4 dwelling units developed under the United States
5 Housing Act of 1937 (42 U.S.C. 1437 et seq.), pur-
6 suant to a contract between an Indian housing au-
7 thority for the tribe and the Secretary, that are
8 owned or operated by a recipient on the October 1
9 of the calendar year immediately preceding the year
10 for which funds are provided, subject to the condi-
11 tion that such a unit shall not be considered to be
12 a low-income housing dwelling unit for purposes of
13 this section if—

14 “(i) the recipient ceases to possess the
15 legal right to own, operate, or maintain the
16 unit; or

17 “(ii) the unit is lost to the recipient by
18 conveyance, demolition, or other means.

19 “(B) If the unit is a homeownership unit not
20 conveyed within 25 years from the date of full avail-
21 ability, the recipient shall not be considered to have
22 lost the legal right to own, operate, or maintain the
23 unit if the unit has not been conveyed to the home-
24 buyer for reasons beyond the control of the recipient.

1 “(C) If the unit is demolished and the recipient
 2 rebuilds the unit within 1 year of demolition of the
 3 unit, the unit may continue to be considered a low-
 4 income housing dwelling unit for the purpose of this
 5 paragraph.

6 “(D) In this paragraph, the term ‘reasons be-
 7 yond the control of the recipient’ means, after mak-
 8 ing reasonable efforts, there remain—

9 “(i) delays in obtaining or the absence of
 10 title status reports;

11 “(ii) incorrect or inadequate legal descrip-
 12 tions or other legal documentation necessary for
 13 conveyance;

14 “(iii) clouds on title due to probate or in-
 15 testacy or other court proceedings; or

16 “(iv) any other legal impediment.

17 “(E) Subparagraphs (A) through (D) shall not
 18 apply to any claim arising from a formula current
 19 assisted stock calculation or count involving an In-
 20 dian housing block grant allocation for any fiscal
 21 year through fiscal year 2008, if a civil action relat-
 22 ing to the claim is filed by not later than 45 days
 23 after the date of enactment of this subparagraph.”.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

SEC. 401. REMEDIES FOR NONCOMPLIANCE.

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) **SUBSTANTIAL NONCOMPLIANCE.**—The failure of a recipient to comply with the requirements of section 302(b)(1) regarding the reporting of low-income dwelling units shall not, in itself, be considered to be substantial noncompliance for purposes of this title.”.

SEC. 402. MONITORING OF COMPLIANCE.

Section 403(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4163(b)) is amended in the second sentence by inserting “an appropriate level of” after “shall include”.

SEC. 403. PERFORMANCE REPORTS.

Section 404(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4164(b)) is amended—

1 (1) in paragraph (2)—

2 (A) by striking “goals” and inserting
3 “planned activities”; and

4 (B) by adding “and” after the semicolon
5 at the end;

6 (2) in paragraph (3), by striking “; and” at the
7 end and inserting a period; and

8 (3) by striking paragraph (4).

9 **TITLE V—TERMINATION OF AS-**
10 **SISTANCE FOR INDIAN**
11 **TRIBES UNDER INCOR-**
12 **PORATED PROGRAMS**

13 **SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS**
14 **ACT.**

15 (a) IN GENERAL.—Title V of the Native American
16 Housing Assistance and Self-Determination Act of 1996
17 (25 U.S.C. 4181 et seq.) is amended by adding at the end
18 the following:

19 **“SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS**
20 **ACT.**

21 “Nothing in this Act or an amendment made by this
22 Act prohibits or prevents any participating jurisdiction
23 (within the meaning of the HOME Investment Partner-
24 ships Act (42 U.S.C. 12721 et seq.)) from providing any
25 amounts made available to the participating jurisdiction

1 under that Act (42 U.S.C. 12721 et seq.) to an Indian
 2 tribe or a tribally designated housing entity for use in ac-
 3 cordance with that Act (42 U.S.C. 12721 et seq.).”.

4 (b) CONFORMING AMENDMENT.—The table of con-
 5 tents in section 1(b) of the Native American Housing As-
 6 sistance and Self-Determination Act of 1996 (25 U.S.C.
 7 4101 note) is amended by inserting after the item relating
 8 to section 508 the following:

“Sec. 509. Effect on HOME Investment Partnerships Act.”.

9 **TITLE VI—GUARANTEED LOANS**
 10 **TO FINANCE TRIBAL COMMU-**
 11 **NITY AND ECONOMIC DEVEL-**
 12 **OPMENT ACTIVITIES**

13 **SEC. 601. DEMONSTRATION PROGRAM FOR GUARANTEED**
 14 **LOANS TO FINANCE TRIBAL COMMUNITY AND**
 15 **ECONOMIC DEVELOPMENT ACTIVITIES.**

16 (a) IN GENERAL.—Title VI of the Native American
 17 Housing Assistance and Self-Determination Act of 1996
 18 (25 U.S.C. 4191 et seq.) is amended by adding at the end
 19 the following:

20 **“SEC. 606. DEMONSTRATION PROGRAM FOR GUARANTEED**
 21 **LOANS TO FINANCE TRIBAL COMMUNITY AND**
 22 **ECONOMIC DEVELOPMENT ACTIVITIES.**

23 “(a) AUTHORITY.—

24 “(1) IN GENERAL.—Subject to paragraph (2),
 25 to the extent and in such amounts as are provided

1 in appropriation Acts, subject to the requirements of
2 this section, and in accordance with such terms and
3 conditions as the Secretary may prescribe, the Sec-
4 retary may guarantee and make commitments to
5 guarantee the notes and obligations issued by Indian
6 tribes or tribally designated housing entities with
7 tribal approval, for the purposes of financing activi-
8 ties carried out on Indian reservations and in other
9 Indian areas that, under the first sentence of section
10 108(a) of the Housing and Community Development
11 Act of 1974 (42 U.S.C. 5308), are eligible for fi-
12 nancing with notes and other obligations guaranteed
13 pursuant to that section.

14 “(2) LIMITATION.—The Secretary may guar-
15 antee, or make commitments to guarantee, under
16 paragraph (1) the notes or obligations of not more
17 than 4 Indian tribes or tribally designated housing
18 entities located in each Department of Housing and
19 Urban Development Office of Native American Pro-
20 grams region.

21 “(b) LOW-INCOME BENEFIT REQUIREMENT.—Not
22 less than 70 percent of the aggregate amount received by
23 an Indian tribe or tribally designated housing entity as
24 a result of a guarantee under this section shall be used

1 for the support of activities that benefit low-income fami-
2 lies on Indian reservations and other Indian areas.

3 “(c) FINANCIAL SOUNDNESS.—

4 “(1) IN GENERAL.—The Secretary shall estab-
5 lish underwriting criteria for guarantees under this
6 section, including fees for the guarantees, as the
7 Secretary determines to be necessary to ensure that
8 the program under this section is financially sound.

9 “(2) AMOUNTS OF FEES.—Fees for guarantees
10 established under paragraph (1) shall be established
11 in amounts that are sufficient, but do not exceed the
12 minimum amounts necessary, to maintain a negative
13 credit subsidy for the program under this section, as
14 determined based on the risk to the Federal Govern-
15 ment under the underwriting requirements estab-
16 lished under paragraph (1).

17 “(d) TERMS OF OBLIGATIONS.—

18 “(1) IN GENERAL.—Each note or other obliga-
19 tion guaranteed pursuant to this section shall be in
20 such form and denomination, have such maturity,
21 and be subject to such conditions as the Secretary
22 may prescribe, by regulation.

23 “(2) LIMITATION.—The Secretary may not
24 deny a guarantee under this section on the basis of

1 the proposed repayment period for the note or other
2 obligation, unless—

3 “(A) the period is more than 20 years; or

4 “(B) the Secretary determines that the pe-
5 riod would cause the guarantee to constitute an
6 unacceptable financial risk.

7 “(e) LIMITATION ON PERCENTAGE.—A guarantee
8 made under this section shall guarantee repayment of 95
9 percent of the unpaid principal and interest due on the
10 note or other obligation guaranteed.

11 “(f) SECURITY AND REPAYMENT.—

12 “(1) REQUIREMENTS ON ISSUER.—To ensure
13 the repayment of notes and other obligations and
14 charges incurred under this section and as a condi-
15 tion for receiving the guarantees, the Secretary shall
16 require the Indian tribe or housing entity issuing the
17 notes or obligations—

18 “(A) to enter into a contract, in a form ac-
19 ceptable to the Secretary, for repayment of
20 notes or other obligations guaranteed under this
21 section;

22 “(B) to demonstrate that the extent of
23 each issuance and guarantee under this section
24 is within the financial capacity of the Indian
25 tribe; and

1 “(C) to furnish, at the discretion of the
2 Secretary, such security as the Secretary deter-
3 mines to be appropriate in making the guaran-
4 tees, including increments in local tax receipts
5 generated by the activities assisted by a guar-
6 antee under this section or disposition proceeds
7 from the sale of land or rehabilitated property,
8 except that the security may not include any
9 grant amounts received or for which the issuer
10 may be eligible under title I.

11 “(2) FULL FAITH AND CREDIT.—

12 “(A) IN GENERAL.—The full faith and
13 credit of the United States is pledged to the
14 payment of all guarantees made under this sec-
15 tion.

16 “(B) TREATMENT OF GUARANTEES.—

17 “(i) IN GENERAL.—Any guarantee
18 made by the Secretary under this section
19 shall be conclusive evidence of the eligi-
20 bility of the obligations for the guarantee
21 with respect to principal and interest.

22 “(ii) INCONTESTABLE NATURE.—The
23 validity of any such a guarantee shall be
24 incontestable in the hands of a holder of
25 the guaranteed obligations.

1 “(g) TRAINING AND INFORMATION.—The Secretary,
2 in cooperation with Indian tribes and tribally designated
3 housing entities, may carry out training and information
4 activities with respect to the guarantee program under this
5 section.

6 “(h) LIMITATIONS ON AMOUNT OF GUARANTEES.—

7 “(1) AGGREGATE FISCAL YEAR LIMITATION.—

8 Notwithstanding any other provision of law, subject
9 only to the absence of qualified applicants or pro-
10 posed activities and to the authority provided in this
11 section, and to the extent approved or provided for
12 in appropriations Acts, the Secretary may enter into
13 commitments to guarantee notes and obligations
14 under this section with an aggregate principal
15 amount not to exceed \$200,000,000 for each of fis-
16 cal years 2008 through 2012.

17 “(2) AUTHORIZATION OF APPROPRIATIONS FOR

18 CREDIT SUBSIDY.—There are authorized to be ap-
19 propriated to cover the costs (as defined in section
20 502 of the Congressional Budget Act of 1974 (2
21 U.S.C. 661a)) of guarantees under this section
22 \$1,000,000 for each of fiscal years 2008 through
23 2012.

24 “(3) AGGREGATE OUTSTANDING LIMITATION.—

25 The total amount of outstanding obligations guaran-

1 teed on a cumulative basis by the Secretary pursu-
2 ant to this section shall not at any time exceed
3 \$1,000,000,000 or such higher amount as may be
4 authorized to be appropriated for this section for
5 any fiscal year.

6 “(4) FISCAL YEAR LIMITATIONS ON INDIAN
7 TRIBES.—

8 “(A) IN GENERAL.—The Secretary shall
9 monitor the use of guarantees under this sec-
10 tion by Indian tribes.

11 “(B) MODIFICATIONS.—If the Secretary
12 determines that 50 percent of the aggregate
13 guarantee authority under paragraph (3) has
14 been committed, the Secretary may—

15 “(i) impose limitations on the amount
16 of guarantees pursuant to this section that
17 any single Indian tribe may receive in any
18 fiscal year of \$25,000,000; or

19 “(ii) request the enactment of legisla-
20 tion increasing the aggregate outstanding
21 limitation on guarantees under this sec-
22 tion.

23 “(i) REPORT.—Not later than 4 years after the date
24 of enactment of this section, the Secretary shall submit
25 to Congress a report describing the use of the authority

1 under this section by Indian tribes and tribally designated
 2 housing entities, including—

3 “(1) an identification of the extent of the use
 4 and the types of projects and activities financed
 5 using that authority; and

6 “(2) an analysis of the effectiveness of the use
 7 in carrying out the purposes of this section.

8 “(j) TERMINATION.—The authority of the Secretary
 9 under this section to make new guarantees for notes and
 10 obligations shall terminate on October 1, 2012.”.

11 (b) CONFORMING AMENDMENT.—The table of con-
 12 tents in section 1(b) of the Native American Housing As-
 13 sistance and Self-Determination Act of 1996 (25 U.S.C.
 14 4101 note) is amended by inserting after the item relating
 15 to section 605 the following:

“Sec. 606. Demonstration program for guaranteed loans to finance tribal com-
 munity and economic development activities.”.

16 **TITLE VII—FUNDING**

17 **SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) BLOCK GRANTS AND GRANT REQUIREMENTS.—
 19 Section 108 of the Native American Housing Assistance
 20 and Self-Determination Act of 1996 (25 U.S.C. 4117) is
 21 amended in the first sentence by striking “1998 through
 22 2007” and inserting “2008 through 2012”.

23 (b) FEDERAL GUARANTEES FOR FINANCING FOR
 24 TRIBAL HOUSING ACTIVITIES.—Section 605 of the Native

1 American Housing Assistance and Self-Determination Act
2 of 1996 (25 U.S.C. 4195) is amended in subsections (a)
3 and (b) by striking “1997 through 2007” each place it
4 appears and inserting “2008 through 2012”.

5 (c) TRAINING AND TECHNICAL ASSISTANCE.—Sec-
6 tion 703 of the Native American Housing Assistance and
7 Self-Determination Act of 1996 (25 U.S.C. 4212) is
8 amended by striking “1997 through 2007” and inserting
9 “2008 through 2012”.

Passed the Senate May 22, 2008.

Attest:

Secretary.

110TH CONGRESS
2D SESSION

S. 2062

AN ACT

To amend the Native American Housing Assistance
and Self-Determination Act of 1996 to reauthor-
ize that Act, and for other purposes.