

Calendar No. 526110TH CONGRESS
1ST SESSION**S. 2062****[Report No. 110-238]**

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2007

Mr. DORGAN (for himself, Mr. REID, Ms. MURKOWSKI, Mr. INOUE, Mr. JOHNSON, Ms. CANTWELL, Mr. TESTER, Mr. BINGAMAN, Mr. DOMENICI, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

DECEMBER 7, 2007

Reported by Mr. DORGAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]**A BILL**

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. Treatment of funds.
- Sec. 206. Availability of records.
- Sec. 207. 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 community and economic development activities.

**TITLE VII—OTHER HOUSING ASSISTANCE FOR NATIVE
 AMERICANS**

Sec. 701. Training and technical assistance.

TITLE VIII—FUNDING

Sec. 801. Authorization of appropriations.

Sec. 802. Funding conforming amendments.

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;

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

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

6 “(II) would make housing more af-
7 fordable, accessible, or practicable in an
8 Indian area; or

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

11 “(B) EXCLUSION.—The term ‘housing and
12 community development’ does not include any
13 activity conducted by any Indian tribe under
14 the Indian Gaming Regulatory Act (25 U.S.C.
15 2701 et seq.).”.

16 **TITLE I—BLOCK GRANTS AND**
17 **GRANT REQUIREMENTS**

18 **SEC. 101. BLOCK GRANTS.**

19 Section 101 of the Native American Housing Assist-
20 ance and Self-Determination Act of 1996 (25 U.S.C.
21 4111) is amended—

22 (1) in subsection (a)—

23 (A) in the first sentence—

24 (i) by striking “For each” and insert-
25 ing the following:

1 “(1) IN GENERAL.—For each”;

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

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

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

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

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

14 “(2) PROVISION OF AMOUNTS.—Under”;

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

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

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

22 “(1) each Indian tribe or tribally designated
23 housing entity shall be considered to be an Executive
24 agency in carrying out any program, service, or
25 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.”.

1 **TITLE II—AFFORDABLE**
2 **HOUSING ACTIVITIES**

3 **SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.**

4 Section 201(b) of the Native American Housing As-
5 sistance and Self-Determination Act of 1996 (25 U.S.C.
6 4131(b)) is amended—

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

10 (2) in paragraph (2)—

11 (A) by striking the first sentence and in-
12 serting the following:

13 “(A) EXCEPTION TO REQUIREMENT.—Not-
14 withstanding paragraph (1), a recipient may
15 provide housing or housing assistance through
16 affordable housing activities for which a grant
17 is provided under this Act to any family that is
18 not a low-income family, to the extent that the
19 Secretary approves the activities due to a need
20 for housing for those families that cannot rea-
21 sonably be met without that assistance.”; and

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

24 “(B) LIMITS.—The Secretary”;

25 (3) in paragraph (3)—

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

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

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

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

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

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

15 (2) in paragraph (2)—

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

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

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

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

1 “(9) RESERVE ACCOUNTS.—

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

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

17 **SEC. 203. PROGRAM REQUIREMENTS.**

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

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

23 “(1) IN GENERAL.—To the extent that the In-
24 dian housing plan for an Indian tribe provides for
25 the use of amounts of a grant under section 101 for

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

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

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

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

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

1 “(c) APPLICABILITY.—~~This section~~ *Paragraph (2) of*
 2 *subsection (a)* applies only to rental and homeownership
 3 units that are owned or operated by a recipient.”.

4 **SEC. 205. TREATMENT OF FUNDS.**

5 The Native American Housing Assistance and Self-
 6 Determination Act of 1996 is amended by inserting after
 7 section 205 (25 U.S.C. 4135) the following:

8 **“SEC. 206. TREATMENT OF FUNDS.**

9 “Notwithstanding any other provision of law, tenant-
 10 and project-based rental assistance provided using funds
 11 made available under this Act shall not be considered to
 12 be Federal funds for purposes of section 42 of the Internal
 13 Revenue Code of 1986.”.

14 **SEC. 206. AVAILABILITY OF RECORDS.**

15 Section 208(a) of the Native American Housing As-
 16 sistance and Self-Determination Act of 1996 (25 U.S.C.
 17 4138(a)) is amended by inserting “applicants for employ-
 18 ment, and of” after “records of”.

19 **SEC. 207. SELF-DETERMINED HOUSING ACTIVITIES FOR**
 20 **TRIBAL COMMUNITIES PROGRAM.**

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

24 (1) by inserting after the title designation and
 25 heading the following:

1 **“Subtitle A—General Block Grant**
2 **Program”;**

3 and

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

5 **“Subtitle B—Self-Determined Hous-**
6 **ing Activities for Tribal Commu-**
7 **nities**

8 **“SEC. 231. PURPOSE.**

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

18 **“SEC. 232. PROGRAM AUTHORITY.**

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

23 “(1) *to or* on behalf of which a grant is made
24 under section 101;

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

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

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

10 “(B) an independent financial audit pre-
11 pared in accordance with generally accepted au-
12 diting principles.

13 “(b) AUTHORITY.—Under the program under this
14 subtitle, for each of fiscal years 2008 through 2012, the
15 recipient for each qualifying Indian tribe may use the
16 amounts specified in subsection (c) in accordance with this
17 subtitle.

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

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

1 “(2) \$2,000,000.

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

3 “(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts
4 made available for use under this subtitle by a recipient
5 for an Indian tribe shall be used only for housing activi-
6 ties, as selected at the discretion of the recipient and de-
7 scribed in the Indian housing plan for the Indian tribe
8 pursuant to section 102(b)(6), for the construction, acqui-
9 sition, or rehabilitation of housing or infrastructure to
10 provide a benefit to families described in section
11 201(b)(1).

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

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

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

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

20 “(2) amounts made available in accordance with
21 this subtitle.

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

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

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

5 “(3) Section 101(j) (relating to Federal supply
6 sources).

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

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

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

13 “(7) Section 105 (relating to environmental re-
14 view).

15 “(8) Section 201(b) (relating to eligible fami-
16 lies).

17 “(9) Section 203(c) (relating to insurance cov-
18 erage).

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

21 “(11) Section 206 (relating to treatment of
22 funds).

23 “(12) Section 209 (relating to noncompliance
24 with affordable housing requirement).

1 “(13) Section 401 (relating to remedies for
2 noncompliance).

3 “(14) Section 408 (relating to public avail-
4 ability of information).

5 “(15) Section 702 (relating to 50-year leasehold
6 interests in trust or restricted lands for housing pur-
7 poses).

8 **“SEC. 235. REVIEW AND REPORT.**

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

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

14 “(2) the effects of the housing described in
15 paragraph (1) on costs to low-income families of af-
16 fordable housing;

17 “(3) the effectiveness of each recipient in
18 achieving the results intended to be achieved, as de-
19 scribed in the Indian housing plan for the Indian
20 tribe; and

21 “(4) the need for, and effectiveness of, extend-
22 ing the duration of the program and increasing the
23 amount of grants under section 101 that may be
24 used under the program.

1 “(b) REPORT.—Not later than December 31, 2011,
2 the Secretary shall submit to Congress a report describing
3 the information obtained pursuant to the review under
4 subsection (a) (including any conclusions and rec-
5 ommendations of the Secretary with respect to the pro-
6 gram under this subtitle), including—

7 “(1) recommendations regarding extension of
8 the program for subsequent fiscal years and increas-
9 ing the amounts under section 232(c) that may be
10 used under the program; and

11 “(2) recommendations for—

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

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

17 “(B) standards and procedures by which
18 Indian tribes or recipients may be prohibited
19 from participating in the program for failure to
20 achieve results.

21 “(c) PROVISION OF INFORMATION TO SECRETARY.—
22 Notwithstanding any other provision of this Act, recipients
23 participating in the program under this subtitle shall pro-
24 vide such information to the Secretary as the Secretary
25 may request, in sufficient detail and in a timely manner

1 sufficient to ensure that the review and report required
2 by this section is accomplished in a timely manner.”.

3 (b) TECHNICAL AMENDMENT.—The table of contents
4 in section 1(b) of the Native American Housing Assistance
5 and Self-Determination Act of 1996 (25 U.S.C. 4101
6 note) is amended—

7 (1) by inserting after the item for title II the
8 following:

“Subtitle A—General Block Grant Program”;

9 (2) by inserting after the item for section 205
10 the following:

“Sec. 206. Treatment of funds.”;

11 and

12 (3) by inserting before the item for title III the
13 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.”.

14 **TITLE III—ALLOCATION OF**
15 **GRANT AMOUNTS**

16 **SEC. 301. ALLOCATION FORMULA.**

17 Section 302 of the Native American Housing Assist-
18 ance and Self-Determination Act of 1996 (25 U.S.C.
19 4152) is amended—

20 (1) in subsection (a)—

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

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

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

5 “(2) STUDY OF NEED DATA.—

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

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

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

24 “(B) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There are authorized to be appro-

1 priedated such sums as are necessary to carry out
2 this section, to remain available until ex-
3 pended.”; and

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

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

17 “(i) the recipient ceases to possess the
18 legal right to own, operate, or maintain the
19 unit; or

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

22 “(B) If the unit is a homeownership unit not
23 conveyed within 25 years from the date of full avail-
24 ability, the recipient shall not be considered to have
25 lost the legal right to own, operate, or maintain the

1 unit if the unit has not been conveyed to the home-
 2 buyer for reasons beyond the control of the recipient.

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

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

11 “(i) delays in obtaining or the absence of
 12 title status reports;

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

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

18 “(iv) any other legal impediment.”.

19 **TITLE IV—COMPLIANCE,**
 20 **AUDITS, AND REPORTS**

21 **SEC. 401. REMEDIES FOR NONCOMPLIANCE.**

22 Section 401(a) of the Native American Housing As-
 23 sistance and Self-Determination Act of 1996 (25 U.S.C.
 24 4161(a)) is amended—

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

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) SUBSTANTIAL NONCOMPLIANCE.—The
6 failure of a recipient to comply with the require-
7 ments of section 302(b)(1) regarding the reporting
8 of low-income dwelling units shall not, in itself, be
9 considered to be substantial noncompliance for pur-
10 poses of this title.”.

11 **SEC. 402. MONITORING OF COMPLIANCE.**

12 Section 403(b) of the Native American Housing As-
13 sistance and Self-Determination Act of 1996 (25 U.S.C.
14 4163(b)) is amended in the second sentence by inserting
15 “an appropriate level of” after “shall include”.

16 **SEC. 403. PERFORMANCE REPORTS.**

17 Section 404(b) of the Native American Housing As-
18 sistance and Self-Determination Act of 1996 (25 U.S.C.
19 4164(b)) is amended—

20 (1) in paragraph (2)—

21 (A) by striking “goals” and inserting
22 “planned activities”; and

23 (B) by adding “and” after the semicolon
24 at the end;

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

3 (3) by striking paragraph (4).

4 **TITLE V—TERMINATION OF AS-**
5 **SISTANCE FOR INDIAN**
6 **TRIBES UNDER INCOR-**
7 **PORATED PROGRAMS**

8 **SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS**
9 **ACT.**

10 (a) IN GENERAL.—Title V of the Native American
11 Housing Assistance and Self-Determination Act of 1996
12 (25 U.S.C. 4181 et seq.) is amended by adding at the end
13 the following:

14 **“SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS**
15 **ACT.**

16 “Nothing in this Act or an amendment made by this
17 Act prohibits or prevents any participating jurisdiction
18 (within the meaning of the HOME Investment Partner-
19 ships Act (42 U.S.C. 12721 et seq.)) from providing any
20 amounts made available to the participating jurisdiction
21 under that Act (42 U.S.C. 12721 et seq.) to an Indian
22 tribe or a tribally designated housing entity for use in ac-
23 cordance with that Act (42 U.S.C. 12721 et seq.).”

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents in section 1(b) of the Native American Housing As-

1 sistance and Self-Determination Act of 1996 (25 U.S.C.
 2 4101 note) is amended by inserting after the item relating
 3 to section 508 the following:

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

4 **TITLE VI—GUARANTEED LOANS**
 5 **TO FINANCE TRIBAL COMMU-**
 6 **NITY AND ECONOMIC DEVEL-**
 7 **OPMENT ACTIVITIES**

8 **SEC. 601. DEMONSTRATION PROGRAM FOR GUARANTEED**
 9 **LOANS TO FINANCE TRIBAL COMMUNITY AND**
 10 **ECONOMIC DEVELOPMENT ACTIVITIES.**

11 (a) IN GENERAL.—Title VI of the Native American
 12 Housing Assistance and Self-Determination Act of 1996
 13 (25 U.S.C. 4191 et seq.) is amended by adding at the end
 14 the following:

15 **“SEC. 606. DEMONSTRATION PROGRAM FOR GUARANTEED**
 16 **LOANS TO FINANCE TRIBAL COMMUNITY AND**
 17 **ECONOMIC DEVELOPMENT ACTIVITIES.**

18 “(a) AUTHORITY.—To the extent and in such
 19 amounts as are provided in appropriation Acts, subject to
 20 the requirements of this section, and in accordance with
 21 such terms and conditions as the Secretary may prescribe,
 22 the Secretary may guarantee and make commitments to
 23 guarantee the notes and obligations issued by Indian
 24 tribes or tribally designated housing entities with tribal
 25 approval, for the purposes of financing activities carried

1 out on Indian reservations and in other Indian areas that,
2 under the first sentence of section 108(a) of the Housing
3 and Community Development Act of 1974 (42 U.S.C.
4 5308), are eligible for financing with notes and other obli-
5 gations guaranteed pursuant to that section.

6 “(b) LOW-INCOME BENEFIT REQUIREMENT.—Not
7 less than 70 percent of the aggregate amount received by
8 an Indian tribe or tribally designated housing entity as
9 a result of a guarantee under this section shall be used
10 for the support of activities that benefit low-income fami-
11 lies on Indian reservations and other Indian areas.

12 “(c) FINANCIAL SOUNDNESS.—

13 “(1) IN GENERAL.—The Secretary shall estab-
14 lish underwriting criteria for guarantees under this
15 section, including fees for the guarantees, as the
16 Secretary determines to be necessary to ensure that
17 the program under this section is financially sound.

18 “(2) AMOUNTS OF FEES.—Fees for guarantees
19 established under paragraph (1) shall be established
20 in amounts that are sufficient, but do not exceed the
21 minimum amounts necessary, to maintain a negative
22 credit subsidy for the program under this section, as
23 determined based on the risk to the Federal Govern-
24 ment under the underwriting requirements estab-
25 lished under paragraph (1).

1 “(d) TERMS OF OBLIGATIONS.—

2 “(1) IN GENERAL.—Each note or other obliga-
3 tion guaranteed pursuant to this section shall be in
4 such form and denomination, have such maturity,
5 and be subject to such conditions as the Secretary
6 may prescribe, by regulation.

7 “(2) LIMITATION.—The Secretary may not
8 deny a guarantee under this section on the basis of
9 the proposed repayment period for the note or other
10 obligation, unless—

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

12 “(B) the Secretary determines that the pe-
13 riod would cause the guarantee to constitute an
14 unacceptable financial risk.

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

19 “(f) SECURITY AND REPAYMENT.—

20 “(1) REQUIREMENTS ON ISSUER.—To ensure
21 the repayment of notes and other obligations and
22 charges incurred under this section and as a condi-
23 tion for receiving the guarantees, the Secretary shall
24 require the Indian tribe or housing entity issuing the
25 notes or obligations—

1 “(A) to enter into a contract, in a form ac-
2 ceptable to the Secretary, for repayment of
3 notes or other obligations guaranteed under this
4 section;

5 “(B) to demonstrate that the extent of
6 each issuance and guarantee under this section
7 is within the financial capacity of the Indian
8 tribe; and

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

19 “(2) FULL FAITH AND CREDIT.—

20 “(A) IN GENERAL.—The full faith and
21 credit of the United States is pledged to the
22 payment of all guarantees made under this sec-
23 tion.

24 “(B) TREATMENT OF GUARANTEES.—

1 “(i) IN GENERAL.—Any guarantee
2 made by the Secretary under this section
3 shall be conclusive evidence of the eligi-
4 bility of the obligations for the guarantee
5 with respect to principal and interest.

6 “(ii) INCONTESTABLE NATURE.—The
7 validity of any such a guarantee shall be
8 incontestable in the hands of a holder of
9 the guaranteed obligations.

10 “(g) TRAINING AND INFORMATION.—The Secretary,
11 in cooperation with Indian tribes and tribally designated
12 housing entities, shall carry out training and information
13 activities with respect to the guarantee program under this
14 section.

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

16 “(1) AGGREGATE FISCAL YEAR LIMITATION.—

17 Notwithstanding any other provision of law, subject
18 only to the absence of qualified applicants or pro-
19 posed activities and to the authority provided in this
20 section, and to the extent approved or provided for
21 in appropriations Acts, the Secretary may enter into
22 commitments to guarantee notes and obligations
23 under this section with an aggregate principal
24 amount not to exceed \$200,000,000 for each of fis-
25 cal years 2008 through 2012.

1 “(2) AUTHORIZATION OF APPROPRIATIONS FOR
2 CREDIT SUBSIDY.—There are authorized to be ap-
3 propriated to cover the costs (as defined in section
4 502 of the Congressional Budget Act of 1974 (2
5 U.S.C. 661a)) of guarantees under this section such
6 sums as are necessary for each of fiscal years 2008
7 through 2012.

8 “(3) AGGREGATE OUTSTANDING LIMITATION.—
9 The total amount of outstanding obligations guaran-
10 teed on a cumulative basis by the Secretary pursu-
11 ant to this section shall not at any time exceed
12 \$1,000,000,000 or such higher amount as may be
13 authorized to be appropriated for this section for
14 any fiscal year.

15 “(4) FISCAL YEAR LIMITATIONS ON INDIAN
16 TRIBES.—

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

20 “(B) MODIFICATIONS.—If the Secretary
21 determines that 50 percent of the aggregate
22 guarantee authority under paragraph (3) has
23 been committed, the Secretary may—

24 “(i) impose limitations on the amount
25 of guarantees pursuant to this section that

1 any single Indian tribe may receive in any
2 fiscal year of \$25,000,000; or

3 “(ii) request the enactment of legisla-
4 tion increasing the aggregate outstanding
5 limitation on guarantees under this sec-
6 tion.

7 “(i) REPORT.—Not later than 4 years after the date
8 of enactment of this section, the Secretary shall submit
9 to Congress a report describing the use of the authority
10 under this section by Indian tribes and tribally designated
11 housing entities, including—

12 “(1) an identification of the extent of the use
13 and the types of projects and activities financed
14 using that authority; and

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

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

20 (b) CONFORMING AMENDMENT.—The table of con-
21 tents in section 1(b) of the Native American Housing As-
22 sistance and Self-Determination Act of 1996 (25 U.S.C.
23 4101 note) is amended by inserting after the item relating
24 to section 605 the following:

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

1 **TITLE VII—OTHER HOUSING AS-**
 2 **SISTANCE FOR NATIVE AMER-**
 3 **ICANS**

4 **SEC. 701. TRAINING AND TECHNICAL ASSISTANCE.**

5 *Section 703 of the Native American Housing Assist-*
 6 *ance and Self-Determination Act of 1996 (25 U.S.C. 4212)*
 7 *is amended to read as follows:*

8 **“SEC. 703. TRAINING AND TECHNICAL ASSISTANCE.**

9 *“(a) DEFINITION OF INDIAN ORGANIZATION.—In this*
 10 *section, the term ‘Indian organization’ means—*

11 *“(1) an Indian organization representing the in-*
 12 *terests of Indian tribes, Indian housing authorities,*
 13 *and tribally designated housing entities throughout*
 14 *the United States;*

15 *“(2) an organization registered as a nonprofit*
 16 *entity that is—*

17 *“(A) described in section 501(c)(3) of the*
 18 *Internal Revenue Code of 1986; and*

19 *“(B) exempt from taxation under section*
 20 *501(a) of that Code;*

21 *“(3) an organization with at least 30 years of*
 22 *experience in representing the housing interests of In-*
 23 *dian tribes and tribal housing entities throughout the*
 24 *United States; and*

1 “(4) an organization that is governed by a
2 Board of Directors composed entirely of individuals
3 representing tribal housing entities.

4 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary, for
6 transfer to an Indian organization selected by the Sec-
7 retary, in consultation with Indian tribes, such sums as
8 are necessary to provide training and technical assistance
9 to Indian housing authorities and tribally designated hous-
10 ing entities for each of fiscal years 2008 through 2012.”.

11 (a) DEFINITION OF INDIAN ORGANIZATION.—In this
12 section, the term “Indian organization” means—

13 (1) an Indian organization representing the in-
14 terests of Indian tribes, Indian housing authorities,
15 and tribally designated housing entities throughout
16 the United States;

17 (2) an organization registered as a nonprofit
18 entity that is—

19 (A) described in section 501(c)(3) of the
20 Internal Revenue Code of 1986; and

21 (B) exempt from taxation under section
22 501(a) of that Code;

23 (3) an organization with at least 30 years of ex-
24 perience in representing the housing interests of In-

1 dian tribes and tribal housing entities throughout
2 the United States; and

3 (4) an organization that is governed by a Board
4 of Directors composed entirely of individuals rep-
5 resenting tribal housing entities.

6 (b) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There
7 are authorized to be appropriated to the Secretary of
8 Housing and Urban Development, for transfer to an In-
9 dian organization selected by the Secretary of Housing
10 and Urban Development, in consultation with Indian
11 tribes, such sums as are necessary to provide training and
12 technical assistance to Indian housing authorities and
13 tribally-designated housing entities for each of fiscal years
14 2008 through 2012.

15 **TITLE VIII—FUNDING**

16 **SEC. 801. AUTHORIZATION OF APPROPRIATIONS.**

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

22 (b) ~~FEDERAL GUARANTEES FOR FINANCING FOR~~
23 ~~TRIBAL HOUSING ACTIVITIES.~~—Section 605 of the Native
24 American Housing Assistance and Self-Determination Act
25 of 1996 (25 U.S.C. 4195) is amended in subsections (a)

1 and (b) by striking “1997 through 2007” each place it
2 appears and inserting “2008 through 2012”.

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

8 **SEC. 802. FUNDING CONFORMING AMENDMENTS.**

9 Chapter 97 of title 31, United States Code, is amend-
10 ed—

11 (1) by redesignating the first section 9703 (re-
12 lating to managerial accountability and flexibility) as
13 section 9703A;

14 (2) by moving the second section 9703 (relating
15 to the Department of the Treasury Forfeiture Fund)
16 so as to appear after section 9702; and

17 (3) in section 9703(a)(1) (relating to the De-
18 partment of the Treasury Forfeiture Fund)—

19 (A) in subparagraph (I)—

20 (i) by striking “payment” and insert-
21 ing “Payment”; and

22 (ii) by striking the semicolon at the
23 end and inserting a period;

1 (B) in subparagraph (J), by striking “pay-
2 ment” the first place it appears and inserting
3 “Payment”; and

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

5 “(K)(i) Payment to the designated tribal
6 law enforcement, environmental, housing, or
7 health entity for experts and consultants needed
8 to clean up any area formerly used as a meth-
9 amphetamine laboratory.

10 “(ii) For purposes of this subparagraph,
11 for a methamphetamine laboratory that is lo-
12 cated on private property, not more than 90
13 percent of the clean up costs may be paid under
14 clause (i) only if the property owner—

15 “(I) did not have knowledge of the ex-
16 istence or operation of the laboratory be-
17 fore the commencement of the law enforce-
18 ment action to close the laboratory; or

19 “(II) notified law enforcement not
20 later than 24 hours after discovering the
21 existence of the laboratory.”.

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110TH CONGRESS
1ST Session

S. 2062

[Report No. 110-238]

A BILL

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

DECEMBER 7, 2007

Reported with amendments