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*1st Session* }

SENATE

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115-198

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### TO PROVIDE FOR RENTAL ASSISTANCE FOR HOMELESS OR AT-RISK INDIAN VETERANS

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DECEMBER 20, 2017.—Ordered to be printed

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Mr. HOEVEN, from the Committee on Indian Affairs,  
submitted the following

### R E P O R T

[To accompany S. 1333]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 1333) to provide for rental assistance for homeless or at-risk Indian veterans, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

#### PURPOSE

The purpose of S. 1333 is to provide rental assistance and supportive services for homeless or at-risk Indian veterans residing in Indian areas; improve the availability and cultural suitability of VA case management services for homeless or at-risk Indian veterans residing in Indian areas; mandate federal agencies to work cooperatively to better meet the needs of Indian veterans and tribal communities; and ensure program accountability through Congressional reporting.

#### BACKGROUND

Congress created the HUD–Veterans Affairs Supportive Housing (HUD–VASH) program through language included as part of the Consolidated Appropriations Act of 2008.<sup>1</sup> The program combines Housing Choice Voucher (HCV) rental assistance through federal public housing programs for homeless veterans with case manage-

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<sup>1</sup> Pub. L. 110–161, 121 Stat. 1884 (2007).

ment and clinical services provided by VA through Veterans Administration Medical Centers (VAMCs). Tribes and Tribally Designated Housing Entities (TDHEs), which do not participate in federal public housing programs, are not eligible to participate in the HUD-VASH program.

Recognizing this limitation, Congress authorized \$5.9 million in funding for a demonstration program to expand the HUD-VASH program into Indian Country through the *Consolidated and Further Continuing Appropriations Act of 2015*.<sup>2</sup> This language authorized the Secretary of HUD—in coordination with Indian tribes, TDHEs, and other appropriate tribal organizations—to make appropriate adjustments to the HUD-VASH model to fit the unique statutory organization of Indian Housing Programs.

Twenty-five tribes are currently participating in the Tribal HUD-VASH Demonstration Program. HUD and VA testified to the Indian Affairs Committee that 103 Native veterans have received housing through the Tribal HUD-VASH Demonstration Program, 98 are in the process of being housed, and 201 are being provided case management services as of June 1, 2017.<sup>3</sup>

#### NEED FOR LEGISLATION

Since the enactment of this Demonstration Program, Indian tribes, HUD, and VA have encountered unique issues in the application of this program to Indian Country.

HUD testified before the Indian Affairs Committee that the full potential of the Tribal HUD-VASH program has been limited by concerns related to stability of the program's funding. Currently, the Demonstration Program relies on continued annual inclusion in appropriations language. HUD noted, "Some tribes are using project-based rental subsidies to develop new units [for the program]; however, many are reluctant to leverage the funding provided by the program for new units since the program continues as a demonstration."<sup>4</sup>

The issue of programmatic stability relates to another challenge reported by HUD: identifying adequate housing stock in Indian areas.<sup>5</sup> The National American Indian Housing Council (NAIHC) echoed the challenge housing stock availability places on the Demonstration Program, and noted that this issue is exacerbated by regulatory restrictions placed on the types of tribal housing units that may be utilized as part of the Program.<sup>6</sup>

HUD further testified that locating veterans who are eligible for and need access to the HUD-VASH program poses an implementation challenge for some Tribal HUD-VASH Demonstration Pro-

<sup>2</sup>Pub. L. 113-235, 128 Stat. 2130 (2014).

<sup>3</sup>*Legislative Hearing to Receive Testimony on the Following bills: S. 1250, S. 1275, and S. \_\_\_\_\_ Before the Sen. Comm. on Indian Affairs*, 115th Cong. (2017) (Statement of Heidi Frechette, Dep A Sec, Office of Native American Prog, U.S. Dep't of Housing and Urban Development); *Legislative Hearing to Receive Testimony on the Following bills: S. 1250, S. 1275, and S. \_\_\_\_\_ Before the Sen. Comm. on Indian Affairs*, 115th Cong. (2017) (Statement of Dr. Keith Harris, Nat'l Dir of Clinical Operations, Homeless Program Office, Veterans Health Admin, Dep't of Veterans Affairs).

<sup>4</sup>*Legislative Hearing to Receive Testimony on the Following bills: S. 1250, S. 1275, and S. \_\_\_\_\_ Before the Sen. Comm. on Indian Affairs*, 115th Cong. (2017) (Statement of Heidi Frechette, Dep A Sec, Office of Native American Prog, U.S. Dep't of Housing and Urban Development).

<sup>5</sup>*Id.*

<sup>6</sup>*Legislative Hearing to Receive Testimony on the Following bills: S. 1250, S. 1275, and S. \_\_\_\_\_ Before the Sen. Comm. on Indian Affairs*, 115th Cong. (2017) (Statement of Sami Jo Difuntorum, Chairwoman, Nat'l American Indian Housing Council).

gram participants.<sup>7</sup> The Office of Native American Programs Deputy Assistant Secretary Heidi Frechette noted, “An enhanced partnership [between HUD, VA, and the Indian Health Service (IHS)] could help identify eligible veterans by linking veterans who are being served by IHS health facilities with the Tribal HUD–VASH program.”<sup>8</sup> The Department added that such a partnership would allow the Tribal HUD–VASH program to improve case management services for Native veterans residing on remote Indian Lands through utilization of the IHS’s telemedicine network.<sup>9</sup>

NAIHC and Tribal Demonstration Program participants noted that, under VA current national hiring specifications, filling case management positions with culturally-attuned candidates and in highly remote tribal areas.<sup>10</sup> The Association of Village Council Presidents Regional Housing Authority President Mark Charlie also highlighted the challenge that VA case manager recruitment posed for two of the three Alaska Tribes selected to participate in the Tribal HUD–VASH Demonstration Program, testifying that, “The primary barrier to the timely deployment of Tribal HUD–VASH vouchers in Alaska has been the process of filling the required case management positions under VA specifications.”<sup>11</sup> The Association asked Congress to direct VA to identify reasonable alternative requirements for case management credentials that would address the barriers that prevent otherwise suitable candidates from filling these positions.<sup>12</sup>

#### LEGISLATIVE HISTORY

Senator Tester introduced S. 1333 on June 12, 2017 with Senators Hoeven, Isakson, and Udall as original co-sponsors. The bill was referred to the Committee on Indian Affairs. Senators Murkowski, Cantwell, Heitkamp, and Franken joined as co-sponsors on November 1, November 6, November 6, and November 7, 2017 respectively.

On June 13, 2017 the Committee held a legislative hearing on S. 1333. The Director of the Department of Housing and Urban Development’s Office of Native American Programs testified in favor of S. 1333. The Veterans’ Administration National Director of Clinical Operations–Homeless Program Office provided testimony on the clinical implementation of the Program to date. The National Congress of American Indians testified in favor of S. 1333, and the National American Indian Housing Council provided testimony in favor of continuing the Tribal HUD–VASH program. Finally, the President/Chief Executive Officer of the Association of Village Council Presidents Regional Housing Authority provided testimony in support of S. 1333.

On September 13, 2017, the Committee held a duly called business meeting to consider S. 1333. Senator Tester filed and offered one amendment in the nature of a substitute, which was adopted.

<sup>7</sup> *Legislative Hearing* Frechette.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Legislative Hearing Difuntorum; Legislative Hearing to Receive Testimony on the Following bills: S. 1250, S. 1275, and S. \_\_\_\_\_ Before the Sen. Comm. on Indian Affairs*, 115th Cong. 8–9 (2017) (Statement of Mark Charlie, President/CEO, Association of Village Council Presidents Regional Housing Authority).

<sup>11</sup> *Legislative Hearing* Charlie.

<sup>12</sup> *Id.*

The amendment made a number of technical corrections proposed by HUD and VA, clarifying that the Secretary of HUD is authorized to continue funding current program recipients; ensuring that not less than five percent of tribal HUD–VASH funds are used to fund new tribal HUD–VASH program recipients; and requiring HUD, IHS, and VA to provide a report to Congress, within 1 year of the enactment of S. 1333, that identifies Program recipients who find the current limitations on the use of certain Indian Housing Block Grant formula funded housing stock as a barrier to the application of the Tribal HUD–VASH program. The bill, as amended, was ordered to be reported favorably to the Senate by voice vote.

On November 9, 2017, Representative Luján introduced H.R. 4359, a House companion bill with Representative Raul Ruiz as an original co-sponsor. The bill was referred to Committee on Financial Services. No further action has been taken.

During the 114th Congress, Senator Tester introduced a similar bill to provide for rental assistance for homeless or at-risk Indian veterans, S. 2274, on November 10, 2015 with Senators Cantwell, Daines, Franken, and Udall as original co-sponsors. The bill was referred to the Committee on Indian Affairs. No further action was taken on the bill, and no House companion bill was introduced.

During the 113th Congress, on October 30, 2013, Representatives Kilmer and Cole introduced a bill, H.R. 3418, identical to S. 2274 from the 114th Congress. It was referred to the Committee on Financial Services. Representatives Daines and Lujan Grisham later joined the bill as co-sponsors on May 29, 2014 and December 11, 2014 respectively. No further action was taken on the bill in the House of Representatives that Congress. On November 20, 2014, Senator Tester introduced a companion bill with Senators Franken, Johnson of South Dakota, Murkowski, and Udall as original co-sponsors. It was referred to the Committee on Indian Affairs. No further action was taken on the bill in the Senate.

#### SUMMARY OF THE BILL AS AMENDED

S. 1333 formally codifies the Tribal HUD–VASH Program as part of the underlying HUD–VASH statute.<sup>13</sup> It requires that not less than five percent of the amounts made available for rental assistance under the HUD–VASH Program be used for the Tribal program—an amount consistent with the current funding levels for this program.

The bill authorizes HUD and VA to make any necessary and appropriate modifications to the administration of the Tribal HUD–VASH Program to facilitate the recruitment of VA case managers for remote tribal communities participating in the program and experiencing difficulties filling VA case manager positions. In the event of any modifications to the Program, the bill requires both the HUD and VA to conduct consultation with tribes.

The bill requires the Program to be administered in accordance with the Native American Housing Assistance and Self Determination Act of 1996,<sup>14</sup> and mandates that the Indian Health Service (IHS) work cooperatively to provide assistance as requested by the HUD or VA in carrying out the Program.

<sup>13</sup> 42 U.S.C. § 1437f(o)(19)(2017).

<sup>14</sup> 25 U.S.C. § 4101 et seq.

The bill also requires HUD and VA to conduct a review of the program’s implementation and submit a report to the appropriate Committees of the Senate and House of Representatives, as identified in the bill text.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1—Short title*

This section cites the short title of the Act as the “Tribal HUD–VASH Act of 2017.”

##### *Section 2—Rental assistance*

This section of the bill amends Section 8(o)(19) of the *United States Housing Act of 1937* (42 U.S. C. 1437f(o)(9)) by:

- Defining eligible Indian veteran program participants, eligible tribal housing program recipients, eligible Indian areas, and eligible Indian housing organizations.
- Authorizing the Secretary of HUD to allocate no less than five percent of the total HUD–VASH program funds for the tribal HUD–VASH program.
- Requiring the Secretary of HUD to model the tribal HUD–VASH program after the rental assistance and veteran supported housing program.
- Establishing the funding criteria for the program.
- Requiring the program to report to the Secretary how the program is utilized by recipients and how effective the program is in serving eligible Indian veterans.
- Requiring the Secretaries of HUD and VA to consult with tribes on the design and administration of the Program.
- Instructing the Director of the IHS to provide assistance to HUD and VA as requested by the respective agencies.
- Authorizing the Secretaries of HUD and VA to waive or specify alternative requirements for any provision of law that the Secretary deems necessary to effectively administer the Program.
- Requiring the Secretary to consult with tribes prior to authorizing any waivers of current provisions of law.
- Authorizing the Secretary to renew tribal HUD–VASH program recipients.
- Requiring the Secretary, in coordination with the VA Secretary, to provide a report of the efficacy of the program every 5 years to—
  - specified Committees of the Senate, including—
    - Indian Affairs;
    - Banking, Housing, and Urban Development;
    - Veterans Affairs; and
    - Appropriations;
  - specified Committees of the House of Representatives, including—
    - Subcommittee on Indian, Insular and Alaska Native Affairs of the Committee on Natural Resources;
    - Financial Services;
    - Veterans’ Affairs; and
    - Appropriations.

## COST AND BUDGETARY CONSIDERATIONS

*S. 1333—Tribal HUD–VASH Act of 2017*

Summary: S. 1333 would permanently authorize the Department of Housing and Urban Development (HUD) to renew grants made under the Tribal HUD–VA Supportive Housing (Tribal HUD–VASH) program, which is jointly operated by HUD and the Department of Veterans Affairs (VA). The bill also would authorize HUD to make new Tribal HUD–VASH grants in 2018. CBO estimates that implementing S. 1333 would cost \$21 million over the 2018–2022 period, assuming appropriation of the necessary amounts.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 1333 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1333 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1333 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—					
	2018	2019	2020	2021	2022	2018–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level .....	2	0	2	8	9	21
Estimated Outlays .....	0	0	2	9	10	21

Basis of estimate: The Tribal HUD–VASH program provides rental assistance to Native American veterans who are homeless or at risk of homelessness. S. 1333 would permanently authorize HUD to renew Tribal HUD–VASH grants and would authorize HUD to make new grants in 2018. The Congress created the tribal program in 2015; in 2017, it appropriated \$7 million for the program. Based on the funding provided in the Continuing Appropriations Act, 2018, and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115–56), CBO estimates that the program also will receive \$7 million in 2018, on an annualized basis.

The bill would require HUD to allocate 5 percent of the funds made available for the HUD–VASH program to the Tribal HUD–VASH program. On an annualized basis, \$40 million was appropriated for the HUD–VASH program in 2018; therefore, CBO estimates that HUD would allocate \$2 million in 2018 to make new tribal grants. No appropriations are authorized for the underlying HUD–VASH program after 2018, so CBO does not estimate any funding for new grants in those years. Based on information from HUD on the pace at which tribes are drawing grant funds, CBO estimates that outlays for new grants would not occur until 2020.

The bill also would allow HUD to set aside funds made available for the tenant-based voucher program to renew Tribal HUD–VASH grants. Based on an analysis of information from HUD about the pace of implementing the program, CBO estimates that the appropriations already provided to date will be sufficient to renew grants

through 2019. CBO expects that in 2020 HUD would set aside about \$2 million from the tenant-based account to renew grants. By 2022, that amount would increase to \$9 million-\$2 million to renew the new grants made in 2018 and \$7 million to renew grants made before enactment.

Based on information from HUD on the pace at which tribes are drawing grant funds and on the expected timing of renewals, CBO estimates that implementing the bill would cost \$21 million over the 2018–2022 period, assuming appropriation of the necessary amounts.

S. 1333 contains no intergovernmental or private-sector mandates as defined in UMRA. Indian veterans who are homeless would benefit from provisions in the bill that provide rental and housing assistance.

The CBO staff contact for this estimate is Robert Reese. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 1333 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

#### EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1333.

#### REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1333 will have a minimal impact on regulatory or paperwork requirements.

#### CHANGES IN EXISTING LAW (CORDON RULE)

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that the enactment of S. 1333 will not make any changes to existing law.