

(d) **SUBMISSION OF PLAN.**—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

#### SEC. 6. DUTIES OF THE DIRECTOR.

(a) **IN GENERAL.**—The Director, in consultation with agency heads and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

(2) an interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with section 552a of title 5, United States Code; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) **LEAD AGENCY AND WORKING GROUPS.**—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) **REVIEW OF PLANS AND REPORTS.**—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

(d) **EXEMPTIONS.**—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

(e) **REPORT ON RECOMMENDED CHANGES IN LAW.**—Not later than 18 months after the date of the enactment of this Act, the Director shall submit to Congress a report containing recommendations for changes in law to improve the effectiveness, performance, and coordination of Federal financial assistance programs.

(f) **DEADLINE.**—All actions required under this section shall be carried out not later than 18 months after the date of the enactment of this Act.

#### SEC. 7. EVALUATION.

(a) **IN GENERAL.**—The General Accounting Office shall evaluate the effectiveness of this Act. Not later than 6 years after the date of the enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) **CONTENTS.**—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

#### SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

#### SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

#### SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

#### SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of the enactment of this Act and shall cease to be effective 8 years after such date of enactment.

Mr. GRASSLEY. I ask unanimous consent that the Senate agree to the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION AMENDMENTS OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 373, S. 225.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 225) to provide Federal housing assistance to native Hawaiians.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Housing Assistance and Self-Determination Amendments of 1999".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) the United States has a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians;

(3) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(4) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), Native Hawaiians eligible to reside on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(5) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii, Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(6) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(7) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(8) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income;

(9) 1/3 of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and 1/2 of those Native Hawaiians face overcrowding;

(10) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(11) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(12) under the treaty-making power of the United States, Congress had the constitutional

authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(13) the United States has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(14) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(15) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the betterment of the conditions of Native Hawaiians, as that term is defined in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.); and

(ii) by transferring the United States responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the ex-

clusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the "National Housing Act" (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.);

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101-235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

### SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

#### "TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

##### "SEC. 801. DEFINITIONS.

"In this title:

"(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

"(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

"(A) IN GENERAL.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

"(i) for an elderly family, an elderly person; or

"(ii) for a near-elderly family, a near-elderly person.

"(B) CERTAIN FAMILIES INCLUDED.—The term 'elderly family' or 'near-elderly family' includes—

"(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

"(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

"(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

"(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

"(B) are acquired pursuant to that Act.

"(5) HOUSING AREA.—The term 'housing area' means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

"(6) HOUSING ENTITY.—The term 'housing entity' means the Department of Hawaiian Home Lands.

"(7) HOUSING PLAN.—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

"(8) MEDIAN INCOME.—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

"(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

"(B) the median income for the State of Hawaii.

"(9) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records;

"(ii) verification by kupuna (elders) or kama'aina (long-term community residents); or

"(iii) birth records of the State of Hawaii.

### "SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

"(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands.

"(b) PLAN REQUIREMENT.—

"(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

"(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

"(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

"(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

"(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

"(d) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

"(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

"(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

"(B) expenses incurred in preparing a housing plan under section 803.

"(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

"(f) APPLICABILITY OF OTHER PROVISIONS.—

"(1) IN GENERAL.—The Secretary shall be guided by the relevant program requirements of titles I, II, and IV in the implementation of housing assistance programs for Native Hawaiians under this title.

"(2) EXCEPTION.—The Secretary may make exceptions to, or modifications of, program requirements for Native American housing assistance set forth in titles I, II, and IV as necessary and appropriate to meet the unique situation and housing needs of Native Hawaiians.

### "SEC. 803. HOUSING PLAN.

"(a) PLAN SUBMISSION.—The Secretary shall—

“(1) require the Director to submit a housing plan under this section for each fiscal year; and

“(2) provide for the review of each plan submitted under paragraph (1).

“(b) 5-YEAR PLAN.—Each housing plan under this section shall—

“(1) be in a form prescribed by the Secretary; and

“(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

“(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

“(B) GOAL AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

“(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

“(c) 1-YEAR PLAN.—A housing plan under this section shall—

“(1) be in a form prescribed by the Secretary; and

“(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

“(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

“(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

“(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

“(I) the geographical needs of those families; and

“(II) needs for various categories of housing assistance; and

“(ii) a description of the estimated housing needs for all families to be served by the Department.

“(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

“(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

“(ii) the uses to which the resources described in clause (i) will be committed, including—

“(I) eligible and required affordable housing activities; and

“(II) administrative expenses.

“(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

“(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing;

“(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

“(I) rental assistance;

“(II) the production of new units;

“(III) the acquisition of existing units; or

“(IV) the rehabilitation of units;

“(iii) a description of the structure, coordination, and means of cooperation between the De-

partment of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

“(I) the involvement of private, public, and nonprofit organizations and institutions;

“(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

“(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

“(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

“(v) a description of—

“(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

“(II) the requirements and assistance available under the programs referred to in subclause (I);

“(vi) a description of—

“(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

“(II) the requirements and assistance available under the programs referred to in subclause (I);

“(vii) a description of—

“(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

“(aa) transitional housing;

“(bb) homeless housing;

“(cc) college housing; and

“(dd) supportive services housing; and

“(II) the requirements and assistance available under such programs;

“(viii) (I) a description of any housing to be demolished or disposed of;

“(II) a timetable for that demolition or disposition; and

“(III) any other information required by the Secretary with respect to that demolition or disposition;

“(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

“(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

“(I) promote the safety of residents of the affordable housing;

“(II) facilitate the undertaking of crime prevention measures;

“(III) allow resident input and involvement, including the establishment of resident organizations; and

“(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

“(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

“(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

“(i) a certification that the Department of Hawaiian Home Lands will comply with—

“(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Act popularly known as the ‘Civil Rights Act of 1968’ (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

“(II) other applicable Federal statutes;

“(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in

compliance with such requirements as may be established by the Secretary;

“(iii) a certification that policies in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

“(iv) a certification that policies in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

“(v) a certification that policies in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

“(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

“(I) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the ‘Civil Rights Act of 1968’ (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

“(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

“(B) to an eligible family on the basis that the family is a Native Hawaiian family.

“(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

“(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

#### “SEC. 804. REVIEW OF PLANS.

“(a) REVIEW AND NOTICE.—

“(1) REVIEW.—

“(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

“(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

“(2) NOTICE.—

“(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

“(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director, as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

“(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

“(ii) the Director shall be considered to have been notified of compliance.

“(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

“(1) the reasons for noncompliance; and  
 “(2) any modifications necessary for the plan to meet the requirements of section 803.

“(C) REVIEW.—

“(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

“(A) set forth the information required by section 803 to be contained in the housing plan;

“(B) are consistent with information and data available to the Secretary; and

“(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

“(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

“(d) UPDATES TO PLAN.—

“(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

“(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

“(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

**“SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.**

“(a) PROGRAM INCOME.—

“(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

“(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

“(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

“(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

“(A) whether the Department retains program income under paragraph (1); or

“(B) the amount of any such program income retained.

“(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

“(b) LABOR STANDARDS.—

“(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

“(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians em-

ployed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

“(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the ‘Davis-Bacon Act’ (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

“(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

**“SEC. 806. ENVIRONMENTAL REVIEW.**

“(a) IN GENERAL.—

“(1) RELEASE OF FUNDS.—

“(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

“(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

“(ii) to the public undiminished protection of the environment.

“(B) ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decision-making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

“(2) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

“(B) CONTENTS.—The regulations issued under this paragraph shall—

“(i) provide for the monitoring of the environmental reviews performed under this section;

“(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

“(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

“(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

“(b) PROCEDURE.—

“(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

“(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the Na-

tional Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

“(c) CERTIFICATION.—A certification under the procedures under this section shall—

“(1) be in a form acceptable to the Secretary;

“(2) be executed by the Director of the Department of Hawaiian Home Lands;

“(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

“(4) specify that the Director—

“(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

“(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

**“SEC. 807. REGULATIONS.**

“The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 1999.

**“SEC. 808. EFFECTIVE DATE.**

“Except as otherwise expressly provided in this title, this title shall take effect on October 1, 1999.

**“SEC. 809. AFFORDABLE HOUSING ACTIVITIES.**

“(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.—

“(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

“(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

“(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

“(C) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State and local activities to further economic and community development;

“(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

“(E) to—

“(i) promote the development of private capital markets; and

“(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

“(2) ELIGIBLE FAMILIES.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

“(B) EXCEPTION TO LOW-INCOME REQUIREMENT.—

“(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

“(I) section 810(b);

“(II) model activities under section 810(f); or

“(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

“(ii) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

“(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing

or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

“(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

“(ii) the need for housing for the family cannot be reasonably met without the assistance.

“(D) PREFERENCE.—

“(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

“(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

“(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

**“SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.**

“(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

“(1) develop or to support affordable housing for rental or homeownership; or

“(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

“(b) ACTIVITIES.—The activities described in this subsection are the following:

“(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

“(A) real property acquisition;

“(B) site improvement;

“(C) the development of utilities and utility services;

“(D) conversion;

“(E) demolition;

“(F) financing;

“(G) administration and planning; and

“(H) other related activities.

“(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

“(A) housing counseling in connection with rental or homeownership assistance;

“(B) the establishment and support of resident organizations and resident management corporations;

“(C) energy auditing;

“(D) activities related to the provisions of self-sufficiency and other services; and

“(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

“(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

“(A) the preparation of work specifications;

“(B) loan processing;

“(C) inspections;

“(D) tenant selection;

“(E) management of tenant-based rental assistance; and

“(F) management of affordable housing projects.

“(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate

to protect residents of affordable housing from crime.

“(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

“(A) designed to carry out the purposes of this title; and

“(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

**“SEC. 811. PROGRAM REQUIREMENTS.**

“(a) RENTS.—

“(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

“(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

“(b) MAINTENANCE AND EFFICIENT OPERATION.—

“(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

“(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

“(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

“(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

“(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

**“SEC. 812. TYPES OF INVESTMENTS.**

“(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

“(1) the discretion to use grant amounts for affordable housing activities through the use of—

“(A) equity investments;

“(B) interest-bearing loans or advances;

“(C) noninterest-bearing loans or advances;

“(D) interest subsidies;

“(E) the leveraging of private investments; or

“(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

“(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

“(b) INVESTMENTS.—The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

**“SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.**

“(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

“(1) each dwelling unit in the housing—

“(A) in the case of rental housing, is made available for occupancy only by a family that is

a low-income family at the time of the initial occupancy of that family of that unit; and

“(B) in the case of housing for homeowner-ship, is made available for purchase only by a family that is a low-income family at the time of purchase; and

“(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

“(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

“(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

“(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

“(I) avoid termination of low-income affordability, in the case of foreclosure; or

“(II) transfer ownership in lieu of foreclosure; and

“(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

“(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

**“SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.**

“(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

“(1) do not contain unreasonable terms and conditions;

“(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

“(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

“(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

“(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

“(6) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

“(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

“(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

“(C) is criminal activity (including drug-related criminal activity) on or off the premises.

“(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

“(1) are consistent with the purpose of providing housing for low-income families;

“(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

“(3) provide for—

“(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

“(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

**“SEC. 815. REPAYMENT.**

“If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

“(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

“(2) require repayment to the Secretary of any amount equal to those grant amounts.

**“SEC. 816. ANNUAL ALLOCATION.**

“For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

**“SEC. 817. ALLOCATION FORMULA.**

“(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

“(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

“(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

“(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

“(3) any other objectively measurable conditions that the Secretary and the Director may specify.

“(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

“(1) geographic distribution within Hawaiian Home Lands; and

“(2) technical capacity.

“(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

**“SEC. 818. REMEDIES FOR NONCOMPLIANCE.**

“(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

“(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

“(A) terminate payments under this title to the Department;

“(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

“(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

“(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

“(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

“(1) is not a pattern or practice of activities constituting willful noncompliance; and

“(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

“(c) REFERRAL FOR CIVIL ACTION.—

“(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

“(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

“(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

“(B) for mandatory or injunctive relief.

“(d) REVIEW.—

“(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

“(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

“(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

“(2) PROCEDURE.—

“(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

“(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

“(3) DISPOSITION.—

“(A) COURT PROCEEDINGS.—

“(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

“(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

“(iii) ADDITION.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

“(B) SECRETARY.—

“(i) IN GENERAL.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

“(1) may—

“(aa) modify the findings of fact of the Secretary; or

“(bb) make new findings; and

“(II) shall file—

“(aa) such modified or new findings; and

“(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

“(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a question of fact, be considered to be conclusive if those findings are—

“(I) supported by substantial evidence on the record; and

“(II) considered as a whole.

“(4) FINALITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

“(i) the jurisdiction of the court shall be exclusive; and

“(ii) the judgment of the court shall be final.

“(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

**“SEC. 819. MONITORING OF COMPLIANCE.**

“(a) ENFORCEABLE AGREEMENTS.—

“(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

“(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

“(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

“(B) remedies for breach of the provisions referred to in paragraph (1).

“(b) PERIODIC MONITORING.—

“(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

“(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

“(3) RESULTS.—The results of each review under paragraph (1) shall be—

“(A) included in a performance report of the Director submitted to the Secretary under section 820; and

“(B) made available to the public.

“(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

**“SEC. 820. PERFORMANCE REPORTS.**

“(a) REQUIREMENT.—For each fiscal year, the Director shall—

“(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

“(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

“(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

“(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

“(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

“(3) indicate the programmatic accomplishments of the Department; and

“(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

“(c) SUBMISSIONS.—The Secretary shall—

“(1) establish a date for submission of each report under this section;

“(2) review each such report; and  
“(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

“(d) PUBLIC AVAILABILITY.—

“(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

“(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

“SEC. 821. REVIEW AND AUDIT BY SECRETARY.

“(a) ANNUAL REVIEW.—

“(1) IN GENERAL.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

“(A) the Director has—

“(i) carried out eligible activities under this title in a timely manner;

“(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

“(iii) a continuing capacity to carry out the eligible activities in a timely manner;

“(B) the Director has complied with the housing plan submitted by the Director under section 803; and

“(C) the performance reports of the Department under section 821 are accurate.

“(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

“(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

“(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided to the Department of Hawaiian Home Lands.

“SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.

“To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

“SEC. 823. REPORTS TO CONGRESS.

“(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the

Secretary shall submit to Congress a report that contains—

“(1) a description of the progress made in accomplishing the objectives of this title;

“(2) a summary of the use of funds available under this title during the preceding fiscal year; and

“(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

“(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

“SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”

SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715z-13a) the following:

“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

“(a) DEFINITIONS.—In this section:

“(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term ‘Department of Hawaiian Home Lands’ means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

“(3) FAMILY.—The term ‘family’ means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

“(4) GUARANTEE FUND.—The term ‘Guarantee Fund’ means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (i).

“(5) HAWAIIAN HOME LANDS.—The term ‘Hawaiian Home Lands’ means lands that—

“(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

“(B) are acquired pursuant to that Act.

“(6) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual who is—

“(A) a citizen of the United States; and

“(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

“(i) genealogical records;

“(ii) verification by kupuna (elders) or kama’aina (long-term community residents); or

“(iii) birth records of the State of Hawaii.

“(7) OFFICE OF HAWAIIAN AFFAIRS.—The term ‘Office of Hawaiian Affairs’ means the entity of that name established under the constitution of the State of Hawaii.

“(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

“(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

“(1) ELIGIBLE BORROWERS.—The loan is made only to a borrower who is—

“(A) a Native Hawaiian family;

“(B) the Department of Hawaiian Home Lands;

“(C) the Office of Hawaiian Affairs; or

“(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

“(2) ELIGIBLE HOUSING.—

“(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

“(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

“(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Amendments of 1999; and

“(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

“(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal or State law.

“(4) LENDERS.—

“(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

“(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

“(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

“(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

“(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

“(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

“(5) TERMS.—The loan shall—

“(A) be made for a term not exceeding 30 years;

“(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

“(C) involve a principal obligation not exceeding—

“(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is \$50,000 or less); or

“(ii) the amount approved by the Secretary under this section; and

“(D) involve a payment on account of the property—

“(i) in cash or its equivalent; or

“(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

“(d) CERTIFICATE OF GUARANTEE.—

“(1) APPROVAL PROCESS.—

“(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

“(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

“(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

“(3) EFFECT.—

“(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

“(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

“(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

“(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

“(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

“(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

“(e) GUARANTEE FEE.—

“(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

“(2) PAYMENT.—The fee under this subsection shall—

“(A) be paid by the lender at time of issuance of the guarantee; and

“(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

“(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

“(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

“(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

“(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

“(1) IN GENERAL.—

“(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (c)—

“(i) has failed—

“(I) to maintain adequate accounting records;

“(II) to service adequately loans guaranteed under this section; or

“(III) to exercise proper credit or underwriting judgment; or

“(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

“(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

“(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

“(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

“(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

“(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

“(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

“(i) to maintain adequate accounting records;

“(ii) to adequately service loans guaranteed under this section; or

“(iii) to exercise proper credit or underwriting judgment.

“(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f-1) with respect to mortgagees and lenders under that Act.

“(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

“(i) PAYMENT UNDER GUARANTEE.—

“(1) LENDER OPTIONS.—

“(A) IN GENERAL.—

“(i) NOTIFICATION.—If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

“(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

“(1) FORECLOSURE.—

“(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

“(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

“(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

“(II) NO FORECLOSURE.—

“(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

“(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

“(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

“(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the

note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

“(2) LIMITATIONS ON LIQUIDATION.—

“(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

“(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

“(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

“(2) CREDITS.—The Guarantee Fund shall be credited with—

“(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

“(B) any amounts appropriated pursuant to paragraph (7);

“(C) any guarantee fees collected under subsection (d); and

“(D) any interest or earnings on amounts invested under paragraph (4).

“(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

“(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

“(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

“(C) acquiring such security property at foreclosure sales or otherwise;

“(D) paying administrative expenses in connection with this section; and

“(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

“(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

“(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

“(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as are, or have been, provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

“(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform

Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

"(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2000, 2001, 2002, 2003, and 2004 with an aggregate outstanding principal amount not exceeding \$100,000,000 for each such fiscal year.

"(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

"(k) REQUIREMENTS FOR STANDARD HOUSING.—

"(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

"(2) STANDARDS.—The standards referred to in paragraph (1) shall—

"(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

"(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

"(i) be decent, safe, sanitary, and modest in size and design;

"(ii) conform with applicable general construction standards for the region in which the housing is located;

"(iii) contain a plumbing system that—

"(I) uses a properly installed system of piping;

"(II) includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

"(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

"(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

"(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

"(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

"(l) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family."

AMENDMENT NO. 2511

(Purpose: To make a series of amendments)

Mr. GRASSLEY. Mr. President, I understand Senator INOUE has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. INOUE, proposes an amendment numbered 2511.

The amendment is as follows:

On page 98, strike line 23 and all that follows through page 99, line 8.

On page 118, line 20, strike "1999" and insert "2000".

On page 118, line 23, strike "October 1, 1999" and insert "the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999".

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2511) was agreed to.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the substitute amendment, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

Mr. GRASSLEY. I ask unanimous consent that the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 225), as amended, was read the third time and passed, as follows:

S. 225

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Housing Assistance and Self-Determination Amendments of 1999".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has undertaken a responsibility to promote the general welfare of the United States by—

(A) employing its resources to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income; and

(B) developing effective partnerships with governmental and private entities to accomplish the objectives referred to in subparagraph (A);

(2) the United States has a special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians;

(3) pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), the United States set aside 200,000 acres of land in the Federal territory that later became the State of Hawaii in order to establish a homeland for the native people of Hawaii—Native Hawaiians;

(4) despite the intent of Congress in 1920 to address the housing needs of Native Hawaiians through the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), Native Hawaiians eligible to reside on the Hawaiian home lands have been foreclosed from participating in Federal housing assistance programs available to all other eligible families in the United States;

(5) although Federal housing assistance programs have been administered on a racially neutral basis in the State of Hawaii,

Native Hawaiians continue to have the greatest unmet need for housing and the highest rates of overcrowding in the United States;

(6) among the Native American population of the United States, Native Hawaiians experience the highest percentage of housing problems in the United States, as the percentage—

(A) of housing problems in the Native Hawaiian population is 49 percent, as compared to—

(i) 44 percent for American Indian and Alaska Native households in Indian country; and

(ii) 27 percent for all other households in the United States; and

(B) overcrowding in the Native Hawaiian population is 36 percent as compared to 3 percent for all other households in the United States;

(7) among the Native Hawaiian population, the needs of Native Hawaiians, as that term is defined in section 801 of the Native American Housing Assistance and Self-Determination Act of 1996, as added by section 3 of this Act, eligible to reside on the Hawaiian Home Lands are the most severe, as—

(A) the percentage of overcrowding in Native Hawaiian households on the Hawaiian Home Lands is 36 percent; and

(B) approximately 13,000 Native Hawaiians, which constitute 95 percent of the Native Hawaiians who are eligible to reside on the Hawaiian Home Lands, are in need of housing;

(8) applying the Department of Housing and Urban Development guidelines—

(A) 70.8 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes that fall below the median family income; and

(B) 50 percent of Native Hawaiians who either reside or who are eligible to reside on the Hawaiian Home Lands have incomes below 30 percent of the median family income;

(9) 1/3 of those Native Hawaiians who are eligible to reside on the Hawaiian Home Lands pay more than 30 percent of their income for shelter, and 1/2 of those Native Hawaiians face overcrowding;

(10) the extraordinarily severe housing needs of Native Hawaiians demonstrate that Native Hawaiians who either reside on, or are eligible to reside on, Hawaiian Home Lands have been denied equal access to Federal low-income housing assistance programs available to other qualified residents of the United States, and that a more effective means of addressing their housing needs must be authorized;

(11) consistent with the recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, and in order to address the continuing prevalence of extraordinarily severe housing needs among Native Hawaiians who either reside or are eligible to reside on the Hawaiian Home Lands, Congress finds it necessary to extend the Federal low-income housing assistance available to American Indians and Alaska Natives under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to those Native Hawaiians;

(12) under the treaty-making power of the United States, Congress had the constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(13) the United States has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished;

(14) the political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2291 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996 et seq.);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act of 1992 (106 Stat. 3434);

(G) the American Indian, Alaska Native and Native Hawaiian Culture and Arts Development Act (20 U.S.C. 4401 et seq.);

(H) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(15) in the area of housing, the United States has recognized and reaffirmed the political relationship with the Native Hawaiian people through—

(A) the enactment of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), which set aside approximately 200,000 acres of public lands that became known as Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people;

(B) the enactment of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4)—

(i) by ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust, for the betterment of the conditions of Native Hawaiians, as that term is defined in section 201 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.); and

(ii) by transferring the United States responsibility for the administration of Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), enacted by the legislature of the State of Hawaii affecting the rights of beneficiaries under the Act;

(C) the authorization of mortgage loans insured by the Federal Housing Administration for the purchase, construction, or refinancing of homes on Hawaiian Home Lands under the Act of June 27, 1934 (commonly referred to as the "National Housing Act" (42 Stat. 1246 et seq., chapter 847; 12 U.S.C. 1701 et seq.);

(D) authorizing Native Hawaiian representation on the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing under Public Law 101-235;

(E) the inclusion of Native Hawaiians in the definition under section 3764 of title 38, United States Code, applicable to subchapter V of chapter 37 of title 38, United States Code (relating to a housing loan program for Native American veterans); and

(F) the enactment of the Hawaiian Home Lands Recovery Act (109 Stat. 357; 48 U.S.C. 491, note prec.) which establishes a process for the conveyance of Federal lands to the Department of Hawaiian Homes Lands that are equivalent in value to lands acquired by the United States from the Hawaiian Home Lands inventory.

### SEC. 3. HOUSING ASSISTANCE.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) is amended by adding at the end the following:

#### "TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

##### "SEC. 801. DEFINITIONS.

"In this title:

"(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term 'Department of Hawaiian Home Lands' or 'Department' means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

"(2) DIRECTOR.—The term 'Director' means the Director of the Department of Hawaiian Home Lands.

"(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

"(A) IN GENERAL.—The term 'elderly family' or 'near-elderly family' means a family whose head (or his or her spouse), or whose sole member, is—

"(i) for an elderly family, an elderly person; or

"(ii) for a near-elderly family, a near-elderly person.

"(B) CERTAIN FAMILIES INCLUDED.—The term 'elderly family' or 'near-elderly family' includes—

"(i) 2 or more elderly persons or near-elderly persons, as the case may be, living together; and

"(ii) 1 or more persons described in clause (i) living with 1 or more persons determined under the housing plan to be essential to their care or well-being.

"(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian Home Lands' means lands that—

"(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

"(B) are acquired pursuant to that Act.

"(5) HOUSING AREA.—The term 'housing area' means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

"(6) HOUSING ENTITY.—The term 'housing entity' means the Department of Hawaiian Home Lands.

"(7) HOUSING PLAN.—The term 'housing plan' means a plan developed by the Department of Hawaiian Home Lands.

"(8) MEDIAN INCOME.—The term 'median income' means, with respect to an area that is a Hawaiian housing area, the greater of—

"(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

"(B) the median income for the State of Hawaii.

"(9) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records;

"(ii) verification by kupuna (elders) or kama'aina (long-term community residents); or

"(iii) birth records of the State of Hawaii.

##### "SEC. 802. BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

"(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands.

"(b) PLAN REQUIREMENT.—

"(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

"(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

"(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

"(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

"(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

"(d) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

"(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

"(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

"(B) expenses incurred in preparing a housing plan under section 803.

"(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

##### "SEC. 803. HOUSING PLAN.

"(a) PLAN SUBMISSION.—The Secretary shall—

"(1) require the Director to submit a housing plan under this section for each fiscal year; and

"(2) provide for the review of each plan submitted under paragraph (1).

"(b) 5-YEAR PLAN.—Each housing plan under this section shall—

"(1) be in a form prescribed by the Secretary; and

"(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

"(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

"(B) GOAL AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

"(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

"(c) 1-YEAR PLAN.—A housing plan under this section shall—

"(1) be in a form prescribed by the Secretary; and

"(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

"(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

"(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

"(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

"(I) the geographical needs of those families; and

"(II) needs for various categories of housing assistance; and

"(ii) a description of the estimated housing needs for all families to be served by the Department.

"(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

"(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

"(ii) the uses to which the resources described in clause (i) will be committed, including—

"(I) eligible and required affordable housing activities; and

"(II) administrative expenses.

"(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

"(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing;

"(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

"(I) rental assistance;

"(II) the production of new units;

"(III) the acquisition of existing units; or

"(IV) the rehabilitation of units;

"(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

"(I) the involvement of private, public, and nonprofit organizations and institutions;

"(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

"(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

"(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

"(v) a description of—

"(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

"(II) the requirements and assistance available under the programs referred to in subclause (I);

"(vi) a description of—

"(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

"(II) the requirements and assistance available under the programs referred to in subclause (I);

"(vii) a description of—

"(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

"(aa) transitional housing;

"(bb) homeless housing;

"(cc) college housing; and

"(dd) supportive services housing; and

"(II) the requirements and assistance available under such programs;

"(viii) (I) a description of any housing to be demolished or disposed of;

"(II) a timetable for that demolition or disposition; and

"(III) any other information required by the Secretary with respect to that demolition or disposition;

"(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

"(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

"(I) promote the safety of residents of the affordable housing;

"(II) facilitate the undertaking of crime prevention measures;

"(III) allow resident input and involvement, including the establishment of resident organizations; and

"(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

"(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

"(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

"(i) a certification that the Department of Hawaiian Home Lands will comply with—

"(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with title VIII of the Act popularly known as the 'Civil Rights

Act of 1968' (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

"(II) other applicable Federal statutes;

"(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

"(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

"(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

"(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

"(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

"(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the 'Civil Rights Act of 1968' (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

"(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

"(B) to an eligible family on the basis that the family is a Native Hawaiian family.

"(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

"(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

#### "SEC. 804. REVIEW OF PLANS.

"(a) REVIEW AND NOTICE.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

"(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

"(2) NOTICE.—

"(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

"(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director,

as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

“(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

“(ii) the Director shall be considered to have been notified of compliance.

“(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

“(1) the reasons for noncompliance; and

“(2) any modifications necessary for the plan to meet the requirements of section 803.

“(c) REVIEW.—

“(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

“(A) set forth the information required by section 803 to be contained in the housing plan;

“(B) are consistent with information and data available to the Secretary; and

“(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

“(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

“(d) UPDATES TO PLAN.—

“(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

“(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

“(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2000.

**“SEC. 805. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.**

“(a) PROGRAM INCOME.—

“(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

“(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

“(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

“(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

“(A) whether the Department retains program income under paragraph (1); or

“(B) the amount of any such program income retained.

“(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

“(b) LABOR STANDARDS.—

“(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

“(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

“(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the ‘Davis-Bacon Act’ (46 Stat. 1494, chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

“(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

**“SEC. 806. ENVIRONMENTAL REVIEW.**

“(a) IN GENERAL.—

“(1) RELEASE OF FUNDS.—

“(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

“(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

“(ii) to the public undiminished protection of the environment.

“(B) ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

“(2) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

“(B) CONTENTS.—The regulations issued under this paragraph shall—

“(i) provide for the monitoring of the environmental reviews performed under this section;

“(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

“(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

“(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

“(b) PROCEDURE.—

“(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

“(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

“(c) CERTIFICATION.—A certification under the procedures under this section shall—

“(1) be in a form acceptable to the Secretary;

“(2) be executed by the Director of the Department of Hawaiian Home Lands;

“(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

“(4) specify that the Director—

“(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

“(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

**“SEC. 807. REGULATIONS.**

“The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 2000.

**“SEC. 808. EFFECTIVE DATE.**

“Except as otherwise expressly provided in this title, this title shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

**“SEC. 809. AFFORDABLE HOUSING ACTIVITIES.**

“(a) NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.—

“(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

“(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

“(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

“(C) to coordinate activities to provide housing for low-income Native Hawaiian

families with Federal, State and local activities to further economic and community development;

“(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

“(E) to—

“(i) promote the development of private capital markets; and

“(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

“(2) ELIGIBLE FAMILIES.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

“(B) EXCEPTION TO LOW-INCOME REQUIREMENT.—

“(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

“(I) section 810(b);

“(II) model activities under section 810(f);

or

“(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

“(i) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

“(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

“(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

“(ii) the need for housing for the family cannot be reasonably met without the assistance.

“(D) PREFERENCE.—

“(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

“(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

“(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

**“SEC. 810. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.**

“(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

“(I) develop or to support affordable housing for rental or homeownership; or

“(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

“(b) ACTIVITIES.—The activities described in this subsection are the following:

“(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

“(A) real property acquisition;

“(B) site improvement;

“(C) the development of utilities and utility services;

“(D) demolition;

“(E) conversion;

“(F) financing;

“(G) administration and planning; and

“(H) other related activities.

“(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

“(A) housing counseling in connection with rental or homeownership assistance;

“(B) the establishment and support of resident organizations and resident management corporations;

“(C) energy auditing;

“(D) activities related to the provisions of self-sufficiency and other services; and

“(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

“(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

“(A) the preparation of work specifications;

“(B) loan processing;

“(C) inspections;

“(D) tenant selection;

“(E) management of tenant-based rental assistance; and

“(F) management of affordable housing projects.

“(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

“(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

“(A) designed to carry out the purposes of this title; and

“(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

**“SEC. 811. PROGRAM REQUIREMENTS.**

“(a) RENTS.—

“(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

“(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

“(b) MAINTENANCE AND EFFICIENT OPERATION.—

“(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

“(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the De-

partment, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

“(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

“(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

“(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

**“SEC. 812. TYPES OF INVESTMENTS.**

“(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

“(1) the discretion to use grant amounts for affordable housing activities through the use of—

“(A) equity investments;

“(B) interest-bearing loans or advances;

“(C) noninterest-bearing loans or advances;

“(D) interest subsidies;

“(E) the leveraging of private investments;

or

“(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

“(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

“(b) INVESTMENTS.—The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

**“SEC. 813. LOW-INCOME REQUIREMENT AND INCOME TARGETING.**

“(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

“(1) each dwelling unit in the housing—

“(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

“(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

“(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

“(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

“(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

“(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

“(I) avoid termination of low-income affordability, in the case of foreclosure; or

“(II) transfer ownership in lieu of foreclosure; and

“(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

“(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

**“SEC. 814. LEASE REQUIREMENTS AND TENANT SELECTION.**

“(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

“(1) do not contain unreasonable terms and conditions;

“(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

“(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

“(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

“(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

“(6) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

“(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

“(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

“(C) is criminal activity (including drug-related criminal activity) on or off the premises.

“(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

“(1) are consistent with the purpose of providing housing for low-income families;

“(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

“(3) provide for—

“(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

“(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

**“SEC. 815. REPAYMENT.**

“If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

“(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

“(2) require repayment to the Secretary of any amount equal to those grant amounts.

**“SEC. 816. ANNUAL ALLOCATION.**

“For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

**“SEC. 817. ALLOCATION FORMULA.**

“(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999, in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

“(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

“(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

“(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

“(3) any other objectively measurable conditions that the Secretary and the Director may specify.

“(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

“(1) geographic distribution within Hawaiian Home Lands; and

“(2) technical capacity.

“(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of the Native American Housing Assistance and Self-Determination Amendments of 1999.

**“SEC. 818. REMEDIES FOR NONCOMPLIANCE.**

“(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

“(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

“(A) terminate payments under this title to the Department;

“(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

“(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

“(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

“(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a

finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

“(1) is not a pattern or practice of activities constituting willful noncompliance; and

“(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

“(c) REFERRAL FOR CIVIL ACTION.—

“(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

“(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

“(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

“(B) for mandatory or injunctive relief.

“(d) REVIEW.—

“(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

“(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

“(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

“(2) PROCEDURE.—

“(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

“(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

“(3) DISPOSITION.—

“(A) COURT PROCEEDINGS.—

“(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

“(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

“(iii) ADDITION.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

“(B) SECRETARY.—

“(i) IN GENERAL.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

“(I) may—

“(aa) modify the findings of fact of the Secretary; or

“(bb) make new findings; and

“(II) shall file—

“(aa) such modified or new findings; and

“(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

“(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a

question of fact, be considered to be conclusive if those findings are—

“(I) supported by substantial evidence on the record; and

“(II) considered as a whole.

“(4) FINALITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

“(i) the jurisdiction of the court shall be exclusive; and

“(ii) the judgment of the court shall be final.

“(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

**“SEC. 819. MONITORING OF COMPLIANCE.**

“(a) ENFORCEABLE AGREEMENTS.—

“(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

“(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

“(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

“(B) remedies for breach of the provisions referred to in paragraph (1).

“(b) PERIODIC MONITORING.—

“(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

“(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

“(3) RESULTS.—The results of each review under paragraph (1) shall be—

“(A) included in a performance report of the Director submitted to the Secretary under section 820; and

“(B) made available to the public.

“(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

**“SEC. 820. PERFORMANCE REPORTS.**

“(a) REQUIREMENT.—For each fiscal year, the Director shall—

“(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

“(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

“(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

“(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

“(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

“(3) indicate the programmatic accomplishments of the Department; and

“(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

“(c) SUBMISSIONS.—The Secretary shall—

“(1) establish a date for submission of each report under this section;

“(2) review each such report; and

“(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

“(d) PUBLIC AVAILABILITY.—

“(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

“(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

**“SEC. 821. REVIEW AND AUDIT BY SECRETARY.**

“(a) ANNUAL REVIEW.—

“(1) IN GENERAL.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

“(A) the Director has—

“(i) carried out eligible activities under this title in a timely manner;

“(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

“(iii) a continuing capacity to carry out the eligible activities in a timely manner;

“(B) the Director has complied with the housing plan submitted by the Director under section 803; and

“(C) the performance reports of the Department under section 821 are accurate.

“(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

“(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

“(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided to the Department of Hawaiian Home Lands.

**“SEC. 822. GENERAL ACCOUNTING OFFICE AUDITS.**

“To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

**“SEC. 823. REPORTS TO CONGRESS.**

“(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made

available, the Secretary shall submit to Congress a report that contains—

“(1) a description of the progress made in accomplishing the objectives of this title;

“(2) a summary of the use of funds available under this title during the preceding fiscal year; and

“(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

“(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

**“SEC. 824. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”

**SEC. 4. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.**

Subtitle E of title I of the Housing and Community Development Act of 1992 is amended by inserting after section 184 (12 U.S.C. 1715z–13a) the following:

**“SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.**

“(a) DEFINITIONS.—In this section:

“(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term ‘Department of Hawaiian Home Lands’ means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

“(3) FAMILY.—The term ‘family’ means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

“(4) GUARANTEE FUND.—The term ‘Guarantee Fund’ means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (i).

“(5) HAWAIIAN HOME LANDS.—The term ‘Hawaiian Home Lands’ means lands that—

“(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

“(B) are acquired pursuant to that Act.

“(6) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual who is—

“(A) a citizen of the United States; and

“(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

“(i) genealogical records;

“(ii) verification by kupuna (elders) or kama’aina (long-term community residents); or

“(iii) birth records of the State of Hawaii.

“(7) OFFICE OF HAWAIIAN AFFAIRS.—The term ‘Office of Hawaiian Affairs’ means the entity of that name established under the constitution of the State of Hawaii.

“(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (b).

“(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

“(1) ELIGIBLE BORROWERS.—The loan is made only to a borrower who is—

“(A) a Native Hawaiian family;

“(B) the Department of Hawaiian Home Lands;

“(C) the Office of Hawaiian Affairs; or

“(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

“(2) ELIGIBLE HOUSING.—

“(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

“(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

“(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Amendments of 1999; and

“(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

“(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal or State law.

“(4) LENDERS.—

“(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

“(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

“(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

“(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

“(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

“(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

“(5) TERMS.—The loan shall—

“(A) be made for a term not exceeding 30 years;

“(B) bear interest (exclusive of the guarantee fee under subsection (d) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

“(C) involve a principal obligation not exceeding—

“(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is \$50,000 or less); or

“(ii) the amount approved by the Secretary under this section; and

“(D) involve a payment on account of the property—

“(i) in cash or its equivalent; or

“(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

“(d) CERTIFICATE OF GUARANTEE.—

“(1) APPROVAL PROCESS.—

“(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

“(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

“(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

“(3) EFFECT.—

“(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

“(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

“(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

“(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

“(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

“(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

“(e) GUARANTEE FEE.—

“(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

“(2) PAYMENT.—The fee under this subsection shall—

“(A) be paid by the lender at time of issuance of the guarantee; and

“(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

“(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

“(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

“(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

“(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

“(1) IN GENERAL.—

“(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or

holder of a guarantee certificate under subsection (c)—

“(i) has failed—

“(I) to maintain adequate accounting records;

“(II) to service adequately loans guaranteed under this section; or

“(III) to exercise proper credit or underwriting judgment; or

“(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

“(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (c) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

“(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

“(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

“(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

“(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

“(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

“(i) to maintain adequate accounting records;

“(ii) to adequately service loans guaranteed under this section; or

“(iii) to exercise proper credit or underwriting judgment.

“(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f-1) with respect to mortgagees and lenders under that Act.

“(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

“(i) PAYMENT UNDER GUARANTEE.—

“(1) LENDER OPTIONS.—

“(A) IN GENERAL.—

“(i) NOTIFICATION.—If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

“(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in 1 of the following manners:

“(I) FORECLOSURE.—

“(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

“(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

“(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of

the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

“(II) NO FORECLOSURE.—

“(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

“(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

“(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

“(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

“(2) LIMITATIONS ON LIQUIDATION.—

“(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

“(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

“(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

“(2) CREDITS.—The Guarantee Fund shall be credited with—

“(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

“(B) any amounts appropriated pursuant to paragraph (7);

“(C) any guarantee fees collected under subsection (d); and

“(D) any interest or earnings on amounts invested under paragraph (4).

“(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

“(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

“(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other ex-

penses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

“(C) acquiring such security property at foreclosure sales or otherwise;

“(D) paying administrative expenses in connection with this section; and

“(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

“(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

“(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

“(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as are, or have been, provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

“(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

“(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2000, 2001, 2002, 2003, and 2004 with an aggregate outstanding principal amount not exceeding \$100,000,000 for each such fiscal year.

“(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

“(k) REQUIREMENTS FOR STANDARD HOUSING.—

“(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

“(2) STANDARDS.—The standards referred to in paragraph (1) shall—

“(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

“(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

“(i) be decent, safe, sanitary, and modest in size and design;

“(ii) conform with applicable general construction standards for the region in which the housing is located;

“(iii) contain a plumbing system that—

“(I) uses a properly installed system of piping;

“(II) includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

“(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

“(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

“(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

“(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

“(l) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of title VIII of the Act popularly known as the ‘Civil Rights Act of 1968’ (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.”

#### AMERICAN INDIAN EDUCATION FOUNDATION ACT OF 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 334, S. 1290.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1290) to amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes.

Without objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1290) was read the third time and passed, as follows:

S. 1290

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “American Indian Education Foundation Act of 1999”.

#### SEC. 2. AMERICAN INDIAN EDUCATION FOUNDATION.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 215 the following:

#### “CHAPTER 216. AMERICAN INDIAN EDUCATION FOUNDATION

“Sec.

“21601. Organization.

“21602. Purposes.

“21603. Governing body.

“21604. Powers.

“21605. Principal office.

“21606. Service of process.

“21607. Liability of officers and agents.

“21608. Restrictions.

“21609. Transfer of donated funds.