

110TH CONGRESS  
1ST SESSION

# S. 2062

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2007

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

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

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

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

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

Sec. 1. Short title; table of contents.

- Sec. 2. Congressional findings.
- Sec. 3. Definitions.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

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

TITLE II—AFFORDABLE HOUSING ACTIVITIES

- Sec. 201. National objectives and eligible families.
- Sec. 202. Eligible affordable housing activities.
- Sec. 203. Program requirements.
- Sec. 204. Low-income requirement and income targeting.
- Sec. 205. Treatment of funds.
- Sec. 206. Availability of records.
- Sec. 207. Self-determined housing activities for tribal communities program.

TITLE III—ALLOCATION OF GRANT AMOUNTS

- Sec. 301. Allocation formula.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

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

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

- Sec. 501. Effect on Home Investment Partnerships Act.

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

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

TITLE VII—OTHER HOUSING ASSISTANCE FOR NATIVE  
AMERICANS

- Sec. 701. Training and technical assistance.

TITLE VIII—FUNDING

- Sec. 801. Authorization of appropriations.
- Sec. 802. Funding conforming amendments.

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

**2** Section 2 of the Native American Housing Assistance

**3** and Self-Determination Act of 1996 (25 U.S.C. 4101) is

1 amended in paragraphs (6) and (7) by striking “should”  
2 each place it appears and inserting “shall”.

3 **SEC. 3. DEFINITIONS.**

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

7 (1) by striking paragraph (22);

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

11 (3) by inserting after paragraph (7) the fol-  
12 lowing:

13 “(8) HOUSING RELATED COMMUNITY DEVELOP-  
14 MENT.—

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

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

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

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

1           “(II) would make housing more af-  
2           fordable, accessible, or practicable in an  
3           Indian area; or

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

6           “(B) EXCLUSION.—The term ‘housing and  
7           community development’ does not include any  
8           activity conducted by any Indian tribe under  
9           the Indian Gaming Regulatory Act (25 U.S.C.  
10          2701 et seq.).”.

## 11       **TITLE I—BLOCK GRANTS AND** 12       **GRANT REQUIREMENTS**

### 13       **SEC. 101. BLOCK GRANTS.**

14       Section 101 of the Native American Housing Assist-  
15       ance and Self-Determination Act of 1996 (25 U.S.C.  
16       4111) is amended—

17               (1) in subsection (a)—

18                       (A) in the first sentence—

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

21                                       “(1) IN GENERAL.—For each”;

22                               (ii) by striking “tribes to carry out af-  
23                               fordable housing activities.” and inserting  
24                               the following: “tribes—

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

3                   (iii) by adding at the end the fol-  
4           lowing:

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

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

10           “(2) PROVISION OF AMOUNTS.—Under”;

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

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

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

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

22                   “(2) each Indian tribe or tribally designated  
23           housing entity and each employee of the Indian tribe  
24           or tribally designated housing entity shall have ac-

1       cess to sources of supply on the same basis as em-  
2       ployees of an Executive agency.

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

12 **SEC. 102. INDIAN HOUSING PLANS.**

13       Section 102 of the Native American Housing Assist-  
14 ance and Self-Determination Act of 1996 (25 U.S.C.  
15 4112) is amended—

16               (1) in subsection (a)(1)—

17                       (A) by striking “(1)(A) for” and all that  
18 follows through the end of subparagraph (A)  
19 and inserting the following:

20                       “(1)(A) for an Indian tribe to submit to the  
21 Secretary, by not later than 75 days before the be-  
22 ginning of each tribal program year, a 1-year hous-  
23 ing plan for the Indian tribe; or”; and

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

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

3           “(b) 1-YEAR PLAN REQUIREMENT.—

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

6                         “(A) be in such form as the Secretary may  
7           prescribe; and

8                         “(B) contain the information described in  
9           paragraph (2).

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

14                         “(A) DESCRIPTION OF PLANNED ACTIVI-  
15           TIES.—A statement of planned activities, in-  
16           cluding—

17                                 “(i) the types of household to receive  
18           assistance;

19                                 “(ii) the types and levels of assistance  
20           to be provided;

21                                 “(iii) the number of units planned to  
22           be produced;

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

1                   “(II) a timetable for the demolition or  
2                   disposition; and

3                   “(III) any other information required  
4                   by the Secretary with respect to the demo-  
5                   lition or disposition;

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

14                  “(vi) outcomes anticipated to be  
15                  achieved by the recipient.

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

22                  “(i) a description of the estimated  
23                  housing needs and the need for assistance  
24                  for the low-income Indian families in the  
25                  jurisdiction, including a description of the

1 manner in which the geographical distribu-  
2 tion of assistance is consistent with the  
3 geographical needs and needs for various  
4 categories of housing assistance; and

5 “(ii) a description of the estimated  
6 housing needs for all Indian families in the  
7 jurisdiction.

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

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

18 “(ii) the uses to which those resources  
19 will be committed, including eligible and  
20 required affordable housing activities  
21 under title II and administrative expenses.

22 “(D) CERTIFICATION OF COMPLIANCE.—  
23 Evidence of compliance with the requirements  
24 of this Act, including, as appropriate—

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

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

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

20           “(iv) a certification that policies are  
21 in effect and are available for review by the  
22 Secretary and the public governing rents  
23 and homebuyer payments charged, includ-  
24 ing the methods by which the rents or  
25 homebuyer payments are determined, for

1 housing assisted with grant amounts pro-  
2 vided under this Act;

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

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

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

13 (4) in subsection (d) (as redesignated by para-  
14 graph (3)), by striking “subsection (d)” and insert-  
15 ing “subsection (c)”.

16 **SEC. 103. REVIEW OF PLANS.**

17 Section 103 of the Native American Housing Assist-  
18 ance and Self-Determination Act of 1996 (25 U.S.C.  
19 4113) is amended—

20 (1) in subsection (d)—

21 (A) in the first sentence—

22 (i) by striking “fiscal” each place it  
23 appears and inserting “tribal program”;  
24 and

1 (ii) by striking “(with respect to” and  
 2 all that follows through “section 102(c))”;  
 3 and

4 (B) by striking the second sentence; and  
 5 (2) by striking subsection (e) and inserting the  
 6 following:

7 “(e) SELF-DETERMINED ACTIVITIES PROGRAM.—  
 8 Notwithstanding any other provision of this section, the  
 9 Secretary—

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

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

19 **SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR**  
 20 **STANDARDS.**

21 Section 104(a) of the Native American Housing As-  
 22 sistance and Self-Determination Act of 1996 (25 U.S.C.  
 23 4114(a)) is amended by adding at the end the following:

24 “(4) EXCLUSION FROM PROGRAM INCOME OF  
 25 REGULAR DEVELOPER’S FEES FOR LOW-INCOME

1 HOUSING TAX CREDIT PROJECTS.—Notwithstanding  
 2 any other provision of this Act, any income derived  
 3 from a regular and customary developer’s fee for  
 4 any project that receives a low-income housing tax  
 5 credit under section 42 of the Internal Revenue  
 6 Code of 1986, and that is initially funded using a  
 7 grant provided under this Act, shall not be consid-  
 8 ered to be program income if the developer’s fee is  
 9 approved by the State housing credit agency.”.

10 **SEC. 105. REGULATIONS.**

11 Section 106(b)(2) of the Native American Housing  
 12 Assistance and Self-Determination Act of 1996 (25 U.S.C.  
 13 4116(b)(2)) is amended—

14 (1) in subparagraph (B)(i), by striking “The  
 15 Secretary” and inserting “Not later than 180 days  
 16 after the date of enactment of the Native American  
 17 Housing Assistance and Self-Determination Reau-  
 18 thorization Act of 2007 and any other Act to reau-  
 19 thorize this Act, the Secretary”; and

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

21 “(C) SUBSEQUENT NEGOTIATED RULE-  
 22 MAKING.—The Secretary shall—

23 “(i) initiate a negotiated rulemaking  
 24 in accordance with this section by not later  
 25 than 90 days after the date of enactment

1 of the Native American Housing Assist-  
 2 ance and Self-Determination Reauthoriza-  
 3 tion Act of 2007 and any other Act to re-  
 4 authorize this Act; and

5 “(ii) promulgate regulations pursuant  
 6 to this section by not later than 2 years  
 7 after the date of enactment of the Native  
 8 American Housing Assistance and Self-De-  
 9 termination Reauthorization Act of 2007  
 10 and any other Act to reauthorize this Act.

11 “(D) REVIEW.—Not less frequently than  
 12 once every 7 years, the Secretary, in consulta-  
 13 tion with Indian tribes, shall review the regula-  
 14 tions promulgated pursuant to this section in  
 15 effect on the date on which the review is con-  
 16 ducted.”.

## 17 **TITLE II—AFFORDABLE** 18 **HOUSING ACTIVITIES**

### 19 **SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.**

20 Section 201(b) of the Native American Housing As-  
 21 sistance and Self-Determination Act of 1996 (25 U.S.C.  
 22 4131(b)) is amended—

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

1 (2) in paragraph (2)—

2 (A) by striking the first sentence and in-  
3 serting the following:

4 “(A) EXCEPTION TO REQUIREMENT.—Not-  
5 withstanding paragraph (1), a recipient may  
6 provide housing or housing assistance through  
7 affordable housing activities for which a grant  
8 is provided under this Act to any family that is  
9 not a low-income family, to the extent that the  
10 Secretary approves the activities due to a need  
11 for housing for those families that cannot rea-  
12 sonably be met without that assistance.”; and

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

15 “(B) LIMITS.—The Secretary”;

16 (3) in paragraph (3)—

17 (A) in the paragraph heading, by striking  
18 “NON-INDIAN” and inserting “ESSENTIAL”;  
19 and

20 (B) by striking “non-Indian family” and  
21 inserting “family”; and

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

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

2 Section 202 of the Native American Housing Assist-  
3 ance and Self-Determination Act of 1996 (25 U.S.C.  
4 4132) is amended—

5 (1) in the matter preceding paragraph (1), by  
6 striking “to develop or to support” and inserting “to  
7 develop, operate, maintain, or support”;

8 (2) in paragraph (2)—

9 (A) by striking “development of utilities”  
10 and inserting “development and rehabilitation  
11 of utilities, necessary infrastructure,”; and

12 (B) by inserting “mold remediation,” after  
13 “energy efficiency,”;

14 (3) in paragraph (4), by inserting “the costs of  
15 operation and maintenance of units developed with  
16 funds provided under this Act,” after “rental assist-  
17 ance,”; and

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

19 “(9) RESERVE ACCOUNTS.—

20 “(A) IN GENERAL.—Subject to subpara-  
21 graph (B), the deposit of amounts, including  
22 grant amounts under section 101, in a reserve  
23 account established for an Indian tribe only for  
24 the purpose of accumulating amounts for ad-  
25 ministration and planning relating to affordable  
26 housing activities under this section, in accord-

1           ance with the Indian housing plan of the Indian  
2           tribe.

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

9   **SEC. 203. PROGRAM REQUIREMENTS.**

10          Section 203 of the Native American Housing Assist-  
11          ance and Self-Determination Act of 1996 (25 U.S.C.  
12          4133) is amended by adding at the end the following:

13          “(f) USE OF GRANT AMOUNTS OVER EXTENDED PE-  
14          RIODS.—

15                   “(1) IN GENERAL.—To the extent that the In-  
16          dian housing plan for an Indian tribe provides for  
17          the use of amounts of a grant under section 101 for  
18          a period of more than 1 fiscal year, or for affordable  
19          housing activities for which the amounts will be com-  
20          mitted for use or expended during a subsequent fis-  
21          cal year, the Secretary shall not require those  
22          amounts to be used or committed for use at any  
23          time earlier than otherwise provided for in the In-  
24          dian housing plan.

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

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

13   **SEC. 204. LOW-INCOME REQUIREMENT AND INCOME TAR-**  
14                                   **GETING.**

15          Section 205 of the Native American Housing Assist-  
16          ance and Self-Determination Act of 1996 (25 U.S.C.  
17          4135) is amended by adding at the end the following:

18          “(c) APPLICABILITY.—This section applies only to  
19          rental and homeownership units that are owned or oper-  
20          ated by a recipient.”.

21   **SEC. 205. TREATMENT OF FUNDS.**

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

1 **“SEC. 206. TREATMENT OF FUNDS.**

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

7 **SEC. 206. AVAILABILITY OF RECORDS.**

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

12 **SEC. 207. SELF-DETERMINED HOUSING ACTIVITIES FOR**  
13 **TRIBAL COMMUNITIES PROGRAM.**

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

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

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

21 and

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

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

4 **“SEC. 231. PURPOSE.**

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

14 **“SEC. 232. PROGRAM AUTHORITY.**

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

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

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

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

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

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

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

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

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

21                  “(2) \$2,000,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4   **“SEC. 235. REVIEW AND REPORT.**

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

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

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

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

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

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

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

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

7 “(2) recommendations for—

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

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

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

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

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

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

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

“Subtitle A—General Block Grant Program”;

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

“Sec. 206. Treatment of funds.”;

7 and

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

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

“Sec. 231. Purposes.

“Sec. 232. Program authority.

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

“Sec. 234. Inapplicability of other provisions.

“Sec. 235. Review and report.”.

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

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

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

16 (1) in subsection (a)—

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

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

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

1           “(2) STUDY OF NEED DATA.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17                   **TITLE IV—COMPLIANCE,**  
18                   **AUDITS, AND REPORTS**

19           **SEC. 401. REMEDIES FOR NONCOMPLIANCE.**

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

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

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

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

9   **SEC. 402. MONITORING OF COMPLIANCE.**

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

14   **SEC. 403. PERFORMANCE REPORTS.**

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

18                (1) in paragraph (2)—

19                    (A) by striking “goals” and inserting  
20                    “planned activities”; and

21                    (B) by adding “and” after the semicolon  
22                    at the end;

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

25                (3) by striking paragraph (4).

1 **TITLE V—TERMINATION OF AS-**  
2 **SISTANCE FOR INDIAN**  
3 **TRIBES UNDER INCOR-**  
4 **PORATED PROGRAMS**

5 **SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS**  
6 **ACT.**

7 (a) IN GENERAL.—Title V of the Native American  
8 Housing Assistance and Self-Determination Act of 1996  
9 (25 U.S.C. 4181 et seq.) is amended by adding at the end  
10 the following:

11 **“SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS**  
12 **ACT.**

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

21 (b) CONFORMING AMENDMENT.—The table of con-  
22 tents in section 1(b) of the Native American Housing As-  
23 sistance and Self-Determination Act of 1996 (25 U.S.C.

1 4101 note) is amended by inserting after the item relating  
 2 to section 508 the following:

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

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

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

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

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

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

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

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

11 “(c) FINANCIAL SOUNDNESS.—

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

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

25 “(d) TERMS OF OBLIGATIONS.—

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

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

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

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

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

18           “(f) SECURITY AND REPAYMENT.—

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

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

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

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

19          “(2) FULL FAITH AND CREDIT.—

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

24                 “(B) TREATMENT OF GUARANTEES.—

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

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

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

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

16                 “(1) AGGREGATE FISCAL YEAR LIMITATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) an Indian organization representing the in-  
8 terests of Indian tribes, Indian housing authorities,  
9 and tribally designated housing entities throughout  
10 the United States;

11 (2) an organization registered as a nonprofit  
12 entity that is—

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

15 (B) exempt from taxation under section  
16 501(a) of that Code;

17 (3) an organization with at least 30 years of ex-  
18 perience in representing the housing interests of In-  
19 dian tribes and tribal housing entities throughout  
20 the United States; and

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

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to the Secretary of

1 Housing and Urban Development, for transfer to an In-  
2 dian organization selected by the Secretary of Housing  
3 and Urban Development, in consultation with Indian  
4 tribes, such sums as are necessary to provide training and  
5 technical assistance to Indian housing authorities and  
6 tribally-designated housing entities for each of fiscal years  
7 2008 through 2012.

## 8 **TITLE VIII—FUNDING**

### 9 **SEC. 801. AUTHORIZATION OF APPROPRIATIONS.**

10 (a) **BLOCK GRANTS AND GRANT REQUIREMENTS.**—  
11 Section 108 of the Native American Housing Assistance  
12 and Self-Determination Act of 1996 (25 U.S.C. 4117) is  
13 amended in the first sentence by striking “1998 through  
14 2007” and inserting “2008 through 2012”.

15 (b) **FEDERAL GUARANTEES FOR FINANCING FOR**  
16 **TRIBAL HOUSING ACTIVITIES.**—Section 605 of the Native  
17 American Housing Assistance and Self-Determination Act  
18 of 1996 (25 U.S.C. 4195) is amended in subsections (a)  
19 and (b) by striking “1997 through 2007” each place it  
20 appears and inserting “2008 through 2012”.

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

1 **SEC. 802. FUNDING CONFORMING AMENDMENTS.**

2 Chapter 97 of title 31, United States Code, is amend-  
3 ed—

4 (1) by redesignating the first section 9703 (re-  
5 lating to managerial accountability and flexibility) as  
6 section 9703A;

7 (2) by moving the second section 9703 (relating  
8 to the Department of the Treasury Forfeiture Fund)  
9 so as to appear after section 9702; and

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

12 (A) in subparagraph (I)—

13 (i) by striking “payment” and insert-  
14 ing “Payment”; and

15 (ii) by striking the semicolon at the  
16 end and inserting a period;

17 (B) in subparagraph (J), by striking “pay-  
18 ment” the first place it appears and inserting  
19 “Payment”; and

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

21 “(K)(i) Payment to the designated tribal  
22 law enforcement, environmental, housing, or  
23 health entity for experts and consultants needed  
24 to clean up any area formerly used as a meth-  
25 amphetamine laboratory.

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

6                       “(I) did not have knowledge of the ex-  
7                       istence or operation of the laboratory be-  
8                       fore the commencement of the law enforce-  
9                       ment action to close the laboratory; or

10                      “(II) notified law enforcement not  
11                      later than 24 hours after discovering the  
12                      existence of the laboratory.”.

○