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INDIAN FINANCING ACT OF 1973

GOVERNMENT

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HEARING
BEFORE THE
SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES
NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 6371, H.R. 6493, H.R. 9843, H.R. 10562
and S. 1341

TO PROVIDE FOR FINANCING THE ECONOMIC DEVELOP-
MENT OF INDIANS AND INDIAN ORGANIZATIONS, AND
FOR OTHER PURPOSES

HEARING HELD IN WASHINGTON, D.C.

OCTOBER 12, 1973

Serial No. 93-32

Printed for the use of the
Committee on Interior and Insular Affairs



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INFORMATION



INDIAN FINANCING ACT OF 1973

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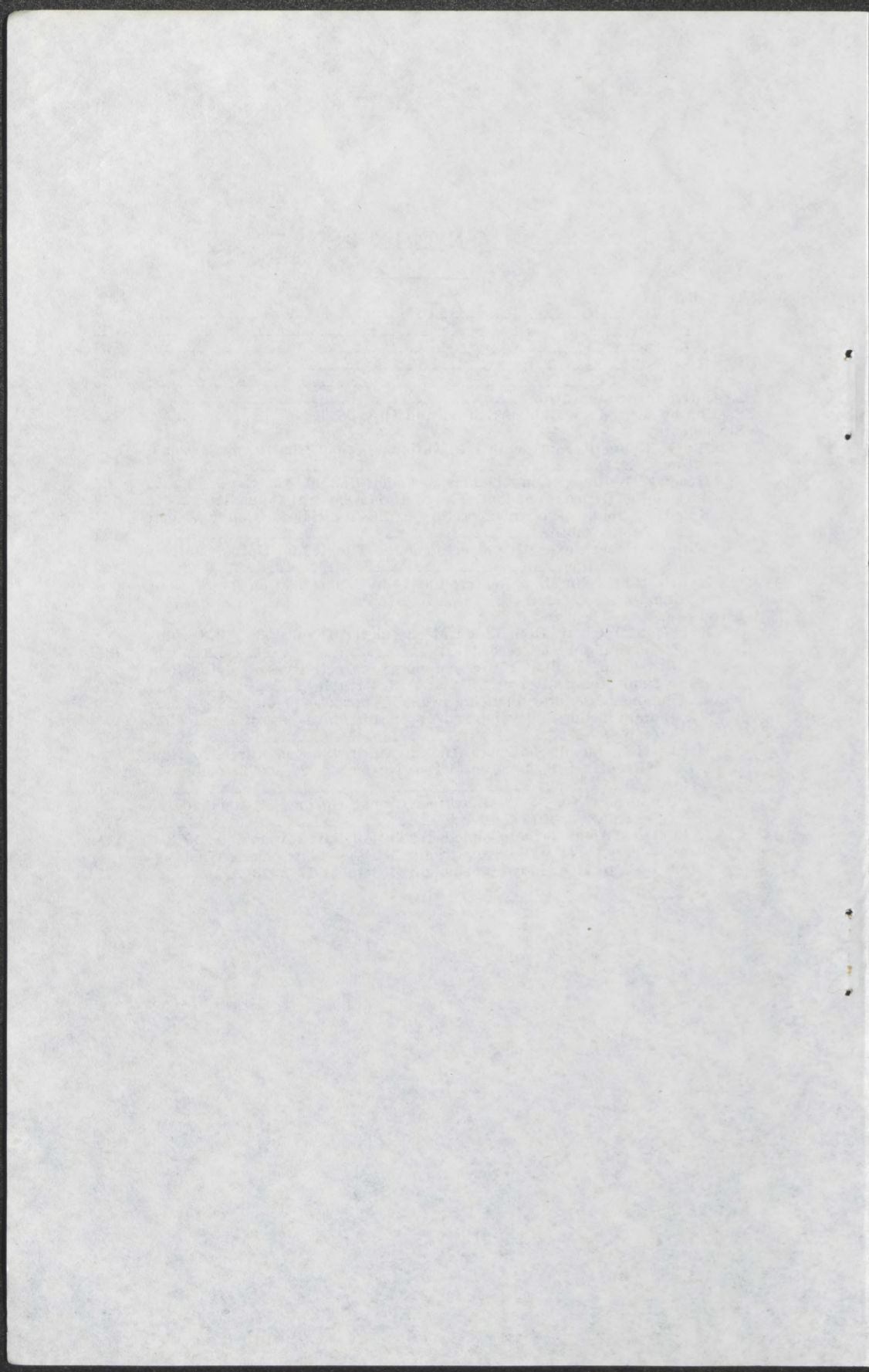
NOTE.—The chairman of the full committee is an ex officio voting member of this subcommittee. The first listed minority member is counterpart to the subcommittee chairman.

(II)



CONTENTS

	Page
Text of:	
S. 1341.....	2
H.R. 6371.....	19
H.R. 6493.....	37
H.R. 9843.....	57
H.R. 10562.....	73
Executive communication.....	91
Section by section analysis of S. 1341 and H.R. 9843.....	118
Statements:	
Black, Kenneth, representative, National Tribal Chairmen's Association.....	152
Hensley, Willie, president, Alaska Federation of Natives.....	167
Jackson, Clarence, president, Tlingit-Haida Central Council.....	159
Kyl, Hon. John, Assistant Secretary of the Interior for Congressional and Public Affairs.....	125
Willard, Robert, executive director of the Tlingit and Haida Contractors Association.....	162
Zwach, Hon. John M., a Representative in Congress from the State of Minnesota.....	124
Letters:	
Kyl, Hon. John, to Hon. Lloyd Meeds, dated October 30, 1973 (plus information for the record).....	134
Bureau of Indian Affairs, summary of activity—revolving loan fund—for fiscal years 1972 and 1973 (table).....	135
Summary of total financing needs by purpose (table).....	136
Indian business development program status as of June 1973 (table).....	137
Meeds, Hon. Lloyd, chairman, Indian Affairs Subcommittee, to Hon. Lee Metcalf, U.S. Senate, dated November 26, 1973 (plus enclosures).....	170
Resolution No. 37-73, Blackfeet Tribal Business Council, dated December 5, 1973.....	170
Coeur d'Alene Tribal Council, resolution, dated August 16, 1973.....	171
Straus, Jerry C., of Wilkinson, Cragun, & Barker law offices, Washington, D.C., to Hon. Lloyd Meeds, dated October 17, 1973.....	171



INDIAN FINANCING ACT OF 1973

FRIDAY, OCTOBER 12, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 1324, Longworth House Office Building, Hon. Lloyd Meeds (chairman of the subcommittee), presiding.

Mr. MEEDS. The Subcommittee on Indian Affairs will be in order for the taking of testimony on five bills providing for Indian financing and credit. H.R. 6371, by Mr. Saylor for himself, Mr. Camp, and Mr. Zwach, and H.R. 10562, for Mr. Bergland, are identical bills derived from an executive communication of March 15, 1973, on this subject.

H.R. 9843, by Mr. Waldie, and S. 1341, as passed by the Senate, are identical bills which differ in material respects from the administration's proposal.

H.R. 6493, by Mr. Culver, is derived from the administration's proposal submitted to the 92d Congress.

If there are no objections, copies of the five bills and the executive communication plus section-by-section analysis, will be made a part of the record at this point.

Mr. TOWELL. No objection, Mr. Chairman.

[Copies of the five bills, the executive communication as referred to, and the analysis follow:]

(1)

93D CONGRESS
1ST SESSION

S. 1341

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1973

Referred to the Committee on Interior and Insular Affairs

AN ACT

To provide for financing the economic development of Indians
and Indian organizations, 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 That this Act may be cited as the "Indian Financing Act
- 4 of 1973".

DECLARATION OF POLICY

6 SEC. 2. It is hereby declared to be the policy of Congress

7 to provide capital on a reimbursable basis to help develop and

8 utilize Indian resources, both physical and human, to a point

9 where the Indians will fully exercise responsibility for the

10 utilization and management of their own resources; where

11 they will enjoy a standard of living from their own produc-

1 tive efforts comparable to that enjoyed by non-Indians in
2 neighboring communities; and where they will have the
3 opportunity to be integrated socially, politically, and eco-
4 nomically into American life.

5 DEFINITIONS

6 SEC. 3. For the purpose of this Act, the term—

7 (a) "Secretary" means the Secretary of the Interior.

8 (b) "Indian" means any person who is a member of
9 any Indian tribe, band, pueblo, group, or community of
10 Indians or Alaska Natives which is recognized by the Fed-
11 eral Government as eligible for services from the Bureau of
12 Indian Affairs.

13 (c) "Indian tribe" means any tribe, band, pueblo,
14 group, or community of Indians or Alaska Natives which is
15 recognized by the Federal Government as eligible for services
16 from the Bureau of Indian Affairs.

17 (d) "Reservation" includes Indian reservations, public
18 domain land occupied by Indians, former Indian reservations
19 in Oklahoma, and land occupied by Alaska Native com-
20 munities.

21 (e) "Economic enterprise" means any Indian-owned
22 as defined by the Secretary of the Interior, commercial,
23 industrial, or business activity established or organized for
24 the purpose of profit.

1 (f) "Other organizations" means any non-Indian
2 individual, firm, corporation, partnership, or association.

3 TITLE I—INDIAN REVOLVING LOAN FUND

4 SEC. 101. In order to provide credit that is not avail-
5 able from private money markets, all funds that are now or
6 hereafter a part of the revolving fund authorized by the Act
7 of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936
8 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat.
9 44), as amended and supplemented, including sums received
10 in settlement of debts of livestock pursuant to the Act of
11 May 24, 1950 (64 Stat. 190), and sums collected in repay-
12 ment of loans heretofore or hereafter made, and as interest or
13 other charges on loans, shall hereafter be administered as a
14 single revolving loan fund and shall be available for loans to
15 Indians having a form of organization that is satisfactory to
16 the Secretary and for loans to individual Indians who are
17 not members of or eligible for membership in an organization
18 which is making loans to its members as well as for ad-
19 ministrative expenses incurred in connection therewith.

20 SEC. 102. Loans may be made for any purpose which
21 will promote the economic development of (a) the indi-
22 vidual Indian borrower, including loans for educational
23 purposes, and (b) the Indian organization and its members
24 including loans by such organizations to other organiza-

1 tions and investments in other organizations regardless of
2 whether they are organizations of Indians.

3 SEC. 103. Loans may be made only when, in the judg-
4 ment of the Secretary, there is a reasonable prospect of
5 repayment, and only to applicants who in the opinion of the
6 Secretary are unable to obtain financing from other sources
7 on reasonable terms and conditions.

8 SEC. 104. Loans shall be for terms that do not exceed
9 thirty years and shall bear interest at (a) a rate determined
10 by the Secretary of the Treasury taking into consideration
11 the market yield on municipal bonds: *Provided*, That in
12 no event shall the rate be greater than the rate determined
13 by the Secretary of the Treasury taking into consideration
14 the current average yield on outstanding marketable obliga-
15 tions of the United States of comparable maturity, plus (b)
16 such additional charge, if any, toward covering other costs
17 of the program as the Secretary may determine to be con-
18 sistent with its purpose: *Provided*, That educational loans
19 may provide for interest to be deferred while the borrower
20 is in school or in the military service.

21 SEC. 105. The Secretary may cancel, adjust, compro-
22 mise, or reduce the amount of any loan or any portion
23 thereof heretofore or hereafter made from the revolving loan
24 fund established by this title and its predecessor constituent
25 funds which he determines to be uncollectable in whole or in

1 part, or which is collectable only at an unreasonable cost,
2 or when such action would, in his judgment, be in the best
3 interests of the United States. He may also adjust, com-
4 promise, subordinate, or modify the terms of any mortgage,
5 lease, assignment, contract, agreement, or other document
6 taken to secure such loans.

7 SEC. 106. Title to any land purchased by a tribe or by
8 an individual Indian with loans made from the revolving loan
9 fund may be taken in trust unless the land is located outside
10 the boundaries of a reservation or a tribal consolidation area
11 approved by the Secretary. Title to any land purchased by a
12 tribe or an individual Indian which is outside the boundaries
13 of the reservation or approved consolidation area may be
14 taken in trust if the purchaser was the owner of trust or
15 restricted interests in the land before the purchase, otherwise
16 title shall be taken in the name of the purchasers without any
17 restriction on alienation, control, or use. Title to any personal
18 property purchased with a loan from the revolving loan fund
19 shall be taken in the name of the purchaser.

20 SEC. 107. Any organization receiving a loan from the
21 revolving loan fund shall be required to assign to the United
22 States as security for the loan all securities acquired in con-
23 nection with the loans made to its members from such funds
24 unless the Secretary determines that the repayment of the
25 loan to the United States is otherwise reasonably assured.

1 SEC. 108. The Secretary may not collect any loan from
2 the revolving loan fund which becomes delinquent or the in-
3 terest thereon from per capita payments or other distributions
4 of tribal assets derived from a tribal judgment which are due
5 the delinquent borrower.

6 SEC. 109. There is authorized to be appropriated, to
7 provide capital and to restore any impairment of capital for
8 the revolving loan fund \$50,000,000 exclusive of prior au-
9 thorizations and appropriations.

10 SEC. 110. The Secretary shall promulgate rules and
11 regulations to carry out the provisions of this title.

12 TITLE II—LOAN GUARANTY AND INSURANCE

13 SEC. 201. In order to provide access to private money
14 sources which otherwise would not be available, the Secretary
15 is authorized (a) to guarantee not to exceed 90 per centum
16 of the unpaid principal and interest due on any loan made to
17 any organization of Indians having a form or organization
18 satisfactory to the Secretary, and to individual Indians
19 who are not members of or eligible for membership in an
20 organization which is making loans to its members; and
21 (b) in lieu of such guaranty, to insure loans under an
22 agreement approved by the Secretary whereby the lender
23 will be reimbursed for losses in an amount not to exceed
24 15 per centum of the aggregate of such loans made by

1 it, but not to exceed 90 per centum of the loss on any one
2 loan.

3 SEC. 202. The Secretary may, to the extent he deems
4 consistent with the purposes of the program, fix such pre-
5 mium charges for the insurance and guarantee of loans
6 as are in his judgment adequate to cover expenses and
7 probable losses, and deposit receipts from such charges in
8 the Indian Loan Guaranty and Insurance Fund established
9 pursuant to section 217 (a) on this title.

10 SEC. 203. Loans guaranteed or insured pursuant to
11 this title shall bear interest (exclusive of premium charges
12 for insurance, and service charge, if any) at rates not to
13 exceed such per centum per annum on the principal obli-
14 gation outstanding as the Secretary determines to be rea-
15 sonable taking into consideration the range of interest rates
16 prevailing in the private market for similar loans and the
17 risks assumed by the United States.

18 SEC. 204. The application for a loan to be guaranteed
19 hereunder shall be submitted to the Secretary for prior
20 approval. Upon approval, the Secretary shall issue a cer-
21 tificate as evidence of the guaranty. Such certificate shall
22 be issued only when, in the judgment of the Secretary, there
23 is a reasonable prospect of repayment. No loan to an indi-
24 vidual Indian may be guaranteed or insured which would

1 cause the total unpaid principal indebtedness to exceed
2 \$100,000. No loan to an economic enterprise (as defined in
3 section 3) in excess of \$100,000, or such lower amount as
4 the Secretary may determine to be appropriate, shall be in-
5 sured unless prior approval of the loan is obtained from the
6 Secretary.

7 SEC. 205. Any loan guaranteed hereunder, including the
8 security given therefor, may be sold or assigned by the
9 lender to any financial institution subject to examination and
10 supervision by an agency of the United States or of any
11 State or the District of Columbia.

12 SEC. 206. Loans made by any agency or instrumentality
13 of the Federal Government, or by an organization of Indians
14 from funds borrowed from the United States, and loans the
15 interest on which is not included in gross income for the
16 purposes of chapter 1 of the Internal Revenue Code of 1954,
17 as amended, shall not be eligible for guaranty or insurance
18 hereunder.

19 SEC. 207. Any loans insured hereunder shall be re-
20 stricted to those made by a financial institution subject to
21 examination and supervision by an agency of the United
22 States, a State, or the District of Columbia, and to loans
23 made by Indian organizations from their own funds to other
24 tribes or organizations of Indians.

25 SEC. 208. Loans guaranteed hereunder may be made by

1 any lender satisfactory to the Secretary, except as provided
2 in section 206. The liability under the guaranty shall de-
3 crease or increase pro rata with any decrease or increase in
4 the unpaid portion of the obligation.

5 SEC. 209. Any loan made by any national bank or Fed-
6 eral savings and loan association, or by any bank, trust com-
7 pany, building and loan association, or insurance company
8 authorized to do business in the District of Columbia, at least
9 20 per centum of which is guaranteed hereunder, may be
10 made without regard to the limitations and restrictions of any
11 other Federal statute with respect to (a) ratio of amount of
12 loan to the value of the property; (b) maturity of loans; (c)
13 requirement of mortgage or other security; (d) priority of
14 lien; or (e) percentage of assets which may be invested in
15 real estate loans.

16 SEC. 210. The maturity of any loan guaranteed or in-
17 sured hereunder shall not exceed thirty years.

18 SEC. 211. In the event of a default of a loan guaranteed
19 hereunder, the holder of the guaranty certificate may im-
20 mediately notify the Secretary in writing of such default
21 and the Secretary shall thereupon pay to such holder the
22 pro rata portion of the amount guaranteed and shall be sub-
23 rogated to the rights of the holder of the guaranty and
24 receive an assignment of the obligation and security. The

1 Secretary may cancel the uncollectable portion of any obli-
2 gation to which he has an assignment or a subrogated right
3 under this section. Nothing in this section shall be construed
4 to preclude any forbearance for the benefit of the borrower
5 as may be agreed upon by the parties to the loan and ap-
6 proved by the Secretary. The Secretary may establish the
7 date, not later than the date of judgment and decree of
8 foreclosure or sale, upon which accrual of interest or charges
9 shall cease.

10 SEC. 212. When a lender suffers a loss on a loan insured
11 hereunder, including accrued interest, a claim therefor shall
12 be submitted to the Secretary. If the Secretary finds that
13 the loss has been suffered, he shall reimburse the lender there-
14 for: *Provided*, That the amount payable to the lender for a
15 loss on any one loan shall not exceed 90 per centum of such
16 loss: *Provided further*, That no reimbursement may be made
17 for losses in excess of 15 per centum of the aggregate of
18 insured loans made by the lender: *Provided further*, That
19 before any reimbursement is made, all reasonable collection
20 efforts shall have been exhausted by the lender, and the secu-
21 rity for the loan shall have been liquidated to the extent
22 feasible, and the proceeds applied on the debt. Upon reim-
23 bursement, in whole or in part, to the lender, the note or
24 judgment evidencing the debt shall be assigned to the United
25 States, and the lender shall have no further claim against the

1 borrower or the United States. The Secretary shall then take
2 such further collection action as may be warranted, or may
3 cancel the uncollectable portion of any debt assigned pursuant
4 hereto. The Secretary may establish a date upon which
5 accrual of interest or charges shall cease.

6 SEC. 213. Whenever the Secretary finds that any lender
7 or holder of a guaranty certificate fails to maintain adequate
8 accounting records, or to demonstrate proper ability to service
9 adequately loans guaranteed or insured, or to exercise proper
10 credit judgment, or has willfully or negligently engaged in
11 practices otherwise detrimental to the interests of a borrower
12 or of the United States, he may refuse, either temporarily or
13 permanently, to guarantee or insure any further loans made
14 by such lender or holder, and may bar such lender or holder
15 from acquiring additional loans guaranteed or insured here-
16 under: *Provided*, That the Secretary shall not refuse to pay
17 a valid guaranty or insurance claim on loans previously made
18 in good faith.

19 SEC. 214. Any evidence of guaranty or insurance issued
20 by the Secretary shall be conclusive evidence of the eligi-
21 bility of the loan for guaranty or insurance under the
22 provisions of this Act and the amount of such guaranty or
23 insurance: *Provided*, That nothing in this section shall pre-
24 clude the Secretary from establishing, as against the original
25 lender, defenses based on fraud or material misrepresenta-

1 tion or bar him from establishing, by regulations in force
2 at the date of such issuance or disbursement, whichever is
3 the earlier, partial defenses to the amount payable on the
4 guaranty or insurance.

5 SEC. 215. Title to any land purchased by a tribe or
6 by an individual Indian with loans guaranteed or insured
7 pursuant to this title may be taken in trust, unless the
8 land is located outside the boundaries of a reservation or
9 a tribal consolidation area approved by the Secretary. Title
10 to any land purchased by a tribe or an individual Indian
11 which is outside the boundaries of the reservation or ap-
12 proved consolidation area may be taken in trust if the
13 purchaser was the owner of trust or restricted interests
14 in the land before the purchase, otherwise title shall be
15 taken in the name of the purchaser without any re-
16 striction on alienation, control, or use. Title to any per-
17 sonal property purchased with loans guaranteed or in-
18 sured hereunder shall be taken in the name of the purchaser.

19 SEC. 216. The financial transactions of the Secretary
20 incident to or arising out of the guarantee or insurance
21 of loans, and the acquisition, management, and disposition
22 of property, real, personal, or mixed, incident to such
23 activities, shall be final and conclusive upon all officers of
24 the Government. With respect to matters arising out of the
25 guaranty or insurance program authorized by this title,

1 and notwithstanding the provisions of any other laws, the
2 Secretary may—
3 (a) sue and be sued in his official capacity in any
4 court of competent jurisdiction;
5 (b) subject to the specific limitations in this title,
6 consent to the modification, with respect to the rate of
7 interest, time of payment on principal or interest or any
8 portion thereof, security, or any other provisions of any
9 note, contract, mortgage, or other instrument securing a
10 loan which has been guaranteed or insured hereunder;
11 (c) pay, or compromise, any claim on, or arising
12 because of any loan guaranty or insurance;
13 (d) pay, compromise, waive, or release any right,
14 title, claim, lien, or demand, however acquired, includ-
15 ing, but not limited to, any equity or right of redemption;
16 (e) purchase at any sale, public or private, upon
17 such terms and for such prices as he determines to be
18 reasonable, and take title to property, real, personal, or
19 mixed; and similarly sell, at public or private sale,
20 exchange, assign, convey, or otherwise dispose of such
21 property; and
22 (f) complete, administer, operate, obtain, and pay
23 for insurance on, and maintain, renovate, repair, mod-
24 ernize, lease, or otherwise deal with any property ac-

1 quired or held pursuant to the guaranty or insurance
2 program authorized by this title.

3 SEC. 217. (a) There is hereby created an Indian Loan
4 Guaranty and Insurance Fund (hereinafter referred to as
5 the "fund") which shall be available to the Secretary as a
6 revolving fund without fiscal year limitation for carrying out
7 the provisions of this title. There are authorized to be appro-
8 priated to the Secretary to carry out the purposes of the fund
9 and the purposes of section 301 of this Act not to exceed
10 \$10,000,000 in each of the fiscal years 1974, 1975, and
11 1976.

12 (b) The Secretary may use the fund for the purpose of
13 fulfilling the obligations with respect to loans guaranteed or
14 insured under this title, but the aggregate of such loans which
15 are insured or guaranteed by the Secretary shall be limited
16 to \$200,000,000 as authorized in appropriation Acts.

17 (c) All funds, claims, notes, mortgages, contracts, and
18 property acquired by the Secretary under this section, and
19 all collections and proceeds therefrom, shall constitute assets
20 of the fund; and all liabilities and obligations of such assets
21 shall be liabilities and obligations of the fund. The Secretary
22 is authorized to make agreements with respect to servicing
23 loans held, guaranteed, or insured by him under this title
24 and purchasing such guaranteed or insured loans on such
25 terms and conditions as he may prescribe.

1 (d) The Secretary may also utilize the fund to pay
2 taxes, insurance, prior liens, expenses necessary to make fis-
3 cal adjustments in connection with the application and trans-
4 mittal of collections, and other expenses and advances to
5 protect the Secretary for loans which are guaranteed or
6 insured under this title or held by the Secretary, to acquire
7 such security property at foreclosure sale or otherwise, and
8 to pay administrative expenses.

9 SEC. 218. The Secretary shall promulgate rules and
10 regulations to carry out the provisions of this title.

11 TITLE III—INTEREST SUBSIDIES AND
12 ADMINISTRATIVE EXPENSES

13 SEC. 301. The Secretary is authorized under such rules
14 and regulations as he may prescribe to pay as an interest
15 subsidy on loans which are guaranteed or insured under the
16 provisions of title II of this Act amounts which are necessary
17 to reduce the rate payable by the borrower to the rate deter-
18 mined under section 104 of this Act.

19 SEC. 302. There are authorized to be appropriated to
20 the Secretary (a) to carry out the provisions of sections 217
21 and 301 of this Act, such sums to remain available until
22 expended, and (b) for administrative expenses under this Act
23 not to exceed \$10,000,000 in each of the fiscal years 1974,
24 1975, and 1976.

1 TITLE IV—INDIAN BUSINESS GRANTS

2 SEC. 401. There is established within the Department
3 of the Interior the Indian Business Development Program
4 whose purpose is to stimulate and increase Indian enterpre-
5 neurship and employment by providing equity capital
6 through nonreimbursable grants made by the Secretary of
7 the Interior to Indians and Indian tribes to establish and
8 expand profitmaking Indian-owned economic enterprises on
9 or near reservations.

10 SEC. 402. No grant in excess of \$50,000, or such lower
11 amount as the Secretary may determine to be appropriate,
12 may be made to an Indian or Indian tribe, band, group,
13 pueblo, or community recognized by the Federal Govern-
14 ment as eligible for services from the Bureau of Indian
15 Affairs. A grant may be made only to an applicant who,
16 in the opinion of the Secretary, is unable to obtain adequate
17 financing for its economic enterprise from other sources, in-
18 cluding its own financial resources, except that no grant may
19 be made to an applicant who is unable to obtain at least 60
20 per centum of the necessary funds for the economic enterprise
21 from other sources.

22 SEC. 403. There are authorized to be appropriated not
23 to exceed the sum of \$10,000,000 for each of the fiscal years
24 1974, 1975, and 1976 for the purposes of this title.

1 SEC. 404. The Secretary of the Interior is authorized to
 2 to prescribe such rules and regulations as may be necessary to
 3 carry out the purposes of this Act.

Passed the Senate July 28, 1973.

Attest: FRANCIS R. VALEO,
Secretary.

93D CONGRESS
1ST SESSION

H. R. 6371

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 1973

Mr. SAYLOR (for himself, Mr. CAMP, and Mr. ZWACH) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide for financing and economic development of Indians and Indian organizations, and for other purposes.

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

That this Act may be cited as the "Indian Financing Act of 1973".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where

(e) "Other organizations" means any non-Indian indi-

1 they will enjoy a standard of living from their own produc-
2 tive efforts comparable to that enjoyed by non-Indians in
3 neighboring communities.

4

DEFINITIONS

5 SEC. 3. For the purpose of this Act, the term—

6 (a) "Secretary" means the Secretary of the Interior.

7 (b) "Indian" means any person who is a member of
8 any Indian tribe, band, group, pueblo, or community which
9 is recognized by the Federal Government as eligible for serv-
10 ices from the Bureau of Indian Affairs and any "Native" as
11 defined in the Alaska Native Claims Settlement Act (85
12 Stat. 688).

13 (c) "Tribe" means any Indian tribe, band, group,
14 pueblo, or community, including Native villages and Native
15 groups (including corporations organized by Kenai, Juneau,
16 Sitka, and Kodiak) as defined in the Alaska Native Claims
17 Settlement Act, which is recognized by the Federal Govern-
18 ment as eligible for services from the Bureau of Indian Affairs.

19 (d) "Reservation" includes Indian reservations, public
20 domain Indian allotments, former Indian reservations in
21 Oklahoma, and land held by incorporated Native groups,
22 regional corporations, and village corporations under the pro-
23 visions of the Alaska Native Claims Settlement Act.

24 (e) "Other organizations" means any non-Indian indi-
25 vidual, firm, corporation, partnership, or association.

1 (f) "Economic enterprise" means a commercial, indus-
2 trial, or business activity, established or organized for the
3 purpose of profit, which is Indian-owned, as defined by the
4 Secretary.

5 SEC. 101. All funds that are now or hereafter a part of
6 the revolving fund authorized by the Act of June 18, 1934
7 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968),
8 and the Act of April 19, 1950 (64 Stat. 44), as amended
9 and supplemented, including sums received in settlement of
10 debts of livestock pursuant to the Act of May 24, 1950 (64
11 Stat. 190), and sums collected in repayment of loans here-
12 tofore or hereafter made, and as interest or other charges on
13 loans, shall hereafter be administered as a single fund for
14 direct loans in conjunction with moneys for loan guarantees
15 under the provisions of this Act and shall be available to
16 make loans to Indians having a form of organization that
17 is satisfactory to the Secretary and for loans to individual
18 Indians who are not members of or eligible for membership
19 in an organization that is making loans to its members and
20 for administrative expenses incurred in connection therewith:
21 *Provided, however,* That moneys paid into the fund pursuant
22 to this section and funds appropriated pursuant to section 123
23 of this Act for the purpose of making direct loans shall not
24 be used for the discharge of the liability of the Secretary
25 with respect to any guaranteed loans.

1 SEC. 102. In order to provide credit that is not available
2 from private credit markets, the Secretary is authorized to
3 make or guarantee loans for any purpose which will promote
4 the economic development of (a) the individual Indian bor-
5 rower, including loans for educational purposes, and (b) the
6 Indian organization and its members, including loans by
7 such organizations to other organizations and investments in
8 other organizations regardless of whether they are organiza-
9 tions of Indians.

10 SEC. 103. Loans may be made or guaranteed only when,
11 in the judgment of the Secretary, there is a reasonable pros-
12 pect of repayment, and only to applicants which the Secre-
13 tary finds are unable to obtain financing from other sources
14 on reasonable terms and conditions. Direct loans may be
15 made only to applicants which the Secretary finds are unable
16 to obtain private guaranteed loans under the provisions of
17 this Act on reasonable terms and conditions. Before a loan
18 may be made or guaranteed under this Act, Indian tribes
19 shall be required to use their own funds, those funds being
20 funds available to them from uncommitted or unprogramed
21 funds on deposit in the United States Treasury or elsewhere,
22 or funds accruing from income.

23 SEC. 104. Loans made or guaranteed hereunder shall
24 (a) provide for complete amortization within a period not to
25 exceed thirty years or three-fourths of the useful life of the

1 capital asset financed, whichever is less, as determined by
2 the Secretary, and (b) bear interest (exclusive of guarantee
3 fees and service charges) at rates not to exceed such per cen-
4 tum per annum on the principal obligation outstanding as the
5 Secretary determines to be reasonable, taking into account
6 the range of interest rates prevailing in the private market
7 for similar loans and the risks assumed by the United States:
8 *Provided*, That educational loans may provide for interest to
9 be deferred while the borrower is in school or in the military
10 service. Loans that are outstanding on the date this Act is
11 approved shall be conformed to the provisions of this section
12 as soon as the loan agreements permit.

13 SEC. 105. From time to time, and at least at the close
14 of each fiscal year, the Secretary shall pay from the fund
15 into the Treasury as miscellaneous receipts, interest on the
16 value as determined by the Secretary, with the approval
17 of the Comptroller General, of the Government's equity
18 transferred to the fund pursuant to section 101 of this Act
19 plus the cumulative amount of appropriations made available
20 after enactment of this provision as capital and for adminis-
21 tration of the programs financed from the fund, less the
22 average undisbursed cash balance in the fund during the
23 year. The rate of such interest shall be determined by the
24 Secretary of the Treasury, taking into consideration the
25 current average yield on outstanding marketable obligations

1 of the United States with remaining periods to maturity
2 comparable to the average maturities of loans made from the
3 fund, adjusted to the nearest one-eighth of 1 per centum.
4 Interest payments may be deferred with the approval of
5 the Secretary of the Treasury, but any interest payments
6 so deferred shall themselves bear interest.

7 SEC. 106. The Secretary may cancel, adjust, compro-
8 mise, or reduce the amount of any loan or any portion
9 thereof heretofore or hereafter made from the revolving
10 loan fund established by this title and its predecessor con-
11 stituent funds which he determines to be uncollectable in
12 whole or in part, which is collectable only at an unreason-
13 able cost, or when such action would, in his judgment, be in
14 the best interests of the United States. He may also adjust,
15 compromise, subordinate, and modify the terms of any mort-
16 gage, lease, assignment, contract, agreement, and other doc-
17 ument taken to secure such loans. The Secretary shall make
18 an annual report to the Congress of all actions taken pursu-
19 ant to this section.

20 SEC. 107. The Secretary may sell, with the approval of
21 the Secretary of the Treasury, to any person or entity any
22 note resulting from a loan heretofore or hereafter made from
23 or acquired by the fund established by this title and its pred-
24 ecessor constituent funds and may guarantee any loans thus
25 sold. The receipts from any such sale shall be deposited in the

1 revolving loan fund and be available for other loans from
2 such fund: *Provided, however,* That, in any instance where
3 the interest rate for a note sold pursuant to this section is less
4 than that prevailing in the market, the Secretary may pay a
5 subsidy that he determines to be adequate to facilitate such
6 sale to the purchaser of said note without any discount.

7 SEC. 108. Loan guarantees made pursuant to the provi-
8 sions of this Act shall not exceed (a) 90 per centum of the
9 unpaid principal and interest due on any one loan and (b)
10 15 per centum of the aggregate average unpaid balance of
11 such loans held by any single institutional lender during any
12 given calendar year.

13 SEC. 109. The Secretary shall charge and collect fees in
14 amounts sufficient to cover administrative expenses and prob-
15 able losses on loans made or guaranteed pursuant to the
16 provisions of this Act and shall deposit receipts from such
17 charges in the fund. The Secretary is authorized, in his dis-
18 cretion, to pay a subsidy to cover all or a portion of the fees
19 required by this section.

20 SEC. 110. The application for a loan to be guaranteed
21 hereunder shall be submitted to the Secretary for prior ap-
22 proval. Upon approval, the Secretary will issue a certificate
23 as evidence of the guarantee. Such certificate shall be issued
24 only when, in the judgment of the Secretary, there is a rea-
25 sonable prospect of repayment. No loan to an individual

1 Indian may be guaranteed which would cause the total un-
2 paid principal indebtedness to exceed \$100,000. No loan in
3 excess of \$100,000 or such lower amount as the Secretary
4 may determine to be appropriate, shall be guaranteed unless
5 prior approval of the loan is obtained from the Secretary.

6 SEC. 111. Loans made by any agency or instrumentality
7 of the Federal Government, or by an organization of Indians
8 from funds borrowed from the United States, and loans
9 the interest on which is not included in gross income for
10 the purposes of chapter 1 of the Internal Revenue Code
11 of 1954, shall not be eligible for guarantee or insurance
12 hereunder.

13 SEC. 112. Loans guaranteed hereunder may be pur-
14 chased, or held by any lender satisfactory to the Secretary.
15 The liability under the guarantee shall decrease or increase
16 pro rata with any decrease or increase in the unpaid portion
17 of the obligation.

18 SEC. 113. Any loan made by any national bank or
19 Federal savings and loan association, or by any bank, trust
20 company, building and loan association, or insurance com-
21 pany authorized to do business in the District of Columbia,
22 at least 20 per centum of which is guaranteed hereunder,
23 may be made without regard to the limitations and restric-
24 tions of any other Federal statute with respect to (a)
25 ratio of amount of loan to the value of the property;

1 (b) maturity of loans; (c) requirement of mortgage or
2 other security; (d) priority of lien; or (e) percentage
3 of assets which may be invested in real estate loans.

4 SEC. 114. Title to any land purchased by a tribe or
5 by an individual Indian with loans made or guaranteed
6 under the provisions of this Act may be taken in trust unless
7 the land is located outside the boundaries of a reservation
8 or a tribal consolidation area approved by the Secretary.
9 Title to any land purchased by a tribe or an individual
10 Indian that is outside the boundaries of the reservation or
11 approved consolidation area may be taken in trust if the
12 purchaser was the owner of trust or restricted interests in
13 the land before the purchase; otherwise title shall be taken
14 in the name of the purchaser without any restriction on
15 alienation, control, or use. Title to any personal property
16 purchased with a loan made or guaranteed under the pro-
17 visions of this Act shall be taken in the name of the purchaser.

18 SEC. 115. Title to property purchased with a loan made
19 or guaranteed under the provisions of this Act shall be
20 pledged or mortgaged to the lender as security for the
21 unpaid indebtedness to the lender, in such manner and upon
22 such terms as may be prescribed by the Secretary: *Provided*,
23 That this requirement may be waived or modified if the
24 Secretary determines that the repayment of the loan is other-
25 wise reasonably assured. Land purchased with a loan, title

1 to which is taken in trust and pledged or mortgaged as secu-
2 rity, shall be subject to foreclosure and sale, free of such trust
3 or restrictions, in the courts of, and in accordance with the
4 laws of, the State in which the land is located.

5 SEC. 116. Any organization receiving a loan made or
6 guaranteed under the provisions of this Act shall be required
7 to assign to the holder as security for the loan all securities
8 acquired in connection with the loans made to its members
9 from such funds, unless the Secretary determines that the
10 repayment of the loan to the United States is otherwise rea-
11 sonably assured.

12 SEC. 117. A loan made from or acquired by the revolv-
13 ing loan fund that becomes delinquent and the interest
14 thereon, may be collected by the Secretary from per capita
15 payments or other distributions of tribal assets due the delin-
16 quent borrower, without prejudice to the right to foreclose
17 on the securities for the loan. If, during the period of repay-
18 ment of any loan made under this section, a tribe is awarded
19 a money judgment against the United States, and if the
20 payment of any installment on a loan is in default, the install-
21 ment(s) in default or the balance of the loan, in the discre-
22 tion of the Secretary, shall be collected from the appropria-
23 tion to satisfy the judgment insofar as the amount of the
24 appropriation will cover the same.

1 SEC. 118. In the event of a default of a loan guaranteed
2 hereunder, the holder of the guarantee may immediately
3 notify the Secretary in writing of a claim against the guaran-
4 tee and the Secretary shall thereupon examine and settle the
5 claim in accordance with the terms of the guarantee agree-
6 ment, and if he settles the claim in favor of the holder, the
7 Secretary shall be subrogated to the rights of the holder
8 and shall receive an assignment of the obligation and security.
9 The Secretary may cancel the uncollectible portion of any
10 obligation to which he has an assignment or a subrogated
11 right under this section. Nothing in this section shall be
12 construed to preclude any forbearance for the benefit of the
13 borrower as may be agreed upon by the parties to the loan
14 and approved by the Secretary: *Provided, however, That*
15 *before any reimbursement is made, the lender's responsibili-*
16 *ties for collection, foreclosure, and liquidation of collateral*
17 *shall have been fulfilled to the extent required by the guar-*
18 *antee agreement, except as waived by the Secretary, and*
19 *all proceeds therefrom shall have been applied to reduction*
20 *of the claim. Upon reimbursement, in whole or in part, to*
21 *the lender, title to any unliquidated collateral, the note, or*
22 *judgment evidencing the debt shall be assigned to the United*
23 *States, and the lender shall have no further claim against the*
24 *borrower or the United States. The Secretary shall then take*

1 such further collection action as may be warranted, or may
2 cancel the uncollectible portion of any debt assigned pursuant
3 hereto. The Secretary may establish a date upon which ac-
4 crual of interest or charges shall cease. The Secretary may
5 cancel the uncollectible portion of any obligation to which he
6 has an assignment or a subrogated right under this section.
7 Nothing in this section shall be construed to preclude any
8 forbearance for the benefit of the borrower as may be agreed
9 upon by the parties to the loan and approved by the Secre-
10 tary.

11 SEC. 119. Whenever the Secretary finds that any lender
12 or holder of a guarantee certificate fails to maintain adequate
13 accounting records, or to demonstrate proper ability to serv-
14 ice adequately loans guaranteed, or to exercise proper credit
15 judgment, or has willfully or negligently engaged in prac-
16 tices otherwise detrimental to the interests of a borrower or
17 of the United States, he may refuse, either temporarily or
18 permanently, to guarantee any further loans made by such
19 lender or holder, and may bar such lender or holder from
20 acquiring additional loans guaranteed hereunder: *Provided,*
21 That the Secretary shall not refuse to pay a valid guaranty
22 claim on loans previously made in good faith.

23 SEC. 120. Any evidence of guarantee issued by the Sec-
24 retary shall be conclusive evidence of the eligibility of the
25 loan for guaranty under the provisions of this Act and the

1 amount of such guaranty: *Provided*, however, That nothing
2 in this section shall preclude the Secretary from establishing,
3 as against the original lender, defenses based on fraud or
4 material misrepresentation or bar him from establishing, by
5 regulations in force at the date of such issuance or disburse-
6 ment, whichever is the earlier, partial defenses to the amount
7 payable on the guarantee.

8 SEC. 121. The financial transactions of the Secretary
9 incident to or arising out of the guarantee of loans, and the
10 acquisition, management, and disposition of property, real,
11 personal, or mixed, incident to such activities, shall be final
12 and conclusive upon all officers of the Government. With
13 respect to matters arising out of the guarantee program
14 authorized by this title, and notwithstanding the provisions
15 of any other laws, the Secretary may—

16 (a) sue and be sued in his official capacity in any
17 court of competent jurisdiction;

18 (b) subject to the specific limitations in this title,
19 consent to the modification, with respect to the rate of
20 interest, time of payment on principal or interest or any
21 portion thereof, security, or any other provisions of any
22 note, contract, mortgage, or other instrument securing
23 a loan which has been guaranteed hereunder;

24 (c) pay, or compromise, any claim on, or arising
25 because of any loan guaranty;

1 (d) pay, compromise, waive, or release any right,
2 title, claim, lien, or demand, however acquired, including
3 any equity or right of redemption;

4 (e) purchase at any sale, public or private, upon
5 such terms and for such prices as he determines to be
6 reasonable, and take title to property, real, personal, or
7 mixed; and similarly sell, at public or private sale,
8 exchange, assign, convey, or otherwise dispose of such
9 property; and

10 (f) complete, administer, operate, obtain, and pay
11 for insurance on, and maintain, renovate, repair, mod-
12 ernize, lease or otherwise deal with any property ac-
13 quired or held pursuant to the guaranty program author-
14 ized by this title.

15 SEC. 122. (a) The Secretary may use the fund for the
16 purpose of fulfilling the obligations with respect to loans
17 guaranteed under this title, but the aggregate of such loans
18 which are insured or guaranteed by the Secretary shall be
19 limited to \$200,000,000.

20 (b) All funds, claims, notes, mortgages, contracts, and
21 property acquired by the Secretary under this section, and
22 all collections and proceeds therefrom, shall constitute assets
23 of the fund; and all liabilities and obligations of such assets
24 shall be liabilities and obligations of the fund. Guaranteed
25 loans acquired by the fund may be collected in accordance

1 with their terms or may be sold by the Secretary with or
2 without guarantee thereof. The Secretary is authorized to
3 make agreements with respect to servicing loans held or
4 guaranteed by him under this title and purchasing such
5 guaranteed loans on such terms and conditions as he may
6 prescribe.

7 (c) If at any time the moneys in the fund are not
8 sufficient to enable the Secretary to discharge his responsi-
9 bility under any guarantee agreement, the Secretary is au-
10 thorized to issue notes to the Secretary of the Treasury in
11 such amounts as may be necessary to discharge such re-
12 sponsibilities. Such notes shall be in such form and denom-
13 inations and have such maturities and be subject to such terms
14 and conditions as may be prescribed by the Secretary with
15 the approval of the Secretary of the Treasury. The notes is-
16 sued by the Secretary to the Secretary of the Treasury shall
17 constitute obligations of the fund. The Secretary of the Treas-
18 ury is authorized and directed to purchase any obligations
19 issued pursuant to this subsection, as now or hereafter in
20 force, and for such purpose as the Secretary of the Treasury
21 is authorized to use as a public debt transaction the pro-
22 ceeds of the sale of any securities hereafter issued under the
23 Second Liberty Bond Act, as now or hereafter in force, and
24 the purposes for which securities may be issued under the
25 Second Liberty Bond Act, as now or hereafter in force, are

1 extended to include such purchases. Each purchase of
2 obligations by the Secretary of the Treasury under this sub-
3 section shall be upon such terms and conditions as to yield a
4 return at a rate determined by the Secretary of the Treas-
5 ury, taking into consideration the current average yield on
6 outstanding marketable obligations of the United States
7 of comparable maturity. The Secretary of the Treasury may,
8 at any time, sell, upon such terms and conditions and at
9 such price or prices as he shall determine, any of the ob-
10 ligations acquired by him under this subsection. All redemp-
11 tions, purchases, and sales by the Secretary of the Treasury
12 of such obligations under this subsection shall be treated
13 as public debt transactions of the United States.

14 (d) The Secretary may also utilize the fund to pay
15 taxes, insurance, prior liens, expenses necessary to make fis-
16 cal adjustments in connection with the application and
17 transmittal of collections, and other expenses and advances
18 to protect the Secretary for loans which are guaranteed
19 under this title or held by the Secretary, to acquire such
20 security property at foreclosure sale or otherwise and to pay
21 administrative expenses.

22 SEC. 123. There is authorized to be appropriated, to
23 provide capital and to restore any impairment of capital,
24 for the revolving loan fund \$50,000,000 exclusive of prior
25 appropriations.

1 SEC. 124. The Secretary shall promulgate rules and
2 regulations to carry out the provisions of this title.

3 TITLE II—DEBT SERVICE PAYMENTS

4 SEC. 201. The Secretary is authorized to make, and to
5 contract to make, periodic debt service payments on loans
6 made or guaranteed under this Act in amounts sufficient to
7 reduce the periodic payments of interest and other charges
8 payable under section 104 of this Act by up to (1) 30
9 per centum or (2) 3 per centum of the outstanding principal
10 amount of the loan, whichever is less.

11 SEC. 202. No contract to make debt service payments
12 shall be entered into unless the Secretary determines that
13 the credit terms otherwise available would not permit the
14 accomplishment of the objectives of the program.

15 SEC. 203. There are authorized to be appropriated to
16 the Secretary, without fiscal year limitation, such sums as
17 may be necessary for debt service payments under this
18 section.

19 TITLE III—INDIAN BUSINESS GRANTS

20 SEC. 301. In order to stimulate and increase Indian
21 entrepreneurship and employment, and to establish or expand
22 profitmaking Indian-owned economic enterprises on or near
23 Indian reservations, by providing equity capital through
24 nonreimbursable grants made by the Secretary to Indians
25 and Indian tribes, there is hereby established in the Depart-

1 ment of the Interior the Indian Business Development
2 Program.

3 SEC. 302. The Secretary of the Interior is authorized
4 to make grants from such fund under the following terms
5 and conditions:

6 (a) No grant in excess of \$50,000 or such lower
7 amount as the Secretary may determine to be appropriate,
8 may be made to an Indian or Indian tribe.

9 (b) A grant may be made only to an applicant who
10 has proven to the satisfaction of the Secretary that he is
11 unable to obtain adequate financing for his economic enter-
12 prise from other sources, including the credit assistance
13 provided in this Act and his own financial resources, except
14 that no grant may be made to an applicant who is unable
15 to obtain a least 60 per centum of the necessary funds for
16 the economic enterprise from other sources.

17 (c) A grant may be made only for the portion of the
18 total cost of the economic enterprise that is, in the judg-
19 ment of the Secretary, beyond the ability of the applicant
20 to repay.

21 SEC. 303. There is authorized to be appropriated such
22 sums as may be necessary to the purposes of this title.

23 SEC. 304. The Secretary is authorized to prescribe such
24 rules and regulations as may be necessary to carry out the
25 purposes of this title.

1 (c) "Tribe" means any tribe, band, community,
2 pueblo, or other group of Indians recognized by the
3 United States; and

4 (d) "Person" means any non-Indian individual,
5 firm, corporation, partnership, or association.

6 INDIAN REVOLVING LOAN FUND

7 SEC. 3. (a) In order to provide credit that is not avail-
8 able from private money sources, either with or without a
9 guarantee or insurance authorized by section 4 of this Act,
10 there is hereby established an Indian revolving loan fund
11 hereinafter referred to as the "revolving fund". All funds
12 that are now or hereafter a part of the revolving loan fund
13 authorized by the Act of June 18, 1934 (48 Stat. 986), the
14 Act of June 26, 1936 (49 Stat. 1968), and the Act of April
15 19, 1950 (64 Stat. 44), as amended and supplemented, in-
16 cluding sums received in settlement of debts of livestock
17 pursuant to the Act of ay 24, 1950 (64 Stat. 190), and
18 all sums collected in repayment of loans heretofore or here-
19 after made and as interest or other charges on loans, shall,
20 together with any additional appropriation authorized by this
21 Act, hereafter be deposited into the revolving fund and shall
22 be available for loans to tribes, other organizations of Indians
23 having a form of organization that is satisfactory to the Sec-
24 retary (hereinafter referred to as "other organizations of
25 Indians").

1 (b) Such loans to a tribe, other organizations of In-
2 dians, or an Indian shall be made only when, in the judg-
3 ment of the Secretary, there is a reasonable prospect of
4 repayment, and only to applicants who in the opinion of the
5 Secretary are unable to obtain reasonable financial assistance
6 from other sources on reasonable terms and conditions.
7 Tribes or other organizations of Indians that have adequate
8 available funds on deposit in the United States Treasury or
9 elsewhere, or funds accruing from income, shall be required
10 to use their own funds before a loan may be made from the
11 revolving fund.

12 (c) Such loans shall be for a term that does not exceed
13 thirty years and shall bear interest at a rate not less than
14 a rate determined by the Secretary of the Treasury, taking
15 into consideration the current average market yield on out-
16 standing marketable obligations of the United States with
17 remaining periods to maturity comparable to the average
18 maturities of such loans, adjusted to the nearest one-eighth
19 of 1 per centum, plus such additional charge, if any, toward
20 covering other costs of the program as the Secretary may
21 determine to be consistent with its purposes. Whenever an
22 otherwise eligible applicant is unable to obtain a guaranteed
23 loan with the interest subsidy authorized by section 4 of this
24 Act, the Secretary may make a loan at an interest rate equal
25 to the net subsidized interest rate plus the guarantee premium

1 which the applicant would have been required to pay on
2 a guaranteed loan. Educational loans to Indians may provide
3 for no interest while the Indian is in school or in military
4 service.

5 (d) The Secretary shall pay from the revolving fund
6 into miscellaneous receipts of the Treasury, at the close of
7 each fiscal year, interest in the cumulative amount of ap-
8 propriations, and of sums received in settlement of debts
9 of livestock pursuant to the Act of May 24, 1950 (64 Stat.
10 190), available as capital to the revolving fund, less the
11 average undisbursed cash balance in the fund during the
12 year, and the amounts of any loans that are canceled or
13 adjusted. The rate of such interest shall be determined by
14 the Secretary of the Treasury, taking into consideration the
15 average market yield during the month preceding each
16 fiscal year on outstanding Treasury obligations of maturity
17 comparable to the average maturity of loans made from
18 the fund. Interest payments may be deferred with the
19 approval of the Secretary of the Treasury, but any interest
20 payments so deferred shall themselves bear interest.

21 (e) The Secretary may cancel, adjust, compromise, or
22 reduce the amount of any loan or any portion thereof here-
23 tofore or hereafter made from the revolving fund established
24 by this section and its predecessor constituent funds which
25 he determines to be uncollectable in whole or in part or

1 collectable only at an unreasonable cost, or when such
2 action would, in his judgment, be in the best interests of the
3 United States. He may also adjust, compromise, subordinate,
4 and modify the terms of any mortgage, lease, assignment,
5 contract, agreement, and other document taken to secure
6 such loans.

7 (f) Title to any land purchased by a tribe or by an
8 Indian with loans made from the revolving fund may be
9 taken in the name of the United States in trust for the tribe
10 or Indian, unless the land is located outside the boundaries
11 of a reservation or a tribal consolidation area approved by
12 the Secretary. Title to any land purchased by a tribe or
13 Indian with such loans that is outside the boundaries of a
14 reservation or approved consolidation area may be taken
15 in trust if such tribe or Indian was the owner of trust or
16 restricted interests in the land before the purchase, otherwise
17 title shall be taken in the name of the purchaser without re-
18 striction on alienation, control, or use. Title to any personal
19 property purchased with any loan made under this section
20 shall be acquired in the name of such tribe or Indian.

21 (g) Title to property purchased with a loan made under
22 this section shall be pledged or mortgaged to the lender as
23 security for the unpaid indebtedness to the lender, in such
24 manner and upon such terms as may be prescribed by the
25 Secretary: *Provided*, That this requirement may be waived

1 or modified if the Secretary determines that the repayment
2 of the loan is otherwise reasonably assured.

3 (h) Any tribe or other organization of Indians receiv-
4 ing loans made under this section shall assign to the United
5 States as security for the loan all securities acquired in con-
6 nection with the loan made to its members from such funds,
7 unless the Secretary determines that the repayment of the
8 loan to the United States is otherwise reasonably assured.

9 (i) A loan made under this section that becomes delin-
10 quent and the interest thereon may be collected by the
11 Secretary from per capita payments or other distributions
12 of tribal assets due the delinquent borrower, without preju-
13 dice to the right to foreclose on the securities for the loan.
14 If, during the period of repayment of any loan made under
15 this section, a tribe is awarded a money judgment against
16 the United States, and if the payment of any installment
17 on a loan is in default, the installment (s) in default or the
18 balance of the loan, in the discretion of the Secretary, shall
19 be deducted from the appropriation made to satisfy such
20 judgment insofar as the amount of the appropriation will
21 cover such default, and shall be transferred to the revolving
22 fund established by this section.

23 (j) Expenses of administering loans may be paid out of
24 the revolving fund to the extent deemed appropriate by the
25 Secretary.

1 INDIAN LOAN GUARANTY AND INSURANCE

2 SEC. 4. (a) There is hereby established an Indian loan
3 guaranty and insurance fund (hereinafter referred to as the
4 "fund") which shall be available to the Secretary, without
5 fiscal year limitation, for insuring or guaranteeing loans in
6 accordance with this section. The total loans insured or guar-
7 anteed under the fund shall not exceed \$100,000,000 at any
8 one time. Obligations shall be recorded against the fund in an
9 amount not less than 15 per centum of the contractual lia-
10 bility related to any insurance or guaranty issued pursuant
11 to this section, and the funds so obligated, together with fees
12 and premiums, shall constitute a single reserve for the pay-
13 ment of claims under such contracts. Except as provided in
14 subsection (p) of this section, all amounts received by the
15 Secretary incident to this section shall be deposited in the
16 fund. In the event the amount in the fund is insufficient to
17 meet payments required at any one time by this section, the
18 Secretary may issue notes to the Secretary of the Treasury
19 when necessary to obtain funds to make timely payments
20 under any guaranty or insurance of loan made pursuant to
21 this section. The form, denomination, maturities, and other
22 terms and conditions of such notes shall be prescribed by the
23 Secretary with the approval of the Secretary of the Treasury.
24 Each note shall bear interest at a rate determined by the
25 Secretary of the Treasury, taking into consideration the cur-

1 rent average yield on outstanding marketable obligations of
2 the United States of comparable maturities adjusted to the
3 nearest one-eighth of 1 per centum. The Secretary of the
4 Treasury is authorized and directed to purchase such notes of
5 the Secretary issued hereunder and for that purpose the Sec-
6 retary of the Treasury is authorized to use as a public debt
7 transaction the proceeds from the sale of any securities issued
8 under the Second Liberty Bond Act, as amended, and the
9 purposes for which such securities may be issued under that
10 Act are hereby extended to include the purchase of notes
11 issued by the Secretary. All redemptions, purchases, and
12 sales by the Secretary of the Treasury of such notes shall be
13 treated as public debt transactions of the United States.

14 (b) In order to provide access to private money sources
15 that otherwise would not be available, the Secretary is
16 authorized—

17 (1) to guarantee not to exceed 90 per centum of
18 the amount of any loan made by such sources (A) to
19 a tribe or other organization of Indians, and (B) to
20 any Indian; and

21 (2) in lieu of such guaranty, to insure loans un-
22 der an agreement approved by the Secretary whereby
23 the lender will be reimbursed for losses in an amount
24 not to exceed 15 per centum of such loans made by it,
25 but not to exceed 90 per centum of the loss on any one
26 loan.

1 (c) The Secretary may fix such premium charges for
2 insuring and guaranteeing loans under this section as are,
3 in his judgment, adequate to cover expenses and probable
4 losses, and he shall deposit receipts from such charges into
5 the fund. Loans guaranteed or insured under this section
6 shall bear interest (exclusive of premium charges for in-
7 surance, and service charges, if any) at rates not to exceed
8 such per centum per annum on the principal obligation out-
9 standing as the Secretary determines to be reasonable,
10 taking into account the range of interest rates prevailing
11 in the private market for similar loans and the risks assumed
12 by the lender. Whenever the Secretary determines that such
13 rate of interest would require a level of interest payments
14 by the borrower that would impair the prospects for suc-
15 cessful economic development or other primary purposes of
16 the loan, he may agree with the borrower to pay from the
17 fund, not in excess of 25 per centum of the interest pay-
18 ments on such loan.

19 (d) No loan may be guaranteed or insured hereunder
20 until the applicant shows to the satisfaction of the Secretary
21 on loans requiring his approval, or to the satisfaction of the
22 lender on insured loans that do not require the Secretary's
23 approval, that financing is otherwise unavailable on reason-
24 able terms and conditions, and unless there is a reasonable
25 assurance of repayment. No loan to an Indian may be guaran-

1 teed or insured which would cause the total unpaid principal
2 indebtedness to exceed \$60,000.

3 (e) Any loan guaranteed hereunder, including the secu-
4 rity given therefor, may be sold or assigned by the lender to
5 any financial institution subject to examination and super-
6 vision by an agency of the United States or of any State or
7 the District of Columbia.

8 (f) Loans made by any agency or instrumentality of the
9 Federal Government, or by a tribe or other organization of
10 Indians from funds borrowed from the United States, and
11 loans the interest on which is excluded from gross income
12 by section 103 (a) (3) of the Internal Revenue Code of 1954,
13 shall not be eligible for guaranty or insurance hereunder.

14 (g) Any loans insured hereunder shall be restricted to
15 those made by a financial institution subject to examination
16 and supervision by an agency of the United States, a State,
17 or the District of Columbia, and by a tribe or other organiza-
18 tion of Indians to other tribes or organizations of Indians.

19 (h) Loans guaranteed hereunder may be made by any
20 lender satisfactory to the Secretary, except as provided in
21 subsection (f) of this section. The liability under the guaranty
22 shall decrease or increase pro rata with any decrease or in-
23 crease in the amount of the unpaid portion of the obligation.

24 (i) Any loan made by any national bank or Federal
25 savings and loan association, or insurance company, or by

1 any bank, trust company, building and loan association, or
2 insurance company authorized to do business in the District
3 of Columbia, at least 20 per centum of which is guaranteed
4 hereunder, may be made without regard to the limitations
5 and restrictions of any other Federal statute with respect to
6 (1) ratio of amount of loan to the value of the property;
7 (2) maturity of loan; (3) requirement of mortgage or
8 other security; (4) priority of lien; or (5) percentage of
9 assets which may be invested in real estate loans.

10 (j) The maturity of any loan guaranteed or insured
11 hereunder shall not exceed thirty years.

12 (k) The application for a loan to be guaranteed here-
13 under shall be submitted to the Secretary for prior approval.
14 Upon approval, the Secretary will issue a certificate as
15 evidence of the guarantee. No loan in excess of \$60,000, or
16 such lower amount as the Secretary may determine to be
17 appropriate, shall be insured under this section, unless prior
18 approval of the loan is obtained from the Secretary.

19 (l) In the event of a default of a loan guaranteed here-
20 under, the holder of the guaranty certificate may (1) im-
21 mediately notify the Secretary in writing of such default
22 and the Secretary shall thereupon pay to such holder the
23 pro rata portion of the amount guaranteed and shall be sub-
24 rogated to the rights of the holder of the guaranty to the
25 extent of the amount paid on the guaranty, or (2) notify

1 the Secretary in writing prior to suit or foreclosure of such
2 default, and within thirty days thereafter the Secretary may,
3 if he determines it would be in the financial interests of the
4 United States, pay such holder the entire unpaid balance
5 of the obligation, plus accrued interest, even though the total
6 payment exceeds the amount of the guaranty, and receive
7 an assignment of the obligation and security. The Secretary
8 shall then take such further collection action as may be
9 warranted upon receipt of an assignment of the obligation
10 and security. The Secretary may cancel the uncollectable
11 portion of any obligation to which he has an assignment or
12 a subrogated right under this section. Nothing in this section
13 shall be construed to preclude any forbearance for the bene-
14 fit of the borrower as may be agreed upon by the parties to
15 the loan and approved by the Secretary. The Secretary may
16 establish the date, not later than the date of judgment and
17 decree of foreclosure or sale, upon which accrual of interest
18 or charges shall cease.

19 (m) When a lender suffers a loss on a loan insured here-
20 under, including accrued interest, a claim therefor shall be
21 submitted to the Secretary. If the Secretary finds that the
22 loss has been suffered, he will reimburse the lender therefor,
23 and the amount payable to the lender for a loss on any one
24 loan shall not exceed 90 per centum of such loss, except that
25 no reimbursement may be made for losses in excess of 15

1 per centum of the aggregate of insured loans made by the
2 lender. Before any reimbursement is made, all reasonable col-
3 lection efforts shall have been exhausted by the lender, and
4 the security for the loan shall have been liquidated to the
5 extent feasible, and the net proceeds applied on the debt.
6 Upon reimbursement, in whole or in part, to the lender, the
7 note or judgment evidencing the debt shall be assigned to the
8 United States, and the lender shall have no further claim
9 against the borrower or the United States. The Secretary
10 shall then take such further collection action as may be war-
11 ranted, or he may cancel the uncollectable portion of any
12 debt assigned pursuant hereto. The Secretary may establish
13 a date upon which accrual of interest or charges shall cease.

14 (n) Whenever the Secretary finds that any lender or
15 holder of a guaranty certificate fails to maintain adequate
16 accounting records, or to demonstrate proper ability to serv-
17 ice adequately loans guaranteed or insured under this sec-
18 tion, or to exercise proper credit judgment, or has willfully
19 or negligently engaged in practices otherwise detrimental
20 to the interests of a borrower or of the United States, he
21 may refuse, either temporarily or permanently, to guarantee
22 or insure any further loans made by such lender or holder,
23 and may bar such lender or holder from acquiring addi-
24 tional loans guaranteed or insured hereunder, except that

1 the Secretary shall not refuse to pay a valid guaranty or
2 insurance claim on loans previously made in good faith.

3 (o) Any evidence of guaranty or insurance issued by
4 the Secretary shall be conclusive evidence of the eligibility
5 of the loan for guaranty or insurance under the provisions
6 of this section and the amount of such guarantee or insur-
7 ance, except that nothing in this section shall preclude the
8 Secretary from establishing, as against the original lender,
9 defenses based on fraud or material misrepresentation or
10 bar him from establishing, by regulations in force at the
11 date of such issuance or disbursement, whichever is the
12 earlier, partial defenses to the amount payable on the
13 guaranty or insurance.

14 (p) The Secretary may sell to any person any loan
15 heretofore or hereafter made under section 3 of this Act,
16 and guarantee any loan thus sold, subject to the same
17 conditions, terms, and limitations of any loans guaranteed
18 pursuant to this section. The receipts from any such sale
19 shall be deposited in the revolving fund for loans established
20 by section 3 of this Act.

21 (q) Title to any land acquired by a tribe or an Indian
22 with loans guaranteed or insured pursuant to this section
23 may be acquired in the name of the United States for the
24 tribe or Indian in trust unless the land is located outside
25 the boundaries of the reservation or a tribal consolidation

1 area approved by the Secretary. Title to any land acquired
2 by a tribe or an Indian that is outside the boundaries of the
3 reservation or approved consolidation area may be taken
4 in trust if such tribe or Indian was the owner of trust or
5 restricted interests in the land before the purchase, otherwise,
6 a title shall be acquired in the name of the purchaser without
7 any restriction on alienation, control, or use. Title to any
8 personal property purchased with loans guaranteed or insured
9 hereunder shall be acquired in the name of the purchaser.

10 (r) For the purpose of securing loans guaranteed or
11 insured pursuant to this section, tribes are authorized, sub-
12 ject to approval of the Secretary, to execute mortgages or
13 deeds of trust to land, title to which is held in the United
14 States in trust for the tribe, and to any other land, title to
15 which is in a tribe, without regard to limitations or restric-
16 tions in any other statute. Such land shall be subject to fore-
17 closure or sale pursuant to the terms of such mortgage or
18 deed of trust in accordance with the laws of the State in
19 which the land is located. The United States shall be an in-
20 dispensable party to, and may be joined in, any such pro-
21 ceeding with the right to remove the action to the United
22 States district court for the district in which the land is
23 located, according to the procedure provided in section 1446
24 of title 28, United States Code, except that the United States

1 shall have the right to appeal from any order of remand
2 entered in such action.

3 (s) The financial transactions of the Secretary incident
4 to, or arising out of, the guaranty or insurance of loans, and
5 the acquisition, management, and disposition of property,
6 real, personal, or mixed, incident to such activities, shall be
7 final and conclusive upon all officers of the Government.
8 With respect to matters arising out of the guaranty or insur-
9 ance program authorized by this section, and, notwithstand-
10 ing the provisions of any other laws, the Secretary may—

11 (1) sue and be sued in his official capacity in any
12 court of competent jurisdiction;

13 (2) subject to specific limitations in this section,
14 consent to the modification with respect to the rate of
15 interest, time of payment on principal or interest, or
16 any portion thereof, security, or any other provisions of
17 any note, contract, mortgage, or other instrument
18 securing a loan which has been guaranteed or insured
19 hereunder;

20 (3) pay, or compromise, any claim on, or arising
21 because of, any loan guarantee or insurance;

22 (4) pay, compromise, waive, or release any right,
23 title, claim, lien, or demand, however acquired, including
24 any equity or right of redemption;

1 (5) purchase at any sale, public or private, upon
2 such terms and for such prices as he determines to be
3 reasonable property, real, personal, or mixed; and sell,
4 at public or private sale, exchange, assign, convey, or
5 otherwise dispose of such property; and

6 (6) complete, administer, operate, obtain, and pay
7 for insurance on, and maintain, renovate, repair, mod-
8 ernize, lease, or otherwise deal with any property ac-
9 quired or held pursuant to this section.

10 (t) The powers of the Secretary in subsection (s) may
11 be exercised without regard to any other provisions of law
12 which would govern the expenditure of public funds:
13 *Provided*, That section 5 of title 41, United States Code,
14 shall apply to any contract for services or supplies on ac-
15 count of any property acquired pursuant to this section if
16 the amount of such contract exceeds \$1,000.

17 APPROPRIATIONS

18 SEC. 5. There are authorized to be appropriated to
19 provide capital and to restore any impairment of capital
20 for Indian loan guaranty and insurance fund established by
21 section 4 of this Act, and for the Indian revolving loan fund
22 established by section 3 of this Act, \$100,000,000 in addi-
23 tion to any prior authorizations and appropriations to such
24 funds.

TRIBAL BONDS

1
2 SEC. 6. (a) A recognized tribe with governmental
3 authority over a reservation of similar geographic area (or a
4 federally chartered tribal corporation wholly owned in perpe-
5 tuity, by such a recognized tribe) may, pursuant to the au-
6 thorization of its established governing body, issue tribal
7 bonds or similar obligations, the interest on which is exempt
8 from tax under section 103 of the Internal Revenue Code of
9 1954, for purposes related to the governmental affairs or
10 operations of the tribe.

11 (b) (1) The term "tribal bonds or similar obligations"
12 shall not include an obligation the payment of the principal
13 or interest on which is—

14 (A) secured in whole or in part by a lien, mort-
15 gage, pledge or other security interest in any property
16 (or in payments made with respect to such property)
17 loaned, leased, or sold on a deferred-payment basis for
18 industrial or commercial purposes;

19 (B) to be derived primarily from payments to be
20 made in respect of property loaned, leased, or sold on a
21 deferred-payment basis for industrial or commercial pur-
22 poses; or

23 (C) to be derived from the earnings of an active
24 industrial or commercial trade or business owned and

1 operated by a tribe or federally chartered tribal corpora-
2 tion.

3 (2) Nothing in paragraph (1) shall prevent a tribe
4 or federally chartered tribal corporation from issuing tribal
5 bonds with respect to property owned by the tribe and
6 used—

7 (A) to provide entertainment, recreation, or civic
8 facilities;

9 (B) to provide transportation terminals or similar
10 facilities related to transportation; or

11 (C) in the furnishing or sale of electric energy, gas,
12 water, sewage disposal, or other utility services to the
13 tribe or others.

14 (c) Nothing in this section shall limit the authority of
15 any tribe or tribal corporation to issue bonds or other obli-
16 gations the interest on which is not exempt from Federal
17 income tax.

18 (d) (1) Section 103 (a) of the Internal Revenue Code
19 of 1954 (relating to interest on certain governmental obliga-
20 tions) is amended by renumbering paragraph (3) as para-
21 graph (4) and by inserting after paragraph (2) the follow-
22 ing new paragraph (3) :

23 “(3) tribal bonds issued by a recognized tribe (or
24 federally chartered tribal corporation owned in perpetu-

1 ity by a recognized tribe) as defined in section 2 of the
2 Indian Financing Act of 1973”.

3 (2) Section 103 (c) of the Internal Revenue Code of
4 1954 (relating to certain cross-references) is amended by
5 adding at the end thereof the following new paragraph:

6 “(24) Tribal bonds of a recognized tribe, see sec-
7 tion 2 of the Indian Financing Act of 1969”.

8 (e) Section 115 (a) (1) of the Internal Revenue Code
9 of 1954 (relating to income of States and municipalities) is
10 amended by inserting after “Political subdivision thereof”,
11 the words “Indian tribe”.

1 their own productive efforts comparable to that enjoyed
2 by non-Indians in neighboring communities; and where
3 they will have the opportunity to be integrated socially,
4 politically, and economically into American life.

5 DEFINITIONS

6 SEC. 3. For the purposes of this Act, the term—

7 (a) "Secretary" means the Secretary of the Interior.

8 (b) "Indian" means any person who is a member of
9 any Indian tribe, band, pueblo, group, or community of In-
10 dians or Alaska Natives which is recognized by the Federal
11 Government as eligible for services from the Bureau of
12 Indian Affairs.

13 (c) "Indian tribe" means any tribe, band, pueblo,
14 group, or community of Indians or Alaska Natives which is
15 recognized by the Federal Government as eligible for serv-
16 ices from the Bureau of Indian Affairs.

17 (d) "Reservation" includes Indian reservations, public
18 domain land occupied by Indians, former Indian reservations
19 in Oklahoma, and land occupied by Alaska Native com-
20 munities.

21 (e) "Economic enterprise" means any Indian-owned, as
22 defined by the Secretary of the Interior, commercial, indus-
23 trial, or business activity established or organized for the
24 purpose of profit.

1 (f) "Other organizations" means any non-Indian in-
2 dividual, firm, corporation, partnership, or association.

3 TITLE I—INDIAN REVOLVING LOAN FUND

4 SEC. 101. In order to provide credit that is not avail-
5 able from private money markets, all funds that are now or
6 hereafter a part of the revolving fund authorized by the Act
7 of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936
8 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat.
9 44), as amended and supplemented, including sums received
10 in settlement of debts of livestock pursuant to the Act of May
11 24, 1950 (64 Stat. 190), and sums collected in repayment
12 of loans heretofore or hereafter made, and as interest or
13 other charges on loans, shall hereafter be administered as a
14 single revolving loan fund and shall be available for loans
15 to Indians having a form of organization that is satisfactory
16 to the Secretary and for loans to individual Indians who are
17 not members of or eligible for membership in an organiza-
18 tion which is making loans to its members as well as for
19 administrative expenses incurred in connection therewith.

20 SEC. 102. Loans may be made for any purpose which
21 will promote the economic development of (a) the individual
22 Indian borrower, including loans for educational purposes,
23 and (b) the Indian organization and its members including
24 loans by such organizations to other organizations and invest-

4

1 ments in other organizations regardless of whether they are
2 organizations of Indians.

3 SEC. 103. Loans may be made only when, in the judg-
4 ment of the Secretary, there is a reasonable prospect of re-
5 payment, and only to applicants who in the opinion of the
6 Secretary are unable to obtain financing from other sources
7 on reasonable terms and conditions.

8 SEC. 104. Loans shall be for terms that do not exceed
9 thirty years and shall bear interest at (a) a rate determined
10 by the Secretary of the Treasury taking into consideration the
11 market yield on municipal bonds: *Provided*, That in no event
12 shall the rate be greater than the rate determined by the
13 Secretary of the Treasury taking into consideration the cur-
14 rent average yield on outstanding marketable obligations
15 of the United States of comparable maturity, plus (b) such
16 additional charge, if any, toward covering other costs of the
17 program as the Secretary may determine to be consistent
18 with its purpose: *Provided*, That educational loans may pro-
19 vide for interest to be deferred while the borrower is in school
20 or in the military service.

21 SEC. 105. The Secretary may cancel, adjust, compro-
22 mise, or reduce the amount of any loan or any portion thereof
23 heretofore, or hereafter made from the revolving loan fund
24 established by this title and its predecessor constituent funds
25 which he determines to be uncollectable in whole or in part,

1 or which is collectable only at an unreasonable cost, or when
2 such action would, in his judgment, be in the best interests
3 of the United States. He may also adjust, compromise, sub-
4 ordinate, or modify the terms of any mortgage, lease, assign-
5 ment, contract, agreement, or other document taken to secure
6 such loans.

7 SEC. 106. Title to any land purchased by a tribe or by
8 an individual Indian with loans made from the revolving
9 loan fund may be taken in trust unless the land is located
10 outside the boundaries of a reservation or a tribal consoli-
11 dation area approved by the Secretary. Title to any land
12 purchased by a tribe or by an individual Indian which is
13 outside the boundaries of the reservation or approved consoli-
14 dation area may be taken in trust if the purchaser was the
15 owner of trust or restricted interests in the land before the
16 purchase, otherwise title shall be taken in the name of the
17 purchasers without any restriction on alienation, control, or
18 use. Title to any personal property purchased with a loan
19 from the revolving loan fund shall be taken in the name of
20 the purchaser.

21 SEC. 107. Any organization receiving a loan from the
22 revolving loan fund shall be required to assign to the United
23 States as security for the loan all securities acquired in con-
24 nection with the loans made to its members from such funds

1 unless the Secretary determines that the repayment of the
2 loan to the United States is otherwise reasonably assured.

3 SEC. 108. The Secretary may not collect any loan from
4 the revolving loan fund which becomes delinquent or the
5 interest thereon from per capita payments or other distribu-
6 tions of tribal assets derived from a tribal judgment which are
7 due the delinquent borrower.

8 SEC. 109. There is authorized to be appropriated, to
9 provide capital and to restore any impairment of capital for
10 the revolving loan fund, \$50,000,000, exclusive of prior au-
11 thorizations and appropriations.

12 SEC. 110. The Secretary shall promulgate rules and reg-
13 ulations to carry out the provisions of this title.

14 TITLE II—LOAN GUARANTY AND INSURANCE

15 SEC. 201. In order to provide access to private money
16 sources which otherwise would not be available, the Secre-
17 tary is authorized (a) to guarantee not to exceed 90 per
18 centum of the unpaid principal and interest due on any loan
19 made to any organization of Indians having a form or orga-
20 nization satisfactory to the Secretary, and to individual In-
21 dians who are not members of or eligible for membership
22 in an organization which is making loans to its members;
23 and (b) in lieu of such guaranty, to insure loans under an
24 agreement approved by the Secretary whereby the lender
25 will be reimbursed for losses in an amount not to exceed 15

1 per centum of the aggregate of such loans made by it, but
2 not to exceed 90 per centum of the loss on any one loan.

3 SEC. 202. The Secretary may, to the extent he deems
4 consistent with the purposes of the program, fix such pre-
5 mium charges for the insurance and guarantee of loans as
6 are in his judgment adequate to cover expenses and probable
7 losses, and deposit receipts from such charges in the Indian
8 Loan Guaranty and Insurance Fund established pursuant
9 to section 217 (a) of this title.

10 SEC. 203. Loans guaranteed or insured pursuant to this
11 title shall bear interest (exclusive of premium charges for
12 insurance, and service charge, if any) at rates not to exceed
13 such per centum per annum on the principal obligation out-
14 standing as the Secretary determines to be reasonable taking
15 into consideration the range of interest rates prevailing in
16 the private market for similar loans and the risks assumed
17 by the United States.

18 SEC. 204. The application for a loan to be guaranteed
19 hereunder shall be submitted to the Secretary for prior ap-
20 proval. Upon approval, the Secretary shall issue a certificate
21 as evidence of the guaranty. Such certificate shall be issued
22 only when, in the judgment of the Secretary, there is a
23 reasonable prospect of repayment. No loan to an individual
24 Indian may be guaranteed or insured which would cause
25 the total unpaid principal indebtedness to exceed \$100,000.

1 No loan to an economic enterprise (as defined in section 3)
2 in excess of \$100,000, or such lower amount as the Secre-
3 tary may determine to be appropriate, shall be insured un-
4 less prior approval of the loan is obtained from the Secretary.

5 SEC. 205. Any loan guaranteed hereunder, including
6 the security given therefor, may be sold or assigned by the
7 lender to any financial institution subject to examination and
8 supervision by an agency of the United States or of any
9 State or the District of Columbia.

10 SEC. 206. Loans made by any agency or instrumentality
11 of the Federal Government, or by an organization of Indians
12 from funds borrowed from the United States, and loans the
13 interest on which is not included in gross income for the
14 purposes of chapter 1 of the Internal Revenue Code of 1954,
15 as amended, shall not be eligible for guaranty or insurance
16 hereunder.

17 SEC. 207. Any loans insured hereunder shall be re-
18 stricted to those made by a financial institution subject to
19 examination and supervision by an agency of the United
20 States, a State, or the District of Columbia, and to loans
21 made by Indian organizations from their own funds to other
22 tribes or organizations of Indians.

23 SEC. 208. Loans guaranteed hereunder may be made by
24 any lender satisfactory to the Secretary, except as provided
25 in section 206. The liability under the guaranty shall decrease

1 or increase pro rata with any decrease or increase in the un-
2 paid portion of the obligation.

3 SEC. 209. Any loan made by any national bank or Fed-
4 eral savings and loan association, or by any bank, trust
5 company, building and loan association, or insurance company
6 authorized to do business in the District of Columbia, at least
7 20 per centum of which is guaranteed hereunder, may be
8 made without regard to the limitations and restrictions of any
9 other Federal statute with respect to (a) ratio of amount of
10 loan to the value of the property; (b) maturity of loans;
11 (c) requirement of mortgage or other security; (d) priority
12 of lien; or (e) percentage of assets which may be invested in
13 real estate loans.

14 SEC. 210. The maturity of any loan guaranteed or in-
15 sured hereunder shall not exceed thirty years.

16 SEC. 211. In the event of a default of a loan guaranteed
17 hereunder, the holder of the guaranty certificate may imme-
18 diately notify the Secretary in writing of such default and
19 the Secretary shall thereupon pay to such holder the pro rata
20 portion of the amount guaranteed and shall be subrogated to
21 the rights of the holder of the guaranty and receive an
22 assignment of the obligation and security. The Secretary may
23 cancel the uncollectable portion of any obligation to which
24 he has an assignment or a subrogated right under this section.
25 Nothing in this section shall be construed to preclude any

1 forbearance for the benefit of the borrower as may be agreed
2 upon by the parties to the loan and approved by the Secre-
3 tary. The Secretary may establish the date, not later than the
4 date of judgment and decree of foreclosure or sale, upon which
5 accrual of interest or charges shall cease.

6 SEC. 212. When a lender suffers a loss on a loan in-
7 sured hereunder, including accrued interest, a claim therefor
8 shall be submitted to the Secretary. If the Secretary finds
9 that the loss has been suffered, he shall reimburse the lender
10 therefor: *Provided*, That the amount payable to the lender
11 for a loss on any one loan shall not exceed 90 per centum
12 of such loss: *Provided further*, That no reimbursement may
13 be made for losses in excess of 15 per centum of the ag-
14 gregate of insured loans made by the lender: *Provided fur-*
15 *ther*, That before any reimbursement is made, all reason-
16 able collection efforts shall have been exhausted by the
17 lender, and the security for the loan shall have been liqui-
18 dated to the extent feasible, and the proceeds applied on
19 the debt. Upon reimbursement, in whole or in part, to the
20 lender, the note or judgment evidencing the debt shall be
21 assigned to the United States, and the lender shall have no
22 further claim against the borrower or the United States.
23 The Secretary shall then take such further collection action
24 as may be warranted, or may cancel the uncollectable por-
25 tion of any debt assigned pursuant hereto. The Secretary

1 may establish a date upon which accrual of interest or
2 charges shall cease.

3 SEC. 213. Whenever the Secretary finds that any lender
4 or holder of a guaranty certificate fails to maintain adequate
5 accounting records, or to demonstrate proper ability to serv-
6 ice adequately loans guaranteed or insured, or to exercise
7 proper credit judgment, or has willfully or negligently en-
8 gaged in practices otherwise detrimental to the interests
9 of a borrower or of the United States, he may refuse, either
10 temporarily or permanently, to guarantee or insure any fur-
11 ther loans made by such lender or holder, and may bar such
12 lender or holder from acquiring additional loans guaranteed
13 or insured hereunder: *Provided*, That the Secretary shall
14 not refuse to pay a valid guaranty or insurance claim on loans
15 previously made in good faith.

16 SEC. 214. Any evidence of guaranty or insurance issued
17 by the Secretary shall be conclusive evidence of the eligi-
18 bility of the loan for guaranty or insurance under the provi-
19 sions of this Act and the amount of such guaranty or insur-
20 ance: *Provided*, That nothing in this section shall preclude
21 the Secretary from establishing, as against the original lender,
22 defenses based on fraud or material misrepresentation or bar
23 him from establishing, by regulations in force at the date of
24 such issuance or disbursement, whichever is the earlier, par-

1 tial defenses to the amount payable on the guaranty or
2 insurance.

3 SEC. 215. Title to any land purchased by a tribe or by
4 an individual Indian with loans guaranteed or insured pur-
5 suant to this title may be taken in trust, unless the land is
6 located outside the boundaries of a reservation or a tribal
7 consolidation area approved by the Secretary. Title to any
8 land purchased by a tribe or an individual Indian which is
9 outside the boundaries of the reservation or approved con-
10 solidation area may be taken in trust if the purchaser was
11 the owner of trust or restricted interests in the land before
12 the purchase, otherwise title shall be taken in the name of
13 the purchaser without any restriction on alienation, control,
14 or use. Title to any personal property purchased with loans
15 guaranteed or insured hereunder shall be taken in the name
16 of the purchaser.

17 SEC. 216. The financial transactions of the Secretary
18 incident to or arising out of the guarantee or insurance of
19 loans, and the acquisition, management, and disposition of
20 property, real, personal, or mixed, incident to such activities,
21 shall be final and conclusive upon all officers of the Govern-
22 ment. With respect to matters arising out of the guaranty
23 or insurance program authorized by this title, and notwith-
24 standing the provisions of any other laws, the Secretary
25 may—

1 (a) sue and be sued in his official capacity in any
2 court of competent jurisdiction;

3 (b) subject to the specific limitations in this title,
4 consent to the modification, with respect to the rate of in-
5 terest, time of payment on principal or interest or any
6 portion thereof, security, or any other provisions of any
7 note, contract, mortgage, or other instrument securing
8 a loan which has been guaranteed or insured hereunder;

9 (c) pay, or compromise, any claim on, or arising
10 because of any loan guaranty or insurance;

11 (d) pay, compromise, waive, or release any right,
12 title, claim, lien, or demand, however acquired, includ-
13 ing, but not limited to, any equity or right of redemption;

14 (e) purchase at any sale, public or private, upon
15 such terms and for such prices as he determines to be
16 reasonable, and take title to property, real, personal, or
17 mixed; and similarly sell, at public or private sale, ex-
18 change, assign, convey, or otherwise dispose of such
19 property; and

20 (f) complete, administer, operate, obtain, and pay
21 for insurance on, and maintain, renovate, repair, mod-
22 ernize, lease, or otherwise deal with any property
23 acquired or held pursuant to the guaranty or insurance
24 program authorized by this title.

25 SEC. 217. (a) There is hereby created an Indian Loan

1 Guaranty and Insurance Fund (hereinafter referred to as the
2 "fund") which shall be available to the Secretary as a re-
3 volving fund without fiscal year limitation for carrying out
4 the provisions of this title. There are authorized to be appro-
5 priated to the Secretary to carry out the purposes of the fund
6 and the purposes of section 301 of this Act not to exceed
7 \$10,000,000 in each of the fiscal years 1974, 1975, and
8 1976.

9 (b) The Secretary may use the fund for the purpose of
10 fulfilling the obligations with respect to loans guaranteed or
11 insured under this title, but the aggregate of such loans which
12 are insured or guaranteed by the Secretary shall be limited
13 to \$200,000,000 as authorized in appropriations Acts.

14 (c) All funds, claims, notes, mortgages, contracts, and
15 property acquired by the Secretary under this section, and all
16 collections and proceeds therefrom, shall constitute assets of
17 the fund; and all liabilities and obligations of such assets shall
18 be liabilities and obligations of the fund. The Secretary is au-
19 thorized to make agreements with respect to servicing loans
20 held, guaranteed, or insured by him under this title and pur-
21 chasing such guaranteed or insured loans on such terms and
22 conditions as he may prescribe.

23 (d) The Secretary may also utilize the fund to pay taxes,
24 insurance, prior liens, expenses necessary to make fiscal ad-
25 justments in connection with the application and transmittal

1 of collections, and other expenses and advances to protect the
2 Secretary for loans which are guaranteed or insured under
3 this title or held by the Secretary, to acquire such security
4 property at foreclosure sale or otherwise, and to pay adminis-
5 trative expenses.

6 SEC. 218. The Secretary shall promulgate rules and
7 regulations to carry out the provisions of this title.

8 TITLE III—INTEREST SUBSIDIES AND ADMINIS-
9 TRATIVE EXPENSES

10 SEC. 301. The Secretary is authorized under such rules
11 and regulations as he may prescribe to pay as an interest
12 subsidy on loans which are guaranteed or insured under the
13 provisions of title II of this Act amounts which are neces-
14 sary to reduce the rate payable by the borrower to the rate
15 determined under section 104 of this Act.

16 SEC. 302. There are authorized to be appropriated to
17 the Secretary (a) to carry out the provisions of sections 217
18 and 301 of this Act, such sums to remain available until ex-
19 pended, and (b) for administrative expenses under this Act
20 not to exceed \$10,000,000 in each of the fiscal years 1974,
21 1975, and 1976.

22 TITLE IV—INDIAN BUSINESS GRANTS

23 SEC. 401. There is established within the Department
24 of the Interior the Indian business development program
25 whose purpose is to stimulate and increase Indian entrepre-

1 neurship and employment by providing equity capital
2 through nonreimbursable grants made by the Secretary of
3 the Interior to Indians and Indian tribes to establish and
4 expand profitmaking Indian-owned economic enterprises on
5 or near reservations.

6 SEC. 402. No grant in excess of \$50,000, or such lower
7 amount as the Secretary may determine to be appropriate,
8 may be made to an Indian or Indian tribe, band, group,
9 pueblo, or community recognized by the Federal Govern-
10 ment as eligible for services from the Bureau of Indian Af-
11 fairs. A grant may be made only to an applicant who, in
12 the opinion of the Secretary, is unable to obtain adequate
13 financing for its economic enterprise from other sources, in-
14 cluding its own financial resources, except that no grant may
15 be made to an applicant who is unable to obtain at least 60
16 per centum of the necessary funds for the economic enter-
17 prise from other sources.

18 SEC. 403. There are authorized to be appropriated not
19 to exceed the sum of \$10,000,000 for each of the fiscal years
20 1974, 1975, and 1976 for the purposes of this title.

21 SEC. 404. The Secretary of the Interior is authorized
22 to prescribe such rules and regulations as may be necessary
23 to carry out the purposes of this Act.

IN THE HOUSE OF REPRESENTATIVES

Mr. BERGLAND introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

To provide for financing and economic development of Indians and Indian organizations, and for other purposes.

5. DECLARATION OF POLICY

6 SEC. 2. It is hereby declared to be the policy of Congress
7 to provide capital on a reimbursable basis to help develop and
8 utilize Indian resources, both physical and human, to a point
9 where the Indians will fully exercise responsibility for the
10 utilization and management of their own resources and where

1 they will enjoy a standard of living from their own produc-
2 tive efforts comparable to that enjoyed by non-Indians in
3 neighboring communities.

4 DEFINITIONS

5 SEC. 3. For the purpose of this Act, the term—

6 (a) "Secretary" means the Secretary of the Interior.

7 (b) "Indian" means any person who is a member of
8 any Indian tribe, band, group, pueblo, or community which
9 is recognized by the Federal Government as eligible for serv-
10 ices from the Bureau of Indian Affairs and any "Native" as
11 defined in the Alaska Native Claims Settlement Act (85
12 Stat. 688).

13 (c) "Tribe" means any Indian tribe, band, group,
14 pueblo, or community, including Native villages and Native
15 groups (including corporations organized by Kenai, Juneau,
16 Sitka, and Kodiak) as defined in the Alaska Native Claims
17 Settlement Act, which is recognized by the Federal Govern-
18 ment as eligible for services from the Bureau of Indian Affairs.

19 (d) "Reservation" includes Indian reservations, public
20 domain Indian allotments, former Indian reservations in
21 Oklahoma, and land held by incorporated Native groups,
22 regional corporations, and village corporations under the pro-
23 visions of the Alaska Native Claims Settlement Act.

24 (e) "Other organizations" means any non-Indian indi-
25 vidual, firm, corporation, partnership, or association.

1 (f) "Economic enterprise" means a commercial, indus-
2 trial, or business activity, established or organized for the
3 purpose of profit, which is Indian-owned, as defined by the
4 Secretary.

5 SEC. 101. All funds that are now or hereafter a part of
6 the revolving fund authorized by the Act of June 18, 1934
7 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968),
8 and the Act of April 19, 1950 (64 Stat. 44), as amended
9 and supplemented, including sums received in settlement of
10 debts of livestock pursuant to the Act of May 24, 1950 (64
11 Stat. 190), and sums collected in repayment of loans here-
12 tofore or hereafter made, and as interest or other charges on
13 loans, shall hereafter be administered as a single fund for
14 direct loans in conjunction with moneys for loan guarantees
15 under the provisions of this Act and shall be available to
16 make loans to Indians having a form of organization that
17 is satisfactory to the Secretary and for loans to individual
18 Indians who are not members of or eligible for membership
19 in an organization that is making loans to its members and
20 for administrative expenses incurred in connection therewith:
21 *Provided, however,* That moneys paid into the fund pursuant
22 to this section and funds appropriated pursuant to section 123
23 of this Act for the purpose of making direct loans shall not
24 be used for the discharge of the liability of the Secretary
25 with respect to any guaranteed loans.

1 SEC. 102. In order to provide credit that is not available
2 from private credit markets, the Secretary is authorized to
3 make or guarantee loans for any purpose which will promote
4 the economic development of (a) the individual Indian bor-
5 rower, including loans for educational purposes, and (b) the
6 Indian organization and its members, including loans by
7 such organizations to other organizations and investments in
8 other organizations regardless of whether they are organiza-
9 tions of Indians.

10 SEC. 103. Loans may be made or guaranteed only when,
11 in the judgment of the Secretary, there is a reasonable pros-
12 pect of repayment, and only to applicants which the Secre-
13 tary finds are unable to obtain financing from other sources
14 on reasonable terms and conditions. Direct loans may be
15 made only to applicants which the Secretary finds are unable
16 to obtain private guaranteed loans under the provisions of
17 this Act on reasonable terms and conditions. Before a loan
18 may be made or guaranteed under this Act, Indian tribes
19 shall be required to use their own funds, those funds being
20 funds available to them from uncommitted or unprogramed
21 funds on deposit in the United States Treasury or elsewhere,
22 or funds accruing from income.

23 SEC. 104. Loans made or guaranteed hereunder shall
24 (a) provide for complete amortization within a period not to
25 exceed thirty years or three-fourths of the useful life of the

1 capital asset financed, whichever is less, as determined by
2 the Secretary, and (b) bear interest (exclusive of guarantee
3 fees and service charges) at rates not to exceed such per cen-
4 tum per annum on the principal obligation outstanding as the
5 Secretary determines to be reasonable, taking into account
6 the range of interest rates prevailing in the private market
7 for similar loans and the risks assumed by the United States:
8 *Provided*, That educational loans may provide for interest to
9 be deferred while the borrower is in school or in the military
10 service. Loans that are outstanding on the date this Act is
11 approved shall be conformed to the provisions of this section
12 as soon as the loan agreements permit.

13 SEC. 105. From time to time, and at least at the close
14 of each fiscal year, the Secretary shall pay from the fund
15 into the Treasury as miscellaneous receipts, interest on the
16 value as determined by the Secretary, with the approval
17 of the Comptroller General, of the Government's equity
18 transferred to the fund pursuant to section 101 of this Act
19 plus the cumulative amount of appropriations made available
20 after enactment of this provision as capital and for adminis-
21 tration of the programs financed from the fund, less the
22 average undisbursed cash balance in the fund during the
23 year. The rate of such interest shall be determined by the
24 Secretary of the Treasury, taking into consideration the
25 current average yield on outstanding marketable obligations

1 of the United States with remaining periods to maturity
2 comparable to the average maturities of loans made from the
3 fund, adjusted to the nearest one-eighth of 1 per centum.
4 Interest payments may be deferred with the approval of
5 the Secretary of the Treasury, but any interest payments
6 so deferred shall themselves bear interest.

7 SEC. 106. The Secretary may cancel, adjust, compro-
8 mise, or reduce the amount of any loan or any portion
9 thereof heretofore or hereafter made from the revolving
10 loan fund established by this title and its predecessor con-
11 stituent funds which he determines to be uncollectable in
12 whole or in part, which is collectable only at an unreason-
13 able cost, or when such action would, in his judgment, be in
14 the best interests of the United States. He may also adjust,
15 compromise, subordinate, and modify the terms of any mort-
16 gage, lease, assignment, contract, agreement, and other doc-
17 ument taken to secure such loans. The Secretary shall make
18 an annual report to the Congress of all actions taken pursu-
19 ant to this section.

20 SEC. 107. The Secretary may sell, with the approval of
21 the Secretary of the Treasury, to any person or entity any
22 note resulting from a loan heretofore or hereafter made from
23 or acquired by the fund established by this title and its pred-
24 ecessor constituent funds and may guarantee any loans thus
25 sold. The receipts from any such sale shall be deposited in the

1 revolving loan fund and be available for other loans from
2 such fund: *Provided, however,* That, in any instance where
3 the interest rate for a note sold pursuant to this section is less
4 than that prevailing in the market, the Secretary may pay a
5 subsidy that he determines to be adequate to facilitate such
6 sale to the purchaser of said note without any discount.

7 SEC. 108. Loan guarantees made pursuant to the provi-
8 sions of this Act shall not exceed (a) 90 per centum of the
9 unpaid principal and interest due on any one loan and (b)
10 15 per centum of the aggregate average unpaid balance of
11 such loans held by any single institutional lender during any
12 given calendar year.

13 SEC. 109. The Secretary shall charge and collect fees in
14 amounts sufficient to cover administrative expenses and prob-
15 able losses on loans made or guaranteed pursuant to the
16 provisions of this Act and shall deposit receipts from such
17 charges in the fund. The Secretary is authorized, in his dis-
18 cretion, to pay a subsidy to cover all or a portion of the fees
19 required by this section.

20 SEC. 110. The application for a loan to be guaranteed
21 hereunder shall be submitted to the Secretary for prior ap-
22 proval. Upon approval, the Secretary will issue a certificate
23 as evidence of the guarantee. Such certificate shall be issued
24 only when, in the judgment of the Secretary, there is a rea-
25 sonable prospect of repayment. No loan to an individual

1 Indian may be guaranteed which would cause the total un-
2 paid principal indebtedness to exceed \$100,000. No loan in
3 excess of \$100,000 or such lower amount as the Secretary
4 may determine to be appropriate, shall be guaranteed unless
5 prior approval of the loan is obtained from the Secretary.

6 SEC. 111. Loans made by any agency or instrumentality
7 of the Federal Government, or by an organization of Indians
8 from funds borrowed from the United States, and loans
9 the interest on which is not included in gross income for
10 the purposes of chapter 1 of the Internal Revenue Code
11 of 1954, shall not be eligible for guarantee or insurance
12 hereunder.

13 SEC. 112. Loans guaranteed hereunder may be pur-
14 chased, or held by any lender satisfactory to the Secretary.
15 The liability under the guarantee shall decrease or increase
16 pro rata with any decrease or increase in the unpaid portion
17 of the obligation.

18 SEC. 113. Any loan made by any national bank or
19 Federal savings and loan association, or by any bank, trust
20 company, building and loan association, or insurance com-
21 pany authorized to do business in the District of Columbia,
22 at least 20 per centum of which is guaranteed hereunder,
23 may be made without regard to the limitations and restric-
24 tions of any other Federal statute with respect to (a)
25 ratio of amount of loan to the value of the property;

1 (b) maturity of loans; (c) requirement of mortgage or
2 other security; (d) priority of lien; or (e) percentage
3 of assets which may be invested in real estate loans.

4 SEC. 114. Title to any land purchased by a tribe or
5 by an individual Indian with loans made or guaranteed
6 under the provisions of this Act may be taken in trust unless
7 the land is located outside the boundaries of a reservation
8 or a tribal consolidation area approved by the Secretary.
9 Title to any land purchased by a tribe or an individual
10 Indian that is outside the boundaries of the reservation or
11 approved consolidation area may be taken in trust if the
12 purchaser was the owner of trust or restricted interests in
13 the land before the purchase; otherwise title shall be taken
14 in the name of the purchaser without any restriction on
15 alienation, control, or use. Title to any personal property
16 purchased with a loan made or guaranteed under the pro-
17 visions of this Act shall be taken in the name of the purchaser.

18 SEC. 115. Title to property purchased with a loan made
19 or guaranteed under the provisions of this Act shall be
20 pledged or mortgaged to the lender as security for the
21 unpaid indebtedness to the lender, in such manner and upon
22 such terms as may be prescribed by the Secretary: *Provided,*
23 That this requirement may be waived or modified if the
24 Secretary determines that the repayment of the loan is other-
25 wise reasonably assured. Land purchased with a loan, title

1 to which is taken in trust and pledged or mortgaged as secu-
2 rity, shall be subject to foreclosure and sale, free of such trust
3 or restrictions, in the courts of, and in accordance with the
4 laws of, the State in which the land is located.

5 SEC. 116. Any organization receiving a loan made or
6 guaranteed under the provisions of this Act shall be required
7 to assign to the holder as security for the loan all securities
8 acquired in connection with the loans made to its members
9 from such funds, unless the Secretary determines that the
10 repayment of the loan to the United States is otherwise rea-
11 sonably assured.

12 SEC. 117. A loan made from or acquired by the revolv-
13 ing loan fund that becomes delinquent and the interest
14 thereon, may be collected by the Secretary from per capita
15 payments or other distributions of tribal assets due the delin-
16 quent borrower, without prejudice to the right to foreclose
17 on the securities for the loan. If, during the period of repay-
18 ment of any loan made under this section, a tribe is awarded
19 a money judgment against the United States, and if the
20 payment of any installment on a loan is in default, the install-
21 ment (s) in default or the balance of the loan, in the discre-
22 tion of the Secretary, shall be collected from the appropria-
23 tion to satisfy the judgment insofar as the amount of the
24 appropriation will cover the same.

1 SEC. 118. In the event of a default of a loan guaranteed
2 hereunder, the holder of the guarantee may immediately
3 notify the Secretary in writing of a claim against the guaran-
4 tee and the Secretary shall thereupon examine and settle the
5 claim in accordance with the terms of the guarantee agree-
6 ment, and if he settles the claim in favor of the holder, the
7 Secretary shall be subrogated to the rights of the holder
8 and shall receive an assignment of the obligation and security.
9 The Secretary may cancel the uncollectible portion of any
10 obligation to which he has an assignment or a subrogated
11 right under this section. Nothing in this section shall be
12 construed to preclude any forbearance for the benefit of the
13 borrower as may be agreed upon by the parties to the loan
14 and approved by the Secretary: *Provided, however, That*
15 before any reimbursement is made, the lender's responsibili-
16 ties for collection, foreclosure, and liquidation of collateral
17 shall have been fulfilled to the extent required by the guar-
18 antee agreement, except as waived by the Secretary, and
19 all proceeds therefrom shall have been applied to reduction
20 of the claim. Upon reimbursement, in whole or in part, to
21 the lender, title to any unliquidated collateral, the note, or
22 judgment evidencing the debt shall be assigned to the United
23 States, and the lender shall have no further claim against the
24 borrower or the United States. The Secretary shall then take

1 such further collection action as may be warranted, or may
2 cancel the uncollectible portion of any debt assigned pursuant
3 hereto. The Secretary may establish a date upon which ac-
4 crual of interest or charges shall cease. The Secretary may
5 cancel the uncollectible portion of any obligation to which he
6 has an assignment or a subrogated right under this section.
7 Nothing in this section shall be construed to preclude any
8 forbearance for the benefit of the borrower as may be agreed
9 upon by the parties to the loan and approved by the Secre-
10 tary.

11 SEC. 119. Whenever the Secretary finds that any lender
12 or holder of a guarantee certificate fails to maintain adequate
13 accounting records, or to demonstrate proper ability to serv-
14 ice adequately loans guaranteed, or to exercise proper credit
15 judgment, or has willfully or negligently engaged in prac-
16 tices otherwise detrimental to the interests of a borrower or
17 of the United States, he may refuse, either temporarily or
18 permanently, to guarantee any further loans made by such
19 lender or holder, and may bar such lender or holder from
20 acquiring additional loans guaranteed hereunder: *Provided*,
21 That the Secretary shall not refuse to pay a valid guaranty
22 claim on loans previously made in good faith.

23 SEC. 120. Any evidence of guarantee issued by the Sec-
24 retary shall be conclusive evidence of the eligibility of the
25 loan for guaranty under the provisions of this Act and the

1 amount of such guaranty: *Provided*, however, That nothing
2 in this section shall preclude the Secretary from establishing,
3 as against the original lender, defenses based on fraud or
4 material misrepresentation or bar him from establishing, by
5 regulations in force at the date of such issuance or disburse-
6 ment, whichever is the earlier, partial defenses to the amount
7 payable on the guaranty.

8 SEC. 121. The financial transactions of the Secretary
9 incident to or arising out of the guarantee of loans, and the
10 acquisition, management, and disposition of property, real,
11 personal, or mixed, incident to such activities, shall be final
12 and conclusive upon all officers of the Government. With
13 respect to matters arising out of the guarantee program
14 authorized by this title, and notwithstanding the provisions
15 of any other laws, the Secretary may—

16 (a) sue and be sued in his official capacity in any
17 court of competent jurisdiction;

18 (b) subject to the specific limitations in this title,
19 consent to the modification, with respect to the rate of
20 interest, time of payment on principal or interest or any
21 portion thereof, security, or any other provisions of any
22 note, contract, mortgage, or other instrument securing
23 a loan which has been guaranteed hereunder;

24 (c) pay, or compromise, any claim on, or arising
25 because of any loan guaranty;

1 (d) pay, compromise, waive, or release any right,
2 title, claim, lien, or demand, however acquired, including
3 any equity or right of redemption;

4 (e) purchase at any sale, public or private, upon
5 such terms and for such prices as he determines to be
6 reasonable, and take title to property, real, personal, or
7 mixed; and similarly sell, at public or private sale,
8 exchange, assign, convey, or otherwise dispose of such
9 property; and

10 (f) complete, administer, operate, obtain, and pay
11 for insurance on, and maintain, renovate, repair, mod-
12 ernize, lease or otherwise deal with any property ac-
13 quired or held pursuant to the guaranty program author-
14 ized by this title.

15 SEC. 122. (a) The Secretary may use the fund for the
16 purpose of fulfilling the obligations with respect to loans
17 guaranteed under this title, but the aggregate of such loans
18 which are insured or guaranteed by the Secretary shall be
19 limited to \$200,000,000.

20 (b) All funds, claims, notes, mortgages, contracts, and
21 property acquired by the Secretary under this section, and
22 all collections and proceeds therefrom, shall constitute assets
23 of the fund; and all liabilities and obligations of such assets
24 shall be liabilities and obligations of the fund. Guaranteed
25 loans acquired by the fund may be collected in accordance

1 with their terms or may be sold by the Secretary with or
2 without guarantee thereof. The Secretary is authorized to
3 make agreements with respect to servicing loans held or
4 guaranteed by him under this title and purchasing such
5 guaranteed loans on such terms and conditions as he may
6 prescribe.

7 (c) If at any time the moneys in the fund are not
8 sufficient to enable the Secretary to discharge his responsi-
9 bility under any guarantee agreement, the Secretary is au-
10 thorized to issue notes to the Secretary of the Treasury in
11 such amounts as may be necessary to discharge such re-
12 sponsibilities. Such notes shall be in such form and denom-
13 inations and have such maturities and be subject to such terms
14 and conditions as may be prescribed by the Secretary with
15 the approval of the Secretary of the Treasury. The notes is-
16 sued by the Secretary to the Secretary of the Treasury shall
17 constitute obligations of the fund. The Secretary of the Treas-
18 ury is authorized and directed to purchase any obligations
19 issued pursuant to this subsection, as now or hereafter in
20 force, and for such purpose as the Secretary of the Treasury
21 is authorized to use as a public debt transaction the pro-
22 ceeds of the sale of any securities hereafter issued under the
23 Second Liberty Bond Act, as now or hereafter in force, and
24 the purposes for which securities may be issued under the
25 Second Liberty Bond Act, as now or hereafter in force, are

1 extended to include such purchases. Each purchase of
2 obligations by the Secretary of the Treasury under this sub-
3 section shall be upon such terms and conditions as to yield a
4 return at a rate determined by the Secretary of the Treas-
5 ury, taking into consideration the current average yield on
6 outstanding marketable obligations of the United States
7 of comparable maturity. The Secretary of the Treasury may,
8 at any time, sell, upon such terms and conditions and at
9 such price or prices as he shall determine, any of the ob-
10 ligations acquired by him under this subsection. All redemp-
11 tions, purchases, and sales by the Secretary of the Treasury
12 of such obligations under this subsection shall be treated
13 as public debt transactions of the United States.

14 (d) The Secretary may also utilize the fund to pay
15 taxes, insurance, prior liens, expenses necessary to make fis-
16 cal adjustments in connection with the application and
17 transmittal of collections, and other expenses and advances
18 to protect the Secretary for loans which are guaranteed
19 under this title or held by the Secretary, to acquire such
20 security property at foreclosure sale or otherwise and to pay
21 administrative expenses.

22 SEC. 123. There is authorized to be appropriated, to
23 provide capital and to restore any impairment of capital,
24 for the revolving loan fund \$50,000,000 exclusive of prior
25 appropriations.

1 SEC. 124. The Secretary shall promulgate rules and
2 regulations to carry out the provisions of this title.

3 TITLE II—DEBT SERVICE PAYMENTS

4 SEC. 201. The Secretary is authorized to make, and to
5 contract to make, periodic debt service payments on loans
6 made or guaranteed under this Act in amounts sufficient to
7 reduce the periodic payments of interest and other charges
8 payable under section 104 of this Act by up to (1) 30
9 per centum or (2) 3 per centum of the outstanding principal
10 amount of the loan, whichever is less.

11 SEC. 202. No contract to make debt service payments
12 shall be entered into unless the Secretary determines that
13 the credit terms otherwise available would not permit the
14 accomplishment of the objectives of the program.

15 SEC. 203. There are authorized to be appropriated to
16 the Secretary, without fiscal year limitation, such sums as
17 may be necessary for debt service payments under this
18 section.

19 TITLE III—INDIAN BUSINESS GRANTS

20 SEC. 301. In order to stimulate and increase Indian
21 entrepreneurship and employment, and to establish or expand
22 profitmaking Indian-owned economic enterprises on or near
23 Indian reservations, by providing equity capital through
24 nonreimbursable grants made by the Secretary to Indians
25 and Indian tribes, there is hereby established in the Depart-

1 ment of the Interior the Indian Business Development
2 Program.

3 SEC. 302. The Secretary of the Interior is authorized
4 to make grants from such fund under the following terms
5 and conditions;

6 (a) No grant in excess of \$50,000 or such lower
7 amount as the Secretary may determine to be appropriate,
8 may be made to an Indian or Indian tribe.

9 (b) A grant may be made only to an applicant who
10 has proven to the satisfaction of the Secretary that he is
11 unable to obtain adequate financing for his economic enter-
12 prise from other sources, including the credit assistance
13 provided in this Act and his own financial resources, except
14 that no grant may be made to an applicant who is unable
15 to obtain a least 60 per centum of the necessary funds for
16 the economic enterprise from other sources.

17 (c) A grant may be made only for the portion of the
18 total cost of the economic enterprise that is, in the judg-
19 ment of the Secretary, beyond the ability of the applicant
20 to repay.

21 SEC. 303. There is authorized to be appropriated such
22 sums as may be necessary to the purposes of this title.

23 SEC. 304. The Secretary is authorized to prescribe such
24 rules and regulations as may be necessary to carry out the
25 purposes of this title.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 15 1973

Dear Mr. Speaker:

Enclosed is a proposed bill, "To provide for financing and economic development of Indians and Indian organizations, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee for consideration and that it be enacted.

This proposal consolidates two proposals of this Department in the 92nd Congress--the Indian Financing Act (Titles I and II of this bill) and the Indian Business Development Program Act (Title III of this bill). A sectional analysis of the proposal is contained in an Appendix to this letter.

TITLES I AND II

The essence of these titles was outlined by President Nixon in his Indian Message of July 8, 1970:

"Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only \$1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the 'Indian Financing Act of 1970'.

This Act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increased from approximately \$25 million to \$75 million.

2. It would provide additional incentives in the form of loan guarantees, and interest subsidies to encourage private lenders to loan more money for Indian economic projects. An aggregate amount of \$200 million would be authorized for loan guarantee and loan insurance purposes."

Inability to raise capital in effect freezes most Indians out of the American free enterprise system. We believe that, in conjunction with the Business Development Program established in Title III, the loan incentives offered in these titles will go far toward eliminating the chronic state of Indian poverty.

TITLE III

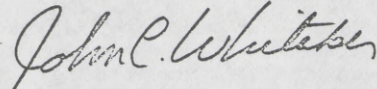
This title would revive and expand a grant program that was conducted by the Bureau of Indian Affairs during fiscal year 1971. Using funds appropriated as tribal development funds, the Bureau aided individual Indians or tribes which sought to open or expand businesses. The grants provided needed capital for Indians unable, because of insufficient equity, to qualify for small business loans from public or private sources; supplements to business grants-in-aid from Government agencies or private foundations; and supplements to business loans. One example of the kind of problems this program can alleviate is that most Indians have been unable to take advantage of the 90 percent loan guarantee programs of the Small Business Administration because most private lenders have required a 100 percent guarantee for Indian loans. The Bureau used its grants to make up the difference for this and similar types of financing.

Since in all essentials the grant program established in Title III will be identical to that operated by the Bureau in fiscal '71, the effectiveness of the latter augurs well for the success of the Title III operation. As of March 31, 1972, Bureau grants had assisted in forming 237 new Indian-owned businesses and expanding 142 existing ones. These grants generated some \$16.4 million from other financial sources. The Bureau received 770 applications for grants totaling \$10.8 million, or more than triple the amount of money allocated for the program. The Bureau received inquiries about the program from throughout the Indian community. We consider this program to be a proven success and believe that, along with the other programs

contained in this proposal, its enactment would lead to substantial Indian economic progress.

The Office of Management and Budget has advised that enactment of this proposal would be in accord with the President's program.

Sincerely yours,



Acting Secretary of the Interior

Hon. Carl Albert
Speaker of the
House of Representatives
Washington, D.C. 20515

APPENDIX

Explanation of a bill to provide for financing the economic development of Indians and Indian organizations to be cited as the
 "INDIAN FINANCING ACT OF 1973"

Section 1 contains the title of the Act.

Section 2 declares it to be the policy of Congress to furnish capital to Indians so that they can manage their own resources and enjoy a standard of living comparable to that of their non-Indian neighbors.

TITLE I

Section 101 makes the total revolving fund equally available to all Indians and Indian organizations, and resolves doubts as to the statutory authority to make loans to certain Indians and Indian organizations from part of the fund.

The revolving fund for loans was authorized by four main Acts: (a) the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 986), as amended and supplemented; (b) the Oklahoma Welfare Act (OWA) of June 26, 1936 (49 Stat. 1968); (c) the Navajo-Hopi Rehabilitation Act of April 19, 1950 (64 Stat. 44); and the Act of November 4, 1953 (77 Stat. 301), as amended, authorizing loans for expert assistance in connection with the preparation and trial of claims pending before the Indian Claims Commission. The Act of May 24, 1950 (64 Stat. 190), authorized the deposit in the revolving fund of moneys received in settlement of debts of livestock and from the sale of livestock. The livestock originated mainly in drought relief purchases by the Department of Agriculture in 1934 and were turned over to the Bureau of Indian Affairs to establish foundation herds for Indians. The livestock were loaned on a "repayment in kind" basis. The Act of June 28, 1941 (55 Stat. 316), provided that interest collections on these loans be credited to the revolving fund.

Funds authorized by the IRA, supplemented by funds from livestock settlements, are the only moneys in the revolving loan fund available to Indians and Indian organizations for loans generally. Funds authorized by the OWA are available for loans only in the State of Oklahoma, exclusive of Osage County. Funds authorized by the Navajo-Hopi Rehabilitation Act are available only for loans to the Navajo and Hopi Tribes and their members. Funds authorized for loans for expert assistance may not be used for any other purposes, and no change is contemplated in this authorization.

The relation of amounts authorized under these funds and amounts appropriated is as follows:

	<u>Authorized</u>	<u>Total Appropriated</u>	<u>Authorizations Unappropriated</u>
Indian Reorganization Act	\$20,000,000	\$19,999,600	\$400
Oklahoma Welfare Act	2,000,000	2,000,000	-
Navajo-Hopi Rehabilitation Act	5,000,000	1,800,000	3,200,000
Expert Assistance	<u>1,800,000</u>	<u>1,800,000</u>	<u>-</u>
	<u>\$28,800,000</u>	<u>\$25,599,600</u>	<u>\$3,200,400</u>

Funds made available for loans through the Bureau of Indian Affairs never have been adequate. A survey conducted by the Civil Works Administration in 1935 estimated the Indian credit needs at \$65 million. The IRA and CWA authorized original amounts totaling \$12 million. Inadequate as this amount was, it took from 1934 until 1951 to obtain appropriations of the original authorizations. Not only have the appropriations been inadequate to meet Indian financing needs, but even the meagre appropriations made were not wholly available for loans. Nearly \$4.1 million was spent for administrative expenses between 1936 and 1961 under Congressional authorizations. Of the amount appropriated, only \$21.5 million was available for loans. The following summarizes transactions from the revolving loan fund:

Appropriated to June 30, 1969		\$25,599,600
<u>Less:</u> Amount expended for		
administrative expenses		<u>4,073,940</u>
Appropriations available for loans		21,525,660
 <u>Plus:</u> Interest collections	\$6,642,423	
Livestock settlements	<u>2,783,109</u>	<u>9,425,532</u>
 Total available for loans		30,951,192
 <u>Less:</u> Total amount loaned	66,678,111	
Total amount paid	<u>38,853,694</u>	<u>27,824,417</u>
 Cash balance June 30, 1969		<u>\$ 3,126,775</u>

The cash balance was available for loans as follows:

General Fund	\$1,088,446
Oklahoma	143,338
Navajo-Hopi	794,551
Expert Assistance	<u>1,100,440</u>
	\$3,126,775

The repayment record through June 30, 1969, follows:

Payments due	\$47,671,723
Payments made	38,853,694
Payments in transit	3,613
Payments extended	1,687,412
Amount cancelled	2,596,843
Payments delinquent	<u>4,530,161</u>

The fund had a surplus at the close of the fiscal year, calculated as follows:

Interest earned		\$8,090,261
Less: Cancellations - Principal	\$2,596,843	
Interest	570,248	
Allowance for Losses	<u>2,305,665</u>	<u>5,472,756</u>
Surplus		<u>\$2,617,505</u>

This section also authorizes the use of these funds to pay for the administrative expenses incurred under this title.

Section 102 provides that loans may be made for any purposes that will promote Indian economic development, including loans for educational purposes. It also provides that loans may be made to Indian organizations to permit them to make loans to other organizations and to make investments in other organizations, regardless of whether the borrowing organizations are organizations of Indians. It is sometimes necessary and desirable for tribes to make loans to private organizations in order to encourage such organizations to establish industries in localities where their operations will provide wage income for the Indians and promote their economic development. In other cases it may be necessary and desirable for tribes to invest in industries being established on or near reservations, i.e. equity participation. The section also permits loans to be guaranteed for these same purposes.

Section 103 makes policies which have long been followed on loans from the revolving loan fund a matter of law: loans may be made or guaranteed only when there is a reasonable prospect of repayment and only to applicants unable to obtain financing from other sources on reasonable terms and conditions, e.g. tribes unable to obtain necessary financing from customary sources including financing under title I of the bill. Such tribes are required to use their own moneys before a loan from the revolving loan fund may be approved. On June 30, 1969, loans from the revolving fund totaled \$25.3 million or 6.6 percent of total Indian financing. Tribal funds in use totaled \$105.1 million or 27.4 percent of the total. This is indicative of the importance of tribal funds in Indian financing. Estimated financing by customary lenders totaled \$252.6 million or 66 percent of the total. The section also provides that before a direct loan can be made the Secretary must find the applicant unable to avail himself of the guaranteed loan provisions of the Act.

Section 104 provides that loans made or guaranteed shall provide for complete amortization within no more than 30 years or three-fourths of the useful life of the capital asset, whichever is less. It also provides that loans shall bear interest at rates determined by the Secretary. The section allows the Secretary to defer interest on educational loans while the borrower is in school or the military service. Loans already made shall be conformed to this section as soon as possible.

Section 105 requires the Secretary to pay into the Treasury, at least at the end of each fiscal year, interest on the value of the Government's equity transferred to the fund pursuant to section 101, plus other amounts. The interest rate on payments to the Treasury is to be determined by the Secretary of the Treasury. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred also bear interest. This payment provision is a new requirement in that the Department of the Interior is not now required to pay interest to Treasury on funds presently contained in existing Indian revolving loan fund accounts.

Section 106 authorizes the Secretary to cancel, compromise, adjust or reduce the amount of any loan made from the fund or any portion thereof, and to modify the terms of securing documents given for loans made from the revolving loan fund. This authority is essential for the efficient administration of the revolving loan fund. The existing authority of the Secretary pursuant to the Act of July 1, 1932 (47 Stat. 564), to "*** adjust or eliminate reimbursable charges of the Government of the United States existing as debts against

individual Indians or tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made ***" is inadequate. There is no authority to deal with the debts of some Indian organizations, which are neither "individual Indians or Tribes of Indians". Some organizations presently in existence are of a type that were not contemplated in 1932, e.g., incorporated cooperative and credit associations. The Secretary of Agriculture has authority under subtitle D of the Agricultural Act of 1961 (75 Stat. 312), to adjust loans by the Farmers Home Administration. The Secretary would be given similar authority under this section. The Secretary would make an annual report of all such actions to the Congress.

Section 107 authorizes the Secretary, with the approval of the Secretary of the Treasury, to sell loans made from or acquired by the fund, and to guarantee the loans which are sold. This approval authority is not intended to allow Treasury to interfere with the day-to-day operation of the program but is intended as a method of allowing Treasury to coordinate the marketing of the obligations generated by this Fund with other obligations marketed by the Federal Government. Receipts from sales are to be deposited in the revolving fund and be available for further loans. This provision should help to maintain the revolving fund without additional appropriations.

Section 108 limits loan guarantees to 90 percent of the unpaid principal and interest due on any one loan and 15 percent of the aggregate average unpaid balance of such loans held by a single lender in any one year.

Section 109 directs the Secretary to charge fees sufficient to cover administrative expenses and probable losses on loans made or guaranteed but also authorizes him to pay subsidies to cover all or part of these fees.

Section 110 requires prior approval of loans to be guaranteed, and the issuance of a certificate of guarantee. It also places a ceiling of \$100,000 on loans to individuals which may be guaranteed. This amount is consistent with loans by the Farmers Home Administration pursuant to the Agricultural Act of 1961 (75 Stat. 308). Guaranteed loans to Indian organizations in excess of \$100,000, or such lower amount as the Secretary may determine to be appropriate, would require Secretarial approval.

Section 111 disqualifies governmental and certain other loans from guarantee provisions. Otherwise, there could be situations where the Government was guaranteeing its own loan. Loans made by Indian organizations from funds borrowed from the United States also are not eligible for loan guarantee. It would not be proper for the Government to guarantee loans made by an Indian organization from funds which the organization had borrowed from

the United States. Loans by an Indian organization from its own funds to other tribes or organizations of Indians would be eligible for guarantee. It also provides that obligations, the interest on which is non-taxable, shall not be eligible for either guarantee.

Section 112 provides for the purchase of guaranteed loans by any lender satisfactory to the Secretary and provides that the liability under a guarantee shall increase or decrease pro rata according to any change in the unpaid portion of the obligation.

Section 113 permits certain financial institutions to utilize the guarantee provisions without regard to present legal restrictions.

Section 114 provides that the United States may take title to certain land in trust for the tribe or individual Indian purchasing it with a loan made or guaranteed by the fund. However, title to personal property purchased with such funds must be taken in the name of the purchaser.

Section 115 requires that property purchased with loans made from or guaranteed by the fund be pledged as security for loans, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured. It also provides that trust land purchased with and given as security for a loan shall be subject to foreclosure and sale free of trust restrictions in accordance with the laws of and in the courts of the State in which the land is located.

Section 116 requires that an organization receiving a loan made from or guaranteed by the fund assign the securities it acquires with the loan to the United States as security for the loan, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured. This section is applicable to loans by the United States to Indian organizations to enable them to relend money to their members.

Section 117 authorizes the Secretary to collect delinquent loans from per capita payments or other distributions of tribal assets. If a tribe is awarded a money judgment against the United States, and is indebted for a loan, any installment of which is in default, the Secretary may, at his discretion, collect the delinquent installment or the balance of the loan from the appropriation to satisfy the judgment insofar as it will cover the delinquency.

Section 118 prescribes the procedure to be followed in the event of default on guaranteed loans. The lender is to notify the Secretary, who shall examine the claim. The Secretary would be subrogated to

the rights of the holder of the guarantee to the extent of the amount paid thereon, and receive an assignment of the complete obligation and security. Before a lender could be reimbursed, however, all reasonable collection efforts must have been exhausted, the security must have been liquidated, and the proceeds must have been applied on the debt. Upon reimbursement, the lender is required to assign the debt to the United States. The lender then has no further claim against either the borrower or the United States. The Secretary would then take such further collection action as might be warranted. The procedures in this section also permit forbearance for the benefit of a borrower and permit establishment of a date upon which further interest charges on a loan shall cease. Provision also is made for the Secretary to cancel the uncollectable portion of any obligation to which he has an assignment or subrogated right.

Section 119 authorizes the Secretary to take appropriate action should a lender or holder of a guarantee certificate fail to operate in accordance with accepted credit principles. The Secretary may, in his discretion, refuse to guarantee further loans by such lender or guarantee certificate holder.

Section 120 includes provisions necessary for the effective administration of the Act. Any guarantee certificate issued shall be conclusive evidence that the loan was eligible for guarantee. The Secretary may, however, establish defenses based on fraud or material misrepresentation, and defenses as to the amount payable on the guarantee based on regulations.

Section 121 provides certain authorities to enable the Secretary effectively to administer the provisions of the bill. These authorities are similar to those of the Administrator of the Veterans Administration authorized by section 509 of the Servicemen's Readjustment Act (38 U.S.C. 1820(a) - (c)). These authorities will permit the Secretary to readjust interest rates, time of payments, etc., in order to carry out the purposes of loan guarantee.

Section 122 pertains to the guarantee of loans. A limitation of \$200,000,000 is placed on the amount of guaranteed loans by the Secretary that may be outstanding at any one time.

This section also defines what shall constitute the assets and liabilities of such a fund. Subsection (c) authorizes the Secretary to borrow money from the Treasury to meet obligations of the fund. Subsection (d) authorizes the Secretary to make disbursements from the fund to protect the United States' interest as may be necessary and to pay administrative expenses.

Section 123 authorizes the appropriation of \$50,000,000 to provide capital for the fund and to restore any impairment of capital.

Section 124 authorizes the Secretary to promulgate rules and regulations.

TITLE II

Section 201 authorizes the Secretary to make periodic debt service payments on loans made or guaranteed so as to reduce Indians' interest and other payments by up to 30 percent or to reduce the outstanding principal amount of the loan by 3 percent, whichever is less. We believe that this authority will enable the Secretary to provide Indians a favorable, low rate of interest.

Section 202 provides that no contract for such debt service payment may be entered into unless the Secretary has determined that other credit provisions are not sufficient to accomplish the purposes of the program.

Section 203 authorizes the appropriation of necessary funds to make such debt service payments.

TITLE III

Section 301 establishes the Indian Business Grant Fund and authorizes the appropriation of such funds as may be needed.

Section 302 sets the conditions under which the Secretary may make grants from the fund. These conditions include a limit of \$50,000 to any one applicant; the inability of the applicant to borrow the money from any other source, including the title I revolving loan fund; Indian ownership of the business involved; and benefit from the grant to Indians living on or near a reservation.

A B I L L

To provide for financing the economic development of Indians and Indian organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act of 1973."

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term--

- (a) "Secretary" means the Secretary of the Interior.
- (b) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "native" as defined in the Alaska Native Claims Settlement Act (85 Stat. 688).

(c) "Tribe" means any Indian tribe, band, group, pueblo or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated native groups, regional corporations and village corporations under the provisions of the Alaska Native Claims Settlement Act.

(e) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

(f) "Economic enterprise" means a commercial, industrial, or business activity, established or organized for the purpose of profit, which is Indian-owned, as defined by the Secretary.

TITLE I--INDIAN REVOLVING LOAN FUND

SEC. 101. All funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented, including sums received in settlement of debts of livestock pursuant to the Act of May 24, 1950 (64 Stat. 190), and sums collected in repayment of loans

heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single fund for direct loans in conjunction with monies for loan guarantees under the provisions of this Act and shall be available to make loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization that is making loans to its members and for administrative expenses incurred in connection therewith. Provided, however, that monies paid into the fund pursuant to this section and funds appropriated pursuant to section 123 of this Act for the purpose of making direct loans shall not be used for the discharge of the liability of the Secretary with respect to any guaranteed loan.

SEC. 102. In order to provide credit that is not available from private credit markets, the Secretary is authorized to make or guarantee loans for any purpose which will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members, including loans by such organizations to other organizations and investments in other organizations regardless of whether they are organizations of Indians.

SEC. 103. Loans may be made or guaranteed only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants which the Secretary finds are unable to obtain financing from other sources on reasonable terms and conditions. Direct loans may be made only to applicants which the Secretary finds

are unable to obtain private guaranteed loans under the provisions of this Act on reasonable terms and conditions. Before a loan may be made or guaranteed under this Act, Indian tribes shall be required to use their own funds, those funds being funds available to them from uncommitted or unprogrammed funds on deposit in the United States Treasury or elsewhere, or funds accruing from income.

SEC. 104. Loans made or guaranteed hereunder shall (a) provide for complete amortization within a period not to exceed thirty years or three-fourths of the useful life of the capital asset financed, whichever is less, as determined by the Secretary, and (b) bear interest (exclusive of guarantee fees and service charges) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. Provided, That educational loans may provide for interest to be deferred while the borrower is in school or in the military service. Loans that are outstanding on the date this Act is approved shall be conformed to the provisions of this section as soon as the loan agreements permit.

SEC. 105. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts, interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to section 101 of this

Act plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SEC. 106. The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore or hereafter made from the revolving loan fund established by this title and its predecessor constituent funds which he determines to be uncollectable in whole or in part, which is collectable only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States. He may also adjust, compromise, subordinate, and modify the terms of any mortgage, lease, assignment, contract, agreement, and other document taken to secure such loans. The Secretary shall make an annual report to the Congress of all actions taken pursuant to this section.

SEC. 107. The Secretary may sell, with the approval of the Secretary of the Treasury, to any person or entity any note resulting

from a loan heretofore or hereafter made from or acquired by the fund established by this title and its predecessor constituent funds and may guarantee any loans thus sold. The receipts from any such sale shall be deposited in the revolving loan fund and be available for other loans from such fund. Provided, however, that, in any instance where the interest rate for a note sold pursuant to this section is less than that prevailing in the market, the Secretary may pay a subsidy that he determines to be adequate to facilitate such sale to the purchaser of said note without any discount.

SEC. 108. Loan guarantees made pursuant to the provisions of this Act shall not exceed (a) 90 per centum of the unpaid principal and interest due on any one loan and (b) 15 per centum of the aggregate average unpaid balance of such loans held by any single institutional lender during any given calendar year.

SEC. 109. The Secretary shall charge and collect fees in amounts sufficient to cover administrative expenses and probable losses on loans made or guaranteed pursuant to the provisions of this Act and shall deposit receipts from such charges in the fund. The Secretary is authorized, in his discretion, to pay a subsidy to cover all or a portion of the fees required by this section.

SEC. 110. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary will issue a certificate as evidence of the guarantee.

Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed which would cause the total unpaid principal indebtedness to exceed \$100,000. No loan in excess of \$100,000 or such lower amount as the Secretary may determine to be appropriate, shall be guaranteed unless prior approval of the loan is obtained from the Secretary.

SEC. 111. Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, shall not be eligible for guaranty or insurance hereunder.

SEC. 112. Loans guaranteed hereunder may be purchased, or held by any lender satisfactory to the Secretary. The liability under the guarantee shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

SEC. 113. Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount of loan to the value of the property; (b) maturity

of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

SEC. 114. Title to any land purchased by a tribe or by an individual Indian with loans made or guaranteed under the provisions of this Act may be taken in trust unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian that is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with a loan made or guaranteed under the provisions of this Act shall be taken in the name of the purchaser.

SEC. 115. Title to property purchased with a loan made or guaranteed under the provisions of this Act shall be pledged or mortgaged to the lender as security for the unpaid indebtedness to the lender, in such manner and upon such terms as may be prescribed by the Secretary: Provided, That this requirement may be waived or modified if the Secretary determines that the repayment of the loan is otherwise reasonably assured. Land purchased with a loan, title to which is taken in trust and pledged or mortgaged as security, shall be subject to foreclosure and sale, free of such

trust or restrictions, in the courts of, and in accordance with the laws of, the State in which the land is located.

SEC. 116. Any organization receiving a loan made or guaranteed under the provisions of this Act shall be required to assign to the holder as security for the loan all securities acquired in connection with the loans made to its members from such funds, unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured.

SEC. 117. A loan made from or acquired by the revolving loan fund that becomes delinquent and the interest thereon, may be collected by the Secretary from per capita payments or other distributions of tribal assets due the delinquent borrower, without prejudice to the right to foreclose on the securities for the loan. If, during the period of repayment of any loan made under this section, a tribe is awarded a money judgment against the United States, and if the payment of any installment on a loan is in default, the installment(s) in default or the balance of the loan, in the discretion of the Secretary, shall be collected from the appropriation to satisfy the judgment insofar as the amount of the appropriation will cover the same.

SEC. 118. In the event of a default of a loan guaranteed hereunder, the holder of the guarantee may immediately notify the Secretary in writing of a claim against the guarantee and the Secretary shall thereupon examine and settle the claim in accordance with the terms of the guarantee agreement, and if he settles the claim in favor of the

holder, the Secretary shall be subrogated to the rights of the holder and shall receive an assignment of the obligation and security. The Secretary may cancel the uncollectible portion of any obligation to which he has an assignment or a subrogated right under this section. Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. Provided, however, That before any reimbursement is made, the lender's responsibilities for collection, foreclosure, and liquidation of collateral shall have been fulfilled to the extent required by the guarantee agreement, except as waived by the Secretary, and all proceeds therefrom shall have been applied to reduction of the claim. Upon reimbursement, in whole or in part, to the lender, title to any unliquidated collateral, the note, or judgment evidencing the debt shall be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectible portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease. The Secretary may cancel the uncollectible portion of any obligation to which he has an assignment or a subrogated right under this section. Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary.

SEC. 119. Whenever the Secretary finds that any lender or holder of a guarantee certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed hereunder: Provided, That the Secretary shall not refuse to pay a valid guaranty claim on loans previously made in good faith. .

SEC. 120. Any evidence of guarantee issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty under the provisions of this Act and the amount of such guaranty: Provided, however, That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guarantee.

SEC. 121. The financial transactions of the Secretary incident to or arising out of the guarantee of loans, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and

conclusive upon all officers of the Government. With respect to matters arising out of the guarantee program authorized by this title, and notwithstanding the provisions of any other laws, the Secretary may--

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this title, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan which has been guaranteed hereunder;

(c) pay, or compromise, any claim on, or arising because of any loan guaranty;

(d) pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease or otherwise

deal with any property acquired or held pursuant to the guaranty program authorized by this title.

SEC. 122. (a) The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans guaranteed under this title, but the aggregate of such loans which are insured or guaranteed by the Secretary shall be limited to \$200,000,000.

(b) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. Guaranteed loans acquired by the fund may be collected in accordance with their terms or may be sold by the Secretary with or without guarantee thereof. The Secretary is authorized to make agreements with respect to servicing loans held or guaranteed by him under this title and purchasing such guaranteed loans on such terms and conditions as he may prescribe.

(c) If at any time the moneys in the fund are not sufficient to enable the Secretary to discharge his responsibility under any guarantee agreement, the Secretary is authorized to issue notes to the Secretary of the Treasury in such amounts as may be necessary to discharge such responsibilities. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes issued by the

Secretary to the Secretary of the Treasury shall constitute obligations of the fund. The Secretary of the Treasury is authorized and directed to purchase any obligations issued pursuant to this subsection, as now or hereafter in force, and for such purpose as the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(d) The Secretary may also utilize the fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments 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 title or held by the Secretary, to acquire such security property at foreclosure sale or otherwise and to pay administrative expenses.

SEC. 123. There is authorized to be appropriated, to provide capital and to restore any impairment of capital, for the revolving loan fund \$50,000,000 exclusive of prior appropriations.

SEC. 124. The Secretary shall promulgate rules and regulations to carry out the provisions of this title.

TITLE II--DEBT SERVICE PAYMENTS

SEC. 201. The Secretary is authorized to make, and to contract to make, periodic debt service payments on loans made or guaranteed under this Act in amounts sufficient to reduce the periodic payments of interest and other charges payable under section 104 of this Act by up to (1) 30 percent or (2) 3 percent of the outstanding principal amount of the loan, whichever is less.

SEC. 202. No contract to make debt service payments shall be entered into unless the Secretary determines that the credit terms otherwise available would not permit the accomplishment of the objectives of the program.

SEC. 203. There are authorized to be appropriated to the Secretary, without fiscal year limitation, such sums as may be necessary for debt service payments under this section.

TITLE III--INDIAN BUSINESS GRANTS

SEC. 301. In order to stimulate and increase Indian entrepreneurship and employment, and to establish or expand profitmaking

Indian-owned economic enterprises on or near Indian reservations, by providing equity capital through nonreimbursable grants made by the Secretary to Indians and Indian tribes, there is hereby established in the Department of the Interior the Indian Business Development Program.

SEC. 302. The Secretary of the Interior is authorized to make grants from such fund under the following terms and conditions:

(a) No grant in excess of \$50,000 or such lower amount as the Secretary may determine to be appropriate, may be made to an Indian or Indian tribe.

(b) A grant may be made only to an applicant who has proven to the satisfaction of the Secretary that he is unable to obtain adequate financing for his economic enterprise from other sources, including the credit assistance provided in this Act and his own financial resources, except that no grant may be made to an applicant who is unable to obtain at least 60 per centum of the necessary funds for the economic enterprise from other sources.

(c) A grant may be made only for the portion of the total cost of the economic enterprise that is, in the judgment of the Secretary, beyond the ability of the applicant to repay.

SEC. 303. There is authorized to be appropriated such sums as may be necessary to the purposes of this Title.

SEC. 304. The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this Title.

SECTION-BY-SECTION ANALYSIS

OF

S. 1341 AND H. R. 9843

- Sec. 1. Title of Act: Indian Financing Act of 1973
- Sec. 2. Declares it to be the policy of Congress to provide capital to help Indians use and manage their resources and to improve their standard of living.
- Sec. 3. Contains definitions.

TITLE I--INDIAN REVOLVING LOAN FUND

- Sec. 101. Provides for the consolidation of three existing Indian revolving loan funds, created by separate Acts of Congress, and identifies the Indians who are eligible to receive loans. It also makes the consolidated loan fund available to pay the expenses of administering the loans.
- Sec. 102. Provides that loans may be made for any purpose which will promote Indian economic development, including educational loans. It also provides that loans may be made to Indian organizations to permit them to make loans to other organizations and to make investments in other organizations, regardless of whether the borrowing organizations are organizations of Indians or not
- Sec. 103. Makes normal administrative policy which has been followed on loans from the revolving loan fund a matter of law: Loans may be made only when there is reasonable prospect of repayment and only to applicants unable to obtain financing from other sources on reasonable terms and conditions.
- Sec. 104. Provides that loans shall not be made for periods exceeding thirty years and that the interest rate shall be determined by the Secretary of the Treasury with reference to the current market yield on municipal bonds provided that the rate may not exceed that on outstanding marketable obligations of the United States. The section also provides that interest may be deferred while the borrower is in school or

in the military service.

- Sec. 105. Authorizes the Secretary to cancel, compromise, adjust or reduce the amount of any loan or any portion thereof, and to modify the terms of securing documents given for loans made from the revolving loan fund.
- Sec. 106. Provides that the United States may take title to certain land in trust for the tribe or individual Indian purchasing it with a loan from the revolving loan fund. However, title to personal property purchased with such funds must be taken in the name of the purchaser.
- Sec. 107. Requires that an organization receiving a loan from the revolving loan fund assign the securities it acquires with the loan to the United States as security for the loan, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured.
- Sec. 108. Prohibits the Secretary from proceeding against any percapita payments or other distribution of tribal assets derived from money judgments awarded against the United States to satisfy a delinquent loan or the accumulated interest thereon from the revolving loan fund.
- Sec. 109. Authorizes appropriations of \$50,000,000 for the revolving loan fund exclusive of prior authorizations and appropriations.
- Sec. 110. Authorizes the Secretary to promulgate necessary rules and regulations.

TITLE II -- LOAN GUARANTY AND INSURANCE

- Sec. 201. Authorizes the Secretary of the Interior to guarantee not to exceed 90 percent of any loan made to an Indian organization or to an individual Indian. In lieu of such guaranty, it authorizes the Secretary to insure loans under an agreement whereby the lender will be reimbursed for loans up to 15 percent of the aggregate of loans made by it to an Indian organization or an individual Indian, but not to exceed 90 percent on any one loan.

- Sec. 202. Authorizes the Secretary, to the extent he deems consistent with the purposes of the program, to fixx such premium charges on guaranteed and insured loans as are, in his judgment, adequate to cover expenses and possible losses, and to deposit the receipts in the Indian Loan Guaranty and Insurance Fund established by section 217 of the bill.
- Sec. 203. Provides that guaranteed and insured loans shall bear interest at rates determined by the Secretary to be reasonable taking into consideration the interest rates prevailing in the private market for similar loans and the risk assumed by the United States.
- Sec. 204. Requires prior approval of loans to be guaranteed, and the issuance of a certificate of guaranty. It also places a ceiling of \$100,000 on loans to individuals which may be guaranteed or insured. Insured loans to Indian organizations in excess of \$100,000, or such lower amount as the Secretary may determine to be appropriate, require Secretarial approval.
- Sec. 205. Permits lenders to sell or assign guaranteed loans they may have made. Purchasers and assignees are restricted to financial institutions subject to examination and supervision by an Agency of the United States, or of any State or the District of Columbia.
- Sec. 206. Provides that loans by agencies or instrumentalities of the Federal Government shall not be eligible for guaranty or insurance. Loans made by Indian organizations from funds borrowed from the United States would not be eligible for guaranty or insurance. This section also provides that obligations, the interest on which is nontaxable, shall not be eligible for either guaranty or insurance.
- Sec. 207. Restricts the insurance provisions to loans made by an institution subject to examination and supervision by an Agency of the United States, a State or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

- Sec. 208. Permits the guarantee of loans by any lender satisfactory to the Secretary, except as provided in section 206. It also provides for the liability under a guaranty to decrease or increase prorata with any increase or decrease in the amount of the unpaid portion of the obligation.
- Sec. 209. Permits certain financial institutions to utilize the guaranty provisions without regard to present legal restrictions.
- Sec. 210. Provides that the maturity of any guaranteed or insured loan may not exceed 30 years.
- Sec. 211. Provides that in the event of default on a guaranteed loan the lender will notify the Secretary in writing and receive payment of the pro rata portion of the amount guaranteed. The Secretary would be subrogated to the rights of the holder of the guaranty to the extent of the amount paid thereon, and receive an assignment of the obligation and security. The procedures in this section permit forbearance for the benefit of a borrower, and permit establishment of a date upon which further interest charges on a loan shall cease. Provision is also made for the Secretary to cancel the uncollectible portion of any obligation to which he has an assignment or subrogated right.
- Sec. 212. Provides procedures to be followed in the event lenders suffer losses on insured loans. Before a lender is reimbursed under the insurance provisions, all reasonable collection efforts must have been exhausted, the security must have been liquidated, and the proceeds must have been applied on the debt. Upon reimbursement, the lender is required to assign the debt to the United States. The lender then has no further claim against either the borrower or the United States. The Secretary would then take such further collection action as might be warranted, or would cancel the uncollectible portion of the debt.
- Sec. 213. Authorizes the Secretary to take appropriate action should a lender or holder of a guaranty certificate fail to cooperate in accordance with accepted credit principles. The Secretary may, in his discretion, refuse to guarantee or insure further loans by such lender or guaranty certificate holder.

- Sec. 214. Provides that any guaranty certificate issued pursuant to section 204, or any loan insured pursuant to section 201, shall be conclusive evidence that the loan was eligible for guaranty or insurance. The Secretary may, however, establish defenses based on fraud or material misrepresentation, and defenses as to the amount payable on the guaranty or insurance based on regulations
- Sec. 215. Provides that the United States may take title to certain land in trust for the tribe or individual Indian purchasing it with guaranteed or insured loan funds. However, title to personal property purchased with such funds must be taken in the name of the purchaser.
- Sec. 216. Provides certain miscellaneous authorities to the Secretary in order to enable him to carry out the provisions of the title.
- Sec. 217. Authorizes the establishment of an "Indian Loan Guaranty and Insurance Fund" for loan guaranty and insurance operations and for the purchase of loans guaranteed or insured. A sum of \$10,000,000 for each of the fiscal years 1974, 1975, and 1976 is authorized to be appropriated to carry out the provisions of this title and section 301 of Title III. Subsection (b) places a limitation of \$200,000,000 on the amount of guaranteed and insured loans by the Secretary, which may be outstanding at any one time. Subsection (c) provides that all funds, claims, notes, mortgages, contracts and property acquired by the Secretary constitute assets of the fund.
- Sec. 217. All the liabilities of these assets are also liabilities of the fund. It also authorizes the Secretary to make agreements for servicing loans held or guaranteed or insured by him under this title and to purchase such guaranteed or insured loans on such terms and conditions as he may prescribe. Subsection (d) authorizes the Secretary to make disbursements from the fund to protect the United States' interests as may be necessary and to pay administrative expenses.
- Sec. 218. Provides for the promulgation of regulations by the Secretary to carry out the provisions of this title.

TITLE III--INTEREST SUBSIDIES AND
ADMINISTRATIVE EXPENSES

- Sec. 301. Authorizes the Secretary to provide a subsidy to the borrower to meet interest payments on loans insured or guaranteed under title II of the Act. The subsidy shall not exceed the difference between the prevailing private rates for loans having comparable maturities and the rate payable by borrowers pursuant to section 104 of the Act. This section also provides for promulgation of regulations by the Secretary to carry out the provisions of the Act.
- Sec. 302. Authorizes the appropriation of funds in annual budgets in the amount of \$10,000,000 for each of the fiscal years 1974, 1975, and 1976 to carry out the provisions of section 301 of this Title and section 210 of Title II.

TITLE IV
INDIAN BUSINESS GRANTS

- Sec. 401. Establishes the Indian Business Development Program to provide nonreimbursable grants to Indians and Indian tribes to establish and expand Indian-owned economic enterprises.
- Sec. 402. Provides that grants may not exceed \$50,000 to any applicant and that the applicant must obtain at least 60 percent of the necessary financing elsewhere.
- Sec. 403. Authorizes the appropriation of funds in annual budgets in the amount of \$10,000,000 for each of the fiscal years 1974, 1975, and 1976, to carry out the provisions of section 401 of this title.
- Sec. 404. Provides for the promulgation of regulations by the Secretary to carry out the provisions of this title.

Mr. MEEDS. This legislation, in concept, has the support of all Indian tribes and is one of the highest priorities in meeting and solving the many major problems facing Indians today. The Bureau of Indian Affairs has estimated that the cumulative credit and capital needs of Indians and Indian tribes across the country approximates \$2 billion.

These needs include land purchases, industrial development, commercial enterprises, educational costs, tribal programs, and so forth.

Most critical in this regard is the grant program for Indian business development provided in this legislation. The lack of Indian-owned and Indian-operated business on Indian reservations, whether they be tribal or individual, has been one of the most debilitating factors holding back the economic and social self-sufficiency of the Indians.

These bills seek to remedy this problem with a three-pronged approach. First, they would increase the amount of money available to Indians and Indian tribes through direct Federal loans from the United States by increasing the authorization for existing revolving loan funds administered by the Bureau of Indian Affairs by \$50 million, from \$25 million to \$75 million.

Second, they would authorize the creation of a fund to guarantee or insure loans made by Indian organizations or individuals in the private money markets. With the existence of a comparatively small Federal fund, it is estimated that \$200 million worth of new private credit can be made available to Indian people and tribes.

Finally, the bill authorizes the establishment of an Indian business development fund which would provide grants, "seed money," to tribes and individuals for the development of private enterprise on or near Indian reservations which are so badly needed.

Any opening statements, gentlemen? The gentleman from Nevada.

Mr. TOWELL. No.

Mr. MEEDS. The gentleman from Utah.

Mr. OWENS. No.

Mr. MEEDS. Very well. Before our first witness takes the stand I would like to place in the record a statement by Hon. John M. Zwach of Minnesota, a cosponsor of H.R. 6371.

Without objection, so ordered.

[Mr. Zwach's statement follows:]

STATEMENT OF HON. JOHN M. ZWACH, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MINNESOTA

Mr. Chairman, may I thank the Committee at this time for the consideration that has been provided several bills concerning Native Americans.

Today I would like to express my interest in the proposal to make loans and grants to Indians for the purpose of facilitating economic development among the Indian people. There is, of course, a revolving fund for Indian development established through other Acts of Congress. Some of these, however, are limited in their coverage and financing. The bill before you, H.R. 6371, would increase the amount in the fund and make the total revolving fund available to all Indians and Indian organizations. This is a broader identification than the wording under some provisions of present law, and would include entities such as business committees, cooperatives, etc., as well as "individual Indians or Tribes of Indians." It would strengthen the purpose and the potential of these funds.

The Selected Indian Reservation Program of the Economic Development Administration, providing a supporting role for the Indians' own efforts in developing their resources, has brought about some gratifying results. We have seen the Blackfeet establish a logging and lumber industry in Montana, the White Mountain Apaches of Arizona develop a unique tourism complex, the Lummi

of Washington in a fish hatchery and oyster culture endeavor, to name some of them. We even find a pencil factory in Montana, with the controlling stock Indian-owned. Other enterprises have been developed through private and tribal funding, and many of these more directly reflect the Native American culture and heritage, such as processing of wild rice products, jewelry, basketry and other crafts. The advantages of prosperous enterprises in Indian communities are quite obvious.

Before a loan may be made or guaranteed under this bill, the Indian tribes are required to use their own funds available to them from uncommitted funds on deposit in the Treasury or elsewhere, or accruing from income. Under the provisions of the bill relating to guaranteed loans, there must be reasonable prospect of repayment shown. There is a provision for grants to applicants who are able to obtain 60 percent of the necessary funds for their enterprise from other sources, but are unable to obtain credit for the remainder.

There would appear to be at least as much security in these provisions as in any other Federal credit program, and perhaps more than some.

Mr. Chairman, I feel the enactment of this bill would certainly improve the economic outlook for Indians in their home communities. We have not seen desirable results when Indians, nearly destitute, have been forced to leave their homes and seek hand-to-mouth existence in communities where much is alien to them.

In other words, the Act would give more hope for growth of ideas and industry from the roots of Indian culture and resource. I feel it is a goal worth pursuing, and urge favorable action by the Committee on the Indian Financing Act.

Mr. MEEDS. Our first witness is the witness from the Department, our former colleague, Hon. John Kyl.

John, good to see you again here this morning.

STATEMENT OF HON. JOHN H. KYL, ASSISTANT SECRETARY OF THE INTERIOR FOR CONGRESSIONAL AND PUBLIC AFFAIRS, ACCOMPANIED BY ROBERT BRUCE, LEGISLATIVE OFFICE, BIA; ROBERT SELVEY, ACTING CHIEF, CREDIT AND FINANCIAL DIVISION, BIA; AND HAROLD ROBERSON, DIVISION OF INDIAN ENTERPRISES, BIA

Mr. KYL. Thank you, Mr. Chairman.

I have with me this morning Robert Bruce, of the Bureau of Indian Affairs' legislative office; Bob Selvey, who is the Acting Chief of the Credit and Finance Division of the Bureau of Indian Affairs; and Harold Roberson, who is the Acting Division Chief of the Division of Business Enterprise, Indian Business Enterprise.

Mr. Chairman, I would request that my statement appear in the record and I will summarize.

Mr. MEEDS. If there is no objection, so ordered.

[The statement follows:]

STATEMENT OF JOHN H. KYL, ASSISTANT SECRETARY OF THE INTERIOR FOR CONGRESSIONAL AND PUBLIC AFFAIRS

Mr. Chairman, I am delighted to be here this morning to recommend enactment of one of the key pieces of legislation in the President's Indian program. This proposal emanates from the President's Indian Message delivered to the Congress on July 8, 1970. In that message the President sketched the nature of the problem with which this bill attempts to grapple.

"Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only \$1,500 . . . (I)t is critically important that the Federal government support and en-

courage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the 'Indian Financing Act' . . ."

The figures cited by the President have not improved significantly since that time.

The President in his 1970 message also called for more economic development planning by Indian tribes and asked the Secretary to work toward that end. Since that time many of the tribes have made real progress in economic development planning, and this bill will help provide the needed capital to bring these plans to fruition.

Mr. Chairman, we have a plethora of bills before us this morning, and before we proceed further it might be well to sort them out. H.R. 6371 is the Administration proposal, and H.R. 10562 is an identical bill. H.R. 6493 is the Administration proposal as introduced in the 92nd Congress. H.R. 9843 is identical to the Senate-passed bill, S. 1341. Since the Administration proposal as submitted to this Congress (either H.R. 6371 or H.R. 10562) is the one which we would prefer to see enacted, I would like to discuss it first.

This bill is an amalgamation of two proposals from the last Congress. Titles I and II, which establish loan and loan guarantee programs, are the core of the Indian Financing Act as previously submitted. Title III, which provides for grants to Indian businesses, was a separate proposal in the last Congress. For convenience, we have taken the opportunity to link the two proposals this year.

Titles I and II, then, would accomplish two purposes. First, they would broaden the existing Bureau of Indian Affairs Revolving Loan Fund, which provides money for Indian economic development projects. The authorization for such loans would be increased from the present \$28.8 million to \$78.8 million. Second, these titles would provide for the guarantee of private loans to Indians, thereby greatly encouraging such loans. Up to \$200 million worth of private loans could be guaranteed.

Title III would establish a program of small business grants to Indian entrepreneurs. No grant could be larger than \$50,000, and no one could receive a grant unless he met two conditions: (1) his project was practical enough that he had already obtained at least 60% of the needed financing from other sources; (2) he was *not* able to obtain elsewhere that portion of his needs for which he was seeking a grant, including the programs authorized by this legislation.

I would now like to touch briefly upon the changes which we have made in submitting these two proposals to the Congress this year. First, in the previous proposals there were two methods for attracting private loan institutions into the Indian market, a loan guarantee program and a loan insurance program. The latter program, it was felt, might be attractive to certain lenders, who might want the aggregate of their Indian loans to be insured rather than each one to be guaranteed. On reflection, however, we have concluded that having two programs is unnecessarily complicated, and we have kept only the guarantee program in this year's proposal.

Second, also for reasons of convenience, we have telescoped the two funds in last year's proposal—the Revolving Loan Fund and the Loan Guarantee and Insurance Fund—into one fund. Careful provision has been made, however, to make sure that monies earmarked for loans are not sidetracked into use for guarantees.

The final major change is a matter of bookkeeping involving the rate of interest to be charged on loans made or guaranteed under Titles I and II. Last year's proposal set, as a ceiling rate, the rate of interest on municipal bonds or the rate paid by the Federal Government on obligations of like maturity that it had issued. This year's proposal allows the Secretary of the Treasury more discretion. He can set an interest rate comparable to that on similar loans in the private sector, taking into consideration the prevailing rate for such obligations in the private sector and the risk assumed by the United States. This provision is offset, however, by the fact that the Secretary of the Interior is authorized to pay a subsidy on the Indian loan interest rate which would amount to 30% of the rate or 3% of the outstanding principal amount of the loan, whichever is less. This new subsidy provision is one that is now being used as a standard item by the Federal Government in legislation of this type and we believe it arrives at the same result as that we proposed in last year's legislation.

The last point I would like to make with regard to the Administration bill is to bring the Committee's attention to an omission in its drafting. What we left out was a quite important section for keeping our loan and loan guarantee fund solvent. We apologize for this error and suggest that the following new section 204 be added to the bill:

"There are authorized to be appropriated such sums as may be necessary to reimburse the fund created by section 101 of this Act for losses incurred in connection with loans made or guaranteed pursuant to this Act."

Having said this, Mr. Chairman, I would hasten to say that our preference for this year's bill does not mean that we find fault with the proposal as we submitted it in the last Congress. We believe that version is still viable, and if it is the one which the Congress prefers, we would be satisfied. The bill which the Senate has recently passed is also quite similar to last year's proposal. We would likewise have no objection to its enactment but for two changes which the Senate has introduced. These are: (1) deletion of the provision setting interest charges on loans made from the funds; and (2) deletion of a provision requiring that title to property purchased with loan funds and taken in trust for a tribe be pledged as security for the loan unless the Secretary were otherwise assured of the loan's security.

We believe that the excellent repayment record established by Indian borrowers from similar funds over the years demonstrates that the loan funds can best accomplish their purpose on a self-perpetuating basis, rather than in dependency on continual subsidization. In particular, we envision the revolving loan fund as an enhanced successor to several existing funds, not as a novel charity. Rather than subsidize a program that has already proved itself to be workable without subsidies, we would prefer to devote an equivalent amount of money to other Indian programs. As to the requirement that new trust land be pledged as security for loans, we believe that this provision is needed to attract private lenders into the Indian market.

This concludes my statement.

Mr. KYL. Then, I would start at the top of page 2 in the statement, Mr. Chairman, noting that the President has listed this as a top priority item in the whole legislative package submitted by the administration.

The President in his 1970 message also called for more economic development planning by Indian tribes and asked the Secretary to work toward that end. Since that time, many of the tribes have made real progress in economic development planning, and this bill will help provide the needed capital to bring these plans to fruition.

As you noted, Mr. Chairman, we have a number of bills before us this morning, and before we proceed further, it might be well to sort them out. H.R. 6371 is the administration proposal and H.R. 10562 is an identical bill. H.R. 6493 is the administration proposal as introduced in the 92d session. H.R. 9843 is identical to the Senate-passed bill, S. 1341. Since the administration proposal as submitted to this Congress (either H.R. 6371 or H.R. 10562) is the one which we would prefer to see enacted, I would like to discuss it first.

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Titles I and II, then, would accomplish two purposes. First, they would broaden the existing Bureau of Indian Affairs revolving loan fund, which provides money for Indian economic development projects. The authorization for such loans would be increased from the present \$28.8 million to \$78.8 million. Second, these titles would provide for the guarantee of private loans to Indians, thereby greatly encouraging such loans. Up to \$200 million worth of private loans could be guaranteed.

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one could receive a grant unless he met two conditions: (1) His project was practical enough that he had already obtained at least 60 percent of the needed financing from other sources; (2) he was not able to obtain elsewhere that portion of his needs for which he was seeking a grant, including the programs authorized by this legislation.

I think it would be well to touch briefly on the changes which we have made in submitting these two proposals to the Congress this year.

First, in the previous proposals, there were two methods for attracting private loan institutions into the Indian market, a loan guarantee program and a loan insurance program. The latter program, it was felt, might be attractive to certain lenders, who might want the aggregate of their Indian loans to be insured rather than each one to be guaranteed. On reflection, however, we have concluded that having two programs is unnecessarily complicated, and we have kept only the guarantee program in this year's proposal.

Second, also for reasons of convenience, we have telescoped the two funds in last year's proposal—the revolving loan fund and the loan guarantee and insurance fund—into one fund. However, careful provision has been made to make sure that moneys earmarked for loans are not sidetracked into use for guarantees. They are kept separate.

The final major change is a matter of bookkeeping involving the rate of interest to be charged on loans made or guaranteed under titles I and II. Last year's proposal set, as a ceiling rate, the rate of interest on municipal bonds or the rate paid by the Federal Government on obligations of like maturity, that it had issued. This year's proposal allows the Secretary of the Treasury more discretion. He can set an interest rate comparable to that on similar loans in the private sector, taking into consideration the prevailing rate for such obligations in the private sector and the risk assumed by the United States. This provision—and this is important—this provision is offset, however, by the fact that the Secretary of the Interior is authorized to pay a subsidy on the Indian loan interest rate which would amount to 30 percent of the rate or 3 percent of the outstanding principal amount of the loan, whichever is less. This new subsidy provision is one that is now being used as a standard item by the Federal Government in legislation of this type and we believe it arrives at the same result as that we proposed in last year's legislation.

The last point I would like to make with regard to the administration bill is to bring the committee's attention to an omission in its drafting. What we left out was a quite important section for keeping our loan and loan guarantee fund solvent. We apologize for this error and suggest that the following new section 204 be added to the bill:

There are authorized to be appropriated such sums as may be necessary to reimburse the fund created by Section 101 of this Act for losses incurred in connection with loans made or guaranteed pursuant to this Act.

Having said this, Mr. Chairman, I would hasten to say that our preference for this year's bill does not mean that we find great fault with the proposal as we submitted it in the last Congress. We believe that version is still viable, and if it is the one which the committee prefers, we would be satisfied. The bill which the Senate has recently passed is also quite similar to last year's proposal. We would likewise

have no objection to its enactment but for two changes which the Senate has introduced. These are: (1) Deletion of the provision setting interest charges on loans made from the funds; and (2) deletion of a provision requiring that title to property purchased with loan funds and taken in trust for a tribe be pledged as security for the loan unless the Secretary were otherwise assured of the loan's security.

We believe that the excellent repayment record established by Indian borrowers from similar funds over the years demonstrate that the loan funds can best accomplish their purpose on a self-perpetuating basis, rather than in dependency on continual subsidization. In particular, we envision the revolving loan fund as an enhanced successor to several existing funds, not as a novel charity. Rather than subsidize a program that has already proved itself to be workable without subsidies, we would prefer to devote an equivalent amount of money to other Indian programs. As to the requirement that new trust land be pledged as security for loans, we believe that this provision is needed to attract private lenders into the Indian market.

This concludes my formal statement, Mr. Chairman.

Mr. MEEDS. Thank you very much.

With regard to your statement regarding the record of the repayment under the revolving loan fund, could you give us some idea of, one, how long the revolving loan fund has been in operation and what the delinquency rate or uncollectible rate has been? The rate of uncollectability, I should say?

Mr. KYL. The authority for the revolving fund is the 1934 act and it has operated essentially from that time and I believe that the losses incurred over that period are about 4½ percent, which compares favorably with other programs of this nature in other sectors of the Federal Government.

Mr. MEEDS. In fact—

Mr. KYL. The interest, incidentally, has more than covered the cost provided for each additional fund.

Mr. MEEDS. So that the revolving loan fund has replenished itself in all instances?

Mr. KYL. Yes, sir.

Mr. MEEDS. And the interest has more than made up for the uncollectible loans.

Mr. KYL. That is correct. I might go one step further, sir. Under the program, as it is contemplated, we would anticipate that that loss ratio could be somewhat larger because we are talking about loans which are perhaps more risky than we have in the past.

There is no solid way of estimating what that loss might be, but after considerable thought by the people who deal with these matters and have dealt with them since the 1934 period, we do not think that it would go above 10 percent in any case, but it still is a matter of conjecture because there is no way of really basing it on fact.

Mr. MEEDS. All four of the revolving funds with which we are here dealing total approximately \$25 million today, between \$25 and \$28 million; do they not?

Mr. KYL. \$28.8, I believe, sir.

Mr. MEEDS. And could you tell me what the amount of applications you have pending against this \$28 million is?

Mr. KYL. Just one moment, Mr. Chairman. We have figures.

Mr. SELVEY. Mr. Chairman, right now we have applications pending totaling \$13,016,374.

Mr. MEEDS. \$13 million pending and you are loaned up to the hilt of all of these revolving funds, are you not?

Mr. SELVEY. Right. Now, we also have applications authorized totaling \$15.5 million.

Mr. MEEDS. What does that mean?

Mr. SELVEY. This is money for which tribes have been authorized to submit an application.

Mr. MEEDS. And you have another \$15 million pending in authorized—these are not applications, yet, though.

Mr. SELVEY. No, sir, not yet, but they are authorized to be submitted. And this totals to \$28.6 million.

Mr. MEEDS. Is it not also true, however, that the word is out in the Indian community that you really have to get in line to ever have a chance at this revolving loan fund, any of them?

Mr. SELVEY. Right, sir.

Mr. KYL. That is true.

Mr. SELVEY. We have total estimated financing needs of \$1.8 billion.

Mr. MEEDS. Total estimated money needs.

Mr. SELVEY. Total estimated financing of \$1.8 billion.

Mr. KYL. Would you like the breakdown on that, sir?

Mr. MEEDS. Yes. Why don't we have it for the record, anyhow. Give us some idea of the types of things you consider in that.

Mr. SELVEY. Yes, we do have a breakdown on that.

Mr. MEEDS. Why don't you give us a brief idea here today and then submit the breakdown for the record if there is no objection. Without objection, will you summarize it for us and submit a written breakdown for the record?

Mr. KYL. This is Mr. Selvey of the credit office.

Mr. SELVEY. OK. The breakdown on the estimated financing needs for housing is 24.9 million; financing of industrial development in group commercial enterprises, \$230.9 million; financing of recreation development, \$73.5 million; financing of utility systems, transportation terminals, community buildings, civic facilities and other governmental purposes for which tax-exempt bonds may be issued, \$134.3 million; financing of group arts and crafts enterprises, \$1.7 million; loans to individuals, \$510.3 million; tribal land purchases, \$105.1 million; and expert assistance loans, \$866,000.

Now, I can break down the loans to individuals which is estimated at \$510.3 million. Land is \$98.8 million, agriculture, \$88.9 million, non-agricultural purposes, \$26.5 million, housing, \$166.8 million, small businesses, \$90.5 million, education, \$6.8 million, and other purposes, \$32 million.

Mr. MEEDS. Fine. That gives us some idea of the type of thing you are thinking about.

Mr. KYL. In the bill there is authority for the lending to the tribe, and the tribe then lending to its members. And if there is a loan made to the tribe, as I understand the bill, at least, the Bureau then cannot through the revolving loan fund directly to a member of that tribe, but that member must borrow through the tribe, is that not correct?

Mr. KYL. Yes, sir; that is correct.

Mr. MEEDS. Now, you have been around enough to know Indian politics a little. What if the tribal council does not like one of the members of the tribal community who may be a perfectly good businessman and may have a perfectly good proposal, and the tribe refuses to loan to him? He is kind of out in the cold, is he not?

Mr. KYL. Yes, sir. If there were not other alternatives.

Mr. MEEDS. What are they?

Mr. KYL. This can happen. It has happened and it undoubtedly could continue to happen. However, again we get into a really separate kind of legislative problem, I think. We have to assume that when a tribe has a constitution which is a legal constitution and when the tribe elects its own council, and if we have indeed a self-determination, then there are limitations on how far Uncle Sam or the Secretary of the Interior should go in directing all the operations of that tribal council. There is unquestionably a great body of problems in regard to the subject which you delineate. But I think that that has to be dealt with in some other fashion. And the Senate, the other body, as you know, Mr. Chairman, is now working on the Commission bill which would try to evaluate the total program to see how we might overcome these problems. The question is do we have to have a new organic act or problems of this nature?

Mr. MEEDS. Do you not think, Mr. Kyl, that it would be possible to have a passthrough type situation in which the individual would have to go to the tribe first and be turned down by the tribe but in the event that he or she was turned down, they ought to be able to have the opportunity to present their case somewhere else? Maybe directly to the revolving loan fund?

Mr. KYL. Well, I could not give you a flat yes or no answer. We would have to see what kind of a proposal it was first. But under the bill I believe, Mr. Chairman, that the loan programs would be administered by credit committees apart from the council itself. Now, you could have the same problem, exactly the same problem, I assume.

Mr. MEEDS. Well, I think there ought to be some kind of bypass. If we assume, as I think we all do, that this legislation is necessary because there are special credit problems for Indian people and tribes, then we really have not solved that problem for some people unless there is some method of bypass because these credit—you see, it is not the same as an individual, a non-Indian individual living in the community. He has a number of banks that he can go to. But the Indian individuals in this instance are restricted to one bank. That is the credit committee of the tribal group. And I think we have got to make more access than that if the purpose of the bill is to be carried out.

Mr. KYL. I would not disagree with your premise at all. We do also have the insured loan program which would mitigate the situation somewhat.

Mr. MEEDS. Now, also my understanding of the bill is that the Indian organizations could reloan funds to non-Indians, to businesses that they are trying to attract and get the nonresidents, which I think is an excellent idea, incidentally.

Mr. KYL. That is true.

Mr. MEEDS. But ought there not to be some kind of limitation on that, too? In other words, could the credit group or a development group on

reservations put all its eggs in one basket and pledge all the funds it might ever have coming under the revolving loan fund in one shot, to one private entrepreneur? It seems to me there ought to be some kind of restrictions on that relending.

Mr. KYL. Of course, each tribe has a credit organization, credit approval group. I can see it possible in some instances where they might have to do this. It might be the wisest thing to do exactly what you suggest. It would depend entirely on the specific instance, and how excellent a proposal there was.

Mr. MEEDS. Again, however, if we try to set down the limitations in this bill, we find ourselves holding their hands again, which is what we are trying to get away from, is it not?

Mr. KYL. Well, of course, there is a limitation on the size of loan that can be made.

Mr. MEEDS. There is?

Mr. KYL. Oh, yes. In the guarantee program.

Mr. MEEDS. How much?

Mr. KYL. \$100,000.

Mr. MEEDS. Yes, but, you see, that is the loan to the tribe, it is my understanding. They could loan the whole \$100,000 in one shot to one entrepreneur, could they not, one non-Indian entrepreneur?

Mr. BRUCE. Yes, but, Mr. Chairman, let me make some—when we write regulations on this act, we contemplate some provisions to the effect that if a loan is approved by the tribe or the credit committee of the group above a certain figure, let us say \$50,000 or \$100,000, it would have to come in with justification to be looked at by the credit office here before the determination could be made as to how much or whether that loan should in fact be made. We would have to look at the circumstances, the viability of the loan, a number of things. There may be a reason to loan a million dollars to a business coming on the reservation. It may be a good reason. But again, I think that the regulations and what we would contemplate would cover this by saving that it would have to be examined at a higher level, to get someone else's judgment on the thing, and it would be a matter of discussion and input as to what actually was needed and loaned and how viable that loan was before it was made.

Mr. MEEDS. I see. I have some more questions but I would be delighted to yield at this time to the gentleman from Nevada.

Mr. TOWELL. Go ahead.

Mr. MEEDS. Again, now, it is my understanding that under the present management of the revolving loan fund, the Secretary is loaning money at less than the going rate of interest. Is that not correct?

Mr. KYL. That is true.

Mr. MEEDS. What percentage is he charging right now?

Mr. SELVEY. It is 5 percent on a loan to a tribe for relending purposes. This is to relend to its members. And on an enterprise it is 5½ percent.

Mr. MEEDS. And now you are proposing in this legislation that he will charge the tribe or individual the going rate of interest which today would—the prime rate, that is to the best customers, is 9.7 percent, and then give them a subsidy.

Mr. BRUCE. That would be only for the guaranteed insured program.

Mr. MEEDS. Right. That is what I am talking about. I am sorry. I did mix that up. On the guaranteed insured program they would guarantee the loan but would charge the going rate and give a subsidy, is that correct?

Mr. BRUCE. Yes. The bank or institution that made the loan would set the rate at the time it was made and the Secretary would examine it at the time he guaranteed.

Mr. MEEDS. OK. What subsidy is he contemplating?

Mr. BRUCE. Well, in the bill we sent up, Mr. Chairman, we said 30 percent of the rate or 3 percent of the outstanding principal, whichever is less. Now, the bill that passed the Senate and the bill that was introduced last year provided for a rate to be set by the Secretary of the Treasury based upon the municipal bond rate or the going rate of Government bonds for a like period of 30 years.

Now, it just so happens today that we are in a little strange situation again which has only occurred about four times in our history where the Government rate is a little higher than the municipal rate but—

Mr. MEEDS. Times, incidentally, when the Republican administration was in power.

Mr. BRUCE. I looked in the paper this morning, Mr. Chairman—that is what I was doing when Mr. Kyl was testifying—and the 10-year rate on Government bonds this morning is 6.79 percent.

Mr. MEEDS. But let us go back now. You get a copy of your legislation, H.R. 6371. Do you have one before you?

Mr. BRUCE. Yes.

Mr. MEEDS. Here is one of the problems that the Chair has with what you have done in combining the loan—the revolving loan funds and the guaranteed program as you have. Look on page 4, line 23, section 104. You will see “loans made or guaranteed hereunder shall provide.”

Mr. BRUCE. That is correct. Under the bill that we introduced it would be a subsidy on both bills. As it was passed by the Senate and as you passed it last year there are two distinct rates.

Mr. MEEDS. Now, which do you prefer? Do you prefer to give a subsidy and then take it back in effect or to charge the going rate and then give a subsidy?

Mr. BRUCE. Yes, sir. The latter is our preference.

Mr. MEEDS. Rather than just deducting it as you are doing now?

Mr. BRUCE. Well, let me try to explain our theory on this, if we can. This is a matter of accounting for money. As you know, Mr. Chairman, if we were charging 5½ or 6 percent on the going rate and keeping the funds separate as is contemplated in the Senate bill and the bill you passed last year, there is no way the true cost of financing that program would ever show in the budget, while if we were paying a subsidy we would have to come to the Congress every year and explain to you and request funds to cover the subsidy so that there would be an actual reflection in the budget every year of the total cost of the subsidy of running that program clear across the board.

Mr. MEEDS. Well, now, can you not simply—you know, you keep your own books. I do not keep them. But I would suggest that it would be just as simple to deduct the going rate from the rate you charge and show that as a cost of running the program.

Mr. BRUCE. It could be done that way, yes.

Mr. MEEDS. That is the way you are doing it right now, is it not?

Mr. BRUCE. Well, except that we do not come—except in the annual report that the Commissioner publishes, that is the only time you would know how much it was costing us, how much we were losing, and so forth, on the revolving loan fund. There is no budgetary request or anything else to cover the cost of losses, and so forth, in that fund.

Mr. MEEDS. Now, obviously under the guaranteed program we are going to have to charge the going rate and then provide a subsidy.

Mr. BRUCE. That is absolutely correct, sir.

Mr. MEEDS. No way to get around that.

Mr. BRUCE. No.

Mr. MEEDS. On the direct loan program, that is, the revolving loan program, it seems to me that it would be much simpler to charge a— to operate as you are presently operating and at a reduced interest charge and show the cost because I agree with you that we in Congress ought to know what we are paying to run this program.

Mr. KYL. I am not aware, Mr. Chairman, of all the logic behind Treasury Department decisions. This is the way they prefer to handle it, first, in the interests of consistency, and, second, so that there can be a visible figure on exactly what the costs are.

Mr. Chairman, at this point may I ask if you would like to have submitted for your record or the files updated exact figures on the interest payments and losses, and so forth, which is an updated—

Mr. MEEDS. Yes. We will make that a part of the record at this point. [The information referred to follows:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 30, 1973.

HON. LLOYD MEEDS,
Chairman, Committee on Interior and Insular Affairs, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is the information we agreed to furnish for the record relating to the October 12 hearings on the bill to provide for financing the economic development of Indians and Indian organizations, and for other purposes.

If additional information is required please let us know.

Sincerely yours,

JOHN KYL,
Assistant Secretary for Congressional and Public Affairs.

Enclosures.

BUREAU OF INDIAN AFFAIRS
SUMMARY OF ACTIVITY—REVOLVING LOAN FUND—FOR FISCAL YEARS 1972 AND 1973

Fiscal year ended	Amount loaned	Collections			Cancelled	Outstanding	Closing cash balance	Closing cash balance by fund			
		Principal	Interest					General	Oklahoma fund	Navajo-Hopi	Expert assistance
Through June 30, 1971.....	\$72,248,576	\$41,990,417	\$8,100,778		\$2,596,842	\$27,661,046	\$2,151,387	\$610,522	\$30,695	\$779,860	\$730,310
Through June 30, 1972.....	1,095,215	913,761	596,514			27,842,772	2,566,447	1,029,536	75,938	883,557	577,416
(Tentative) June 30, 1973.....	1,400,190	1,204,524	929,109		235,079	27,803,359	3,299,890	1,503,092	187,200	983,554	626,044
Total.....	74,743,981	44,108,701	9,626,401		2,831,921	27,803,359	3,299,890	1,503,902	187,200	983,554	626,044

Summary of total financing needs by purpose

1. Housing (other than loans to individuals i.e., housing enterprises; apartments, rentals; group participation)-----	\$25,917,500
2. Financing of industrial development and group commercial enterprises-----	230,958,440
3. Financing of recreation development-----	73,536,300
4. Financing of utility systems, transportation terminals, community buildings, civic facilities, and other governmental purposes for which tax-exempt bonds may be issued-----	134,299,305
5. Financing of group arts and crafts enterprises-----	1,714,000
	510,306,606
6. Loans to individuals:	
(a) Land-----	98,785,700
(b) Agriculture-----	88,904,800
(c) Nonagriculture-----	26,461,900
(d) Housing-----	166,782,175
(e) Small business-----	90,491,200
(f) Education-----	6,796,000
(g) Other-----	32,084,831
7. Tribal land purchase-----	105,127,000
8. Expert assistance-----	866,714
Total financing needs-----	1,081,725,865

STATUS OF THE REVOLVING FUND FOR LOANS, AUG. 28, 1973

	General fund	Navajo-Hopi fund	Oklahoma fund	Expert assistance	Total
Unallotted commitments ¹ -----	\$10,151,660	\$1,790,000	\$210,000	\$866,714	\$13,018,374
Applications authorized ² -----	13,411,996	1,450,000	727,765		15,589,761
Total advances scheduled-----	23,563,656	3,240,000	937,765	866,714	28,608,135
Less cash available for loans-----	1,445,998	983,554	97,049	625,373	3,151,974
Shortage-----	22,117,658	2,256,446	840,716	241,341	25,456,161

¹ Represents outstanding commitments on approved loan contracts.² These are amounts for which tribes have been authorized to submit applications, subject to the availability of funds

BUREAU OF INDIAN AFFAIRS
INDIAN BUSINESS DEVELOPMENT PROGRAM (IBDP) STATUS AS OF JUNE 1973

Item	Aberdeen	Albuquerque	Anadarko	Billings	Juneau	Minneapolis	Muskogee	Navajo	Phoenix	Portland	Sacramento	Central office ¹	Total central and field offices	Commissioner's reserve allocation	Grand total
Initial allocation (thousand).....	\$426.2	\$236.8	\$202.8	\$283.1	\$250.0	\$137.9	\$131.9	\$250	\$442.3	\$225.3	\$86.1	\$127.6	\$2,800	\$600	\$3,400
Applications received (number).....	167	39	50	69	69	41	39	49	70	72	70	20	780		
Amount of IBDP funds (thousand).....	\$1,774.7	\$726.7	\$283.4	\$914.6	\$1,327.1	\$470.4	\$354.7	\$398.9	\$1,888.3	\$916.4	\$1,104.2	\$140.6	\$10,800		
Amount of IBDP funds expended (thousand).....	\$580.9	\$332.5	\$156.3	\$319.3	\$257.3	\$221.7	\$110.0	\$343.0	\$528.3	\$232.1	\$91.0	\$147.2	\$3,391.6	\$8.4	\$3,400
Impacts:															
Business assisted.....	74	29	31	27	31	25	24	22	46	27	13	20	369		
New.....	43	17	24	22	15	14	15	10	36	16	5	8	225		
Expanded.....	31	12	7	5	16	11	9	12	10	11	8	12	144		
Business in operation.....	46	25	27	21	27	23	17	21	43	25	12	19	301		
New.....	24	13	15	16	12	13	10	10	33	15	5	8	174		
Expanded.....	22	12	7	5	15	10	7	11	10	10	7	11	127		
Total employment (man-year).....	202	148.3	70	74.5	215	69	44	735	173	66	29.5	111	2,287.6		
Total Indian employment (man-year).....	198	145.3	58	71	212	67	34	574	157	45.5	26.5	95	1,683		
Total employment created (new enterprises).....	118	60.5	40	46.5	178	27	25	683	97	25.5	8	30.5	1,339		
Annual payroll generated (thousand).....	\$590	\$560.8	\$219.4	\$341.8	\$383.7	\$370.1	\$169.7	\$1,316.9	\$540.6	\$230.7	\$241.4	\$489.6	\$5,454.8		
Business failed.....	23	4	9	6	4	2	7	1	3	2	1	1	68		
New.....	17	4	9	6	3	1	4	0	3	1	0	0	48		
Expanded.....	11	0	0	0	1	1	3	1	0	1	1	1	20		

NOTES

¹ Includes Choctaw, Cherokee, Miccosukee, Seminole, and Seneca Agencies.
² Reallocated to agencies based on additional requirements for IBDP funding.
³ Balance represents the amount expended for required newspaper advertisements concerning the grant fund.

Total request for IBDP funds (based on all applications received).....	\$10,800,000
Total amount of IBDP moneys expended.....	3,400,000
Average IBDP moneys expended per man-year of employment.....	1,500
Average additional capital generated per man-year of employment.....	7,100
Average annual failure rate (3 years experience) (percent).....	6

Mr. MEEDS. Now, under the present operation of the revolving loan fund, are you—what kind of security are you obtaining under the tribal—

Mr. BRUCE. The tribal member will come in with his loan proposal, and we try to run an operation based upon sound financial management operations, and we get the best security we can, whatever he has to put up. We try not to make loans that we think are going bad.

Now, of course, the situation is he must—when he comes in, he has got to show us that he could not obtain the funds at any other place, which, of course, would tend to indicate, Mr. Chairman, that the loan is not a securable bank loan. But there are other reasons that he might—

Mr. MEEDS. But there are reasons other than security often.

Mr. BRUCE. Yes. Some banks in Indian country simply will not loan money to Indians, for various reasons.

Mr. MEEDS. Well, now, you do not, however, presently take mortgages on tribal trust property, do you?

Mr. BRUCE. No, sir. Nor on individual trust lands do we take—

Mr. MEEDS. And yet, you are suggesting it in the present legislation, are you not?

Mr. BRUCE. No. Only for lands purchased with trust money, with the loan money, not on any existing trust land. In other words, only—the only land that would be pledged would be the land that was actually purchased with the money that was lent under the program.

Mr. MEEDS. That is to say, if they get the loan and purchase land which is put in trust, it is then under the provisions of the legislation you are suggesting—it would be mortgaged also.

Mr. BRUCE. It could be pledged but there is a provision that allows the Secretary, Mr. Chairman, to find an alternative method if he finds that he can secure the loan without taking the land as trust.

Mr. MEEDS. Now, having to run it that way is another result of combining these things, though, is it not? If you were dealing strictly with the Bureau through the Bureau, on a revolving loan fund like you are operating now, rather than both through a revolving loan fund and a guaranteed loan where you will be dealing with banks, outside organizations, if you were just dealing with the Bureau you would not have to do that, would you, because you have the property in trust anyhow, right?

Mr. KYL. We had that provision on both programs in last year's bill and the reason it is there now is it is simply thought that it will make the loans more attractive to the private lenders.

Mr. MEEDS. All right. Another one of the reasons that combining these things creates problems.

Now, you have also provided for foreclosure in State courts. This is an unusual procedure, is it not?

Mr. BRUCE. Yes and no. Under the present situation there would be nothing that would prevent a bank from bringing a foreclosure action involving nontrust Indian land in State courts.

Mr. MEEDS. Well, but how much Indian land is not trust land?

Mr. BRUCE. Oh, there is—

Mr. MEEDS. We are talking about, what, one-tenth of 1 percent?

Mr. BRUCE. There are some Indians who have some holdings that are not trust lands. Now, any time we involve trust lands, of course, the

Secretary must be a party but in this situation it would only be the land that was purchased, not other trust lands that would be involved, and to make it more attractive to private lenders in the States and less expensive generally, we would allow them to move those proceedings through State courts. That is just one of the provisions that we have put in the bill that we thought would make it more attractive to private lenders.

Mr. MEEDS. Well, you are now conferring jurisdiction to State courts of Indian matters without their consent, are you not? And I view that as a step which Indians might not very well want to take.

Mr. BRUCE. You could be absolutely certain it is a step Indians are not in favor of, Mr. Chairman. We are well aware of that. But in the overall view of what we are attempting to do in this legislation, we think that the Secretary in many instances will find alternatives to taking the land as pledged for the loan. In those few instances where that is not possible, the local Indian institution would be somewhat leery of going through State court proceedings.

Mr. KYL. Mr. Chairman, I would like to have Mr. Selvey expand on that point. I think he can get it in more detail for us.

Mr. SELVEY. Mr. Chairman, we in credit are aware of a situation in the State of Montana where the State specifically did not assume jurisdiction over Indian reservations and because of this, Production Credit Association stopped making loans to Indian tribes and made loans from a private sector which is not available to Indians.

Mr. KYL. In other words, what I am trying to clear here is that this is not a provision which is directed against the Indians. We think that the provision is one which would be helpful to the Indians.

Mr. MEEDS. I see.

Mr. BRUCE. We think it would open larger avenues of financing.

Mr. MEEDS. The gentleman from New Mexico.

Mr. LUJAN. Thank you, Mr. Chairman.

In talking about all this foreclosure, are you talking about being able to foreclose on nontrust lands? Is it just limited to nontrust lands?

Mr. KYL. Under the bill it would apply to land for which there was a loan for the purchase of additional land.

Mr. BRUCE. Mr. Lujan, let us say that one of the Pueblos wanted to buy 4,000 or 5,000 acres of land to close out some in-holdings and they wanted to borrow the money. That is the only source they had. And let us say it was in the middle of their reservation.

Under our bill the Secretary could lend them the money to buy that 5,000 acres of land, take the land in trust, and ask the tribe to pledge only the purchased land as collateral for the loan and he could foreclose only against the purchased land, not other land owned by the tribe. But it would be trust land.

Mr. LUJAN. While I was out, did you cover the experience of the revolving loan fund?

Mr. KYL. Yes, sir.

Mr. LUJAN. Did you get into that?

Mr. KYL. All those figures will be submitted for the record, too, sir, in detail, so you can have the whole story.

Mr. LUJAN. In taking a look at the various bills, the Senate bill and H.R. 9834 differ in that section 102 says that we would put any Indian

organization in the banking business, so to speak. They could get money and do whatever they wanted to with it.

For example, I can foresee some good things and some bad things. For example, they could go in and borrow some money from the Federal Government at very low interest rate and just put it in a savings and loan at a high interest rate or buy certificates of deposit.

On the other hand, some of the good aspects about it are that they could lend money to cut and sew operations which cannot get financing under SBA and fit very well into Indian reservations.

Would you care to comment a little bit about that?

Mr. BRUCE. Let me say, Mr. Lujan, that I think the situation would arise when they came in with their application for a loan to set up their banking operation. One of the things we would have to know is what they intended to do with it. If they intended to invest it, the priorities of these things would be such that we would not have enough money to give everybody all the money they needed and we would have to say we think the tribe who wants to set up or has an ongoing credit operation would be preferred over one which planned simply to put its money into certificates of deposit.

Now, there would be nothing wrong in my judgment, Mr. Lujan, with a tribe that was running its own program if they had an excess for 30 or 60 days that they knew they were not going to loan out, to put it out at interest just as cities and counties do now, but I think the intent of this program is economic development essentially, that would have to be the purpose that the tribe would have to show us if they were to get a loan.

Mr. LUJAN. Has the Department taken a position specifically on section 102 of those two bills I mentioned?

Mr. BRUCE. We favor this bill. We would like for the tribes to run their own credit operations. These programs are going on now and we think they are worthwhile programs.

Mr. LUJAN. Which bill do you favor? I have five. Which is the bill that you favor?

Mr. KYL. H.R. 6371 or 10562.

Mr. LUJAN. All right.

Mr. KYL. Which are identical bills, sir.

Mr. LUJAN. Do they differ in that particular section or not?

Mr. BRUCE. No.

Mr. LUJAN. I thought they did. No; they do not. I am sorry.

Mr. KYL. They are identical bills, sir.

Mr. LUJAN. So that what you are saying is we will be very careful.

Mr. BRUCE. Well, Congress and we believe the purpose of the act is economic development and that is what we try to make these loans for. In many instances we have a tribal history to go on.

Mr. LUJAN. You said that you intend to give us some figures on the revolving loan fund. Do you have available figures on the—maybe a little history of the successes or failures on Indian business development?

Mr. BRUCE. Yes; we do.

Mr. LUJAN. Would you submit those also?

Mr. BRUCE. Yes; we will submit it for the record. It will be as of June 30 of this year. We will submit that for the record.

June 30 of this year. We will submit that for the record. (See letter on p. 134.)

Mr. LUJAN. Thank you, Mr. Chairman. I have no further questions.
Mr. MEEDS. Thank you.

I have a couple of more questions. For instance, on title IV, "authorized to be appropriated such funds as may be necessary for the purposes of this title," do you have a suggested amount? As you well know, the record of this committee is "such sums" is not very well looked upon by the chairman. It may be necessary to put some accurate figures in there. What figures are you suggesting?

Mr. KYL. As I remember, sir, the Senate put in \$10 million a year and I believe that those who are seated at the table this morning think that probably is somewhat short of what we will need.

Mr. BRUCE. We have worked out cost figures on annual cost percentages for an Indian financing act and we have a low and high figure based upon a number of things. The interest subsidy would be 2 percent on the low side and 3 percent on the high side. What we are saying is in normal interest situations it will probably be $1\frac{1}{2}$ to 2 percent but if the situation is like it is now, the difference between the going rate, and so forth, 11 and 8 percent, is 3 or $3\frac{1}{2}$. We estimate administrative cost at from one-half to 1 percent, losses from $4\frac{1}{2}$ to 10 percent, $4\frac{1}{2}$ being low, 10 percent being high. The low total would be 7 percent, the high total would be 14 percent which would mean we would run \$7 million on a \$100 million operation, \$14 million on the high side of a \$100 million operation. On a \$200 million operation we would run \$14 million a year on the low side and we would run \$28 to \$30 million a year on the high option.

Mr. MEEDS. So it really should be somewhere between \$28 and \$14 million.

Mr. BRUCE. That would probably be good, between \$14 and \$28 million as the outside figure.

What would happen, Mr. Chairman, as I am sure you are aware, if you appropriated, say, \$20 million and the costs were actually running above that, you would just limit the amount of loans that we could actually guarantee or insure under the program because we would have to stay within the figure.

Mr. MEEDS. What you are doing is you are giving me the cost of the revolving loan fund?

Mr. BRUCE. Of operating the revolving or guaranteed program.

Mr. MEEDS. Or guaranteed program.

Mr. BRUCE. Under our bill.

Mr. MEEDS. Right, but I am asking you about section 4, which is the Indian business development loan or grant program.

Mr. BRUCE. Those would be outright grants.

Mr. MEEDS. Indeed.

Mr. BRUCE. And we have estimated—well, on that situation we ran that program on a pilot situation.

Mr. MEEDS. I am going to ask you some more questions about that.

Mr. BRUCE. We could run whatever size program Congress tells us to run. If they want us to run 5, 10, 15, we could easily run those figures with the existing organization. Now, if we start getting much higher than that, we start running into having to increase staff and a number of other things.

Mr. MEEDS. My recollection is somewhere in the neighborhood of \$7 million, was it not?

Mr. KYL. Are you referring to the applications?

Mr. MEEDS. When you had the private program.

Mr. KYL. The Indian business development program status as of June 1973 showed \$3.4 million.

Mr. MEEDS. Then, what were the applications for that period?

Mr. KYL. \$10.8 million.

Mr. MEEDS. OK. That gives us some idea. Applications were 10.8 actual loans or actual grants were 3 something.

Mr. BRUCE. And if you will recall, Mr. Chairman, we ran that on a very short-term situation so that it would probably get bigger the longer the thing was in existence.

Mr. MEEDS. I have one more question. There may be a perfectly legitimate explanation for this, but will you turn in H.R. 6371 to page 3, line 21.

Mr. KYL. Page 3, line 21?

Mr. MEEDS. Right. You will read there that it says:

Provided, however, That monies paid into the fund pursuant to this section and funds appropriated pursuant to Section 123 of this Act for the purpose of making direct loans shall not be used for discharge of the liability of the Secretary with respect to any guaranteed loans.

Mr. BRUCE. That is a particular——

Mr. MEEDS. Then, if I may conclude my question, if you will turn to section 122 at page 14, line 15, you read the following: "Section 122(a), the Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans guaranteed under this title," et cetera.

Mr. BRUCE. Well, what we have attempted to do is create one fund in our bill, but in order to keep the losses from the guaranteed program from eating into what we believe to be what the Indians hold to be an almost sacred sum, the revolving loan fund, we have put in the first provision to make sure the \$78 million that is put in the fund for direct loans will not be touched by the Secretary to meet obligations under the guaranteed program. We think that this safeguards that provision so that there will always be at least money in the fund for revolving loan fund operations.

Mr. MEEDS. But then, you have turned right around and made that loan fund subject to the interest and to the money paid under the guaranteed loan program.

Mr. BRUCE. We believe——

Mr. MEEDS. That is another one of the hazards of combining these two, you see.

Mr. BRUCE. It is, but we believe the provision in the earlier title will safeguard it. We have carefully examined this, and we believe that that prohibition language will be ruling.

Mr. MEEDS. Well, which one of this language prevails? One says money shall not be, and one says it shall be.

Mr. BRUCE. We believe that the language on page 3 is prevailing. The Secretary can get into the fund to meet any obligation or to make loans, but we have made a specific caveat that he may not touch the basic revolving loan fund funds for the purpose of meeting his obligations for guarantee purposes. We believe the caveat will protect him.

Mr. MEEDS. The gentleman from New Mexico has another question.

Mr. LUJAN. Thank you, Mr. Chairman.

Under the old Indian Business Development Fund, the one that we had before, we had that 60-40 provision that we have under this one.

Mr. BRUCE. Yes, sir.

Mr. LUJAN. It seems like at the time we had the hearings, a person would go up to the SBA and say, all right, I have been cleared by the Indian Business Development Fund for 60 percent, or—

Mr. BRUCE. Forty.

Mr. LUJAN [continuing]. Forty percent. Assuming that they had been completely cleared, investigated and everything, well, fine, since you have got 40 percent, we will make the 60-percent loan. You go back to the fund and the reverse is true. Everybody assumed that SBA had carefully checked it out and so it was just a matter that if you could get the two to agree, each one would assume that the other one had checked it out. This came out quite often during the hearings.

Is there a better way to do this?

Mr. BRUCE. Well, we hope to do it a better way under regulations. That was a pilot program that was very carefully done, but what we hoped would have happened then, and discovered it did not, and what we hope would happen in the future would be that an Indian businessman would sit down and devise his proposal. Say he wanted to open a garage. He would go to a bank or to SBA or any other private institution, and say, here is what I want to do. Here are my resources. Will you make me a loan? And the bank says, well, you just do not have enough equity capital. We can loan you up to this much, let us say 65, 70 percent, but if we go through with this, you are going to have to get some equity capital or some money from somewhere to buy the inventory.

It would be our idea then, Mr. Lujan, that he would come to us and say, I cannot go into business because I lack this kind of equity capital.

If you pass the existing bill, we could then do two or three things. The first thing, we would look to see if we could possibly loan him the money under any one of the programs existing to put him in business. If not, we would then look to the grant program and see exactly how much we would have to grant, or we could go half and half or a third and two-thirds. But we believe that this package would give us the authority we need to put together an entire financing package for the Indians in the Indian community.

Mr. LUJAN. Do you think it is advisable that we write in somewhere in the legislation that some percentage has to come from the individual himself?

Mr. BRUCE. I think that would be a good idea under normal business circumstances. I think we are dealing with a group of people who, because of financial deprivation and a lot of other things, quite often all they have is a good idea. As you know, in many of the grants we made, we made them to large businesses, and they were made to people who did have some kind of equity capital. But the grants would be the seed money, and in some instances we would not want to take away from the tribe, from the Indian, his home and his substance entirely in order for him to go into business.

What we are trying to do, Mr. Chairman, is to create Indian businesses in Indian communities so that Indian money does not flee from those Indian communities and we do not have a continuing downward cycle of loss of money coming out of the Indian communities, so that we lose jobs and lose business opportunities. In some instances, we may have to take extraordinary steps and give grants to people who have nothing but good ideas.

Mr. LUJAN. The explanation is very good as to the purposes of the bill, but is it not true that generally the type of person that you are dealing with in this case is not the guy that is way out there in the south 40 with his 10 sheep, because he would not have come to us for this loan guarantee program or for the grant program. It is usually someone that has a very good idea about business and that we are really generalizing and saying well, they really do not know anything about—we have got to give them the money.

Did you find in the Indian Business Development Fund that most of the ones, had they been pressed, could put in 5 or 10 percent; and having put in 5 or 10 percent, would work a little harder to make it a success?

Mr. BRUCE. Mr. Lujan, as you know, most of the loans that were made under this program were small, \$1,000, \$2,000, \$3,000 loans. The big grants generally were made to the tribes.

But in almost every instance we came across situations with the large businesses where they had the opportunity but could not get money anywhere else, could not squeeze out the money. In our culture, if we need \$300 or \$400 or \$1,000, most of us can go to the family or to a friend and say, lend me a little money and let me get this thing going. The Indians generally do not have these kinds of resources because it takes their total substance to live. So I think that in most cases under the revolving loan—I mean, under the grant program where we made individual grants, the Indian could not scrape up the extra money. If we had put him to the task, we simply would not have had the business.

Mr. LUJAN. I think we have a point of disagreement there.

Mr. BRUCE. All right. Yes, sir.

Mr. LUJAN. On housing, we always insist on people having a little bit in there.

Mr. BRUCE. I would agree with you that in the grants program there will probably be times when we will make a grant to an individual who might have been able to do it, but I think in the majority of the cases that will not be the case.

Mr. CAMP. Will the gentleman yield on that?

Mr. LUJAN. Certainly.

Mr. CAMP. I happened to be in the country banking business all my life where we have had our problems and where we have made mistakes and where we have hurt people is by extending them credit that they are not entitled to and, of course, in our business never a 100-percent loan. When we get into this business, I think you are really putting a burden on an individual, and you may have to go a little farther than it says in some of the bills that we are concerned with today about—of extending the time or if they get problems, they do not need to pay their interest and this kind of thing and really, I think it will hurt them more than it will help them.

Mr. BRUCE. Mr. Camp, there comes a time sometimes in a creditor's life when he decides the only people he is working for are his creditors, and he just turns and walks away and lets his business go under. The Small Business Administration has found this to be the case. They may have overextended credit, and everything a creditor makes, goes into interest payments and paying off the loan. Soon he discovers that he can do better by going and working with someone else, and will quit and walk away and let that business go under or into bankruptcy.

What we are hoping to avoid in this grant program is to deny that man an incentive. He has something to work for and protect, and that will be the little seed. Now, if he had his own funds, that would be what he would work for.

Mr. CAMP. I am inclined to agree with Mr. Lujan, you would have a better operation and help people more if they had a vested interest in it.

Mr. BRUCE. I agree.

Mr. CAMP. A percentage. But if we do as you talk about it, it would be very easy for them to say, well, to heck, and turn and walk away. But I do think, if I understand the value of what you are trying to do with this legislation, it is to provide moneys for those who have the desire and want to do something for themselves in a small business way.

Let us go back, if you remember, to our crafts program that we have with our Indian people in Oklahoma, Watonga, and Anardarko. They have their own—we have a man in El Reno who has a place right on Main Street where Highway 66 and the business Route I-40 comes right by his place of business and they are doing real well and I think this is where we should extend our efforts and our help as far as the Government is concerned, to these kinds of operations. More so than the boy that needs \$100, \$200, \$300 to go down to the corner and—

Mr. BRUCE. Mr. Camp, I agree with you but what we are talking about to a great extent is establishing small businessmen that are Indian businessmen in a community. Without this program, small businessmen would not exist in the community, and the money the Indians spend for haircuts or in beauty shops or appliance repair stores would go instead to a chainstore or to a white operator, a non-Indian operator. And that money simply does not stay on the reservation.

Mr. CAMP. I understand, but again, as I understood you a minute ago in answer to Mr. Lujan's question about your previous experience, you said most of the loans are small loans, under a thousand dollars.

Mr. BRUCE. Yes.

Mr. CAMP. Of course, I do not think that anyone can start a business of any kind today without more financing than a thousand dollars.

Mr. BRUCE. Well, we are talking about the grants which means in those instances they would borrow generally twice that much.

Mr. CAMP. Do you have anything in the legislation that ties the borrower into the tribe in any way as far as responsibilities or whether they have a joint agreement between themselves as far as responsibilities or liabilities?

Mr. BRUCE. The only time that situation would arise, Mr. Camp, is if under the provisions of the act the tribe borrows money from us and lends to the tribal member.

Mr. CAMP. The reason I ask this, if you have an incentive there for the borrower to be tied into a community operation of some kind, usually you have got your foot in the door a little bit farther for it to be a success.

Mr. BRUCE. Yes.

Mr. CAMP. Thank you very kindly.

Thank you for yielding, Mr. Lujan.

Mr. LUJAN. Going back to the Indian Development Fund, because that is really the only experience we have along these lines, how many loans were made? How many grants were made? The number of grants.

Mr. CAMP. While he is looking that up, if I may go off the record.

[Discussion off the record.]

Mr. BRUCE. I cannot tell you exactly. We made grants for 369 new businesses.

Mr. LUJAN. 369.

Mr. BRUCE. And we made grants for 225 businesses to expand.

Mr. LUJAN. How many of those new businesses, those 369, still exist?

Mr. BRUCE. As of June 30, 301 of them still exist.

Mr. LUJAN. And of the 225 that expanded?

Mr. BRUCE. 174.

Mr. LUJAN. Do you think that there ought to be some provisions in this legislation for some followup in the sense of technical assistance?

Mr. KYL. Yes, sir, Mr. Chairman, I do. I think we all agree that there should be. We do have such technical assistance available now and with the increased loan program we are going to assign more people to that task. As a matter of fact, within the BIA since the first of this year we have spent a great deal of time in trying to determine not only how many people would be needed but also what type of assistance should be rendered. It is obvious that there has to be a followup of the same kind that you have in SBA programs and probably far in advance in addition, because you are dealing with less sophisticated people generally. There has to be a very strong guidance and counseling program, an efficiency program.

Mr. LUJAN. The experience with SBA apparently showed that that technical assistance should come from someone other than SBA, so they have established a separate organization called National Economic Development Administration. What do you think about that?

Mr. KYL. Whether it should be—

Mr. LUJAN. Establish technical assistance to come from some place other than the Bureau of Indian Affairs.

Mr. KYL. Well, the bill does not contemplate that. It is possible to handle that in a number of different ways. For instance, in contracting. I believe that we do have a special kind of need in these cases. We would not be at our best, for instance, in utilizing SBA services themselves because we have to have people who understand the Indian community, Indian operations, as well as normal business procedures. It may be that we would have to have to move in that direction but there is no contemplation of that at the moment.

Mr. LUJAN. Do you think there is that much difference to making an Indian business successful as a non-Indian business successful?

Mr. KYL. Sir, I think there is even a difference in the way that Indian people are approached, techniques of personal relationships which are very important. We have had that demonstrated to us on many occasions.

Mr. LUJAN. Do you think there is a different way that you ought to run a filling station within a reservation as opposed to a filling station outside?

Mr. KYL. No. That is the business side of the operation. There is also a personal relationship that has to be developed before you can give the information which you ought to impart.

I am thinking right now of the individuals that we have in-house at the moment and I am thinking of one individual who can walk into an Indian council meeting, conducting business which is relative to what we are doing here, and he can sit down and talk to those people and really accomplish his purpose, and I can think of other individuals who go in and immediately turn off all kinds of communication. There is more than simple business sense here.

Mr. LUJAN. I do not think that is peculiar to going into an Indian meeting. That happens in political campaigns, as a matter of fact. You know, the guy that does not turn them off is the one that wins.

While I was going to high school I worked at a department store. I did pretty well. I lasted longer than anyone else did, but that is beside the point. But we had guys come and go that could not express themselves as far as the customers were concerned and could not sell them anything.

Mr. KYL. Well, it may not be a very important point and I certainly would not want to contend with the gentleman from New Mexico, but I think in my own experience, if I were judging from that experience, in trying to give the kind of direction we need, both businesswise and otherwise, that the individual who has been doing such a job for a non-Indian community should have some understanding, some preparation, in addition to that before he is the one to contact the Indian tribes. Generally speaking, the people I have known in SBA have great knowledge of finance, of business, of business efficiency, of accounting, and so on, but I would have to say that the average such individual would have difficulty in imparting the same kind of service to the average Indian tribe or the Indian individual. I think there has to be some special consideration and we have tried to develop that philosophy with the people who are now in the business of giving direction.

Mr. LUJAN. Let me just get into one other area and that is the mechanism that the BIA would use to get funds there. Can you give me an idea of—are you going to form a committee within each tribe to evaluate or is it going to be through the BIA directly? What sort of a mechanism are you going to use?

Mr. KYL. Well, the gentleman is aware that almost all tribes now have committees of this kind. There would have to be some direction perhaps in establishing those which are not in effect at the present time.

The Secretary further would write the regulations for the program and there would be a review process.

Mr. CAMP. Will the gentleman yield at that point?

Mr. LUJAN. Yes.

Mr. CAMP. If I understand it rightly, on S. 1341 and H.R. 9843, section 109 says that there is authorized an appropriation of \$50 million for the revolving loan fund exclusive of prior authorizations and appropriations.

Now, who would administer this?

Mr. BRUCE. BIA.

Mr. CAMP. BIA would do it.

Mr. KYL. Yes, sir.

Mr. CAMP. And in the way you are explaining it.

Mr. KYL. Yes, sir.

May I ask again for some assistance because of the history that Mr. Selvey has had in this particular activity?

Mr. SELVEY. Most of the tribes operate a relending program and the tribe has what they call a credit committee. The individual submits his application to the credit committee, and they have the initial review of it and they either approve or disapprove of the loan application. If the application is approved, then it is submitted to the superintendent for final approval. And there are certain limitations on the amount of the loan that the superintendent can approve in the area office. It is \$50,000 right now for individual loans and \$100,000 for a business. Over those amounts they come into the central office for approval.

Mr. CAMP. But you will try to take care of as much as possible in the area out of Washington.

Mr. SELVEY. Yes. We can redelegate authority down to the area and the area can delegate it down to the agency level.

Mr. CAMP. Thank you.

I thank the gentleman for yielding.

Mr. LUJAN. Thank you.

One more question. Will you have an advance allocation to reservations or not? Is each reservation—let us say you have \$10,000, \$100,000, \$300,000—

Mr. SELVEY. No, sir. We do not allocate any amount to a certain reservation.

Mr. BRUCE. Mr. Lujan, there would be in the title II program, as it has passed by the Senate—we are talking about 1341, the \$200 million. Let us say we start the program with \$200 million. That program would be operated entirely through private lending sources like Mr. Camp's country bank. We would allocate \$50 or \$60 million of that right off the top for insured programs and we would then designate certain banks in Indian country and say you, Mr. Banker, are authorized now to insure up to \$2 million worth of loans. All the Indian would have to do is come in, make his application. If the banker found it acceptable, he would insure it. That would be his business. He could be covered to 90 percent of the individual loan or 15 percent of his aggregate. So it would be up to him to be sure those loans are fairly sound loans because of this aggregate situation.

Now, on the guaranteed program, the individual would again go to a bank or lending institution with his proposal. If the banker wanted

that guaranteed, he would then contact either the area director—or however the regulations sets it up—and the Secretary through his representative would issue a certificate of guarantee for that loan before it would be made by the bank. That would be the situation under title II as the Senate passed it.

Mr. LUJAN. Does BIA have the expertise, same expertise that has been developed by, say, the Small Business Administration? Is it capable of handling that?

Mr. KYL. I think it could be said that the people we have on board do have that expertise. Obviously, if we have a bigger loan program, we are going to have to have more people than we have now.

Mr. SELVEY. Mr. Lujan, may I say something with regard to the grant program? The bill provides for the Secretary to issue rules and regulations to govern the operation of the program. We would provide in there that any grant application would be reviewed and to avoid what you are mentioning about putting a burden on an individual, and we would review his application to make sure that he could repay it without putting a burden on him or his family and this grant money would only be used as seed money to enable him to obtain additional funds that he needs from a private source or SBA or someone else like this. And then we have an examination staff, located in Denver, and we would use them to go out and review the operation to make sure the funds are used for the intended purpose and how they are getting along. We would also plan to provide them with technical assistance either through the SBA's corps group or through the BIA assistance group.

Mr. LUJAN. Thank you.

Mr. MEEDS. The Chair has just discovered something which gives him some cause for apprehension when combined with other things and I am sure the gentleman at the table can allay those apprehensions.

I notice that among other things, the bill provides that the individual Indian borrower includes loans for educational purposes.

Now, it is not the intent, I am sure, of the Department in recommending passage of this legislation for an increase in funding to in any way detract from the scholarship loan fund in the Department, is it?

Mr. KYL. No, sir, it is not.

Mr. MEEDS. Or grants?

Mr. KYL. Absolutely not, sir.

Mr. MEEDS. So that we are not going to hear next year these claims of the administration that there are now \$75 million more available for Indian education, scholarships?

Mr. KYL. No. There is no intention to interfere with the other things at all. As a matter of fact, here we are talking much more broadly about education. It gets back to the matters which have been spoken of by a couple of members of the committee this morning. Obviously, we are going to have to educate tribal members and individuals in some fashion to get to the status where they can handle these programs.

Mr. MEEDS. I was sure you could allay any apprehensions I might have on that.

Mr. BRUCE. Also, Mr. Chairman, there are situations where there will be members of a tribe who will be eligible for loans who will not be eligible for educational grants. So this would give them——

Mr. MEEDS. The gentleman from Oklahoma?

Mr. CAMP. Thank you, Mr. Chairman.

Did I understand you to say a while ago that part of your plan would be to go into the areas where our Indian people live and designate banks that would make these loans?

Mr. BRUCE. The insured loans, yes, sir.

Mr. CAMP. You mean you are going into a community that has three banks and take one and say you are going to be obligated to make the loans and the other two are not?

Mr. BRUCE. No. Mr. Camp, we would put out what we plan to do. In one situation we might say that is the Indian National Bank branches. If one was created in a community it would probably be given a preference.

Mr. CAMP. If you want to cause unrest and unhappiness with a few Members of the Congress all you need to do is go into a community and designate one bank to make the loans and you will have all the rest of the bankers on your neck.

Mr. BRUCE. We want to make known to the banks that these loans are available and ask them to apply.

Mr. CAMP. The reason I brought it up, I have had occasion to know in our State where one of our agencies here in Washington, pretty good sized, designated two banks in the State of Oklahoma that they recommended the moneys going to cities and counties, et cetera, be deposited in these banks. If you do not think that did not cause unhappiness.

Mr. KYL. Mr. Camp, I cannot ask you a question without being improper here but I think the experience with SBA has been rather satisfactory in this particular context and it is our contemplation that we would follow essentially the same provisions as we have there for cooperation with the banks.

Mr. CAMP. I believe that would be very fine.

Mr. KYL. It is not a matter of selecting banks. It is finding banks which do want to cooperate, which do want to participate, and then working with them.

Mr. BRUCE. As you know, Mr. Camp, there may be banks in communities that just do not want to handle the Indians' business.

Mr. CAMP. Coming back again to the kind of questioning that Mr. Lujan carried on, I think that one of the worst things we have done to our red men is to provide monies to them from the Government in the way that we have provided it.

I feel that we have done them an injustice in the way that we have dealt with them, in the way of certain claim payments, and so forth. I would hate to see another program such as this be administered in a way that would be loosely handled as we have in the past for these funds. If we are going to help anyone, it does not make any difference who they are, as far as providing moneys for their use, then we should definitely have a plan of repayment that would create within them an incentive to want to make it and if I understand the figures you gave Mr. Lujan a minute ago with regard to how many loans we have made and how many people are still in business, just without taking a pen-

oil to it, it looks like you have lost somewhere between 20 and 25 percent.

Mr. KYL. You are speaking of the grant programs, sir?

Mr. CAMP. Right. And I do not think this is a very good reputation to have, that we have helped and then lost that many businesses.

Mr. KYL. Well, I think, sir, if you would check the records on private enterprise in the United States, you would find that overall for non-Indian business the figures are about the same as they are in the case here with the Indian program.

Mr. CAMP. Well, now, Mr. Kyl, I am not going to argue the question but I happen to know from my own personal experience that if that happened in my institution we would have been broke.

Mr. BRUCE. This may be true, Mr. Camp, let me also point out that Small Business Administration has been very complimentary to us on this grant program. We are not talking about your regular businessman now, we are talking about high risk venture businesses that a bank could not afford to touch in almost every instance because it would be a violation of many regulations, et cetera, because it could not get enough collateral to secure a loan. We believe that, based upon the high risk type of business that we have got here and based upon Small Business experience in the same field, we have been very successful.

Mr. CAMP. Well, of course, if you stay close to the policy of the Small Business Administration you are going to have a pretty good operation because you know in the Small Business Administration, you have to have some equity money before you can ever get a loan from them.

Mr. BRUCE. Yes, sir, we understand that.

Mr. CAMP. And we know enough about their operation to know that you would not call their moneys that they guarantee—the guarantee they make on moneys that have been loaned by banking institutions, they do not have any high risk business.

Mr. BRUCE. They have a high number of those loans they have to pay off. But we believe that our experience in our revolving loan fund has been excellent. We also believe that our experience with the high-risk grant program we have, looking at the kind of business it is, and the really high risk involved—

Mr. CAMP. The point I am trying to make is this. What we are doing here today, we are trying to do something to help people.

Mr. BRUCE. Yes, sir.

Mr. CAMP. And I again think that we ought to keep foremost in our minds that you cannot help them with 100-percent loans unless there is something that we have in it that ties the tribe into it close enough to see that it operates like it is, with some supervision, or whether it would be expertise as you are talking about in the field that would give advice and counsel to these people that the loans are made to. The thing we want to do is to help them.

Mr. BRUCE. Yes, sir.

Mr. CAMP. And I agree that there are high-risk loans that can be made with the right kind of management behind them that are good businesses. But mostly you find this is not true. And I still think that what we need to do for our red men is to give them the confidence within themselves, their own self-determination, and help them this

way, instead of maybe helping them in a way that will definitely destroy them.

Mr. KYL. I believe the gentleman from Oklahoma knows that his general philosophy and mine are quite close and I would have to respond in this fashion, Mr. Camp. Knowing that the road to hell is paved with good intentions, we do not make 100-percent loans. We try to provide the incentives. If we administer this program with all of the guidance, with all of the checks that are written into the legislation plus the home control of the Indian community, if we do the job as it should be done, then I think we will have opened a great opportunity for economic self-sufficiency of the Indian tribes. Fortunately, as the gentleman knows, too, you have an annual review, annual oversight on this business, and if it does not work right, if there is some way the Department, the Bureau, is erring, you have the prerogative of saying, whoa, we are going to take a different approach on this. But I am personally very much satisfied that what we are doing here can work and can work well and goodness knows, we have got to do something.

Mr. CAMP. Mr. Kyl, you have convinced me. I am with you all the way.

Mr. KYL. Thank you.

Mr. SELVEY. Mr. Camp, when this grant program came out in 1971, there was a lack of followup and assistance to these people. They went into business and just could not handle it. This is what we hope to avoid this time, by putting in regulations and providing the assistance that they do need to make sure they can succeed as much as possible.

Mr. CAMP. Mr. Chairman, I think we are going in the right direction and there is not any question but there is a need for this as you have already shown and this can be a tremendous help to not only our red people but maybe a plan of this kind would carry over into minorities everywhere, including even the Mexican Americans. And I think it is—I think the plan and the thinking behind it is very, very good.

Mr. MEEDS. Thank you.

Thank you, gentlemen, for your time. We appreciate your answers and we hope to move on this legislation because I think we certainly join the administration in recognizing the utmost importance that should be attached to this.

Mr. KYL. Thank you very much, Mr. Chairman, gentlemen.

Mr. MEEDS. Our next witness is Mr. Kenneth Black, who is a representative of the National Tribal Chairmen's Association. He is the chairman of the Otoe-Missouria Business Committee of Oklahoma.

Mr. Black, welcome before the committee. You have a prepared statement. Would you like to read it into the record?

Mr. BLACK. Yes, sir.

Mr. MEEDS. Or would you like it to be admitted into the record or like to summarize?

Mr. BLACK. I will read it, Mr. Chairman.

STATEMENT OF KENNETH BLACK, REPRESENTATIVE, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION, CHAIRMAN, OTOE-MISSOURIA BUSINESS COMMITTEE, OKLAHOMA

Mr. CAMP. Mr. Chairman, before Mr. Black starts, may I say we welcome you to the committee, and my knowledge of you is such that

we know your abilities and your expertise, and we are glad you are here this morning to testify before our committee.

Mr. BLACK. Thank you, Mr. Camp.

Mr. Chairman and members of the subcommittee, it is a pleasure to appear before you this morning and present the views of the executive committee of the National Tribal Chairmen's Association on the bills encompassing the Indian Financing Act of 1973.

It is our purpose this morning to express the strong support of the executive committee of the National Tribal Chairmen's Association for this legislation, support that we believe is general throughout the Indian community.

As many others have pointed out, the Indian people that live on reservations must deal with non-Indian businessmen because the Indian community has not been able to find adequate capital to create the Indian businesses that are needed today. Because of the fact that Indian money is spent with non-Indians, most of the money leaves the area where it is earned and goes into the non-Indian community for investment.

This draining of funds from the Indian community deprives it of the turnover that creates additional capital and jobs. It is imperative that capital be provided for the development of Indian businesses in the Indian community so that a viable economic system can be built that will generate needed capital and provide jobs for Indian people. We believe that this legislation is a recognition by the Government of such need and will take a giant step toward that goal, and we, therefore, consider its passage of utmost importance.

We will confine our comments to S. 1341 as it passed the Senate and is now pending before your subcommittee. S. 1341 is similar to H.R. 8063 which passed the House of Representatives during the 92d Congress. The provisions of S. 1341 are very close to those that have been actively considered by the Indian community since 1970, and many of the provisions came out of consideration of past bills that contained many of the same ideas and concepts. We are familiar with these provisions and feel that they, for the most part, reflect the views of the Indian community. We, therefore, urge favorable consideration of S. 1341 with amendments that we will discuss.

First, we note that the declaration of policy contained in section 2 of S. 1341 contains the phrase "and where they will have the opportunity to be integrated socially, politically, and economically into American life." This phrase raises the old specter of termination in the minds of a sizable group of the Indian people, and for that reason we recommend its deletion from the bill.

S. 1341 deletes language that was originally contained in the financing legislation endorsed by the administration that would have permitted the foreclosure and sale of land purchased with fund loaned under the programs authorized by the bill. This language was opposed by many Indians, and we are gratified to see that it was deleted from the Senate-passed bill. We recommend that this provision not be included in any bill reported by this committee for action by the House.

We believe that the \$50 million authorized by section 109 of S. 1341 is not adequate to meet the need for funds for the revolving loan fund. Our information is that there are presently pending applications for loans greatly in excess of \$77 million. We believe that the fund should provide sufficient capital to meet the needs of the Indian people, and

we, therefore, recommend that the \$50 million be increased to \$200 million.

We have found strong Indian opposition to the provision of section 106 of S. 1341 that requires that title to land purchased with funds from programs authorized by the act for an individual Indian outside of a reservation boundary, only be taken in trust if the person was a previous owner of trust or restricted land. We recommend that the decision as to title status be left to the discretion of the Secretary of the Interior so that he can look at the facts in each case and make a determination as to title status.

We commend the Senate for its adoption of the suggestion of most Indian people that deletes language that allowed the Secretary of the Interior to collect a delinquent loan from a claim distribution. Indians consider a claim distribution as a right that they have received from the United States in satisfaction of the claim of their ancestors to land and that it should not be diminished by such things as the collection of debts. We strongly urge that this provision not be placed back in the bill.

We note that the Senate-passed bill omitted language that would require the payment of interest to the Treasury on the revolving loan fund program. The income from that program should be used to cover cost and to build the fund, as is now the case. We Indians are proud of our record in connection with the revolving loan fund programs. We believe that the program should continue to operate as it now operates and urge that the Senate version be retained.

We believe that the \$10 million appropriated to cover the cost of the operation of the insured and guaranteed program may not be sufficient, especially if the limit of \$200 million is raised to \$800 million, an amount we believe to be needed to meet the more than \$1 billion in credit needs that the Indian people presently have. We, therefore, recommend that the \$200 million limitation be raised to \$800 million, and that administrative expenses of from \$7.5 million to \$10 million per \$100 million of limitation be included in section 217(a) and in section 302(b). The high cost of interest makes it likely that the approximately \$5 million per \$100 million limit to cover interest subsidy cost and losses will not be sufficient. Further, in section 302 of S. 1341, the words "such sums as may be needed" appear to have been omitted from line 20, page 15, just prior to the figure "(a)."

We heartily support the adding of the Indian business development fund program as title IV of the Indian Financing Act. It is logically a part of such an act. We urge the adoption of this provision by the committee.

This completes the statement of the executive committee of the National Tribal Chairmen's Association. Thank you.

Mr. MEEDS. Thank you very much for a very helpful statement, Mr. Black. I am certainly happy to see you and your organization picked up what the administration witnesses in effect admitted this morning, and that is that the \$10 million to service the \$200 million in the guaranteed loan program is not adequate. It is simply not adequate. And you point that out very well here in your statement.

By their own admission it would take somewhere around \$14 million on the low side and \$28 million on the high side to service that full \$200 million.

I think that is all I have.

The gentleman from New Mexico.

Mr. LUJAN. I would like to refer to the last paragraph on the second page, and that is making the land purchased subject to foreclosures. This would generally be a tribal operation rather than an individual operation, is that right?

Mr. BLACK. Yes. And also, you see, in some cases where individuals have sold their allotments and then—in some cases where there was a question of ownership, the title is unable to be cleared properly because of heirship problems. That would give an Indian an opportunity to buy this land in total.

Mr. LUJAN. An individual can—is eligible?

Mr. BLACK. Yes, sir.

Mr. LUJAN. Kind of in the back of my mind I thought it was primarily for a tribe to buy lands.

Mr. BLACK. In our part of the country we have an heirship problem, you know, where a small portion of land would be owned by, say, 25 to 32 people and the income generated from this would be just a token part of the total. I know of some people that the amounts they get from the leases of this land would be 77 cents per year. Well, an enterprising Indian or one that felt like he could farm the land himself or one that felt like he could own it himself could possibly get a loan and purchase this land in total from the other heirs, and this is being done in some cases where the individual Indian has some other resources other than borrowing.

Mr. LUJAN. How would you guarantee that that money would be paid back, if you took off the mortgage provision on the land?

Mr. BLACK. Our tribe has a small revolving loan program and one of the ways that we guarantee the repayment of this loan is that he signs a statement or a document that states that in the event he found he could no longer pay or guarantee his loan, then the tribe would receive the money that the land income generated. Of course, this has to be—

Mr. LUJAN. It reverts back to the tribe, then.

Mr. BLACK. Not necessarily unless the tribe wants to buy it from him. It does not revert back to the tribe.

Mr. LUJAN. Would you suggest that provision—an assignment of income?

Mr. BLACK. Yes, this is it.

Mr. LUJAN. Would you suggest that the provision be inserted instead of—

Mr. BLACK. I would have no objection to this, sir, personally. I think it would be one way of keeping the revolving loan fund solvent.

Mr. LUJAN. Because I think that is the important question.

Mr. BLACK. Yes.

Mr. LUJAN. The grant program is something else. The revolving loan program, the guy that does not pay it back is really taking away from others who might be able to borrow from the fund.

Mr. BLACK. In fact, Mr. Lujan, we give the highest priority to the individuals who can pay it back the quickest, you know, so that we can generate more money for loan programs.

Mr. LUJAN. Thank you, Mr. Chairman.

Mr. MEEDS. The gentleman from Oklahoma.

MR. CAMP. Mr. Black, in your first recommendation as far as amendments might be concerned where you say that the section 2 of S. 1341 contains the phrase "and where they will have the opportunity to be integrated socially, politically, and economically into American life," if I read that right, what you are saying is that maybe you do not want to be integrated. And, of course, we in Oklahoma have no reservations.

MR. BLACK. Yes, and this has hurt us to some extent, too, Mr. Camp. But let me point out that I think that our older people—we go home and they inform us emphatically we are against termination. We depend upon you to keep forces from terminating us because once we are terminated, we lose our land and you must look forward to the days of your children and your orphans and your old people. They are not able to do this—I have personally no objection to when they will have the opportunity to be integrated socially, politically, and economically. In fact, that is what we are trying to do now. But to insert it, to imply—it implies to our people that this is the road to termination and they are very careful about this. They do not want this to be a part of their programs.

I do not envision that this actually would be objected to by most Indians sitting in here today except that they are concerned with termination. They do not like this kind of language.

MR. CAMP. Well, are you saying, then, that you think that our red people have the feeling that they want to be dependent upon the Federal Government the rest of their lives?

MR. BLACK. No, sir; but they want their rights protected and their status protected. They have no objection to becoming fully socially integrated Americans. In fact, I think the majority already are. They have served in your Armed Forces. They have finished your colleges. They are speaking your language with some——

MR. CAMP. Let us do not use that word "your." Let us say "our."

MR. BLACK. "Ours." And personally I do not think they have this—they want to and for the most part want to become a part of the society on the same keel and with the same opportunities and with the same job opportunities that are available to the——

MR. CAMP. I think you—you know, we have got a lot of good red people in business in Oklahoma, one who is retired in Bartlesville is still chief of the Cherokees. You know the young lady who worked for me when I was there. My golly, she knew more about the operation of the State of Oklahoma than anybody I ever came in contact with in the period of 20 years I was associated with it and I can think of one person I went to school with who played football with four or five Osages back at the university and we can still point to these boys today. John Shaw, you know, is on the committee of the Osages and John White is a rancher up north of Fairfax. Of course, we realize, too, they were fortunate enough to have their mineral rights retained for the tribe itself and because of this, this is where they got the money for their education.

We are getting a little far afield as far as this legislation is concerned, but I still want to make the point that I personally feel that we should do everything we can do to get all minorities, regardless of who they are, and I am talking about white people, too, when I say this——

Mr. BLACK. Yes, sir.

Mr. CAMP. [continuing]. Into a place where they feel more of a responsibility and obligation to have the opportunity to live in this country, to have that responsibility and obligation to fill them and be—have the same problems, the same adversities as well as successes, and really put them in the mainstream of life.

Mr. BLACK. Yes, sir.

Mr. CAMP. And I do not think Uncle Sam has done too much up to this time to get that done, I grant you.

Excuse me, Mr. Chairman. We are getting a little far afield.

Mr. MEEDS. I have never known the gentleman to go too far afield.

Mr. CAMP. Well, thank you.

Mr. MEEDS. Thank you very much, Mr. Black, for your fine testimony.

Our next witness is Mr. Ray Paddock, executive director of the Tlingit-Haida Central Council, and Robert Willard, executive director, Tlingit-Haida Contractors Association.

Gentlemen, please come forward. I have read your statements. Since they are both rather long, would it be possible for you to summarize? We only have, like, a half-hour left for our whole hearing.

STATEMENT OF CLARENCE JACKSON, PRESIDENT, TLINGIT-HAIDA CENTRAL COUNCIL, ACCOMPANIED BY RAY PADDOCK, EXECUTIVE DIRECTOR, TLINGIT-HAIDA CENTRAL COUNCIL; AND ROBERT WILLARD, EXECUTIVE DIRECTOR, TLINGIT-HAIDA CONTRACTOR'S ASSOCIATION

Mr. PADDOCK. Mr. Chairman, our President, Clarence Jackson, will present the statement today.

Mr. MEEDS. Mr. Jackson, welcome before the committee. Might I just say off the record—

[Discussion off the record.]

Mr. JACKSON. Mr. Chairman, my name is Clarence Jackson. I have Mr. Raymond Paddock here, executive director of the Tlingit-Haida Central Council, and Mr. Robert Willard, the executive director of our Contractor's Association for the Tlingit-Haida Central Council.

We have some 16,000 Tlingit and Haida people in our jurisdiction. We have 15 communities who elect delegates and I am elected by those delegates as the president of the organization so that you might know just a little bit about the Tlingit-Haida Central Council.

In 1968 we received a judgment award of \$7.5 million of which some of these were helpful and we want to at this point say we appreciate the help that you were able to give us.

Very briefly—

Mr. MEEDS. Pardon me, Mr. Jackson. Since you are summarizing unless there is objection, your prepared statement will be made a part of the record after your summary.

Mr. JACKSON. Right. Fine.

Very briefly, we have some concerns about the Indian Financing Act that we would like to make mention of at this time. We feel that—I could go on and tell you about some of the rosy things that we are doing but I think that why we are here is to tell you some of the frus-

trations that we are facing and the ways we think that the Indian Financing Act can be a help to Indian people both in Alaska and across the Nation.

I think point No. 1 of the Senate-passed version of the bill authorizes an increase of \$50 million in the revolving fund. We believe that this \$50 million is far too small to serve the needs of all American Indians. What is not a part of this written report is that I have personally been involved with five Indian communities who own salmon canneries in Alaska for approximately 15 years. The community of Angoon lost their cannery in approximately 1952 in a fire and because of the lack of funds in the revolving loan program, we have not been able to rebuild that cannery which is the mainstay of one community, one community whose income fell so short that we had a tremendous struggle qualifying them for a housing program through our Tlingit-Haida housing authority last year.

The community of Hyدابург has a cannery that is sitting idle because of lack of funds right now and its sole economy is fishing also. It is now involved with another operation with a private concern and it is hoped that that community will begin getting on its feet again. Likewise, the communities of Kake, Klawock, and Metlakatla are involved with the revolving fund. All of the five canneries are short of funds constantly. We have the facilities in four communities. We have not the income or the funds to borrow to buy boats, to be able to compete. I am only talking about something that is one aspect where this could help.

We also take exception in title I of section 101 that the loans to individual Indians can only be made to those who are not members in an organization which is already making loans to its members. In our case, the Tlingit-Haida people, we are in effect—this bill is denying individual loans entirely except through the central council. The central council is currently granting loans to any member who qualifies whether he lives in a village or urban area. Because of our limited resources these loans are necessarily small and limited to the confines of our modest budget.

Therefore, we believe that individual Indians should also be eligible for loans.

An exception, of course, would be if the tribe had been granted a loan for the specific purpose of making loans to individuals. I think that this should be clarified in the bill.

Section 104 of title I states in part that educational loans may provide for interest to be deferred while the borrower is in school or in the military service. We suggest that following the word "service" insert "and a reasonable period thereafter."

Sections 211 and 212 of title II describe the procedures in case of default of loans, guaranteed or insured respectively. We are hard put to understand the harshness of section 212 when a lender suffers a loss on an insured loan, compared to the secretarial discretion allowed in section 211 when a loss is suffered on a guaranteed loan, it is our hope that the committee reevaluates this section. It would appear that under an insured loan the borrower would be forced out of business before the lender could be repaid.

Title II, section 204 of the Senate version places a ceiling of \$100,000 on loans to individuals which may be guaranteed or insured. The

precedent for this ceiling was the Agricultural Act of 1961. We believe this is also too low for two reasons. First, the inflation this Nation has faced since 1961. Second, the cost of doing business in Alaska.

I will not go into that.

Section 217 of title II places a limitation of \$200 million on the amount of guaranteed and insured loans. We also believe this is too low. I would like to give an example.

The community of Yakitat recently secured a loan of \$120,000 from the Community Enterprise Development Corporation for a fishing boat. This is a pilot project. It will put approximately five people to work. If it works in this community, others will follow suit and in a very short time there would be requests in excess of \$11 million, in our estimation.

We are only one of many tribes across the Nation that could reasonably be expected to seek loan guarantees for community or economic development projects. We believe the loan guarantees could easily be doubled and still not cover all the potential needs of native Americans.

We agree with the provision of title III.

In section 402 of title IV we again feel that because of the cost of doing business in Alaska, setting a limit of \$50,000 may well frustrate some otherwise worthy projects.

Mr. Chairman, I believe the suggestions we have made will not add substantially to the cost of this bill. Of those sections I have commented on, only section 402 is grant money. The rest is loan funds and will not be a drain on our economy. In fact, I believe this bill can substantially add to the advancement of my people in the State of Alaska and the Nation.

I greatly appreciate this opportunity to share our views with you. I request 2 weeks time to submit some further written statements on our behalf and I want to thank you for allowing us to appear here.

I believe that Mr. Robert Willard, who is the executive director of our Contractor's Association, also has a statement, perhaps if Mr. Chairman would allow him to summarize.

Mr. MEEDS. Mr. Jackson, thank you very much.

[Mr. Jackson's statement follows:]

STATEMENT OF CLARENCE JACKSON, PRESIDENT OF THE TLINGIT AND HAIDA CENTRAL COUNCIL

Mr. Chairman, my name is Clarence Jackson. I am the President of the Tlingit and Haida Central Council, the central governing body for more than 16,000 Tlingit and Haida Indians of Alaska. Next to me is Mr. Ray Paddock, Executive Director of the Central Council, and Mr. Robert Willard, Executive Director of the Tlingit and Haida Contractors Association. Following my remarks, Mr. Willard will give a short presentation on the purpose and aims of the Contractors Association.

In examining the Indian Financing Act it might be well for this committee to understand something of our way of life and our current financial status. Unlike the Indians of the lower 48 states, the Tlingit and Haida Indians have never lived on reservations. Rather, we are divided into 15 separate communities, each having its own tribal council. Each of these communities, then, has delegates to the Central Council, of which I am President. This concept has been recognized by both the Congress and the Federal government.

In 1968, the Tlingit and Haida Indians of Alaska were awarded \$7.5 Million as a result of a claim made against the Government of the United States. Some of the present members of this committee were instrumental in assisting us in

winning that claim. Because of that award, we have been able to achieve some modest successes, and to those of you on this committee who assisted us, we are grateful.

Prior to 1968, the tribal council had substantially no income. Since 1968, we have, in effect, been living off the interest. But because our people have shown administrative capabilities, we have been able to use our modest funds to expand into other areas. The most significant of these, is our contract with the Bureau of Indian Affairs and the Tlingit-Haida Housing Authority. The Tlingit-Haida Contractors Association is a spin-off of the Housing Authority and Mr. Willard will explain that when I have concluded my remarks.

Our contract with the BIA is a unique one. I believe we are one of two tribes in the nation that has the entire agency under contract. The agency superintendent is a Tlingit who was hired and is paid by the Central Council. His top administrators are Tlingit and Haida people selected for their capabilities. Our Southeast Agency is now a team of people dedicated to serving their own. While we still encounter many frustrations in dealing with the cumbersome bureaucracy of the BIA, I believe we have one of the best run BIA agencies in the nation.

In 1968, following payment of our claims, the Central Council received a technical assistance grant for planning purposes from the Economic Development Administration. This grant will expire this year and be replaced by a planning grant from E.D.A. At this point, it is only conjecture whether there will be an Economic Development Administration after June 30, 1974.

Since the Central Council has the freedom to contract, we are currently entering into contracts which are then being administered by the Southeast Agency. At least one of these contracts is significant enough to mention here.

In September of this year we entered into an agreement with the State of Alaska to administer the State Boarding Home Program for Southeast Alaska. The Boarding Home Program is an education program for secondary level students from villages and logging camps to come to the large communities of their choice and attend high school still living in family situations. The significant aspect of this contract is not that we have contracted with the State of Alaska for the first time, but that it is primarily a non-native program. I like to feel this is a demonstration of faith in our administrative abilities.

The Tlingit-Haida Housing Authority, under a contract with the Department of Housing & Urban Development is currently overseeing the construction and management of 160 Turnkey III housing units for villages in Southeast Alaska. They have program reservations for an additional 200 units next year. Because of the aggressive management of the Housing Authority, they have also attracted contracts for 60 units of housing for the elderly in six villages. Each of these programs also includes a clinic to be leased by the Public Health Service.

It is significant to note here also, that the Housing Authority has entered into an agreement to negotiate the terms for 50 units of housing for the City of Ketchikan and six units for the elderly in Petersburg. These are non-native projects in non-native communities, and again, I believe, a recognition of our abilities.

Lest I paint too rosy a picture, however, there are realities and frustrations we are faced with that have not been resolved. The overall aim of the Central Council is to provide economic development for our people and for our communities. To date, these goals are far from met. In 1970, one of our communities, Angoon, was listed by the U.S. census as having the lowest per capita income in the nation. In March of 1973, the CIA rated Alaska Native unemployment at 65 percent. In each of our communities, during the month from October to May, there is little employment outside of the schools (which are mostly non-natives under contract), the post office, and a few shops. With the exception of the Housing Program, which is now under way, there has been little economic development. What there has been, has been piecemeal. That is not to say, however, that there has not been planning.

In any event, the funds provided us for planning purposes have not been 100 percent funding. In fact, our tribal government has had to put up a greater share of its own resources than any other tribe currently being funded by the EDA. It has never been clear to me why this is so.

Through this planning grant, we have been able to accomplish a number of things that are beginning to have an economic impact on our people. The most significant of these are our various loan programs. These loan programs have provided down payments for homes and trailers, and assistance in business development. In addition we recently started a Credit Union that now has almost 700 members.

In each of these programs, however, our ability to assist has been extremely limited, both by total funding and by loan ceilings. In order to make a significant impact on our people, it would be necessary to go heavily into our funds and they could be quickly depleted. The logical solution it seems, would be that we should try to capitalize our funding by using available federal grant and loan programs and local financial institutions. The fact is, we have tried and had very little success.

With the exception of EDA, we have received no funding as a tribal entity from any other federal agency. The Alaskan banking community has been less than eager to work with us. As one of two tribal governments in Alaska that currently have any funds at all, one would think they would be seeking our business.

In the area of banking services, they do not provide portfolios, they do not provide management consultant services, and they do not provide investment advice. Because of the risks involved in working with Indian groups the banks have been reluctant to work with us in business ventures.

In examining the Indian Financing Act, we believe that this bill can go a long way toward helping us overcome our problems. It can also be of great benefit to our people and the overall economy of Southeast Alaska.

Title I of the Senate passed version of the bill authorizes an income of \$50 million in the Revolving Fund. We believe this to be much too low. Considering the economic state of most Indian tribes and the new awareness of tribal leadership, only a relatively small amount could be made available to any one group. Making these funds available for educational loans further dilutes its potential impact. The Revolving loan fund should be a minimum of \$150 million.

We also take exception in Title I, section 101, to the requirement that loans to individual Indians can only be made to those who are not members in an organization which is already making loans to its members. In our case as Tlingit and Haida people it is, in effect, denying individual loans entirely, except through the Central Council. The Central Council is currently granting loans to any member who qualifies, whether he lives in a village or an urban area. Because of our limited resources, these loans are necessarily small and limited to the confines of our modest budget. Therefore, we believe that individual Indians should also be eligible for loans. An exception, of course, would be if the tribe had been granted a loan for the specific purpose of making loans to individuals. That should be clarified in the bill.

Section 104 of Title I states in part that "educational loans may provide for interest to be deferred while the borrower is in school or in the military service." We suggest that following the word "Service" insert "and a reasonable period thereafter."

Sections 211 and 212 of Title II describe the procedures in case of default of loans guaranteed or insured, respectively. We are hard put to understand the harshness of Section 212, when a lender suffers a loss on an insured loan compared to the Secretarial discretion allowed in Section 211 when a loss is suffered on a guaranteed loan. It is our hope that the committee re-evaluates this section. It would appear that under an insured loan, the borrower would be forced out of business before the lender could be repaid.

Title II Section 204 of the Senate version places a ceiling of \$100,000 on loans to individuals which may be guaranteed or insured. The precedent for this ceiling was the Agricultural Act of 1961. We believe this is also too low for two reasons. First is the inflation this nation faced since 1961 and second is the cost of doing business in Alaska. The average cost of living in Alaska is currently 31 percent higher than Seattle. Our villages are even higher due to remoteness and expensive shipping costs. Because of our unique problems in Alaska, we feel there should either be no ceiling, or the ceiling should be discretionary.

Section 217 of Title II places a limitation of \$200 million on the amount of guaranteed and insured loans. We also believe this is too low. I would like to give an example.

The community of Yakutat recently secured a loan of \$120,000 from the Community Enterprise Development Corporation (CEDC) for a fishing boat. This is a pilot project, and if successful, will be adopted by other communities. Yakutat is a fishing village with a highly seasonal unemployment rate as is every other village in Southeast Alaska. The fishing boat bought will have a crew of five and be equipped to operate up to ten months a year. If the project proves successful, the community will seek funding to expand the fleet, and every other village

in Southeast will follow suit. For this one project alone, it would be necessary to obtain loans in excess of \$11 million. We are only one of many, many tribes across the nation that could reasonably be expected to seek loan guarantees for community or economic development projects. We believe the loan guarantees could easily be doubled and still not cover all the potential needs of Native Americans.

We agree with the provisions of Title III.

In section 402 of Title IV, we again feel that because of the cost of doing business in Alaska, setting a limit of \$50,000 may well frustrate some otherwise worthy projects.

Mr. Chairman, I believe the suggestions we have made will not add substantially to the cost of this bill. Of those sections I have commented on, only section 402 is grant money. The rest is loan funds and will not be a drain on our economy. In fact, I believe this bill can substantially add to the advancement of my people, the State of Alaska, and the Nation.

I greatly appreciate this opportunity to share our views with you and thank you for allowing me to appear before this committee.

Mr. MEEDS. You do indeed, Mr. Willard, have a prepared statement and without objection, it will be made a part of the record at this point and if you will please summarize it.

STATEMENT OF ROBERT WILLARD, EXECUTIVE DIRECTOR OF THE TLINGIT AND HAIDA CONTRACTORS ASSOCIATION

Mr. WILLARD. Mr. Chairman, the Tlingit and Haida Contractor's Association concept, I believe, is not covered in the Act. The Association was organized and officially incorporated by State law on October 1st of this year. We have been designated as the developers of 260 units of housing in nine villages next year.

The primary effort of the Contractor's Association is to further our own qualified people into business. The Association has been seeking funds from various sources and we have been frustrated. We have approached the Bureau of Indian Affairs for \$125,000 to begin the Association implementation. We have approached the Economic Development Administration. We have approached the Small Business Administration. We have approached the Office of Minority Business Enterprises. And we have received negative response from all of these disinterested agencies in the efforts of what we conceive to be the answer to much of the problems that face our villages.

This year we were pleased to announce that we have 160 units of houses in six villages presently under construction at this very moment. For every day that passes one house has gone up and it is our plan, and it has already been approved by the Department of Housing and Urban Development, that the Tlingit and Haida Contractor's Association through its membership will be the designated entity which will construct the houses next year. We have 200 units in the nine villages. We also have elderly units going up in six villages. We have attached clinics and we have been frustrated with the various entities that were initially established to assist minorities and particularly American Indians, Aleuts, and Eskimos.

We come now to the Congress seeking your support, seeking your advice, as to how we can proceed with the plan of action that we have for 1974 and further into 1975 and 1976.

There are all sorts of community development projects that are taking place in our villages and the Tlingit and Haida Contractor's Asso-

ciation concept purports to be the answer to the involvement of our people in all of these phases of economic development.

I think that the approach that we are taking surpasses a lot of the things that we have talked about in the past and in just reviewing the various bills that are before you, I do not think that the association concept answers our particular problem.

I would be glad to comment on any of the prepared texts that you have before you.

Mr. MEEDS. Thank you very much, Mr. Willard.

[Mr. Willard's statement follows:]

STATEMENT BY ROBERT WILLARD, EXECUTIVE DIRECTOR OF THE TLINGIT AND HAIDA CONTRACTORS ASSOCIATION

Honorable Chairman, distinguished members of the Interior and Insular Affairs Committee. I am Robert Willard. I serve my people as the Executive Director of the Tlingit and Haida Contractors Association, Incorporated. I reside in Juneau, Alaska. I am from the village of Angoon.

The Executive Committee of the Tribal Council provided the impetus for the establishment of the Tlingit and Haida Contractors Association. This being done in pursuit of resolving a long standing problem that has been bothersome since the impact of "outsiders" coming into our region.

And that is, to reverse the trend of being non-participants in economic development activity which is occurring in our villages in particular.

The Tribal Council has been well aware of this and other problems. Earlier this year the Tribal Council gave its sanction to the creation of the Tlingit and Haida Regional Housing Authority, to tackle the then seemingly insurmountable problem of inadequate housing. I am happy to report that 160 units of housing are presently under construction in six villages under the Turnkey III Program. 200 more units are planned for 1974 in nine villages and we are operating at a level of between 53 to 87% local native hire on this project.

To talk in terms of economic participation is one thing—to talk of merely employment opportunity is another. But to talk "construction" poses yet another challenge.

It is recognized that in Alaska—the fact that the building and construction industry is growing in all regions of the State. In terms of wages, the industry accounted for \$153,907,975 in 1972. With respect to Southeast, the industry represents 58% of the Southeastern economy, as 1,134 persons received \$23,542,984.

While the above is a true statement of fact, the industry has not significantly impacted Alaska Natives when addressing oneself to the labor force being utilized. Available documentation appears to bear out this conclusion—as data reveals that out of a total of 7,803 persons in the industry, less than 10% were identified as Alaska Natives.

To further project this on a regional basis serves only to obviate the rationale necessitating establishing an organization capable of direct focus on the solution to this glaring statistic. The record shows that of the total of 1,134 persons involved in our region, less than 5% were Alaska Natives. It was therefore proposed that the Tlingit and Haida Contractors Association be organized and duly established as a non-profit corporation, pursuant to Title 10, Chapter 20, Alaska Statutes by Authority of the Central Council of the Tlingit and Haida Indians of Alaska, the Tribal Council chartered and recognized by the federal government.

Mr. Chairman, I should mention here, that, once in actual operation, it guarantees that the dollars will remain in Alaska, thereby adding to the State's economy. One of the major problems that confront the State is the outflow of money earned—primarily by out-of-state residents. More importantly though, these dollars will accrue to our own people.

THE RATIONALE

The Tribal Council has long been aware of the many needs of the Tlingit and Haida people. In this regard, the Council has moved forthright in many areas.

One such area that is in high priority is that of the need for adequate housing in the rural areas. This undertaking is under the direct control of the Tlingit and Haida Regional Housing Authority, which is now administering the con-

struction of 160 Turnkey III units of housing in six villages. This arrangement is coordinated between the U.S. Department of Housing and Urban Development—for the unit cost, and the U.S. Public Health Service for water and sewer development, together with various other Federal and/or State programs. The Authority has a contractual arrangement with a private developer—which is an out of State based firm. As such, the developer has sublet much of the development to specialty contractors—many of whom are also based out-of-state.

The primary effort of the Contractors Association is dual in scope—but is multi-fold in effect and impact. It is envisioned that the Tlingit and Haida Contractors Association will serve as a catalyst that will bring together the Native-owned businesses in Southeast to finally commence with the long awaited need for unanimity of effort in promoting program effectiveness in the broad commonality of interest to Tlingits and Haidas.

The Contractor's Association, when implemented, lends the opportunity for the Tlingits and Haidas to be involved in a meaningful basis. To be sure, this program is ambitious. It follows that the proposal by its implications is an innovative approach towards an all out assault on the socio-economic and physical problems of the Tlingits and Haidas.

That is, to approach the construction of housing, and other related development, in two fronts. (1) To maximize to the extent possible—utilization of the local labor force; and (2) to ensure the other economic benefits accrue to the local people as the development phases occur. In short, the building and construction industry requires the focal attention of the Tribal Council—in a way which would facilitate complete beneficial involvement to the Tlingit and Haida people. It is in this regard that the attention of the Tribal Council is now therefore directed.

The Association concept attempts to facilitate tendering a wholehearted effort of entrepreneurship in business that will ultimately result in, and guarantee, full involvement of the Tlingit and Haida people in all phases of planning, construction rehabilitation or any other community improvement efforts.

THE MEMBERSHIP

It is contemplated that the composition of the Association will be as follows: 1) Native owned, or Native controlled general contracting firms; 2) Native owned specialty or subcontracting firms; 3) suppliers or potential suppliers of materials; 4) support services that are Native owned (i.e. cafes, restaurants, hotels, motels, air taxi operators and other surface transport companies, etc.)

The above members, as business establishments will be within the meaning of, and the intents and purposes of Section 3 of Title IV of the Housing and Urban Development Act of 1969 and its promulgated regulations; within the meaning of the so-called "Buy Indian Act" and HPMC-FHA 7580.1 dated November 2, 1970 under the subject "Indian Employment, Training, and Economic Benefits from Public Housing Development."; and within the meaning of various federal or State statutes, rules or regulations pertaining to minority group opportunities.

The membership of the Tlingit-Haida Contractors Association is not restricted to construction—and this is by design. It can be anticipated that the members will deal only with businesses which are members of the Tlingit-Haida Contractors Association. Thereby ensuring complete economic benefits accruing, and, guarantee full employment opportunity for rural Natives in particular—as it has been proven that where natives are in control of programs, it can be expected that there will be no less than 100% involvement of the Tlingit and Haida people—to which the Tribal Council now pledges its complete and undivided attention to ensure that there will be no excuses—only success.

THE ASSOCIATION AS ADVOCATES

As a businessmen and businesswomens affiliation, the Association will be a professional organization, with their own officers, and other assigns, possessing the capability of advocating effectively (much like the Associated General Contractors, chambers of commerce, etc.). Moreover, it will also provide a forum, centrally accessible, to federal, state, local and private entities which address themselves to the needs of the people.

THE ASSOCIATION AS TECHNICIANS

As a subsidiary to the Association, there will be developed and maintained the T-H Contractor Technical Center with well defined goals and objectives.

Essentially, the Association, together with its technical Center, will assist Natives already established: in financing techniques; in bonding and development of bids; providing expertise in sound business management and operations; and advice in dealings with labor organizations as to policy, procedures and performance standards.

The Association will focus its resources to establishing new Native owned business firms to accommodate anticipated development of Southeastern communities.

In short, it will operate as a plan center with the above, and other related goals, and with the potential of monitoring all construction information in our region.

A highly professional skilled staff is anticipated providing funds are made available.

THE OBJECTIVE

The prime objective of the Tlingit-Haida Contractors Association will be to foster and attain full Indian involvement in such programs as Turnkey III Housing; and other programs, either alone or on a joint-venture basis. It is intended that from the identification and/or establishment of Native general and/or specialty contracting firms that these established firms will be capable of direct contracting—either alone, or in joint venture with established firms that have a history of hiring our Native people.

Insofar as Turnkey III is concerned, there are several reasons to advance the concept of joint-venture arrangements. Some of the reasons are to provide assistance in: financing, bonding, construction management, logistical information and other construction related material, data and expertise.

As I read the Senate passed Indian Financing Act of 1973, my attention was directed to Title III, Section 302.

The intent of the Congress is clear as stated in Section 301. However, this appears to be detracted in Section 302 in limiting grants to \$500,000 "to an Indian or Indian Tribe." In the Contractors Association alone, we have sought a grant of \$125,000 as interim financing. And, this would have been "seed money" in the true sense of the word. Once the Association began to operate efficiently and effectively, it would become a self-sustaining program.

In our efforts to secure interim financing, we approached the Bureau of Indian Affairs. No reasonable response. We approached the Small Business Administration, the Office of Economic Opportunity. We were hurt when the Economic Development Administration turned its back to us. Even more shocking was the effort directed to the Office of Minority Business Enterprises. There was no support as was envisioned by the President when he issued his Executive Order 11635. After all of these fruitless efforts of these unconcerned agencies, I come now to the Congress of these United States.

In summation then, it is the objects of the effort to verify that where Natives are in direct control of programs, the full and complete benefits will accrue to the Tlingit and Haida people and make them self-sufficient, self-sustaining, and self-determined for all time to come.

Thank you.

Mr. MEEDS. Mr. Jackson—as a matter of fact, I would like to address this question to both of you.

You talked—you both talked about some kind of technical assistance and technical planning and things like that. There is nothing requiring any kind of technical assistance in this legislation. I think a number of us have noticed and commented that there ought to be some kind of provision for technical assistance. What do you gentlemen think about that?

Mr. JACKSON. I think I will allow Mr. Paddock to answer that.

Mr. PADDOCK. Section 402 of the bill has grant authority. I think if it was defined in the bill or in the report that this grant authority could be used through secretarial discretion for technical assistance, that may solve the problem for us. I do think the \$50,000, though, is too low, particularly in Alaska.

Mr. MEEDS. Particularly in the event if it were to be for a program such as your Contractor's Association, it would be much too low, would it not?

Mr. WILLARD. Mr. Chairman, we have budgeted at about \$125,000, and in it we are including expert assistance in bonding and financing to assist our newly organized or organizing businesses in construction. We intend to provide construction management assistance and also in cost estimating, expediting, and logistical information, other labor standards information to our newly established businesses, and this assistance is not without precedent. It has been done very successfully in our own State in the city of Seattle through the Central Contractor's Association. We intend to do—if we are successful, and I have every reason to believe that we will be, we intend to be doing about \$30 million worth of business next year in our region. And going on the concept of the Central Contractor's Association, if through the technical assistance center we are able to secure contracts for our own affiliate members, we will be asking that they put back into the general fund 1 percent of the total amount of the capital to keep the association going and to provide further assistance to other establishing organizations.

Mr. MEEDS. Very good. Well, thank you both for your comments.

The gentleman from New Mexico.

Mr. LUJAN. Yes. In your prepared statement, Mr. Jackson, you say that members of the tribe will not be eligible for loans because you have an organization that is doing that now. You also mentioned that the Contractor's Association is not eligible to receive funds. Do you not think that one of the ways to accomplish that would be for a loan to be made to the Central Council, and then the Central Council carry on its business as it is now? Would that not be more efficient?

Mr. JACKSON. I believe if it was clarified that this could be done, we would be agreeable to that.

Mr. LUJAN. I do not know exactly where it is, but it is my general impression that that activity would be permissible under the legislation in that area where we said it could lend to organizations who would then lend money. We discussed that section a little while ago.

But also in your prepared statement, you say that it would appear that under the insured loan program that the borrower would be forced out of business if he did not pay.

What do you do in the Central Council if somebody does not pay?

Mr. PADDOCK. We have not had that problem yet. We have a very good payment record.

Mr. LUJAN. What would you do?

Mr. PADDOCK. We would attempt to assist a person in every way we could. We are not—

Mr. LUJAN. If that does not work?

Mr. PADDOCK. Well, we have not faced that yet. We will cross that bridge when we come to it, but I sincerely believe in our people's ability to pay back their loans. Our loan program is not a program that we step into lightly. We do some examination, and we do think the people we loan money to are qualified to pay it back.

Mr. LUJAN. My impression is that our loan program might not be quite as efficient as yours and that we would be faced with somebody not paying back. But what you are saying is if a guy does not pay, then do not throw him out of business, and I am wondering what you would do if you tried all of these different things and then in the final analysis he did not pay. Would you not foreclose?

Mr. PADDOCK. The possibility in the comparison that we made in the report was the difference between section 211 and section 212, under the guaranteed loans there was secretarial discretion to assist the borrower in every way possible. That secretarial discretion is not present in 212. And it is up—in section 212 it is up to the banks to attempt to gain back their funding or their loan in every way possible. The implication is that the banker then could force the borrower out of business. The implication is not so in the previous section. It does not state that specifically.

Mr. LUJAN. You just are comparing the two sections and saying one is harsher than the other without necessarily telling us we should change it so that you will never have to foreclose on business.

Thank you.

Mr. MEEDS. Thank you very much, gentlemen. We appreciate your testimony and good luck in your contracting association. That sounds like a very fine venture. You are absolutely right, there is a lot of need for building in Alaska, not just in southeast Alaska.

Our next and last witness is Willie Hensley, who is the president of the Alaska Federation of Natives.

Willie, it is a pleasure to have you before the committee. We look forward to your testimony.

STATEMENT OF WILLIE HENSLEY, PRESIDENT, ALASKA FEDERATION OF NATIVES

Mr. MEEDS. I see you have a prepared statement.

Mr. HENSLEY. Yes, Mr. Chairman.

Mr. MEEDS. You may read it into the record or summarize it.

Mr. HENSLEY. I think I could just summarize my statement.

Mr. MEEDS. Without objection, your prepared statement will be made a part of the record at this point.

Mr. HENSLEY. Yes, Mr. Chairman, I really have not had that much opportunity really to review this legislation, but what I would like to do is simply let the committee know that the federation very much supports the legislation that is pending before the committee concerning loans, loan guaranties, interest, subsidies, and the grant programs.

There is one other provision that concerns me about the legislation. That is the applicability of the pending bills to the Alaska Natives.

We want to make certain that any legislation that is adopted by the Congress will clearly apply to the Alaska Natives.

There are some variations in the definitions, Mr. Chairman. In H.R. 6371 and 10562, it specifically includes natives as defined in the Native Claims Settlement Act and the word "reservation" also applies to regional and village corporation land, and also the definition of tribe as applies to native villages and native groups is a little bit ambiguous as it applies to Alaska Natives.

We very much endorse the definitions contained in the House version of the legislation, that is, H.R. 6371. And, Mr. Chairman, we very much hope that this legislation would not discriminate against Alaskan Natives because of the fact that we were successful in pursuing a settlement act and in fact it was passed by the Congress.

Mr. Chairman, that is the extent of my remarks except to indicate that on the whole, I think most Alaskan Natives have not really been—have not really utilized the Indian revolving loan fund as it has been

utilized in the lower 48. I think with the exclusion of southeast Alaska who did utilize funds for canneries and various fishing ventures, during the time that the revolving fund has been available we really did not have the institutions in western Alaska to fully utilize the capital that was made available through the loan fund. And consequently, we are just really beginning to get into economic activity in Alaska to any extent. In fact, it is just barely beginning.

Mr. MEEDS. The fact is, too, that the Department or the Bureau is just now beginning its investigation which should result in recommendations under the Alaska Native Land Claims Act to survey the question of Bureau of Indian Affairs relationship to Alaskan Natives.

Mr. HENSLEY. Yes; well, that, Mr. Chairman, is also one aspect of the legislation that concerns us, the applicability of the pending legislation to those that receive services from the Federal Government, and we feel that that should not necessarily be a condition of obtaining loans and grants under the program.

It is true that the Department is proceeding to investigate all of the programs that apply to Alaskan Natives and I am sure that under the Indian revolving loan fund you will find that in most instances, particularly in western Alaska, it has not really been utilized to any extent.

Mr. MEEDS. So where the bill provides services only to Indians for Alaskan Natives, if it does, and I am trying to find out, who are recognized as receiving services from the Bureau, you feel that should be changed.

Mr. HENSLEY. Well, you see, this is right now kind of an open question. There is no question that we presently receive services from the Bureau of Indian Affairs, Mr. Chairman. And it has been stated by Assistant Secretary Lynn, who is head of the Alaska task force that that study that is to be accomplished is not looked upon as a termination study.

However, we do not really know what the recommendations to the Congress are going to be by the Department and we feel that in no way could we remotely provide the services that the Federal Government is providing to Alaskan Natives, particularly in health and education.

Mr. MEEDS. Your problem is really taken care of, though, in H.R. 6371, where "Indian" is defined to, among other things—

Mr. HENSLEY. Mr. Chairman, that language is in—6371 is acceptable. In fact, that, I think is the best language for the definition of "Indian" of the various pieces of legislation that we have seen.

Mr. MEEDS. Right. OK. Thank you very much, Mr. Hensley.
The gentleman from New Mexico.

Mr. LUJAN. Are you already organized pretty far along with the various corporations?

Mr. HENSLEY. Mr. Chairman, as you know, the legislation—it has been about a year and a half since the act was signed. All of the 12 regional corporations have been organized. Many of the village corporations are in the process of being organized. Many of them are incorporated. As you know, we had over 200 corporations to put together under that act.

Mr. LUJAN. Talking basically about the regions.

Mr. HENSLEY. Yes; the regions are organized. They have been primarily engaged in enrollment and in land selections. Many of them

are analyzing the land for selection purposes and are primarily engaged in that now.

Some of them are involved in attempting to take a look at future economic possibilities that the act provides for.

Mr. LUJAN. Have much of the funds been disbursed?

Mr. HENSLEY. Only for organizational purposes. The funds that have been appropriated by Congress are in the Treasury. They have been invested in certificates of deposit until the enrollment is complete, which is going to be in mid-December.

Mr. LUJAN. Would you not find it advantageous to be able to make some of those loans out of corporation funds in order to generate some income?

Mr. HENSLEY. Mr. Chairman, I feel that more than likely these corporations will probably set up some sort of loan programs, but at this stage none of these, of course, have been put together except in southeast where they did have capital. But I think the possibilities that are offered under this program as it applies to the Alaskan Natives, it will enhance our ability to have additional capital. We have virtually had no capital in rural Alaska.

Mr. LUJAN. You might end up in competition with BIA as money lenders.

Mr. HENSLEY. It is a likely possibility. If the terms are——

Mr. LUJAN. If you have to compete you will have to reduce your interest rates because someone might say I can get a better deal out of the BIA than I can get out of the corporations. It might be putting you at a disadvantage then.

Mr. HENSLEY. We will have to take a closer look at this legislation.

Mr. LUJAN. But certainly, it would be an advantage to the individuals to have the alternative.

Thank you.

Mr. MEEDS. Thank you very much, Mr. Hensley.

[Mr. Hensley's statement follows:]

STATEMENT OF STATE SEN. WILLIE HENSLEY, PRESIDENT, ALASKA FEDERATION OF NATIVES, INC.

Mr. Chairman and members of the Committee. I appreciate this opportunity to appear today and testify on the Indian Financing Act of 1973, H.R. 6371, 10562 and S. 1341. I am here to express two simple positions on behalf of the Alaska Native people. First, we enthusiastically support the proposal reflected in the pending bills to establish a loan, loan guarantee and interest subsidy fund to benefit American Indian and Native people in exercising "responsibility for the utilization and management of their own resources" and obtaining "a standard of living from their own productive efforts" comparable to that of non-Native people. Second, we urge that any legislation adopted by Congress clearly and unequivocally provide that the benefits of the Act are available to Alaska Natives and the various business corporations created under the Alaska Native Claims Settlement Act.

I will not today go into the different pending bills in detail nor will I comment on some of the differences among those bills. However, I do want to comment on one specific provision of utmost importance to the Alaska Native people—the definition of "Indian" "tribe" and "reservation" in the pending bills. These terms are all defined in Section 3 of the pending bills. However, from our standpoint there is an important difference in the specific definitions in these bills. H.R. 6371 and 10562 specifically include Natives "as defined in the Alaska Native Claims Settlement Act" in the definition of "Indian", includes regional and village corporations in the definition of "reservation", and include Alaska

Native villages and Native groups in the definition of "tribe". S. 1341 is, on the other hand, rather ambiguous in its application of Alaska Native groups. We strongly endorse the definitions contained in the House version of the legislation.

However, both the House and Senate versions condition benefits to Alaska Natives under the Indian Financing Act to continued eligibility for services from the Bureau of Indian Affairs. We do not believe the benefits of this Act should be tied to continued BIA services. We believe the loan, interest subsidy and grant provisions of this Act should continue to be available to Alaska Natives regardless of any possible change in BIA services.

The most important point I wish to make here today is that Congress should in no way discriminate against the Alaska Natives because we were successful in obtaining passage of the Alaska Native Claims Settlement Act. Many other Indian and Native groups have obtained settlements of their original land claims. Benefits under the Indian Financing Act should not depend on whether a particular tribe or group has obtained such a settlement, nor on the "generosity" of the particular settlement involved. Rather, all Indian and Native people should be treated equally; all should be eligible to share in the benefits of this Act.

Discrimination against the Alaska Natives is totally unnecessary to carry out the purposes of the Indian Financing Act. All versions of the pending bills require Indian groups to exhaust their own and other available commercial financial resources before seeking benefits under the Indian Financing Act. Consequently, if and when Alaska Native individuals or Native groups are found eligible for specific loans, grants, guarantees or interest subsidies under the Act, it will only occur in circumstances where the proceeds and benefits of the Alaska Native Claims Settlement Act are insufficient to provide financial resources through normal commercial channels. In such circumstances the Alaska Native will be in no way different from any other applicant for benefits under the Indian Financing Act.

Mr. Chairman, the Alaska Federation of Natives has had only a limited opportunity to study these proposals. It is quite possible that upon further study and review we might wish to suggest specific amendatory language for inclusion in the ultimate legislation. I hope the Committee will permit me to submit such proposals in writing in the near future.

Thank you.

Mr. MEEDS. The hearings are now adjourned.

[Whereupon, at 12:25 o'clock p.m., the hearings were adjourned.]

[Supplemental information submitted for the record follows:]

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., November 26, 1973.

HON. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: The copy of your recent letter to Mr. James Baker, Chairman of the Blackfeet Tribal Business Council, which you sent to Chairman Haley has been referred to me.

The Indian Affairs Subcommittee has held hearings on and completed mark-up of H.R. 6371, an Indian Financing bill. In our deliberations, we did consider the Senate bill. A copy of the Committee Print of H.R. 6371 is enclosed for your information.

The Full Interior Committee is expected to consider the Financing bill as soon as the land use bill, now under consideration, is reported.

With kind regards, I am

Sincerely yours,

LLOYD MEEDS,
Chairman, Indian Affairs Subcommittee.

Enclosure.

RESOLUTION No. 37-73

Whereas, The Blackfeet Tribal Business Council has been informed of a proposed funding source known as the Indian Financing Act of 1973, and

Whereas, Indian tribes, and in particular, individual Indians, have encountered extreme difficulty in obtaining financing for their ventures, and

Whereas, This Indian Financing Act would be a great service to individual Indians as well as Tribes, now

Therefore be it *Resolved*, That the Blackfeet Tribal Business Council does hereby urge immediate action of S-1341, Indian Financing Act of 1973, and further urges support of this legislation by the Montana Congressional Delegation.

THE BLACKFEET TRIBE OF THE BLACKFEET INDIAN RESERVATION,
JAMES BAKER, *Chairman*.

Attest:

CARL A. KIPP, *Secretary*.

CERTIFICATION

I hereby certify the foregoing resolution was adopted by the Blackfeet Tribal Business Council in duly called, noticed and convened special session assembled the 5th day of December 1973, with eight members present to constitute a quorum.

CARL A. KIPP,
Secretary, Blackfeet Tribal Business Council.

RESOLUTION

Whereas, the Indian Financing Act, if enacted, will make federal financing on a loan and grant basis available to tribes such as the CDA for needed projects and programs, and

Whereas, the Coeur d'Alene Tribe has a current, almost crises need, for grants and low interest loans to utilize in financing its Development Enterprises, now, therefore,

Be it Resolved: That we hereby express the support of the Coeur d'Alene Tribe for the Indian Financing Act.

That we communicate this support immediately to Congressman Lloyd Meeds, chairman of the Indian Subcommittee on Interior and Insular Affairs in the U.S. House of Representatives and especially urge not only its enactment but, because of the current needs of tribes and especially the Coeur d'Alene Tribe, its enactment as soon as possible.

CERTIFICATE

The foregoing resolution was adopted by the Coeur d'Alene Tribal Council at a meeting held August 16, 1973 at the Plummer Sub-Agency, near Plummer, Idaho, with the required quorum present, by a vote of 5 for and 0 against.

HILLARY J. SPANEN,
Chairman.

BLANCHE LASARTE,
Secretary.

WILKINSON, CRAGUN & BARKER LAW OFFICES,
Washington, D.C., October 17, 1973.

HON. LLOYD MEEDS,
Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN MEEDS: We are pleased to submit this statement of our views on the various bills being considered by your subcommittee for enactment as the Indian Financing Act of 1973. This statement is submitted on behalf of the following tribal clients: the Arapahoe Tribe of the Wind River Reservation, Wyoming; the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana; the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; the Quinault Tribe of the Quinault Reservation, Washington; the Hoopa Valley Tribe of the Hoopa Valley Reservation, California; and the National Congress of American Indians.

We support the basic aims of this legislation which we understand are to provide increased funds for economic development of Indians and Indian organizations through the expanded availability of credit and through business development grants to Indians and Indian tribes. It has long been agreed that the

existing revolving loan fund of the Bureau of Indian Affairs is insufficient to adequately serve Indian economic development credit needs. We believe that supplementing this fund with provisions for loan guarantee and insurance and business development grants would significantly alleviate this problem.

It is our understanding that five separate bills (Senate-passed S. 1341, H.R. 9843, H.R. 6371, H.R. 10562, and H.R. 6493) have been introduced and referred to you for consideration concerning financing for the economic development of Indians and Indian organizations. We also understand that S. 1341 and H.R. 9843 are identical as are H.R. 6371 and H.R. 10562, thus yielding only three versions of the legislation for your consideration. Since it is impractical to comment upon the relative merits of each of the three versions of this legislation individually, we will address our remarks to those provisions which we believe should or should not be included as an essential feature of any legislation which seeks to obtain the objectives espoused by these bills. We believe, however, that the Senate-passed version of S. 1341 (or H.R. 9843) incorporates most of these features and is therefore the best of the various bills that have been introduced and should be enacted with a few significant amendments. The adoption of these amendments we think would be of great benefit to individual Indians, Indian tribes, and other Indian organizations. When commenting upon the bills, we will refer only to S. 1341, H.R. 6371, and H.R. 6493 due to the identical language of the other two bills.

I. Revolving Loan Fund, Loan Guarantee and Insurance

Considering the revolving loan and loan guarantee provisions first, we believe that the provision in section 201 of S. 1341 for the insurance of loans by lending institutions "under an agreement approved by the Secretary [of the Interior]" is an important and desirable feature for the loan program. This provision will provide additional flexibility for the program by enabling the Secretary of the Interior to arrange for all loans to be made by approved lending institutions without satisfaction, in each case, of the rigid requirements of the loan guarantee provisions for the guarantee of individual loans. A similar provision is not found in H.R. 6371.

S. 1341 is the only bill under consideration which would not require that Indian tribes exhaust their own funds before receiving any loans under the revolving loan program. As such, S. 1341 is superior to the other bills. While we agree that poorer tribes should receive a preference, we believe that requiring the relatively more affluent tribes to destitute themselves before qualifying for loans would defeat the purpose of the bill to promote economic development. Many tribes have substantial funds which they need and use for the operation of their tribal governments and numerous other purposes, and yet their people endure extreme conditions of poverty on their reservations.

The Senate-passed bill is also the only one under consideration which does not require that receipts from the revolving loan fund should be repaid to the Treasury as miscellaneous receipts. In our opinion, this again makes S. 1341 superior to the other bills. Repayments of amounts loaned under the revolving loan program and interest earned thereon should be credited to the loan fund and available for the purposes for which the fund is established. Such an approach is clearly sounder and more equitable under the circumstances.

We disagree with the provision in section 104 of S. 1341 authorizing the Secretary of the Treasury to set interest rates on revolving loans. In this respect section 104 of H.R. 6371 which allows the Secretary of the Interior to establish interest rates is more desirable since he is more conversant than the Secretary of the Treasury with the needs of Indian tribes and people.

A provision has been deleted from S. 1341 which would have allowed the Secretary of the Interior to sell loans from the revolving fund and thereafter merely guarantee them. The deletion was made at the request of Indian interests who had expressed concern that such loan sales would have been at a discount thereby depleting the amount of money in the fund itself. To the extent that section 107 of H.R. 6371 still retains such a provision it is objectionable.

We strongly object to any requirement that title to property purchased with loans from the revolving fund should be pledged or mortgaged to the fund as security on terms to be prescribed by the Secretary. Such a requirement is found in all versions of the legislation, except S. 1341. We do not believe that such mortgaging of Indian property is necessary or wise. It is true that this requirement is no more stringent than those set by commercial lending institutions for

non-Indian borrowers. However, the very nature of this legislation recognizes that Indians are in an inferior economic position. The purpose of the proposed Act is to alleviate this situation by making private and government financing more readily available. In view of this, it does not seem reasonable to contemplate that loans to Indians under the provisions of the Act be collateralized with tribal trust property or the threat of attachment of tribal judgment funds. In many cases tribal constitutions forbid the mortgaging of trust property and, indeed, one of the primary goals of the United States as trustee for the Indians has been to protect Indian ownership of this property. With this in mind, it seems somewhat inconsistent that the legislation should require that the Indians meet such stringent security requirements.

The Senate has also deleted from S. 1341 the objectionable provision that mortgaged Indian property could be foreclosed pursuant to the law of the state in which the property is located. This provision remains in section 115 of H.R. 6371. We believe that this foreclosure provision should be removed from the Act and therefore that S. 1341 is the superior bill in this regard. In the alternative, the Act should make it mandatory that any foreclosure proceedings be brought in federal court rather than state court.

Another serious defect of other bills that has been rectified by the Senate in S. 1341 is a provision that per capita payments and judgment recoveries of Indians or Indian organizations may be attached to satisfy any default on loan payments. This provision is found in section 117 of H.R. 6371 and section 3(i) of H.R. 6493. Judgments accrue from past wrongs and should not be diluted merely because a loan based upon the feasibility of a given project is in default. Moreover, a great many tribes have already had their Indian Claims cases concluded and such a provision would have the unfair effect of discriminating against those tribes whose claims have been delayed through no fault of their own. Thus, S. 1341, which expressly prohibits the attachment of Indian judgments in section 108, is clearly the most desirable bill in this respect.

We strongly believe that the total authorization for the loan programs in all of the bills is insufficient. Both S. 1341 and H.R. 6371 would appropriate only \$50 million for the revolving loan fund and \$200 million for the loan guarantee and insurance fund. H.R. 6493 would appropriate only \$100 million for each program. The amount of appropriations should be increased if the objectives of the legislation are to have a realistic possibility for success. The Johnson Administration proposed similar legislation for which it recommended that \$500 million be appropriated. We believe that even that amount would not be sufficient to accomplish the objectives of the Act.

II. Indian Business Development Program

Both S. 1341 and H.R. 6371 authorize grants under an Indian Business Development Program. This program was a successful operation of the Bureau of Indian Affairs and of great assistance to some tribes and individual Indians in meeting cash requirements to start new businesses under a \$3.4 million appropriation for fiscal year 1971.

We view as objectionable those provisions of S. 1341 and H.R. 6371 limiting grants to \$50,000, and requiring that the borrower be able to obtain at least 60 percent of the necessary funds for the development project from other sources and that he or it be unable to obtain adequate financing elsewhere, including his or its own funds. The need for such provisions are questionable at best. We believe that under any such program the administrator should be given more flexibility, including the authority to waive these requirements, at his discretion, in appropriate circumstances. We also think that you might consider providing a different limitation for grants to individuals than for those to tribes.

We appreciate the opportunity to present our views on this important and necessary legislation.

Yours sincerely,

JERRY C. STRAUS.

