

Calendar No. 197

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 114-117

REAUTHORIZING THE NATIVE AMERICAN HOUSING AS- SISTANCE AND SELF-DETERMINATION ACT OF 1996, AND FOR OTHER PURPOSES

AUGUST 5, 2015.—Ordered to be printed

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

R E P O R T

[To accompany S. 710]

The Committee on Indian Affairs, to which was referred the bill (S. 710) to reauthorize the *Native American Housing Assistance and Self-Determination Act of 1996*, and for other purposes, having considered the same, reports favorably with amendments and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 710 is to reauthorize the *Native American Housing Assistance and Self-Determination Act of 1996* until the end of Fiscal Year 2020.

BACKGROUND

In 1996, Congress passed the *NAHASDA*. The *NAHASDA* replaces housing assistance programs under the *1937 Housing Act* (42 U.S.C. § 1437 *et seq.*). The *NAHASDA* addresses Indian housing needs by furthering tribal self-governance and consolidating Indian programs such as those formerly under the *1937 Housing Act*.

Since 1992, the Office of Native American Programs (ONAP) at the United States Department of Housing and Urban Development (HUD) has administered HUD's programs that serve Native American communities. The HUD Deputy Assistant Secretary for Native American Programs oversees ONAP.

When the *NAHASDA* went into effect in Fiscal Year 1998, the law provided Indian tribes with the choice of administering programs through their existing Indian Housing Authorities (IHAs) or

their tribally-designated housing entities (TDHEs). An IHA operates in conformity with requirements of the *1937 Housing Act*. A TDHE operates by exercise of the power of self-government of one or more tribes, or by operation of State law that provides specifically for housing authorities or housing entities for Indians.¹

The low availability and high cost of housing in Indian Country is an extreme burden on Indian families. A HUD evaluation in 2009 found the following:

Decent housing is not readily available in Indian Country; decent and affordable housing is even harder to obtain. Overall, 18.4 percent of homeowners in Native American areas are cost burdened. This means they are spending more than 30 percent of their income for housing each month. Affordability problems are even more common for those who do not own their homes: 31.6 percent of renters on American Indian lands are cost burdened.²

The housing disparity is even more severe for Native Hawaiians. Congress noted in 1999 a HUD report that found “Native Hawaiians experience the highest percentage of housing problems in the nation—49 percent—higher than that of even American Indians and Alaska Natives residing on reservations (about 44 percent) and substantially higher than that of all U.S. households (27 percent).”³ The HUD report identifies housing problems as being issues related to housing that may include affordability problems, overcrowding problems, or structural inadequacy problems.⁴

The *Hawaiian Homelands Homeownership Act of 2000* amended the *NAHASDA* to include housing assistance provisions for the beneficiaries of certain Federal trust lands.⁵ The United States established the Federal trust lands, required that maintenance of the trust was a condition of the State of Hawaii’s admission to the Union, and continues to retain enforcement authority over the trust.

The *Hawaiian Homes Commission Act of 1920 (HHCA)* (42 Stat. 108 *et seq.*), set aside the Hawaiian Home Lands in the Territory of Hawaii that had been ceded to the United States for homesteading by Native Hawaiians in order to rehabilitate a landless and dying people. When Congress admitted Hawaii to the Union in 1959, it did so on the condition that Hawaii adopt, “as a provision of the Constitution of said State,” the *HHCA* and that the Act, as part of the State constitution, be “subject to amendment or repeal only with the consent of the United States.”⁶

The *NAHASDA* provides the best opportunity for the United States to empower Indian tribes to address housing needs with

¹25 U.S.C. § 4103 (22)(B) (2008).

²U.S. Dept. of Housing and Urban Development, Fiscal Year 2015 Budget Justification at L-13.

³S. Rep. No. 106–192, at 3 (1999).

⁴U.S. Dept. of Housing and Urban Development, *Housing Problems and Needs of Native Hawaiians* (1995), <http://www.huduser.org/publications/pdf/hawaii.pdf>.

⁵The *Hawaiian Homelands Homeownership Act of 2000*, became part of the *American Homeownership and Economic Opportunity Act of 2000*, and was signed into law on December 27, 2000. Title V, Subtitle B, section 513, amended the *NAHASDA* by creating a new title VIII (25 U.S.C. 4221 *et seq.*), which authorized the Native Hawaiian Housing Block Grant (NHHBG) program. Title V, Subtitle B, section 512(15)(c), amended the *National Housing Act* (Public Law 479; 73d Congress; 12 U.S.C. 1701 *et seq.*) by creating a new section entitled “Loan guarantees for Native Hawaiian housing” (12 U.S.C. 1715z–13b *et seq.*), which authorized the Native Hawaiian Housing Loan Guarantee program.

⁶Public Law 86–3, 78 Stat. 4, 5 (1959).

tribal housing policies that support the development of tribal economies and provide for their citizens' most basic needs. The law also promotes cultural preservation by enabling families to remain connected to their lands and communities.

NEED FOR LEGISLATION

This bill would empower Indian tribes to address homelessness and overcrowded housing in Indian country. The United States has a unique responsibility to Indian people through its government-to-government relationship with tribes. This responsibility includes improving the housing conditions and socioeconomic status of Indian people so that tribes are able to take greater responsibility for their own economic condition.

This legislation would reauthorize the *NAHASDA* through fiscal year 2020 and provide additional enhancements to programs under the *NAHASDA*. It would establish an Assistant Secretary position at HUD to oversee Indian programs. It would eliminate duplicative requirements when multiple agencies are involved in housing-related activities, such as when meeting the environmental review standards for a housing project and when administering programs to benefit American Indian veterans. It would authorize a demonstration program for 20 or fewer tribes to select investor partners to develop and implement a plan to address housing needs. It would empower tribes to enhance their housing rental policies and to utilize income derived from housing assistance activities.

Below is additional information about noteworthy provisions in S. 710:

Assistant Secretary Position. This legislation would elevate the HUD official responsible for the administration of programs that serve Indian communities and in so doing help to distinguish these programs from HUD's Public Housing programs.

Environmental Review Standards. For projects funded by multiple Federal sources, this legislation would authorize the use of the environmental standards of the majority Federal partner to satisfy the environmental review requirements of other Federal agencies. Section 102 would also direct the Secretary of HUD to coordinate environmental review compliance with impacted agencies and tribes.

Undisbursed Funds. This legislation would create an undisbursed funds provision. The provision would require that block grant recipients with undisbursed Indian Housing Block Grant (IHBG) funds in excess of three times their formula allocation as of October 1, 2017, or on any October 1 thereafter, will provide an explanation to HUD. The explanation would explain why the recipient has not requested the disbursement of the amounts and would demonstrate the recipient's capacity to spend Federal funds in an effective manner. Future block grant allocations would be reduced by undisbursed amounts as of October 1 of that fiscal year. Tribes receiving less than \$5 million in annual IHBG funds would be exempted from this provision.

HUD-VASH. Homeless or under-housed veterans may utilize vouchers to attain housing through the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program. This legislation would authorize IHBG recipients to administer the HUD-VASH program

through the *NAHASDA* requirements instead of through the *1937 Housing Act* requirements.

Native Hawaiian Housing. This legislation would reauthorize Title VIII of the *NAHASDA* through Fiscal Year 2020. Title VIII authorizes the Native Hawaiian Housing Block Grant program.

Tenant Protections. Section 201 of the bill authorizes Indian tribes to establish their own written policies governing rents and homebuyer payments charged for dwelling units. Tribes may establish their own policies so long as their policies also include a provision addressing maximum rents and homebuyer payments, including tenant protections.

The Committee supports Indian tribes' authority to establish their own policies. However, the Committee is also very concerned about ensuring that tenants and future applicants for assistance will be able to afford their rents and homebuyer payments, and will continue to have access to affordable housing.

Accordingly, the Committee encourages Indian tribes that choose to take advantage of this provision to establish fair maximum rent and homebuyer policies that do not result in a reduction in available affordable housing for low-income Indian families. The Committee also expects HUD to enforce the requirement that Indian tribes establish written policies protecting current tenants and low-income Indian families that apply for housing assistance.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title; Table of contents; References

Section 1 states that the Act may be cited as the “*Native American Housing Assistance and Self-Determination Reauthorization Act of 2015.*”

Section 2—Office of Native American Programs

The bill establishes a new Office of the Assistant Secretary at the U.S. Department of Housing and Urban Development (HUD).

TITLE I—TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS

Section 101—Treatment of program income and labor standards

This Section would allow program income (such as rent payments) to be used without the same restrictions placed on the initial program income. It would further provide that, for projects funded by multiple Federal sources and where a tribal prevailing wage law exists, the tribal standards may govern the prevailing wage requirements associated with the use of Federal funds. If there is no tribal prevailing wage, the wage standards of the majority Federal partner shall apply to the project.

Section 102—Environmental review

This section would authorize, for projects funded by multiple Federal sources, the use of the environmental standards under *NAHASDA* to satisfy the environmental review requirements of other Federal agencies. Section 102 would also direct the Secretary of HUD to coordinate environmental review compliance with all impacted Federal agencies and tribes.

Section 103—Authorization of appropriations

This section would reauthorize the programs under this Act for each fiscal year from 2016 through Fiscal Year 2020 for such sums as may be necessary.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Section 201—Program requirements

This section would amend the Act so that the existing Federal maximum rent requirement applies if a tribe does not have a written policy to govern tenant's maximum rents or home buyer payments that includes tenant protections.

Section 202—Homeownership or lease-to-own low-income requirement and income targeting

This section would allow rental housing to be made available to a current tenant for conversion to a homebuyer or lease-purchase unit to be purchased by the tenant if that tenant was a low-income family at the time of initial occupancy. Section 202 would also ensure that the requirements that housing funded under the Act remain affordable for the useful life of the property do not apply to an improvement that is made to a privately owned unit and the cost of the improvement is less than ten percent of the maximum total development cost of the home.

Section 203—Lease requirements and tenant selection

This section would require the owner or manager of the housing programs to use leases that require specific written notice of termination.

Section 204—Self-determined housing activities for tribal communities

This section would repeal a program for self-determined housing activities funded under the Indian Housing Block Grant.

Section 205—Total development cost maximum project cost

This section would limit the allowable percentage of development costs for a particular housing unit project to 20 percent of the cost and require tribal housing entities to seek a waiver from the Secretary for development costs beyond 20 percent.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Section 301—Effect of undisbursed block grant amounts on annual allocations

This section would require that block grant recipients with undisbursed Indian Housing Block Grant (IHBG) funds in excess of the prior 3 years' initial allocations be notified by HUD and demonstrate their capacity to disburse funds. Further, block grant allocations would be reduced starting October 1, 2017, and each subsequent fiscal year for such tribes. The grant allocation, after the reduction, would be the greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that exceed the sum of the prior 3 years' initial allocation calculations, or its 1996 Min-

imum. Tribes receiving less than \$5 million in annual IHBG funds would be exempted.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

Section 401—Reports to Congress

This section would change the requirement that an annual HUD Indian housing report be provided to the entire Congress and instead would specifically designate the committees of jurisdiction that would receive these annual reports. Section 401 would also require that HUD make the reports publically available.

TITLE V—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

Section 501—HUD–Veterans Affairs Supportive Housing program for Native American veterans

This section would authorize Indian Housing Block Grant recipients to administer the HUD–Veterans Affairs Supportive Housing (VASH) program under NAHASDA instead of the United States Housing Act of 1937 requirements.

The HUD–VASH program combines Housing Choice Voucher rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA). The VA provides these services for participating veterans at VA medical centers and community-based outreach clinics.

Up to five percent of rental assistance provided for the HUD–VASH could be used in grants awarded according to need, administrative capacity (of the tribal housing entities), and other funding criteria established by the HUD Secretary, in consultation with the VA Secretary.

Tribal housing entities eligible for NAHASDA funding could participate and administer this rental assistance under their NAHASDA rental programs.

The HUD Secretary could waive or specify alternative provisions for statutory and regulatory requirements if the Secretary finds a waiver or alternative provisions are necessary for the effective administration of housing and rental assistance.

Section 502—99-year leasehold interest in trust or restricted lands for housing purposes

This section would reconcile a technical difference in the maximum leasehold terms under the NAHASDA and the Helping Expedite and Advance Responsible Tribal Home Ownership Act (HEARTH) so that tribes may use either source of authority for housing-related land leasing decisions. The HEARTH Act of 2012, authorizes leases of trust or restricted surface lands for residential purposes for terms not to exceed 75 years. This section extends the existing authority for leases under NAHASDA for housing development or residential purposes for terms from 50 for up to 99 years.

Section 503—Training and technical assistance

This section would require the Secretary to fund on a competitive basis training and technical assistance at the regional and national level for recipients of the Indian Housing Block Grant.

Section 504—Loan guarantees for Indian housing

This section would authorize \$12.2 million for each fiscal year from 2016 through Fiscal Year 2020 for the Loan Guarantees for Indian Housing program.

TITLE VI—DEMONSTRATION PROGRAM FOR ALTERNATIVE
PRIVATIZATION AUTHORITY FOR NATIVE AMERICAN HOUSING

Section 601—Demonstration program

This section would establish a demonstration project for up to 20 tribes to use IHBG allocations with investor partners for private development of affordable housing. Reporting and approval requirements would apply. Certain NAHASDA provisions such as block grant requirements and loan guarantees for financing would not apply.

Section 602—Clerical amendments

This section would make clerical amendments to NAHASDA's table of contents.

TITLE VII—MISCELLANEOUS

Section 701—Community-based organizations and tribally designated housing entities

This section would authorize a tribally-designated housing entity to qualify as a community based development organization when it applies for the HUD Indian Community Development Block Grant (ICDBG) program. The ICDBG program can provide funding for the following:

- Housing rehabilitation, land acquisition to support new housing construction, and under limited circumstances, new housing construction.
- Infrastructure construction, e.g., roads, water and sewer facilities; and, single or multipurpose community buildings.
- Various commercial, industrial, agricultural projects which may be recipient owned and operated or which may be owned and/or operated by a third party.

Currently, eligible recipients are tribes and, in limited circumstances, tribal organizations. Prior to the enactment of NAHASDA, Indian housing authorities managed housing services for most tribes. This provision would include those Indian housing authorities that still manage tribal housing services.

Section 702—Elimination of limitation on use for Cherokee Nation

This section would repeal the prohibition on funding for the Cherokee Nation.

Section 703—Reauthorization of Native Hawaiian Homeownership Act

This section would reauthorize the Native Hawaiian Homeownership Act for each fiscal year from 2016 through 2020 for such sums as may be necessary.

Section 704—Reauthorization of loan guarantees for Native Hawaiian housing

This section would reauthorize \$386,000 for each fiscal year from 2016 through Fiscal Year 2020 for the Loan Guarantees for Native Hawaiian Housing program with an aggregate principal loan amount not to exceed \$41.5 million for each year.

Section 705—Leveraging

This section would authorize funds to be used for the purpose of meeting matching or cost participation requirements of any other Federal or non-Federal program.

Section 706—Funding for methamphetamine clean-up projects

This section would amend the Public and Assisted Housing Drug Elimination Act of 1990 to allow for grants under that law to include methamphetamine clean-up projects.

LEGISLATIVE HISTORY

Chairman Barrasso introduced S. 710 on March 11, 2015. The bill was referred to the Committee on Indian Affairs. On March 18, 2015, the Committee on Indian Affairs held a legislative hearing on the bill. On April 22, 2015, the Committee met to consider the bill. Two amendments were offered. One of the two amendments was withdrawn. The bill as amended was adopted and ordered favorably reported by voice vote. Under a 1988 unanimous consent agreement regarding legislation governing Indian housing programs at the Department of Housing and Urban Development, the Committee on Banking, Housing and Urban Affairs shall have a sequential referral period of not more than 60 days. On June 4, 2015, the bill was referred to the Committee on Banking, Housing, and Urban Affairs, for a period of not more than 60 days.

A similar bill was introduced in the House of Representatives. On January 14, 2015, Representative Pearce introduced H.R. 360. The bill was referred to the House Committee on Financial Services. On March 23, 2015, the House of Representatives passed H.R. 360 on a motion to suspend the rules and pass the bill. The Senate received H.R. 360 and referred the bill to Committee on Indian Affairs on March 24, 2015.

SUMMARY OF THE AMENDMENTS

The Committee on Indian Affairs held a business meeting on April 22, 2015, to consider the bill, S. 710. Chairman Barrasso offered an amendment. Vice-Chairman Tester offered for consideration, but withdrew an amendment. The Committee voted to adopt Senator Barrasso's amendment and then the bill, as amended.

Senator Barrasso's amendment incorporated changes to sections 201 and 301. The changes to section 201 required tribal rental rate policies to account for tenant protections. The changes to section 301 were technical in nature and clarified in the bill what tribes and the Administration agreed to during a 2014 government-to-government negotiation process that considered the law's treatment of undisbursed funds.

COMMITTEE RECOMMENDATION

On April 22, 2015, the Committee on Indian Affairs held a business meeting to consider S. 710. Chairman Barrasso offered an amendment, which was adopted by voice vote. The Committee ordered the bill, as amended, reported to the full Senate with the recommendation that it do pass upon completion of the Committee on Banking, Housing and Urban Affairs consideration of the legislation.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated May 14, 2015, was prepared for S. 710:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 2015.

Hon. JOHN BARRASSO,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC 20510*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 710, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Elizabeth Cove Delisle.

KEITH HALL.

Enclosure.

S. 710—Native American Housing Assistance and Self-Determination Reauthorization Act of 2015

Summary: S. 710 would reauthorize Native American and Native Hawaiian block grant and loan guarantee programs, which provide housing assistance, through fiscal year 2020. In addition, the bill would authorize a new set-aside program to provide rental assistance to Native American veterans who are homeless or at risk of homelessness. CBO estimates that implementing S. 710 would cost about \$2.4 billion over the 2016–2020 period, assuming appropriation of the necessary amounts.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

S. 710 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 710 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Native American Housing Block Grants:						
Estimated Authorization Level	656	668	681	695	709	3,410
Estimated Outlays	243	378	478	566	643	2,307
Loan Guarantees for Indian Housing:						
Authorization Level	12	12	12	12	12	61

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
Estimated Outlays	12	12	12	12	12	61
Native Hawaiian Housing Block Grants:						
Estimated Authorization Level	9	9	9	10	10	47
Estimated Outlays	1	3	5	7	9	23
Housing for Native American Veterans:						
Estimated Authorization Level	4	4	4	4	4	20
Estimated Outlays	3	4	4	4	4	19
Training and Technical Assistance:						
Estimated Authorization Level	4	4	4	4	4	18
Estimated Outlays	4	4	4	4	4	18
Loan Guarantees for Native Hawaiian Housing:						
Authorization Level	*	*	*	*	*	2
Estimated Outlays	*	*	*	*	*	2
Assistant Secretary for the Office of Native American Programs:						
Estimated Authorization Level	*	*	*	*	*	1
Estimated Outlays	*	*	*	*	*	1
Total Changes:						
Estimated Authorization Level	685	697	711	725	740	3,559
Estimated Outlays	263	401	503	593	672	2,432

Notes: Components may not sum to totals because of rounding.
 * = less than \$500,000.

Basis of estimate: CBO estimates that implementing S. 710 would cost about \$2.4 billion over the next five years, assuming appropriation of the necessary funds. For this estimate, CBO assumes that S. 710 will be enacted near the end of fiscal year 2015, that the necessary funds will be appropriated at or near the beginning of each fiscal year, and that appropriated funds will be spent at historical rates for the affected programs.

Native American Housing Block Grants: Section 103 would authorize the appropriation of such sums as may be necessary for the Native American Housing Block Grant program through fiscal year 2020. The block grant program provides funding to tribes to acquire, construct, rehabilitate, or manage affordable housing for Native American families with low incomes. In 2015, the Congress appropriated about \$650 million for that program. Assuming continued appropriations at that level and adjusting for anticipated inflation, CBO estimates that implementing that section would cost slightly more than \$2.3 billion over the 2016–2020 period.

Loan guarantees for Indian housing: Section 504 would authorize the appropriation of \$12.2 million annually through 2020 for guaranteed loans to Native American families and tribes to construct, acquire or rehabilitate homes located on tribal land. CBO estimates that implementing that section would cost \$61 million over the 2016–2020 period. In 2015, the Congress appropriated \$7 million for those guarantees.

Native Hawaiian Housing Block Grants: Section 703 would authorize the appropriation of such sums as may be necessary for the Native Hawaiian Housing Block Grant program through fiscal year 2020. Such grants are used to develop, maintain, and operate affordable housing for Native Hawaiian families with low income through the Department of Hawaiian Home Lands. In 2015, the Congress appropriated \$9 million for that program. Assuming continued appropriations at that level and adjusting for anticipated inflation, CBO estimates that implementing that section would cost \$23 million over the 2016–2020 period.

Housing for Native American veterans: Section 501 would authorize a program to provide rental assistance to Native American veterans who are homeless or at risk of homelessness. Each year 5 percent of the funds made available for the Veterans Affairs Supported Housing program (VASH) would be set aside for Native American veterans. In 2015, \$75 million was appropriated for the VASH program. Assuming a program level that is roughly equal to 5 percent of that amount, and adjusting for anticipated inflation, CBO estimates that implementing that section would cost \$19 million over the 2016–2020 period.

Training and technical assistance: Section 503 would authorize the appropriation of such sums as may be necessary for a national or regional organization to provide training to Indian housing authorities. In 2015, the Congress provided \$3.5 million for that purpose from funds appropriated for the Native American Housing Block Grant program. Assuming continued appropriations at that level and adjusting for anticipated inflation, CBO estimates that implementing that section would cost \$18 million over the 2016–2020 period.

Loan guarantees for Native Hawaiian housing: Section 704 would authorize the appropriation of \$0.4 million annually through 2020 to guarantee loans to Native Hawaiians to construct, acquire, or rehabilitate homes located on Hawaiian Home Lands. CBO estimates that implementing that section would cost \$2 million over the 2016–2020 period. In 2015, \$0.1 million was available for those guarantees.

Assistant Secretary for the Office of Native American Programs: Section 2 would establish a new position for an Assistant Secretary in the Office of Native American Programs. Based on information about the costs of the salary and benefits for an Assistant Secretary, CBO estimates that implementing the provision would cost about \$1 million over the 2016–2020 period.

Pay-As-You Go considerations: None.

Intergovernmental and private-sector impact: S. 710 contains no intergovernmental or private-sector mandates as defined in UMRA. Grants authorized in the bill would benefit tribal governments that participate in housing assistance programs. Any costs to those governments for complying with grant conditions would be incurred voluntarily.

Estimate prepared by: Federal Costs: Elizabeth Cove Delisle; Impact on State, Local, and Tribal Governments: J'nell Blanco Suchy; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 710.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying

out the bill. The Committee believes that S. 710 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW (CORDON RULE)

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 710, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter printed in italic):

25 U.S.C. § 4102 (Native American Housing Assistance and Self-Determination Act)

SECTION 2. OFFICE OF NATIVE AMERICAN PROGRAMS.

(a) **【The Secretary】** *IN GENERAL.*—The Secretary of Housing and Urban Development shall carry out this chapter through the Office of Native American Programs of the Department of Housing and Urban Development.

(b) *ESTABLISHMENT OF OFFICE OF ASSISTANT SECRETARY.*—*The head of the Office of Native American Programs shall be the Assistant Secretary, to be appointed by the President, by and with the advice and consent of the Senate.*

25 U.S.C. § 4114 (Native American Housing Assistance and Self-Determination Act)

SECTION 101. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

(a) PROGRAM INCOME.—

【(1) AUTHORITY TO RETAIN.—Notwithstanding any other provision of this chapter, a recipient may retain any program income that is realized from any grant amounts under this chapter if—

【(A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and

【(B) the recipient has agreed that it will utilize such income for housing related activities in accordance with this chapter.**】**

(1) *AUTHORITY TO RETAIN.*—

(A) *IN GENERAL.*—*Notwithstanding any other provision of this Act, a recipient may retain any program income that is realized from any grant amounts under this Act if—*

(i) the income was realized after the initial disbursement of the grant amounts received by the recipient; and

(ii) the recipient has agreed that the recipient will utilize the income for housing related activities in accordance with this Act.

(B) *REQUIREMENTS.*—*Any income that is realized by a recipient from program income shall—*

(i) be considered nonprogram income; and

(ii) have no restrictions on use; and

(2) **PROHIBITION OF RESTRICTED ACCESS OR REDUCTION OF GRANT.**—The Secretary may not restrict access to or reduce the grant amount for any Indian tribe based solely on—

- (A) whether the recipient for the tribe retains program income under paragraph (1);
- (B) the amount of any such program income retained;
- (C) whether the recipient retains reserve amounts described in section 4140 of this title; or
- (D) whether the recipient has expended retained program income for housing-related activities.

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

(4) EXCLUSION FROM PROGRAM INCOME OF REGULAR DEVELOPER'S FEES FOR LOW-INCOME HOUSING TAX CREDIT PROJECTS.—Notwithstanding any other provision of this chapter, any income derived from a regular and customary developer's fee for any project that receives a low-income housing tax credit under section 42 of title 26, and that is initially funded using a grant provided under this chapter, shall not be considered to be program income if the developer's fee is approved by the State housing credit agency.

(b) LABOR STANDARDS.—

(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State, tribal, or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the affordable housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of the affordable housing involved, and the Secretary shall require certification as to compliance with the provisions of this paragraph before making any payment under such contract or agreement.

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

【(3) APPLICATION OF TRIBAL LAWS.—Paragraph (1) shall not apply to any contract or agreement for assistance, sale, or lease pursuant to this chapter, if such contract or agreement is otherwise covered by one or more laws or regulations adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe.】

(3) APPLICATION OF TRIBAL LAWS.—

(A) *IN GENERAL.*—Paragraph (1) shall not apply to any contract or agreement for assistance, sale, or lease pursuant to this Act, if that contract or agreement is otherwise covered by 1 or more laws or regulations adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe.

(B) *WAGES.*—The prevailing wages described in subparagraph (A) shall apply to the administration of all Federal funding for projects funded in part by funds authorized under this Act.

25 U.S.C. § 4115(e) (Native American Housing Assistance and Self-Determination Act)

SECTION 102. ENVIRONMENTAL REVIEW.

* * * * *

(e) *ENVIRONMENTAL REVIEW.*—

(1) *IN GENERAL.*—Notwithstanding any other provision of law or use of any other source of funding for the project, compliance with the environmental review requirements of this section shall satisfy any other applicable environmental review requirement under any other Federal law (including regulations) required to be carried out by any agency involved in the project.

(2) *COORDINATION WITH OTHER AGENCIES.*—The Secretary shall coordinate compliance with any environmental review requirements with all impacted Federal agencies and Indian tribes.

25 U.S.C. § 4117 (Native American Housing Assistance and Self-Determination Act)

SECTION 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this subchapter such sums as may be necessary for each of fiscal years **[2009 through 2013]** 2016 through 2020. This section shall take effect on October 26, 1996.

25 U.S.C. § 4133(a) (Native American Housing Assistance and Self-Determination Act)

SECTION 201. PROGRAM REQUIREMENTS.

(a) *RENTS.*—

(1) *ESTABLISHMENT.* Subject to **[paragraph (2)]** paragraph (2) and (3), each recipient shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this chapter, including the methods by which such rents and homebuyer payments are determined.

(2) *APPLICATION OF TRIBAL POLICIES.*—Paragraph (3) shall not apply if—

(A) the recipient has a written policy governing rents and homebuyer payments charged for dwelling units; and

(B) that policy includes a provision governing maximum rents or homebuyer payments, including tenant protections.

[(2)] (3) MAXIMUM RENT.—**[In the case of]** In the absence of a written policy governing rents and homebuyer payments, in the case of any low-income family residing in a dwelling unit

assisted with grant amounts under this chapter, the monthly rent or homebuyer payment (as applicable) for such dwelling unit may not exceed 30 percent of the monthly adjusted income of such family.

25 U.S.C. § 4135 (Native American Housing Assistance and Self-Determination Act)

SECTION 202. HOMEOWNERSHIP OR LEASE-TO-OWN LOW-INCOME REQUIREMENT AND INCOME TARGETING.

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

(1) each dwelling unit in the housing—

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

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

(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; **[and]**

(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and

(E) notwithstanding any other provision of this paragraph, in the case of rental housing that is made available to a current rental family for conversion to a homebuyer or a lease-purchase unit, that the current rental family can purchase through a contract of sale, lease-purchase agreement, or any other sales agreement, is made available for purchase only by the current rental family, if the rental family was a low-income family at the time of their initial occupancy of such unit; and

(2) except for housing assisted under section 1437bb of title 42 (as in effect before the date of the effectiveness of this chapter), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this chapter, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action—

(A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure; and

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

(b) EXCEPTION.—Notwithstanding subsection (a) of this section, housing assisted pursuant to section 4131(b)(2) of this title shall be considered affordable housing for purposes of this chapter.

(c) APPLICABILITY.—

【The provisions】 (1) *IN GENERAL.*—*The provisions of paragraph (2) of subsection (a) regarding binding commitments for the remaining useful life of property shall not apply to a family or household member who subsequently takes ownership of a homeownership unit.*

(2) *APPLICABILITY TO IMPROVEMENTS.*—*The provisions of subsection (a)(2) regarding binding commitments for the remaining useful life of property shall not apply to improvements of privately owned homes if the cost of the improvements do not exceed 10 percent of the maximum total development cost for the home.*

25 U.S.C. § 4137 (Native American Housing Assistance and Self-Determination Act)

SECTION 203. LEASE REQUIREMENTS AND TENANT SELECTION.

(a) LEASES.—Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this chapter, the owner or manager of the housing shall utilize leases that—

- (1) do not contain unreasonable terms and conditions;
- (2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;
- (3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;
- (4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;
- (5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and
- (6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—
 - (A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;
 - (B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or
 - (C) is criminal activity (including drug-related criminal activity) on or off the premises.

(b) **TENANT AND HOMEBUYER SELECTION.**—The owner or manager of affordable rental housing assisted with grant amounts provided under this chapter shall adopt and utilize written tenant and homebuyer selection policies and criteria that—

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

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

(3) provide for—

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and

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

(c) **NOTICE OF TERMINATION.**—*The notice period described in subsection (a)(3) shall apply to projects and programs funded in part by amounts authorized under this Act.*

25 U.S.C. § 4145 et seq. (Native American Housing Assistance and Self-Determination Act)

SECTION 204. SELF-DETERMINATION HOUSING ACTIVITIES FOR TRIBAL COMMUNITIES.

【§ 4145. Purpose.

【The purpose of this part is to establish a program for self-determined housing activities for the tribal communities to provide Indian tribes with the flexibility to use a portion of the grant amounts under section 4111 of this title for the Indian tribe in manners that are wholly self-determined by the Indian tribe for housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the community served by the Indian tribe.

【§ 4145a. Program authority.

【(a) **DEFINITION OF QUALIFYING INDIAN TRIBE.**—In this section, the term “qualifying Indian tribe” means, with respect to a fiscal year, an Indian tribe or tribally designated housing entity—

【(1) to or on behalf of which a grant is made under section 4111 of this title;

【(2) that has complied with the requirements of section 4112(b)(6)¹ of this title; and

【(3) that, during the preceding 3-fiscal-year period, has no unresolved significant and material audit findings or exceptions, as demonstrated in—

【(A) the annual audits of that period completed under chapter 75 of title 31 (commonly known as the “Single Audit Act”); or

【(B) an independent financial audit prepared in accordance with generally accepted auditing principles.

【(b) **AUTHORITY.**—Under the program under this part, for each of fiscal years 2009 through 2013, the recipient for each qualifying Indian tribe may use the amounts specified in subsection (c) in accordance with this part.

[(c) AMOUNTS.—With respect to a fiscal year and a recipient, the amounts referred to in subsection (b) are amounts from any grant provided under section 4111 of this title to the recipient for the fiscal year, as determined by the recipient, but in no case exceeding the lesser of—

- [(1) an amount equal to 20 percent of the total grant amount for the recipient for that fiscal year; and
- [(2) \$2,000,000.

[(§ 4145b. Use of amounts for housing activities.

[(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts made available for use under this part by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and described in the Indian housing plan for the Indian tribe pursuant to section 4112(b)(6)¹ of this title, for the construction, acquisition, or rehabilitation of housing or infrastructure in accordance with section 4132 of this title to provide a benefit to families described in section 4131(b)(1) of this title.

[(b) PROHIBITION ON CERTAIN ACTIVITIES.—Amounts made available for use under this part may not be used for commercial or economic development.

[(§ 4145c. Inapplicability of other provisions.

[(a) IN GENERAL.—Except as otherwise specifically provided in this chapter, subchapter I, part A of subchapter II, and subchapters III through VIII shall not apply to—

- [(1) the program under this part; or
- [(2) amounts made available in accordance with this part.

[(b) APPLICABLE PROVISIONS.—The following provisions of subchapters I through VIII shall apply to the program under this part and amounts made available in accordance with this part:

- [(1) Section 4111(c) of this title (relating to local cooperation agreements).
- [(2) Subsections (d) and (e) of section 4111 of this title (relating to tax exemption).
- [(3) Section 4111(j) of this title (relating to Federal supply sources).
- [(4) Section 4111(k) of this title (relating to tribal preference in employment and contracting).
- [(5) Section 4112(b)(4)¹ of this title (relating to certification of compliance).
- [(6) Section 4114 of this title (relating to treatment of program income and labor standards).
- [(7) Section 4115 of this title (relating to environmental review).
- [(8) Section 4131(b) of this title (relating to eligible families).
- [(9) Section 4133(c) of this title (relating to insurance coverage).
- [(10) Section 4133(g) of this title (relating to a de minimis exemption for procurement of goods and services).
- [(11) Section 4136² of this title (relating to treatment of funds).
- [(12) Section 4139 of this title (relating to noncompliance with affordable housing requirement).

[(13) Section 4161 of this title (relating to remedies for non-compliance).

[(14) Section 4168 of this title (relating to public availability of information).

[(15) Section 4211 of this title (relating to 50-year leasehold interests in trust or restricted lands for housing purposes).

[§ 4145d. Review and report.

[(a) REVIEW.—During calendar year 2011, the Secretary shall conduct a review of the results achieved by the program under this part to determine—

[(1) the housing constructed, acquired, or rehabilitated under the program;

[(2) the effects of the housing described in paragraph (1) on costs to low-income families of affordable housing;

[(3) the effectiveness of each recipient in achieving the results intended to be achieved, as described in the Indian housing plan for the Indian tribe; and

[(4) the need for, and effectiveness of, extending the duration of the program and increasing the amount of grants under section 4111 of this title that may be used under the program.

[(b) REPORT.—Not later than December 31, 2011, the Secretary shall submit to Congress a report describing the information obtained pursuant to the review under subsection (a) (including any conclusions and recommendations of the Secretary with respect to the program under this part), including—

[(1) recommendations regarding extension of the program for subsequent fiscal years and increasing the amounts under section 4145a(c) of this title that may be used under the program; and

[(2) recommendations for—

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

[(ii) the period for which such a prohibition should remain in effect; or

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

[(c) PROVISION OF INFORMATION TO SECRETARY.—Notwithstanding any other provision of this chapter, recipients participating in the program under this part shall provide such information to the Secretary as the Secretary may request, in sufficient detail and in a timely manner sufficient to ensure that the review and report required by this section is accomplished in a timely manner.]

SECTION 205. TOTAL DEVELOPMENT COST MAXIMUM PROJECT COST.

Affordable housing (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) that is developed, acquired, or assisted under the block grant program established under section 101 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111) shall not exceed by more than 20 percent, without prior approval of the Secretary of Housing and Urban Development, the total development cost maximum cost for all housing assisted

under an affordable housing activity, including development and model activities.

25 U.S.C. § 4151 et seq. (Native American Housing Assistance and Self-Determination Act)

SECTION 301. EFFECT OF UNDISBURSED GRANT AMOUNTS ON ANNUAL ALLOCATIONS.

(a) *NOTIFICATION OF OBLIGATED, UNDISBURSED GRANT AMOUNTS.*—Subject to subsection (d), if on October 1, 2017, or on any October 1 thereafter, the total amount of undisbursed block grants for a recipient in the line of credit control (or a successor system) of the Department of Housing and Urban Development is greater than the sum of the initial allocations for the previous 3 fiscal years, the Secretary shall—

(1) not later than October 31 of that year, notify the Indian tribe allocated the grant amounts, and any tribally designated housing entity for the Indian tribe, of the undisbursed amounts; and

(2) require the recipient for the Indian tribe, not later than 30 days after the Secretary provides notification pursuant to paragraph (1)—

(A) to notify the Secretary in writing of the reasons why the recipient has not requested the disbursement of the amounts; and

(B) to demonstrate to the satisfaction of the Secretary that the recipient has the capacity to spend Federal funds in an effective manner, which may include evidence of the timely expenditure of amounts previously distributed to the recipient under this Act.

(b) *ALLOCATION AMOUNT.*—Notwithstanding sections 301 and 302, the allocation for a recipient for a fiscal year described in subsection (a) shall be the greater of—

(1) an amount equal to the difference between—

(A) the amount initially calculated according to the formula; minus

(B) an amount equal to the difference between—

(i) the total amount of undisbursed block grants for the recipient in the line of credit control system (or a successor system) of the Department of Housing and Urban Development on October 1 of the fiscal year; and

(ii) the sum of the initial allocations for the previous 3 fiscal years; or

(2) the amount that the recipient would otherwise receive under section 302(d).

(c) *REALLOCATION.*—Notwithstanding any other provision of law, any grant amounts not allocated to a recipient pursuant to subsection (b) shall be allocated under the needs component of the formula.

(d) *INAPPLICABILITY.*—Subsections (a) and (b) shall not apply to an Indian tribe with respect to any fiscal year for which the amount allocated for the Indian tribe for block grants under this Act is less than \$5,000,000.

(e) *EFFECT.*—Nothing in this section—

(1) requires the promulgation of any regulation; or

(2) confers hearing rights under this section or any other provision of this Act.

25 U.S.C. § 4167 (Native American Housing Assistance and Self-Determination Act)

SECTION. 401. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this chapter is made available, the Secretary shall submit to the **[Congress]** *Committee on Indian Affairs and the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives* a report that contains—

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

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

(3) a description of the aggregate outstanding loan guarantees under subchapter VI of this chapter.

(b) RELATED REPORTS.—The Secretary may require recipients of grant amounts under this chapter to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a) of this section.

(c) PUBLIC AVAILABILITY.—*The report described in subsection (a) shall be made publicly available, including to recipients.*

42 U.S.C. 1437f(o)(19) United States Housing Act of 1937

SECTION 501. HUD VETERANS AFFAIRS SUPPORTIVE HOUSING PROGRAM FOR NATIVE AMERICAN VETERANS.

* * * * *

(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM

(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

(B) AMOUNT.—The amount specified in this subparagraph is—

(i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

(ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

(iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

(D) NATIVE AMERICAN VETERANS.—

(i) AUTHORITY.—*Of the funds made available for rental assistance under this subsection for fiscal year 2015 and each fiscal year thereafter, the Secretary shall set aside 5 percent for a supported housing and rental assistance program modeled on the HUD-Veterans Affairs Supportive Housing program, to be administered in conjunction with the Department of Veterans Affairs, for the benefit of homeless Native American veterans and veterans at risk of homelessness.*

(I) INDIAN.—*The term ‘Indian’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).*

(ii) RECIPIENTS.—*Funds made available under clause (i) shall be made available to recipients eligible to receive block grants under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).*

(iii) FUNDING CRITERIA.—*Funds made available under clause (i) shall be awarded based on need, administrative capacity, and any other funding criteria established by the Secretary in a notice published in the Federal Register, after consultation with the Secretary of Veterans Affairs, by a date sufficient to provide for implementation of the program under this subparagraph in accordance with clause (i).*

(iv) PROGRAM REQUIREMENTS.—*Funds made available under clause (i) shall be administered by block grant recipients in accordance with the program requirements of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) in lieu of any program requirements of this Act.*

(v) WAIVER.—*The Secretary may waive, or specify alternative requirements for any provision of any law or regulation that the Secretary administers in connection with the use of funds made available under this sub-*

paragraph, on a finding by the Secretary that a waiver or alternative requirement is necessary—

(I) to promote administrative efficiency;

(II) to eliminate delay;

(III) to consolidate or eliminate duplicative or ineffective requirements or criteria; or

(IV) to otherwise provide for the effective delivery and administration of the supportive housing and rental assistance program described in clause (i) with respect to Native American veterans.

(vi) CONSULTATION.—Not later than a date that is sufficient to provide for implementation of the program under this subparagraph in accordance with clause (i), the Secretary and the Secretary of Veterans Affairs shall jointly consult with block grant recipients and any other appropriate tribal organizations to ensure—

(I) that block grant recipients administering funds made available under clause (i) are able to effectively coordinate with providers of supportive services provided in connection with the supportive housing and rental assistance program described in that clause; and

(II) the effective delivery of supportive services to Native American veterans that are homeless or at risk of homelessness and eligible to receive assistance under this subparagraph.

(vii) NOTICE.—After providing to Indian tribes and tribally designated housing agencies opportunity for comment and consultation, the Secretary shall establish the requirements and criteria for the supportive housing and rental assistance program described in clause (i) by final notice published in the Federal Register.

25 U.S.C. § 4211 (Native American Housing Assistance and Self-Determination Act)

SECTION 502. [50-YEAR] 99-YEAR LEASEHOLD INTEREST IN TRUST OR RESTRICTED LANDS FOR HOUSING PURPOSES.

[50-year] 99-year leasehold interest in trust or restricted lands for housing purposes.

(a) AUTHORITY TO LEASE.—Notwithstanding any other provision of law, any trust or restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, subject to the approval of the affected Indian tribe and the Secretary of the Interior, for housing development and residential purposes.

(b) TERM.—Each lease pursuant to subsection (a) of this section shall be for a term not exceeding **[50 years] 99 years**.

(c) RULE OF CONSTRUCTION.—This section may not be construed to repeal, limit, or affect any authority to lease any trust or restricted Indian lands that—

(1) is conferred by or pursuant to any other provision of law in effect before, on, or after the date of enactment of this section;
or

(2) provides for leases for any period exceeding **[50 years] 99 years**.

(d) SELF-IMPLEMENTATION.—This section is intended to be self-implementing and shall not require the issuance of any rule, regulation, or order to take effect as provided in section 705.

25 U.S.C. § 4212 (Native American Housing Assistance and Self-Determination Act)

SECTION 503. TRAINING AND TECHNICAL ASSISTANCE.

【There are authorized to be appropriated for assistance for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities such sums as may be necessary for each of fiscal years 2009 through 2013.】

The Secretary shall make available for assistance, to be awarded on a competitive basis, for a national or regional organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities such sums as may be necessary for each fiscal year.

12 U.S.C. 1715z–13a(i)(5) (Housing and Community Development Act of 1992)

SECTION 504. LOAN GUARANTEES FOR INDIAN HOUSING.

* * * * *

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

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

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 661a of title 2) of such loan guarantees for such fiscal year. There are authorized to be appropriated for those costs \$12,200,000 for each of fiscal years 2016 through 2020. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years [2008 through 2012] 2016 through 2020 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for such fiscal year.

SECTION 601. DEMONSTRATION PROGRAM.

SEC. 901. DEFINITIONS.

In this title:

(1) *AFFORDABLE HOUSING.*—The term ‘affordable housing’ has the meaning given the term in section 4.

(2) *HOUSING INFRASTRUCTURE.*—The term ‘housing infrastructure’ means basic facilities, services, systems, and installations necessary or appropriate for the functioning of a housing community, including facilities, services, systems, and installations for water, sewage, power, communications, and transportation.

(3) *LONG-TERM LEASE.*—The term ‘long-term lease’ means an agreement between a participating Indian tribe and a member of the participating Indian tribe that authorizes the member—

(A) to occupy a specific plot of tribal land for 50 or more years; and

(B) to request renewal of the agreement at least once.

(4) *PARTICIPATING INDIAN TRIBE.*—The term ‘participating Indian tribe’ means an Indian tribe for which a final plan under section 905 for participation in the demonstration program under this title has been approved by the Secretary under section 906.

SEC. 902. AUTHORITY.

(a) *IN GENERAL.*—In addition to any other authority provided in this Act for the construction, development, maintenance, and operation of housing for Indian families, the Secretary shall provide a participating Indian tribe having a final plan approved pursuant to section 906 with the authority to exercise the activities provided under this title and the plan for the acquisition and development of housing to meet the needs of members of the participating Indian tribe.

(b) *INAPPLICABILITY.*—Except as otherwise specifically provided in this title, titles I through IV, VI, and VII shall not apply to the use of funds by a participating Indian tribe during any period during which the Indian tribe is participating in the demonstration program under this title.

(c) *APPLICABILITY.*—The following provisions of titles I through VIII shall apply to the demonstration program under this title and amounts made available under the demonstration program under this title:

(1) Subsections (d) and (e) of section 101 (relating to tax exemption).

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

(3) Section 101(k) (relating to tribal preference in employment and contracting).

(4) Section 104 (relating to treatment of program income and labor standards).

(5) Section 105 (relating to environmental review).

(6) Section 201(b) (relating to eligible families), except as otherwise provided in this title.

(7) Section 203(g) (relating to a de minimis exemption for procurement of goods and services).

(8) Section 702 (relating to 99-year leasehold interests in trust or restricted lands for housing purposes).

SEC. 903. PARTICIPATING TRIBES.

(a) *REQUEST TO PARTICIPATE.*—To be eligible to participate in the demonstration program under this title, an Indian tribe shall sub-

mit to the Secretary a notice of intention to participate during the 60-day period beginning on the date of enactment of this title, in such form and such manner as the Secretary shall require.

(b) *COOPERATIVE AGREEMENT.*—On approval under section 906 of the final plan of an Indian tribe for participation in the demonstration program under this title, the Secretary shall enter into a cooperative agreement with the participating Indian tribe that provides the Indian tribe with the authority to carry out activities under the demonstration program.

(c) *LIMITATION.*—The Secretary shall not approve more than 20 Indian tribes for participation in the demonstration program under this title.

SEC. 904. REQUEST FOR QUOTES AND SELECTION OF INVESTOR PARTNER.

(a) *REQUEST FOR QUOTES.*—Not later than 180 days after the date on which the Indian tribe submits notice under section 903(a), the Indian tribe shall—

(1) obtain assistance from a qualified entity in assessing the housing needs, including the affordable housing needs, of the Indian tribe; and

(2) release a request for quotations from entities interested in partnering with the Indian tribe in designing and carrying out housing activities sufficient to meet the housing needs of the Indian tribe as identified pursuant to paragraph (1).

(b) *SELECTION OF INVESTOR PARTNER.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), not later than 18 months after the date of enactment of this title, an Indian tribe requesting to participate in the demonstration program under this title shall—

(A) select an investor partner from among the entities that have responded to the request of the Indian tribe for quotations under subsection (a)(2); and

(B) together with that investor partner, establish and submit to the Secretary a final plan that meets the requirements described in section 905.

(2) *EXCEPTIONS.*—The Secretary may extend the period under paragraph (1) for any Indian tribe that—

(A) has not received any satisfactory quotation in response to the request released pursuant to subsection (a)(2); or

(B) has any other satisfactory reason, as determined by the Secretary, for failure to select an investor partner.

SEC. 905. FINAL PLAN.

A final plan of an Indian tribe for participation in the demonstration program under this title shall—

(1) be developed by the Indian tribe and the investor partner of the Indian tribe selected under section 904(b)(1)(A);

(2) identify the qualified entity that assisted the Indian tribe in assessing the housing needs of the Indian tribe;

(3) set forth a detailed description of the projected housing needs, including affordable housing needs, of the Indian tribe, which shall include—

(A) a description of those projected housing needs over—

- (i) the 2-year period following the date of submission of the final plan; and
- (ii) the period that is the earlier-ending period of—
 - (I) the 5-year period following the expiration of the 2-year period described in clause (i); and
 - (II) the period ending on the date on which those projected housing needs are met; and
- (B) the same information that would be required under section 102 to be included in an Indian housing plan for the Indian tribe, as modified by the Secretary to take consideration of the requirements of the demonstration program under this title;
- (4) provide for specific housing activities sufficient to meet the housing needs of the Indian tribe, including affordable housing needs, as identified pursuant to paragraph (3) within the time periods referred to in that paragraph, which shall include—
 - (A) development of affordable housing;
 - (B) development of conventional homes for rental, lease-to-own, or sale, which may be combined with affordable housing developed pursuant to subparagraph (A);
 - (C) development of housing infrastructure, including housing infrastructure sufficient to serve affordable housing developed under the final plan; and
 - (D) investments by the investor partner, the Indian tribe, members of the Indian tribe, and financial institutions and other outside investors necessary to provide financing for the development of housing under the final plan and for mortgages for members of Indian tribes purchasing that housing;
- (5) provide that the Indian tribe will agree to provide long-term leases to members of the Indian tribe sufficient for lease-to-own arrangements for, and sale of, the housing developed pursuant to paragraph (4);
- (6) provide that the Indian tribe—
 - (A) will be liable for delinquencies under mortgage agreements for housing developed under the final plan that are financed under the final plan and entered into by members of the Indian tribe; and
 - (B) shall, on foreclosure under a mortgage described in subparagraph (A), take possession of the housing and have the responsibility for making the housing available to other members of the Indian tribe;
- (7) provide for sufficient protections, as determined by the Secretary, to ensure that the Indian tribe and the Federal Government are not liable for the acts of the investor partner or of any contractors;
- (8) provide that the Indian tribe shall have sole final approval of the design and location of housing developed under the final plan; and
- (9) set forth—
 - (A) specific deadlines and schedules for activities to be carried out under the final plan;
 - (B) the responsibilities of the Indian tribe and the investor partner;
 - (C) specific terms and conditions—

(i) for return on investment by the investor partner and other investors under the plan; and

(ii) to provide that the Indian tribe shall pledge grant amounts allocated for the Indian tribe pursuant to title III for that return on investment;

(D) the terms of a cooperative agreement on the operation and management of the current assistance housing stock and current housing stock for the Indian tribe assisted under titles I through VIII;

(E)(i) any plans for the sale of the affordable housing of the Indian tribe under section 906; and

(ii) if those plans are included, additional plans sufficient to meet the requirements of section 906 regarding meeting future affordable housing needs of the Indian tribe;

(F) terms for enforcement of the final plan, including an agreement regarding jurisdiction of any actions under or to enforce the final plan, including a waiver of immunity; and

(G) any other information determined appropriate by the Indian tribe and the investor partner.

SEC. 906. HUD REVIEW AND APPROVAL OF PLAN.

(a) *IN GENERAL.*—

(1) *REVIEW.*—Not later than 90 days after the date of submission by an Indian tribe of a final plan under section 905 to the Secretary, the Secretary shall—

(A) review the plan and the process by which the Indian tribe solicited requests for quotations from investors and selected the investor partner under section 904(b)(1); and

(B) approve or disapprove the plan in accordance with paragraphs (2) and (3).

(2) *APPROVAL.*—

(A) *IN GENERAL.*—After the review described in paragraph (1), the Secretary shall approve the plan, unless the Secretary determines that—

(i) the assessment of the housing needs of the Indian tribe by the qualified entity, or as set forth in the plan pursuant to section 905(3), is inaccurate or insufficient;

(ii) the process established by the Indian tribe to solicit requests for quotations and select an investor partner was insufficient or negligent; or

(iii) the plan is insufficient to meet the housing needs of the Indian tribe, as identified in the plan pursuant to section 905(3).

(B) *OPPORTUNITY FOR REVISION.*—Except as provided in paragraph (3), the Secretary shall approve a plan determined insufficient under subparagraph (A), on the condition that the Indian tribe and the investor partner make such revisions to the plan as the Secretary may require to meet the needs of the Indian tribe for affordable housing.

(3) *DISAPPROVAL.*—The Secretary may disapprove the plan only if—

(A) the Secretary determines that the plan fails to meet the minimal housing standards and requirements of this Act; and

(B) the Secretary notifies the Indian tribe of the elements requiring the disapproval.

(b) ACTION UPON DISAPPROVAL.—

(1) RESUBMISSION OF PLAN.—Subject to paragraph (2), in the case of any disapproval of a final plan of an Indian tribe under subsection (a)(3), the Secretary shall allow the tribe, for a period of 180 days beginning on the date of the notification to the tribe of the disapproval, to resubmit a revised plan for approval.

(2) LIMITATION.—If the final plan for an Indian tribe is resubmitted pursuant to paragraph (1) and the Secretary disapproves the plan a second time, the Indian tribe—

(A) may not thereafter resubmit the plan; and

(B) shall be ineligible to participate in the demonstration program under this title.

(c) TRIBAL AUTHORITY OVER HOUSING DESIGN AND LOCATION.—The Secretary may not disapprove a final plan under section 905 or condition approval of that plan based on the design or location of any housing to be developed or assisted under the plan.

(d) FAILURE TO NOTIFY.—If the Secretary does not notify an Indian tribe submitting a final plan of approval, conditional approval, or disapproval of the plan before the expiration of the period referred to in subsection (a)(1), the plan shall be deemed approved for purposes of this title.

SEC. 907. TREATMENT OF ALLOCATION.

(a) IN GENERAL.—Amounts otherwise allocated for a participating Indian tribe under title III—

(1) shall not be made available to the participating Indian tribe under titles I through VIII; and

(2) shall only be available for the participating Indian tribe, on request by the participating Indian tribe and approval by the Secretary, for the purposes described in subsections (b) through (e).

(b) RETURN ON INVESTMENT.—The Secretary may use the amounts described in subsection (a) to ensure the payment of any amounts pledged by a participating Indian tribe pursuant to section 905(9)(C) for return on the investment made by the investor partner or other investors.

(c) ADMINISTRATIVE EXPENSES.—The Secretary may provide to a participating Indian tribe, on the request of the participating Indian tribe, not greater than 10 percent of any annual allocation made under title III for the participating Indian tribe during that fiscal year for the administrative costs of the participating Indian tribe in carrying out the requirements of sections 904 and 905.

(d) HOUSING INFRASTRUCTURE COSTS.—A participating Indian tribe may use the amounts described in subsection (a) for housing infrastructure costs associated with providing affordable housing for the participating Indian tribe under the final plan.

(e) MAINTENANCE; TENANT SERVICES.—A participating Indian tribe may use the amounts described in subsection (a) for maintenance of affordable housing for the participating Indian tribe and for the eligible affordable housing activities described in paragraphs (3), (4), and (5) of section 202.

SEC. 908. RESALE OF AFFORDABLE HOUSING.

Notwithstanding any other provision of this Act, a participating Indian tribe may, in accordance with the provisions of the final plan of the participating Indian tribe approved pursuant to section 906, resell any affordable housing developed with assistance made available under this Act for use other than as affordable housing, on the condition that the tribe provides such assurances as the Secretary determines are appropriate to ensure that the participating Indian tribe—

- (1) is meeting the need for affordable housing of the participating Indian tribe;
- (2) will provide affordable housing in the future sufficient to meet future affordable housing needs; and
- (3) will use any proceeds only—
 - (A) to meet those future affordable housing needs; or
 - (B) in accordance with section 907.

SEC. 909. REPORTS, AUDITS, AND COMPLIANCE.

(a) **ANNUAL REPORTS BY TRIBE.**—Each participating Indian tribe shall submit to the Secretary annually a report—

- (1) describing the progress of the participating Indian tribe in complying with, and meeting the deadlines and schedules set forth in, the approved final plan for the participating Indian tribe; and
- (2) containing such other information as the Secretary may require.

(b) **REPORTS TO CONGRESS.**—The Secretary shall submit to Congress annually a report describing the activities and progress of the demonstration program under this title, including—

- (1) a summary of the information in the reports submitted under subsection (a);
- (2) the number of Indian tribes that have selected an investor partner pursuant to a request for quotations under section 904;
- (3) for each tribe applying for participation in the demonstration program the final plan of which was disapproved under section 906(a)(3), a detailed description and explanation of—
 - (A) the reasons for the disapproval; and
 - (B) all actions taken by the Indian tribe to eliminate the reasons for disapproval, and an identification of whether the tribe has re-submitted a final plan;
- (4) an identification, by participating Indian tribe, of any amounts requested and approved for use under section 907; and
- (5) an identification of any participating Indian tribes that have terminated participation in the demonstration program and the circumstances of the terminations.

(c) **AUDITS.**—The Secretary shall provide for audits among participating Indian tribes to ensure implementation and compliance with the final plans for the participating Indian tribes, including on-site visits with participating Indian tribes and requests for documentation appropriate to ensure the compliance.

SEC. 910. TERMINATION OF TRIBAL PARTICIPATION.

(a) **TERMINATION OF PARTICIPATION.**—A participating Indian tribe may terminate participation in the demonstration program under this title at any time, subject to this section.

(b) **EFFECT ON EXISTING OBLIGATIONS.**—

(1) *NO AUTOMATIC TERMINATION.*—Termination by a participating Indian tribe in the demonstration program under this section shall not terminate any obligations of the Indian tribe under agreements entered into under the demonstration program with the investor partner of the Indian tribe or any other investors or contractors.

(2) *AUTHORITY TO MUTUALLY TERMINATE AGREEMENTS.*—Nothing in this title prevents an Indian tribe that terminates participation in the demonstration program and any party with which the Indian tribe has entered into an agreement from mutually agreeing to terminate that agreement.

(c) *RECEIPT OF REMAINING GRANT AMOUNTS.*—The Secretary shall provide for grants to be made in accordance with, and subject to the requirements of, this Act for any amounts remaining after use pursuant to section 907 from the allocation under title III for an Indian tribe that terminates participation in the demonstration program.

(d) *COSTS AND OBLIGATIONS.*—The Secretary shall not be liable for any obligations or costs incurred by an Indian tribe during its participation in the demonstration program under this title.

SEC. 911. FINAL REPORT.

Not later than 5 years after the date of enactment of this title, the Secretary shall submit to Congress a final report describing the effectiveness of the demonstration program, which shall include—

(1) an assessment of the success under the demonstration program of participating Indian tribes in meeting the housing needs of the participating Indian tribe, including affordable housing needs, on tribal land;

(2) recommendations for any improvements to the demonstration program; and

(3) a determination of whether the demonstration program should be expanded into a permanent program available for Indian tribes to opt into at any time and, if so, recommendations for that expansion, including any legislative actions necessary to expand the program.

SEC. 912. NOTICE.

The Secretary shall establish any requirements and criteria necessary to carry out the demonstration program under this title by notice published in the Federal Register.

Public Law 104—330; 110 Stat. 4048 (Native American Housing Assistance and Self-Determination Act)

SECTION 701. COMMUNITY-BASED ORGANIZATIONS AND TRIBALLY DESIGNATED HOUSING ENTITIES.

COMMUNITY-BASED DEVELOPMENT ORGANIZATION.—A tribally designated housing entity shall qualify as a community-based development organization for purposes of the Indian Community Development Block Grant program authorized under section 106(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(a)).

Public Law 110—411; 122 Stat. 4334 (Native American Housing Assistance and Self-Determination Act)

SECTION 702. ELIMINATION OF LIMITATION ON USE FOR CHEROKEE NATION.

【No funds authorized under this Act, or the amendments made by this Act, or appropriated pursuant to an authorization under this Act or such amendments, shall be expended for the benefit of the Cherokee Nation; provided, that this limitation shall not be effective if the Temporary Order and Temporary Injunction issued on May 14, 2007, by the District Court of the Cherokee Nation remains in effect during the pendency of litigation or there is a settlement agreement which effects the end of litigation among the adverse parties.】

25 U.S.C. § 4243 (Native American Housing Assistance and Self-Determination Act)

SECTION 703. REAUTHORIZATION OF NATIVE HAWAIIAN HOMEOWNERSHIP ACT.

There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this subchapter such sums as may be necessary for each of fiscal years 【2001, 2002, 2003, 2004, and 2005】 *2016, 2017, 2018, 2019, and 2020.*

12 U.S.C. 1715z–13b(j)(5) (Housing and Community Development Act of 1992)

SECTION 704. REAUTHORIZATION OF LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

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

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

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 661a of title 2) of such loan guarantees for such fiscal year. *There are authorized to be appropriated for those costs \$386,000 for each of fiscal years 2016 through 2020.* Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section 【for each of fiscal years 2001, 2002, 2003, 2004, and 2005 with an aggregate outstanding principal amount not exceeding \$100,000,000 for each such fiscal year】 *for each of fiscal years 2016 through*

2020 with an aggregate outstanding principal amount not exceeding \$41,504,000 for each fiscal year.

SECTION 705. LEVERAGING.

All funds provided under a grant made pursuant to this Act or the amendments made by this Act may be used for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program.

42 U.S.C. 11903(a)(7) (Public and Assisted Housing Drug Elimination Act of 1990)

SECTION 706. FUNDING FOR METHAMPHETAMINE CLEAN-UP PROJECTS.

(7) where a public housing agency, an Indian tribe, or recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.] receives a grant, providing funding to nonprofit resident management corporations and resident councils to develop security and drug abuse prevention programs involving site residents *or to implement methamphetamine clean-up projects; and*

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