

In the Senate of the United States,

September 25 (legislative day, September 17), 2008.

Resolved, That the bill from the House of Representatives (H.R. 2786) entitled “An Act to reauthorize the programs for housing assistance for Native Americans.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*
3 *tive American Housing Assistance and Self-Determination*
4 *Reauthorization Act of 2008”.*

5 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
6 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Congressional findings.

Sec. 3. Definitions.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. Block grants.

Sec. 102. Indian housing plans.

Sec. 103. Review of plans.

Sec. 104. Treatment of program income and labor standards.

Sec. 105. Regulations.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Sec. 201. National objectives and eligible families.

Sec. 202. Eligible affordable housing activities.

Sec. 203. Program requirements.

Sec. 204. Low-income requirement and income targeting.

Sec. 205. Availability of records.

Sec. 206. Self-determined housing activities for tribal communities program.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Sec. 301. Allocation formula.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

Sec. 401. Remedies for noncompliance.

Sec. 402. Monitoring of compliance.

Sec. 403. Performance reports.

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

Sec. 501. Effect on Home Investment Partnerships Act.

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

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

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS

Sec. 801. Limitation on use for Cherokee Nation.

Sec. 802. Limitation on use of funds.

Sec. 803. GAO study of effectiveness of NAHASDA for tribes of different sizes.

1 SEC. 2. CONGRESSIONAL FINDINGS.

2 *Section 2 of the Native American Housing Assistance*
3 *and Self-Determination Act of 1996 (25 U.S.C. 4101) is*
4 *amended in paragraphs (6) and (7) by striking “should”*
5 *each place it appears and inserting “shall”.*

1 **SEC. 3. DEFINITIONS.**

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

5 *(1) by striking paragraph (22);*

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

8 *(3) by inserting after paragraph (7) the fol-*
9 *lowing:*

10 *“(8) HOUSING RELATED COMMUNITY DEVELOP-*
11 *MENT.—*

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

16 *“(i) is owned by an Indian tribe or a*
17 *tribally designated housing entity;*

18 *“(ii) is necessary to the provision of*
19 *housing in an Indian area; and*

20 *“(iii)(I) would help an Indian tribe or*
21 *tribally designated housing entity to reduce*
22 *the cost of construction of Indian housing;*

23 *“(II) would make housing more afford-*
24 *able, accessible, or practicable in an Indian*
25 *area; or*

1 “(III) would otherwise advance the
2 purposes of this Act.

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

8 **TITLE I—BLOCK GRANTS AND**
9 **GRANT REQUIREMENTS**

10 **SEC. 101. BLOCK GRANTS.**

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

14 (1) in subsection (a)—

15 (A) in the first sentence—

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

18 “(1) IN GENERAL.—For each”;

19 (ii) by striking “tribes to carry out af-
20 fordable housing activities.” and inserting
21 the following: “tribes—

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

24 (iii) by adding at the end the fol-
25 lowing:

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

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

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

7 (2) in subsection (g), by inserting “of this section
8 and subtitle B of title II” after “subsection (h)”;

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

10 “(j) *FEDERAL SUPPLY SOURCES.—For purposes of*
11 *section 501 of title 40, United States Code, on election by*
12 *the applicable Indian tribe—*

13 “(1) each Indian tribe or tribally designated
14 housing entity shall be considered to be an *Executive*
15 agency in carrying out any program, service, or other
16 activity under this Act; and

17 “(2) each Indian tribe or tribally designated
18 housing entity and each employee of the Indian tribe
19 or tribally designated housing entity shall have access
20 to sources of supply on the same basis as employees
21 of an *Executive* agency.

22 “(k) *TRIBAL PREFERENCE IN EMPLOYMENT AND CON-*
23 *TRACTING.—Notwithstanding any other provision of law,*
24 *with respect to any grant (or portion of a grant) made on*
25 *behalf of an Indian tribe under this Act that is intended*

1 *to benefit 1 Indian tribe, the tribal employment and con-*
2 *tract preference laws (including regulations and tribal ordi-*
3 *nances) adopted by the Indian tribe that receives the ben-*
4 *efit shall apply with respect to the administration of the*
5 *grant (or portion of a grant).”.*

6 **SEC. 102. INDIAN HOUSING PLANS.**

7 *Section 102 of the Native American Housing Assist-*
8 *ance and Self-Determination Act of 1996 (25 U.S.C. 4112)*
9 *is amended—*

10 *(1) in subsection (a)(1)—*

11 *(A) by striking “(1)(A) for” and all that*
12 *follows through the end of subparagraph (A) and*
13 *inserting the following:*

14 *“(1)(A) for an Indian tribe to submit to the Sec-*
15 *retary, by not later than 75 days before the beginning*
16 *of each tribal program year, a 1-year housing plan*
17 *for the Indian tribe; or”;* and

18 *(B) in subparagraph (B), by striking “sub-*
19 *section (d)” and inserting “subsection (c)”;*

20 *(2) by striking subsections (b) and (c) and in-*
21 *serting the following:*

22 *“(b) 1-YEAR PLAN REQUIREMENT.—*

23 *“(1) IN GENERAL.—A housing plan of an Indian*
24 *tribe under this section shall—*

1 “(A) be in such form as the Secretary may
2 prescribe; and

3 “(B) contain the information described in
4 paragraph (2).

5 “(2) *REQUIRED INFORMATION.*—A housing plan
6 shall include the following information with respect to
7 the tribal program year for which assistance under
8 this Act is made available:

9 “(A) *DESCRIPTION OF PLANNED ACTIVITIES.*—A statement of planned activities, includ-
10 ing—
11 ing—

12 “(i) the types of household to receive
13 assistance;

14 “(ii) the types and levels of assistance
15 to be provided;

16 “(iii) the number of units planned to
17 be produced;

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

20 “(II) a timetable for the demolition or
21 disposition; and

22 “(III) any other information required
23 by the Secretary with respect to the demoli-
24 tion or disposition;

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

9 “(vi) outcomes anticipated to be
10 achieved by the recipient.

11 “(B) STATEMENT OF NEEDS.—A statement
12 of the housing needs of the low-income Indian
13 families residing in the jurisdiction of the In-
14 dian tribe, and the means by which those needs
15 will be addressed during the applicable period,
16 including—

17 “(i) a description of the estimated
18 housing needs and the need for assistance
19 for the low-income Indian families in the
20 jurisdiction, including a description of the
21 manner in which the geographical distribu-
22 tion of assistance is consistent with the geo-
23 graphical needs and needs for various cat-
24 egories of housing assistance; and

1 “(i) a description of the estimated
2 housing needs for all Indian families in the
3 jurisdiction.

4 “(C) *FINANCIAL RESOURCES*.—An oper-
5 ating budget for the recipient, in such form as
6 the Secretary may prescribe, that includes—

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

14 “(ii) the uses to which those resources
15 will be committed, including eligible and re-
16 quired affordable housing activities under
17 title II and administrative expenses.

18 “(D) *CERTIFICATION OF COMPLIANCE*.—
19 Evidence of compliance with the requirements of
20 this Act, including, as appropriate—

21 “(i) a certification that, in carrying
22 out this Act, the recipient will comply with
23 the applicable provisions of title II of the
24 Civil Rights Act of 1968 (25 U.S.C. 1301 et

1 *seq.) and other applicable Federal laws and*
2 *regulations;*

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

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

16 “(iv) a certification that policies are in
17 effect and are available for review by the
18 Secretary and the public governing rents
19 and homebuyer payments charged, includ-
20 ing the methods by which the rents or home-
21 buyer payments are determined, for housing
22 assisted with grant amounts provided under
23 this Act;

24 “(v) a certification that policies are in
25 effect and are available for review by the

1 *Secretary and the public governing the*
2 *management and maintenance of housing*
3 *assisted with grant amounts provided under*
4 *this Act; and*

5 *“(vi) a certification that the recipient*
6 *will comply with section 104(b).”;*

7 *(3) by redesignating subsections (d) through (f)*
8 *as subsections (c) through (e), respectively; and*

9 *(4) in subsection (d) (as redesignated by para-*
10 *graph (3)), by striking “subsection (d)” and inserting*
11 *“subsection (c)”.*

12 **SEC. 103. REVIEW OF PLANS.**

13 *Section 103 of the Native American Housing Assist-*
14 *ance and Self-Determination Act of 1996 (25 U.S.C. 4113)*
15 *is amended—*

16 *(1) in subsection (d)—*

17 *(A) in the first sentence—*

18 *(i) by striking “fiscal” each place it*
19 *appears and inserting “tribal program”;*
20 *and*

21 *(ii) by striking “(with respect to” and*
22 *all that follows through “section 102(c))”;*
23 *and*

24 *(B) by striking the second sentence; and*

1 (2) by striking subsection (e) and inserting the
2 following:

3 “(e) *SELF-DETERMINED ACTIVITIES PROGRAM.*—Not-
4 withstanding any other provision of this section, the Sec-
5 retary—

6 “(1) shall review the information included in an
7 Indian housing plan pursuant to subsections (b)(4)
8 and (c)(7) only to determine whether the information
9 is included for purposes of compliance with the re-
10 quirement under section 232(b)(2); and

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

15 **SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR**
16 **STANDARDS.**

17 Section 104(a) of the Native American Housing Assist-
18 ance and Self-Determination Act of 1996 (25 U.S.C.
19 4114(a)) is amended by adding at the end the following:

20 “(4) *EXCLUSION FROM PROGRAM INCOME OF*
21 *REGULAR DEVELOPER’S FEES FOR LOW-INCOME*
22 *HOUSING TAX CREDIT PROJECTS.*—Notwithstanding
23 any other provision of this Act, any income derived
24 from a regular and customary developer’s fee for any
25 project that receives a low-income housing tax credit

1 *under section 42 of the Internal Revenue Code of*
2 *1986, and that is initially funded using a grant pro-*
3 *vided under this Act, shall not be considered to be*
4 *program income if the developer’s fee is approved by*
5 *the State housing credit agency.”.*

6 **SEC. 105. REGULATIONS.**

7 *Section 106(b)(2) of the Native American Housing As-*
8 *istance and Self-Determination Act of 1996 (25 U.S.C.*
9 *4116(b)(2)) is amended—*

10 *(1) in subparagraph (B)(i), by striking “The*
11 *Secretary” and inserting “Not later than 180 days*
12 *after the date of enactment of the Native American*
13 *Housing Assistance and Self-Determination Reau-*
14 *thorization Act of 2008 and any other Act to reau-*
15 *thorize this Act, the Secretary”;* and

16 *(2) by adding at the end the following:*

17 “(C) *SUBSEQUENT NEGOTIATED RULE-*
18 *MAKING.—The Secretary shall—*

19 *“(i) initiate a negotiated rulemaking*
20 *in accordance with this section by not later*
21 *than 90 days after the date of enactment of*
22 *the Native American Housing Assistance*
23 *and Self-Determination Reauthorization*
24 *Act of 2008 and any other Act to reauthor-*
25 *ize this Act; and*

1 “(ii) promulgate regulations pursuant
2 to this section by not later than 2 years
3 after the date of enactment of the Native
4 American Housing Assistance and Self-De-
5 termination Reauthorization Act of 2008
6 and any other Act to reauthorize this Act.

7 “(D) REVIEW.—Not less frequently than
8 once every 7 years, the Secretary, in consultation
9 with Indian tribes, shall review the regulations
10 promulgated pursuant to this section in effect on
11 the date on which the review is conducted.”.

12 **TITLE II—AFFORDABLE** 13 **HOUSING ACTIVITIES**

14 **SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.**

15 Section 201(b) of the Native American Housing Assist-
16 ance and Self-Determination Act of 1996 (25 U.S.C.
17 4131(b)) is amended—

18 (1) in paragraph (1), by inserting “and except
19 with respect to loan guarantees under the demonstra-
20 tion program under title VI,” after “paragraphs (2)
21 and (4),”;

22 (2) in paragraph (2)—

23 (A) by striking the first sentence and insert-
24 ing the following:

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

10 (B) *in the second sentence, by striking “The*
11 *Secretary” and inserting the following:*

12 “(B) *LIMITS.*—*The Secretary”;*

13 (3) *in paragraph (3)—*

14 (A) *in the paragraph heading, by striking*
15 *“NON-INDIAN” and inserting “ESSENTIAL”;* and

16 (B) *by striking “non-Indian family” and*
17 *inserting “family”;* and

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

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

21 *Section 202 of the Native American Housing Assist-*
22 *ance and Self-Determination Act of 1996 (25 U.S.C. 4132)*
23 *is amended—*

1 (1) *in the matter preceding paragraph (1), by*
2 *striking “to develop or to support” and inserting “to*
3 *develop, operate, maintain, or support”;*

4 (2) *in paragraph (2)—*

5 (A) *by striking “development of utilities”*
6 *and inserting “development and rehabilitation of*
7 *utilities, necessary infrastructure,”; and*

8 (B) *by inserting “mold remediation,” after*
9 *“energy efficiency,”;*

10 (3) *in paragraph (4), by inserting “the costs of*
11 *operation and maintenance of units developed with*
12 *funds provided under this Act,” after “rental assist-*
13 *ance,”; and*

14 (4) *by adding at the end the following:*

15 “(9) *RESERVE ACCOUNTS.—*

16 “(A) *IN GENERAL.—Subject to subpara-*
17 *graph (B), the deposit of amounts, including*
18 *grant amounts under section 101, in a reserve*
19 *account established for an Indian tribe only for*
20 *the purpose of accumulating amounts for admin-*
21 *istration and planning relating to affordable*
22 *housing activities under this section, in accord-*
23 *ance with the Indian housing plan of the Indian*
24 *tribe.*

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

7 **SEC. 203. PROGRAM REQUIREMENTS.**

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

11 “(f) *USE OF GRANT AMOUNTS OVER EXTENDED PERI-*
12 *ODS.*—

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

22 “(2) *CARRYOVER.*—Any amount of a grant pro-
23 vided to an Indian tribe under section 101 for a fiscal
24 year that is not used by the Indian tribe during that

1 *fiscal year may be used by the Indian tribe during*
2 *any subsequent fiscal year.*

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

10 **SEC. 204. LOW-INCOME REQUIREMENT AND INCOME TAR-**
11 **GETING.**

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

15 “(c) *APPLICABILITY.—The provisions of paragraph (2)*
16 *of subsection (a) regarding binding commitments for the re-*
17 *maining useful life of property shall not apply to a family*
18 *or household member who subsequently takes ownership of*
19 *a homeownership unit.”.*

20 **SEC. 205. AVAILABILITY OF RECORDS.**

21 *Section 208(a) of the Native American Housing Assist-*
22 *ance and Self-Determination Act of 1996 (25 U.S.C.*
23 *4138(a)) is amended by inserting “applicants for employ-*
24 *ment, and of” after “records of”.*

1 **SEC. 206. SELF-DETERMINED HOUSING ACTIVITIES FOR**
2 **TRIBAL COMMUNITIES PROGRAM.**

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

6 (1) *by inserting after the title designation and*
7 *heading the following:*

8 **“Subtitle A—General Block Grant**
9 **Program”;**

10 *and*

11 (2) *by adding at the end the following:*

12 **“Subtitle B—Self-Determined Hous-**
13 **ing Activities for Tribal Commu-**
14 **nities**

15 **“SEC. 231. PURPOSE.**

16 *“The purpose of this subtitle is to establish a program*
17 *for self-determined housing activities for the tribal commu-*
18 *nities to provide Indian tribes with the flexibility to use*
19 *a portion of the grant amounts under section 101 for the*
20 *Indian tribe in manners that are wholly self-determined by*
21 *the Indian tribe for housing activities involving construc-*
22 *tion, acquisition, rehabilitation, or infrastructure relating*
23 *to housing activities or housing that will benefit the commu-*
24 *nity served by the Indian tribe.*

1 **“SEC. 232. PROGRAM AUTHORITY.**

2 “(a) *DEFINITION OF QUALIFYING INDIAN TRIBE.*—In
3 this section, the term ‘qualifying Indian tribe’ means, with
4 respect to a fiscal year, an Indian tribe or tribally des-
5 ignated housing entity—

6 “(1) to or on behalf of which a grant is made
7 under section 101;

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

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

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

17 “(B) an independent financial audit pre-
18 pared in accordance with generally accepted au-
19 diting principles.

20 “(b) *AUTHORITY.*—Under the program under this sub-
21 title, for each of fiscal years 2009 through 2013, the recipi-
22 ent for each qualifying Indian tribe may use the amounts
23 specified in subsection (c) in accordance with this subtitle.

24 “(c) *AMOUNTS.*—With respect to a fiscal year and a
25 recipient, the amounts referred to in subsection (b) are
26 amounts from any grant provided under section 101 to the

1 *recipient for the fiscal year, as determined by the recipient,*
2 *but in no case exceeding the lesser of—*

3 “(1) *an amount equal to 20 percent of the total*
4 *grant amount for the recipient for that fiscal year;*
5 *and*

6 “(2) *\$2,000,000.*

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

8 “(a) *ELIGIBLE HOUSING ACTIVITIES.—Any amounts*
9 *made available for use under this subtitle by a recipient*
10 *for an Indian tribe shall be used only for housing activities,*
11 *as selected at the discretion of the recipient and described*
12 *in the Indian housing plan for the Indian tribe pursuant*
13 *to section 102(b)(6), for the construction, acquisition, or re-*
14 *habilitation of housing or infrastructure in accordance with*
15 *section 202 to provide a benefit to families described in sec-*
16 *tion 201(b)(1).*

17 “(b) *PROHIBITION ON CERTAIN ACTIVITIES.—*
18 *Amounts made available for use under this subtitle may*
19 *not be used for commercial or economic development.*

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

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

24 “(1) *the program under this subtitle; or*

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

3 “(b) *APPLICABLE PROVISIONS.*—The following provi-
4 sions of titles I through VIII shall apply to the program
5 under this subtitle and amounts made available in accord-
6 ance with this subtitle:

7 “(1) Section 101(c) (relating to local cooperation
8 agreements).

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

11 “(3) Section 101(j) (relating to Federal supply
12 sources).

13 “(4) Section 101(k) (relating to tribal preference
14 in employment and contracting).

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

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

19 “(7) Section 105 (relating to environmental re-
20 view).

21 “(8) Section 201(b) (relating to eligible families).

22 “(9) Section 203(c) (relating to insurance cov-
23 erage).

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

1 “(11) Section 206 (relating to treatment of
2 funds).

3 “(12) Section 209 (relating to noncompliance
4 with affordable housing requirement).

5 “(13) Section 401 (relating to remedies for non-
6 compliance).

7 “(14) Section 408 (relating to public availability
8 of information).

9 “(15) Section 702 (relating to 50-year leasehold
10 interests in trust or restricted lands for housing pur-
11 poses).

12 **“SEC. 235. REVIEW AND REPORT.**

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

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

18 “(2) the effects of the housing described in para-
19 graph (1) on costs to low-income families of affordable
20 housing;

21 “(3) the effectiveness of each recipient in achiev-
22 ing the results intended to be achieved, as described
23 in the Indian housing plan for the Indian tribe; and

24 “(4) the need for, and effectiveness of, extending
25 the duration of the program and increasing the

1 *amount of grants under section 101 that may be used*
2 *under the program.*

3 “(b) *REPORT.—Not later than December 31, 2011, the*
4 *Secretary shall submit to Congress a report describing the*
5 *information obtained pursuant to the review under sub-*
6 *section (a) (including any conclusions and recommenda-*
7 *tions of the Secretary with respect to the program under*
8 *this subtitle), including—*

9 “(1) *recommendations regarding extension of the*
10 *program for subsequent fiscal years and increasing*
11 *the amounts under section 232(c) that may be used*
12 *under the program; and*

13 “(2) *recommendations for—*

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

17 “(ii) *the period for which such a prohibi-*
18 *tion should remain in effect; or*

19 “(B) *standards and procedures by which*
20 *Indian tribes or recipients may be prohibited*
21 *from participating in the program for failure to*
22 *achieve results.*

23 “(c) *PROVISION OF INFORMATION TO SECRETARY.—*
24 *Notwithstanding any other provision of this Act, recipients*
25 *participating in the program under this subtitle shall pro-*

1 *vide such information to the Secretary as the Secretary may*
2 *request, in sufficient detail and in a timely manner suffi-*
3 *cient to ensure that the review and report required by this*
4 *section is accomplished in a timely manner.”.*

5 (b) *TECHNICAL AMENDMENT.—The table of contents in*
6 *section 1(b) of the Native American Housing Assistance and*
7 *Self-Determination Act of 1996 (25 U.S.C. 4101 note) is*
8 *amended—*

9 (1) *by inserting after the item for title II the fol-*
10 *lowing:*

“Subtitle A—General Block Grant Program”;

11 (2) *by inserting after the item for section 205 the*
12 *following:*

“Sec. 206. Treatment of funds.”;

13 *and*

14 (3) *by inserting before the item for title III the*
15 *following:*

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

“Sec. 231. Purposes.

“Sec. 232. Program authority.

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

“Sec. 234. Inapplicability of other provisions.

“Sec. 235. Review and report.”.

1 **TITLE III—ALLOCATION OF**
2 **GRANT AMOUNTS**

3 **SEC. 301. ALLOCATION FORMULA.**

4 *Section 302 of the Native American Housing Assist-*
5 *ance and Self-Determination Act of 1996 (25 U.S.C. 4152)*
6 *is amended—*

7 *(1) in subsection (a)—*

8 *(A) by striking “The Secretary” and insert-*
9 *ing the following:*

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

11 *(B) by adding at the end the following:*

12 *“(2) STUDY OF NEED DATA.—*

13 *“(A) IN GENERAL.—The Secretary shall*
14 *enter into a contract with an organization with*
15 *expertise in housing and other demographic data*
16 *collection methodologies under which the organi-*
17 *zation, in consultation with Indian tribes and*
18 *Indian organizations, shall—*

19 *“(i) assess existing data sources, in-*
20 *cluding alternatives to the decennial census,*
21 *for use in evaluating the factors for deter-*
22 *mination of need described in subsection*
23 *(b); and*

24 *“(ii) develop and recommend meth-*
25 *odologies for collecting data on any of those*

1 *factors, including formula area, in any case*
2 *in which existing data is determined to be*
3 *insufficient or inadequate, or fails to satisfy*
4 *the requirements of this Act.*

5 “(B) *AUTHORIZATION OF APPROPRIA-*
6 *TIONS.—There are authorized to be appropriated*
7 *such sums as are necessary to carry out this sec-*
8 *tion, to remain available until expended.”; and*
9 *(2) in subsection (b), by striking paragraph (1)*
10 *and inserting the following:*

11 “(1)(A) *The number of low-income housing*
12 *dwelling units developed under the United States*
13 *Housing Act of 1937 (42 U.S.C. 1437 et seq.), pursu-*
14 *ant to a contract between an Indian housing author-*
15 *ity for the tribe and the Secretary, that are owned or*
16 *operated by a recipient on the October 1 of the cal-*
17 *endar year immediately preceding the year for which*
18 *funds are provided, subject to the condition that such*
19 *a unit shall not be considered to be a low-income*
20 *housing dwelling unit for purposes of this section if—*

21 “(i) *the recipient ceases to possess the legal*
22 *right to own, operate, or maintain the unit; or*

23 “(ii) *the unit is lost to the recipient by con-*
24 *veyance, demolition, or other means.*

1 “(B) If the unit is a homeownership unit not
2 conveyed within 25 years from the date of full avail-
3 ability, the recipient shall not be considered to have
4 lost the legal right to own, operate, or maintain the
5 unit if the unit has not been conveyed to the home-
6 buyer for reasons beyond the control of the recipient.

7 “(C) If the unit is demolished and the recipient
8 rebuilds the unit within 1 year of demolition of the
9 unit, the unit may continue to be considered a low-
10 income housing dwelling unit for the purpose of this
11 paragraph.

12 “(D) In this paragraph, the term ‘reasons be-
13 yond the control of the recipient’ means, after making
14 reasonable efforts, there remain—

15 “(i) delays in obtaining or the absence of
16 title status reports;

17 “(ii) incorrect or inadequate legal descrip-
18 tions or other legal documentation necessary for
19 conveyance;

20 “(iii) clouds on title due to probate or intes-
21 tacy or other court proceedings; or

22 “(iv) any other legal impediment.

23 “(E) Subparagraphs (A) through (D) shall not
24 apply to any claim arising from a formula current
25 assisted stock calculation or count involving an In-

1 *dian housing block grant allocation for any fiscal*
2 *year through fiscal year 2008, if a civil action relat-*
3 *ing to the claim is filed by not later than 45 days*
4 *after the date of enactment of this subparagraph.”.*

5 **TITLE IV—COMPLIANCE, AUDITS,**
6 **AND REPORTS**

7 **SEC. 401. REMEDIES FOR NONCOMPLIANCE.**

8 *Section 401(a) of the Native American Housing Assist-*
9 *ance and Self-Determination Act of 1996 (25 U.S.C.*
10 *4161(a)) is amended—*

11 *(1) by redesignating paragraphs (2) and (3) as*
12 *paragraphs (3) and (4), respectively; and*

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

15 *“(2) SUBSTANTIAL NONCOMPLIANCE.—The fail-*
16 *ure of a recipient to comply with the requirements of*
17 *section 302(b)(1) regarding the reporting of low-in-*
18 *come dwelling units shall not, in itself, be considered*
19 *to be substantial noncompliance for purposes of this*
20 *title.”.*

21 **SEC. 402. MONITORING OF COMPLIANCE.**

22 *Section 403(b) of the Native American Housing Assist-*
23 *ance and Self-Determination Act of 1996 (25 U.S.C.*
24 *4163(b)) is amended in the second sentence by inserting “an*
25 *appropriate level of” after “shall include”.*

1 **SEC. 403. PERFORMANCE REPORTS.**

2 *Section 404(b) of the Native American Housing Assist-*
 3 *ance and Self-Determination Act of 1996 (25 U.S.C.*
 4 *4164(b)) is amended—*

5 *(1) in paragraph (2)—*

6 *(A) by striking “goals” and inserting*
 7 *“planned activities”; and*

8 *(B) by adding “and” after the semicolon at*
 9 *the end;*

10 *(2) in paragraph (3), by striking “; and” at the*
 11 *end and inserting a period; and*

12 *(3) by striking paragraph (4).*

13 **TITLE V—TERMINATION OF AS-**
 14 **SISTANCE FOR INDIAN**
 15 **TRIBES UNDER INCOR-**
 16 **PORATED PROGRAMS**

17 **SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS**
 18 **ACT.**

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

23 **“SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS**
 24 **ACT.**

25 *“Nothing in this Act or an amendment made by this*
 26 *Act prohibits or prevents any participating jurisdiction*

1 *(within the meaning of the HOME Investment Partnerships*
2 *Act (42 U.S.C. 12721 et seq.)) from providing any amounts*
3 *made available to the participating jurisdiction under that*
4 *Act (42 U.S.C. 12721 et seq.) to an Indian tribe or a trib-*
5 *ally designated housing entity for use in accordance with*
6 *that Act (42 U.S.C. 12721 et seq.).”.*

7 *(b) CONFORMING AMENDMENT.—The table of contents*
8 *in section 1(b) of the Native American Housing Assistance*
9 *and Self-Determination Act of 1996 (25 U.S.C. 4101 note)*
10 *is amended by inserting after the item relating to section*
11 *508 the following:*

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

12 **TITLE VI—GUARANTEED LOANS**
13 **TO FINANCE TRIBAL COMMU-**
14 **NITY AND ECONOMIC DEVEL-**
15 **OPMENT ACTIVITIES**

16 **SEC. 601. DEMONSTRATION PROGRAM FOR GUARANTEED**
17 **LOANS TO FINANCE TRIBAL COMMUNITY AND**
18 **ECONOMIC DEVELOPMENT ACTIVITIES.**

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

1 **“SEC. 606. DEMONSTRATION PROGRAM FOR GUARANTEED**
2 **LOANS TO FINANCE TRIBAL COMMUNITY AND**
3 **ECONOMIC DEVELOPMENT ACTIVITIES.**

4 “(a) *AUTHORITY.*—

5 “(1) *IN GENERAL.*—Subject to paragraph (2), to
6 the extent and in such amounts as are provided in
7 appropriation Acts, subject to the requirements of this
8 section, and in accordance with such terms and con-
9 ditions as the Secretary may prescribe, the Secretary
10 may guarantee and make commitments to guarantee
11 the notes and obligations issued by Indian tribes or
12 tribally designated housing entities with tribal ap-
13 proval, for the purposes of financing activities carried
14 out on Indian reservations and in other Indian areas
15 that, under the first sentence of section 108(a) of the
16 Housing and Community Development Act of 1974
17 (42 U.S.C. 5308), are eligible for financing with notes
18 and other obligations guaranteed pursuant to that
19 section.

20 “(2) *LIMITATION.*—The Secretary may guar-
21 antee, or make commitments to guarantee, under
22 paragraph (1) the notes or obligations of not more
23 than 4 Indian tribes or tribally designated housing
24 entities located in each Department of Housing and
25 Urban Development Office of Native American Pro-
26 grams region.

1 “(b) *LOW-INCOME BENEFIT REQUIREMENT.*—Not less
2 than 70 percent of the aggregate amount received by an In-
3 dian tribe or tribally designated housing entity as a result
4 of a guarantee under this section shall be used for the sup-
5 port of activities that benefit low-income families on Indian
6 reservations and other Indian areas.

7 “(c) *FINANCIAL SOUNDNESS.*—

8 “(1) *IN GENERAL.*—The Secretary shall establish
9 underwriting criteria for guarantees under this sec-
10 tion, including fees for the guarantees, as the Sec-
11 retary determines to be necessary to ensure that the
12 program under this section is financially sound.

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

21 “(d) *TERMS OF OBLIGATIONS.*—

22 “(1) *IN GENERAL.*—Each note or other obliga-
23 tion guaranteed pursuant to this section shall be in
24 such form and denomination, have such maturity,

1 *and be subject to such conditions as the Secretary*
2 *may prescribe, by regulation.*

3 “(2) *LIMITATION.—The Secretary may not deny*
4 *a guarantee under this section on the basis of the pro-*
5 *posed repayment period for the note or other obliga-*
6 *tion, unless—*

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

8 “(B) *the Secretary determines that the pe-*
9 *riod would cause the guarantee to constitute an*
10 *unacceptable financial risk.*

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

15 “(f) *SECURITY AND REPAYMENT.—*

16 “(1) *REQUIREMENTS ON ISSUER.—To ensure the*
17 *repayment of notes and other obligations and charges*
18 *incurred under this section and as a condition for re-*
19 *ceiving the guarantees, the Secretary shall require the*
20 *Indian tribe or housing entity issuing the notes or ob-*
21 *ligations—*

22 “(A) *to enter into a contract, in a form ac-*
23 *ceptable to the Secretary, for repayment of notes*
24 *or other obligations guaranteed under this sec-*
25 *tion;*

1 “(B) to demonstrate that the extent of each
2 issuance and guarantee under this section is
3 within the financial capacity of the Indian tribe;
4 and

5 “(C) to furnish, at the discretion of the Sec-
6 retary, such security as the Secretary determines
7 to be appropriate in making the guarantees, in-
8 cluding increments in local tax receipts gen-
9 erated by the activities assisted by a guarantee
10 under this section or disposition proceeds from
11 the sale of land or rehabilitated property, except
12 that the security may not include any grant
13 amounts received or for which the issuer may be
14 eligible under title I.

15 “(2) *FULL FAITH AND CREDIT.*—

16 “(A) *IN GENERAL.*—The full faith and cred-
17 it of the United States is pledged to the payment
18 of all guarantees made under this section.

19 “(B) *TREATMENT OF GUARANTEES.*—

20 “(i) *IN GENERAL.*—Any guarantee
21 made by the Secretary under this section
22 shall be conclusive evidence of the eligibility
23 of the obligations for the guarantee with re-
24 spect to principal and interest.

1 “(i) *INCONTESTABLE NATURE.*—*The*
2 *validity of any such a guarantee shall be*
3 *incontestable in the hands of a holder of the*
4 *guaranteed obligations.*

5 “(g) *TRAINING AND INFORMATION.*—*The Secretary, in*
6 *cooperation with Indian tribes and tribally designated*
7 *housing entities, may carry out training and information*
8 *activities with respect to the guarantee program under this*
9 *section.*

10 “(h) *LIMITATIONS ON AMOUNT OF GUARANTEES.*—

11 “(1) *AGGREGATE FISCAL YEAR LIMITATION.*—
12 *Notwithstanding any other provision of law, subject*
13 *only to the absence of qualified applicants or proposed*
14 *activities and to the authority provided in this sec-*
15 *tion, and to the extent approved or provided for in*
16 *appropriations Acts, the Secretary may enter into*
17 *commitments to guarantee notes and obligations*
18 *under this section with an aggregate principal*
19 *amount not to exceed \$200,000,000 for each of fiscal*
20 *years 2009 through 2013.*

21 “(2) *AUTHORIZATION OF APPROPRIATIONS FOR*
22 *CREDIT SUBSIDY.*—*There are authorized to be appro-*
23 *priated to cover the costs (as defined in section 502*
24 *of the Congressional Budget Act of 1974 (2 U.S.C.*

1 661a)) of guarantees under this section \$1,000,000 for
2 each of fiscal years 2009 through 2013.

3 “(3) *AGGREGATE OUTSTANDING LIMITATION.*—
4 *The total amount of outstanding obligations guaran-*
5 *teed on a cumulative basis by the Secretary pursuant*
6 *to this section shall not at any time exceed*
7 *\$1,000,000,000 or such higher amount as may be au-*
8 *thorized to be appropriated for this section for any*
9 *fiscal year.*

10 “(4) *FISCAL YEAR LIMITATIONS ON INDIAN*
11 *TRIBES.*—

12 “(A) *IN GENERAL.*—*The Secretary shall*
13 *monitor the use of guarantees under this section*
14 *by Indian tribes.*

15 “(B) *MODIFICATIONS.*—*If the Secretary de-*
16 *termines that 50 percent of the aggregate guar-*
17 *antee authority under paragraph (3) has been*
18 *committed, the Secretary may—*

19 “(i) *impose limitations on the amount*
20 *of guarantees pursuant to this section that*
21 *any single Indian tribe may receive in any*
22 *fiscal year of \$25,000,000; or*

23 “(ii) *request the enactment of legisla-*
24 *tion increasing the aggregate outstanding*
25 *limitation on guarantees under this section.*

1 “(i) *REPORT*.—Not later than 4 years after the date
2 of enactment of this section, the Secretary shall submit to
3 Congress a report describing the use of the authority under
4 this section by Indian tribes and tribally designated hous-
5 ing entities, including—

6 “(1) an identification of the extent of the use and
7 the types of projects and activities financed using that
8 authority; and

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

11 “(j) *TERMINATION*.—The authority of the Secretary
12 under this section to make new guarantees for notes and
13 obligations shall terminate on October 1, 2013.”

14 (b) *CONFORMING AMENDMENT*.—The table of contents
15 in section 1(b) of the Native American Housing Assistance
16 and Self-Determination Act of 1996 (25 U.S.C. 4101 note)
17 is amended by inserting after the item relating to section
18 605 the following:

“Sec. 606. *Demonstration program for guaranteed loans to finance tribal commu-
nity and economic development activities.*”

19 **TITLE VII—FUNDING**

20 **SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) *BLOCK GRANTS AND GRANT REQUIREMENTS*.—
22 Section 108 of the Native American Housing Assistance and
23 Self-Determination Act of 1996 (25 U.S.C. 4117) is amend-

1 *ed in the first sentence by striking “1998 through 2007”*
2 *and inserting “2009 through 2013”.*

3 **(b) FEDERAL GUARANTEES FOR FINANCING FOR TRIB-**
4 *AL HOUSING ACTIVITIES.—Section 605 of the Native Amer-*
5 *ican Housing Assistance and Self-Determination Act of*
6 *1996 (25 U.S.C. 4195) is amended in subsections (a) and*
7 *(b) by striking “1997 through 2007” each place it appears*
8 *and inserting “2009 through 2013”.*

9 **(c) TRAINING AND TECHNICAL ASSISTANCE.—Section**
10 *703 of the Native American Housing Assistance and Self-*
11 *Determination Act of 1996 (25 U.S.C. 4212) is amended*
12 *by striking “1997 through 2007” and inserting “2009*
13 *through 2013”.*

14 **TITLE VIII—MISCELLANEOUS**

15 **SEC. 801. LIMITATION ON USE FOR CHEROKEE NATION.**

16 *No funds authorized under this Act, or the amend-*
17 *ments made by this Act, or appropriated pursuant to an*
18 *authorization under this Act or such amendments, shall be*
19 *expended for the benefit of the Cherokee Nation; provided,*
20 *that this limitation shall not be effective if the Temporary*
21 *Order and Temporary Injunction issued on May 14, 2007,*
22 *by the District Court of the Cherokee Nation remains in*
23 *effect during the pendency of litigation or there is a settle-*
24 *ment agreement which effects the end of litigation among*
25 *the adverse parties.*

1 **SEC. 802. LIMITATION ON USE OF FUNDS.**

2 *No amounts made available pursuant to any author-*
3 *ization of appropriations under this Act, or under the*
4 *amendments made by this Act, may be used to employ*
5 *workers described in section 274A(h)(3) of the Immigration*
6 *and Nationality Act (8 U.S.C. 1324a(h)(3)).*

7 **SEC. 803. GAO STUDY OF EFFECTIVENESS OF NAHASDA FOR**
8 **TRIBES OF DIFFERENT SIZES.**

9 *(a) IN GENERAL.—The Comptroller General of the*
10 *United States shall conduct a study of the effectiveness of*
11 *the Native American Housing Assistance and Self-Deter-*
12 *mination Act of 1996 in achieving its purposes of meeting*
13 *the needs for affordable housing for low-income Indian fam-*
14 *ilies, as compared to the programs for housing and commu-*
15 *nity development assistance for Indian tribes and families*
16 *and Indian housing authorities that were terminated under*
17 *title V of such Act and the amendments made by such title.*
18 *The study shall compare such effectiveness with respect to*
19 *Indian tribes of various sizes and types, and specifically*
20 *with respect to smaller tribes for which grants of lesser or*
21 *minimum amounts have been made under title I of such*
22 *Act.*

23 *(b) REPORT.—Not later than the expiration of the 12-*
24 *month period beginning on the date of the enactment of this*
25 *Act, the Comptroller General shall submit a report to the*
26 *Committee on Financial Services of the House of Represent-*

1 *atives and the Committee on Banking, Housing, and Urban*
2 *Affairs of the Senate regarding the results and conclusions*
3 *of the study conducted pursuant to subsection (a). Such re-*
4 *port shall include recommendations regarding any changes*
5 *appropriate to the Native American Housing Assistance*
6 *and Self-Determination Act of 1996 to help ensure that the*
7 *purposes of such Act are achieved by all Indian tribes, re-*
8 *gardless of size or type.*

Attest:

Secretary.

110TH CONGRESS
2^D SESSION

H.R. 2786

AMENDMENT