

Union Calendar No. 449

115TH CONGRESS
2^D SESSION

H. R. 3864

[Report No. 115–591]

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2017

Mr. PEARCE (for himself, Ms. MOORE, Mr. YOUNG of Alaska, Mr. NOLAN, Ms. GABBARD, Ms. HANABUSA, Mr. HECK, Mr. COLE, and Ms. MCCOLLUM) introduced the following bill; which was referred to the Committee on Financial Services

MARCH 8, 2018

Additional sponsors: Ms. SINEMA, Mrs. RADEWAGEN, Mr. KIND, and Mr. KILDEE

MARCH 8, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on September 28, 2017]

A BILL

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

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*
 5 *tive American Housing Assistance and Self-Determination*
 6 *Reauthorization Act of 2017”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. References.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. Block grants.

Sec. 102. Recommendations regarding exceptions to annual Indian housing plan requirement.

Sec. 103. Environmental review.

Sec. 104. Deadline for action on request for approval regarding exceeding TDC maximum cost for project.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Sec. 201. National objectives and eligible families.

Sec. 202. Program requirements.

Sec. 203. Homeownership or lease-to-own low-income requirement and income targeting.

Sec. 204. Lease requirements and tenant selection.

Sec. 205. Tribal coordination of agency funding.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Sec. 301. Authorization of appropriations.

Sec. 302. Effect of undisbursed block grant amounts on annual allocations.

TITLE IV—AUDITS AND REPORTS

Sec. 401. Review and audit by Secretary.

Sec. 402. Reports to Congress.

TITLE V—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

Sec. 501. HUD–Veterans Affairs supportive housing program for Native American veterans.

Sec. 502. Loan guarantees for Indian housing.

TITLE VI—MISCELLANEOUS

Sec. 601. Lands Title Report Commission.

Sec. 602. Leasehold interest in trust or restricted lands for housing purposes.

Sec. 603. Clerical amendment.

**TITLE VII—DEMONSTRATION PROGRAM FOR ALTERNATIVE
PRIVATIZATION AUTHORITY FOR NATIVE AMERICAN HOUSING**

Sec. 701. Demonstration program.

Sec. 702. Clerical amendments.

1 SEC. 2. REFERENCES.

2 *Except as otherwise expressly provided, wherever in*
3 *this Act an amendment or repeal is expressed in terms of*
4 *an amendment to, or repeal of, a section or other provision,*
5 *the reference shall be considered to be made to a section or*
6 *other provision of the Native American Housing Assistance*
7 *and Self-Determination Act of 1996 (25 U.S.C. 4101 et*
8 *seq.).*

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

11 **SEC. 101. BLOCK GRANTS.**

12 *Section 101 (25 U.S.C. 4111) is amended—*

13 *(1) in subsection (c), by adding after the period*
14 *at the end the following: “The Secretary shall act*
15 *upon a waiver request submitted under this sub-*
16 *section by a recipient within 60 days after receipt of*
17 *such request.”; and*

18 *(2) in subsection (k), by striking “1” and insert-*
19 *ing “an”.*

1 **SEC. 102. RECOMMENDATIONS REGARDING EXCEPTIONS TO**
2 **ANNUAL INDIAN HOUSING PLAN REQUIRE-**
3 **MENT.**

4 *Not later than the expiration of the 120-day period*
5 *beginning on the date of the enactment of this Act and after*
6 *consultation with Indian tribes, tribally designated housing*
7 *entities, and other interested parties, the Secretary of Hous-*
8 *ing and Urban Development shall submit to the Congress*
9 *recommendations for standards and procedures for waiver*
10 *of, or alternative requirements (which may include multi-*
11 *year housing plans) for, the requirement under section*
12 *102(a) of the Native American Housing Assistance and*
13 *Self-Determination Act of 1996 (25 U.S.C. 4112(a)) for an-*
14 *nual submission of one-year housing plans for an Indian*
15 *tribe. Such recommendations shall include a description of*
16 *any legislative and regulatory changes necessary to imple-*
17 *ment such recommendations.*

18 **SEC. 103. ENVIRONMENTAL REVIEW.**

19 *Section 105 (25 U.S.C. 4115) is amended—*

20 *(1) in subsection (d)—*

21 *(A) in the matter preceding paragraph (1),*
22 *by striking “may” and inserting “shall”; and*

23 *(B) by adding after and below paragraph*
24 *(4) the following:*

1 *“The Secretary shall act upon a waiver request submitted*
2 *under this subsection by a recipient within 60 days after*
3 *receipt of such request.”; and*

4 *(2) by adding at the end the following new sub-*
5 *section:*

6 *“(e) CONSOLIDATION OF ENVIRONMENTAL REVIEW RE-*
7 *QUIREMENTS.—If a recipient is using one or more sources*
8 *of Federal funds in addition to grant amounts under this*
9 *Act in carrying out a project that qualifies as an affordable*
10 *housing activity under section 202, such other sources of*
11 *Federal funds do not exceed 49 percent of the total cost of*
12 *the project, and the recipient’s tribe has assumed all of the*
13 *responsibilities for environmental review, decisionmaking,*
14 *and action pursuant to this section, the tribe’s compliance*
15 *with the review requirements under this section and the Na-*
16 *tional Environmental Policy Act of 1969 with regard to*
17 *such project shall be deemed to fully comply with and dis-*
18 *charge any applicable environmental review requirements*
19 *that might apply to Federal agencies with respect to the*
20 *use of such additional Federal funding sources for that*
21 *project.”.*

1 **SEC. 104. DEADLINE FOR ACTION ON REQUEST FOR AP-**
 2 **PROVAL REGARDING EXCEEDING TDC MAX-**
 3 **IMUM COST FOR PROJECT.**

4 (a) *APPROVAL.*—Section 103 (25 U.S.C. 4113) is
 5 amended by adding at the end the following new subsection:

6 “(f) *DEADLINE FOR ACTION ON REQUEST TO EXCEED*
 7 *TDC MAXIMUM.*—A request for approval by the Secretary
 8 of Housing and Urban Development to exceed by more than
 9 10 percent the total development cost maximum cost for a
 10 project shall be approved or denied during the 60-day pe-
 11 riod that begins on the date that the Secretary receives the
 12 request.”.

13 (b) *DEFINITION.*—Section 4 (25 U.S.C. 4103) is
 14 amended—

15 (1) by redesignating paragraph (22) as para-
 16 graph (23); and

17 (2) by inserting after paragraph (21) the fol-
 18 lowing new paragraph:

19 “(22) *TOTAL DEVELOPMENT COST.*—The term
 20 ‘total development cost’ means, with respect to a hous-
 21 ing project, the sum of all costs for the project, includ-
 22 ing all undertakings necessary for administration,
 23 planning, site acquisition, demolition, construction or
 24 equipment and financing (including payment of car-
 25 rying charges), and for otherwise carrying out the de-
 26 velopment of the project, excluding off-site water and

1 sewer. The total development cost amounts shall be
 2 based on a moderately designed house and determined
 3 by averaging the current construction costs as listed
 4 in not less than two nationally recognized residential
 5 construction cost indices.”.

6 **TITLE II—AFFORDABLE** 7 **HOUSING ACTIVITIES**

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

9 The second paragraph (6) of section 201(b) (25 U.S.C.
 10 4131(b)(6); relating to exemption) is amended—

11 (1) by striking “1964 and” and inserting
 12 “1964,”; and

13 (2) by inserting after “1968” the following: “,
 14 and section 3 of the Housing and Urban Development
 15 Act of 1968”.

16 **SEC. 202. PROGRAM REQUIREMENTS.**

17 Section 203(a) (25 U.S.C. 4133(a)) is amended—

18 (1) in paragraph (1), by striking “paragraph
 19 (2)” and inserting “paragraphs (2) and (3)”; and

20 (2) by adding at the end the following new para-
 21 graph:

22 “(3) *APPLICATION OF TRIBAL POLICIES.*—Para-
 23 graph (2) shall not apply if the recipient has a writ-
 24 ten policy governing rents and homebuyer payments
 25 charged for dwelling units and such policy includes a

1 *provision governing maximum rents or homebuyer*
2 *payments.”.*

3 **SEC. 203. HOMEOWNERSHIP OR LEASE-TO-OWN LOW-IN-**
4 **COME REQUIREMENT AND INCOME TAR-**
5 **GETING.**

6 *Section 205 (25 U.S.C. 4135) is amended—*

7 *(1) in subsection (a)(1)—*

8 *(A) in subparagraph (C), by striking “and”*
9 *at the end; and*

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

12 *“(E) notwithstanding any other provision*
13 *of this paragraph, in the case of rental housing*
14 *that is made available to a current rental family*
15 *for conversion to a homebuyer or a lease-pur-*
16 *chase unit, that the current rental family can*
17 *purchase through a contract of sale, lease-pur-*
18 *chase agreement, or any other sales agreement, is*
19 *made available for purchase only by the current*
20 *rental family, if the rental family was a low-in-*
21 *come family at the time of their initial occu-*
22 *pancy of such unit; and”;* and

23 *(2) in subsection (c), by adding after the period*
24 *at the end the following: “The provisions of such*
25 *paragraph regarding binding commitments for the re-*

1 *maintaining useful life of the property shall not apply to*
2 *improvements of privately owned homes if the cost of*
3 *such improvements do not exceed 10 percent of the*
4 *maximum total development cost for such home.”.*

5 **SEC. 204. LEASE REQUIREMENTS AND TENANT SELECTION.**

6 *Section 207 (25 U.S.C. 4137) is amended by adding*
7 *at the end the following new subsection:*

8 *“(c) NOTICE OF TERMINATION.—Notwithstanding any*
9 *other provision of law, the owner or manager of rental hous-*
10 *ing that is assisted in part with amounts provided under*
11 *this Act and in part with one or more other sources of Fed-*
12 *eral funds shall only utilize leases that require a notice pe-*
13 *riod for the termination of the lease pursuant to subsection*
14 *(a)(3).”.*

15 **SEC. 205. TRIBAL COORDINATION OF AGENCY FUNDING.**

16 *(a) IN GENERAL.—Subtitle A of title II (25 U.S.C.*
17 *4131 et seq.) is amended by adding at the end the following*
18 *new section:*

19 **“SEC. 211. TRIBAL COORDINATION OF AGENCY FUNDING.**

20 *“Notwithstanding any other provision of law, a recipi-*
21 *ent authorized to receive funding under this Act may, in*
22 *its discretion, use funding from the Indian Health Service*
23 *of the Department of Health and Human Services for con-*
24 *struction of sanitation facilities for housing construction*

1 *and renovation projects that are funded in part by funds*
 2 *provided under this Act.”.*

3 (b) *CLERICAL AMENDMENT.—The table of contents in*
 4 *section 1(b) is amended by inserting after the item relating*
 5 *to section 210 the following new item:*

“Sec. 211. Tribal coordination of agency funding.”.

6 **TITLE III—ALLOCATION OF**
 7 **GRANT AMOUNTS**

8 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

9 *The first sentence of section 108 (25 U.S.C. 4117) is*
 10 *amended by striking “such sums as may be necessary for*
 11 *each of fiscal years 2009 through 2013” and inserting*
 12 *“\$650,000,000 for each of fiscal years 2018 through 2022”.*

13 **SEC. 302. EFFECT OF UNDISBURSED BLOCK GRANT**
 14 **AMOUNTS ON ANNUAL ALLOCATIONS.**

15 (a) *IN GENERAL.—Title III (25 U.S.C. 4151 et seq.)*
 16 *is amended by adding at the end the following new section:*

17 **“SEC. 303. EFFECT OF UNDISBURSED GRANT AMOUNTS ON**
 18 **ANNUAL ALLOCATIONS.**

19 *“(a) NOTIFICATION OF OBLIGATED, UNDISBURSED*
 20 *GRANT AMOUNTS.—Subject to subsection (d) of this section,*
 21 *if as of January 1, 2018, or any year thereafter a recipi-*
 22 *ent’s total amount of undisbursed block grants in the De-*
 23 *partment’s line of credit control system is greater than three*
 24 *times the formula allocation such recipient would otherwise*

1 *receive under this Act for the fiscal year during which such*
2 *January 1 occurs, the Secretary shall—*

3 “(1) *before January 31 of such year, notify the*
4 *Indian tribe allocated the grant amounts and any*
5 *tribally designated housing entity for the tribe of the*
6 *undisbursed funds; and*

7 “(2) *require the recipient for the tribe to, not*
8 *later than 30 days after the Secretary provides notifi-*
9 *cation pursuant to paragraph (1)—*

10 “(A) *notify the Secretary in writing of the*
11 *reasons why the recipient has not requested the*
12 *disbursement of such amounts; and*

13 “(B) *demonstrate to the satisfaction of the*
14 *Secretary that the recipient has the capacity to*
15 *spend Federal funds in an effective manner,*
16 *which demonstration may include evidence of the*
17 *timely expenditure of amounts previously dis-*
18 *tributed under this Act to the recipient.*

19 “(b) *ALLOCATION AMOUNT.—Notwithstanding sections*
20 *301 and 302, the allocation for such fiscal year for a recipi-*
21 *ent described in subsection (a) shall be the amount initially*
22 *calculated according to the formula minus the difference be-*
23 *tween the recipient’s total amount of undisbursed block*
24 *grants in the Department’s line of credit control system on*

1 *such January 1 and three times the initial formula amount*
 2 *for such fiscal year.*

3 “(c) *REALLOCATION.*—*Notwithstanding any other pro-*
 4 *vision of law, any grant amounts not allocated to a recipi-*
 5 *ent pursuant to subsection (b) shall be allocated under the*
 6 *need component of the formula proportionately amount all*
 7 *other Indian tribes not subject to such an adjustment.*

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

12 “(e) *EFFECTIVENESS.*—*This section shall not require*
 13 *the issuance of any regulation to take effect and shall not*
 14 *be construed to confer hearing rights under this or any other*
 15 *section of this Act.”.*

16 “(b) *CLERICAL AMENDMENT.*—*The table of contents in*
 17 *section 1(b) is amended by inserting after the item relating*
 18 *to section 302 the following new item:*

“*Sec. 303. Effect of undisbursed grant amounts on annual allocations.*”.

19 **TITLE IV—AUDITS AND REPORTS**

20 **SEC. 401. REVIEW AND AUDIT BY SECRETARY.**

21 *Section 405(c) (25 U.S.C. 4165(c)) is amended, by*
 22 *adding at the end the following new paragraph:*

23 “(3) *ISSUANCE OF FINAL REPORT.*—*The Sec-*
 24 *retary shall issue a final report within 60 days after*

1 *receiving comments under paragraph (1) from a re-*
2 *ipient.”.*

3 **SEC. 402. REPORTS TO CONGRESS.**

4 *Section 407 (25 U.S.C. 4167) is amended—*

5 *(1) in subsection (a), by striking “Congress” and*
6 *inserting “Committee on Financial Services and the*
7 *Committee on Natural Resources of the House of Rep-*
8 *resentatives, to the Committee on Indian Affairs and*
9 *the Committee on Banking, Housing, and Urban Af-*
10 *airs of the Senate, and to any subcommittees of such*
11 *committees having jurisdiction with respect to Native*
12 *American and Alaska Native affairs,”; and*

13 *(2) by adding at the end the following new sub-*
14 *section:*

15 *“(c) PUBLIC AVAILABILITY TO RECIPIENTS.—Each re-*
16 *port submitted pursuant to subsection (a) shall be made*
17 *publicly available to recipients.”.*

18 **TITLE V—OTHER HOUSING AS-**
19 **SISTANCE FOR NATIVE AMER-**
20 **ICANS**

21 **SEC. 501. HUD-VETERANS AFFAIRS SUPPORTIVE HOUSING**
22 **PROGRAM FOR NATIVE AMERICAN VETERANS.**

23 *Paragraph (19) of section 8(o) of the United States*
24 *Housing Act of 1937 (42 U.S.C. 1437f(o)(19)) is amended*
25 *by adding at the end the following new subparagraph:*

1 “(D) *NATIVE AMERICAN VETERANS.*—

2 “(i) *AUTHORITY.*—*Of the funds made*
3 *available for rental assistance under this*
4 *paragraph for fiscal year 2018 and each fis-*
5 *cal year thereafter, the Secretary shall set*
6 *aside 5 percent for a supported housing and*
7 *rental assistance program modeled on the*
8 *HUD–Veterans Affairs Supportive Housing*
9 *(HUD–VASH) program, to be administered*
10 *in conjunction with the Department of Vet-*
11 *erans Affairs, for the benefit of homeless Na-*
12 *tive American veterans and veterans at risk*
13 *of homelessness.*

14 “(ii) *RECIPIENTS.*—*Such rental assist-*
15 *ance shall be made available to recipients*
16 *eligible to receive block grants under the Na-*
17 *tive American Housing Assistance and Self-*
18 *Determination Act of 1996 (25 U.S.C. 4101*
19 *et seq.).*

20 “(iii) *FUNDING CRITERIA.*—*Funds*
21 *shall be awarded based on need, administra-*
22 *tive capacity, and any other funding cri-*
23 *teria established by the Secretary in a no-*
24 *tice published in the Federal Register, after*
25 *consultation with the Secretary of Veterans*

1 *Affairs, by a date sufficient to provide for*
2 *implementation of the program under this*
3 *subparagraph in accordance with clause (i).*

4 “(iv) *PROGRAM REQUIREMENTS.—*

5 “(I) *ADMINISTRATION.—Such*
6 *funds shall be administered by block*
7 *grant recipients in accordance with*
8 *program requirements under the Na-*
9 *tive American Housing Assistance and*
10 *Self-Determination Act of 1996 in lieu*
11 *of program requirements under this*
12 *Act.*

13 “(II) *AVAILABLE HOUSING.—*

14 *Rental assistance made available*
15 *under this subparagraph may be used*
16 *for dwelling units owned, operated, or*
17 *assisted with by a recipient of a block*
18 *grant under this Act or a tribally des-*
19 *ignated housing entity.*

20 “(v) *WAIVER.—The Secretary may*
21 *waive, or specify alternative requirements*
22 *for any provision of any statute or regula-*
23 *tion that the Secretary administers in con-*
24 *nection with the use of funds made avail-*
25 *able under this subparagraph, but only*

1 upon a finding by the Secretary that such
2 waiver or alternative requirement is nec-
3 essary to promote administrative efficiency,
4 eliminate delay, consolidate or eliminate
5 duplicative or ineffective requirements or
6 criteria, or otherwise provide for the effec-
7 tive delivery and administration of such
8 supportive housing assistance to Native
9 American veterans.

10 “(vi) CONSULTATION.—The Secretary
11 and the Secretary of Veterans Affairs shall
12 jointly consult with block grant recipients
13 and any other appropriate tribal organiza-
14 tions to—

15 “(I) ensure that block grant re-
16 cipients administering funds made
17 available under the program under this
18 subparagraph are able to effectively co-
19 ordinate with providers of supportive
20 services provided in connection with
21 such program; and

22 “(II) ensure the effective delivery
23 of supportive services to Native Amer-
24 ican veterans that are homeless or at

1 *risk of homelessness eligible to receive*
2 *assistance under this subparagraph.*

3 *Consultation pursuant to this clause shall*
4 *be completed by a date sufficient to provide*
5 *for implementation of the program under*
6 *this subparagraph in accordance with*
7 *clause (i).*

8 *“(vii) NOTICE.—The Secretary shall*
9 *establish the requirements and criteria for*
10 *the supported housing and rental assistance*
11 *program under this subparagraph by notice*
12 *published in the Federal Register, but shall*
13 *provide Indian tribes and tribally des-*
14 *ignated housing agencies an opportunity for*
15 *comment and consultation before publica-*
16 *tion of a final notice pursuant to this*
17 *clause.”.*

18 **SEC. 502. LOAN GUARANTEES FOR INDIAN HOUSING.**

19 *Section 184(i)(5) of the Housing and Community De-*
20 *velopment Act of 1992 (12 U.S.C. 1715z–13a(i)(5)) is*
21 *amended—*

22 *(1) in subparagraph (B), by inserting after the*
23 *period at the end of the first sentence the following:*
24 *“There are authorized to be appropriated for such*

1 *costs \$12,200,000 for each of fiscal years 2018 through*
2 *2022.”; and*

3 *(2) in subparagraph (C)—*

4 *(A) by striking “2008 through 2012” and*
5 *inserting “2018 through 2022”; and*

6 *(B) by striking “such amount as may be*
7 *provided in appropriation Acts for” and insert-*
8 *ing “\$976,000,000 for each”.*

9 **TITLE VI—MISCELLANEOUS**

10 **SEC. 601. LANDS TITLE REPORT COMMISSION.**

11 *Section 501 of the American Homeownership and Eco-*
12 *nomie Opportunity Act of 2000 (25 U.S.C. 4043 note) is*
13 *amended—*

14 *(1) in subsection (a), by striking “Subject to*
15 *sums being provided in advance in appropriations*
16 *Acts, there” and inserting “There”; and*

17 *(2) in subsection (b)(1) by striking “this Act”*
18 *and inserting “the Native American Housing Assist-*
19 *ance and Self-Determination Reauthorization Act of*
20 *2017”.*

21 **SEC. 602. LEASEHOLD INTEREST IN TRUST OR RESTRICTED**

22 **LANDS FOR HOUSING PURPOSES.**

23 *Section 702 (25 U.S.C. 4211) is amended—*

1 (1) in subsection (c)(1), by inserting “, whether
2 enacted before, on, or after the date of the enactment
3 of this section” after “law”; and

4 (2) by striking “50 years” each place such term
5 appears and inserting “99 years”.

6 **SEC. 603. CLERICAL AMENDMENT.**

7 The table of contents in section 1(b) is amended by
8 striking the item relating to section 206 (treatment of
9 funds).

10 **TITLE VII—DEMONSTRATION**
11 **PROGRAM FOR ALTERNATIVE**
12 **PRIVATIZATION AUTHORITY**
13 **FOR NATIVE AMERICAN**
14 **HOUSING**

15 **SEC. 701. DEMONSTRATION PROGRAM.**

16 The Act (25 U.S.C. 4101 et seq.) is amended by adding
17 at the end the following new title:

18 **“TITLE IX—DEMONSTRATION**
19 **PROGRAM FOR ALTERNATIVE**
20 **PRIVATIZATION AUTHORITY**
21 **FOR NATIVE AMERICAN**
22 **HOUSING**

23 **“SEC. 901. AUTHORITY.**

24 “(a) *IN GENERAL.*—In addition to any other authority
25 provided in this Act for the construction, development,

1 *maintenance, and operation of housing for Indian families,*
2 *the Secretary shall provide the participating tribes having*
3 *final plans approved pursuant to section 905 with the au-*
4 *thority to exercise the activities provided under this title*
5 *and such plan for the acquisition and development of hous-*
6 *ing to meet the needs of tribal members.*

7 “(b) *INAPPLICABILITY OF NAHASDA PROVISIONS.—*
8 *Except as specifically provided otherwise in this title, titles*
9 *I through IV, VI, and VII shall not apply to a participating*
10 *tribe’s use of funds during any period that the tribe is par-*
11 *ticipating in the demonstration program under this title.*

12 “(c) *CONTINUED APPLICABILITY OF CERTAIN*
13 *NAHASDA PROVISIONS.—The following provisions of titles*
14 *I through VIII shall apply to the demonstration program*
15 *under this title and amounts made available under the dem-*
16 *onstration program under this title:*

17 “(1) *Subsections (d) and (e) of section 101 (re-*
18 *lating to tax exemption).*

19 “(2) *Section 101(j) (relating to Federal supply*
20 *sources).*

21 “(3) *Section 101(k) (relating to tribal preference*
22 *in employment and contracting).*

23 “(4) *Section 104 (relating to treatment of pro-*
24 *gram income and labor standards).*

1 “(5) Section 105 (relating to environmental re-
2 view).

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

5 “(7) Section 203(g) (relating to a de minimis ex-
6 emption for procurement of goods and services).

7 “(8) Section 702 (relating to 99-year leasehold
8 interests in trust or restricted lands for housing pur-
9 poses).

10 **“SEC. 902. PARTICIPATING TRIBES.**

11 “(a) *REQUEST TO PARTICIPATE.*—To be eligible to
12 participate in the demonstration program under this title,
13 an Indian tribe shall submit to the Secretary a notice of
14 intention to participate during the 60-day period beginning
15 on the date of the enactment of this title, in such form and
16 such manner as the Secretary shall provide.

17 “(b) *COOPERATIVE AGREEMENT.*—Upon approval
18 under section 905 of the final plan of an Indian tribe for
19 participation in the demonstration program under this
20 title, the Secretary shall enter into a cooperative agreement
21 with the participating tribe that provides such tribe with
22 the authority to carry out activities under the demonstra-
23 tion program.

1 “(c) *LIMITATION.*—*The Secretary may not approve*
2 *more than 20 Indian tribes for participation in the dem-*
3 *onstration program under this title.*

4 “**SEC. 903. REQUEST FOR QUOTES AND SELECTION OF IN-**
5 **VESTOR PARTNER.**

6 “(a) *REQUEST FOR QUOTES.*—*Not later than the expi-*
7 *ration of the 180-day period beginning upon notification*
8 *to the Secretary by an Indian tribe of intention to partici-*
9 *pate in the demonstration program under this title, the In-*
10 *dian tribe shall—*

11 “(1) *obtain assistance from a qualified entity in*
12 *assessing the housing needs, including the affordable*
13 *housing needs, of the tribe; and*

14 “(2) *release a request for quotations from entities*
15 *interested in partnering with the tribe in designing*
16 *and carrying out housing activities sufficient to meet*
17 *the tribe’s housing needs as identified pursuant to*
18 *paragraph (1).*

19 “(b) *SELECTION OF INVESTOR PARTNER.*—

20 “(1) *IN GENERAL.*—*Except as provided in para-*
21 *graph (2), not later than the expiration of the 18-*
22 *month period beginning on the date of the enactment*
23 *of this title, an Indian tribe requesting to participate*
24 *in the demonstration program under this title shall—*

1 “(A) select an investor partner from among
2 the entities that have responded to the tribe’s re-
3 quest for quotations; and

4 “(B) together with such investor partner, es-
5 tablish and submit to the Secretary a final plan
6 that meets the requirements under section 904.

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

9 “(A) has not received any satisfactory
10 quotation in response to its request released pur-
11 suant to subsection (a)(2); or

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

15 **“SEC. 904. FINAL PLAN.**

16 “A final plan under this section shall—

17 “(1) be developed by the participating tribe and
18 the investor partner for the tribe selected pursuant to
19 section 903(b)(1)(A);

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

22 “(3) set forth a detailed description of such pro-
23 jected housing needs, including affordable housing
24 needs, of the tribe, which shall include—

1 “(A) a description of such need over the en-
2 suing 24 months and thereafter until the expira-
3 tion of the ensuing 5-year period or until the af-
4 fordable housing need is met, whichever occurs
5 sooner; and

6 “(B) the same information that would be
7 required under section 102 to be included in an
8 Indian housing plan for the tribe, as such re-
9 quirements may be modified by the Secretary to
10 take consideration of the requirements of the
11 demonstration program under this title;

12 “(4) provide for specific housing activities suffi-
13 cient to meet the tribe’s housing needs, including af-
14 fordable housing needs, as identified pursuant to
15 paragraph (3) within the periods referred to such
16 paragraph, which shall include—

17 “(A) development of affordable housing (as
18 such term is defined in section 4 of this Act (25
19 U.S.C. 4103));

20 “(B) development of conventional homes for
21 rental, lease-to-own, or sale, which may be com-
22 bined with affordable housing developed pursu-
23 ant to subparagraph (A);

24 “(C) development of housing infrastructure,
25 including housing infrastructure sufficient to

1 *serve affordable housing developed under the*
2 *plan; and*

3 “(D) *investments by the investor partner for*
4 *the tribe, the participating tribe, members of the*
5 *participating tribe, and financial institutions*
6 *and other outside investors necessary to provide*
7 *financing for the development of housing under*
8 *the plan and for mortgages for tribal members*
9 *purchasing such housing;*

10 “(5) *provide that the participating tribe will*
11 *agree to provide long-term leases to tribal members*
12 *sufficient for lease-to-own arrangements for, and sale*
13 *of, the housing developed pursuant to paragraph (4);*

14 “(6) *provide that the participating tribe—*

15 “(A) *will be liable for delinquencies under*
16 *mortgage agreements for housing developed under*
17 *the plan that are financed under the plan and*
18 *entered into by tribal members; and*

19 “(B) *shall, upon foreclosure under such*
20 *mortgages, take possession of such housing and*
21 *have the responsibility for making such housing*
22 *available to other tribal members;*

23 “(7) *provide for sufficient protections, in the de-*
24 *termination of the Secretary, to ensure that the tribe*

1 *and the Federal Government are not liable for the*
2 *acts of the investor partner or of any contractors;*

3 “(8) *provide that the participating tribe shall*
4 *have sole final approval of design and location of*
5 *housing developed under the plan;*

6 “(9) *set forth specific deadlines and schedules for*
7 *activities to be undertaken under the plan and set*
8 *forth the responsibilities of the participating tribe*
9 *and the investor partner;*

10 “(10) *set forth specific terms and conditions of*
11 *return on investment by the investor partner and*
12 *other investors under the plan, and provide that the*
13 *participating tribe shall pledge grant amounts allo-*
14 *cated for the tribe pursuant to title III for such re-*
15 *turn on investment;*

16 “(11) *set forth the terms of a cooperative agree-*
17 *ment on the operation and management of the current*
18 *assistance housing stock and current housing stock for*
19 *the tribe assisted under the preceding titles of this*
20 *Act;*

21 “(12) *set forth any plans for sale of affordable*
22 *housing of the participating tribe under section 907*
23 *and, if included, plans sufficient to meet the require-*
24 *ments of section 907 regarding meeting future afford-*
25 *able housing needs of the tribe;*

1 “(13) set forth terms for enforcement of the plan,
2 including an agreement regarding jurisdiction of any
3 actions under or to enforce the plan, including a
4 waiver of immunity; and

5 “(14) include such other information as the par-
6 ticipating tribe and investor partner consider appro-
7 priate.

8 **“SEC. 905. HUD REVIEW AND APPROVAL OF PLAN.**

9 “(a) *IN GENERAL.*—Not later than the expiration of
10 the 90-day period beginning upon a submission by an In-
11 dian tribe of a final plan under section 904 to the Sec-
12 retary, the Secretary shall—

13 “(1) review the plan and the process by which
14 the tribe solicited requests for quotations from inves-
15 tors and selected the investor partner; and

16 “(2)(A) approve the plan, unless the Secretary
17 determines that—

18 “(i) the assessment of the tribe’s housing
19 needs by the qualified entity, or as set forth in
20 the plan pursuant to section 904(3), is inac-
21 curate or insufficient;

22 “(ii) the process established by the tribe to
23 solicit requests for quotations and select an in-
24 vestor partner was insufficient or negligent; or

1 “(iii) the plan is insufficient to meet the
2 housing needs of the tribe, as identified in the
3 plan pursuant to section 904(3);

4 “(B) approve the plan, on the condition that the
5 participating tribe and the investor make such revi-
6 sions to the plan as the Secretary may specify as ap-
7 propriate to meet the needs of the tribe for affordable
8 housing; or

9 “(C) disapprove the plan, only if the Secretary
10 determines that the plan fails to meet the minimal
11 housing standards and requirements set forth in this
12 Act and the Secretary notifies the tribe of the elements
13 requiring the disapproval.

14 “(b) ACTION UPON DISAPPROVAL.—

15 “(1) RE-SUBMISSION OF PLAN.—Subject to para-
16 graph (2), in the case of any disapproval of a final
17 plan of an Indian tribe pursuant to subsection (a)(3),
18 the Secretary shall allow the tribe a period of 180
19 days from notification to the tribe of such disapproval
20 to re-submit a revised plan for approval.

21 “(2) LIMITATION.—If the final plan for an In-
22 dian tribe is disapproved twice and resubmitted twice
23 pursuant to the authority under paragraph (1) and,
24 upon such second re-submission of the plan the Sec-
25 retary disapproves the plan, the tribe may not re-sub-

1 *mit the plan again and shall be ineligible to partici-*
2 *cate in the demonstration program under this title.*

3 “(c) *TRIBE AUTHORITY OF HOUSING DESIGN AND LO-*
4 *CATION.—The Secretary may not disapprove a final plan*
5 *under section 904, or condition approval of such a plan,*
6 *based on the design or location of any housing to be devel-*
7 *oped or assisted under the plan.*

8 “(d) *FAILURE TO NOTIFY.—If the Secretary does not*
9 *notify a participating tribe submitting a final plan of ap-*
10 *proval, conditional approval, or disapproval of the plan be-*
11 *fore the expiration of the period referred to in paragraph*
12 *(1), the plan shall be considered as approved for all pur-*
13 *poses of this title.*

14 **“SEC. 906. TREATMENT OF NAHASDA ALLOCATION.**

15 “*Amounts otherwise allocated for a participating tribe*
16 *under title III of this Act (25 U.S.C. 4151 et seq.) shall*
17 *not be made available to the tribe under titles I through*
18 *VIII, but shall only be available for the tribe, upon request*
19 *by the tribe and approval by the Secretary, for the following*
20 *purposes:*

21 “(1) *RETURN ON INVESTMENT.—Such amounts*
22 *as are pledged by a participating tribe pursuant to*
23 *section 904(10) for return on the investment made by*
24 *the investor partner or other investors may be used by*

1 *the Secretary to ensure such full return on invest-*
2 *ment.*

3 “(2) *ADMINISTRATIVE EXPENSES.*—*The Sec-*
4 *retary may provide to a participating tribe, upon the*
5 *request of a tribe, not more than 10 percent of any*
6 *annual allocation made under title III for the tribe*
7 *during such period for administrative costs of the*
8 *tribe in completing the processes to carry out sections*
9 *903 and 904.*

10 “(3) *HOUSING INFRASTRUCTURE COSTS.*—*A par-*
11 *ticipating tribe may use such amounts for housing in-*
12 *frastructure costs associated with providing affordable*
13 *housing for the tribe under the final plan.*

14 “(4) *MAINTENANCE; TENANT SERVICES.*—*A par-*
15 *ticipating tribe may use such amounts for mainte-*
16 *nance of affordable housing for the tribe and for hous-*
17 *ing services, housing management services, and crime*
18 *prevention and safety activities described in para-*
19 *graphs (3), (4), and (5), respectively, of section 202.*

20 **“SEC. 907. RESALE OF AFFORDABLE HOUSING.**

21 “*Notwithstanding any other provision of this Act, a*
22 *participating tribe may, in accordance with the provisions*
23 *of the final plan of the tribe approved pursuant to section*
24 *905, resell any affordable housing developed with assistance*
25 *made available under this Act for use other than as afford-*

1 able housing, but only if the tribe provides such assurances
2 as the Secretary determines are appropriate to ensure
3 that—

4 “(1) the tribe is meeting its need for affordable
5 housing;

6 “(2) will provide affordable housing in the future
7 sufficient to meet future affordable housing needs; and

8 “(3) will use any proceeds only to meet such fu-
9 ture affordable housing needs or as provided in sec-
10 tion 906.

11 **“SEC. 908. REPORTS, AUDITS, AND COMPLIANCE.**

12 “(a) *ANNUAL REPORTS BY TRIBE.*—Each partici-
13 pating tribe shall submit a report to the Secretary annually
14 regarding the progress of the tribe in complying with, and
15 meeting the deadlines and schedules set forth under the ap-
16 proved final plan for the tribe. Such reports shall contain
17 such information as the Secretary shall require.

18 “(b) *REPORTS TO CONGRESS.*—The Secretary shall
19 submit a report to the Congress annually describing the ac-
20 tivities and progress of the demonstration program under
21 this title, which shall—

22 “(1) summarize the information in the reports
23 submitted by participating tribes pursuant to sub-
24 section (a);

1 “(2) identify the number of tribes that have se-
2 lected an investor partner pursuant to a request for
3 quotations;

4 “(3) include, for each tribe applying for partici-
5 pating in the demonstration program whose final
6 plan was disapproved under section 905(a)(2)(C), a
7 detailed description and explanation of the reasons
8 for disapproval and all actions taken by the tribe to
9 eliminate the reasons for disapproval, and identify
10 whether the tribe has re-submitted a final plan;

11 “(4) identify, by participating tribe, any
12 amounts requested and approved for use under section
13 906; and

14 “(5) identify any participating tribes that have
15 terminated participation in the demonstration pro-
16 gram and the circumstances of such terminations.

17 “(c) *AUDITS.*—The Secretary shall provide for audits
18 among participating tribes to ensure that the final plans
19 for such tribes are being implemented and complied with.
20 Such audits shall include on-site visits with participating
21 tribes and requests for documentation appropriate to ensure
22 such compliance.

23 **“SEC. 909. TERMINATION OF TRIBAL PARTICIPATION.**

24 “(a) *TERMINATION OF PARTICIPATION.*—A partici-
25 pating tribe may terminate participation in the demonstra-

1 *tion program under this title at any time, subject to this*
2 *section.*

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

4 “(1) *NO AUTOMATIC TERMINATION.*—*Termination by a participating tribe in the demonstration*
5 *program under this section shall not terminate any*
6 *obligations of the tribe under agreements entered into*
7 *under the demonstration program with the investor*
8 *partner for the tribe or any other investors or con-*
9 *tractors.*

11 “(2) *AUTHORITY TO MUTUALLY TERMINATE*
12 *AGREEMENTS.*—*Nothing in this title may be con-*
13 *strued to prevent a tribe that terminates participa-*
14 *tion in the demonstration program under this section*
15 *and any party with which the tribe has entered into*
16 *an agreement from mutually agreeing to terminate*
17 *such agreement.*

18 “(c) *RECEIPT OF REMAINING GRANT AMOUNTS.*—*The*
19 *Secretary shall provide for grants to be made in accordance*
20 *with, and subject to the requirements of, this Act for any*
21 *amounts remaining after use pursuant to section 906 from*
22 *the allocation under title III for a participating tribe that*
23 *terminates participation in the demonstration program.*

24 “(d) *COSTS AND OBLIGATIONS.*—*The Secretary shall*
25 *not be liable for any obligations or costs incurred by an*

1 *Indian tribe during its participation in the demonstration*
2 *program under this title.*

3 **“SEC. 910. FINAL REPORT.**

4 *“Not later than the expiration of the 5-year period be-*
5 *ginning on the date of the enactment of this title, the Sec-*
6 *retary shall submit a final report to the Congress regarding*
7 *the effectiveness of the demonstration program, which shall*
8 *include—*

9 *“(1) an assessment of the success, under the dem-*
10 *onstration program, of participating tribes in meet-*
11 *ing their housing needs, including affordable housing*
12 *needs, on tribal land;*

13 *“(2) recommendations for any improvements in*
14 *the demonstration program; and*

15 *“(3) a determination of whether the demonstra-*
16 *tion should be expanded into a permanent program*
17 *available for Indian tribes to opt into at any time*
18 *and, if so, recommendations for such expansion, in-*
19 *cluding any legislative actions necessary to expand*
20 *the program.*

21 **“SEC. 911. DEFINITIONS.**

22 *“For purposes of this title, the following definitions*
23 *shall apply:*

1 “(1) *AFFORDABLE HOUSING.*—The term ‘afford-
2 able housing’ has the meaning given such term in sec-
3 tion 4 (25 U.S.C. 4103).

4 “(2) *HOUSING INFRASTRUCTURE.*—The term
5 ‘housing infrastructure’ means basic facilities, serv-
6 ices, systems, and installations necessary or appro-
7 priate for the functioning of a housing community,
8 including facilities, services, systems, and installa-
9 tions for water, sewage, power, communications, and
10 transportation.

11 “(3) *LONG-TERM LEASE.*—The term ‘long-term
12 lease’ means an agreement between a participating
13 tribe and a tribal member that authorizes the tribal
14 member to occupy a specific plot of tribal lands for
15 50 or more years and to request renewal of the agree-
16 ment at least once.

17 “(4) *PARTICIPATING TRIBES.*—The term ‘partici-
18 pating tribe’ means an Indian tribe for which a final
19 plan under section 904 for participation in the dem-
20 onstration program under this title has been approved
21 by the Secretary under section 905.

22 **“SEC. 912. NOTICE.**

23 “The Secretary shall establish any requirements and
24 criteria as may be necessary to carry out the demonstration

1 program under this title by notice published in the Federal
2 Register.”.

3 **SEC. 702. CLERICAL AMENDMENTS.**

4 The table of contents in section 1(b) is amended by
5 inserting after the item relating to section 705 the following:

“TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

- “Sec. 801. Definitions.
- “Sec. 802. Block grants for affordable housing activities.
- “Sec. 803. Housing plan.
- “Sec. 804. Review of plans.
- “Sec. 805. Treatment of program income and labor standards.
- “Sec. 806. Environmental review.
- “Sec. 807. Regulations.
- “Sec. 808. Effective date.
- “Sec. 809. Affordable housing activities.
- “Sec. 810. Eligible affordable housing activities.
- “Sec. 811. Program requirements.
- “Sec. 812. Types of investments.
- “Sec. 813. Low-income requirement and income targeting.
- “Sec. 814. Lease requirements and tenant selection.
- “Sec. 815. Repayment.
- “Sec. 816. Annual allocation.
- “Sec. 817. Allocation formula.
- “Sec. 818. Remedies for noncompliance.
- “Sec. 819. Monitoring of compliance.
- “Sec. 820. Performance reports.
- “Sec. 821. Review and audit by Secretary.
- “Sec. 822. General Accounting Office audits.
- “Sec. 823. Reports to Congress.
- “Sec. 824. Authorization of appropriations.

“TITLE IX—DEMONSTRATION PROGRAM FOR ALTERNATIVE
PRIVATIZATION AUTHORITY FOR NATIVE AMERICAN HOUSING

- “Sec. 901. Authority.
- “Sec. 902. Participating tribes.
- “Sec. 903. Request for quotes and selection of investor partner.
- “Sec. 904. Final plan.
- “Sec. 905. HUD review and approval of plan.
- “Sec. 906. Treatment of NAHASDA allocation.
- “Sec. 907. Resale of affordable housing.
- “Sec. 908. Reports, audits, and compliance.
- “Sec. 909. Termination of tribal participation.
- “Sec. 910. Final report.
- “Sec. 911. Definitions.
- “Sec. 912. Notice.”.

Union Calendar No. 449

115TH CONGRESS
2^D SESSION

H. R. 3864

[Report No. 115-591]

A BILL

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

MARCH 8, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed