

NATIVE AMERICAN ECONOMIC DEVELOPMENT AND
INFRASTRUCTURE FOR HOUSING ACT OF 2007

OCTOBER 2, 2007.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial
Services, submitted the following

R E P O R T

[To accompany H.R. 3002]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3002) to establish a demonstration program to authorize the Secretary of Housing and Urban Development to guarantee obligations issued by Indian tribes to finance community and economic development activities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment	2
Purpose and Summary	3
Background and Need for Legislation	3
Hearings	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	5
Performance Goals and Objectives	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Committee Cost Estimate	5
Congressional Budget Office Estimate	5
Federal Mandates Statement	7
Advisory Committee Statement	7
Constitutional Authority Statement	7
Applicability to Legislative Branch	7
Earmark Identification	7
Section-by-Section Analysis of the Legislation	7

AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Economic Development and Infrastructure for Housing Act of 2007”.

SEC. 2. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.

(a) **AUTHORITY.**—To the extent or in such amounts as are provided in appropriation Acts, the Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) may, subject to the limitations of this section and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes and obligations issued by Indian tribes or tribally designated housing entities (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) with tribal approval, for the purposes of financing activities, carried out on Indian reservations and in other Indian areas, that under the first sentence of section 108(a) of the Housing and Community Development Act of 1974 are eligible for financing with notes and other obligations guaranteed pursuant to such section 108.

(b) **LOW-INCOME BENEFIT REQUIREMENT.**—Not less than 70 percent of the aggregate funds received by an Indian tribe or tribally designated housing entity as a result of a guarantee under this section shall be used for the support of activities that benefit low-income Indian families (as such term is defined for purposes of the Native American Housing Assistance and Self-Determination Act of 1996) on Indian reservations and other Indian areas.

(c) **FINANCIAL SOUNDNESS.**—The Secretary shall establish underwriting criteria for guarantees under this section, including fees for such guarantees, as may be necessary to ensure that the program under this section for such guarantees is financially sound. Such fees shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for such program, as determined based upon risk to the Federal Government under such underwriting requirements.

(d) **TERMS OF OBLIGATIONS.**—Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(e) **LIMITATION ON PERCENTAGE.**—A guarantee made under this section shall guarantee repayment of 95 percent of the unpaid principal and interest due on the notes or other obligations guaranteed.

(f) **SECURITY AND REPAYMENT.**—

(1) **REQUIREMENTS ON ISSUER.**—To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to—

(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

(B) demonstrate that the extent of such issuance and guarantee under this section is within the financial capacity of the tribe; and

(C) furnish, at the discretion of the Secretary, such security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted by a guarantee under this section or disposition proceeds from the sale of land or rehabilitated property, except that such security may not include any grant amounts received or for which the issuer may be eligible under title I of the Native American Housing Assistance and Self-Determination Act of 1996.

(2) **FULL FAITH AND CREDIT.**—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

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

(h) LIMITATIONS ON AMOUNT OF GUARANTEES.—

(1) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount not to exceed \$200,000,000 for each of fiscal years 2008 through 2012.

(2) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this section such sums as may be necessary for each of fiscal years 2008 through 2012. No funds appropriated under this Act shall be expended for the benefit of the Cherokee Nation of Oklahoma until the Secretary shall have certified to the Congress that the Cherokee Nation of Oklahoma is in compliance with the Treaty of 1866 and fully recognizes all Cherokee Freedmen and their descendants as citizens of the Cherokee Nation.

(3) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this section shall not at any time exceed \$1,000,000,000 or such higher amount as may be authorized to be appropriated for this section for any fiscal year.

(4) FISCAL YEAR LIMITATIONS ON TRIBES.—The Secretary shall monitor the use of guarantees under this section by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under paragraph (3) has been committed, the Secretary may—

(A) impose limitations on the amount of guarantees pursuant to this section that any one Indian tribe may receive in any fiscal year of \$25,000,000;

or

(B) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this section.

(i) REPORT.—Not later than the expiration of the 4-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress regarding the utilization of the authority under this section by Indian tribes and tribally designated housing entities, identifying the extent of such utilization and the types of projects and activities financed using such authority and analyzing the effectiveness of such utilization in carrying out the purposes of this section.

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

PURPOSE AND SUMMARY

H.R. 3002, the Native American Economic Development and Infrastructure for Housing Act of 2007, authorizes a demonstration program to be administered by the Department of Housing and Urban Development (HUD) to provide for guarantees to loans for economic development associated with housing, and housing infrastructure located in Indian Country.

BACKGROUND AND NEED FOR LEGISLATION

Economic development and infrastructure related to housing are vital to any successful housing project (private or public), particularly in remote, isolated areas that make up much of Indian Country. However, because of the risk associated with economic development and housing infrastructure in such parts of the country, private financial institutions will not make loans for such activities. Therefore, loans guaranteed by the Federal Government to allow for economic development and the building of infrastructure for housing is an invaluable tool for successful housing in these areas.

Loan guarantee programs require a relatively small appropriation in the form of a credit subsidy to leverage private money for public purposes. Federal loan guarantees provide the full faith and

credit of the federal government so private lenders and bond investors have confidence to extend credit to worthwhile projects. The appropriation of a credit subsidy covers the risk of the project and protects the U.S. Treasury from claims.

HUD currently operates the Section 108 loan guarantee program under the Community Development Block Grant (CDBG), and the Title VI loan guarantee program under the Native American Housing Assistance and Self-Determination Act (NAHASDA). These programs, however, do not provide for economic development and housing infrastructure loans in Indian Country.

Section 108 works with the CDBG “entitlement communities” that receive direct funding from CDBG. The Section 108 program guarantees loans or bonds for these communities for up to five times their annual CDBG allocation for economic development activities. Despite the need for financing of activities eligible under Section 108, tribes cannot access the program. Indian Country receives a set-aside under CDBG, but tribes access the funds in the set-aside through an annual competition. Because no tribe receives a set annual CDBG allocation, they do not qualify for the Section 108 program.

NAHASDA created the Indian Housing Block Grant (IHBG). While similar to CDBG in its basic structure, the use of IHBG funds is limited to housing. Title VI of NAHASDA was copied from the Section 108 statute and allows tribes to borrow or issue bonded debt up to five times their annual NAHASDA allocation for housing purposes described in the NAHASDA statute. Title VI does not permit the loan guarantees to cover economic development or infrastructure.

The demonstration program created by H.R. 3002 has a similar effect to the loan guarantee programs described above—providing guarantee authority for the same economic development purposes as Section 108, but does not involve the pledging of NAHASDA funds under Title VI.

It is the Committee’s intention that the demonstration program provide for loan guarantees to small tribes as well as large tribes. It is the Committee’s desire that HUD will guarantee loans under this program for small tribes on an annual basis and that such guarantees make up at least 15 percent to 25 percent of the program.

HEARINGS

No hearings were held on H.R. 3002 in the 110th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 26, 2007, and ordered reported H.R. 3002, the Native American Economic Development and Infrastructure for Housing Act of 2007, favorably reported to the House, as amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A

motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote. During the consideration of the bill, the following amendment was considered:

An amendment by Mr. Watt, No. 1, Cherokee Nation limitation, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 3002, the Native American Economic Development and Infrastructure for Housing Act of 2007, authorizes a demonstration program to be administered by the Department of Housing and Urban Development to provide for guarantees to loans for economic development associated with housing and housing infrastructure located in Indian Country with the goal of increasing affordable housing opportunities in Indian Country.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 6, 2007.

Hon. BARNEY FRANK,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3002, the Native American Economic Development and Infrastructure for Housing Act of 2007.

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

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 3002—Native American Economic Development and Infrastructure for Housing Act of 2007

H.R. 3002 would establish a pilot program within the Department of Housing and Urban Development (HUD) to guarantee loans or bonds issued by Indian tribes and other entities for certain economic development purposes. Under the bill, participating tribes and housing entities would be charged fees in the amount necessary to cover the full subsidy cost of the program. Based on the expected demand and historical spending patterns of similar guarantee programs, CBO estimates that implementing this legislation would cost about \$4 million over the 2008–2012 period for administrative expenses. Enacting H.R. 3002 would not affect direct spending or revenues.

H.R. 3002 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The bill would benefit tribal governments that receive federal loan guarantees to develop housing. Any costs to those tribes would be incurred voluntarily as a condition of receiving federal assistance.

The legislation would direct the Secretary of HUD to establish a five-year pilot program to guarantee 95 percent of the value of loans and bonds issued by federally recognized Indian tribes and certain housing entities for economic development projects. Eligible projects would include acquiring and rehabilitating improved or unimproved property, constructing and rehabilitating housing, and assisting private entities engaged in neighborhood revitalization, job-creation, and other economic development activities.

H.R. 3002 would authorize the appropriation of whatever amounts are necessary for the subsidy cost to guarantee up to \$200 million in borrowing per year (with no more than \$1 billion outstanding at any given time). CBO estimates this new loan guarantee program would have a 2 percent to 3 percent subsidy cost. That estimate is based on historical data for comparable HUD programs such as the Indian and Native Hawaiian Housing Loan Guarantee programs and the Section 108 guarantee program. Those programs require borrowers to secure debt with local tax receipts or funds received from federal grant programs. Under the bill, each borrower would be charged a fee to fully offset the subsidy cost of its loan guarantee—resulting in no significant net cost to the federal government.

Based on expected demand and historical spending patterns of similar programs, CBO estimates that administering this new program would cost about \$4 million over the 2008–2012 period, subject to appropriation of the necessary amounts.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Theresa Gullo, Chief, State and Local Government Cost Unit, Budget Analysis Division.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3002 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

The Native American Economic Development and Infrastructure for Housing Act of 2007.

Sec. 2. Demonstration program for guaranteed loans to finance tribal community and economic development activities

(a) Authority.—Grants the Secretary of HUD the authority to guarantee notes and obligations to tribes or their designated housing entities for eligible purposes under Section 108(a) of the Housing and Community Development Act of 1974 (which include economic, community and business development, infrastructure support and housing).

(b) Low-Income Benefit Requirement.—Requires that 70 percent of the funds received by a tribe as a result of the guarantee benefit low-income Indian families on Indian reservations or other Indian areas.

(c) Financial Soundness.—Establishes the authority of the Secretary to establish underwriting criteria for such guarantees and the authority to charge fees to ensure the program will have a negative credit subsidy.

(d) Terms of Obligations.—Limits the repayment period of guaranteed projects to 20 years.

(e) Limitation on Percentage.—Establishes the guarantee under the program at 95 percent of the unpaid principal and interest of the project.

(f) Security and Repayment.—

(1) Requirements on Issuer.—Grants the Secretary the authority to require borrowers to (A) enter into a contract approved by the Secretary; (B) demonstrate their ability to repay the loan; (C) furnish any securities required by the Secretary including tax receipts generated by activities assisted by the guarantee or the sale of property but specifically prohibits the use of NAHASDA block grants from being used as security.

(2) Full Faith and Credit.—Establishes the guarantees are backed by the full faith and credit of the U.S. government.

(g) Training and Information.—Provides for training to carry out the purposes of the Act.

(h) Limitations on Amount of Guarantees.—

(1) Aggregate Fiscal Year Limitation.—Limits total activity under the program to \$200 million per year for fiscal years 2008 through 2012.

(2) Authorization of Appropriations for Credit Subsidy.—Provides for such sums as may be necessary to operate the program to be appropriated for fiscal years 2008 through 2012.

(3) Aggregate Outstanding Limitation.—Limits the total outstanding debt guaranteed under the program to \$1 billion.

(4) Fiscal Year Limitations on Tribes.—In the event that 50 percent of the annual debt limitation has been reached, allows the Secretary to (A) impose limitations on the size of individual guarantees to \$25 million or (B) request additional borrowing authority from the Congress.

(i) Report.—Requires the Secretary to submit a report on the effectiveness of the program four years after enactment of the program.

(j) Termination.—Terminates the authority for new guarantees on October 1, 2012.