

110TH CONGRESS  
1ST SESSION

# H. R. 3349

To authorize the Alaska Native Self-Governance in Housing Demonstration Program.

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IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2007

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To authorize the Alaska Native Self-Governance in Housing Demonstration Program.

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.**

4 This Act may be cited as the “Alaska Native Self-  
5 Governance in Housing Demonstration Program Act”.

6 **SEC. 2. DEMONSTRATION PROGRAM.**

7 The Native American Housing Assistance and Self-  
8 Determination Act of 1996 is amended by striking section  
9 107 (25 U.S.C. 4101 et seq.) and inserting the following:

1 **“SEC. 107. DEMONSTRATION PROGRAM IN ALASKA.**

2 “(a) DEFINITIONS.—For purposes of this section:

3 “(1) The term ‘affordable housing activities’  
4 means housing activities identified by the participant  
5 under subsection (j) of this section.

6 “(2) The term ‘Alaska housing area’ means the  
7 NAHASDA service area for each eligible participant.

8 “(3) The term ‘demonstration program’ means  
9 the Alaska Native Housing Assistance Demonstra-  
10 tion Program established by this section.

11 “(4) The term ‘eligible tribal organization’  
12 means those regional housing entities established  
13 pursuant to Alaska Statute (A.S. 18.55.996) that  
14 are current recipients of funding pursuant to section  
15 101 of this Act.

16 “(5) The term ‘NAHASDA’ means the Native  
17 American Housing Assistance and Self-Determina-  
18 tion Act of 1996.

19 “(6) The term ‘participant’ means any eligible  
20 tribal organization that has timely elected to partici-  
21 pate in the demonstration program for the fiscal  
22 year.

23 “(b) ESTABLISHMENT.—The Secretary shall estab-  
24 lish and implement a five-year demonstration program in  
25 accordance with the provisions of this section. The pro-  
26 gram shall commence for fiscal year 2008. In the event

1 that the demonstration program is not reauthorized after  
2 fiscal year 2012, participants in the program shall be  
3 transitioned back to the block grant program established  
4 under section 101. Eligible tribal organizations that  
5 choose not to participate in the demonstration program  
6 shall remain fully eligible as block grant recipients under  
7 section 101 of this Act.

8       “(c) ELIGIBLE TRIBAL ORGANIZATIONS.—Eligible  
9 tribal organizations that elect to participate in the dem-  
10 onstration program for a fiscal year, and Alaska tribes  
11 that either utilized the participant as their tribally des-  
12 ignated housing entity on the effective date of this section  
13 or elect to participate in the demonstration program  
14 through the participant under subsection (f), may not be  
15 a recipient of block grant funding under section 101 of  
16 this Act for that fiscal year.

17       “(d) DEADLINE FOR ELECTION.—An eligible tribal  
18 organization desiring to participate in the demonstration  
19 program for a fiscal year shall notify the Secretary of its  
20 intent to participate within 60 days of the commencement  
21 of each fiscal year; except that all designations shall be  
22 made before the beginning of the fourth year of the pro-  
23 gram and for fiscal year 2008, the designation may be  
24 made no later than October 1, 2007.

1       “(e) ANNUAL FUNDING AGREEMENTS.—The Sec-  
2 retary shall on an annual basis enter into individual An-  
3 nual Funding Agreements with each eligible participant,  
4 which agreements shall—

5           “(1) set forth the general terms and conditions  
6 which shall be applicable to all participating entities,  
7 and those which may be negotiated on an individual  
8 basis pursuant to the authority provided under this  
9 section;

10          “(2) specify the funding amounts to be provided  
11 to each participant, which amounts shall, consistent  
12 with the United States laws and trust relationship to  
13 and for Indian people, provide an annual base fund-  
14 ing amount which shall be equal to that which each  
15 participating entity would have otherwise received in  
16 the year this section is enacted, pursuant to the sec-  
17 tion 101;

18          “(3) provide that in each subsequent fiscal  
19 year, such individual base amounts as proportionate  
20 totals of the Alaska statewide total, shall only be ad-  
21 justed based on overall national congressional in-  
22 creases to the NAHASDA block grant program or  
23 general rescissions;

24          “(4) provide that in the event of overall in-  
25 creases to the NAHASDA block grant at the na-

1 tional level, Demonstration Program participants  
2 shall collectively be entitled to a proportionate  
3 amount from the national total based on the propor-  
4 tionate NAHASDA formula allocation percentage of  
5 the total Alaska allocation relative to the national  
6 pool at the time of the enactment of this section;

7 “(5) provide that, consistent with existing law,  
8 each agreement entered into hereunder shall specify  
9 the amount of funding designated as Current As-  
10 sisted Stock funding and ‘Needs’ funding; and

11 “(6) provide that to the extent that affordable  
12 housing activities carried out by a participant under  
13 this Act reduce administrative or other responsibil-  
14 ities of the Secretary and result in savings that have  
15 not otherwise been included in an Annual Funding  
16 Agreement, the Secretary shall make such savings  
17 available for the provision of additional services to  
18 program beneficiaries in a manner that is equitable  
19 for beneficiaries receiving services under the provi-  
20 sions of this Act as well as those who continue to  
21 receive services under NAHASDA; such identified  
22 savings, if any, as well as any funding made avail-  
23 able pursuant to paragraph (3), shall be distributed  
24 to participants pursuant to a negotiated formula al-  
25 location methodology to be mutually negotiated by

1 the participants and the Secretary through the nego-  
2 tiated rulemaking process provided for in subsection  
3 (m).

4 “(f) ADDITIONAL BASE AMOUNT INCLUSIONS; TRIB-  
5 AL ELECTION.—Any Alaska tribe within a participant’s  
6 housing area that did not utilize that participant as its  
7 tribally designated housing entity on the effective date of  
8 this section may designate that participant as its tribally  
9 designated housing entity, and, upon designation, that  
10 participant’s base amount under subsection (e)(2) shall be  
11 credited with an amount equal to the amount of funding  
12 received by the designating tribe under section 101 for the  
13 fiscal year in which the designation is made. Any designa-  
14 tion made under this subsection shall be provided to the  
15 Secretary in writing no later than 90 days prior to the  
16 commencement of the fiscal year in which the designation  
17 will take effect, and must be made no later than July 1,  
18 2011; except that for fiscal year 2008, the designation  
19 may be made no later than October 1, 2008.

20 “(g) PARTICIPANT BUDGETARY AUTHORITY.—Sub-  
21 ject to the limitations of subsection (k) participants may  
22 expend funds awarded under this section on affordable  
23 housing activities and the cost of administering the dem-  
24 onstration project in the participant’s housing area based  
25 solely on the internal budgeting approval processes estab-

1 lished by the governing board of each participating entity.  
2 Secretary may not require review or approval of any par-  
3 ticipant's budget allocation or reallocation.

4       “(h) CARRYFORWARD OF FUNDS; PROGRAM IN-  
5 COME.—Notwithstanding any other provision of law, fund-  
6 ing provided to a participant under this section for any  
7 fiscal year, which are not obligated or expended prior to  
8 the beginning of the next subsequent fiscal year shall re-  
9 main available for obligation or expenditure during such  
10 subsequent fiscal year and thereafter until obligated or ex-  
11 pended and accounted for in the annual single audit re-  
12 quired of each participant pursuant to subsection (l). A  
13 participant may retain any program income that is real-  
14 ized from any amounts received under this section, and  
15 no awards under this section may be reduced on account  
16 of the realization of any such income.

17       “(i) GENERAL ADMINISTRATIVE PROVISIONS.—

18               “(1) FEDERAL SUPPLY SOURCES.—For pur-  
19 poses of section 201(a) of the Federal Property and  
20 Administrative Services Act of 1949 (40 U.S.C.  
21 481(a)) (relating to Federal sources of supply, in-  
22 cluding lodging providers, airlines and other trans-  
23 portation providers), a participant shall be deemed  
24 an executive agency when carrying out programs,  
25 services, functions and activities under this section

1 and participant and its employees shall be eligible to  
2 have access to such sources of supply on the same  
3 basis as employees of an executive agency.

4 “(2) MATCHING FUNDS.—Notwithstanding any  
5 other provision of law, a participant may use funds  
6 provided under this section to meet matching or cost  
7 participation requirements under any other federal  
8 or non-federal program, and funds provided under  
9 this section shall be considered non-Federal funds.

10 “(3) AUTHORITY OF TRIBALLY DESIGNATED  
11 HOUSING ENTITIES.—Unless otherwise limited by  
12 tribal resolution, tribally designated housing entities  
13 shall be authorized, on behalf of their respective des-  
14 ignating tribes, to assume all duties, responsibilities  
15 and functions which are provided for under this Act  
16 and which may be lawfully delegated by such tribes.

17 “(j) ELIGIBLE USES OF FUNDS.—

18 “(1) ADMINISTRATION AND PLANNING.—Not  
19 more than 20 percent of any fiscal year award may  
20 be expended for demonstration project administra-  
21 tion and planning.

22 “(2) AFFORDABLE HOUSING ACTIVITIES.—Par-  
23 ticipants shall be authorized to develop or to support  
24 affordable housing for rental or homeownership, or

1 to provide housing services with respect to affordable  
2 housing, through the following activities:

3 “(A) INDIAN HOUSING ASSISTANCE.—The  
4 provision of any service or facility authorized  
5 for Indian tribes under paragraphs (1) through  
6 (6) of section 202.

7 “(B) MAINTENANCE AND MODERNIZA-  
8 TION.—The maintenance, operation and mod-  
9 ernization of affordable housing units con-  
10 structed with funds provided under this Act.

11 “(C) RENTAL VOUCHERS.—Notwith-  
12 standing any other provision of law, the  
13 issuance of rental assistance payments to a  
14 building owner, including facilities owned in  
15 whole or part by a participant, or to a tenant  
16 eligible to receive assistance under this Act  
17 shall not be considered a Federal award with  
18 respect to section 42 of the Internal Revenue  
19 Code, of 1986. Such rental assistance payments  
20 to either a building owner or tenant shall not  
21 affect the eligible basis of a qualified building  
22 for the taxable year and all succeeding taxable  
23 years.

24 “(D) HOUSING RELATED COMMUNITY DE-  
25 VELOPMENT.—The development of any facility,

1 community building, business, activity, or infra-  
2 structure that is necessary to the direct con-  
3 struction of affordable housing in the housing  
4 area, would help a participant reduce the cost  
5 of construction of affordable housing, or would  
6 otherwise promote the purposes of this Act.

7 “(E) OTHER ACTIVITIES.—Participants  
8 may negotiate with the Secretary to authorize  
9 expenditures for other programs and services  
10 that may best meet or support affordable hous-  
11 ing needs within their respective service areas.  
12 Any activities demonstrated to meet such needs  
13 that are designed to carry out the purposes of  
14 this Act, and not otherwise prohibited by law,  
15 shall be allowed by the Secretary to the max-  
16 imum extent possible.

17 “(k) BASE BUDGET REQUEST.—For fiscal years  
18 2009 through 2012, the Secretary shall identify, in the  
19 annual budget request by the President to the Congress  
20 under section 1105 of title 31, United States Code, a sepa-  
21 rate Alaska Native Housing Assistance Demonstration  
22 Program funding amount which shall be equal to the sum  
23 of the amounts received by participants in the previous  
24 fiscal year pursuant to the provisions of this section.

25 “(l) RECORDS AND MONITORING.—

1           “(1) MAINTENANCE OF RECORDS.—Each par-  
2           ticipant shall keep such records as the Secretary  
3           shall prescribe by regulation promulgated under sec-  
4           tions 552 and 553 of title 5, United State Code, in-  
5           cluding records which fully disclose—

6                   “(A) the amount and disposition by such  
7           participant of the proceeds of funds awarded  
8           under this section;

9                   “(B) the cost of the project or undertaking  
10          in connection with which such assistance is  
11          given or used;

12                   “(C) the amount of that portion of the cost  
13          of the project or undertaking supplied by other  
14          sources; and

15                   “(D) such other information as will facili-  
16          tate an effective audit as required by subsection  
17          (e) below.

18           “(2) ACCESS TO RECORDS.—The Comptroller  
19          General and the Secretary, or any of their duly au-  
20          thorized representatives, shall, until the expiration of  
21          the three-year period beginning upon the completion  
22          of the project undertaking referred to in the para-  
23          graph (1), have access (for the purpose of examina-  
24          tion) to any books, documents, papers, and records  
25          of participants which in the opinion of the Comp-

1 troller General or the Secretary may be related or  
2 pertinent to the grants, contracts, subcontracts, sub-  
3 funds, or transactions other by which funds may  
4 have been received or expended.

5 “(3) ACCESS BY INDIAN PEOPLE.—Each partici-  
6 ipant shall make such reports and information avail-  
7 able to the Alaska Native people served or rep-  
8 resented by such participant as and in a manner de-  
9 termined to be adequate by the Secretary.

10 “(4) REPAYMENT OF FUNDS UPON DISSOLU-  
11 TION.—If any participant is, for any reason, subject  
12 to dissolution, funds paid to the participant under  
13 this section and not expended or used for the pur-  
14 pose for which paid shall be repaid to the Treasury  
15 of the United States through the Secretary.

16 “(5) SINGLE AGENCY AUDIT.—All participants  
17 receiving awards under this section shall be subject  
18 to the reporting requirement of the Single Audit Act  
19 of 1984 (98 stat. 2327, 31 U.S.C. 7501 et. seq.). No  
20 other financial audit may be required by the Sec-  
21 retary relating to funds awarded under this section.  
22 In addition to the single-agency audit report require-  
23 ments, participants shall submit such additional in-  
24 formation concerning the programs, functions, serv-  
25 ices, or activities carried out pursuant to an agree-

1 ment under this section as participants may jointly  
2 negotiate with the Secretary pursuant to subsection  
3 (m).

4 “(m) REGULATIONS.—

5 “(1) NEGOTIATED RULEMAKING COMMITTEE.—

6 “(A) Notwithstanding sections 563(a) and  
7 565(a) of title 5, all regulations required under  
8 this section shall be issued according to a nego-  
9 tiated rulemaking procedure under subchapter  
10 III of chapter 5 of title 5, United States Code.

11 “(B) Final rules under this subsection  
12 shall be adopted and published by the Secretary  
13 not later than the expiration of the 18-month  
14 period beginning upon the date of the enact-  
15 ment of this section.

16 “(2) MEMBERSHIP.—A negotiated rulemaking  
17 committee established pursuant to this subsection  
18 shall have as its members only Federal and partici-  
19 pating entity representatives, a majority of whom  
20 shall be representatives of participating entities, with  
21 each entity entitled to appoint no more than two of-  
22 ficial representatives.

23 “(3) EFFECT.—Any lack of promulgated regu-  
24 lations shall not limit the effect or implementation  
25 of the provisions of this section. Regulations promul-

1 gated under section 106 shall not apply to partici-  
2 pants, except that participants may in their sole dis-  
3 cretion elect to include select provisions of such reg-  
4 ulations within an individual participant funding  
5 agreement.

6 “(n) REPLACEMENT OF PARTICIPANT.—

7 “(1) REPLACEMENT.—Notwithstanding any  
8 other provision of law, the Secretary may, only in  
9 the circumstances set forth in paragraph (2), replace  
10 the participant with another qualified participant ca-  
11 pable of servicing the housing area of the participant  
12 being investigated.

13 “(2) CONDITIONS OF REMOVAL.—The Secretary  
14 may replace the participant only upon a determina-  
15 tion by the Secretary, on the record after oppor-  
16 tunity for a hearing, that the participant has en-  
17 gaged in a pattern or practice of activities that con-  
18 stitutes substantial or willful noncompliance with the  
19 applicable requirements of this Act.

20 “(3) DURATION.—Any replacement participant  
21 under this subsection shall act as a participant only  
22 for a period that expires upon—

23 “(A) a date certain, which shall be speci-  
24 fied by the Secretary upon making the deter-  
25 mination under paragraph (2); or

1           “(B) the occurrence of specific conditions,  
2           which conditions shall be specified in written  
3           notice provided by the Secretary to the removed  
4           participant upon making the determination  
5           under paragraph (2).

6           “(o) APPLICABILITY OF OTHER LAWS.—

7           “(1) EFFECT OF OTHER LAWS.—The provisions  
8           of this section supersede any conflicting provisions of  
9           law (including any conflicting regulations) in effect  
10          at the time of the enactment of this section, and at  
11          the request of any participant, the Secretary is au-  
12          thorized to waive or repeal any regulation incon-  
13          sistent with the provisions of this section.

14          “(2) FACILITATION.—Except as otherwise pro-  
15          vided by law, the Secretary shall facilitate the imple-  
16          mentation of agreements entered into under this Act  
17          by interpreting, negotiating, and implementing each  
18          existing Federal law and regulation, and negotiating  
19          implementing regulations as required by subsection  
20          (m) that are similar in nature, purpose, and scope  
21          to agreements and regulations entered into pursuant  
22          to the self-determination and self-governance provi-  
23          sions of titles I, IV and V of the Indian Self-Deter-  
24          mination and Education Assistance Act of 1975 (25  
25          U.S.C. 450 et seq.). A participant may, at its discre-

1       tion, choose to identify and list in an Annual Fund-  
2       ing Agreement which, if any specific provisions of  
3       NAHASDA and its implementing regulations shall  
4       be applicable and deemed to be incorporated into the  
5       individual Annual Funding Agreement.

6       “(p) AUTHORIZATION OF APPROPRIATIONS FOR  
7       TRAINING AND TECHNICAL ASSISTANCE.—There are au-  
8       thorized to be appropriated \$500,000 for each of fiscal  
9       years 2008 through 2012 to an organization chartered  
10      under the laws of the State of Alaska representing Alaska  
11      Native housing interests to provide training and technical  
12      assistance to participants to facilitate the implementation  
13      of this section.”.

○