



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 21 1970

Dear Mr. Speaker:

Enclosed are three legislative proposals that are submitted as a part of the legislative package that were discussed by President Nixon in his message to the Congress on Indians on July 8, 1970.

We recommend that each of the proposals be referred to the appropriate committee for consideration and that they be enacted.

We will in the near future submit remaining proposals needed to fully implement the new Indian policy enunciated by the President in his message.

The Office of Management and Budget advises that the enactment of the proposed legislation would be in accord with the program of the President.

Sincerely yours,

Walter H. Hickel

Secretary of the Interior

Honorable John W. McCormack
Speaker of the House
of Representatives
Washington, D. C. 20515



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 21 1970

Dear Mr. Speaker:

Enclosed is a bill, "To provide for financing and economic development of Indians and Indian organizations, and for other purposes".

We recommend that the proposal be referred to the appropriate committee for consideration, and that it be enacted.

The enclosed proposal is similar to and in lieu of the provisions of the proposed "Indian Financing Act of 1969" submitted and recommended for enactment by letter of January 17, 1969, and which is now pending before the Congress as S. 918 and H.R. 6718. An explanation of the provisions of the bill also is enclosed.

The Office of Management and Budget advises that the enactment of the proposed legislation would be in accord with the program of the President.

Sincerely yours,

Walter D. Nickel
Secretary of the Interior

Honorable John W. McCormack
Speaker of the House of
Representatives
Washington, D.C. 20515

Enclosures

A B I L L

To provide for financing the economic development of Indians and Indian organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Financing Act of 1970".

DECLARATION OF POLICY

Sec. 2. It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources; where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities; and where they will be integrated socially, politically, and economically into American life.

DEFINITIONS

Sec. 3. For the purpose of this Act, the term--

- (a) "Secretary" means the Secretary of the Interior.
- (b) "Indian" means any Indian, Aleut or Eskimo having one-quarter or more degree of Indian, Aleut or Eskimo blood.
- (c) "Tribe" means any tribe, band, community, pueblo, or other group of Indians recognized by the United States.
- (d) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

TITLE I - INDIAN REVOLVING LOAN FUND

Sec. 101. In order to provide credit that is not available from private money markets, all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented, including sums received in settlement of debts of livestock pursuant to the Act of May 24, 1950 (64 Stat. 190), and sums collected in repayment of loans heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single revolving loan fund and shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians who are not members of or eligible for membership in an organization that is making loans to its members as well as for administrative expenses incurred in connection therewith.

Sec. 102. Loans may be made for any purpose that will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members, including loans by such organizations to other organizations and investments in other organizations regardless of whether they are organizations of Indians.

Sec. 103. Loans may be made only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants who in the opinion of the Secretary are unable to obtain financing from other sources on reasonable terms and conditions.

Indian tribes that have available funds on deposit in the United States Treasury or elsewhere, or funds accruing from income, shall be required to use their own funds before a loan may be made from the revolving loan fund.

Sec. 104. Loans shall be for terms that do not exceed thirty years and shall bear interest at (a) a rate determined by the Secretary of the Treasury taking into consideration the market yields on municipal bonds: Provided, That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose: Provided, That educational loans may provide for interest to be deferred while the borrower is in school or in the military service.

Sec. 105. The Secretary shall pay from the revolving loan fund into miscellaneous receipts of the Treasury, at the close of each fiscal year, interest on the amount of outstanding loans of the revolving loan fund. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

Sec. 106. The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore or hereafter made from the revolving loan fund established by this Title and its predecessor constituent funds which he determines to be uncollectible in whole or in part, or which is collectible only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States. He may also adjust, compromise subordinate, and modify the terms of any mortgage, lease, assignment, contract, agreement, and other document taken to secure such loans.

Sec. 107. The Secretary may sell to any person or entity any loan heretofore or hereafter made from the revolving loan fund established by this Title and its predecessor constituent funds and may guarantee any loan thus sold, subject to the same conditions, terms, and limitations of any loans guaranteed pursuant to Title II of this Act. The receipts from any such sale shall be deposited in the revolving loan fund and be available for other loans from such fund.

Sec. 108. Title to any land purchased by a tribe or by an individual Indian with loans made from the revolving loan fund may be taken in trust unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian that is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title

shall be taken in the name of the purchaser without any restriction on alienation, control or use. Title to any personal property purchased with a loan from the revolving loan fund shall be taken in the name of the purchaser.

Sec. 109. Title to property purchased with a loan from the revolving loan fund shall be pledged or mortgaged to the lender as security for the unpaid indebtedness to the lender, in such manner and upon such terms as may be prescribed by the Secretary: Provided, That this requirement may be waived or modified if the Secretary determines that the repayment of the loan is otherwise reasonably assured. Land purchased with a loan, title to which is taken in trust and pledged or mortgaged as security, shall be subject to foreclosure and sale, free of such trust or restrictions, in accordance with the laws of the State in which the land is located.

Sec. 110. Any organization receiving a loan from the revolving loan fund shall be required to assign to the United States as security for the loan all securities acquired in connection with the loans made to its members from such funds, unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured.

Sec. 111. A loan from the revolving loan fund that becomes delinquent and the interest thereon, may be collected by the Secretary from per capita payments or other distributions of tribal assets due the delinquent borrower, without prejudice to the right to foreclose

on the securities for the loan. If, during the period of repayment of any loan made under this section, a tribe is awarded a money judgment against the United States, and if the payment of any installment on a loan is in default, the installment(s) in default or the balance of the loan, in the discretion of the Secretary, shall be collected from the appropriation to satisfy the judgment insofar as the amount of the appropriation will cover the same.

Sec. 112. There is authorized to be appropriated, to provide capital and to restore any impairment of capital, for the revolving loan fund \$50,000,000 exclusive of prior authorizations and appropriations, or such other amount as may be provided in appropriation acts.

Sec. 113. The Secretary shall promulgate rules and regulations to carry out the provisions of this Title.

TITLE II - LOAN GUARANTY AND INSURANCE

Sec. 201. In order to provide access to private money sources that otherwise would not be available, the Secretary is authorized (a) to guarantee not to exceed 90 per centum of the unpaid principal and interest due on any loan made to an organization of Indians having a form of organization satisfactory to the Secretary, and to individual Indians who are not members of or eligible for membership in an organization that is making loans to its members; and (b) in lieu of such guaranty, to insure loans under an agreement approved by the Secretary whereby the lender will be reimbursed for losses in an

amount not to exceed 15 per centum of the aggregate of such loans made by it, but not to exceed 90 per centum of the loss on any one loan.

Sec. 202. The Secretary may, to the extent he deems consistent with the purposes of the program, fix such premium charges for the insurance and guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and deposit receipts from such charges in the Indian Loan Guaranty and Insurance Fund established pursuant to section 217(a) of this Title.

Sec. 203. Loans guaranteed or insured pursuant to this Title shall bear interest (exclusive of premium charges for insurance, and service charges, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable taking into consideration the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

Sec. 204. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary will issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed \$60,000. No loan in excess of \$60,000, or such lower amount as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary.

Sec. 205. Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

Sec. 206. Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954, shall not be eligible for guaranty or insurance hereunder.

Sec. 207. Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

Sec. 208. Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 206. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

Sec. 209. Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount

of loan to the value of the property; (b) maturity of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

Sec. 210. The maturity of any loan guaranteed or insured hereunder shall not exceed thirty years.

Sec. 211. In the event of a default of a loan guaranteed hereunder, the holder of the guaranty certificate may immediately notify the Secretary in writing of such default and the Secretary shall thereupon pay to such holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guaranty, and receive an assignment of the obligation and security. The Secretary may cancel the uncollectible portion of any obligation to which he has an assignment or a subrogated right under this section. Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

Sec. 212. When a lender suffers a loss on a loan insured hereunder, including accrued interest, a claim therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he will reimburse the lender therefor, and the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: Provided, That no reimbursement may be

made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: Provided further, That before any reimbursement is made, all reasonable collection efforts shall have been exhausted by the lender, and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectible portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

Sec. 213. Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: Provided, That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

Sec. 214. Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this Act and the amount of such guaranty or insurance: Provided, That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

Sec. 215. Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this Title may be taken in trust, unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian that is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser. Land purchased with a loan, title to which is taken in trust and pledged or mortgaged as security, shall be subject to foreclosure and sale, free of such trust or restrictions, in accordance with the laws of the State in which the land is located.

Sec. 216. The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this Title, and notwithstanding the provisions of any other laws, the Secretary may:

- (a) sue and be sued in his official capacity in any court of competent jurisdiction;
- (b) subject to the specific limitations in this Title, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan which has been guaranteed or insured hereunder;
- (c) pay, or compromise, any claim on, or arising because of any loan guaranty or insurance;
- (d) pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or right of redemption;
- (e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to the guaranty or insurance program authorized by this Title.

Sec. 217. (a) There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the "Fund") which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this Title. There are authorized to be appropriated to the Secretary such sums as may be necessary for the purpose of the Fund.

(b) The Secretary may use the Fund for the purpose of fulfilling the obligations with respect to loans guaranteed or insured under this Title, but the aggregate of such loans which are insured or guaranteed by the Secretary shall be limited to \$200,000,000 as authorized in appropriation Acts.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the Fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the Fund. Guaranteed or insured loans acquired with the Fund may be collected in accordance

with their terms or may be sold by the Secretary with or without guaranty or insurance thereof. The Secretary is authorized to make agreements with respect to servicing loans held, guaranteed or insured by him under this Title and purchasing such guaranteed or insured loans on such terms and conditions as he may prescribe.

- (d) If at any time the moneys in the fund are not sufficient to enable the Secretary to discharge his responsibility under any insurance or guaranty contract, the Secretary is authorized to issue notes to the Secretary of the Treasury in such amounts as may be necessary to discharge such responsibilities but only in such amounts as may be specified from time to time in appropriation Acts. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes issued by the Secretary to the Secretary of the Treasury shall constitute obligations of the Fund. The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to this subsection, as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued

under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

- (e) The Secretary may also utilize the Fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed or insured under this Title or held by the

Secretary, to acquire such security property at foreclosure sale or otherwise and to pay administrative expenses.

Sec. 218. The Secretary shall promulgate rules and regulations to carry out the provisions of this Title.

TITLE III - INTEREST SUBSIDIES AND ADMINISTRATIVE EXPENSES

Sec. 301. The Secretary is authorized to pay to the revolving fund established by section 101 interest subsidies in amounts which shall be equal to the difference between the amounts of interest paid to the Secretary of the Treasury pursuant to section 105 and the amounts of interest earned on direct loans pursuant to section 104.

Sec. 302. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed or insured under the provisions of Title II of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 104 of this Act.

Sec. 303. There is authorized to be appropriated to the Secretary such sums as may be needed (a) to carry out the provisions of sections 301 and 302, such sums to remain available until expended, and (b) for administrative expenses under this Act.

Explanation of a bill to provide for financing the economic development of Indians and Indian organizations to be cited as the "Indian Financing Act of 1970".

TITLE I

Section 101 makes the total revolving fund equally available to all Indians and Indian organizations, and resolves doubts as to the statutory authority to make loans to certain Indians and Indian organizations from part of the fund.

The revolving fund for loans was authorized by four main Acts: (a) the Indian Reorganization Act of June 18, 1934 (48 Stat. 986), as amended and supplemented; (b) the Oklahoma Welfare Act of June 26, 1936 (49 Stat. 1968); (c) the Navajo-Hopi Rehabilitation Act of April 19, 1950 (64 Stat. 44); and the Act of November 4, 1963 (77 Stat. 301), as amended, authorizing loans for expert assistance in connection with the preparation and trial of claims pending before the Indian Claims Commission. The Act of May 24, 1950 (64 Stat. 190), authorized the deposit in the revolving fund of moneys received in settlement of debts of livestock and from the sale of livestock. The livestock originated mainly in drouth relief purchases by the Department of Agriculture in 1934, and which were turned over to the Bureau of Indian Affairs to establish foundation herds for Indians. The livestock were loaned on a "repayment in kind" basis. The Act of June 28, 1941 (55 Stat. 316), provided that interest collections on loans be credited to the revolving fund.

Funds authorized by the IRA, supplemented by funds from livestock settlements, are the only moneys in the revolving loan fund available to Indians and Indian organizations for loans generally. Funds authorized by the OWA are available for loans only in the State of Oklahoma, exclusive of Osage County. Funds authorized by the Navajo-Hopi Rehabilitation Act are available only for loans to the Navajo and Hopi Tribes and their members. Funds authorized for loans for expert assistance may not be used for loans for any other purposes, and no change is contemplated in this authorization.

The authorizations and appropriations are summarized as follows:

	<u>Authorized</u>	<u>Total Appropriated</u>	<u>Authorizations Unappropriated</u>
Indian Reorganization Act	\$20,000,000	\$19,999,600	\$400
Oklahoma Welfare Act	2,000,000	2,000,000	-
Navajo-Hopi Rehabilitation Act	5,000,000	1,800,000	3,200,000
Expert Assistance	1,800,000	1,800,000	-
	<u>\$28,800,000</u>	<u>\$25,599,600</u>	<u>\$3,200,400</u>

Funds made available for loans through the Bureau of Indian Affairs never have been adequate. A survey conducted by the Civil Works Administration in 1935 estimated the Indian credit needs at \$65 million. The IRA and OWA authorized original amounts totaling \$12 million. Inadequate as this amount was, it took from 1934 until 1951 to obtain appropriations of the original authorizations. Not only have the appropriations been inadequate to meet Indian financing needs, but even the meagre appropriations made did not remain available for loans. Nearly \$4.1 million was spent for administrative expenses between 1936 and 1961 under Congressional authorizations. Of the amount appropriated, only \$21.5 million was available for loans. The following summarizes transactions from the revolving loan fund:

Appropriated to June 30, 1969		\$25,599,600
<u>Less:</u> Amount expended for administrative expenses		4,073,940
Appropriations available for loans		<u>21,525,660</u>
<u>Plus:</u> Interest collections	\$6,642,423	
Livestock settlements	<u>2,783,109</u>	<u>9,425,532</u>
Total available for loans		30,951,192
<u>Less:</u> Total amount loaned	66,678,111	
Total amount paid	<u>38,853,694</u>	<u>27,24,417</u>
Cash Balance June 30, 1969		<u>\$ 3,126,775</u>

The cash balance was available for loans as follows:

General Fund	\$1,088,446
Oklahoma	143,338
Navajo-Hopi	794,551
Expert Assistance	<u>1,100,440</u>
	\$3,126,775

The repayment record through June 30, 1969, follows:

Payments due	\$47,671,723
Payments made	38,853,694
Payments in transit	3,613
Payments extended	1,687,412
Amount cancelled	2,596,843
Payments delinquent	4,530,161

The fund had a surplus at the close of the fiscal year, calculated as follows:

Interest earned		\$8,090,261
Less: Cancellations - Principal	\$2,596,843	
Interest	570,248	
Allowance for Losses	<u>2,305,665</u>	<u>5,472,756</u>
Surplus		<u>\$2,617,505</u>

This section also authorizes the use of these funds to pay for the administrative expenses incurred under this Title.

Section 102 provides that loans may be made for any purposes that will promote Indian economic development, including loans for educational purposes. It also provides that loans may be made to Indian organizations to permit them to make loans to other organizations and to make investments in other organizations, regardless of whether the borrowing organizations are organizations of Indians. It is sometimes necessary and desirable for Tribes to make loans to private organizations in order to encourage such organizations to establish industries in localities where their operations will provide wage income for the Indians and promote their economic development. In other cases it may be necessary and desirable for Tribes to invest in industries being established on or near reservations, i.e., equity participation.

Section 103 makes policies which have long been followed on loans from the revolving loan fund a matter of law, i.e., loans may be approved only when there is a reasonable prospect of repayment; only to applicants unable to obtain financing from other sources on reasonable terms and conditions, i.e., Tribes unable to obtain necessary financing from customary sources including financing under Title II of the bill; and Tribes with funds of their own available. Such Tribes are required to use their own moneys before a loan from the revolving loan fund may be approved. At June 30, 1969, loans from the revolving fund for loans totaled \$25.3 million or 6.6 percent of total Indian

financing. Tribal funds in use totaled \$105.1 million or 27.4 percent of the total. This is indicative of the importance of tribal funds in Indian financing. Estimated financing by customary lenders totaled \$252.6 million or 66 percent of the total.

Section 104 places a maximum maturity of 30 years on loans. It also provides that loans shall bear interest at rates determined by the Secretary of the Treasury. It also authorizes the Secretary to add such additional charges as he determines to be consistent with the purpose of the program. Loans for educational purposes may bear no interest while the borrower is in school or in the military service.

Section 105 requires the Secretary to pay into the Treasury at the close of each fiscal year, interest on the amount of outstanding loans at the end of each fiscal year. The interest rate on payments to the Treasury are to be determined by the Secretary of the Treasury. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred also bear interest.

Section 106 authorizes the Secretary to cancel, compromise, adjust, or reduce the amount of any loan or any portion thereof, and to modify the terms of securing documents given for loans made from the revolving loan fund. This authority is essential for the efficient administration of the revolving loan fund. The existing authority of the Secretary pursuant to the Act of July 1, 1932 (47 Stat. 564), to " * * * adjust or eliminate reimbursable charges of the Government of the United States existing as debts against individual Indians or Tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made * * *" is inadequate. There is no authority to deal with the debts of some Indian organizations, which are neither "individual Indians or Tribes of Indians". Some organizations presently in existence are of a type that were not contemplated in 1932, i.e., incorporated cooperative and credit associations. The Secretary of Agriculture has authority under subtitle D of the Agricultural Act of 1961 (75 Stat. 312), to adjust loans by the Farmers Home Administration. The provisions of section 105 would give the Secretary of the Interior similar authority in connection with loans from the revolving loan fund.

Section 107 authorizes the Secretary to sell loans made from the revolving fund, and to guarantee the loans which are sold pursuant to

the provisions of Title II. Receipts from sales are to be deposited in the revolving fund and be available for further loans. This provision should help to maintain the revolving fund without additional appropriations.

Section 108 provides that the United States may take title to certain land in trust for the Tribe or individual Indian purchasing it with a loan from the revolving loan fund. However, title to personal property purchased with such funds must be taken in the name of the purchaser.

Section 109 requires that property purchased with loans from the revolving fund be pledged as security for loans, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured. It also provides that trust land purchased with and given as security for a loan shall be subject to foreclosure and sale in accordance with the laws of the State in which the land is located.

Section 110 requires that an organization receiving a loan from the revolving loan fund assign the securities it acquires with the loan to the United States as security for the loan, unless the Secretary determines that the repayment of the loan is otherwise reasonably assured. This section is applicable to loans by the United States to Indian organizations to enable them to relend money to their members.

Section 111 authorizes the Secretary to collect delinquent loans from per capita payments or other distributions of tribal assets. If a Tribe is awarded a money judgment against the United States, and is indebted for a loan, any installment of which is in default, the Secretary may, at his discretion, collect the delinquent installment or the balance of the loan from the appropriation to satisfy the judgment insofar as it will cover the delinquency.

Section 112 authorizes an additional appropriation of \$50 million for the revolving fund or such other amount as may be provided in appropriation acts. Present authorizations for the revolving loan fund (exclusive of the \$1,800,000 authorization for loans for expert assistance in connection with the preparation and trial of claims pending before the Indian Claims Commission, which is not being consolidated with the other authorizations) total \$27 million. The additional authorization will make the total authorization \$77 million.

Section 113 provides for the promulgation of regulations by the Secretary to carry out the provisions of the act.

TITLE II

Section 201 states the purpose of the bill, i.e., to provide access to money sources not otherwise available to Indians, Eskimos, and Aleuts (referred to in the bill as "Indians").

The total estimated financing of Indians has increased during the past five years as follows:

	<u>1965</u>		<u>1969</u>	
	<u>Amount</u> (Millions)	<u>Percent</u>	<u>Amount</u> (Millions)	<u>Percent</u>
Financing:				
By customary lenders	\$157.3	67.3	\$252.6	66.0
With tribal funds	52.7	22.5	105.1	27.4
With revolving funds	<u>23.7</u>	<u>10.2</u>	<u>25.3</u>	<u>6.6</u>
	<u>\$233.7</u>	<u>100.0</u>	<u>\$383.0</u>	<u>100.0</u>

Although impressive, the total is far from adequate to meet the need. Estimates of Indian financing requirements total more than \$1 billion. Indian economic development is handicapped by lack of adequate and dependable sources of financing.

The chief source of Indian financing is the same institutions that supply financing to other citizens and their organizations, both governmental and private. The major part of the increase shown above is in connection with the financing of individual Indians. Tribal and group financing from conventional sources are largely undeveloped.

The second main source of financing is the Indians own money, i.e., tribal funds.

The third main source is the revolving fund for loans discussed under Title I of the bill.

At the time of enactment of the IRA, few Indians were able to obtain financing from conventional sources. Many who were started in productive enterprises with loans from the revolving fund gradually progressed to the point where conventional lenders could be interested in financing them. Information on conventional financing was obtained for the first time in 1951, and showed a total volume of slightly over \$20 million. The growth to \$252.6 million would not have been possible if the revolving fund had not been available to get many Indians started in productive enterprises.

In spite of cancellations of \$2.6 million to June 30, 1969, and the establishment of an allowance for losses of \$2.3 million, the revolving fund had a surplus of \$2.6 million.

A Cabinet-level committee, chaired by the Director, Bureau of the Budget, established to scrutinize Federal credit programs, to re-appraise existing programs, and to evaluate new ones, in a task force report states:

"As a general rule, all new and existing credit programs should rely upon Federal insurance or guaranty of private financing rather than on direct Federal loans.

"(a) The insurance or guaranty should, if possible, be less than 100 percent. Some measure of risk should be left to private lenders through coinsurance to encourage careful underwriting of loans."

Title II of the proposed bill is in accordance with this provision. It will provide incentives to private lenders to increase financing of Indians. The bill is not the entire answer to Indian financing, as some requirements will remain that cannot be taken care of by private lenders even with loan guaranty or insurance incentives. The revolving fund for loans will continue to be needed to meet such needs. However, many of the financing requirements of Indians can be met under the loan guaranty and insurance provisions.

Section 201 authorizes the Secretary of the Interior to guarantee not to exceed 90 percent of any loan made to an Indian organization or to an individual Indian of one-quarter or more degree of Indian blood. In lieu of such guaranty it authorizes the Secretary to insure loans under an agreement whereby the lender will be reimbursed for loans up to 15 percent of the aggregate of loans made by it to an Indian organization or an individual Indian, but not to exceed 90 percent of the loss on any one loan.

The guaranty provision will apply on a loan by loan basis. It is anticipated that this authority will be utilized in financing the larger tribal enterprises and industries. The insurance provisions will apply to the aggregate of loans made by a particular lender, and will probably be used in financing individual Indians and small tribal enterprises and industries.

Section 202 authorizes the Secretary, to the extent he deems consistent with the purposes of the program, to fix such premium charges on guaranteed and insured loans as are, in his judgment, adequate to cover expenses and possible losses, and to deposit the receipts in the Indian Loan Guaranty and Insurance Fund established by section 217 of the bill.

Section 203 provides that guaranteed and insured loans shall bear interest at rates determined by the Secretary to be reasonable taking into consideration the interest rates prevailing in the private market for similar loans and the risk assumed by the United States.

Section 204 requires prior approval of loans to be guaranteed, and the issuance of a certificate of guaranty. It also places a ceiling of \$60,000 on loans to individuals which may be guaranteed or insured. This amount is consistent with loans by the Farmers Home Administration pursuant to the Agricultural Act of 1961 (75 Stat. 308). Insured loans to Indian organizations in excess of \$60,000, or such lower amount as the Secretary may determine to be appropriate, require Secretarial approval.

Section 205 permits lenders to sell or assign guaranteed loans they may have made. This provision should provide a lender with authority which may be needed in the event its financial condition should change after a guaranteed loan is made. Purchasers and assignees are restricted to financial institutions subject to examination and supervision by an Agency of the United States, or of any State or the District of Columbia.

Section 206 provides that loans by agencies or instrumentalities of the Federal Government shall not be eligible for guaranty and insurance. Otherwise, there could be situations where the Government was guaranteeing or insuring its own loans. Loans made by Indian organizations from funds borrowed from the United States also are not eligible for loan guaranty or insurance. It would not be proper for the Government to guarantee or insure loans made by an Indian organization from funds which the organization had borrowed from the United States. Loans by an Indian organization from its own funds to other Tribes or organizations of Indians would be eligible for guaranty or insurance. It also provides that obligations, the interest on which is non-taxable, shall not be eligible for either guaranty or insurance.

Section 207 restricts the insurance provisions to loans made by an institution subject to examination and supervision by an Agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other Tribes or organizations of Indians. The insurance provisions of the bill would not apply to loans to Indians by individuals.

Section 208 permits the guarantee of loans by any lender satisfactory to the Secretary, except as provided in section 206. This would include loans by individuals. It also provides for the liability under a guaranty to decrease or to increase pro rata with any increase or decrease in the amount of the unpaid portion of the obligation.

Section 209 permits certain financial institutions to utilize the guaranty provisions without regard to present legal restrictions.

Section 210 provides that the maturity of any guaranteed or insured loan may not exceed 30 years.

Section 211 provides that in the event of default on a guaranteed loan the lender will notify the Secretary in writing and receive payment of the pro rata portion of the amount guaranteed. The Secretary would be subrogated to the rights of the holder of the guaranty to the extent of the amount paid thereon, and receive an assignment of the obligation and security. The Secretary would then take such further collection action as might be warranted. The procedures in this section also permit forbearance for the benefit of a borrower, and permit establishment of a date upon which further interest charges on a loan shall cease. Provision also is made for the Secretary to cancel the uncollectible portion of any obligation to which he has an assignment or subjugated right.

Section 212 provides procedures to be followed in the event lenders suffer losses on insured loans. Before a lender is reimbursed under the insurance provisions, all reasonable collection efforts must have been exhausted, the security must have been liquidated, and the proceeds must have been applied on the debt. Upon reimbursement, the lender is required to assign the debt to the United States. The lender then has no further claim against either the borrower or the United States. The Secretary would then take such further collection action as might be warranted, or would cancel the uncollectible portion of the debt.

Section 213 authorizes the Secretary to take appropriate action should a lender or holder of a guaranty certificate fail to operate in accordance with accepted credit principles. The Secretary may, in his discretion, refuse to guarantee or insure further loans by such lender or guaranty certificate holder.

Section 214 includes provisions necessary for the effective administration of the act. Any guaranty certificate issued pursuant to section 204, or any loan insured pursuant to an agreement with a lender approved in accordance with section 201, shall be conclusive evidence that the loan was eligible for guaranty or insurance. The Secretary may, however, establish defenses based on fraud or material misrepresentation, and defenses as to the amount payable on the guaranty or insurance based on regulations.

Section 215 provides that the United States may take title to certain land in trust for the Tribe or individual Indian purchasing it with guaranteed or insured loan funds. However, title to personal property purchased with such funds must be taken in the name of the purchaser. It also provides that trust land purchased with and given as security for a guaranteed or insured loan shall be subject to foreclosure and sale in accordance with the laws of the State in which the land is located.

Section 216 provides certain authorities to enable the Secretary effectively to administer the provisions of the bill. These authorities are similar to those of the Administrator of the Veterans Administration authorized by section 509 of the Servicemen's Readjustment Act (38 U.S.C. 1820(a) - (c)). These authorities will permit the Secretary to readjust interest rates, time of payments, etc., in order to carry out the purposes of loan guaranty and insurance.

Section 217 authorizes the establishment of an "Indian Loan Guaranty and Insurance Fund" for loan guaranty and insurance operations and for the purchase of loans guaranteed or insured. A limitation of \$200,000,000 is placed on the amount of guaranteed and insured loans by the Secretary, that may be outstanding at any one time.

This section also defines as to what shall constitute the assets and liabilities of such a fund. Subsection (c) authorizes the Secretary to make agreements with respect for servicing insured or guaranteed loans and for the purchase of such loans. Subsection (d) authorizes the Secretary to borrow money from the Treasury on a short-term basis to meet obligations of the fund whenever the \$200,000,000 is fully committed. Subsection (e) authorizes the Secretary to make disbursements from the fund to protect the United States interest as may be necessary and to pay administrative expenses.


Section 218 provides for the promulgation of regulations by the Secretary to carry out the provisions of the act.

TITLE III

Section 301 authorizes the Secretary to pay to the revolving fund established by section 101 a subsidy to reimburse the fund to an amount equal to the difference between the interest paid the Secretary of the Treasury pursuant to section 105 and the interest earned on loans pursuant to section 104.

Section 302 authorizes the Secretary to provide a subsidy to the borrower to meet interest payments on loans insured or guaranteed under Title II of the act. The subsidy shall not exceed the difference between the prevailing private rates for loans having comparable maturities and the rate payable by borrowers pursuant to section 104 of the act. This section also provides for promulgation of regulations by the Secretary to carry out the provisions of the act.

Section 303 authorizes the appropriation of funds, in annual budgets, as may be needed to carry out the provisions of section 301 and 302. It also authorizes appropriations, in annual budget requests, to meet the administrative expenses under the act.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 2 / 1970

Dear Mr. Speaker:

Enclosed is a proposal "To establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for consideration, and that it be enacted.

This proposal provides for the creation of a new Assistant Secretary in the Department of the Interior who will be appointed by the President with the advice and consent of the Senate. He will have responsibility for those duties assigned to him by the Secretary of the Interior and shall be paid at the same rate as the other Assistant Secretaries of the Department of the Interior. The proposal also amends section 5313 of title 5, United States Code, by increasing the number of Assistant Secretaries provided for the Department of the Interior from 5 to 6. This new Assistant Secretary is needed in the Department of the Interior to help guide the implementation of a new National policy concerning American Indians that President Nixon sent to the Congress in his statement of July 8, 1970.

In keeping with this new policy and the implementation of it, the new Assistant Secretary will be assigned the duties of supervising the Bureau of Indian Affairs and the Office of Territories by the Secretary of the Interior and will be given the title of Assistant Secretary of Indian and Territorial Affairs.

We believe that this new position will raise the areas of Indian and territorial responsibility to their proper role within the Department. The Indians and the people of the territories will no longer have to compete with the land and other natural resource problems for attention as they now do in the day-to-day operation of the Department. This will allow one man to focus his full time and attention on the unique problems and concerns of these people. He will be able to work with the Indians and

the people of the territories to bring them into full enjoyment of the fruits of our Nation as equal partners. He will assist in the development of the full potential of these people, both for their own and the Nation's benefit.

In the area of Indian responsibility, this position will play a key role in carrying out the new, enlightened policy of the President toward our Indian people as it is implemented in the years ahead.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

Walter Nickel
Secretary of the Interior

Honorable John W. McCormack
Speaker, House of Representatives
Washington, D. C. 20515


Enclosure

A B I L L

To establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be hereafter in the Department of the Interior, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of the Interior, who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

SEC. 2. Section 5313, title 5, United States Code, is amended by striking the figure "(5)" at the end of item (18) and by inserting in lieu thereof the figure "(6)".



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 21 1970

Dear Mr. Speaker:

Enclosed is our proposal "To amend certain laws relating to Indians."

We recommend that the proposal be referred to the appropriate committee for consideration, and that it be enacted.

Section 1 of the proposal provides that the Secretary of the Interior may impound any livestock trespassing on any trust or restricted land, with notice of such impoundment being given as prescribed by regulations of the Secretary. The owner of any impounded livestock may claim the impounded animal within the time specified in the notice upon the payment of \$5 per day for each impounded animal and the reasonable value of forage consumed by the impounded animal. If an animal is not claimed within the time specified in the notice, the animal may be sold and the net proceeds of the sale, after the payment of necessary expenses and the deduction of the \$5 per day fee and reasonable forage charges, shall be paid to the owner of the animal upon satisfactory proof of ownership submitted within six months of the date of the sale.

The proposal provides that the \$5 per day per animal fee and reasonable forage charges, and the net proceeds of the sale of an animal not paid to the owner, shall be deposited in the Treasury to the credit of the tribe or to the individual Indian, depending upon whether tribal or individually owned land is involved. Further, the proposal provides that any unbranded livestock over one year of age found running at large on trust or restricted land will be presumed to be in trespass and shall come under the provisions of the proposal.

Section 2 of the proposal authorizes Indian tribal governments to enact laws and ordinances relating to the issuance of trader licenses on their reservation. It then provides that when such laws and ordinances have been enacted, certain existing statutes relating to trading on Indian reservations will no longer apply.

Section 3 of the proposal repeals several statutes or parts of statutes.

Section 1 of the proposal replaces section 2117 of the Revised Statutes (25 U.S.C. 179), which is repealed by paragraph (1) of section 3 of this proposal. Section 2117 of the Revised Statutes provided for a fee of \$1 per head for cattle driven on or otherwise conveyed on Indian land. This provision was not adequate in that the fee was too low in most instances to really protect Indian land from trespass by livestock. Section 1 of the proposal sets a fee high enough for livestock trespass so as to penalize those who let their cattle trespass on Indian land. Further, the section provides a clear standard as to what constitutes trespassing livestock and the procedure to be followed in dealing with them. This provision will protect trust and restricted land from trespass by outsiders livestock.

Section 2 of the proposal gives any tribe who wishes to assume it, control of those doing business on its reservation. The Federal statutes concerning licensing of Indian traders originated in the late 1800's and the early 1900's. At that time in history, there was a definite need for governmental control over the business activities, prices, and practices of Indian traders, who generally were the sole business supply source available to reservation Indians. This situation does not exist today on a great majority of Indian reservations.

Today, Indian traders no longer have a monopoly on trade in the Indian country. The mobility of Indians through modern means of transportation, better reservation roads, and other related developments within the reservation removes the need for strict Federal regulation of traders. The great majority of Indian traders now find that they are forced to compete in the matter of prices and quality of goods with other shops and businesses located on the reservation and with those located in communities and cities adjacent to the reservations.

There are still a limited number of reservations, where primarily because of isolation, Indians remain somewhat dependent upon the Indian trader. It is for this reason, and the need to place with tribal governments responsibility for final determination on the continued application of these statutes or their own laws and ordinances to the reservation, that we are recommending amendment of the statutes rather than outright repeal.

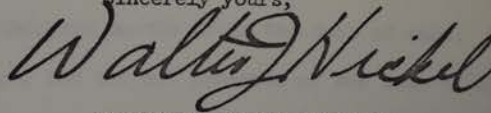
There are a number of tribes that have already adopted ordinances establishing tribal regulations concerning the imposition of tribal licenses, fees, taxes, and other facets of business activities located on their land. We believe this is an area of responsibility that should be controlled locally by the tribes rather than by Federal statutes and regulation. Section 2 of our proposal extends that area of responsibility to those tribes that wish to accept it.

All of the paragraphs of section 3 except for paragraph (1) repeal statutes dealing with trading between Indians and employees of the Federal Government, particularly those employed in the Indian Service. These statutes were once needed because of the undue influence that government employees in the Indian Service could exercise over Indians. We feel that there are other safeguards today and these statutes are no longer needed.

Paragraph (1) of section 3 repeals the old livestock trespass statute.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,



Secretary of the Interior

Hon. John W. McCormack
Speaker, House of
Representatives
Washington, D.C. 20515

Enclosure

A B I L L

To amend certain laws relating to Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any livestock trespassing on any trust or restricted land may be impounded by the Secretary of the Interior. Notice of the impoundment shall be given as prescribed by regulation of the Secretary. Any animal impounded may be claimed by the owner within the time specified in the notice, upon payment of \$5 per day for each animal impounded and the reasonable value of the forage consumed. An animal not so claimed shall be sold and the net proceeds thereof, after payment of all necessary expenses, and the deduction of the \$5 per day and forage charge, shall be paid to the owner if claim and proof of ownership satisfactory to the Secretary are submitted within six months after the date of sale. The \$5 per day and forage charge, and the net proceeds of the sale if not paid to the owner of the animal, shall be deposited in the Treasury of the United States to the credit of the tribe, if tribal land is involved, or paid to the individual Indian owners, if individually owned land is involved. Any unbranded livestock over one year of age found running at large on trust or restricted land may be presumed to be in trespass and shall be subject to the provisions of this section.

SEC. 2. Indian tribal governments may enact laws and ordinances relating to the issuance of traders licenses on their particular reservations. When a tribe has enacted such laws and ordinances, if it is so provided therein, the following Federal statutes relating to traders licenses shall be inoperative as to that particular reservation: section 5 of the Act of August 15, 1876 (19 Stat. 200; 25 U.S.C. 261); section 1 of the Act of March 3, 1901, and section 10 of the Act of March 3, 1903 (31 Stat. 1066; 32 Stat. 1009; 25 U.S.C. 262); section 2132 of the Revised Statutes (25 U.S.C. 263, section 3 of the Act of June 30, 1834 (4 Stat. 729)); section 2133 of the Revised Statutes (25 U.S.C. 264, section 4 of the Act of June 30, 1834 (4 Stat. 729)).

SEC. 3. The following statutes or parts of statutes are hereby repealed:

(1) Section 2117 of the Revised Statutes, as amended, (25 U.S.C. 179).

(2) Section 2078 of the Revised Statutes (25 U.S.C. 68) and section 14 of the Act of June 30, 1834 (4 Stat. 738).

(3) Section 437 of title 18, United States Code, (62 Stat. 703).

(4) The Act of June 18, 1939 (ch. 210, 53 Stat. 840) (25 U.S.C. 68a, 87a).