

# Legislative accomplishments: Native Hawaiian accomplishments, miscellaneous

Daniel K. Inouye Papers

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Misc. Native Hms.

M E M O R A N D U M

TO: SENATOR

DATE: August 5, 1988

FROM: Esther

RE: NATIVE HAWAIIAN ISSUES APPROPRIATIONS

Alcohol, Drug Abuse and Mental Health Administration:

Fiscal Year 1989 - Appropriations Bill

\* Sen. Rpt. 100-399 Appropriations Bill

Mental Health Research: The Committee has included \$750,000 to establish a native Hawaiian mental health research and training center. Priority should be given to a center that can demonstrate the active participation of native Hawaiians in its research activities. An NIMH-sponsored report found that in comparison with statewide Population estimates, native Hawaiians have a higher incidence of antisocial behaviors, including a higher proportion of assaultive acts; a higher rate of suicide among young adult and elderly males; a higher rate of child abuse and neglect; and other indicators of high stress. Further, there are very few native Hawaiian mental health professionals of any discipline, and those mental health services that so exist are not sensitive to the uniqueness of the native Hawaiian culture. The research and training center would conduct epidemiological and clinical research and train researchers and mental health service providers (p.156).

\* House Rpt. 100-689 Appropriations Bill

Native Hawaiians: The Department of Health and Human Services has reported that Native Hawaiians have significantly more serious mental health problems than the average resident of the State of Hawaii, particularly in the areas of suicide, alcohol and drug abuse, crime, child abuse, school adjustment problems and certain mental illnesses. The Committee is aware that NIMH has received requests for assistance in the development of Native Hawaiian mental health services research and is pleased to learn of the Institute's progress in this area.

Fiscal Year 1988

Sen. Rpt. 100-189 Appropriation

DEPT OF ED-Drug Free Schools and Communities

National programs: The Drug-Free Schools and Communities National Programs distributes funds through discretionary grants and contracts. These funds are to be used for audiovisual projects, programs for students in institutions of higher education, training and curriculum development, programs for Indian youths, programs for Hawaiian natives, and Federal activities.

Office of Assistant Secretary for Health

Minority Health: The Office of Minority Health was created from the Secretary's Task Force on Black and Minority Health which documented over 60,000 excess deaths per year among Asian/Pacific Islanders, Blacks, Hispanics, and native Americans. The task force identified six causes that contribute to 80 percent of those excess deaths: cancer, cardiovascular disease and stroke, chemical dependency, diabetes, violence, and infant mortality.

Fiscal Year 1987

Sen. Rpt. 99-408 Appropriation

Mental Health Research: Equally pressing are the needs of minorities including native Americans. The pressing mental health needs of native Hawaiians, for example, were the subject of a recent comprehensive report to the Congress by the U.S. Public Health Service (p.122).

Fiscal Year 1986

Sen. Rpt. 99-151 Appropriation

The Committee reiterates its directive that NIAAA give special attention to the pressing needs of native Hawaiians. These are native American peoples and, as such there is a special Federal responsibility involved. The Committee has made sufficient funds available for NIAAA to support research projects addressing the unique situation surrounding native Hawaiians (p.123).

### Fiscal Year 1985

#### Sen. Rpt. 98-544 Appropriation

Alcoholism Research: The Committee notes that it, as well as the authorizing committee, have had a longstanding concern that NIAAA give priority to funding a project addressing the pressing needs of Native Hawaiians. Yet, this has not occurred. Accordingly, the Committee anticipates that funds will be allocated for this purpose from the research increase provided for projects. The Committee believes that a special and separate request for proposals can be issued in this area. The Committee expects a report from NIAAA by January 1, 1985, on its actions to implement this objective (p.117).

### Fiscal Year 1984

#### Sen Rpt. 98-477 Authorization (Deleted in Conference)

"Native Hawaiians and Native American Pacific Islanders" were expressly included in listing of Alcohol and Drug Abuse populations to receive "special consideration" as underserved population.

#### Sen. Rpt. 98-570 Authorization

During the Committee's recent hearings in Honolulu, a very compelling case was made for targeting additional Federal support specifically toward the pressing needs of our Nation's Native Hawaiians. These Native American peoples have the highest incidence of cancer in our Nation; 40 percent of all Hawaiian women giving birth have no prenatal care or care beginning after the first 3 months; 30 percent of all premature births in Hawaii are Native Hawaiian; major alcoholism and adolescent suicide problems exist (p.63).

### Fiscal Year 1983

#### Sen. Rpt. 98-29 Authorization

The Committee bill expressly provides that Native Hawaiians should be considered Native Americans for all purposes under this Act. In Hawaii, Native Hawaiians constitute 22.6 percent of the State's population in need of alcohol treatment services, but only 7 percent of these individuals are actually being served. Accordingly, it is appropriate that demonstration projects aimed at Native Hawaiians be given special consideration. For this reason, the Committee bill specifically designates in all sections of the law relating to Native Americans that the definition of Native Americans includes Native Hawaiians (p. 16).

The Secretary shall encourage the submission of and give special consideration to Americans (including Native Hawaiians and Native American Pacific Islanders), youth, the elderly, women, handicapped individuals, public inebriates, and families of alcoholics (pp. 54-55).

The Secretary shall encourage the submission of and give special consideration to applications under this section to programs and projects aimed at underserved populations such as racial and ethnic minorities, Native Americans (including Native Hawaiians and Native American Pacific Islanders), youth, the elderly, women, handicapped individuals, and families of drug abusers (p.67).

# FEDERAL PROGRAMS AND ACTS BENEFITTING NATIVE HAWAIIANS<sup>1</sup>

## I. EDUCATIONAL PROVISIONS

### A. *National Science, Engineering and Mathematics Authorization Act of 1986* (*Pub.Law 99-159, approved 11/22/85*)

This act established the applicability of public library provisions to Native Hawaiian programs and authorized contracts to provide public library services to Native Hawaiians.

### B. *Higher Education Technical Amendments Act of 1987* (*Pub.Law 100-50, approved 6/3/87*)

The Secretary of Education, in its grant application review process, shall take care to including as readers representatives of historically and predominantly minority colleges, including institutions with substantial numbers of students who are Native American Pacific Islander (including Native Hawaiians).

### C. *National Science Foundation University Infrastructure Act of 1988* (*Pub.Law 100-418, approved 8/23/88*)

Section 6402 of this act provides that at least 10 percent of the funds appropriated for the National Science Foundation Academic Research Facilities Modernization Program be reserved for institutions of higher education servicing a substantial percentage of minority students, including Native Hawaiians.

### D. *Hawkins-Stafford Elementary and Secondary Education Improvement Act* (*Pub.Law 100-297 (1988)*)

#### (1) Title I, Basic Requirements, Subtitle V, Drug Education

Secretary of Education can make grants to organizations that primarily serve or represent Native Hawaiians.

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<sup>1</sup> Some of this information was derived from MacKenzie, NATIVE HAWAIIAN RIGHTS HANDBOOK (1991). The remaining information was obtained from Legi-Slate and is current through February, 1992.

(2) Title IV. Education for Native Hawaiians

As a result of a study showing that Native Hawaiians performed poorly in schools, Title IV was enacted to develop supplemental educational programs to benefit Native Hawaiians. These programs include:

- (a) Native Hawaiian Model Curriculum;
- (b) Native Hawaiian Family-Based Education;
- (c) Native Hawaiian Higher Education Demonstration Program;
- (d) Native Hawaiian Gifted and Talented Demonstration Program; and
- (e) Native Hawaiian Special Education Program.

*E. Library Service and Construction Act (20 USC §351 (1988))*

Provides for Secretary of Education to authorize to make grants to organizations that primarily serve or represent Native Hawaiians. Funds may be used for training and salaries of Native Hawaiian library personnel; library materials; conducting special library programs for Native Hawaiians; constructing, renovating, purchasing, or remodeling library facilities; transportation for Native Hawaiians to access library services; disseminating information; and assessing Native Hawaiian library needs.

*F. Carl D. Perkins Vocational and Applied Technological Education Act Amendments of 1990, Authorization and Appropriations (Pub.Law 101-392, approved 9/25/90)*

1.5% of the total budget shall be available to carry out provisions relating to Indian and Native Hawaiian programs.

II. EMPLOYMENT TRAINING AND EMPLOYMENT PROVISIONS

A. Vocational Training

*(1) Vocational Education (20 USC §2301 et. seq.)*

The Secretary of Education is directed to enter into contracts with organizations primarily serving and representing Native Hawaiians in order to improve vocational education programs directed at inadequately served or disadvantaged individuals and assisting the economically depressed areas of a state.



(2) *Job Training Partnership Act (29 USC §1501 et. seq.)*

Indian and Native American Employment and Training Programs receive funding under the JTPA. This program provides employment, training and related services to Indians and Native Americans (including Native Hawaiians) who are unemployed, underemployed or economically disadvantaged. It is administered nationally by the Department of Labor's Division of Indian and Native American Programs in the Employment and Training Administration, which gives annual grants to about 182 organizations.

In addition, Native Hawaiian organizations are eligible to receive funds for title II-B summer youth programs under JTPA.

B. Employment Preferences

(1) *Kaloko-Honokohau National Historic Park (Pub.Law 95-625)*

The Act directs the Secretary of Interior to employ Native Hawaiians within the park. The Secretary also appoints a 9 member Advisory Committee to advise the National Park Service on park matters. At least 6 of the members must be Native Hawaiian.

(2) *Kalaupapa National Historical Park (Pub.Law 96-565, 94 STAT. 3321. approved 12/22/80)*

Congress intended that Kalaupapa patients and Native Hawaiians manage the settlement. Patients are allowed to hunt and fish within the park without regarding to federal fish and game laws. Patients and Native Hawaiians receive preference in appointments to positions established for the administration of the park. They are also provided with training opportunities to develop the skills necessary to qualify for such positions, but for Native Hawaiians to qualify, they must be at least 50% Hawaiian. The park also has an advisory commission consisting of 11 members, of which 4 must be Native Hawaiian. 16 USC §410jj et seq.

### III. ECONOMIC OPPORTUNITY

A. *Economic Opportunity Program, Native American Program Act (24 USC §2701 et. seq. (1986))*

In order to promote the goal of economic self sufficiency for Native Americans, including Native Hawaiians, the Secretary of Health and Human Services is authorized to provide financial assistance to public and nonprofit private agencies serving Native Hawaiians. A grant shall be used to carry out a five year demonstration project which shall establish a loan fund to make loans to Native Hawaiian organizations or individuals for the purpose of promoting economic development in Hawai'i.

B. *Small Business Act (15 USC §637(a)(15))*

The term "socially and economically disadvantaged small business concern" may now include an economically disadvantaged Native Hawaiian organization.

### III. HOUSING PROVISIONS

A. *National Housing Act (12 USC §1701 et. seq. (1988))*

Section 247 of the National Housing Act creates a General Insurance Fund which may be used by Housing and Urban Development to insure qualifying single-family mortgages on Hawaiian Home Lands.

B. *Indian Housing Act of 1988 (Pub.Law 100-358)*

This act provides that in an Annual Report there is an assessment of the housing needs of native Hawaiians and an evaluation of Federal programs designed to meet the needs, including programs of housing assistance for lower income families and the program of single-family mortgage insurance for Native Hawaiians.

C. *Department of Housing and Urban Development Reform Act of 1989 (Pub.Law 101-235, approved 12/15/89)*

Title VI of this Act establishes a National Commission on Native American, Alaska Native and Native Hawaiian Housing. This Commission shall include two (2) Native Hawaiians familiar with Hawaiian Home Lands housing programs. The Commission shall evaluate current problems, assess alternative strategies and specify objectives for the development and improvement of safe and affordable housing for American Indians, Alaska Natives and Native Hawaiians.

*D. Veterans Home Loan Indemnity and Restructuring Act of 1989 (Pub.Law 101-237, approved 12/18/89)*

This Act included Native Hawaiians in a study of Home Loans to Native American Veterans.

*E. Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment (Pub.Law 101-45, approved 6/30/89)*

This Act provides that funds under the Department of Housing and Urban Development - Independent Agencies Appropriations Act, 1989, shall be made available for a special project under section 107 of the Housing and Community Development Act of 1974 to the Hawaii State Department of Hawaiian Home Lands, for infrastructure development on Hawaiian Home Lands, notwithstanding the restrictions on alienation applicable to such lands.

*F. Community Development and Miscellaneous Programs, Subtitle D - Miscellaneous Programs (Pub.Law 101-625, approved 11/28/90)s*

Section 958 of Title IX of the Cranston-Gonzales National Affordable Housing Act states that the Secretary of Housing and Urban Development shall provide a preference to Native Hawaiians on Hawaiian home lands for the following housing assistance programs: (1) public housing and project-based §8 assistance programs under the United States Housing Act of 1937; (2) the program under §202 of the Housing Act of 1959; and (3) the programs under the National Housing Act. The Secretary may also provide mortgage insurance covering any Hawaiian home lands property upon which there is a multi-family residence. 104 Stat. 4422, 4423.

#### IV. LEGAL SERVICES PROVISIONS

A. *Legal Services Corporation (Pub.Law 93-355, 95-222)*

One aspect of the Legal Services Corporation is the annualized funding of 32 entities to provide direct legal services to Native American clients. Native Hawaiian Legal Corporation is one such qualifying entity.

#### V. HEALTH PROVISIONS

A. *Older Americans Act Amendments of 1987*

Sec. 107 of the Older Americans Act Amendments of 1987 establishes in the Administration on Aging an Office for American Indian, Alaskan Native, and Native Hawaiian Programs. The Associate Commissioner on American Indian, Alaska Native, and Native Hawaiian Aging shall evaluate the adequacy of outreach services under title III and title VI for older Native Americans, recommend actions for improvement, and administer and evaluate grants for supporting and nutritional services to older Hawaiians. The Act also includes an employment preference for Native Hawaiians 60 years of age and older for full or part time staff positions.

B. *Development Disabilities Assistance and Bill of Rights Act Amendments of 1987 (Pub.Law 100-146, 98 STAT. 2683, approved 10/29/87)*

This Act provides for grant authority for projects of national significance relating to persons with developmental disabilities, especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiian, and other underserved groups. 42 USC §6082.

C. *Veterans' Benefits and Services Act of 1988 (Pub.Law 100-322, approved 5/20/88)*

This act amended the Veteran's Health-Care Amendments of 1986 by establishing Native Hawaiian representation on the Advisory Committee on Native-American Veterans.

**D. Rehabilitation Act of 1973, as amended in 1988**

Section 204 of the Rehabilitation Act, as amended, provides monies for a Research and Demonstration Hearing Screening and Follow-Up Program for Native Hawaiian children to address the high hearing loss of Native Hawaiian children.

**E. Native Hawaiian Health Care Act of 1988 (Pub.Law 100-579, approved 10/31/88)**

In order to improve the health status of Native Hawaiians, this act directs that monies be authorized by the Secretary of Health and Human Services to Papa Ola Lokahi, a Native Hawaiian Health Board. The Board will develop a comprehensive health care plan for Native Hawaiians, and with the Secretary, may make grants to qualified entities to provide health promotions, disease prevention and primary health services. It is the first federal legislation which recognizes native healers.

**F. Health Professions Reauthorization Act of 1988 (Pub.Law 100-607, 102 STAT. 3161, approved 11/04/88)**

This Act amended 42 USC §294r by allowing Native Hawaiian health centers to serve as sites under the Loan Repayment Program for Allied Health Personnel.

**G. Nursing Shortage Reduction and Education Extension Act of 1988 (Pub.Law 100-607, 102 STAT. 3157, 3161, approved 11/04/88)**

This Act (1) amended 42 USC §297b(h)(i)(C) by allowing Native Hawaiian health centers to serve as sites for nurses under the Loan Repayment Program; and (2) amended 42 USC §296m(b)(3) by allowing Native Hawaiian health centers to qualify as sites to receive services under the Nurse Practitioner and Nurse Midwife training program.

**H. Handicapped Programs Technical Amendments Act of 1988 (Pub.Law 100-630)**

This Act includes provisions for handicapped Native Hawaiian children and youth (including other native Pacific basin).

**I. Indian Health Care Amendments of 1988 (Pub.Law 100-713, approved 11/23/88)**

(1) Native Hawaiian Health Professions Scholarship Program

This program, codified as 42 USC §254, provides funds for scholarship assistance to Native Hawaiians in health care fields. Recipients are expected to fulfill service commitments as required under the National Health Service Corps Scholarship Program.

(2) Native Hawaiian Health Promotion and Disease Prevention

The Act directs the Secretary of Public Health to establish as a demonstration project a Native Hawaiian Program for Health Promotion and Disease Prevention, emphasizing in particular the high incidence of diabetes among Native Hawaiians. Native Hawaiian organizations are qualified to enter into contracts with the Secretary.

(3) Health Care for Rural Areas

Native Hawaiian health centers are included as recipients of clinical treatment or training from rural health care agencies.

J. *Disadvantaged Minority Health Improvement Act of 1990 (Pub.Law 101-527, 104 STAT. 2321, approved 11/06/90)*

The Secretary of Health and Human Services is directed to make grants to health profession schools for the purposes of assisting the schools in supporting programs of excellence in health professions education for minority individuals, including Native Americans. This Act amends 42 USC §295g-2 to include Native Hawaiians within the definition of Native Americans.

VI. SUBSTANCE ABUSE PROVISIONS

A. *Alcohol and Drug Abuse Amendments of 1983 (Pub.Law 98-24, 97 STAT. 183, approved 12/26/83)*

The above Act amended the following three Acts by extending services to Native Hawaiians.

***(1) Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 USC §4577(c)(4))***

This Act was amended the section pertaining to Grants and Contracts for the Demonstration of New and More Effective Alcohol Abuse and Alcoholism Prevention, treatment, and Rehabilitation Programs. Based on data indicating that of 22.6% of Native Hawaiians needing alcohol treatment services, only 7% received such services, Congress determined that Native Hawaiian demonstration projects deserved special consideration. Thus Native Hawaiians are designated recipients of substance abuse funding from the National Institute on Alcohol Abuse and Alcoholism.

***(2) Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 USC §4541)***

This Act establishes a National Commission on Alcohol and Other Alcohol Related Problems to conduct a needs assessment of special and underserved population groups. The needs of Native Hawaiians are expressly identified as requiring study, as is the adequacy of existing services to fulfill such needs.

***(3) Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 USC §1177(d))***

Under this Act, Congress authorizes the National Institute on Drug Abuse to provide funds for training seminars, educational programs and developing drug abuse prevention, treatment, and rehabilitation programs. Funds are also available to identify new drug abuse programs and conduct early intervention services, as well as programs addressing alcohol abuse and alcoholism. Applications for these funds aimed at underserved populations such as racial and ethnic minorities, including Native Hawaiians and Native American Pacific Islanders, are given special consideration.

***B. Drug-Free Schools and Communities (20 USC §4601 (1986))***

.02% of federal funds to establish programs for drug abuse education and prevention are earmarked for Native Hawaiian programs. The Secretary of Education is directed to enter into contracts with organizations which primarily serve Native Hawaiians to plan, conduct, and administer programs for drug abuse education.

## VII. CULTURE AND THE ARTS

- A. *Native American Culture and Art Development Act (Pub.Law 99-498, approved 10/17/86)*

Part B of this Act establishes a Program for Native Hawaiian Culture and Arts Development. The Secretary of the Interior is authorized to make grants to provide support for scholarly study and instruction, create degree-awarding programs, and establish Native Hawaiian culture and arts centers. 20 U.S.C. 4441.

- B. *Native American Languages Act (Pub.Law 101-447, 104 STAT. 1154, approved 11/30/90)*

This Act states that it is the policy of the United States to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages. The definition of Native American includes Native Hawaiian as well as Native American Pacific Islander. 25 USC 2903.

## VIII. NATIVE HAWAIIAN CLAIMS AND RIGHTS

- A. *Joint Resolution of Annexation of July 7, 1898 (30 STAT. 750)*

The Joint Resolution annexing Hawai'i to the United States ceded and transferred absolute fee and ownership of all public, Government or Crown lands "belonging" to the Government of the Hawaiian Islands to the United States. The Joint Resolution provided that all revenues from the public lands, except regarding United States occupancy of public lands, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes. Hawai'i's Organic Act, approved by Congress in 1900 (31 Stat. 750), reaffirmed that use of the ceded lands be consistent with Joint Resolution of Annexation. Native Hawaiians are beneficiaries of this ceded lands trust.

- B. *Native Hawaiian Homes Commission Act of 1920 (42 STAT. 108)*

This Act set aside approximately 200,000 acres of Government and Crown Lands in Hawaii for homesteading by Native Hawaiians. Under the Act, Native



Hawaiians could obtain 99 year leases at a dollar a year for residential, pastoral, and agricultural lots. Eligibility, however, was restricted to Native Hawaiians of 50% or more Hawaiian blood. From 1921 - 1959, the United States had sole responsibility for the administration of the Act. Thereafter, the United States transferred this primary obligation to the State of Hawai'i as a condition of statehood.

Significantly, however, Congress retained oversight responsibility, requiring Secretary of Interior approval of any land exchanges involving Hawaiian Home Lands, or any amendments to the Act by the Hawai'i state legislature which may alter the qualifications or diminish the benefits of Native Hawaiian beneficiaries. Congress thus retains the power to alter, amend, or repeal the provisions of the HHCA.

C. *Kalapana Extension Act of 1938 (Title 16, Chapert XLL Section 396a)*

This Act contains a provision to lease lands within the extension to native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance."

D. *Native Hawaiian Study Commission Act (Pub.Law 96-565, approved 12/22/80)*

This Act established the Native Hawaiian Study Commission to conduct a study of the culture, needs and concerns of Native Hawaiians. 42 USC 2991a note.

E. *Kalaupapa National Historical Park (Pub.Law 96-565, approved 12/22/80)*

Congress intended that Kalaupapa patients and Native Hawaiians manage the settlement, and permits patients to traditionally hunt and fish within the park without regarding to federal fish and game laws.

F. *American Indian Religious Freedom Act (42 USC §1996 (1982))*

This Act states that it is the policy of the United States to protect and preserve for American Indians, including Native Hawaiians, their inherent right of freedom to believe, express and exercise the traditional religions, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites. Section 2 of the Act instructs federal agencies to consult with native religious leaders concerning changes in policies or practices necessary to preserve traditional religions.

G. *Congressional Consent to an Amendment Enacted by the State of Hawaii to the Hawaiian Homes Commission Act of 1920 (Pub.Law 99-557, approved 10/27/86)*

By way of this action, Congress consented to a number of amendments enacted by the State of Hawaii which affected Native Hawaiian beneficiaries under the HHCA. Congress has also, from time to time, approved Hawaiian home lands land exchanges.

H. *National Museum of the American Indian Act (Pub.Law 101-185, approved 11/28/89)*

This Act provides for the inventory, identification, and return of Native Hawaiian human remains and funerary objects in the possession of the Smithsonian Institution.

I. *Native American Grave Protection and Repatriation Act (Pub.Law 101-601, approved 11/16/90)*

This Act provides for the repatriation of Native Hawaiian remains and associated funerary objects in the possession and control of federal agencies, including the Department of Defense. The Act also states that grants may be made to Indian tribes and Native Hawaiian organizations for the purpose of assisting in the repatriation of Native American cultural items.

Became Public Law 102-396 on 10/6/92

Calendar No. 527

102D CONGRESS  
2d Session

SENATE

REPORT  
102-309

RELATING TO NATIVE HAWAIIAN HEALTH CARE, AND  
FOR OTHER PURPOSES

JULY 1 (legislative day, JUNE 16), 1992.—Ordered to be printed

Mr. INOUE, from the Select Committee on Indian Affairs,  
submitted the following

R E P O R T

[To accompany S. 2681]

The Select Committee on Indian Affairs, to which was referred the bill (S. 2681) relating to Native Hawaiian health care, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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 Hawaiian Health Care Improvement Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778.

(2) The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

(3) The constitution and statutes of the State of Hawaii:

(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

(4) At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

S. 2681 was  
included in  
DOD Approp.  
Bill for FY93  
(H.R. 5504)

would decrease unhealthy behaviors and reduce morbidity and mortality rates; (3) support and advocate the use of health care services that come from the traditions of the Native Hawaiian culture and of western science; and (4) work toward the establishment of primary health care centers in appropriate locations where quality primary care can be provided and where primary care services are not currently available.

The death rates of Native Hawaiians exceed the death rates for all races in the United States caused by diseases of the heart, cancer, strokes, and diabetes. Achieving good health for Native Hawaiians appears difficult, but these diseases can be controlled through early detection, proper diet and treatment, regular exercise, etc.

Hui Malama Ola Na 'Oiwi will provide the following services: (1) Outreach—to enroll participants in the program, assess their health risk factors, assist in getting medical insurance where needed, help to access a doctor, support in providing transportation to and from the physician for those who are unable to do so, and to make home visits when believed necessary; (2) Health promotion and disease prevention—to provide education regarding the prevention and control of diabetes, high blood pressure (hypertension), misuse of tobacco, alcohol and other harmful drugs, sexually transmitted diseases, stress, cancer, the importance of sound nutrition habits, regular exercise, and proper maternal and infant care practices; (3) Primary health services—Hui Malama Ola Na 'Oiwi will assist everyone to gain access to the primary health care services of a physician, a physician's assistant, or a nurse practitioner where a doctor may not be available.

In year one, offices will be established in the Hilo, Puna, Kona, and Waimea districts, with the addition of offices in Kohala, Hamakua, and Ka'u in the second year. Ho'oponopono (family or group counseling) services are already available at the Hilo and Kona offices. A pool of lomi lomi (traditional massage therapy) specialist and kahuna la'au lapa'au (traditional healers) is being established to help Hawaiians who prefer their services.

#### SUMMARY OF MAJOR PROVISIONS

S. 2681 reflects the manner in which the Native Hawaiian Health Care Act is being implemented, by recognizing the establishment of five Native Hawaiian health care systems. The composition of the Papa Ola Lokahi Board is also changed to reflect the membership of the five Native Hawaiian health care systems on the Board, and authority is provided for the expansion of the Board to include other Native Hawaiian organizations that may become involved in some aspect of the provision of health care services or health-care related services or facilities to serve Native Hawaiians, provided that such organizations develop a mission statement in relation to their role in carrying out the goals and objectives of the Native Hawaiian Health Care Act.

As with other comprehensive health care legislation recently enacted or currently pending in the Congress, S. 2681 incorporates the relevant health status objectives contained in the Surgeon General's "Healthy People 2000", as means by which to measure the

progress toward improving the health status of Native Hawaiians and raising their health status to the highest possible level. Additional functions and responsibilities of the Papa Ola Lokahi Board are authorized to assure a comprehensive approach to addressing the health care needs of Native Hawaiians.

#### ✓ THE PROVISION OF FEDERAL PROGRAMS TO NATIVE HAWAIIANS

In the exercise of the plenary power vested in the Congress in Article I, section 8, clause 3 of the United States Constitution, the Congress has determined that the reference to Indian tribes in Article I, section 8, clause 3 was intended to encompass the aboriginal, indigenous people of the United States, including the aboriginal people of the states of Alaska and Hawaii. Accordingly, numerous federal laws have been enacted for the benefit of Alaska natives and Native Hawaiians.

(1) The Joint Resolution of Annexation of July 7, 1898 ceded and transferred absolute fee and ownership of all public, Government or Crown lands "belonging" to the Government of the Hawaiian Islands to the United States and provided that all revenues from the public lands, except regarding United States occupancy of public lands be used "solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes." 30 Stat. 750.

(2) Hawaii's Organic Act, approved by Congress in 1900, reaffirms that use of the ceded lands be consistent with the Joint Resolution of Annexation. Act of April 30, 1900, ch. 339, 31 Stat. 141.

(3) The Native Hawaiian Homes Commission Act sets aside approximately 200,000 acres from the ceded lands for Native Hawaiian homesteading. 42 Stat. 108, Public Law 67-34 (1921).

(4) The Kalapana Extension Act of 1938 permits the leasing of lands within the extension to Native Hawaiians and restricts fishing in the Kalapana area "only by Native Hawaiian residents of the area or of adjacent villages and by visitors under their guidance". (16 USC 396(a) (1974).

(5) Hawaii Statehood Admission Act. Section 4 requires as a condition of statehood that Hawaii's state constitution include the HHCA. Section 5 transferred the ceded lands to the State to hold and use in public trust for the betterment of the conditions of Native Hawaiians. Public Law 86-3, 73 Stat. 4 (1959).

(6) Administration for Native Americans, Native Americans Programs Act. Native Hawaiians are made an eligible class for grants and services. Public Law 93-644 (1974).

(7) Comprehensive Employment Training Act authorized Native Hawaiians as being eligible for services under the Act. Public Law 93-644 (1974).

(8) The American Indian Religious Freedom Act grants Native Hawaiians access to sites, use and possession of sacred objects and the freedom to worship through ceremonial and traditional rites. Public Law 95-341 (1978), 42 USC § 1996 (1991).

(9) Kaloko-Honokohau National Historic Park. The Act directs the Secretary of Interior to employ Native Hawaiians within the park. The Secretary also appoints a 9 member Advisory Committee

to advise the National Park Service on park matters. At least 6 of the members must be Native Hawaiian. Public Law 95-625 (1978).

(10) The Native Hawaiian Study Commission Act established the Native Hawaiians Study Commission to conduct a study of the culture, needs and concerns of Native Hawaiians. 42 USC 2991a note, Public Law 96-565 (1980).

(11) Kalaupapa National Historical Park. Congress intended that Kalaupapa patients and Native Hawaiians manage the settlement and have allowed patients to hunt and fish within the park regarding to federal fish and game laws. Native Hawaiians receive preference in appointments to positions established for the administration of the park and are provided with training opportunities to develop the skills necessary to qualify for such positions. The park also has an advisory commission consisting of 11 members, of which 4 must be Native Hawaiian. Public Law 96-565, 94 Stat.

(12) Native Hawaiian Education Study. Section 1331 of Title XIII Public Law 96-374 (1980), 94 Stat. 1499, authorizes an educational assessment study for Native Hawaiians.

(13) Job Training Partnership Act provides program funds for Indians and Native Americans (including Native Hawaiians) who are unemployed, underemployed or economically disadvantaged. In addition, Native Hawaiian organizations are eligible to receive funds for title II-B summer youth programs under JTPA. 29 USC § 1501 et seq. (1991).

(14) Alcohol and Drug Abuse Amendments of 1983. Congress determined that Native Hawaiians deserved special consideration and (1) designates Native Hawaiians as recipients of substance abuse funding from the National Institute on Alcohol Abuse and Alcoholism, (2) establishes a National Commission on Alcohol and Other Alcohol Related Problems, expressly identifying Native Hawaiians as requiring study, and (3) applications from Native Hawaiians for funds from the National Institute on Drug Abuse are to be given special consideration. Public Law 98-24, 97 Stat. 183 (1983).

(15) Health Care Needs of Native Hawaiians. Congress directed the Secretary of Health and Human Services to conduct a comprehensive study of the health care needs of Native Hawaiians. Public Law 98-396 (1984).

(16) The Library Service and Construction Act authorizes grants to organizations that primarily serve or represent Native Hawaiians for library needs. Public Law 98-480 (1984), 20 USC § 351 (1991).

(17) Carl D. Perkins Vocational Education Act authorizes vocational education funds for organizations primarily serving and representing Native Hawaiians. Public Law 98-524 (1984).

(18) National Science, Engineering and Mathematics Authorization Act establishes the applicability of public library provisions to Native Hawaiian program and authorized contracts to provide public library services to Native Hawaiians. Public Law 99-159 (1985).

(19) Economic Opportunity Program, Native American Programs Act authorizes a grant to carry out a five year demonstration project which shall establish a loan fund to make loans to Native Hawaiian organizations or individuals for the purpose of promoting economic development in Hawaii. 24 USC § 2701 et seq. (1986).

(20) Native American Culture and Art Development Act establishes a Program for Native Hawaiian Culture and Arts Development. The Secretary of the Interior is authorized to make grants to provide support for scholarly study and instruction, create degree-awarding programs, and establish Native Hawaiian culture and arts centers. Public Law 99-498 (1986), 20 USC § 4441 (1991).

(21) Older Americans Act Amendments of 1987 established in the Administration on Aging an Office for American Indian, Alaskan Native, and Native Hawaiian Programs to evaluate the adequacy of outreach services under title III and title VI for older Native Americans, recommend actions for improvement, and administer and evaluate grants for supporting and nutritional services to older Hawaiians. The Act also includes an employment preference for Native Hawaiians 60 years of age and older for full or part time staff positions.

(22) Higher Education Technical Amendments Act of 1987 instructed the Secretary of Education, in its grant application review process, to include as readers representatives of historical and predominantly minority colleges, including institutions with substantial numbers of students who are Native American Pacific Islanders (including Native Hawaiians). Public Law 100-50 (1987).

(23) Development Disabilities Assistance and Bill of Rights Act Amendments of 1987. This Act provides funding for projects of national significance relating to persons with developmental disabilities, especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups. Public Law 100-146, 98 Stat. 2683 (1987), 42 USC § 6082 (1991).

(24) Hawkins-Stafford Elementary and Secondary Education Improvement Act permits the Secretary of Education to make grants to organizations that primarily serve Hawaiians. As a result of a study showing that Native Hawaiians performed poorly in schools, Title IV was enacted to develop supplemental educational programs to benefit Native Hawaiians. These programs include:

- (a) Native Hawaiian Model Curriculum;
- (b) Native Hawaiian Family-Based Education;
- (c) Native Hawaiian Higher Education Demonstration Program;
- (d) Native Hawaiian Gifted and Talented Demonstration Program; and
- (e) Native Hawaiian Special Education Program. Public Law 100-297 (1988).

(25) Veterans' Benefits and Services Act establishes Native Hawaiian representation on the Advisory Committee on Native-American Veterans. Public Law 100-322 (1988).

(26) The Indian Housing Act provided for an Annual Report assessing the housing needs of Native Hawaiians and an evaluation of Federal programs designed to meet the needs, including programs of housing assistance for lower income families and the program of single-family mortgage insurance for Native Hawaiians. Public Law 100-358 (1988).

(27) The National Science Foundation University Infrastructure Act provides that at least 10 percent of the funds appropriated for the National Science Foundation Academic Research Facilities

Modernization Program be reserved for institutions of higher education servicing a substantial percentage of minority students, including Native Hawaiians. Public Law 100-418 (1988).

(28) Rehabilitation Act of 1973, as amended in 1988 provides monies for a Research and Demonstration Hearing Screening and Follow-Up Program for Native Hawaiian children to address the high hearing loss of Native Hawaiian children.

(29) Native Hawaiian Health Care Act authorizes funds for the development of a comprehensive health care plan for Native Hawaiians by a Native Hawaiian Health Board and for contracting with Native Hawaiian health care centers to provide health promotions, disease prevention and primary health services. Public Law 100-579 (1988).

(30) Health Professions Reauthorization Act amends 42 USC § 294r by allowing Native Hawaiian health centers to serve as sites under the Loan Repayment Program for Allied Health Personnel. Public Law 100-607, 102 Stat. 3161 (1988).

(31) Nursing Shortage Reduction and Education Extension Act allows Native Hawaiian health centers to serve as sites for nurses under the Loan Repayment Program and (2) allows Native Hawaiian health centers to qualify as sites to receive services under the Nurse Practitioner and Nurse Midwife training program. Public Law 100-607, 102 Stat. 3157, 3161 (1988).

(32) Handicapped Programs Technical Amendments Act includes provisions for handicapped Native Hawaiian children and youth. Public Law 100-630 (1988).

(33) The Small Business Act authorizes procurement contracting from economically disadvantaged Native Hawaiian organizations. Public Law 100-656 (1988), 15 USC § 637(a)(15) (1991).

(34) Indian Health Care Amendments of 1988 established the (1) Native Hawaiian Health Professions Scholarship Program, established a demonstration project a Native Hawaiian Program for Health Promotion and Disease Prevention, emphasizing in particular the high incidence of diabetes among Native Hawaiians and included Native Hawaiian health centers as recipients of clinical treatment or training from rural health care agencies. Public Law 100-713 (1988).

(35) The National Museum of the American Indian Act provides for the inventory, identification, and return of Native Hawaiian human remains and funerary objects in the possession of the Smithsonian Institution. Public Law 101-185 (1989).

(36) National Commission on Native American, Alaska Native and Native Hawaiian Housing. Title VI of the HUD Reform Act established the Commission, which includes two Native Hawaiians, to evaluate current problems, assess alternative strategies and specify objectives for the development and improvement of safe and affordable housing for American Indians, Alaska Natives and Native Hawaiians. Public Law 101-235 (1989).

(37) Veterans Home Loan Indemnity and Restructuring Act included Native Hawaiians in a study of Home Loans to Native American Veterans. Public Law 101-237 (1989).

(38) Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplements, and Correcting Enrollment provides that funds be made available for a special project under section 107 of

the Housing and Community Development Act of 1974 to the Hawaii State Department of Hawaiian Home Lands, for infrastructure development on Hawaiian Home Lands. Public Law 101-45 (1989).

(39) Drug-Free Schools and Communities Act Amendments. Funds to establish programs for drug abuse education and prevention are earmarked for Native Hawaiian programs. Public Law 101-226, 103 Stat. 1928 (1989).

(40) The Native American Grave Protection and Repatriation Act provides for the repatriation of Native Hawaiian remains and associated funerary objects in the possession and control of federal agencies, including the Department of Defense. Grants may be made to Indian tribes and Native Hawaiian organizations for the purposes of assisting in the repatriation of Native American cultural items. Public Law 101-601 (1990).

(41) Cranston-Gonzales National Affordable Housing Act. Section 958 of Title IX provides a preference to Native Hawaiians on Hawaiian home lands for the following housing assistance programs: (1) public housing and project-based § 8 assistance programs under the United States Housing Act of 1937; (2) the program under § 202 of the Housing Act of 1959; and (3) the programs under the National Housing Act. The Secretary may also provide mortgage insurance covering any Hawaiian home lands property upon which there is a multi-family residence. Public Law 101-625, 104 Stat. 4422, 4423 (1990).

(42) Native American Languages Act states that it is the policy of the United States to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages. The definition of Native American includes Native Hawaiian as well as Native American Pacific Islander. 25 USC 2903. Public Law 101-447, 104 Stat. 1154 (1990).

(43) Carl D. Perkins Vocational and Applied Technological Education Act Amendments authorizes and appropriates 1.5% of the total budget to carry out provisions relating to Indian and Native Hawaiian programs. Public Law 101-392 (1990).

(44) Disadvantaged Minority Health Improvement Act authorizes funds to assist schools in supporting programs of excellence in health professions education for minority individuals, including Native Americans. This Act amends 42 USC § 295g-2 to include Native Hawaiians within the definition of Native Americans. Public Law 101-527, 104 Stat. 2321 (1990).

## SECTION-BY-SECTION ANALYSIS

### SECTION 1

This section amends the title of the Act. Formerly cited as the Native Hawaiian Health Care Act of 1988, pursuant to section 1, the Act would henceforth be cited as the Native Hawaiian Health Care Improvement Act.