

dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

November 19, 1863.

ABRAHAM LINCOLN.

Mr. ROMERO-BARCELO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUTCHINSON). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 1324.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### EXPRESSING POLICY OF UNITED STATES REGARDING ITS RELATIONSHIP WITH NATIVE HAWAIIANS

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4904) to express the policy of the United States regarding the United States relationship with Native Hawaiians, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4904

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.

(2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.

(3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.

(4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.

(6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.

(7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.

(8) In 1959, as part of the compact admitting Hawaii into the United States, Congress established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 1,800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct native communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiian people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

(12) On November 23, 1993, Public Law 103-150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii.

(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.

(14) The Apology Resolution expresses the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President's designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.

(15) Despite the overthrow of the Hawaiian government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.

(16) Native Hawaiians also maintain a distinct Native Hawaiian community through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural pro-

grams, native language immersion programs and native language immersion schools from kindergarten through high school, as well as college and master's degree programs in native language immersion instruction, and traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control.

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

(18) The Native Hawaiian people wish to preserve, develop, and transmit to future Native Hawaiian generations their ancestral lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, and to achieve greater self-determination over their own affairs.

(19) This Act provides for a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct aboriginal, indigenous, native community to reorganize a Native Hawaiian government for the purpose of giving expression to their rights as native people to self-determination and self-governance.

(20) The United States has declared that—

(A) the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) Congress has identified Native Hawaiians as a distinct indigenous group within the scope of its Indian affairs power, and has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.

(21) The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiian people through—

(A) the enactment of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3; 73 Stat. 4) by—

(i) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust for 5 purposes, one of which is for the betterment of the conditions of Native Hawaiians; and

(ii) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act.

(22) The United States continually has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty over their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, native people of a once sovereign nation with whom the United

States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States.

## SEC. 2. DEFINITIONS.

In this Act:

(1) **ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.**—The term “aboriginal, indigenous, native people” means those people whom Congress has recognized as the original inhabitants of the lands and who exercised sovereignty prior to European contact in the areas that later became part of the United States.

(2) **ADULT MEMBERS.**—The term “adult members” means those Native Hawaiians who have attained the age of 18 at the time the Secretary publishes the final roll, as provided in section 7(a)(3) of this Act.

(3) **APOLOGY RESOLUTION.**—The term “Apology Resolution” means Public Law 103-150 (107 Stat. 1510), a joint resolution offering an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) **CEDED LANDS.**—The term “ceded lands” means those lands which were ceded to the United States by the Republic of Hawaii under the Joint Resolution to provide for annexing the Hawaiian Islands to the United States of July 7, 1898 (30 Stat. 750), and which were later transferred to the State of Hawaii in the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union” approved March 18, 1959 (Public Law 86-3; 73 Stat. 4).

(5) **COMMISSION.**—The term “Commission” means the commission established in section 7 of this Act to certify that the adult members of the Native Hawaiian community contained on the roll developed under that section meet the definition of Native Hawaiian, as defined in paragraph (7)(A).

(6) **INDIGENOUS, NATIVE PEOPLE.**—The term “indigenous, native people” means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) **NATIVE HAWAIIAN.**—

(A) Prior to the recognition by the United States of a Native Hawaiian government under the authority of section 7(d)(2) of this Act, the term “Native Hawaiian” means the indigenous, native people of Hawaii who are the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(B) Following the recognition by the United States of the Native Hawaiian government under section 7(d)(2) of this Act, the term “Native Hawaiian” shall have the meaning given to such term in the organic governing documents of the Native Hawaiian government.

(8) **NATIVE HAWAIIAN GOVERNMENT.**—The term “Native Hawaiian government” means the citizens of the government of the Native Hawaiian people that is recognized by the United States under the authority of section 7(d)(2) of this Act.

(9) **NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.**—The term “Native Hawaiian Interim Governing Council” means the interim governing council that is organized under section 7(c) of this Act.

(10) **ROLL.**—The term “roll” means the roll that is developed under the authority of section 7(a) of this Act.

(11) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(12) **TASK FORCE.**—The term “Task Force” means the Native Hawaiian Interagency Task Force established under the authority of section 6 of this Act.

## SEC. 3. UNITED STATES POLICY AND PURPOSE.

(a) **POLICY.**—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct aboriginal, indigenous, native people, with whom the United States has a political and legal relationship;

(2) the United States has a special trust relationship to promote the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (Public Law 86-3; 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian government; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) **PURPOSE.**—It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization of a Native Hawaiian government and for the recognition by the United States of the Native Hawaiian government for purposes of continuing a government-to-government relationship.

## SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN AFFAIRS.

(a) **IN GENERAL.**—There is established within the Office of the Secretary the United States Office for Native Hawaiian Affairs.

(b) **DUTIES OF THE OFFICE.**—The United States Office for Native Hawaiian Affairs shall—

(1) effectuate and coordinate the special trust relationship between the Native Hawaiian people and the United States through the Secretary, and with all other Federal agencies;

(2) upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, effectuate and coordinate the special trust relationship between the Native Hawaiian government and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian people by providing timely notice to, and consulting with the Native Hawaiian people prior to taking any actions that may affect traditional or current Native Hawaiian practices and matters that may have the potential to significantly or uniquely affect Native Hawaiian resources, rights, or lands, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2)

of this Act, fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian government by providing timely notice to, and consulting with the Native Hawaiian people and the Native Hawaiian government prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Native Hawaiian Interagency Task Force, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands;

(5) be responsible for the preparation and submittal to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of an annual report detailing the activities of the Interagency Task Force established under section 6 of this Act that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian people and the Native Hawaiian government and providing recommendations for any necessary changes to existing Federal statutes or regulations promulgated under the authority of Federal law;

(6) be responsible for continuing the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, be responsible for continuing the process of reconciliation with the Native Hawaiian government; and

(7) assist the Native Hawaiian people in facilitating a process for self-determination, including but not limited to the provision of technical assistance in the development of the roll under section 7(a) of this Act, the organization of the Native Hawaiian Interim Governing Council as provided for in section 7(c) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) **AUTHORITY.**—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

## SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the rights of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

## SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.

(a) **ESTABLISHMENT.**—There is established an interagency task force to be known as the “Native Hawaiian Interagency Task Force”.

(b) **COMPOSITION.**—The Task Force shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that establishes or implements policies that affect Native Hawaiians or whose actions may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) the United States Office for Native Hawaiian Affairs established under section 4 of this Act; and

(3) the Executive Office of the President.

(c) LEAD AGENCIES.—The Department of the Interior and the Department of Justice shall serve as the lead agencies of the Task Force, and meetings of the Task Force shall be convened at the request of either of the lead agencies.

(d) CO-CHAIRS.—The Task Force representative of the United States Office for Native Hawaiian Affairs established under the authority of section 4 of this Act and the Attorney General's designee under the authority of section 5 of this Act shall serve as co-chairs of the Task Force.

(e) DUTIES.—The responsibilities of the Task Force shall be—

(1) the coordination of Federal policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon recognition of the Native Hawaiian government by the United States as provided in section 7(d)(2) of this Act, consultation with the Native Hawaiian government; and

(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.

**SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL, FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL AND A NATIVE HAWAIIAN GOVERNMENT, AND FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.**

(a) ROLL.—

(1) PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the reorganization of a Native Hawaiian government in preparing a roll for the purpose of the organization of a Native Hawaiian Interim Governing Council. The roll shall include the names of the—

(A) adult members of the Native Hawaiian community who wish to become citizens of a Native Hawaiian government and who are—

(i) the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago; or

(ii) Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or their lineal descendants; and

(B) the children of the adult members listed on the roll prepared under this subsection.

(2) CERTIFICATION AND SUBMISSION.—

(A) COMMISSION.—

(i) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purpose of certifying that the adult members of the Native Hawaiian community on the roll meet the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act.

(ii) MEMBERSHIP.—

(I) APPOINTMENT.—The Secretary shall appoint the members of the Commission in accordance with subclause (II). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(II) REQUIREMENTS.—The members of the Commission shall be Native Hawaiian, as de-

finied in section 2(7)(A) of this Act, and shall have expertise in the certification of Native Hawaiian ancestry.

(III) CONGRESSIONAL SUBMISSION OF SUGGESTED CANDIDATES.—In appointing members of the Commission, the Secretary may choose such members from among—

(aa) five suggested candidates submitted by the Majority Leader of the Senate and the Minority Leader of the Senate from a list of candidates provided to such leaders by the Chairman and Vice Chairman of the Committee on Indian Affairs of the Senate; and

(bb) four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives from a list provided to the Speaker and the Minority Leader by the Chairman and Ranking member of the Committee on Resources of the House of Representatives.

(iii) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) CERTIFICATION.—The Commission shall certify that the individuals listed on the roll developed under the authority of this subsection are Native Hawaiians, as defined in section 2(7)(A) of this Act.

(3) SECRETARY.—

(A) CERTIFICATION.—The Secretary shall review the Commission's certification of the membership roll and determine whether it is consistent with applicable Federal law, including the special trust relationship between the United States and the indigenous, native people of the United States.

(B) PUBLICATION.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(C) APPEAL.—

(i) ESTABLISHMENT OF MECHANISM.—The Secretary is authorized to establish a mechanism for an appeal of the Commission's determination as it concerns—

(I) the exclusion of the name of a person who meets the definition of Native Hawaiian, as defined in section 2(7)(A) of this Act, from the roll; or

(II) a challenge to the inclusion of the name of a person on the roll on the grounds that the person does not meet the definition of Native Hawaiian, as so defined.

(ii) PUBLICATION; UPDATE.—The Secretary shall publish the final roll while appeals are pending, and shall update the final roll and the publication of the final roll upon the final disposition of any appeal.

(D) FAILURE TO ACT.—If the Secretary fails to make the certification authorized in subparagraph (A) within 90 days of the date that the Commission submits the membership roll to the Secretary, the certification shall be deemed to have been made, and the Commission shall publish the final roll.

(4) EFFECT OF PUBLICATION.—The publication of the final roll shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections associated with the organization of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(b) RECOGNITION OF RIGHTS.—The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(c) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(1) ORGANIZATION.—The adult members listed on the roll developed under the authority of subsection (a) are authorized to—

(A) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(B) determine the structure of the Native Hawaiian Interim Governing Council; and

(C) elect members to the Native Hawaiian Interim Governing Council.

(2) ELECTION.—Upon the request of the adult members listed on the roll developed under the authority of subsection (a), the United States Office for Native Hawaiian Affairs may assist the Native Hawaiian community in holding an election by secret ballot (absentee and mail balloting permitted), to elect the membership of the Native Hawaiian Interim Governing Council.

(3) POWERS.—

(A) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to represent those on the roll in the implementation of this Act and shall have no powers other than those given to it in accordance with this Act.

(B) FUNDING.—The Native Hawaiian Interim Governing Council is authorized to enter into a contract or grant with any Federal agency, including but not limited to, the United States Office for Native Hawaiian Affairs within the Department of the Interior and the Administration for Native Americans within the Department of Health and Human Services, to carry out the activities set forth in subparagraph (C).

(C) ACTIVITIES.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to conduct a referendum of the adult members listed on the roll developed under the authority of subsection (a) for the purpose of determining (but not limited to) the following:

(I) The proposed elements of the organic governing documents of a Native Hawaiian government.

(II) The proposed powers and authorities to be exercised by a Native Hawaiian government, as well as the proposed privileges and immunities of a Native Hawaiian government.

(III) The proposed civil rights and protection of such rights of the citizens of a Native Hawaiian government and all persons subject to the authority of a Native Hawaiian government.

(ii) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based upon the referendum, the Native Hawaiian Interim Governing Council is authorized to develop proposed organic governing documents for a Native Hawaiian government.

(iii) DISTRIBUTION.—The Native Hawaiian Interim Governing Council is authorized to distribute to all adult members of those listed on the roll, a copy of the proposed organic governing documents, as drafted by the Native Hawaiian Interim Governing Council, along with a brief impartial description of the proposed organic governing documents.

(iv) CONSULTATION.—The Native Hawaiian Interim Governing Council is authorized to freely consult with those members listed on the roll concerning the text and description of the proposed organic governing documents.

(D) ELECTIONS.—

(i) IN GENERAL.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(ii) ASSISTANCE.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(4) **TERMINATION.**—The Native Hawaiian Interim Governing Council shall have no power or authority under this Act after the time at which the duly elected officers of the Native Hawaiian government take office.

(d) **RECOGNITION OF THE NATIVE HAWAIIAN GOVERNMENT.**—

(1) **PROCESS FOR RECOGNITION.**—

(A) **SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.**—The duly elected officers of the Native Hawaiian government shall submit the organic governing documents of the Native Hawaiian government to the Secretary.

(B) **CERTIFICATIONS.**—Within 90 days of the date that the duly elected officers of the Native Hawaiian government submit the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) were adopted by a majority vote of the adult members listed on the roll prepared under the authority of subsection (a);

(ii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States;

(iii) provide for the exercise of those governmental authorities that are recognized by the United States as the powers and authorities that are exercised by other governments representing the indigenous, native people of the United States;

(iv) provide for the protection of the civil rights of the citizens of the Native Hawaiian government and all persons subject to the authority of the Native Hawaiian government, and to assure that the Native Hawaiian government exercises its authority consistent with the requirements of section 202 of the Act of April 11, 1968 (25 U.S.C. 1302);

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian government without the consent of the Native Hawaiian government;

(vi) establish the criteria for citizenship in the Native Hawaiian government; and

(vii) provide authority for the Native Hawaiian government to negotiate with Federal, State, and local governments, and other entities.

(C) **FAILURE TO ACT.**—If the Secretary fails to act within 90 days of the date that the duly elected officers of the Native Hawaiian government submitted the organic governing documents of the Native Hawaiian government to the Secretary, the certifications authorized in subparagraph (B) shall be deemed to have been made.

(D) **RESUBMISSION IN CASE OF NONCOMPLIANCE WITH FEDERAL LAW.**—

(i) **RESUBMISSION BY THE SECRETARY.**—If the Secretary determines that the organic governing documents, or any part thereof, are not consistent with applicable Federal law, the Secretary shall resubmit the organic governing documents to the duly elected officers of the Native Hawaiian government along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(ii) **AMENDMENT AND RESUBMISSION BY THE NATIVE HAWAIIAN GOVERNMENT.**—If the organic governing documents are resubmitted to the duly elected officers of the Native Hawaiian government by the Secretary under clause (i), the duly elected officers of the Native Hawaiian government shall—

(I) amend the organic governing documents to ensure that the documents comply with applicable Federal law; and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with subparagraphs (B) and (C).

(2) **FEDERAL RECOGNITION.**—

(A) **RECOGNITION.**—Notwithstanding any other provision of law, upon the election of

the officers of the Native Hawaiian government and the certifications (or deemed certifications) by the Secretary authorized in paragraph (1), Federal recognition is hereby extended to the Native Hawaiian government as the representative governing body of the Native Hawaiian people.

(B) **NO DIMINISHMENT OF RIGHTS OR PRIVILEGES.**—Nothing contained in this Act shall diminish, alter, or amend any existing rights or privileges enjoyed by the Native Hawaiian people which are not inconsistent with the provisions of this Act.

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

There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized in this Act.

**SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS.**

(a) **REAFFIRMATION.**—The delegation by the United States of authority to the State of Hawaii to address the conditions of Native Hawaiians contained in the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union" approved March 18, 1959 (Public Law 86-3; 73 Stat. 5) is hereby reaffirmed.

(b) **NEGOTIATIONS.**—Upon the Federal recognition of the Native Hawaiian government pursuant to section 7(d)(2) of this Act, the United States is authorized to negotiate and enter into an agreement with the State of Hawaii and the Native Hawaiian government regarding the transfer of lands, resources, and assets dedicated to Native Hawaiian use under existing law as in effect on the date of enactment of this Act to the Native Hawaiian government.

**SEC. 10. DISCLAIMER.**

Nothing in this Act is intended to serve as a settlement of any claims against the United States, or to affect the rights of the Native Hawaiian people under international law.

**SEC. 11. REGULATIONS.**

The Secretary is authorized to make such rules and regulations and such delegations of authority as the Secretary deems necessary to carry out the provisions of this Act.

**SEC. 12. SEVERABILITY.**

In the event that any section or provision of this Act, or any amendment made by this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and the amendments made by this Act, shall continue in full force and effect.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from Hawaii (Mr. ABERCROMBIE) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4904, the gentleman from Hawaii's bill regarding the United States' relationship with Native Hawaiians. The bill has been the subject of 5 days of hearings in Hawaii, jointly held by the House Committee on Resources and the Senate Committee on Indian Affairs this summer. In addition to Native Hawaiians testifying, the president of the National Congress of American Indians, the president of the Alaska Federation of Natives and the president of the Central Council of Tlingit and Haida presented testimony in support of this legislation. The Committee on

Resources ordered H.R. 4904 favorably reported on September 20, 2000.

The bill acknowledges a Federal trust responsibility for Native Hawaiians and protects existing Native Hawaiian programs which are legitimate and necessary due to unique historic circumstances. The bill recognizes Native Hawaiians' right of self-governance as a native people and lays out a process for Native Hawaiians to establish a structure for self-governance.

Some have asked how funding for Native Hawaiian programs under this bill would affect funds for Native American programs. Native Hawaiian programs have always been separately funded, and enactment of H.R. 4904 would have no impact on program funding for American Indians or Alaskan natives.

Lastly, some have questioned whether the reorganization of a Native Hawaiian government might have implications for gaming conducted under the Indian Gaming Regulatory Act. There are no Indian tribes in the State of Hawaii, nor are there any Indian reservations or Indian lands. Hawaii is one of only two States in the Union, the other one is Utah, that criminally prohibits all forms of gaming. Accordingly, a reorganized Native Hawaiian government could not conduct any form of gaming in the State of Hawaii.

With these concerns answered, I urge an aye vote on this important bill for Hawaii.

Mr. Speaker, I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ABERCROMBIE asked and was given permission to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield time to my colleague from Hawaii, may I thank the gentleman from Utah (Mr. HANSEN), in particular, and the rest of the members of the committee, both Republican and Democrat, for their support of the bill; and may I express yet once again publicly to my chairman, the gentleman from Alaska (Mr. YOUNG), my profound gratitude for his understanding, his concern and his perseverance, dedication and focus on this bill.

Mr. Speaker, I am here today to urge the House of Representatives' approval of H.R. 4904, a bill to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government.

On January 17, 1893, the government of the Kingdom of Hawaii was overthrown with the assistance of the United States Minister and U.S. Marines. One hundred years later, a resolution extending an apology on behalf of the United States to Native Hawaiians for the illegal overthrow of the Native Hawaiian government and calling for a reconciliation of the relationship between the United States and Native Hawaiians was enacted to law.

The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents

and citizens of the United States. Further, it acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over the their national lands to the United States, either through their government or through a plebiscite or referendum.

Since the loss of their government, Native Hawaiians have sought to maintain political authority within their community. In 1978, Hawaii citizens of all races recognized the long-standing efforts of the indigenous people to give expression to their rights to self-determination and self-governance by amending the state constitution to provide for the establishment of a quasi-sovereign state agency, the Office of Hawaiian Affairs. The state constitution provides that the Office is to be governed by nine Native Hawaiian trustees who are elected by Native Hawaiians. The Office of Hawaiian Affairs administers programs and services with revenues derived from lands which were ceded back to the State of Hawaii upon its admission into the United States. The dedication of these revenues reflects the provisions of the 1959 Hawaii Admissions Act, which provides that the ceded lands and the revenues derived therefrom should be held by the State of Hawaii as a public trust for five purposes—one of which is the betterment of the conditions of Native Hawaiians. The Admissions Act also provides that the state would assume a trust responsibility for approximately 203,500 acres of land that had previously been set aside for Native Hawaiians under a 1921 federal law, the Hawaiian Homes Commission Act.

Four weeks ago, the House Resources Committee and the Senate Indian Affairs Committee held five days of joint hearings in Hawaii on H.R. 4904 and its companion in the Senate, S. 2899. More than 150 people presented oral testimony to the committees and several hundred others presented written testimony. The testimony received by the committees was overwhelmingly in support of the bills. In addition to witnesses from the Native Hawaiian community, representatives of the Departments of Justice and Interior, the President of the National Congress of American Indians, the President of the Alaska Federation of Natives, and the President of the Central Council of Tlingit and Haida Indians presented oral testimony in support of the bills.

With the passage of H.R. 4904, the Congress will provide a process for the reorganization of a Native Hawaiian government, and the recognition by the United States of that government for purposes of carrying on a government-to-government relationship. This bill provides that the indigenous, native people of Hawaii—Native Hawaiians—might have the same opportunities that are afforded under federal law and policy to the other indigenous, native people of the United States—American Indians and Alaska Natives—to give expression to their rights to self-determination and self-governance.

It is also important to note that the United States Congress has enacted over 160 laws designed to address the conditions of Native Hawaiians. These federal laws provide for the provision of health care, education, job training, the preservation of native languages, the protection of Native American graves and the repatriation of Native American human remains. Thus, the reorganization of a Native Hawaiian government would not necessitate a

host of new federal programs to serve Native Hawaiians. Nor would the reorganization of a Native Hawaiian government have any impact on programs or the funding for programs that are authorized to address the conditions of American Indians and Alaska Natives. For the last 90 years, Native Hawaiian programs have always been funded under separate authorizations with separate appropriations.

Some have asked whether the reorganization of a Native Hawaiian government might also authorize that government to conduct gaming. The answer to that question is a simple “no.” The Indian Gaming Regulatory Act authorizes Indian tribal governments to conduct gaming on Indian reservations or Indian lands held in trust by the United States, and the scope of gaming under the act is a function of state law. But there are no Indian tribal governments in Hawaii, nor are there Indian reservations or Indian lands. And the State of Hawaii is one of two states in the union that criminally prohibit all forms of gaming.

In developing and refining this measure, we have worked not only with the a community, but with representatives of the federal and state governments, with leaders of the Alaska Native and Native American communities, and with the congressional caucuses. The bill that is before the House today has been revised as a result of the testimony received at the hearings in Hawaii and in Washington, D.C.

Our objectives are simple and straightforward. As a matter of federal policy and federal law, we want to assure that the United States government deals with all of the indigenous, native people of the United States in a consistent manner—recognizing and supporting their rights to self-determination and self-governance. This is the right thing to do and I am honored to play a part in the passage of this measure. I ask my colleagues for their support.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii (Mrs. MINK).

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 4904. This bill is viewed as necessary following the Rice vs. Cayetano decision, which struck down the State's effort to provide for self-determination by the Native Hawaiian people. The U.S. Supreme Court decision has immobilized our State in the performance of its mandated trust responsibility to the Native Hawaiian people as elaborated in the public law that created the State of Hawaii.

Without the power to conduct Native Hawaiian-only elections to manage programs for the benefit of the Native Hawaiians, the Office of Hawaiian Affairs is now left without the basic protections of self-governance.

I want to compliment the gentleman from Hawaii (Mr. ABERCROMBIE) for his leadership in crafting and getting this bill through the House Committee on Resources in record time. After 5 days of extensive hearings in Hawaii, the bill was perfected and comes to the floor with a series of perfecting amendments.

So why do we have to enact H.R. 4904? Because we need to replace the Office of Hawaiian Affairs with a self-governing entity that can sustain an election process that is restricted to only the Native Hawaiian people.

H.R. 4904, as amended in committee, is stripped down to create a concept and leaves the procedural detail to the Native Hawaiians themselves. I agree with these changes wholeheartedly. The goal of self-determination should be left to the execution and implementation of the Native Hawaiians.

H.R. 4904 is an appropriate way to cure this difficulty caused by Rice vs. Cayetano. The State of Hawaii had taken the first step to create a self-governing body. H.R. 4904 now sets the Federal mechanism to correct the decision of Rice vs. Cayetano. H.R. 4904 must pass.

Mr. Speaker, I rise today to support H.R. 4904, a bill to express the policy of the United States regarding the United States' relationship with Native Hawaiians. This bill is viewed as a necessary follow-up to the Rice vs. Cayetano decision that struck down the State's effort to provide for self-determination by the Native Hawaiian population. The U.S. Supreme Court ruled that the State could not conduct an election of only Native Hawaiians. Hawaii had so provided in a State Constitutional amendment in 1978 by creating an Office of Hawaiian Affairs with trustees elected by Native Hawaiians.

This U.S. Supreme Court decision has immobilized our State in the performance of its mandated trust responsibility to the Native Hawaiian people as elaborated in the Public Law that created the State of Hawaii.

Without the power to conduct Native Hawaiian-only elections to manage programs for the benefit of the Native Hawaiians, the Office of Hawaiian Affairs is now left without the basic protections of self-governance.

In its decision, the U.S. Supreme Court left open a path that has led to the development of this bill, which we have on the floor today.

I want to compliment my colleague, NEIL ABERCROMBIE, for his leadership in crafting and getting this bill through the House Resources Committee in record time. After five days of hearings in Hawaii, the bill was perfected and comes to the floor with a series of amendments.

H.R. 4904 replaces what the Supreme Court struck down. It sets up a process for the establishment of a sovereign entity, which like an Indian tribe, may establish relations directly with the federal government and where the governing council is to be elected by descendants of aboriginal Native Hawaiians.

The historic justification for this is, of course, the illegal overthrow of the Hawaiian monarchy in 1893 and the annexation of Hawaii in 1898 against the will of the native population.

Over the years, Congress has voted to provide many special programs for Native Hawaiians based on need and because of our special trust responsibility. It is argued that these federally enacted programs in education, housing, veterans programs, health care, etc., are in jeopardy because of Rice vs. Cayetano. I disagree because these federal programs are grounded on the special needs of the Native Hawaiians in each of these areas. A legal challenge as in Rice vs. Cayetano, I believe would fail.

So why enact H.R. 4904? Because we need to replace the Office of Hawaiian Affairs with a self-governing entity that can sustain an election process that is restricted to only the Native Hawaiian population.

H.R. 4904 as amended in Committee is stripped down to create a concept and leaves the procedural detail to the Native Hawaiians themselves. I advocated and agree with this change wholeheartedly. The goal is self-determination, and we should leave its execution and implementation to the Native Hawaiians themselves.

I have only one remaining concern and that is the absence of an explicit executing referendum to indicate that what we have provided is agreed to by the Native Hawaiian people. In making this observation, I am assured that the voluntariness of signing up on the rolls constitutes the referendum of approval. I am also answered that the organic act or constitution to be drafted must be ratified by those who have signed up on the rolls.

I am also told that in the process of implementing this new governing body, it may by itself call for a referendum; that this bill does not preclude this, satisfies me.

H.R. 4904 is an appropriate way to cure the heartache caused by *Rice vs. Cayetano*.

The State of Hawaii had taken the first step to create a self-governing body, the Office of Hawaiian Affairs, whose trustees were elected by Native Hawaiians. This electoral process was struck down by the U.S. Supreme Court.

H.R. 4904 establishes a federal mechanism that overcomes the *Rice vs. Cayetano* decision. H.R. 4904 must pass!

Mr. KILDEE. Mr. Speaker, I support H.R. 4904, a bill that clarifies the relationship between Native Hawaiians and the United States.

This legislation provides for Federal recognition of the Native Hawaiian government for purposes of establishing a government-to-government relationship similar to that of the Native Americans and the Alaska Natives.

Congress has passed over 150 statutes addressing the needs of Native Hawaiians.

In 1993, we passed an apology bill acknowledging the role of the United States Government in the overthrow of the Hawaiian nation in 1893. The apology bill recognizes that the Native Hawaiians never relinquished their inherent sovereignty.

This legislation has received wide support. It is supported by the Hawaii delegation, the Native Hawaiians, the administration, the National Congress of American Indians, and the Alaska Federation of Natives.

I want to thank my colleague, Representative NEIL ABERCROMBIE from Hawaii, for this tireless effort to bring justice to the Native Hawaiians.

I urge my colleagues to support this bill.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of H.R. 4904, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians.

There are well over 200,000 Native Hawaiians living in Hawaii. I suspect there are approximately another 100,000 living throughout the continental United States. In number, Native Hawaiians are the largest indigenous group of people living in the United States today.

As one of Polynesian ancestry, I thank God that the Kanaka Maoli, or the Hawaiian peo-

ple, have not become an extinct race. Given the unfortunate turn of historical events that have now made Native Hawaiians strangers in their own lands, it is only by the grace of God that Native Hawaiians now number over 300,000.

Mr. Chairman, the Kanaka Maoli are my kin. For purposes of giving you a sense of who we are, I would like to share with you something Captain James Cook once noted about the Kanaka Maoli, or Polynesian, nation. Captain Cook observed that the Kanaka Maoli nation established settlements from as far north as Hawaii and as far south as Actearoa (or what is now known today as New Zealand). In between, the Kanaka Maoli settled in Samoa, in Tokelau, in Tuvalu, parts of Fiji and Tonga. The Kanaka Maoli nation also stretched as far east as Rapanui (now known as Easter Island) and constituted what Cook considered the largest nation on the earth.

Since Cook's time, we have had our fair share of romantic writers coming to the South Seas depicting our women coming out of the Garden of Eden on moonlit, tropical shores with the scent of romance forever in the air. We've also had our share of anthropologists who think they know more about us than they know about themselves. We do not need anymore Margaret Meads or Derek Freemans to describe to the world who we are as a people. We know how we first came into being. We know our past and are committed to our present. We are here today to define our future.

Mr. Speaker, as we proceed today, I would like to add this thought for the record. When we discuss the rights of Native Hawaiians, we in effect discuss the inalienable rights of any people. As such, what happened historically to Native Hawaiians in effect happened to all of us. In this context, I would like to present the following for consideration.

More than 100 years ago, ambitious descendants of U.S. missionaries and sugar planters, aided by the unauthorized and illegal use of U.S. military forces, overthrew the sovereign nation of Hawaii then ruled by Queen Lili'uokalani. More than one hundred years later, the United States Congress issued a formal apology acknowledging that the Native Hawaiian people never relinquished their right to their sovereignty or their sovereign lands.

Earlier this year, Senator DANIEL AKAKA, the first Polynesian and Native Hawaiian to sit as a United States Senator, introduced S. 2899 to express and define a firm policy of the United States Congress and the U.S. government regarding its relationship with the Native Hawaiian people. Our distinguished colleague, Congressman NEIL ABERCROMBIE, did the same in this body. I am honored that both bills have been approved by their respective committees of jurisdiction and that H.R. 4904 is being considered by the House today.

The purpose of this measure is to clarify the political relationship that exists between Native Hawaiians and the federal government. Specifically, the measure provides the Native Hawaiian community with an opportunity to form a government-to-government relationship with the United States within the context of the U.S. Constitution and federal law. The bill provides a process for Native Hawaiians to organize a Native Hawaiian governing body, or essentially a Native Hawaiian government. The bill also authorizes the Native Hawaiian governing body to negotiate with the state of Ha-

waii and other appropriate officials and agencies of the federal government regarding such long-standing issues as ceded lands currently controlled by both the state and federal governments. The bill also protects education, health, and housing programs that have been established by federal law to benefit Native Hawaiians.

The bill does not relinquish the claims of Native Hawaiians to their Native lands. The bill does not address the issue of lands. For the Native Hawaiians who oppose this bill because they feel it predetermines a political status, I say to them—the bill is a beginning. It is a measure for organization. It is an act of empowerment. It gives voice to those whose voices have historically been made mute. As Senator AKAKA has noted, this measure provides Native Hawaiians with a seat at the table of government. It provides authority for Native Hawaiians to define their future and participate in the process of choice. It provides Native Hawaiians with the opportunity to choose their own leaders to represent them before state and federal agencies. It assures that the United States Congress, as part of its constitutionally mandated authority, duly recognizes, accepts and acknowledges Native Hawaiians as a sovereign people in the same way that Native Americans and Native Alaskans are recognized under the U.S. Constitution.

More than 150 people presented oral testimony at the Joint Congressional Hearings in Hawaii. Many more have presented written testimony. Though some are opposed, those representing major Hawaiian organizations and associations lend their full support for the bill. The bill has been revised to reflect the input of the Native Hawaiian community.

I fully support the bill and urge my colleagues to give it their full support also.

Mr. GEORGE MILLER of California. Mr. Speaker, H.R. 4904 is a natural evolution of the relationship the United States has with Native Hawaiians. The need for this legislation began with the illegal overthrow of the Kingdom of Hawaii in 1893 which disrupted a peaceful citizenry and developing island monarchy. It was highlighted by the passage of the Hawaiian Homes Commission Act in 1921 which put lands into public trust for the benefit of Native Hawaiians. The next step was taken when Congress, a hundred years after the overthrow of the Kingdom, adopted a Joint Resolution making a formal apology on behalf of the U.S. to Native Hawaiians. Today we unfold yet another chapter in our relationship with Native Hawaiians as we consider this legislation which provides a process for the reorganization of a Native Hawaiian government and recognition of the Native Hawaiian government by the United States for purposes of carrying on a government-to-government relationship.

This legislation was thoughtfully crafted. Our colleague, Mr. ABERCROMBIE and the entire Hawaii delegation here in the House and the Senate have invested a lot of effort into this legislation. In putting this together, they solicited input from all interested parties. The Resources Committee held five hearings on this legislation and reported the bill out with a unanimous vote.

This is just legislation, it has been a long time coming and I urge my colleagues to support it.

I want to raise two matters which are fundamental to an understanding of why the pending legislation has been proposed. The first has to do with the authority of the United States to delegate Federal responsibilities to the several States. The second is important to an understanding of why the Federal policy which recognized the rights of the native people of America to self-determination and self-governance was not extended to the native people of Hawaii when Hawaii joined our Union of States in 1959.

For the past two hundred and ten years, the United States Congress, the Executive, and the U.S. Supreme Court have recognized certain legal rights and protections for America's indigenous peoples. Since the founding of the United States, Congress has exercised a constitutional authority over indigenous affairs and has undertaken an enhanced duty of care for America's indigenous peoples. This has been done in recognition of the sovereignty possessed by the native people—a sovereignty which pre-existed the formation of the United States. The Congress' constitutional authority is also premised upon the status of the indigenous people as the original inhabitants of this nation who occupied and exercised dominion and control over the lands to which the United States subsequently acquired legal title.

The United States has recognized a special political relationship with the indigenous people of the United States. As Native Americans—American Indians, Alaska Natives, and Native Hawaiians—the United States has recognized that they are entitled to special rights and considerations. The Congress has enacted laws to give expression to the respective legal rights and responsibilities of the Federal government and the native people.

However, we must also recognize that over the last two hundred years, Federal policy toward America's native people has vacillated significantly. While the United States Constitution vests the Congress with the authority to address the conditions of the indigenous, native people of the United States, from time to time, with the consent of the affected States, the Congress has sought to more effectively address the conditions of the indigenous people by delegating Federal responsibilities to various States.

Beginning in the 1950's, pursuant to House Concurrent Resolution 108, Federal policy sought the termination of Indian reservations and a general transfer of some Federal responsibilities to the states. In the 1960's, California was one of the states that was made the subject of Federal law in this respect, when criminal jurisdiction and certain elements of civil jurisdiction formerly exercised by the United States was transferred to states with the enactment of Public Law 83–280.

So it is that the two significant actions of the United States as they relate to the native people of Hawaii must be understood in the context of the Federal policy towards America's other indigenous, native people at the time of those actions.

In 1921, when the Hawaiian Homes Commission Act was enacted into law, the prevailing Federal policy was premised upon the objective of breaking up Indian reservations and allotting lands to individual Indians. Those reservation lands remaining after the allotment of lands to individual Indians were opened up to settlement by non-Indians, and significant incentives were authorized to make the settle-

ment of former reservation lands attractive to non-Indian settlers. Indians were not to be declared citizens of the United States until 1924, and it was typical that a twenty-year restraint on the alienation of allotted lands was imposed. This restraint prevented the lands from being subject to taxation by the states, but the restraint on alienation could be lifted if an individual Indian was deemed to have become "civilized." However, once the restraint on alienation was lifted and individual Indian lands became subject to taxation, Indians who did not have the wherewithall to pay the taxes on the land, found their lands seized and put up for sale. This allotment era of Federal policy was responsible for the alienation of nearly half of all Indian lands nationwide—hundreds of millions of acres of lands were no longer in native ownership, and hundreds of thousands of Indian people were rendered not only landless but homeless.

The primary objective of the allotment of lands to individual Indians was to "civilize" the native people. The fact that the United States thought to impose a similar scheme on the native people of Hawaii in an effort to "rehabilitate a dying race" is thus readily understandable in the context of the prevailing Federal Indian policy in 1921.

In 1959, when the State of Hawaii was admitted into the Union, the Federal policy toward the native people of America was designed to divest the Federal government of its responsibilities for the indigenous people and to delegate those responsibilities to the several states. A prime example of this Federal policy was the enactment of Public Law 83–280, an Act which, as I have indicated, vested criminal jurisdiction and certain aspects of civil jurisdiction over Indian lands to certain states. In similar fashion, in 1959, the United States transferred most of its responsibilities related to the administration of the 1921 Hawaiian Homes Commission Act to the new State of Hawaii, and in addition, imposed a public trust upon the lands that were ceded back to the State for five purposes, one of which was the betterment of conditions of Native Hawaiians. The Federal authorization for this public trust clearly anticipated that the State's constitution and laws would provide for the manner in which the trust would be carried out.

In 1978, the citizens of the State of Hawaii exercised this Federally-delegated authority by amending the State constitution in furtherance of the special relationship with Native Hawaiians. The delegates to the 1978 constitutional convention recognized that Native Hawaiians had no other homeland, and thus that the protection of Native Hawaiian subsistence rights to harvest the ocean's resources, to fish the fresh streams, to hunt and gather, to exercise their rights to self-determination and self-governance, and the preservation of Native Hawaiian culture and the Native Hawaiian language could only be accomplished in the State of Hawaii.

Hawaii's adoption of amendments to the State constitution to fulfill the special relationship with Native Hawaiians is consistent with the practice of other States that have established special relationships with the native inhabitants of their areas. Fourteen States have extended recognition to Indian tribes that are not recognized by the Federal government, and thirty-two States have established commissions and offices to address matters of policy affecting the indigenous citizenry.

We all know that on January 17, 1893, the government of the Kingdom of Hawaii was overthrown with the assistance of the United States minister and U.S. marines. One hundred years later, a resolution extending an apology on behalf of the United States to Native Hawaiians for the illegal overthrow of the Native Hawaiian government and calling for a reconciliation of the relationship between the United States and Native Hawaiians was enacted into law (Public Law 103–150).

The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their government or through a plebiscite or referendum.

With the loss of their government in 1893, Native Hawaiians have sought to maintain political authority within their community.

In 1978, the citizens of the State of Hawaii recognized the long-standing efforts of the native people to give expression to their rights to self-determination and self-governance by amending the State constitution to provide for the establishment of a quasisovereign State agency, the Office of Hawaiian Affairs. The State constitution, as amended, provides that the Office is to be governed by nine trustees who are Native Hawaiian and who are to be elected by Native Hawaiians. The Office administers programs and services with revenues derived from lands which were ceded back to the State of Hawaii upon its admissions into the Union of States.

On February 23, 2000, the United States Supreme Court issued a ruling in the case of *Rice v. Cayetano*. The Supreme Court held that because the Office of Hawaiian Affairs is an agency of the State of Hawaii that is funded in part by appropriations made by the State legislature, the election for the trustees of the Office of Hawaiian Affairs must be open to all citizens of the State of Hawaii who are otherwise eligible to vote in statewide elections.

Contrary to a mostly erroneous article published today, the Court expressly declined to address the powers and authorities of the Federal government as they relate to Native Hawaiians. This bill thus does not in any way circumvent the decision of the Supreme Court in *Rice*. However, with the Court's ruling, the native people of Hawaii have been divested of the mechanism that was established under the Hawaii State Constitution that, since 1978, has enabled them to give expression to their rights as indigenous, native people of the United States to self-determination and self-governance.

H.R. 4904 is designed to address these developments by providing a means under Federal law, consistent with the Federal policy of self-determination and self-governance for America's indigenous, native people, for Native Hawaiians to have a status similar to that of the other indigenous, native people of the United States, the First Americans.

Mr. HANSEN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4904, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes."

A motion to reconsider was laid on the table.

#### GEORGE WASHINGTON MEMORIAL PARKWAY, MCLEAN, VIRGINIA, LAND EXCHANGE

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4835) to authorize the exchange of land between the Secretary of the Interior and the Director of Central Intelligence at the George Washington Memorial Parkway in McLean, Virginia, and for other purposes.

The Clerk read as follows:

H.R. 4835

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. AUTHORIZATION OF LAND EXCHANGE.

The Secretary of the Interior and the Director of Central Intelligence are authorized to exchange approximately 1.74 acres of land under the jurisdiction of the Department of the Interior within the boundary of the George Washington Memorial Parkway for approximately 2.92 acres of land under the jurisdiction of the Central Intelligence Agency adjacent to the boundary of the George Washington Memorial Parkway. The land to be conveyed by the Secretary of the Interior to the Central Intelligence Agency is depicted on National Park Service Drawing No. 850/81992, dated August 6, 1998. The land to be conveyed by the Central Intelligence Agency to the Secretary of the Interior is depicted on National Park Service Drawing No. 850/81991, Sheet 1, dated August 6, 1998. These maps shall be available for public inspection in the appropriate offices of the National Park Service.

#### SEC. 2. CONDITIONS OF LAND EXCHANGE.

The land exchange authorized under section 1 shall be subject to the following conditions:

(1) NO REIMBURSEMENT OF CONSIDERATION.—The exchange shall occur without reimbursement or consideration.

(2) PUBLIC ACCESS.—The Director of Central Intelligence shall allow public access to the property transferred from the National Park Service and depicted on National Park Service Drawing No. 850/81992. Such access shall be for a motor vehicle turn-around on the George Washington Memorial Parkway.

(3) OTHER ACCESS.—The Director of Central Intelligence shall allow access to—

(A) personnel of the Federal Highway Administration Turner-Fairbank Highway Research Center as is provided for in the Federal Highway Administration's (FHWA) report of excess, dated May 20, 1971, which states, "Right-of-access by FHWA to and from the tract retained to the George Washington Parkway and to State Route 193 is to

be held in perpetuity, or until released by FHWA"; and

(B) other Federal Government employees and visitors whose admission to the Research Center is authorized by the Turner-Fairbank Highway Research Center.

(4) CLOSURE.—The Central Intelligence Agency shall have the right to close off, by whatever means necessary, the transferred property depicted on National Park Service Drawing No. 850/81992, dated August 6, 1998, to all persons except United States Park Police, other necessary National Park Service personnel, and personnel of the Federal Highway Administration Turner-Fairbank Highway Research Center when the Central Intelligence Agency has determined that the physical security conditions dictate in order to protect Central Intelligence Agency personnel, facilities, or property. Any such closure shall not exceed 12 hours in duration within a 24-hour period without consultation with the National Park Service, Federal Highway Administration Turner-Fairbank Highway Research Center facility and the United States Park Police. No action shall be taken to diminish use of the area for access to the Federal Highway Administration Turner-Fairbank facility except when the area is closed for security reasons.

(5) COMPLIANCE WITH DEED RESTRICTIONS.—The Director shall ensure compliance by the Central Intelligence Agency with the deed restrictions for the transferred property as depicted on National Park Service Drawing No. 850/81992, dated August 6, 1998.

(6) COMPLIANCE WITH AGREEMENT.—The National Park Service and the Central Intelligence Agency shall comply with the terms and conditions of the Interagency Agreement between the National Park Service and the Central Intelligence Agency signed in 1998 regarding the exchange and management of the lands discussed in that agreement.

(7) DEADLINE.—The Secretary of the Interior and the Director of Central Intelligence shall complete the transfers authorized by this section not later than 120 days after the date of enactment of this Act.

#### SEC. 3. MANAGEMENT OF EXCHANGED LANDS.

(a) INTERIOR LANDS.—The land conveyed to the Secretary of the Interior under section 1 shall be included within the boundary of the George Washington Memorial Parkway and shall be administered by the National Park Service as part of the parkway subject to the laws and regulations applicable thereto.

(b) CIA LANDS.—The land conveyed to the Central Intelligence Agency under section 1 shall be administered as part of the headquarters building compound of the Central Intelligence Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from Puerto Rico (Mr. ROMERO-BARCELO) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4835 authorizes the exchange of 1.7 acres of National Park Service land located within the boundaries of the George Washington Memorial Parkway for 2.9 acres of Central Intelligence Agency land located adjacent to the George Washington Memorial Parkway. The proposed exchange, which is designed to improve security at the CIA, is supported by both the CIA and the National Park Service. Once the exchange is complete, the CIA will allow public access to the property

transferred from the National Park Service for a motor vehicle turnaround on the George Washington Memorial Parkway. This land shall be administered as part of the headquarters building compound of the CIA. The 2.92 acres transferred to the Secretary of the Interior from the CIA shall be included within the boundary of the George Washington Memorial Parkway and shall be administered by the National Park Service.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ROMERO-BARCELO. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ROMERO-BARCELO asked and was given permission to revise and extend his remarks.)

Mr. ROMERO-BARCELO. Mr. Speaker, H.R. 4835 introduced by the gentleman from Virginia (Mr. MORAN) would authorize the exchange of 1.74 acres of National Park Service land located within the boundaries of the George Washington Memorial Parkway for 2.92 acres of Central Intelligence Agency land located adjacent to the George Washington Memorial Parkway. The purpose of the land exchange is to address security issues at the entrance to the Central Intelligence Agency headquarters in McLean, Virginia, that is accessed via the George Washington Memorial Parkway.

Mr. Speaker, this proposal will enhance security at CIA headquarters without damage to any park resources. We join with the administration in supporting the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. I thank my friend and very distinguished colleague from Puerto Rico for yielding me this time, and I thank the gentleman from Utah (Mr. HANSEN), the distinguished chairman.

This was necessitated when a deranged terrorist killed two CIA officers in 1993. The reason that we are making this land exchange is for security purposes. It does not do much for the parkway, but it certainly has no damaging effect; and it is the right thing to do, so the Park Service is making an equal swap of land. They are picking up almost 3 acres of land on the far compound, and they are giving up this land to enhance security for CIA employees. It is the right thing to do. There is no controversy. I very much appreciate my colleagues letting it go through.

I trust that we can find more ways that we can reach win-win bipartisan solutions on these things.

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Mr. ROMERO-BARCELO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.