

TO EXPRESS THE POLICY OF THE UNITED STATES REGARDING THE
UNITED STATES RELATIONSHIP WITH NATIVE HAWAIIANS, AND FOR
OTHER PURPOSES

SEPTEMBER 26, 2000.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 4904]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred 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, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

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, 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 programs, 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 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 or 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 Commission 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 “Na-

“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 Department of the Interior.

(12) **TASK FORCE.**—The term “Task Force” means the Native Hawaiian Intergovernmental 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 of the Department of the Interior 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 mat-

ters 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 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 primary 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 gov-

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

(A) 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

(B) 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.

(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).

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

(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) PUBLICATION OF FINAL ROLL.—The Commission shall publish a 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.

(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.—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 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.

(2) FEDERAL RECOGNITION.—

(A) RECOGNITION.—Notwithstanding any other provision of law, upon the certifications (or deemed certifications) by the Secretary authorized in subparagraph (B), 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 sections 4, 6, and 7 of 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.

Amend the title 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.

PURPOSE

The purpose of H.R. 4904 is to express the policy of the United States regarding the United States relationship with Native Hawaiians, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

On January 17, 1893, with the assistance of the United States Minister and U.S. marines, the government of the Kingdom of Hawaii was overthrown. 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.

In December 1999, the Departments of Interior and Justice initiated a process of reconciliation in response to the Apology Resolution by conducting meetings in Native Hawaiian communities on each of the principal islands in the State of Hawaii and culminating in two days of open hearings. In each setting, members of the Native Hawaiian community identified what they believe are the necessary elements of a process to provide for the reconciliation of the relationship between the United States and the Native Hawaiian people. A draft report, entitled “From Mauka to Makai: The River of Justice Must Flow Freely”, was issued by the two departments on August 23, 2000. A 30-day comment period on the report expired on September 23, 2000. The principal recommendation contained in the draft report is set forth below:

Recommendation 1. It is evident from the documentation, statements, and views received during the reconciliation process undertaken by Interior and Justice pursuant to Public Law 103–150 (1993), that the Native Hawaiian people continue to maintain a distinct community and certain governmental structures and they desire to increase their control over their own affairs and institutions. As a matter of justice and equity, this report recommends that the Native Hawaiian people should have self-determination over their own affairs within the framework of Federal law, as do Native American tribes. For generations, the United States has recognized the rights and promoted the welfare of Native Hawaiians as an indigenous people within our Nation through legislation, administrative action, and policy statements. To safeguard and enhance Native Hawaiian self-determination over their lands, cultural resources, and internal affairs, the Departments believe Congress should enact further legislation to clarify Native Hawaiians’ political status and to create a framework for recognizing a government-to-government relationship with a representative Native Hawaiian governing body.

H.R. 4904 provides a process for the reorganization of a Native Hawaiian government. After certification by the Secretary of the Interior that the organic governing documents of the Native Hawaiian government are consistent with federal law and the trust relationship between the United States and the indigenous, native people of the United States, H.R. 4904 provides for the recognition of the Native Hawaiian government by the United States for purposes of carrying on a government-to-government relationship with the Native Hawaiian government.

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 quasi-sovereign 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 admission into the Union of 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 new State assumes a trust responsibility for approximately 203,500 acres of land that had previously been set aside under federal law in 1921 for Native Hawaiians in the Hawaiian Homes Commission Act.

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.

The nine Native Hawaiian trustees of the Office of Hawaiian Affairs have subsequently resigned their positions, and the Governor of the State of Hawaii has appointed interim trustees to fill the positions vacated by the Native Hawaiian trustees, until new trustees can be elected in elections scheduled to be held on November 7, 2000. By order of the U.S. District Court for the District of Hawaii, the candidates for the Office of Hawaiian Affairs trustees may be either Native Hawaiian or non-Native Hawaiian, and all citizens of the State of Hawaii may vote for the 97 candidates that have registered to run for the nine trustee positions.

The native people of Hawaii have thus 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 findings of H.R. 4904 focus on the history of Native Hawaiians and United States policy as it relates to Native Hawaiians, including the enactment of over 160 public laws to address the conditions of Native Hawaiians. H.R. 4904 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.

The bill authorizes a roll to be developed of those Native Hawaiians who wish to participate in the reorganization of a Native Hawaiian government. A commission appointed by the Secretary of the Interior would certify that those on the roll meet the definition of "Native Hawaiian" that is contained in H.R. 4904. Upon the commission's certification, the commission submits the roll to the Interior Secretary for his certification that the roll is consistent with federal law, and thereafter the Secretary is authorized to publish the final roll. A process for appeal for anyone who believes that they have been wrongfully excluded from the roll, or to challenge the inclusion of the name of a person on the roll who does not meet the definition of Native Hawaiian, is also authorized.

H.R. 4904 authorizes the formation of a Native Hawaiian Interim Governing Council through the election of representatives by the adult members listed on the roll. The first responsibility of the Council is to conduct a referendum of all adult members listed on the roll to determine the elements of organic governing documents for the Native Hawaiian government. Thereafter, the Council is authorized to develop organic governing documents that would be subject to ratification through an election in which the adult members listed on the roll would vote. Once the organic governing documents are ratified, an election of officers to the Native Hawaiian government would be held. That election and those who would be eligible to participate in such an election are to be determined by the organic governing documents.

Upon the ratification of the organic governing documents and the election of officers to the Native Hawaiian government, the governing documents are to be submitted to the Secretary of the Interior for certification that they are consistent with federal law and the special trust relationship between the United States and native people. The Secretary is also authorized to certify that the governing documents provide for the protection of the civil rights of the citizens of the Native Hawaiian government and any others who would come within the jurisdiction of the government. Once the Secretary has made this certification, the bill provides authority for the United States' recognition of the Native Hawaiian government. Upon recognition, the definition of "Native Hawaiian" for purposes of federal law would be as provided for in the organic governing documents of the Native Hawaiian government.

H.R. 4904 also provides authority for the establishment of a United States Office of Native Hawaiian Affairs within the Office of the Secretary of the U.S. Department of the Interior. The Office is to be the principal entity through which the United States will carry on relations with the Native Hawaiian people until a Native Hawaiian government is formed. The Office is authorized to enter into contracts or make grants to facilitate the development of the

roll referenced above and to assist in the elections that would be conducted by the Native Hawaiian Interim Governing Council, if the Office is called upon to provide such assistance. The Office would also serve as the primary agent of ongoing efforts to effect the reconciliation that is authorized in the Apology Resolution. Together with the Office of Tribal Justice in the U.S. Department of Justice, the two offices would serve as lead agencies for the work of a Native Hawaiian Interagency Task Force that is authorized to be established in H.R. 4904.

As referenced above, since 1910, the Congress has enacted over 160 statutes designed to address the conditions of Native Hawaiians. Appropriations for Native Hawaiian programs have always been separately secured and have had no impact on program funding for American Indians or Alaska Natives. Consistent with this practice, H.R. 4904 provides authority for a separate and distinct appropriation that does not impact in any way on existing authorizations for American Indian and Alaska Native programs. It is also important to note that federal programs addressing health care, education, job training, graves protection, arts and culture, and language preservation for Native Hawaiians are already in place. Accordingly, new impacts on the federal budget that might otherwise be anticipated with the federal recognition of a native government will not be forthcoming as a result of the reorganization of the Native Hawaiian government. H.R. 4904 does authorize appropriations for the establishment of the U.S. Office of Native Hawaiian Affairs within the Department of the Interior, and for a three-year period for grants to assist Native Hawaiians in reorganizing a Native Hawaiian government, but the costs associated with these activities are not expected to be significant.

Some have questioned whether the reorganization of a Native Hawaiian government might have implications for gaming that is conducted under the authority of the Indian Gaming Regulatory Act. That Act authorizes Indian tribal governments to conduct gaming on Indian reservations and lands held in trust by the United States for Indian tribes. The scope of gaming that can be conducted under the Act is determined by the law of the State in which the Indian lands are located. The U.S. Supreme Court has held that State laws which criminally prohibit certain forms of gaming apply on Indian lands. 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 is Utah) that criminally prohibit all forms of gaming. Accordingly, a reorganized Native Hawaiian government could not conduct any form of gaming in the State of Hawaii.

SECTION-BY-SECTION ANALYSIS

Section 1. Findings

This section sets forth the Congress' findings. They reflect Congress' recognition of Native Hawaiians as the native people of the United States and the State of Hawaii, Congress' determination of the need to address conditions of Native Hawaiians through the Hawaiian Homes Commission Act of 1920, Congress' establishment of the Ceded Lands trust as a condition of statehood for the State of Hawaii, the importance of the Hawaiian Home Lands and Ceded

Lands to Native Hawaiians as a foundation for the Native Hawaiian community for the survival of the Native Hawaiian people, the effect of the Apology Resolution, the Native Hawaiian community as a “distinctly” native community, the legal position of the United States before the U.S. Supreme Court in the case of *Rice v. Cayetano*, and reaffirm the special trust relationship between the Native Hawaiian people and the United States.

Section 2. Definitions

This section sets forth definitions of terms used in the bill. Defined terms are Aboriginal, Indigenous, Native People; Adult Members; Apology Resolution; Ceded Lands; Commission; Indigenous, Native People; Native Hawaiian; Native Hawaiian Government; Native Hawaiian Interim Governing Council; Roll; Secretary; and Task Force.

It is the intent of the Committee that the definition of Native Hawaiian, for the purposes of membership in the government, be determined by Native Hawaiians. The Committee recognizes the longstanding issues surrounding the definition of “Native Hawaiian” and acknowledges the Native Hawaiian community’s desire to address the definition of Native Hawaiian. The legislation provides for this flexibility by first identifying those Native Hawaiians eligible to participate in the reorganization of the Native Hawaiian government. The legislation further provides that once the Native Hawaiian government addresses this issue in its organic governing documents, that the definition established by the Native Hawaiian government will serve as the definition of Native Hawaiian for purposes of this federal law.

Moreover, it is the intent of the Committee that the roll be used for the purposes of identifying those individuals who meet the definition of Native Hawaiian as defined in section 7(a)(1) to participate in the reorganization of the Native Hawaiian government. Once the roll has been established, the members on the roll have the flexibility to retain the roll should they determine it necessary for additional purposes.

Section 3. United States policy and purpose

This section reaffirms that Native Hawaiians are an aboriginal, indigenous, native people with whom the United States has a trust relationship. It also affirms that Native Hawaiians have the right to self-determination and that it is Congress’ intent to provide a process for the reorganization of a Native Hawaiian government and for federal recognition of the Native Hawaiian government for purposes of continuing a government-to-government relationship.

Section 4. Establishment of the United States Office for Native Hawaiian Affairs

This provision provides authority for the establishment of the United States Office for Native Hawaiian Affairs within the Office of the Secretary of the Department of Interior. This Office is charged with: (1) effectuating and coordinating the special trust relationship between the Native Hawaiian people and the United States; (2) conducting meaningful, regular, and appropriate consultation with the Native Hawaiian people regarding any action that may affect traditional or current practices and matters that

significantly or uniquely impact Native Hawaiian resources, rights, or lands; (3) consulting with the Native Hawaiian Interagency Task Force, other federal agencies, and with the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; (4) preparing and submitting to the Senate Committee on Indian Affairs, Senate Committee on Energy and Natural Resources, and House Committee on Resources an annual report detailing the Interagency Task Force's activities regarding the reconciliation process, consultation with the Native Hawaiian people, and recommendations of necessary changes to existing federal statutes; (5) continuing the process of reconciliation with the Native Hawaiian people; and (6) assisting the Native Hawaiian people in facilitating a process for self-determination, the organization of a Native Hawaiian Interim Governing Council, and recognition of the Native Hawaiian government. Once the Native Hawaiian government is formed, the Office will conduct all the activities involving the Native Hawaiian people with the Native Hawaiian government, rather than individual Native Hawaiians.

The Office is also authorized to enter into contracts and grants for the purposes of the activities authorized in section 7 for a period of three years.

It is the intent of the Committee that the United States Office for Native Hawaiian Affairs serve as a liaison between the Native Hawaiian people and the United States for the purposes of assisting with the reorganization of the Native Hawaiian government, continuing the reconciliation process, and ensuring proper consultation with the Native Hawaiian people for any federal policy impacting Native Hawaiians. The Committee does not intend for the United States Office for Native Hawaiian Affairs to assume the responsibility or authority for any of the federal programs established to address the conditions of Native Hawaiians. All federal programs established and administered by federal agencies will remain with those agencies.

Section 5. Designation of Department of Justice representative

This section requires the United States Attorney General to designate an appropriate official within the Department of Justice to assist the U.S. Office of Native Hawaiian Affairs in implementing and protecting the rights of Native Hawaiians and their political, legal, and trust relationship with the United States and, upon recognition of the Native Hawaiian government, the rights of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

Section 6. Native Hawaiian interagency task force

This section authorizes the establishment of an Interagency Task Force composed of officials from each federal agency, to be designated by the President, a representative from the U.S. Office of Native Hawaiian Affairs, and a representative from the Executive Office of the President. The Departments of Justice and Interior will serve as the lead agencies of the Task Force, and the Attorney General's designee and the head of the U.S. Office of Native Hawaiian Affairs will serve as co-chairs. The primary responsibility of the Task Force is to coordinate federal policies or acts that affect Native Hawaiians or impact Native Hawaiian resources, rights, or

lands. The Task Force is also charged with assuring that each federal agency develop a Native Hawaiian consultation policy and participate in the development of the report to Congress.

Section 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

Subsection (a) authorizes the U.S. Office of Native Hawaiian Affairs to 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 organizing a Native Hawaiian Interim Governing Council. The roll shall include the names of the adult members of the Native Hawaiian community who wish to voluntarily become citizens of a Native Hawaiian government and 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 all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act and their lineal descendants. The roll may also include the names of the children of the adult members who wish to participate in the reorganization of a Native Hawaiian government. Participation in the reorganization of the government, however, is limited to the adult members listed on the roll.

A nine-member Commission is authorized to be established. The Commission is to be made up of Native Hawaiians appointed by the Secretary. In appointing members of the Commission, the Secretary may choose such members from among five suggested candidates submitted by the Majority and Minority Leaders of the Senate and four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives. The Secretary may appoint members who are not on either list submitted by the Senate or the House of Representatives. Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

The Commission is charged with certifying that the adult members of the Native Hawaiian community who wish to be listed on the roll and participate in the organization of the Native Hawaiian Interim Governing Council (Council) meet the definition of "Native Hawaiian" as established in this bill.

It is the intent of the Committee that the determination of who is a Native Hawaiian be resolved by Native Hawaiians. To ensure that the Native Hawaiian people have authority over the accuracy of establishing the roll for the purposes of determining who shall participate in the reorganization of the Native Hawaiian government, the bill establishes a Certification Commission. The sole responsibility of the Certification Commission is to certify that those members on the roll meet the definition of Native Hawaiian in section 7(a)(1).

The Secretary shall certify that the roll is consistent with applicable federal law. If the Secretary fails to certify the roll within 90

days, the roll shall be deemed certified by the Secretary and the Commission shall publish the final roll. The Secretary is also authorized to establish an appeal mechanism to address the exclusion of the name of a person who meets the definition of Native Hawaiian or to address 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.

After certifying that the roll is consistent with applicable federal law, the Secretary shall publish the final roll. The roll may be published even though appeals are pending, however; the Secretary must update the final roll upon final disposition of any appeal. The final roll shall serve as the basis for the eligibility of adult members to participate in all referenda and elections associated with the organization of the Council and the Native Hawaiian government.

Subsection (b) recognizes the right of Native Hawaiians to organize for their common welfare and to adopt appropriate organic governing documents.

Subsection (c) authorizes the adult members of the roll to develop the criteria for candidates and the structure of the Council. The Committee intends for the adult members of the roll to determine how the Native Hawaiian Interim Governing Council should be structured. The Committee anticipates that the adult members may consider a number of methods of representation which could include representation by island, district, ahupua‘a, family, or any other form.

Upon request of the adult members listed on the roll, the U.S. Office of Native Hawaiian Affairs is authorized to provide assistance in the conduct of an election by secret ballot to elect the membership of the Council. This provision is intended to allow the adult members the flexibility to hold the election themselves or to request the assistance of the U.S. Office of Native Hawaiian Affairs.

The Council is authorized to represent those on the roll in implementing the bill and is to have no power other than those authorized by H.R. 4904. The Council is authorized to enter into contracts or grants to carry out its activities, to assist in the conduct of a referendum on the Native Hawaiian government's form, powers, and the proposed organic governing documents. Thereafter, the Council is authorized to conduct an election for the purpose of ratifying the organic governing documents and, upon ratification of the organic governing documents, to elect the Native Hawaiian government officers.

Under subsection (d), the duly elected officers of the Native Hawaiian government shall submit the organic governing documents to the Secretary for certification that the organic governing documents were adopted by a majority vote of those eligible to vote; are consistent with applicable federal law and the special trust relationship between the United States and Native Hawaiians; 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; provides for the protection of the civil rights of the citizens of the Native Hawaiian government and those subject to the authority of the Native Hawaiian government; prevents 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; sets forth the citizenship criteria of the Native Hawaiian government; and authorizes the Native Hawaiian government to negotiate with federal, State, and local governments. The organic governing documents will be deemed certified if the Secretary fails to certify them within 90 days of the date the Native Hawaiian government submitted the documents.

If the Secretary determines that any provision of the organic governing documents does not comply with applicable federal law, the Secretary shall return the organic governing documents to the Native Hawaiian government identifying each provision that is inconsistent with applicable federal law and providing a justification for each finding that a provision is inconsistent with applicable federal law. The Native Hawaiian government is authorized to amend the organic governing documents to assure their compliance with applicable federal law. After the organic governing documents are amended, the Native Hawaiian government may resubmit the organic governing documents to the Secretary for certification.

Section 8. Authorization of appropriations

This section authorizes the appropriation of such sums as may be necessary to carry out the activities authorized.

Section 9. Reaffirmation of delegation of federal authority; negotiations

This section reaffirms the United States' delegation of authority to the State of Hawaii in the Admissions Act to address the conditions of Native Hawaiians. Upon federal recognition of the Native Hawaiian government, the United States is authorized to negotiate with the State of Hawaii and the Native Hawaiian government regarding the transfer to the Native Hawaiian government of lands, resources and assets dedicated to Native Hawaiian use under existing law.

Section 10. Disclaimer

This section provides that nothing in this bill is intended to serve as a settlement of any claims against the United States, or affects the rights of the Native Hawaiian people under international law.

Section 11. Regulations

This section authorizes the Secretary of the Interior to make such rules and regulations and to delegate such authority, as the Secretary deems necessary.

Section 12. Severability clause

This section provides that should any section or provision of this bill be deemed invalid, the remaining sections, provisions, and amendments shall continue in full force and effect.

COMMITTEE ACTION

Congressman Neil Abercrombie (D-HI) introduced H.R. 4904 on July 20, 2000, and the bill was referred to the Committee on Resources. A companion measure, S. 2899, was introduced in the Senate on July 20, 2000, by Senators Daniel K. Akaka (D-HI) and

Daniel K. Inouye (D–HI). Five days of hearings were held on H.R. 4904 and S. 2899 in joint hearings of the House Resources Committee and the Senate Indian Affairs Committee in Hawaii from Monday, August 28, 2000, through Friday, September 1, 2000. On September 20, 2000, the Full Resources Committee met to consider the bill. Congressman Abercrombie offered an amendment in the nature of a substitute, which was adopted by voice vote. The bill was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule x and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in this bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **Government Reform Oversight Findings.** Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, September 25, 2000.

Hon. DON YOUNG,
 Chairman, Committee on Resources,
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4904, 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.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lanette J. Keith (for federal costs) and Marjorie Miller (for the impact on state, local, and tribal government).

Sincerely,

BARRY B. ANDERSON
 (For Dan L. Crippen, Director).

Enclosure.

H.R. 4904—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

H.R. 4904 would establish a process for a Native Hawaiian government to be constituted and recognized by the federal government. CBO estimates that implementing H.R. 4904 would cost \$5 million over the 2001–2003 period, assuming the appropriation of the necessary amounts. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. H.R. 4904 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enactment of this legislation could lead to the creation of a new government to represent native Hawaiians. The transfer of any lands or other assets to this new government, including lands now controlled by the state of Hawaii, would be the subject of future negotiations. Similarly, federal payments to native Hawaiians following recognition of a New Hawaiian government would depend on future legislation.

The bill would establish the United States Office for Native Hawaiian Affairs within the Department of the Interior (DOI) to coordinate services to native Hawaiians, as defined in the bill. The bill would authorize the office to assist in developing a list of individuals who meet the definition. Based on information from DOI, CBO estimates that this work would cost \$2 million over the 2001–2003 period. In addition, the bill would establish a commission to verify that those listed meet the bill's criteria for native Hawaiians. Based on information from DOI, we estimate that commission costs would total about \$1 million each year over the three-year period.

On September 25, 2000, CBO transmitted a cost estimate for S. 2899, as ordered reported by the Senate Committee on Indian Af-

fairs on September 14, 2000. These two bills are identical, as are our cost estimates.

The CBO staff contacts are Lanette J. Keith (for federal costs) and Marjorie Miller (for the impact on state, local, and tribal governments). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

