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HOUSE OF REPRESENTATIVES
REPORT
110–50

HAWAIIAN HOMEOWNERSHIP OPPORTUNITY ACT OF 2007

MARCH 15, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial Services, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 835]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 835) to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 835, the Hawaiian Homeownership Opportunity Act of 2007 reauthorizes Title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and provides Native Hawaiian's greater access to two loan guarantee programs (Section 184(a) and NAHASDA Title VI). NAHASDA and Section 184s are programs administered by Department of Housing and Urban Development's (HUD) Office of Native American Programs. Title VIII provides funding to the Department of Hawaiian Home Lands (DHHL), which then provides housing services to low-income Native Hawaiian families living on Hawaiian home lands.

BACKGROUND AND NEED FOR LEGISLATION

The Native American Housing Assistance and Self-Determination Act of 1996 reorganized the system of housing assistance provided to tribes through the Department of Housing and Urban Development (HUD) by eliminating tribal eligibility for several housing programs and replacing the money that would be derived from those programs with the Indian Housing Block Grant (IHBG), which provides funds directly to tribes for housing services as determined by the tribes themselves. In 2000, NAHASDA was amended to include Title VIII so that Native Hawaiians could receive block grant funding as well through a separate grant—the Native Hawaiian Housing Block Grant (NHHBG), which funds vital housing programs on Hawaiian home lands.

Title VIII of NAHASDA was originally authorized for five years, through 2005, and has not been formally reauthorized since, although appropriations acts have continued to provide de facto one-year reauthorizations for the program. H.R. 835 reauthorizes Title VIII of NAHASDA for five years through FY 2012.

H.R. 835 also makes two substantive changes to current law by expanding access for Native Hawaiian's to two loan guarantee programs—Section 184(a) and NAHASDA Title VI.

Section 184(a).—H.R. 835 changes the Section 184(a) loan guarantee program for single-family homes on Native Hawaiian home lands by allowing for refinancing, striking requirements that a homebuyer be turned down for a loan before applying for a Section 184(a) loan, and eliminating the requirement to report on anticipated applications in the annual housing plan.

NAHASDA Title VI.—H.R. 835 allows DHHL to become eligible for loan guarantees authorized under Title VI of NAHASDA. This program, modeled on the Section 108 Loan Guarantee Program that works in conjunction with HUD's Community Development Block Grant program (CDBG), would allow DHHL to borrow or issue bonded debt for large-scale housing and infrastructure development with the security of the Federal government, using the funding stream provided by HUD as collateral.

The use of Title VI funding by American Indians and Alaska Natives has expanded greatly. By allowing Native Hawaiian's access to Title VI loans, the Committee does not intend to create competition for funding resources. Therefore, the Committee expects, at the discretion of the Appropriations Committee, that a separate credit

subsidy will be established and funded as necessary to provide funding for loans to Native Hawaiian's under Title VI.

HEARINGS

No hearings were held on this legislation.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on February 13, 2007, and ordered reported H.R. 835, the Hawaiian Homeownership Opportunity Act, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Frank to report the bill to the House with a favorable recommendation was agreed to by a voice vote. During the consideration of the bill, the following amendment was disposed of by a record vote. The names of Members voting for and against follow:

An amendment by Mr. Campbell, No. 1, regarding a rule of construction, was not agreed to by a record vote of 27 yeas and 40 nays (Record vote No. FC–2):

RECORD VOTE NO. FC–2

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Baker			
Ms. Waters		X		Ms. Pryce (OH)	X		
Mrs. Maloney		X		Mr. Castle	X		
Mr. Gutierrez		X		Mr. King (NY)	X		
Ms. Velázquez				Mr. Royce	X		
Mr. Watt		X		Mr. Lucas	X		
Mr. Ackerman		X		Mr. Paul			
Ms. Carson		X		Mr. Gillmor	X		
Mr. Sherman		X		Mr. LaTourette		X	
Mr. Meeks		X		Mr. Manzullo	X		
Mr. Moore (KS)		X		Mr. Jones		X	
Mr. Capuano		X		Mrs. Biggert		X	
Mr. Hinojosa		X		Mr. Shays	X		
Mr. Clay		X		Mr. Miller (CA)	X		
Mrs. McCarthy		X		Mrs. Capito	X		
Mr. Baca		X		Mr. Feeney	X		
Mr. Lynch		X		Mr. Hensarling	X		
Mr. Miller (NC)		X		Mr. Garrett (NJ)	X		
Mr. Scott		X		Ms. Brown-Waite	X		
Mr. Green		X		Mr. Barrett (SC)	X		
Mr. Cleaver		X		Mr. Renzi		X	
Ms. Bean		X		Mr. Gerlach	X		
Ms. Moore (WI)		X		Mr. Pearce	X		
Mr. Davis (TN)		X		Mr. Neugebauer	X		
Mr. Sires		X		Mr. Price (GA)	X		
Mr. Hodes		X		Mr. Davis (KY)	X		
Mr. Ellison		X		Mr. McHenry	X		
Mr. Klein		X		Mr. Campbell	X		
Mr. Mahoney (FL)		X		Mr. Putnam	X		
Mr. Wilson		X		Mrs. Blackburn	X		
Mr. Perlmutter		X		Mrs. Bachmann	X		
Mr. Murphy		X		Mr. Roskam	X		
Mr. Donnelly		X					

RECORD VOTE NO. FC–2—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Wexler		X					
Mr. Marshall		X					
Mr. Boren		X					

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 835, the Hawaiian Homeownership Opportunity Act of 2007, reauthorizes Title VIII of the Native American Housing Assistance and Self-Determination Act (NAHASDA), and opens two loan guarantee programs (Section 184a and NAHASDA Title VI) for greater use on Hawaiian home lands—with the goal to provide low-income native Hawaiian families the opportunity for homeownership on Hawaiian home lands.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 21, 2007.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 835, the Hawaiian Homeownership Opportunity Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 835—Hawaiian Homeownership Opportunity Act of 2007

Summary: H.R. 835 would reauthorize the Native Hawaiian Housing Block Grant and Loan Guarantee programs and would authorize the appropriation of such sums as necessary for those programs for each of the fiscal years 2008 through 2012. In addition, the bill would reauthorize loans provided under Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 for fiscal years 2008 through 2012 and would expand eligibility to include the Department of Hawaiian Home Lands (DHHL).

CBO estimates that appropriation of the amounts necessary to implement H.R. 835 would cost $39 million over the 2008–2012 period. Enacting H.R. 835 would not affect direct spending or revenues.

H.R. 835 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would provide benefits to the state of Hawaii.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 835 is shown in the following table. The costs of this legislation fall within budget functions 600 (income security) and 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Hawaiian Housing Programs:						
Budget Authority[1]	12	0	0	0	0	0
Estimated Outlays	4	2	2	2	2	1
Proposed Changes:						
Native Hawaiian Housing Block Grants:						
Estimated Authorization Level	0	9	9	10	10	10
Estimated Outlays	0	1	3	5	7	9
Native Hawaiian Loan Guarantees:						
Estimated Authorization Level	0	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1
Title VI Loan Guarantees:						
Estimated Authorization Level	0	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2
Total:						
Estimated Authorization Level	0	12	12	13	13	13
Estimated Outlays	0	4	6	8	10	12
Spending Under H.R. 835 for Hawaiian Housing Programs:						
Estimated Authorization Level[1]	12	12	12	13	13	13
Estimated Outlays	4	6	8	10	12	13

[1] The 2007 level is the amount appropriated in that year for Native Hawaiian Housing Block Grants, Native Hawaiian Housing Loan Guarantees, and Title VI Loan Guarantees.

Basis of estimate

Native Hawaiian Housing Block Grants

Section 2 would authorize the appropriation of such sums as necessary for the Native Hawaiian Housing Block Grant program from 2008 through 2012. Program grants are used to assist affordable

housing activities for eligible low-income Native Hawaiian families. In 2007, $9 million was appropriated for this program. Assuming appropriation of similar amounts (and adjusting for anticipated inflation), CBO estimates that implementing this section would cost $23 million through 2012.

Native Hawaiian Housing Loan Guarantees

Section 3 would authorize the appropriation of such sums as necessary for the Native Hawaiian Housing Loan Guarantee program from 2008 through 2012. This program guarantees loans made to eligible Native Hawaiian families who reside on the Hawaiian Home Lands and who otherwise could not acquire private financing because of the unique legal status of the Hawaiian Home Lands. In 2007, $1 million was appropriated for this program. Assuming appropriation of similar amounts (and adjusting for anticipated inflation), CBO estimates that implementing this section would cost $5 million through 2012.

Title VI loan guarantees

Section 4 would extend the authorization of the Title VI loan guarantee program through 2012 and expand eligibility to include the DHHL. Such guarantees allow Native American Block Grant recipients to leverage their funding by pledging future grants as security for the repayment of a loan. A private lender provides the financing and the Department of Housing and Urban Development (HUD) provides a 95 percent guarantee of the principal and interest due in the case of a default. The size of the Title VI loans can be no larger than five times the grant recipient's annual grant amount. HUD estimates this program currently has a subsidy rate of about 12 percent. In 2007, $2 million for subsidy costs was appropriated for the program, which would support about $17 million in loans. Assuming appropriation of similar amounts and adjusting for the expansion of eligibility to include DHHL, CBO estimates that implementing this section would cost $11 million through 2012. CBO assumes that loans to DHHL that are paid off using Native Hawaiian Housing Block Grants would have a similar loan-to-grant ratio as those Title VI loans backed by Native American Block Grants.

There have been few losses to date in the Title VI program; however, repayment of these loans have been funded by federal grants. As a result, the actual cost to the government is borne by the grant program. It is uncertain what the cost of these loans would be in the absence of the grant program but it likely would be higher, perhaps substantially.

Intergovernmental and private-sector impact: H.R. 835 contains no intergovernmental or private-sector mandates as defined in UMRA and would provide benefits to the state of Hawaii. The bill would allow certain state and tribal entities in the state of Hawaii to continue helping native Hawaiians with low incomes purchase, construct, or refinance homes.

Estimate prepared by: Federal Costs: Chad Chirico and Susanne S. Mehlman. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 835 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Hawaiian Homeownership Opportunity Act of 2007

Section 2. Authorization of appropriations for housing assistance

Makes Title VIII of NAHASDA (25 USC 4221 et seq.) applicable for fiscal years 2008 through 2012.

Section 3. Loan guarantees for Native Hawaiian housing

Reauthorizes Section 184A, the Native Hawaiian Housing Loan Guarantee Fund (12 USC 1715z–13b) for fiscal years 2008 through 2012.

Amends Section 184A to conform to the provisions of Section 184 Indian Housing Loan Guarantee Program as follows:

Strikes language contained in Section 184A(b), "or as a result of a lack of access to private financial markets," which has been interpreted by HUD to require potential borrowers to apply to private market lenders and be turned down before requesting a loan under Section 184A.

Strikes the language "for which a housing plan described in subparagraph (B) applies." It also strikes the entire subparagraph 184A(c)(2)(B), "HOUSING PLAN." This language ties any housing or infrastructure development, new construction, acquisition or substantial rehabilitation of housing to the annual Native Hawai-

ian Housing Plan (NHHP) submitted by the Department of Hawaiian Home Lands (DHHL), the sole grant recipient. This had proven impractical in the Section 184 program, as longer-term planning is required for many projects, and there are instances where the Section 184A guarantees will not be used in conjunction with Native Hawaiian Housing Block Grant funds. For individual Native Hawaiian homebuyers applying for a Section 184A loan, this provision is not relevant and simply makes no sense. Submitting this information in DHHL's NHHP would still be required if any NHHBG funds were involved in the project.

Adds the word "refinance" to Section 184A(c)(2)(A), "Eligible Housing," thereby permitting Section 184A borrowers to take advantage of lower interest rates ad better terms, should market conditions warrant. It would also permit eligible borrowers with existing mortgage loans from other sources to refinance those obligations under this program. The authority was already granted to borrowers under the Section 184 program due to previous amendments.

Section 4. Eligibility of Department of Hawaiian home lands for Title VI loan guarantees

Makes DHHL eligible to participate in Title VI of NAHASDA, Federal Guarantees for the Financing of Tribal Housing Activities. This would allow DHHL to borrow or issue bonded debt for up to five (5) times their annual allocation under Title VIII with the full faith and credit of the Federal government and to use such funds for the purposes allowed under Title VIII, namely affordable housing activities.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

* * * * * * *

TITLE VI—FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL *AND NATIVE HAWAIIAN* HOUSING ACTIVITIES

SEC. 601. AUTHORITY AND REQUIREMENTS.

(a) AUTHORITY.—To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments

to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, *or by the Department of Hawaiian Home Lands,* for the purposes of financing affordable housing activities described in section 202 *or 810, as applicable,* and housing related community development activity as consistent with the purposes of this Act.

* * * * * * *

(c) LIMITATION ON OUTSTANDING GUARANTEES.—No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III *or VIII, as applicable*.

* * * * * * *

SEC. 602. SECURITY AND REPAYMENT.

(a) REQUIREMENTS ON ISSUER.—To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe **[**or housing entity**]***, housing entity, or Department of Hawaiian Home Lands* issuing such notes or obligations to—

(1) * * *

* * * * * * *

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe *or Department* and is not likely to impair the ability to use grant amounts under title I *or VIII, as applicable,* taking into consideration the requirements under section 203(b) *or 811(b), as applicable*; and

* * * * * * *

(b) REPAYMENT FROM GRANT AMOUNTS.—Notwithstanding any other provision of this Act—

(1) * * *

(2) grants allocated under this Act for an Indian tribe **[**or housing entity**]***, housing entity, or the Department of Hawaiian Home Lands* (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

* * * * * * *

SEC. 603. PAYMENT OF INTEREST.

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe **[**or housing entity**]***, housing entity, or the Department of Hawaiian Home Lands* issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary

may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

* * * * * * *

SEC. 605. LIMITATIONS ON AMOUNT OF GUARANTEES.

(a) * * *

(b) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this title such sums as may be necessary for each of fiscal years [1997 through 2007] *2008 through 2012*.

* * * * * * *

TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS

* * * * * * *

SEC. 824. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of [fiscal years 2001, 2002, 2003, 2004, and 2005.] *fiscal years 2008, 2009, 2010, 2011 and 2012.*

* * * * * * *

SECTION 184A OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

SEC. 184A. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.

(a) * * *

(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands [or as a result of a lack of access to private financial markets], the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (c).

(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

(1) * * *

[(2) ELIGIBLE HOUSING.—

[(A) IN GENERAL—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

[(B) Housing Plan.—A housing plan described in this subparagraph is a housing plan that—

[(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Act of 1996; and

[(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.]

(2) ELIGIBLE HOUSING.—The loan will be used to construct, acquire, refinance, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on Hawaiian Home Lands.

* * * * * * *

(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

(1) * * *

* * * * * * *

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of [fiscal years 2001, 2002, 2003, 2004, and 2005.] *fiscal years 2008, 2009, 2010, 2011 and 2012.*

* * * * * * *

ADDITIONAL VIEWS SUBMITTED BY CONGRESSMAN JOHN CAMPBELL

The underlying Native Hawaiian housing program that we are set to reauthorize is one of many benefits that currently flow from the federal government to Native Hawaiians—there are roughly 160 current statutes that confer such benefits. However, in 2000, the Supreme Court put many of these benefits in jeopardy with its decision in *Rice* v. *Cayetano.*

The Court's decision in *Rice* has led many to conclude that the current configuration of justices would likely strike down most federal benefits flowing to Native Hawaiians as a racial set-aside, if given a chance. As a result, the Hawaiian Congressional delegation has championed separate legislation to provide a process for the United States to recognize Native Hawaiians as a governing entity, i.e., a tribe that is political in nature. Instead of recognizing a currently-existing political entity that has authority over its members, the legislation (H.R. 505) would create one from scratch.

While the Financial Services Committee is not considering the sovereignty bill (H.R. 505), the Native Hawaiian housing bill (H.R. 835) should nonetheless give us pause before we reauthorize funding programs that are more than likely unconstitutional. This bill, H.R. 835, which reauthorizes federal funding for Native Hawaiian housing, should not be construed by any future court as Congress using its power under the Indian Commerce Clause to indirectly confer tribal status on the Native Hawaiian people.

America is a melting pot of cultures from around the world. Justice Kennedy noted as much in his opinion in *Rice* v. *Cayetano.* "As the State of Hawaii attempts to address these realities, it must, as always, seek the political consensus that begins with a shared purpose. One of the necessary beginning points is this principle: The Constitution of the United States, too, has become the heritage of all the citizens of Hawaii."

JOHN CAMPBELL.

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