

107TH CONGRESS
1ST SESSION

S. 86

To amend the Elementary and Secondary Education Act of 1965 to improve Native Hawaiian education programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. INOUE (for himself and Mr. AKAKA) introduced the following bills; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to improve Native Hawaiian education programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native Hawaiian Edu-
5 cation Reauthorization Act”.

6 **SEC. 2. NATIVE HAWAIIAN EDUCATION.**

7 Part B of title IX of the Elementary and Secondary
8 Education Act of 1965 (20 U.S.C. 7901 et seq.) is amend-
9 ed to read as follows:

1 **“PART B—NATIVE HAWAIIAN EDUCATION**

2 **“SEC. 9201. SHORT TITLE.**

3 “‘This part may be cited as the ‘Native Hawaiian
4 Education Act’.

5 **“SEC. 9202. FINDINGS.**

6 “Congress finds the following:

7 “(1) Native Hawaiians are a distinct and
8 unique indigenous people with a historical continuity
9 to the original inhabitants of the Hawaiian archi-
10 pelago, whose society was organized as a nation and
11 internationally recognized as a nation by the United
12 States, Britain, France, and Japan, as evidenced by
13 treaties governing friendship, commerce, and naviga-
14 tion.

15 “(2) At the time of the arrival of the first non-
16 indigenous people in Hawai‘i in 1778, the Native
17 Hawaiian people lived in a highly organized, self-suf-
18 ficient subsistence social system based on a com-
19 munal land tenure system with a sophisticated lan-
20 guage, culture, and religion.

21 “(3) A unified monarchal government of the
22 Hawaiian Islands was established in 1810 under Ka-
23 mehameha I, the first King of Hawai‘i.

24 “(4) From 1826 until 1893, the United States
25 recognized the sovereignty and independence of the
26 Kingdom of Hawai‘i, which was established in 1810

1 under Kamehameha I, extended full and complete
2 diplomatic recognition to the Kingdom of Hawai‘i,
3 and entered into treaties and conventions with the
4 Kingdom of Hawai‘i to govern friendship, commerce
5 and navigation in 1826, 1842, 1849, 1875, and
6 1887.

7 “(5) In 1893, the sovereign, independent, inter-
8 nationally recognized, and indigenous government of
9 Hawai‘i, the Kingdom of Hawai‘i, was overthrown
10 by a small group of non-Hawaiians, including United
11 States citizens, who were assisted in their efforts by
12 the United States Minister, a United States naval
13 representative, and armed naval forces of the United
14 States. Because of the participation of United States
15 agents and citizens in the overthrow of the Kingdom
16 of Hawai‘i, in 1993 the United States apologized to
17 Native Hawaiians for the overthrow and the depriva-
18 tion of the rights of Native Hawaiians to self-deter-
19 mination through Public Law 103–150 (107 Stat.
20 1510).

21 “(6) In 1898, the joint resolution entitled ‘Joint
22 Resolution to provide for annexing the Hawaiian Is-
23 lands to the United States’, approved July 7, 1898
24 (30 Stat. 750), ceded absolute title of all lands held
25 by the Republic of Hawai‘i, including the govern-

1 ment and crown lands of the former Kingdom of
2 Hawai‘i, to the United States, but mandated that
3 revenue generated from the lands be used ‘solely for
4 the benefit of the inhabitants of the Hawaiian Is-
5 lands for educational and other public purposes’.

6 “(7) By 1919, the Native Hawaiian population
7 had declined from an estimated 1,000,000 in 1778
8 to an alarming 22,600, and in recognition of this se-
9 vere decline, Congress enacted the Hawaiian Homes
10 Commission Act, 1920 (42 Stat. 108), which des-
11 ignated approximately 200,000 acres of ceded public
12 lands for homesteading by Native Hawaiians.

13 “(8) Through the enactment of the Hawaiian
14 Homes Commission Act, 1920, Congress affirmed
15 the special relationship between the United States
16 and the Native Hawaiians, which was described by
17 then Secretary of the Interior Franklin K. Lane,
18 who said: ‘One thing that impressed me . . . was the
19 fact that the natives of the island who are our
20 wards, I should say, and for whom in a sense we are
21 trustees, are falling off rapidly in numbers and
22 many of them are in poverty.’.

23 “(9) In 1938, Congress again acknowledged the
24 unique status of the Hawaiian people by including in
25 the Act of June 20, 1938 (52 Stat. 781, chapter

1 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396,
 2 396a), a provision to lease lands within the National
 3 Parks extension to Native Hawaiians and to permit
 4 fishing in the area ‘only by native Hawaiian resi-
 5 dents of said area or of adjacent villages and by visi-
 6 tors under their guidance.’.

7 “(10) Under the Act entitled ‘An Act to provide
 8 for the admission of the State of Hawaii into the
 9 Union’, approved March 18, 1959 (73 Stat. 4), the
 10 United States transferred responsibility for the ad-
 11 ministration of the Hawaiian Home Lands to the
 12 State of Hawai‘i but reaffirmed the trust relation-
 13 ship between the United States and the Hawaiian
 14 people by retaining the exclusive power to enforce
 15 the trust, including the power to approve land ex-
 16 changes and amendments to such Act affecting the
 17 rights of beneficiaries under such Act.

18 “(11) In 1959, under the Act entitled ‘An Act
 19 to provide for the admission of the State of Hawaii
 20 into the Union’, the United States also ceded to the
 21 State of Hawai‘i title to the public lands formerly
 22 held by the United States, but mandated that such
 23 lands be held by the State ‘in public trust’ and re-
 24 affirmed the special relationship that existed be-
 25 tween the United States and the Hawaiian people by

1 retaining the legal responsibility to enforce the pub-
2 lic trust responsibility of the State of Hawai‘i for
3 the betterment of the conditions of Native Hawai-
4 ians, as defined in section 201(a) of the Hawaiian
5 Homes Commission Act, 1920.

6 “(12) The United States has recognized and re-
7 affirmed that—

8 “(A) Native Hawaiians have a cultural,
9 historic, and land-based link to the indigenous
10 people who exercised sovereignty over the Ha-
11 waiian Islands, and that group has never relin-
12 quished its claims to sovereignty or its sov-
13 ereign lands;

14 “(B) Congress does not extend services to
15 Native Hawaiians because of their race, but be-
16 cause of their unique status as the indigenous
17 people of a once sovereign nation as to whom
18 the United States has established a trust rela-
19 tionship;

20 “(C) Congress has also delegated broad
21 authority to administer a portion of the Federal
22 trust responsibility to the State of Hawaii;

23 “(D) the political status of Native Hawai-
24 ians is comparable to that of American Indians
25 and Alaska Natives; and

1 “(E) the aboriginal, indigenous people of
2 the United States have—

3 “(i) a continuing right to autonomy in
4 their internal affairs; and

5 “(ii) an ongoing right of self-deter-
6 mination and self-governance that has
7 never been extinguished.

8 “(13) The political relationship between the
9 United States and the Native Hawaiian people has
10 been recognized and reaffirmed by the United
11 States, as evidenced by the inclusion of Native Ha-
12 waiians in—

13 “(A) the Native American Programs Act of
14 1974 (42 U.S.C. 2991 et seq.);

15 “(B) the American Indian Religious Free-
16 dom Act (42 U.S.C. 1996);

17 “(C) the National Museum of the Amer-
18 ican Indian Act (20 U.S.C. 80q et seq.);

19 “(D) the Native American Graves Protec-
20 tion and Repatriation Act (25 U.S.C. 3001 et
21 seq.);

22 “(E) the National Historic Preservation
23 Act (16 U.S.C. 470 et seq.);

24 “(F) the Native American Languages Act
25 (25 U.S.C. 2901 et seq.);

1 “(G) the American Indian, Alaska Native,
2 and Native Hawaiian Culture and Art Develop-
3 ment Act (20 U.S.C. 4401 et seq.);

4 “(H) the Job Training Partnership Act
5 (29 U.S.C. 1501 et seq.) and the Workforce In-
6 vestment Act of 1998 (29 U.S.C. 2801 et seq.);
7 and

8 “(I) the Older Americans Act of 1965 (42
9 U.S.C. 3001 et seq.).

10 “(14) In 1981, Congress instructed the Office
11 of Education to submit to Congress a comprehensive
12 report on Native Hawaiian education. The report,
13 entitled the ‘Native Hawaiian Educational Assess-
14 ment Project’, was released in 1983 and documented
15 that Native Hawaiians scored below parity with re-
16 gard to national norms on standardized achievement
17 tests, were disproportionately represented in many
18 negative social and physical statistics indicative of
19 special educational needs, and had educational needs
20 that were related to their unique cultural situation,
21 such as different learning styles and low self-image.

22 “(15) In recognition of the educational needs of
23 Native Hawaiians, in 1988, Congress enacted title
24 IV of the Augustus F. Hawkins-Robert T. Stafford
25 Elementary and Secondary School Improvement

1 Amendments of 1988 (102 Stat. 130) to authorize
 2 and develop supplemental educational programs to
 3 address the unique conditions of Native Hawaiians.

4 “(16) In 1993, the Kamehameha Schools
 5 Bishop Estate released a 10-year update of findings
 6 of the Native Hawaiian Educational Assessment
 7 Project, which found that despite the successes of
 8 the programs established under title IV of the Au-
 9 gustus F. Hawkins-Robert T. Stafford Elementary
 10 and Secondary School Improvement Amendments of
 11 1988, many of the same educational needs still ex-
 12 isted for Native Hawaiians. Subsequent reports by
 13 the Kamehameha Schools Bishop Estate and other
 14 organizations have generally confirmed those find-
 15 ings. For example—

16 “(A) educational risk factors continue to
 17 start even before birth for many Native Hawai-
 18 ian children, including—

19 “(i) late or no prenatal care;

20 “(ii) high rates of births by Native
 21 Hawaiian women who are unmarried; and

22 “(iii) high rates of births to teenage
 23 parents;

24 “(B) Native Hawaiian students continue to
 25 begin their school experience lagging behind

1 other students in terms of readiness factors
2 such as vocabulary test scores;

3 “(C) Native Hawaiian students continue to
4 score below national norms on standardized
5 education achievement tests at all grade levels;

6 “(D) both public and private schools con-
7 tinue to show a pattern of lower percentages of
8 Native Hawaiian students in the uppermost
9 achievement levels and in gifted and talented
10 programs;

11 “(E) Native Hawaiian students continue to
12 be overrepresented among students qualifying
13 for special education programs provided to stu-
14 dents with learning disabilities, mild mental re-
15 tardation, emotional impairment, and other
16 such disabilities;

17 “(F) Native Hawaiians continue to be
18 underrepresented in institutions of higher edu-
19 cation and among adults who have completed 4
20 or more years of college;

21 “(G) Native Hawaiians continue to be dis-
22 proportionately represented in many negative
23 social and physical statistics indicative of spe-
24 cial educational needs, as demonstrated by the
25 fact that—

1 “(i) Native Hawaiian students are
2 more likely to be retained in grade level
3 and to be excessively absent in secondary
4 school;

5 “(ii) Native Hawaiian students have
6 the highest rates of drug and alcohol use
7 in the State of Hawai‘i; and

8 “(iii) Native Hawaiian children con-
9 tinue to be disproportionately victimized by
10 child abuse and neglect; and

11 “(H) Native Hawaiians now comprise over
12 23 percent of the students served by the State
13 of Hawai‘i Department of Education, and there
14 are and will continue to be geographically rural,
15 isolated areas with a high Native Hawaiian
16 population density.

17 “(17) In the 1998 National Assessment of Edu-
18 cational Progress, Hawaiian fourth-graders ranked
19 39th among groups of students from 39 States in
20 reading. Given that Hawaiian students rank among
21 the lowest groups of students nationally in reading,
22 and that Native Hawaiian students rank the lowest
23 among Hawaiian students in reading, it is impera-
24 tive that greater focus be placed on beginning read-
25 ing and early education and literacy in Hawai‘i.

1 “(18) The findings described in paragraphs
 2 (16) and (17) are inconsistent with the high rates of
 3 literacy and integration of traditional culture and
 4 Western education historically achieved by Native
 5 Hawaiians through a Hawaiian language-based pub-
 6 lic school system established in 1840 by Kameha-
 7 meha III.

8 “(19) Following the overthrow of the Kingdom
 9 of Hawai‘i in 1893, Hawaiian medium schools were
 10 banned. After annexation, throughout the territorial
 11 and statehood period of Hawai‘i, and until 1986, use
 12 of the Hawaiian language as an instructional me-
 13 dium in education in public schools was declared un-
 14 lawful. The declaration caused incalculable harm to
 15 a culture that placed a very high value on the power
 16 of language, as exemplified in the traditional saying:
 17 ‘I ka ‘olelo nō ke ola; I ka ‘olelo nō ka make. In the
 18 language rests life; In the language rests death.’.

19 “(20) Despite the consequences of over 100
 20 years of nonindigenous influence, the Native Hawai-
 21 ian people are determined to preserve, develop, and
 22 transmit to future generations their ancestral terri-
 23 tory and their cultural identity in accordance with
 24 their own spiritual and traditional beliefs, customs,
 25 practices, language, and social institutions.

1 “(21) The State of Hawai‘i, in the constitution
2 and statutes of the State of Hawai‘i—

3 “(A) reaffirms and protects the unique
4 right of the Native Hawaiian people to practice
5 and perpetuate their culture and religious cus-
6 toms, beliefs, practices, and language; and

7 “(B) recognizes the traditional language of
8 the Native Hawaiian people as an official lan-
9 guage of the State of Hawai‘i, which may be
10 used as the language of instruction for all sub-
11 jects and grades in the public school system.

12 **“SEC. 9203. PURPOSES.**

13 “The purposes of this part are to—

14 “(1) authorize and develop innovative edu-
15 cational programs to assist Native Hawaiians in
16 reaching the National Education Goals;

17 “(2) provide direction and guidance to appro-
18 priate Federal, State, and local agencies to focus re-
19 sources, including resources made available under
20 this part, on Native Hawaiian education, and to pro-
21 vide periodic assessment and data collection;

22 “(3) supplement and expand programs and au-
23 thorities in the area of education to further the pur-
24 poses of this title; and

1 “(4) encourage the maximum participation of
 2 Native Hawaiians in planning and management of
 3 Native Hawaiian education programs.

4 **“SEC. 9204. NATIVE HAWAIIAN EDUCATION COUNCIL AND**
 5 **ISLAND COUNCILS.**

6 “(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDU-
 7 CATION COUNCIL.—In order to better effectuate the pur-
 8 poses of this part through the coordination of educational
 9 and related services and programs available to Native Ha-
 10 waiians, including those programs receiving funding under
 11 this part, the Secretary is authorized to establish a Native
 12 Hawaiian Education Council (referred to in this part as
 13 the ‘Education Council’).

14 “(b) COMPOSITION OF EDUCATION COUNCIL.—The
 15 Education Council shall consist of not more than 21 mem-
 16 bers, unless otherwise determined by a majority of the
 17 council.

18 “(c) CONDITIONS AND TERMS.—

19 “(1) CONDITIONS.—At least 10 members of the
 20 Education Council shall be Native Hawaiian edu-
 21 cation service providers and 10 members of the Edu-
 22 cation Council shall be Native Hawaiians or Native
 23 Hawaiian education consumers. In addition, a rep-
 24 resentative of the State of Hawai‘i Office of Hawai-

1 ian Affairs shall serve as a member of the Education
2 Council.

3 “(2) APPOINTMENTS.—The members of the
4 Education Council shall be appointed by the Sec-
5 retary based on recommendations received from the
6 Native Hawaiian community.

7 “(3) TERMS.—Members of the Education
8 Council shall serve for staggered terms of 3 years,
9 except as provided in paragraph (4).

10 “(4) COUNCIL DETERMINATIONS.—Additional
11 conditions and terms relating to membership on the
12 Education Council, including term lengths and term
13 renewals, shall be determined by a majority of the
14 Education Council.

15 “(d) NATIVE HAWAIIAN EDUCATION COUNCIL
16 GRANT.—The Secretary shall make a direct grant to the
17 Education Council in order to enable the Education Coun-
18 cil to—

19 “(1) coordinate the educational and related
20 services and programs available to Native Hawai-
21 ians, including the programs assisted under this
22 part;

23 “(2) assess the extent to which such services
24 and programs meet the needs of Native Hawaiians,

1 and collect data on the status of Native Hawaiian
2 education;

3 “(3) provide direction and guidance, through
4 the issuance of reports and recommendations, to ap-
5 propriate Federal, State, and local agencies in order
6 to focus and improve the use of resources, including
7 resources made available under this part, relating to
8 Native Hawaiian education, and serve, where appro-
9 priate, in an advisory capacity; and

10 “(4) make direct grants, if such grants enable
11 the Education Council to carry out the duties of the
12 Education Council, as described in paragraphs (1)
13 through (3).

14 “(e) ADDITIONAL DUTIES OF THE EDUCATION
15 COUNCIL.—

16 “(1) IN GENERAL.—The Education Council
17 shall provide copies of any reports and recommenda-
18 tions issued by the Education Council, including any
19 information that the Education Council provides to
20 the Secretary pursuant to subsection (i), to the Sec-
21 retary, the Committee on Education and the Work-
22 force of the House of Representatives, and the Com-
23 mittee on Indian Affairs of the Senate.

1 “(2) ANNUAL REPORT.—The Education Council
2 shall prepare and submit to the Secretary an annual
3 report on the Education Council’s activities.

4 “(3) ISLAND COUNCIL SUPPORT AND ASSIST-
5 ANCE.—The Education Council shall provide such
6 administrative support and financial assistance to
7 the island councils established pursuant to sub-
8 section (f) as the Secretary determines to be appro-
9 priate, in a manner that supports the distinct needs
10 of each island council.

11 “(f) ESTABLISHMENT OF ISLAND COUNCILS.—

12 “(1) IN GENERAL.—In order to better effec-
13 tuate the purposes of this part and to ensure the
14 adequate representation of island and community in-
15 terests within the Education Council, the Secretary
16 is authorized to facilitate the establishment of Na-
17 tive Hawaiian education island councils (referred to
18 individually in this part as an ‘island council’) for
19 the following islands:

20 “(A) Hawai‘i.

21 “(B) Maui.

22 “(C) Moloka‘i.

23 “(D) Lana‘i.

24 “(E) O‘ahu.

25 “(F) Kaua‘i.

1 “(G) Ni‘ihau.

2 “(2) COMPOSITION OF ISLAND COUNCILS.—

3 Each island council shall consist of parents, stu-
 4 dents, and other community members who have an
 5 interest in the education of Native Hawaiians, and
 6 shall be representative of individuals concerned with
 7 the educational needs of all age groups, from chil-
 8 dren in preschool through adults. At least $\frac{3}{4}$ of the
 9 members of each island council shall be Native Ha-
 10 waiians.

11 “(g) ADMINISTRATIVE PROVISIONS RELATING TO

12 EDUCATION COUNCIL AND ISLAND COUNCILS.—The Edu-

13 cation Council and each island council shall meet at the

14 call of the chairperson of the appropriate council, or upon

15 the request of the majority of the members of the appro-

16 priate council, but in any event not less often than 4 times

17 during each calendar year. The provisions of the Federal

18 Advisory Committee Act shall not apply to the Education

19 Council and each island council.

20 “(h) COMPENSATION.—Members of the Education

21 Council and each island council shall not receive any com-

22 pensation for service on the Education Council and each

23 island council, respectively.

24 “(i) REPORT.—Not later than 4 years after the date

25 of enactment of the Native Hawaiian Education Reauthor-

1 ization Act, the Secretary shall prepare and submit to the
 2 Committee on Education and the Workforce of the House
 3 of Representatives and the Committee on Indian Affairs
 4 of the Senate a report that summarizes the annual reports
 5 of the Education Council, describes the allocation and use
 6 of funds under this part, and contains recommendations
 7 for changes in Federal, State, and local policy to advance
 8 the purposes of this part.

9 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
 10 are authorized to be appropriated to carry out this section
 11 \$300,000 for fiscal year 2002 and such sums as may be
 12 necessary for each of the 4 succeeding fiscal years. Funds
 13 appropriated under this subsection shall remain available
 14 until expended.

15 **“SEC. 9205. PROGRAM AUTHORIZED.**

16 “(a) GENERAL AUTHORITY.—

17 “(1) GRANTS AND CONTRACTS.—The Secretary
 18 is authorized to make direct grants to, or enter into
 19 contracts with—

20 “(A) Native Hawaiian educational organi-
 21 zations;

22 “(B) Native Hawaiian community-based
 23 organizations;

24 “(C) public and private nonprofit organiza-
 25 tions, agencies, and institutions with experience

1 in developing or operating Native Hawaiian
 2 programs or programs of instruction in the Na-
 3 tive Hawaiian language; and

4 “(D) consortia of the organizations, agen-
 5 cies, and institutions described in subpara-
 6 graphs (A) through (C),

7 to carry out programs that meet the purposes of this
 8 part.

9 “(2) PRIORITIES.—In awarding grants or con-
 10 tracts to carry out activities described in paragraph
 11 (3), the Secretary shall give priority to entities pro-
 12 posing projects that are designed to address—

13 “(A) beginning reading and literacy among
 14 students in kindergarten through third grade;

15 “(B) the needs of at-risk youth;

16 “(C) needs in fields or disciplines in which
 17 Native Hawaiians are underemployed; and

18 “(D) the use of the Hawaiian language in
 19 instruction.

20 “(3) PERMISSIBLE ACTIVITIES.—Activities pro-
 21 vided through programs carried out under this part
 22 may include—

23 “(A) the development and maintenance of
 24 a statewide Native Hawaiian early education
 25 and care system to provide a continuum of serv-

1 ices for Native Hawaiian children from the pre-
2 natal period of the children through age 5;

3 “(B) the operation of family-based edu-
4 cation centers that provide such services as—

5 “(i) programs for Native Hawaiian
6 parents and their infants from the prenatal
7 period of the infants through age 3;

8 “(ii) preschool programs for Native
9 Hawaiians; and

10 “(iii) research on, and development
11 and assessment of, family-based, early
12 childhood, and preschool programs for Na-
13 tive Hawaiians;

14 “(C) activities that enhance beginning
15 reading and literacy among Native Hawaiian
16 students in kindergarten through third grade;

17 “(D) activities to meet the special needs of
18 Native Hawaiian students with disabilities,
19 including—

20 “(i) the identification of such students
21 and their needs;

22 “(ii) the provision of support services
23 to the families of those students; and

1 “(iii) other activities consistent with
 2 the requirements of the Individuals with
 3 Disabilities Education Act;

4 “(E) activities that address the special
 5 needs of Native Hawaiian students who are
 6 gifted and talented, including—

7 “(i) educational, psychological, and
 8 developmental activities designed to assist
 9 in the educational progress of those stu-
 10 dents; and

11 “(ii) activities that involve the parents
 12 of those students in a manner designed to
 13 assist in the students’ educational
 14 progress;

15 “(F) the development of academic and vo-
 16 cational curricula to address the needs of Na-
 17 tive Hawaiian children and adults, including
 18 curriculum materials in the Hawaiian language
 19 and mathematics and science curricula that in-
 20 corporate Native Hawaiian tradition and cul-
 21 ture;

22 “(G) professional development activities for
 23 educators, including—

24 “(i) the development of programs to
 25 prepare prospective teachers to address the

1 unique needs of Native Hawaiian students
 2 within the context of Native Hawaiian cul-
 3 ture, language, and traditions;

4 “(ii) in-service programs to improve
 5 the ability of teachers who teach in schools
 6 with concentrations of Native Hawaiian
 7 students to meet those students’ unique
 8 needs; and

9 “(iii) the recruitment and preparation
 10 of Native Hawaiians, and other individuals
 11 who live in communities with a high con-
 12 centration of Native Hawaiians, to become
 13 teachers;

14 “(H) the operation of community-based
 15 learning centers that address the needs of Na-
 16 tive Hawaiian families and communities
 17 through the coordination of public and private
 18 programs and services, including—

19 “(i) preschool programs;

20 “(ii) after-school programs; and

21 “(iii) vocational and adult education
 22 programs;

23 “(I) activities to enable Native Hawaiians
 24 to enter and complete programs of postsec-
 25 ondary education, including—

1 “(i) provision of full or partial schol-
 2 arships for undergraduate or graduate
 3 study that are awarded to students based
 4 on their academic promise and financial
 5 need, with a priority, at the graduate level,
 6 given to students entering professions in
 7 which Native Hawaiians are underrep-
 8 resented;

9 “(ii) family literacy services;

10 “(iii) counseling and support services
 11 for students receiving scholarship assist-
 12 ance;

13 “(iv) counseling and guidance for Na-
 14 tive Hawaiian secondary students who have
 15 the potential to receive scholarships; and

16 “(v) faculty development activities de-
 17 signed to promote the matriculation of Na-
 18 tive Hawaiian students;

19 “(J) research and data collection activities
 20 to determine the educational status and needs
 21 of Native Hawaiian children and adults;

22 “(K) other research and evaluation activi-
 23 ties related to programs carried out under this
 24 part; and

1 “(L) other activities, consistent with the
2 purposes of this part, to meet the educational
3 needs of Native Hawaiian children and adults.

4 “(4) SPECIAL RULE AND CONDITIONS.—

5 “(A) INSTITUTIONS OUTSIDE HAWAII.—

6 The Secretary shall not establish a policy under
7 this section that prevents a Native Hawaiian
8 student enrolled at a 2- or 4-year degree grant-
9 ing institution of higher education outside of
10 the State of Hawai‘i from receiving a fellowship
11 pursuant to paragraph (3)(I).

12 “(B) FELLOWSHIP CONDITIONS.—The
13 Secretary shall establish conditions for receipt
14 of a fellowship awarded under paragraph (3)(I).

15 The conditions shall require that an individual
16 seeking such a fellowship enter into a contract
17 to provide professional services, either during
18 the fellowship period or upon completion of a
19 program of postsecondary education, to the Na-
20 tive Hawaiian community.

21 “(b) ADMINISTRATIVE COSTS.—Not more than 5
22 percent of funds provided to a grant recipient under this
23 section for any fiscal year may be used for administrative
24 purposes.

1 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated to carry out this section
 3 \$20,000,000 for fiscal year 2002 and such sums as may
 4 be necessary for each of the 4 succeeding fiscal years.

5 **“SEC. 9206. ADMINISTRATIVE PROVISIONS.**

6 “(a) APPLICATION REQUIRED.—No grant may be
 7 made under this part, and no contract may be entered into
 8 under this part, unless the entity seeking the grant or con-
 9 tract submits an application to the Secretary at such time,
 10 in such manner, and containing such information as the
 11 Secretary may determine to be necessary to carry out the
 12 provisions of this part.

13 “(b) SPECIAL RULE.—Each applicant for a grant or
 14 contract under this part shall submit the application for
 15 comment to the local educational agency serving students
 16 who will participate in the program to be carried out under
 17 the grant or contract, and include those comments, if any,
 18 with the application to the Secretary.

19 **“SEC. 9207. DEFINITIONS.**

20 “‘In this part:

21 “(1) NATIVE HAWAIIAN.—The term ‘Native
 22 Hawaiian’ means any individual who is—

23 “(A) a citizen of the United States; and

24 “(B) a descendant of the aboriginal people
 25 who, prior to 1778, occupied and exercised sov-

1 ereignty in the area that now comprises the
2 State of Hawai‘i, as evidenced by—

3 “(i) genealogical records;

4 “(ii) Kupuna (elders) or Kama‘aina
5 (long-term community residents)
6 verification; or

7 “(iii) certified birth records.

8 “(2) NATIVE HAWAIIAN COMMUNITY-BASED OR-
9 GANIZATION.—The term ‘Native Hawaiian commu-
10 nity-based organization’ means any organization
11 that is composed primarily of Native Hawaiians
12 from a specific community and that assists in the
13 social, cultural, and educational development of Na-
14 tive Hawaiians in that community.

15 “(3) NATIVE HAWAIIAN EDUCATIONAL ORGANI-
16 ZATION.—The term ‘Native Hawaiian educational
17 organization’ means a private nonprofit organization
18 that—

19 “(A) serves the interests of Native Hawai-
20 ians;

21 “(B) has Native Hawaiians in substantive
22 and policymaking positions within the organiza-
23 tion;

1 “(C) incorporates Native Hawaiian per-
 2 spective, values, language, culture, and tradi-
 3 tions into the core function of the organization;

4 “(D) has demonstrated expertise in the
 5 education of Native Hawaiian youth; and

6 “(E) has demonstrated expertise in re-
 7 search and program development.

8 “(4) NATIVE HAWAIIAN LANGUAGE.—The term
 9 ‘Native Hawaiian language’ means the single Native
 10 American language indigenous to the original inhab-
 11 itants of the State of Hawai‘i.

12 “(5) NATIVE HAWAIIAN ORGANIZATION.—The
 13 term ‘Native Hawaiian organization’ means a pri-
 14 vate nonprofit organization that—

15 “(A) serves the interests of Native Hawai-
 16 ians;

17 “(B) has Native Hawaiians in substantive
 18 and policymaking positions within the organiza-
 19 tions; and

20 “(C) is recognized by the Governor of
 21 Hawai‘i for the purpose of planning, con-
 22 ducting, or administering programs (or portions
 23 of programs) for the benefit of Native Hawai-
 24 ians.

1 “(6) OFFICE OF HAWAIIAN AFFAIRS.—The
 2 term ‘Office of Hawaiian Affairs’ means the office of
 3 Hawaiian Affairs established by the Constitution of
 4 the State of Hawai‘i.”.

5 **SEC. 3. CONFORMING AMENDMENTS.**

6 (a) HIGHER EDUCATION ACT OF 1965.—Section
 7 317(b)(3) of the Higher Education Act of 1965 (20
 8 U.S.C. 1059d(b)(3)) is amended by striking “section
 9 9212” and inserting “section 9207”.

10 (b) PUBLIC LAW 88–210.—Section 116 of Public
 11 Law 88–210 (as added by section 1 of Public Law 105–
 12 332 (112 Stat. 3076)) is amended by striking “section
 13 9212 of the Native Hawaiian Education Act (20 U.S.C.
 14 7912)” and inserting “section 9207 of the Native Hawai-
 15 ian Education Act”.

16 (c) MUSEUM AND LIBRARY SERVICES ACT.—Section
 17 261 of the Museum and Library Services Act (20 U.S.C.
 18 9161) is amended by striking “section 9212 of the Native
 19 Hawaiian Education Act (20 U.S.C. 7912)” and inserting
 20 “section 9207 of the Native Hawaiian Education Act”.

21 (d) NATIVE AMERICAN LANGUAGES ACT.—Section
 22 103(3) of the Native American Languages Act (25 U.S.C.
 23 2902(3)) is amended by striking “section 9212(1) of the
 24 Elementary and Secondary Education Act of 1965 (20

1 U.S.C. 7912(1))” and inserting “section 9207 of the Ele-
2 mentary and Secondary Education Act of 1965”.

3 (e) WORKFORCE INVESTMENT ACT OF 1998.—Sec-
4 tion 166(b)(3) of the Workforce Investment Act of 1998
5 (29 U.S.C. 2911(b)(3)) is amended by striking “para-
6 graphs (1) and (3), respectively, of section 9212 of the
7 Native Hawaiian Education Act (20 U.S.C. 7912)” and
8 inserting “section 9207 of the Native Hawaiian Education
9 Act”.

10 (f) ASSETS FOR INDEPENDENCE ACT.—Section
11 404(11) of the Assets for Independence Act (42 U.S.C.
12 604 note) is amended by striking “section 9212 of the Na-
13 tive Hawaiian Education Act (20 U.S.C. 7912)” and in-
14 serting “section 9207 of the Native Hawaiian Education
15 Act”.

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