

The middle class—the foundation of our country—is sinking. In the last generation, families have gone from saving for the future to borrowing just to get by. Home foreclosure rates have tripled in the last 25 years. This year, more middle-class children will see their parents declare bankruptcy than will see their parents get divorced.

Working families are vulnerable. They cannot save because they must spend more for housing, health care, child care, and college tuition. These expenses are not luxuries. They are the necessities. Without savings, a bump in the road—a lost job or sudden illness—could become the end of the road.

There is a lot of work to be done to help families get ahead and build a secure future. The legislation I am introducing today deals with just one aspect of the problem, but it is an important one: the fight against predatory mortgage lenders.

There are mortgage companies that cheat people, plain and simple. Excessive fees leave families on a treadmill, forcing them to make large mortgage payments while draining the wealth they have saved in their home. Many families lose their home altogether. All told, predatory lending costs homeowners an estimated \$9 billion a year.

I am proud that my State of North Carolina is a leader in fighting predatory lending. The strong law it passed in 1999 is saving consumers \$100 million a year, while mortgage credit remains widely available.

Unfortunately, the Federal Government is not doing as well. In fact, we are losing ground. In January, the Office of the Comptroller of the Currency in the U.S. Department of the Treasury issued new regulations exempting national banks—which hold more than half of bank assets—from State predatory lending laws.

Strong consumer protection laws have been States' responsibility for more than a century. The new rules ignore that tradition, which has served our country well, to create a safe haven for predatory lenders in national banking law. They also create an incentive for State-chartered banks to escape tough laws by converting to national banks.

The resolutions that I am introducing today would strike down the OCC rules that preempt State law. It would restore States' ability to enforce their predatory lending laws within their boundaries and protect their homeowners against abusive loans.

These protections are badly needed. About half of subprime borrowers are paying extra interest and fees, when they qualify for better rates. That's hundreds of thousands of Americans who are each paying thousands of dollars more than they should for their homes. Even worse, some families see their loans refinanced again and again, their equity diminished time and again, until one day they lose their home.

It is offensive, but predatory lenders target African-American and other mi-

nority communities. If you are an upper-income African-American family, you are twice as likely to get a subprime loan than a lower-income white family is. Think about that: even though you are doing better, you get a worse loan if you are African-American.

That is dead wrong. We need a strong national law to fight predatory lending. We don't need a prohibition of the strong State laws now on the books with weak national rules. I urge my colleagues to support these resolutions.

I ask unanimous consent that the text of the resolutions be printed in the RECORD.

There being no objection, the joint resolutions were ordered to be printed in the RECORD, as follows:

#### S.J. RES. 31

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

That Congress disapproves the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1895 (2004), and such rule shall have no force or effect.

#### S.J. RES. 32

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

That Congress disapproves the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1904 (2004), and such rule shall have no force or effect.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 333—COMMENDING THE HUSKIES OF THE UNIVERSITY OF CONNECTICUT FOR WINNING THE 2004 DIVISION I MEN'S AND WOMEN'S NCAA BASKETBALL CHAMPIONS

Mr. DODD (for himself and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

#### S. RES 333

Whereas the University of Connecticut has become the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year;

Whereas the University of Connecticut men's basketball team capped a remarkable season by defeating an outstanding Georgia Tech team 82 to 73, to win its second national championship in 6 seasons;

Whereas the Husky men finished with a record of 33 wins and only 6 losses and is the first team since 1996 to be ranked first in the preseason and to win the national title in the same season;

Whereas the Husky men established themselves as the dominant team in the Big East Conference by winning the Big East Tournament championship;

Whereas UConn's Emeka Okafor distinguished himself in the championship game and throughout the season as 1 of the premier players in all of college basketball, winning awards as the Big East scholar-athlete of the year, defensive player of the year, and player of the year, and closing out a spectac-

ular performance in the NCAA tournament by being named the most outstanding player of the Final Four;

Whereas the national title was made possible by the contribution of the entire team including: Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villaneueva, Marcus White, and Marcus Williams;

Whereas UConn men's coach Jim Calhoun instilled in his players an unceasing ethic of dedication and teamwork in the pursuit of excellence and is now 1 of only 3 active Division I men's basketball coaches with multiple NCAA titles, with the help of his assistant coaches Tom Moore, George Blaney, and Clyde Vaughan;

Whereas the University of Connecticut women's basketball team won its fifth overall and third straight national championship by defeating a superb team from the University of Tennessee, by the score of 70 to 61;

Whereas the Lady Huskies became only the second women's basketball team ever to win 3 consecutive national women's basketball titles;

Whereas Diana Taurasi distinguished herself as the number 1 player in women's college basketball, being chosen as the national women's player of the year, becoming only the fifth player to win 2 such awards, scoring the second most points of any player in women's NCAA Tournament history, scoring 17 points in the final game to lead UConn to victory, and being named outstanding player of the Final Four for the second year in a row;

Whereas the national championship was made possible by the contribution of the entire team including: Ashley Valley, Diana Taurasi, Kiana Robinson, Maria Conlon, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Wilnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother;

Whereas Lady Huskies Coach Geno Auriemma is in his 18th season coaching the Huskies and has led them to 18 winning seasons and 5 national titles with the help of his assistant coaches Chris Dailey, Tonya Cardoza, and Jamelle Elliott; and

Whereas the University of Connecticut's unparalleled success continues to bring enormous pride to the people of Connecticut and sports fans across the country: Now, therefore, be it

*Resolved*, That the Senate commends the University of Connecticut for—

(1) winning the 2004 NCAA Division I Men's Basketball Championship;

(2) winning the 2004 NCAA Division I Women's Basketball Championship; and

(3) becoming the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 3043. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 344, expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes; which was ordered to lie on the table.

### TEXT OF AMENDMENTS

SA 3043. Mr. AKAKA submitted an amendment intended to be proposed by

him to the bill S. 344, expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Government Reorganization Act of 2004".

#### SEC. 2. FINDINGS.

Congress finds that—

(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 that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal responsibility 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 treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions with the Kingdom of Hawaii to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

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

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

(7) approximately 6,800 Native Hawaiian families reside on the Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress established a public trust (commonly known as the "ceded lands trust"), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other 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 and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain 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 to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(14) the Apology Resolution expresses the commitment of Congress and the President—

(A) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii;

(B) to support reconciliation efforts between the United States and Native Hawaiians; and

(C) to consult with Native Hawaiians on the reconciliation process as called for in the Apology Resolution;

(15) despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a distinct native community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency;

(16) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction;

(xii) traditional justice programs, and

(B) 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 generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(19) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a Native Hawaiian governing entity for the purpose of giving ex-

pression to their rights as native people to self-determination and self-governance;

(20) Congress—

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

(B) has identified Native Hawaiians as a distinct group of indigenous, native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

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

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) 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 that 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 has continually recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, 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 indigenous, 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; and

(23) the State of Hawaii supports the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States as evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003.

#### SEC. 3. DEFINITIONS.

In this Act:

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

(2) **ADULT MEMBER.**—The term "adult member" means a Native Hawaiian who has attained the age of 18 and who elects to participate in the reorganization of the Native Hawaiian governing entity.

(3) **APOLOGY RESOLUTION.**—The term “Apology Resolution” means Public Law 103-150, (107 Stat. 1510), a Joint Resolution extending 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) **COMMISSION.**—The term “commission” means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in section 3(8).

(5) **COUNCIL.**—The term “council” means the Native Hawaiian Interim Governing Council established under section 7(c)(2).

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

(7) **INTERAGENCY COORDINATING GROUP.**—The term “Interagency Coordinating Group” means the Native Hawaiian Interagency Coordinating Group established under section 6.

(8) **NATIVE HAWAIIAN.**—For the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the term “Native Hawaiian” means—

(A) an individual who is one of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(i) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(ii) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(B) an individual who is one of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(9) **NATIVE HAWAIIAN GOVERNING ENTITY.**—The term “Native Hawaiian Governing Entity” means the governing entity organized by the Native Hawaiian people pursuant to this Act.

(10) **OFFICE.**—The term “Office” means the United States Office for Native Hawaiian Relations established under section 5(a).

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

#### SEC. 4. UNITED STATES POLICY AND PURPOSE.

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

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

(2) the United States has a special political and legal relationship with the Native Hawaiian people which includes promoting the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, 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 governing entity; 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.**—The purpose of this Act is to provide a process for the reorganization of the Native Hawaiian governing entity and the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

#### SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary of the United States Office for Native Hawaiian Relations.

(b) **DUTIES.**—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity 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 governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

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

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

#### SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) **ESTABLISHMENT.**—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the “Native Hawaiian Interagency Coordinating Group”.

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

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

(2) the Office.

(c) **LEAD AGENCY.**—

(1) **IN GENERAL.**—The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group.

(2) **MEETINGS.**—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) **DUTIES.**—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) ensure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States, consultation with the Native Hawaiian governing entity; and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

#### SEC. 7. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) **RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.**—The right of the Native Hawaiian people to reorganize the Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) **COMMISSION.**—

(1) **IN GENERAL.**—There is authorized to be established a Commission to be composed of nine members for the purposes of—

(A) preparing and maintaining a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(2) **MEMBERSHIP.**—

(A) **APPOINTMENT.**—Within 180 days of the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subclause (B). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(B) **REQUIREMENTS.**—The members of the Commission shall be Native Hawaiian, as defined in section 3(8), and shall have expertise in the determination of Native Hawaiian ancestry and lineal descendancy.

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

(4) **DUTIES.**—The Commission shall—

(A) prepare and maintain a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(5) **EXPIRATION.**—The Secretary shall dissolve the Commission upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States.

#### THE NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) **ROLL.**—

(A) **CONTENTS.**—The roll shall include the names of the adult members of the Native

Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(8) by the Commission.

(B) **FORMATION OF ROLL.**—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(8).

(C) **DOCUMENTATION.**—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(8);

(ii) establish a standard format for the submission of documentation;

(iii) publish information related to subclauses (i) and (ii) in the Federal Register;

(D) **CONSULTATION.**—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descentancy.

(E) **CERTIFICATION AND SUBMITTAL OF ROLL TO SECRETARY.**—The Commission shall—

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(8) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(F) **PUBLICATION.**—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(8), the Secretary shall publish the roll in the Federal Register.

(G) **APPEAL.**—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(8) and to be 18 years of age or older.

(H) **PUBLICATION; UPDATE.**—The Secretary shall—

(i) publish the roll regardless of whether appeals are pending;

(ii) update the roll and the publication of the roll on the final disposition of any appeal;

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(8) after the initial publication of the roll or after any subsequent publications of the roll.

(I) **FAILURE TO ACT.**—If the Secretary fails to publish the roll, not later than 90 days after the date on which the roll is submitted to the Secretary, the Commission shall publish the roll notwithstanding any order or directive issued by the Secretary or any other official of the Department of the Interior to the contrary.

(J) **EFFECT OF PUBLICATION.**—The publication of the initial and updated roll shall serve as the basis for the eligibility of adult members of the Native Hawaiian community

whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

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

(A) **ORGANIZATION.**—The adult members of the Native Hawaiian community listed on the roll published under this section may—

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

(ii) determine the structure of the Council; and

(iii) elect members from individuals listed on the roll published under this subsection to the Council.

(B) **POWERS.**—

(i) **IN GENERAL.**—The Council—

(I) may represent those listed on the roll published under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) **FUNDING.**—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) **ACTIVITIES.**—

(I) **IN GENERAL.**—The Council may conduct a referendum among the adult members of the Native Hawaiian community listed on the roll published under this subsection for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for citizenship of the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) **DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.**—Based on the referendum, the Council may develop proposed organic governing documents for the Native Hawaiian governing entity.

(III) **DISTRIBUTION.**—The Council may distribute to all adult members of the Native Hawaiian community listed on the roll published under this subsection—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) **ELECTIONS.**—The Council may hold elections for the purpose of ratifying the proposed organic governing documents, and on certification of the organic governing documents by the Secretary in accordance with paragraph (4), hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) **SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.**—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) **CERTIFICATIONS.**—

(A) **IN GENERAL.**—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the three governments, not later than 90 days after the date

on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of the adult members of the Native Hawaiian community whose names are listed on the roll published by the Secretary;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity; including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the three governments;

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

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law and the special political and legal relationship between the United States and the indigenous, native people of the United States; provided that the provisions of Public Law 103-454, 25 U.S.C. 479a, shall not apply.

(B) **RESUBMISSION IN CASE OF NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (A).**—

(i) **RESUBMISSION BY THE SECRETARY.**—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) **AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.**—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A);

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) **CERTIFICATIONS DEEMED MADE.**—The certifications under paragraph (4) shall be deemed to have been made if the Secretary has not acted within 90 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) **ELECTIONS.**—On completion of the certifications by the Secretary under paragraph (4), the Council may hold elections of the officers of the Native Hawaiian governing entity.

(6) **REAFFIRMATION.**—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the political and legal relationship between the United States and the Native Hawaiian governing entity is

hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

**SEC. 8. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS; CLAIMS.**

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii 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 reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—

(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the delegation of governmental powers and authorities to the Native Hawaiian governing entity by the United States and the State of Hawaii; and

(E) any residual responsibilities of the United States and the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States, the State of Hawaii, and the Native Hawaiian governing entity, the parties shall submit—

(A) 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, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the three governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the three governments.

(c) CLAIMS.—

(1) IN GENERAL.—Nothing in this Act serves as a settlement of any claim against the United States.

(2) JURISDICTION; STATUTE OF LIMITATIONS.—The U.S. District Court for the District of Hawaii shall have original jurisdiction over any existing claim against the United States arising under Federal law existing on the date of enactment of this Act and relating to the legal and political relationship between the United States and the Native Hawaiian governing entity provided that the claim is filed in the district court within 20 years of the date of enactment of this Act, and provided further that the Court of Federal Claims shall continue to have exclusive jurisdiction over any claim otherwise within the jurisdiction of that court.

**SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.**

(a) INDIAN GAMING REGULATORY ACT.—Nothing in this Act shall be construed to authorize the Native Hawaiian governing entity to conduct gaming activities under the authority of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) BUREAU OF INDIAN AFFAIRS.—Nothing contained in this Act provides an authorization for eligibility to participate in any programs and services provided by the Bureau of

Indian Affairs for any persons not otherwise eligible for the programs or services.

**SEC. 10. SEVERABILITY.**

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 7, 2004, at 2 p.m. to conduct a hearing on "The Review of the National Bank Preemption Rules."

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 7, at 2 p.m. to consider EPA nominations and other business.

The business meeting will be held in S-128 (Appropriations) in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 7, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "Strategies To Improve Access to Medicaid Home and Community Based Services."

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 9:30 a.m. to hold a hearing on UN Oil for Food.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at

2:30 p.m. to hold a hearing on Fighting HIV/AIDS in Africa; A Progress Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, April 7, 2004, at 10 a.m. for a hearing titled "Postal Reform: The Chairmen's Perspectives on Governance and Rate-Setting."

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 7, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 1529, a bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; and S. 1955, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 7, 2004 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on "Improving the Administration of Justice: A Proposal to Split the Ninth Circuit" on Wednesday, April 7, 2004, at 10 a.m. in room 226 of the Dirksen Senate Office building.

*Witness List*

Panel I: The Honorable Diarmuid F. O'Scannlain, U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Portland, OR; the Honorable Mary M. Schroeder, Chief U.S. Circuit Judge, U.S. Court of Appeals of the Ninth Circuit, Phoenix, AZ; the Honorable Richard C. Tallman, U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Seattle, WA; and the Honorable J. Clifford Wallace, Senior U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, San Diego, CA.

Panel II: The Honorable Gerald B. Tjoflat, U.S. Circuit Judge, U.S. Court of Appeals for the Eleventh Circuit, Jackson, FL; and the Honorable John C. Coughenour, Chief U.S. District Judge, U.S. District Court for the Western District of Washington, Seattle, WA.