

gentleman that has spoken on behalf of those Native Americans that actually are real tribes by definition that exists within statute and within the tradition of law, have no solution for the reservation system that we have. They envision it the same 100 years from now as it is today. And so we see the replication of pathologies from reservation to reservation and not the opportunities.

I would have supported the Dawes Act however many years ago.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman 1 additional minute.

Mr. KING of Iowa. I thank the gentleman, and I'd just make this point. When I read the material on this coming back up again, and I so appreciate Mr. ABERCROMBIE's work, and I know his heart and his head are in this. This is in a verbatim email that I wrote up to my staff, and it goes this way.

This bill makes a resounding statement that even Native Hawaiians can't be assimilated into a Western society. I disagree. It is a fundamental statement that goes to the heart of what it means to be an American. If, after all these years, Native Hawaiians have to be tribalized in order to function in a modern society, all Americans then must, by the identical logic, be Balkanized.

Mr. Speaker, the philosophy is wrong underneath this. However good the thoughts are, Americans should be assimilated, not subdivided. We should not be pitted against each other, and Americans should not have certain assets designated to them because of the ancestry that they claim. We should be all Americans under one flag.

Mr. RAHALL. Mr. Speaker, we're ready to close when the other side is. Is the gentleman from Washington ready to close?

Mr. HASTINGS of Washington. If the gentleman's the last speaker, then I am the last speaker on my side. I yield myself the balance of the time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Washington is recognized for 1 minute.

Mr. HASTINGS of Washington. Mr. Speaker, just let me kind of summarize some of the overreaching debate that we've had here today.

This issue has been around this Congress for over 10 years, and this issue has had broad support within the State of Hawaii. Mr. Speaker, for over 10 years. And the underlying bill, before we will vote on the substitute, the underlying bill has broad support in the State of Hawaii.

But now we are going to have an amendment that was not written in public, and, in fact, as I mentioned in my earlier remarks, Governor Lingle is opposed to this approach on this bill, even though she agrees wholeheartedly with the issue of recognition for Native Hawaiians.

So, Mr. Speaker, I take everybody's word that's involved in this that it will be worked out to everybody's satisfaction. But, Mr. Speaker, why should we, on the floor of the House—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Washington. With that, Mr. Speaker, I just urge my colleagues to vote against the substitute. I'll talk about that later.

Mr. RAHALL. Mr. Speaker, I'm very happy to yield the balance of our time to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I want to thank all my colleagues here today, and I want to thank those especially who have risen in opposition. This is what our democracy is all about. My only regret in extending my aloha to those who may not feel able to vote for the bill today is that you have not had an opportunity, perhaps, to visit with, to understand, and to comprehend what it means to be a Native Hawaiian.

It is, of course, very easy for someone to say well, how can you do that; you came from somewhere else.

I was born and raised just outside Buffalo, New York. I came to Hawaii some 50 years ago, with statehood, given the opportunity to go to the University of Hawaii as a graduate teaching assistant. And the first thing that happened to me as I came that great distance, across the continent and across the ocean, then in a Pan American Clipper, it took 10 hours just to get from the coast to Hawaii. And when I took that first breath of Hawaiian air and saw the gorgeous curves of the island of Oahu, Diamondhead, Waikiki, and the first evening, taken to Manoa Valley, where I now reside, it was as if destiny had called.

And the first contact that I had was with my Chinese Hawaiian friend, Solomon Lu, God rest his soul, whose family took me in and treated me as one of their own. And that's what Hawaii is all about.

Mr. Speaker, this is not about race. This is about the aloha spirit. This is about the rainbow State of Hawaii. This is about Native Hawaiians who give us the host culture and the fundamental sense of who we are as human beings. And the diversity that defines us in Hawaii that does not divide us is the kind of diversity and definition we need in this House of Representatives, that we need in the United States of America.

This is Hawaii's gift to the United States. It is its gift to the world, the spirit of aloha. And in that same spirit of aloha, I ask for a vote favorably on behalf of the Native Hawaiian recognition bill.

The SPEAKER pro tempore. All time for debate on the bill has expired.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4626, HEALTH INSURANCE INDUSTRY FAIR COMPETITION ACT

Mr. HASTINGS of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 111-418) on the resolution (H. Res. 1098) providing for consideration of the bill (H.R. 4626) to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers, which was referred to the House Calendar and ordered to be printed.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2009—CONTINUED

PART A AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ABERCROMBIE

Mr. ABERCROMBIE. Mr. Speaker, I have an amendment in the nature of a substitute made in order under the rule.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute printed in part A of House Report 111-413 offered by Mr. ABERCROMBIE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Government Reorganization Act of 2010".

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 and the Supreme Court has held that under the Indian Commerce, Treaty, Supremacy, and Property Clauses, and the War Powers, Congress may exercise that power to rationally promote the welfare of the native peoples of the United States so long as the native people are a "distinctly native community";

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are 1 of the indigenous, native peoples of the United States, and the Native Hawaiian people are a distinctly native community;

(3) the United States has a special political and legal relationship with, and has long enacted legislation to promote the welfare of, the native peoples of the United States, including the Native Hawaiian people;

(4) under the authority of the Constitution, the United States concluded a number of treaties with the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii as a nation;

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

(C) entered into treaties and conventions of peace, friendship and commerce with the Kingdom of Hawaii to govern trade, 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 in trust to better address the conditions of Native Hawaiians in the

Federal territory that later became the State of Hawaii and in enacting the Hawaiian Homes Commission Act, 1920, Congress acknowledged the Native Hawaiian people as a native people of the United States, as evidenced by the Committee Report, which notes that Congress relied on the Indian affairs power and the War Powers, including the power to make peace;

(6) by setting aside 203,500 acres of land in trust for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act, 1920, assists the members of the Native Hawaiian community in maintaining distinctly native communities throughout the State of Hawaii;

(7) approximately 9,800 Native Hawaiian families reside on the Hawaiian Home Lands, and approximately 25,000 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 delegated the authority and responsibility to administer the Hawaiian Homes Commission Act, 1920, lands in trust for Native Hawaiians and established a new public trust (commonly known as the “ceded lands trust”), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians, and Congress thereby reaffirmed its recognition of the Native Hawaiians as a distinctly native community with a direct lineal and historical succession to the aboriginal, indigenous people of Hawaii;

(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 important native land reserves and resources for the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the continuity, survival, and economic self-sufficiency of the Native Hawaiian people as a distinctly native political community;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii, including native lands that date back to the ali'i and kuleana lands reserved under the Kingdom of Hawaii;

(12) through the Sovereign Council of Hawaiian Homelands Assembly and Native Hawaiian homestead associations, Native Hawaiian civic associations, charitable trusts established by the Native Hawaiian ali'i, nonprofit native service providers and other community associations, the Native Hawaiian people have actively maintained native traditions and customary usages throughout the Native Hawaiian community and the Federal and State courts have continuously recognized the right of the Native Hawaiian people to engage in certain customary practices and usages on public lands;

(13) on November 23, 1993, public law 103-150 (107 Stat. 1510) (commonly known as the “Apology Resolution”) was enacted into law, extending an apology to Native Hawaiians on behalf of the people of the United States for the United States’ role in the overthrow of the Kingdom of Hawaii;

(14) 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;

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

(i) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii; and

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

(B) Congress established the Office of Hawaiian Relations within the Department of the Interior with 1 of its purposes being to consult with Native Hawaiians on the reconciliation process; and

(C) the United States has the duty to reconcile and reaffirm its friendship with the Native Hawaiian people because, among other things, the United States Minister and United States naval forces participated in the overthrow of the Kingdom of Hawaii;

(16)(A) despite the overthrow of the Government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a single distinctly native political 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; and

(B) there is clear continuity between the aboriginal, indigenous, native people of the Kingdom of Hawaii and their successors, the Native Hawaiian people today;

(17) 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; and

(xii) traditional justice programs; and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(18) Native Hawaiian people 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;

(19) 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;

(20) 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 single unified Native Hawaiian governing entity for the purpose of giving expression to their rights as a native

people to self-determination and self-governance;

(21) Congress—

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

(B) has identified Native Hawaiians as an indigenous, distinctly 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;

(22) 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 exclusive right of the United States to consent to any actions affecting the lands included in 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;

(23) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a direct genealogical, cultural, historic, and land-based connection to their forebears, the aboriginal, indigenous, native people who exercised original 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 native people of a prior-sovereign nation with whom the United States has a special political and legal relationship; and

(D) the special 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

(24) the State of Hawaii supports the reaffirmation of the special 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, and March 1, 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) **ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.**—The term “aboriginal, indigenous, native people” means a 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) **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.

(3) COMMISSION.—The term “Commission” means the Commission established under section 8(b).

(4) COUNCIL.—The term “Council” means the Native Hawaiian Interim Governing Council established under section 8(c)(2).

(5) INDIAN PROGRAM OR SERVICE.—

(A) IN GENERAL.—The term “Indian program or service” means any federally funded or authorized program or service provided to an Indian tribe (or member of an Indian tribe) because of the status of the members of the Indian tribe as Indians.

(B) INCLUSIONS.—The term “Indian program or service” includes a program or service provided by the Bureau of Indian Affairs, the Indian Health Service, or any other Federal agency.

(6) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

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

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

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

(10) NATIVE HAWAIIAN MEMBERSHIP ORGANIZATION.—The term “Native Hawaiian membership organization” means an organization that—

(A) serves and represents the interests of Native Hawaiians, has as a primary and stated purpose the provision of services to Native Hawaiians, and has expertise in Native Hawaiian affairs;

(B) has leaders who are elected democratically, or selected through traditional Native leadership practices, by members of the Native Hawaiian community;

(C) advances the cause of Native Hawaiians culturally, socially, economically, or politically;

(D) is a membership organization or association; and

(E) has an accurate and reliable list of Native Hawaiian members.

(11) OFFICE.—The term “Office” means the United States Office of Hawaiian Relations established by section 5(a).

(12) QUALIFIED NATIVE HAWAIIAN CONSTITUENT.—For the purposes of establishing the roll authorized under section 8, and prior to the recognition by the United States of the Native Hawaiian governing entity, the term “qualified Native Hawaiian constituent” means an individual who the Commission determines has satisfied the following criteria and who makes a written statement certifying that he or she

(A) is—

(i) an individual who is 1 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

(ii) an individual who is 1 of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized

by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), or a direct lineal descendant of that individual;

(B) wishes to participate in the reorganization of the Native Hawaiian governing entity;

(C) is 18 years of age or older;

(D) is a citizen of the United States; and

(E) maintains a significant cultural, social, or civic connection to the Native Hawaiian community, as evidenced by satisfying 2 or more of the following 10 criteria:

(i) Resides in the State of Hawaii.

(ii) Resides outside the State of Hawaii and—

(I)(aa) currently serves or served as (or has a parent or spouse who currently serves or served as) a member of the Armed Forces or as an employee of the Federal Government; and

(bb) resided in the State of Hawaii prior to the time he or she (or such parent or spouse) left the State of Hawaii to serve as a member of the Armed Forces or as an employee of the Federal Government; or

(II)(aa) currently is or was enrolled (or has a parent or spouse who currently is or was enrolled) in an accredited institution of higher education outside the State of Hawaii; and

(bb) resided in the State of Hawaii prior to the time he or she (or such parent or spouse) left the State of Hawaii to attend such institution.

(iii)(I) Is or was eligible to be a beneficiary of the programs authorized by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), and resides or resided on land set aside as “Hawaiian home lands”, as defined in such Act; or

(II) Is a child or grandchild of an individual who is or was eligible to be a beneficiary of the programs authorized by such Act and who resides or resided on land set aside as “Hawaiian home lands”, as defined in such Act.

(iv) Is or was eligible to be a beneficiary of the programs authorized by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42).

(v) Is a child or grandchild of an individual who is or was eligible to be a beneficiary of the programs authorized by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42).

(vi) Resides on or has an ownership interest in, or has a parent or grandparent who resides on or has an ownership interest in, “kuleana land” that is owned in whole or in part by a person who, according to a genealogy verification by the Office of Hawaiian Affairs or by court order, is a lineal descendant of the person or persons who received the original title to such “kuleana land”, defined as lands granted to native tenants pursuant to Haw. L. 1850, p. 202, entitled “An Act Confirming Certain Resolutions of the King and Privy Council Passed on the 21st day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges”, as amended by Haw. L. 1851, p. 98, entitled “An Act to Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges” and as further amended by any subsequent legislation.

(vii) Is, or is the child or grandchild of, an individual who has been or was a student for at least 1 school year at a school or program taught through the medium of the Hawaiian language under section 302H-6, Hawaii Revised Statutes, or at a school founded and operated primarily or exclusively for the benefit of Native Hawaiians.

(viii) Has been a member since September 30, 2009, of at least 1 Native Hawaiian membership organization.

(ix) Has been a member since September 30, 2009, of at least 2 Native Hawaiian membership organizations.

(x) Is regarded as Native Hawaiian and whose mother or father is (or if deceased, was) regarded as Native Hawaiian by the Native Hawaiian community, as evidenced by sworn affidavits from two or more qualified Native Hawaiian constituents certified by the Commission as possessing expertise in the social, cultural, and civic affairs of the Native Hawaiian community.

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

(14) SPECIAL POLITICAL AND LEGAL RELATIONSHIP.—The term “special political and legal relationship” shall refer, except where differences are specifically indicated elsewhere in the Act, to the type of and nature of relationship the United States has with the several federally recognized Indian tribes.

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)(A) Congress possesses and hereby exercises the authority under the Constitution, including but not limited to Article I, Section 8, Clause 3, to enact legislation to better the conditions of Native Hawaiians and has exercised this authority through the enactment of—

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

(ii) 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

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

(B) other sources of authority under the Constitution for legislation on behalf of the indigenous, native peoples of the United States, including Native Hawaiians, include but are not limited to the Property, Treaty, and Supremacy Clauses, War Powers, and the Fourteenth Amendment, and Congress hereby relies on those powers in enacting this legislation; and

(C) the Constitution’s original Apportionment Clause and the 14th Amendment Citizenship and amended Apportionment Clauses also acknowledge the propriety of legislation on behalf of the native peoples of the United States, including 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 single Native Hawaiian governing entity and the reaffirmation of the special political and legal relationship between the United States and that Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 5. UNITED STATES OFFICE OF HAWAIIAN RELATIONS.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary the United States Office of 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 government-to-government relationship between the single 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) provide timely notice to, and consult with, the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) work with the Interagency Coordinating Group, other Federal agencies, and 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 and the Committee on Natural 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 may provide recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

(c) **APPLICABILITY TO DEPARTMENT OF DEFENSE.**—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Office.

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 whose actions may significantly or uniquely impact Native Hawaiian programs, resources, rights, or lands; and

(2) the Office.

(c) **LEAD AGENCY.**—

(1) **IN GENERAL.**—The Department of the Interior and the White House Office of Intergovernmental Affairs shall serve as the leaders 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) consult with the Native Hawaiian governing entity, through the coordination referred to in paragraph (1), but the consultation obligation established in this provision shall apply only after the satisfaction of all

of the conditions referred to in section 8(c)(8); and

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

(e) **APPLICABILITY TO DEPARTMENT OF DEFENSE.**—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Interagency Coordinating Group.

SEC. 7. DESIGNATION OF DEPARTMENT OF JUSTICE REPRESENTATIVE.

The Attorney General shall designate an appropriate official within the Department of Justice to assist the Office in the implementation and protection of the rights of Native Hawaiians and their political and legal relationship with the United States, and upon the recognition of the Native Hawaiian governing entity as provided for in section 8, in the implementation and protection of the rights of the Native Hawaiian governing entity and its political and legal relationship with the United States.

SEC. 8. PROCESS FOR REORGANIZATION OF NATIVE HAWAIIAN GOVERNING ENTITY AND REAFFIRMATION OF SPECIAL POLITICAL AND LEGAL RELATIONSHIP BETWEEN UNITED STATES AND NATIVE HAWAIIAN GOVERNING ENTITY.

(a) **RECOGNITION OF NATIVE HAWAIIAN GOVERNING ENTITY.**—The right of the qualified Native Hawaiian constituents to reorganize the single 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 9 members for the purposes of—

(A) preparing and maintaining a roll of qualified Native Hawaiian constituents; and

(B) certifying that the individuals on the roll of qualified Native Hawaiian constituents meet the definition of qualified Native Hawaiian constituent set forth in section 3.

(2) **MEMBERSHIP.**—

(A) **APPOINTMENT.**—

(i) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subparagraph (B).

(ii) **CONSIDERATION.**—In making an appointment under clause (i), the Secretary may take into consideration a recommendation made by any Native Hawaiian membership organization or other entity with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

(B) **REQUIREMENTS.**—Each member of the Commission shall demonstrate, as determined by the Secretary—

(i) not less than 10 years of experience in the study and determination of Native Hawaiian genealogy (traditional cultural experience shall be given due consideration); and

(ii) an ability to read and translate into English documents written in the Hawaiian language.

(C) **VACANCIES.**—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(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 qualified Native Hawaiian constituents as set forth in subsection (c); and

(B) certify that the individuals on the roll of qualified Native Hawaiian constituents meet the definition of that term as set forth in section 3.

(5) **STAFF.**—

(A) **IN GENERAL.**—The Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) **COMPENSATION.**—

(i) **IN GENERAL.**—Except as provided in clause (ii), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) **MAXIMUM RATE OF PAY.**—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(6) **DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.**—

(A) **IN GENERAL.**—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) **CIVIL SERVICE STATUS.**—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(7) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

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

(c) **PROCESS FOR REORGANIZATION OF NATIVE HAWAIIAN GOVERNING ENTITY.**—

(1) **ROLL.**—

(A) **CONTENTS.**—The roll shall include the names of the qualified Native Hawaiian constituents who are certified by the Commission to be qualified Native Hawaiian constituents, as defined in section 3.

(B) **FORMATION OF ROLL.**—Each individual claiming to be a qualified Native Hawaiian constituent 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 set forth in section 3; provided that an individual presenting evidence that he or she satisfies the definition in Section 2 of Public Law 103-150 shall be presumed to meet the requirement of section 3(12)(A)(i).

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

(i)(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 qualified Native Hawaiian constituent set forth in section 3.

(II) recognize an individual's identification of lineal ancestors on the 1890 Census by the Kingdom of Hawaii as a reliable indicia of lineal descent from the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(III) permit elderly Native Hawaiians and other qualified Native Hawaiian constituents lacking birth certificates or other documentation due to birth on Hawaiian Home Lands or other similar circumstances to establish lineal descent by sworn affidavits from 2 or more qualified Native Hawaiian constituents;

(i) establish a standard format for the submission of documentation and a process to ensure veracity; and

(iii) publish information related to clauses (i) and (ii) in the Federal Register.

(D) CONSULTATION.—In making determinations that each individual proposed for inclusion on the roll of qualified Native Hawaiian constituents meets the definition of qualified Native Hawaiian constituent in section 3, the Commission may consult with bona fide Native Hawaiian membership 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 descendancy.

(E) NOTIFICATION.—The Commission shall—

(i) inform an individual whether they have been deemed by the Commission a qualified Native Hawaiian constituent; and

(ii) inform an individual of a right to appeal the decision if deemed not to be a qualified Native Hawaiian constituent.

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

(i) submit the roll containing the names of those individuals who meet the definition of qualified Native Hawaiian constituent in section 3 to the Secretary within 2 years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the qualified Native Hawaiian constituents proposed for inclusion on the roll meets the definition set forth in section 3.

(G) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of qualified Native Hawaiian constituent set forth in section 3, the Commission shall publish the notice of the certification of the roll in the Federal Register, notwithstanding pending appeals pursuant to subparagraph (H).

(H) APPEAL.—The Secretary, in consultation with the Commission, shall establish a mechanism for an administrative appeal for any person whose name is excluded from the roll who claims to meet the definition of qualified Native Hawaiian constituent in section 3.

(I) PUBLICATION; UPDATE.—The Commission shall—

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

(ii) update the roll and provide notice of the updated roll on the final disposition of any appeal;

(iii) update the roll to include any person who has been certified by the Commission as meeting the definition of qualified Native Hawaiian constituent in section 3 after the initial publication of the roll or after any subsequent publications of the roll; and

(iv) provide a copy of the roll and any updated rolls to the Council.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of qualified Native Hawaiian constituents whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF COUNCIL.—

(A) ORGANIZATION.—The Commission, in consultation with the Secretary, shall hold a

minimum of 3 meetings, and each meeting shall be at least 2 working days, of the qualified Native Hawaiian constituents listed on the roll established under this section—

(i) to develop criteria for candidates to be elected to serve on the Council;

(ii) to determine the structure of the Council, including the number of Council members; and

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

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) shall represent those listed on the roll established 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 shall conduct, among the qualified Native Hawaiian constituents listed on the roll established under this subsection, a referendum 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 future membership in the Native Hawaiian governing entity, provided that membership is voluntary and can be relinquished;

(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, including the rights protected under section 202 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1302);

(dd) the protection and preservation of the rights vested on the date of enactment of this Act of those Native Hawaiians who are eligible to reside on the Hawaiian homelands under the authority of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42); and

(ee) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council shall develop proposed organic governing documents for the Native Hawaiian governing entity and may seek technical assistance from the Secretary on the draft organic governing documents to ensure that the draft organic governing documents comply with this Act and other Federal law.

(III) DISTRIBUTION.—The Council shall publish to all qualified Native Hawaiian constituents of the Native Hawaiian governing entity listed on the roll published under this subsection notice of the availability of—

(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.—

(aa) IN GENERAL.—Not sooner than 180 days after the proposed organic governing documents are drafted and distributed, the Council, with the assistance of the Secretary, shall hold elections for the purpose of ratifying the proposed organic governing documents.

(bb) PURPOSE.—The Council, with the assistance of the Secretary, shall hold the election for the purpose of ratifying the proposed

organic governing documents 60 days after publishing notice of an election.

(cc) OFFICERS.—On certification of the organic governing documents by the Secretary in accordance with paragraph (4), the Council, with the assistance of the Secretary, shall 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 9(c)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the 3 governments, not later than 180 days, which may be extended an additional 90 days if the Secretary deems necessary, after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify or decline to certify that the organic governing documents—

(i) establish the criteria for membership in the Native Hawaiian governing entity and provide that membership is voluntary and can be relinquished;

(ii) were adopted by a majority vote of those qualified Native Hawaiian constituents whose names are listed on the roll published by the Secretary and who voted in the election;

(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 inherent and other appropriate governmental authorities by the Native Hawaiian governing entity;

(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, including the rights protected under section 202 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1302);

(vii) provide for the protection and preservation of the rights vested on the date of enactment of this Act of those Native Hawaiians who are eligible to reside on the Hawaiian homelands under the authority of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42); and

(viii) are consistent with applicable Federal law.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE.—

(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); and

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

(C) CERTIFICATIONS DEEMED MADE.—The certifications under this paragraph shall be deemed to have been made if the Secretary has not acted within 180 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, with the assistance of the Secretary, shall hold elections of the officers of the Native Hawaiian governing entity.

(6) PROVISION OF ROLL.—The Council shall provide a copy of the roll of qualified Native Hawaiian constituents to the governing body of the Native Hawaiian governing entity.

(7) TERMINATION.—The Council shall cease to exist and shall have no power or authority under this Act after the officers of the governing body who are elected as provided in paragraph (5) are installed.

(8) REAFFIRMATION.—Notwithstanding any other provision of law, the special political and legal relationship between the United States and the Native Hawaiian people is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative sovereign governing body of the Native Hawaiian people after—

(A) the approval of the organic governing documents by the Secretary under subparagraph (A) or (C) of paragraph (4); and

(B) the officers of the Native Hawaiian governing entity elected under paragraph (5) have been installed.

SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY TO STATE OF HAWAII; GOVERNMENTAL AUTHORITY AND POWER; 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. 4), is reaffirmed.

(b) GOVERNMENTAL AUTHORITY AND POWER.—

(1) IN GENERAL.—Consistent with the policies of the United States set forth in section 4(a)(4), the Native Hawaiian governing entity shall be vested with the inherent powers and privileges of self-government of a native government under existing law, except as set forth in this Act. Said powers and privileges may be modified by agreement between the Native Hawaiian governing entity, the United States, and the State of Hawaii pursuant to the negotiations authorized in subsection (c)(1), and subject to the enactment of implementing legislation and to the limit described by section 10(a).

(2) MEMBERSHIP.—Once the United States extends Federal recognition to the Native Hawaiian governing entity, the United States will recognize and affirm the Native Hawaiian governing entity's inherent power and authority to determine its own membership criteria, to determine its own membership, and to grant, deny, revoke, or qualify membership without regard to whether any person was or was not deemed to be a qualified Native Hawaiian constituent under this Act. The Native Hawaiian governing entity must provide that membership in the Native Hawaiian governing entity is voluntary and can be relinquished.

(c) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the special 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 or agreements addressing such matters as—

(A) the transfer of State of Hawaii lands and surplus Federal 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 exercise of the authority to tax and other powers and authorities that are recognized by the United States as powers and authorities typically exercised by governments representing indigenous, native people of the United States;

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

(F) grievances regarding assertions of historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States or the State of Hawaii, and the Native Hawaiian governing entity, the parties may 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 Natural Resources of the House of Representatives recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the 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 governments.

(3) During the period between the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, and the subsequent enactment of legislation to implement the agreement or agreements negotiated under paragraph (1):

(A) There shall be no Indian country within the State of Hawaii.

(B) The United States shall not take land in trust for the benefit of the Native Hawaiian governing entity or for the benefit of members of the Native Hawaiian governing entity.

(C) The United States shall not restrict the alienability of land owned by the Native Hawaiian governing entity.

(D) Members of the Native Hawaiian governing entity shall continue to be subject to the civil and criminal jurisdiction of Federal and State courts.

(E) Nothing in this Act alters or preempts the existing legislative, regulatory, or taxation authority of the State of Hawaii over individuals who are members of the Native Hawaiian governing entity or over property owned by those individuals.

(F) The Native Hawaiian governing entity shall not exercise criminal, civil, adjudicative, legislative, regulatory, or taxation authority or jurisdiction over individuals who are not members of the Native Hawaiian governing entity without their express consent.

(G) The Native Hawaiian governing entity shall not exercise criminal, civil, adjudicative, legislative, regulatory, or taxation authority or jurisdiction over corporations or other associations or entities that are owned wholly or in majority part by persons who are not members of the Native Hawaiian governing entity without their express consent.

(H) The Native Hawaiian governing entity shall be immune from any lawsuit in any Federal or State court, with the exception described in section 10(c)(3) and the exceptions set forth in clauses (i) through (iii) of this subparagraph.

(i) The Native Hawaiian governing entity may waive its sovereign immunity, provided that it does so clearly and unequivocally.

(ii) The Native Hawaiian governing entity shall not be immune from any lawsuit brought by the United States in any Federal court.

(iii) Real property owned in fee simple by the Native Hawaiian governing entity shall not be immune from any in rem action filed by the State of Hawaii.

(I) Governmental, nonbusiness, non-commercial activities undertaken by the Native Hawaiian governing entity, or by a corporation or other association or entity wholly owned by the Native Hawaiian governing entity, shall not be subject to the regulatory or taxation authority of the State of Hawaii, provided that nothing in this subparagraph shall exempt any natural person (except an officer or employee of the Native Hawaiian governing entity, acting within the scope of his or her authority), from the regulatory, taxation, or other authority of the State of Hawaii. In determining whether an activity is covered by this subparagraph, due consideration shall be given to the constraints described in subparagraphs (A), (F), and (G).

(J) Commercial or business activities undertaken by the Native Hawaiian governing entity, or by a corporation or other association or entity owned, operated, or sponsored by the Native Hawaiian governing entity, shall be subject to the regulatory and taxation authority of the State of Hawaii to the same extent as commercial or business activities undertaken by others.

(K) Subject to subparagraph (I), activities conducted on real property owned by, leased by, or subject to the control of the Native Hawaiian governing entity shall be subject to the regulatory and taxation authority of the State of Hawaii to the same extent as activities conducted on real property owned by, leased by, or subject to the control of others.

(L) Subject to subparagraph (O), real property owned by, leased by, or subject to the control of the Native Hawaiian governing entity, and development of such property, shall be subject to the regulatory and taxation authority of the State of Hawaii to the same extent as real property owned by, leased by, or subject to the control of others.

(M) Any commercial or business corporation or other commercial or business association or entity owned, operated, or sponsored by the Native Hawaiian governing entity shall be subject to the regulatory and taxation authority of the State of Hawaii to the same extent as commercial and business corporations and other commercial and business associations and entities owned, operated, or sponsored by others.

(N) Any specific power, authority, or restriction set forth in this paragraph shall expire upon enactment of legislation that implements an agreement or agreements negotiated under paragraph (1) and that expressly replaces or alters such power, authority, or restriction.

(O) Nothing in this paragraph diminishes any right or immunity (including any immunity from State or local taxation) granted to Native Hawaiians or their property by the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), 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), or sections 10001 through 10004 of the Department of Defense Appropriations Act, 1994 (sections

10001 through 1004 of Public Law 103-139; 107 Stat. 1418, 1480 (1993).

(4) Nothing in paragraph (3) should be interpreted as establishing any presumption about the powers or authorities that could properly be exercised by the United States, the State of Hawaii, or the Native Hawaiian governing entity after further legislation, including legislation enacted to implement any agreement negotiated under this subsection.

(d) CLAIMS.—Nothing in this Act—

(1) alters existing law, including case law, regarding obligations of the United States or the State of Hawaii relating to events or actions that occurred prior to recognition of the Native Hawaiian governing entity;

(2) creates, enlarges, revives, modifies, diminishes, extinguishes, waives, or otherwise alters any Federal or State claim or cause of action against the United States or its officers or the State of Hawaii or its officers or any other person or entity, or any defense (including the defense of statute of limitations) to any such claim or cause of action, except in the case of claims or causes of action challenging the constitutionality or legality of programs benefitting Native Hawaiians to the extent that this Act creates or enlarges any defense to any such claim or cause of action;

(3) amends section 2409a of title 28, United States Code (commonly known as the “Quiet Title Act”), chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”), section 1491 of title 28, United States Code (commonly known as the “Tucker Act”), section 1505 of title 28, United States Code (commonly known as the “Indian Tucker Act”), the Hawaii Organic Act (31 Stat. 141), or any other Federal statute, except as expressly amended by this Act; or

(4) alters the sovereign immunity of the United States or of the State of Hawaii.

SEC. 10. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—

(1) IN GENERAL.—The Native Hawaiian governing entity and Native Hawaiians may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

(2) APPLICABILITY.—The prohibition contained in paragraph (1) regarding the use of Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) and inherent authority to game applies regardless of whether gaming by Native Hawaiians or the Native Hawaiian governing entity would be located on land within the State of Hawaii or within any other State or territory of the United States.

(b) SINGLE GOVERNING ENTITY.—This Act will result in the recognition of the single Native Hawaiian governing entity. Additional Native Hawaiian groups shall not be eligible for acknowledgment pursuant to the Federal Acknowledgment Process set forth in part 83 of title 25, Code of Federal Regulations, or any other administrative acknowledgment or recognition process.

(c) INDIAN PROGRAMS, SERVICES, AND LAWS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, nothing in this Act extends eligibility for any Indian program or service to the Native Hawaiian governing entity or its members unless a statute governing such a program or service expressly provides that Native Hawaiians or the Native Hawaiian governing entity is eligible for such program or service. Nothing in this Act affects the eligibility of any person for any program or service under any statute

or law in effect before the date of enactment of this Act.

(2) APPLICABILITY OF OTHER TERMS.—Subject to paragraph (3), in Federal statutes or regulations in force prior to the United States recognition of the Native Hawaiian governing entity, the terms “Indian” and “Native American”, and references to Indian tribes, bands, nations, pueblos, villages, or other organized groups or communities, shall not apply to the Native Hawaiian governing entity or its members, unless the Federal statute or regulation expressly applies to Native Hawaiians or the Native Hawaiian governing entity.

(3) INDIAN CIVIL RIGHTS ACT OF 1968.—The Council and the Native Hawaiian governing entity shall be subject to sections 201 through 203 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301–1303). Nothing in such Act, and nothing in this paragraph, shall be interpreted to expand the powers and authorities of the Council or the Native Hawaiian governing entity that are described elsewhere in this Act.

(d) REAL PROPERTY TRANSFERS.—Section 2116 of the Revised Statutes (commonly known as the “Indian Trade and Intercourse Act”) (25 U.S.C. 177) does not apply to any purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from Native Hawaiians, Native Hawaiian entities, or the Kingdom of Hawaii that occurred prior to the date of the United States’ recognition of the Native Hawaiian governing entity.

SEC. 11. 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. 12. AUTHORIZATION OF APPROPRIATIONS.

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

The SPEAKER pro tempore. Pursuant to House Resolution 1083, the gentleman from Hawaii (Mr. ABERCROMBIE) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, in support of our substitute amendment, the amendment ensures that the Native Hawaiian governing entity will have the same governmental authorities and sovereign immunity of other native governments.

The Abercrombie amendment, the substitute amendment, follows centuries of well-established Federal law. The amendment is supported by the National Congress of American Indians, the Alaska Federation of Natives and other tribal organizations. President Obama supports the substitute amendment, and I quote, “as it adds important clarifications to craft a durable pathway forward.”

Mr. Speaker, the amendment in the nature of a substitute further clarifies that pending negotiations and subsequent implementation legislation with that, the following will occur: There will be no Indian Country within Hawaii. The United States will not take land into trust nor restrict alien ability of land owned by the Native Hawaiian governing entity. The governing entity may not exercise certain powers and authorities such as jurisdiction

over non-Native Hawaiian individuals without their consent. And the State of Hawaii will retain regulatory and taxation authority over Native Hawaiians and the Native Hawaiian governing entity.

Mr. Speaker, the Native Hawaiian government reorganization does as follows: Establishes a process for the recognition of a single Native Hawaiian governing entity; establishes a U.S. office for Native Hawaiian relations in the Department of the Interior to consult with other Federal agencies and the State of Hawaii; establishes a Native Hawaiian interagency coordinating group; authorizes United States-State of Hawaii Native Hawaiian governing entity negotiations based on the following: the transfer of lands, natural resources and other assets; the exercise of governmental authority over any lands or resources; the exercise of civil and criminal jurisdiction; and grievances regarding assertions of historical wrongs committed against the Native Hawaiians by the United States or the State of Hawaii. It prohibits gaming by Native Hawaiian governing entities and Native Hawaiians. It prohibits the Native Hawaiian governing entity from being eligible for any new Indian programs to which they are not already included.

Let me say then, in conclusion, what the Native Hawaiian Government Reorganization Act does not do. It does not recognize the Native Hawaiian government upon passage of this bill. It does not exempt the Native Hawaiian government from any provision of the U.S. Constitution. It does not exempt the Native Hawaiian government from any provision of Federal law. It does not exempt the Native Hawaiian governing entity from taxation. It does not authorize a Native Hawaiian government entity to secede. It does not alter the civil or criminal jurisdiction of the United States or the State of Hawaii. And finally, it does not allow for the transfer of land or any authority of land to a Native Hawaiian governing entity.

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

Mr. HASTINGS of Washington. I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman is recognized for 15 minutes.

Mr. HASTINGS of Washington. I yield myself as much time as I may consume.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, I rise in opposition to this amendment. As I said in my opening statement, this amendment was crafted in a manner that has become the hallmark of this Democrat-led House, this behind closed doors, with very little time for the American people or the people of Hawaii to review it. It has been available for public review, Mr. Speaker, for less than 48 hours.

Just last night, Hawaii's Governor, Linda Lingle, a strong supporter of Native Hawaiian recognition, announced her opposition to this substitute.

As introduced, the basic bill, H.R. 2314, provides that matters such as transferring lands and preempting Federal and State civil, criminal, and tax jurisdiction must be subject to negotiation with and the consent of the State of Hawaii and the U.S. Congress.

But this substitute short circuits that public process. It immediately preempts the State of Hawaii's jurisdiction over civil, tax, and possibly criminal matters. All the Native Hawaiian entity would have to do is undertake any activity in the name of an official government action and immunity from the State authority applies.

The substitute makes a number of major revisions, all written in secret, away from public view. And let me, Mr. Speaker, just highlight a few:

It creates a new membership criteria that is six pages in length. They do not require one to reside in Hawaii to be a member of this newly created entity.

Second, these six pages of membership criteria are ultimately meaningless. Once the governing entity is formally recognized, it may discard these criteria and grant, deny, or revoke membership for any reason.

In the substitute, section 6C-1 establishes the White House as the lead agency to implement this act.

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Mr. Speaker, this unreasonably injects the political operatives of the White House into the formation of the governing entity.

A new section 7 also requires the Attorney General to assign a Department of Justice attorney to assist and protect the government entity. This will wrongfully color the objectivity of the Justice Department when a challenge of the constitutionality of this act is inevitably made. And, Mr. Speaker, I am convinced there will be one made.

Mr. Speaker, there are fundamental changes from the original bill that deserve more scrutiny than we can provide on the House floor today because we've only had, as I mentioned, 48 hours to look at it.

But let me repeat that perhaps the most objectionable provisions are the ones in which the race-based entity is immunized from lawsuits in any Federal or State court, and shielded from State civil, tax, and possibly criminal jurisdiction.

Now, I realize this debate has been going on. I realize the gentleman from Hawaii (Mr. ABERCROMBIE) has attempted to accommodate the objections of Governor Lingle and the Attorney General of Hawaii, and he should really be commended for that effort. But the accommodations, at least thus far, do not resolve their fundamental problems with this bill, which is the preemption of State civil, taxation, and possibly criminal jurisdiction without the consent of the State.

Governor Lingle, as I mentioned, last night formally announced her opposition to this substitute. In referring to the changes made by the substitute, the Governor said, "I do not believe such a structure, of two completely different sets of rules—one for 'governmental' activities of the Native Hawaiian governing entity and its officers and employees, and one for everyone else—makes sense for Hawaii."

Mr. Speaker, perhaps this impasse could have been avoided if the Governor and the Attorney General had been privy to those negotiations, at least to the details where they could or could not agree. But, again, those decisions were kept from these people apparently because they did not agree with this substitute.

Mr. Speaker, then what will be the practical result of this substitute if it becomes law? Does it mean the native entity can construct a government building for its officers and employees in violation of State zoning laws? Does it permit the entity to discharge waste material in violation of State law? Will it prevent anyone from enforcing contracts made with the entity?

Mr. Speaker, if this bill becomes law, those questions are left unanswered. And so perhaps we will learn the answers to these questions after it's too late. The State will be unable to enforce its laws and regulations over the entity because of the new provisions in this substitute.

Mr. Speaker, I just want to emphasize this point. It is not reasonable to roll over the sovereign rights of a State. And it is especially not reasonable when the Governor of that State, in this case Governor Lingle—who has long been a proponent of the principles embodied in this issue—disagrees and cannot support the amendment in the nature of a substitute that we are discussing here tonight.

For these reasons, Mr. Speaker, I urge and ask my colleagues to vote "no" on this substitute.

STATEMENT BY GOVERNOR LINDA LINGLE ON THE NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT

"For more than seven years, my administration and I have strongly supported recognition for Native Hawaiians and supported the Akaka Bill.

"We have supported a bill that would set up a process of recognition first, followed by negotiations between the Native Hawaiian governing entity, the State of Hawai'i, and the United States. Once that was completed, it would be followed by the Native Hawaiian governing entity's exercise of governmental powers and authorities.

"Amendments made to the bill in December 2009 turned that process around. The current bill establishes that the Native Hawaiian governing entity would start with broad governmental powers and authorities, with negotiations to follow.

"Although I believe the original plan to negotiate first makes more sense, my administration has tried to work with the Hawai'i Congressional delegation on the new structure to establish governing powers first, with negotiations to follow.

"Ultimately, although we had good and productive discussions, the current draft of the bill is not one I can support.

"The basic problem as I see it, is that in the current version of the bill, the 'governmental' (non-commercial) activities of the Native Hawaiian governing entity, its employees, and its officers, will be almost completely free from State and County regulation, including free from those laws and rules that protect the health and safety of Hawai'i's people, and protect the environment. 'Governmental' activity is a broad undefined term that can encompass almost any non-commercial activity.

"This structure will, in my opinion, promote divisiveness and litigation, rather than negotiation and resolution.

"I do not believe such a structure, of two completely different sets of rules—one for 'governmental' activities of the Native Hawaiian governing entity and its officers and employees, and one for everyone else—makes sense for Hawai'i.

"In addition, under the current bill, the Native Hawaiian governing entity has almost complete sovereign immunity from lawsuits, including from ordinary tort and contract lawsuits, and I do not believe this makes sense for the people of Hawai'i.

"My decision to not support the current version of the Akaka Bill is done with a heavy heart, because I so strongly believe in recognition for Native Hawaiians.

"If the bill in its current form passes the House of Representatives, I would hope it can be amended in the United States Senate."

I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield 3 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I want to say that I fully support the gentleman's substitute amendment, and I want to ask if we could do a little colloquy in the process.

I note with interest there has been several references made by our friends on the opposite side concerning the Hawaii Admissions Act suggesting there was nothing whatsoever that Congress at will, as part of the provisions of the Hawaii Admissions Act, taking care of Native Hawaiians. And I believe this is something that I think our colleagues need to understand a little better, that after the Hawaii Admissions Act, it didn't mean that we just completely forget anything and everything to do with the needs of Native Hawaiians.

Am I correct on that?

Mr. ABERCROMBIE. That is correct.

Mr. FALEOMAVAEGA. I also want to ask my good friend, as you had indicated and our friends have indicated Governor Lingle's opposition to the proposed substitute, am I to perceive that certainly Governor Lingle, with all due respect, is entitled to her opinion and some of the issues affecting the proposed legislation which she has supported for the past 7 years.

Do you see anything that cannot be done in a way that by accepting this proposed substitute we can still take corrective action, whatever it might be, the concerns that she might have later on?

Mr. ABERCROMBIE. Yes. Not everyone may have been on the floor or listening at the time that I indicated that I had a conversation with the Governor this afternoon, and I indicated to her that I would say specifically on the

floor that we have agreed to disagree, that she supports the object of the bill—as has been indicated by Representative HASTINGS quite accurately—but that in this disagreement over how to proceed legislatively, I commented both to her and I've commented on the floor and in conversations private and elsewhere that legislation is a process and that this is not theology. And as a result of it being a legislative process, it may not be perfect in every regard, but I am content and comfortable with the idea that whoever is Governor, including the present Governor for the remainder of her term, that she will not be disadvantaged nor will any other Governor be disadvantaged in any negotiations that take place with the native governing agency.

Mr. FALEOMAVAEGA. There's also been a reference made, I ask my colleague, that the idea of comparing Native Hawaiians to American Indians is somewhat absurd.

I would like to ask the gentleman if such a description, as our friends on the other side have suggested, is totally irrelevant. The fact of the matter is, there are only three truly indigenous aboriginal groupings under the sovereignty of the United States. The American Indians in the 48 continental States that we lived in with some 565 tribes fully recognized; there were some 100 other tribes not recognized, by the way.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ABERCROMBIE. I yield the gentleman 30 additional seconds.

Mr. FALEOMAVAEGA. I thank the gentleman for yielding.

I just want to say 565 tribes are recognized by the Federal Government. Does it stand a chance to suggest that Native Hawaiians cannot be recognized in the same way giving some sense of self-esteem and dignity to the people who are Native Hawaiians to the State of Hawaii?

Mr. ABERCROMBIE. I think the answer from the most practical point of view is the passage of the Hawaiian Homes Act of 1921. The Congress obviously recognized that there was a distinctive entity in the category of Native Hawaiians as a logical extension of the previous constitutional history regarding native people.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. HASTINGS of Washington. Mr. Speaker, can I inquire how much time on both sides remains.

The SPEAKER pro tempore. The gentleman from Washington has 8½ minutes, and the gentleman from Hawaii has 8½ minutes.

Mr. HASTINGS of Washington. Mr. Speaker, I will yield myself 3 minutes.

Mr. Speaker, in the exchange between my friend from American Samoa and my friend from Hawaii, the issue was brought up that Governor Lingle was contacted today and that there

would be a way to try to satisfy her concerns, and I don't doubt at all that that effort will be tried. Hopefully it will be successful. But let me just review where we were.

When we started the process, when we started this Congress, the original text of H.R. 2314 was something that Governor Lingle endorsed. The Senate bill, which I think was identical or very close, she also endorsed that. But now with the action of the other body, with the Senate in passing what is commonly referred to as the Akaka amendment, which is similar to what we are debating here today, the Governor does not support that.

Now we have the base bill here which the Governor does support, and we're debating now a substitute—which I hope doesn't pass but I am a realist. And it may pass. And now we will have a bill in both Houses or two bills, one in each House, in which the Governor disagrees with.

Now, if you're negotiating in good faith, it would seem to me that you should at least start with the position where the Governor of the affected State is in agreement with what you're trying to do and that's not the case today if the substitute were to pass.

Now, again, I am going to say that I take my good friend from Hawaii at his word that he is going to negotiate. Maybe if he was the only negotiator it could be worked out. I don't know because I don't know what is going on behind those doors. Nobody knows, unfortunately.

Mr. ABERCROMBIE. Will the gentleman yield?

Mr. HASTINGS of Washington. I would be happy to yield to my friend.

Mr. ABERCROMBIE. Perhaps you want to put that in as an amendment, that I should be the negotiator.

Mr. HASTINGS of Washington. Well, reclaiming my time, maybe we could work together on that right now if that would be the case.

Mr. Speaker, I am simply pointing this out because this is evolving into a process, and who is being left out of this process happens to be the elected Governor of the State of Hawaii. And to me that is regretful.

With that, I will reserve my time.

Mr. ABERCROMBIE. Mr. Speaker, I would like to yield 3 minutes to my colleague and good friend from Hawaii, MAZIE HIRONO.

Ms. HIRONO. Mr. Speaker, I rise today in strong support of the Abercrombie substitute amendment.

This amendment reflects a compromise between the Hawaii delegation—who I might add are also duly elected by the people of Hawaii—the State of Hawaii, the Obama administration, Indian Country, and the Native Hawaiian community.

Much has been made of remarks and statements by Hawaii's Governor and Attorney General on the substitute amendment. Let me say that the Hawaii delegation took their concerns, which were first raised in December,

very seriously and many of their recommendations are reflected in the Abercrombie substitute before you today.

Under this bill, the Native Hawaiian governing entity will have the same inherent powers—no more, no less—as other native governments possess, namely, American Indians and Alaska Natives. Hawaiians historically have been the object of unjust and unfair treatment at the hands of our government. Why should we perpetuate such treatment?

In seeking to have Native Hawaiians' inherent powers be treated differently from how American Indians and Native Alaskans were treated, the Governor and Attorney General's position opens the door to challenging such powers as exercised by the American Indians and Alaska natives. This is problematic for all native peoples.

While the substitute amendment makes changes to this version of the bill, it has in no way changed the intent of the legislation. This bill remains a path for Native Hawaiians to achieve self-determination as it has been provided to American Indians and Alaska Natives. This has remained a consistent and constant goal of the Hawaiian delegation. After all of the years of work and compromise on this bill, this should be the year that Congress finally seizes the opportunity to provide long-awaited justice to Native Hawaiians.

We all know the previous administration did not support the Akaka bill, and a Presidential veto was likely. But now we have the support of a President who understands and supports the indigenous people of our State.

It is disappointing that when we are on the cusp of reaching a historic milestone in the history of our State and our country, our Governor and Attorney General have withdrawn their support of this bill. But Congress can and should do the right thing by passing this bill. In spite of all of the race-based, technical, and other rhetoric you will hear against this measure, it is high time that Native Hawaiians through this bill can once again embark on a journey of historic proportions.

I urge support of the Abercrombie substitute amendment.

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Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 2 minutes. Reference was made to how this would affect the laws of Hawaii.

Let me read from the Abercrombie substitute, page 51, line 1H: The Native American governing entity shall be immune from any lawsuit in any Federal or State court, with some exceptions as I had noted earlier.

On the same page, page 51 of the Abercrombie substitute, line 18: Governmental nonbusiness, noncommercial activities undertaken by the Native Hawaiian government entity shall not be subject to the regulatory or taxation authority of the State of Hawaii.

Now, Mr. Speaker, I am just pointing out this is what the substitute says, and these are the concerns that the Attorney General of the State of Hawaii and the Governor of Hawaii have, because we all know when we are writing laws here that the word “shall” as opposed to “may” has very, very strong meaning, and in both cases it says “shall.”

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

Mr. ABERCROMBIE. Mr. Speaker, can you tell us the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from Hawaii has 6 minutes remaining. The gentleman from Washington has 4½ minutes remaining.

Mr. ABERCROMBIE. And the gentleman from Washington has the privilege of closing, does he not?

The SPEAKER pro tempore. That is correct.

Mr. ABERCROMBIE. Mr. Speaker, I yield 1 minute to the Speaker of the House, the Honorable NANCY PELOSI.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

I am pleased to have this opportunity to come to the floor today to support Mr. ABERCROMBIE’s initiative on behalf of Native Hawaiians. It is a pursuit that he has followed in all of his years in the Congress of the United States.

Aside from the considerable merit of his important legislation, which I fully support his amendment and his substitute and salute the work of Congresswoman HIRONO, too, on behalf of Native Hawaiians and our colleagues gathered here, it is with mixed emotions that I come. I know you will be successful, as you always have been, in looking out for Native Hawaiians.

For over 200 years, my colleagues, Congress, the executive branch, and the Supreme Court have recognized certain legal rights and protections for America’s indigenous people. Congress’ constitutional authority over indigenous affairs is premised upon their status as the original inhabitants of this Nation. It is the most moral and legal responsibility of Congress to reaffirm a political relationship with the native people of Hawaii. H.R. 2314 will achieve this purpose. The Native American interim governing congress will be established to develop elements of the organic documents and other criteria for the Native Hawaiian governing entity.

You all know, the debate has been going on, what this legislation is about in its specifics, but what it is about in its vision and its values for our country is something that I wanted to join in recognizing.

I also come here to salute Mr. ABERCROMBIE. This is probably—but you never know, Mr. ABERCROMBIE—the last bill he will be part of managing on the floor of the House.

Thank you, Chairman RAHALL, for bringing this important legislation to the floor before Mr. ABERCROMBIE left us. As if we had a choice.

His persistence, his determination, his courage on behalf of the people of

Hawaii is well known to us, but the recognition that I want to give him goes beyond the State of Hawaii, the State he proudly represents, because his service to our country is about our entire country.

Whether it is the national security of our country, which he serves to strengthen on the Armed Services Committee, whether it is the beautiful natural patrimony, the beautiful gift that God has given our country in our natural resources that he serves on the Natural Resources Committee, or the rights of indigenous people that he serves on the Natural Resources Committee, NEIL ABERCROMBIE is a true patriot looking out for the people, the values, the beautiful land, and the security of America.

His service in Congress has been marked with great passion for ideas, but also with great intellect, always passionate about his beliefs, always dispassionate about the solutions that make sense for the American people. And what we are talking about here tonight is common sense for the Native Hawaiian people.

So, Mr. ABERCROMBIE, it is bitter-sweet, quite frankly, to come to the floor to commend you on your leadership on this, probably your last week in the Congress. I wish you well in your pursuits in Hawaii. Perhaps next time we will be calling you Governor Abercrombie, we hope, but also the gratitude of all who served here proud to call you colleague, privileged to call you friend, grateful for your leadership to our country. And I know you are very proud of your service to the great State of Hawaii.

Mr. HASTINGS of Washington. Mr. Speaker, I wonder if I could inquire of my friend from Hawaii if there are any more speakers on their side of the aisle.

Mr. ABERCROMBIE. No. I want to speak one more time, and I will be the final speaker.

Mr. HASTINGS of Washington. I reserve the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I would like to enter into the RECORD a letter favoring the legislation, the substitute, from the National Congress of American Indians; the Alaska Federation of Natives; the Council for Native Hawaiian Advancement; the Sovereign Councils of the Hawaiian Homelands Assembly; the President of the Hawaii State Senate, the Honorable Colleen Hanabusa; and the Osage Nation from the Office of the Principal Chief.

NATIONAL CONGRESS OF
AMERICAN INDIANS,
February 23, 2010.

Hon. NEIL ABERCROMBIE,
House of Representatives, Longworth House Office Building, Washington, DC.

Hon. Senator DANIEL AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. MAZIE HIRONO,
House of Representatives, Longworth House Office Building, Washington, DC.

Hon. DANIEL INOUE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR HONORABLE MEMBERS: The National Congress of American Indians fully supports the Native Hawaiian people in their quest for self-determination and self-governance, and has for many years. (See NCAI Resolution PHX-03-004.) This week, the Native Hawaiian Reorganization Act of 2009 (H.R. 2314) is expected to be amended on the floor of the House of Representatives and subsequently passed through Congress.

NCAI supports the amendment as a way to ensure that Congress has a strong basis for treating Native Hawaiians as a distinct native community, and that the Act is constitutionally sound. Through the deliberative process with the Department of Justice, the Senate Committee on Indian Affairs and with legal scholars with expertise in federal Indian policy, Representative Abercrombie’s amendment has addressed these concerns.

NCAI has demonstrated repeated commitment to Native Hawaiian self-governance and sovereignty. Over the past ten years, we have passed resolutions and steadfastly supported legislation encouraging the formation of a Native Hawaiian governing entity. NCAI supports Representative Abercrombie’s proposed amendment to grant Native Hawaiians the self-determination and self-government they justly deserve.

Sincerely,
JACQUELINE JOHNSON PATA,
Executive Director.

ALASKA FEDERATION OF NATIVES,
Anchorage, AK, February 18, 2010.
Re Letter of support on the substitute amendment to H.R. 2314.

Hon. NEIL ABERCROMBIE,
House of Representatives, Longworth House Office Building, Washington, DC.

Hon. MAZIE K. HIRONO,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE ABERCROMBIE AND REPRESENTATIVE HIRONO: On behalf of the membership of the Alaska Federation of Natives (AFN), the oldest and largest statewide Native organization in Alaska, I am writing to express AFN’s support for the passage of H.R. 2314, the Native Hawaiian Government Reorganization Act by the United States House of Representatives as soon as possible. It is our understanding that Representative Abercrombie will offer an amendment to H.R. 2314 in the form of a substitute when the U.S. House considers this bill on the floor. The substitute amendment is a product of collaboration between the Obama Administration and Hawaii’s Congressional Delegation and will lead to the equitable treatment of Native Hawaiians on an equal footing with Alaska Natives and American Indians. Native Hawaiians are just as indigenous and just as aboriginal as any other Native American group.

We hope that the U.S. House of Representatives will give favorable consideration to H.R. 2314 as it represents more than 20 years of efforts by Native Hawaiians to achieve the status under Federal law that now applies only to the other two groups of indigenous people in our country.

Thank you for your consideration. If you have questions regarding this letter, please call me.

Sincerely,

JULIE KITKA,
President.

COUNCIL FOR NATIVE
HAWAIIAN ADVANCEMENT,

Honolulu, Hawaii, February 22, 2010.

Hon. Senator DANIEL INOUE,
U.S. Senate, Hart Senate Office Bldg., Wash-
ington, DC.

Hon. Senator DANIEL AKAKA,
U.S. Senate, Hart Senate Office Bldg., Wash-
ington, DC.

Hon. NEIL ABERCROMBIE,
House of Representatives, Longworth House Of-
fice Bldg., Washington, DC.

Hon. MAZIE HIRONO,
House of Representatives, Longworth House Of-
fice Bldg., Washington, DC.

ALOHA HONORABLE MEMBERS: The Council for Native Hawaiian Advancement (CNHA) unites 106 Native Hawaiian organizations to enhance the cultural, economic and community development of Native Hawaiians. We are an important and engaged policy voice focused entirely on our Native Hawaiian community. The Native Hawaiian Government Reorganization Act has remained one of our top policy issues over the last ten years, since 2000, when we participated in the original working group created by the Hawaii Congressional delegation and chaired by Senator Akaka.

We have conducted over 150 community sessions and convenings on the measure just in the last five years, and we have reviewed and submitted our input on this legislation each and every year over the past ten years. In December of 2009, CNHA strongly supported the substitute amendment passed by the Senate Committee on Indian Affairs. In January 2010 the Office of Hawaiian Affairs and the Attorney General's office requested further review of the substitute amendment and jointly submitted thirty changes for consideration by the Hawaii delegation. While the legislation is intended to express the policy of the federal government as it exists for Native peoples, to Native Hawaiians, we appreciate your deference and work to review and address the input by the state of Hawaii agencies.

We support the substitute amendment to be brought before the full House of Representatives and the Senate. This legislation is ten years in the making, and is presented to our Congress with tremendous inclusion of a diverse constituency in Hawaii and nationally. Thank you for your hard work to accomplish that which is not new in federal-Native relations, the reaffirmation of Native Hawaiians as Native people to Hawaii, and the inclusion of Native Hawaiians in the federal policy of self-governance granted to American Indians and Alaska Natives.

Sincerely,

ROBIN PUANANI DANNER,
President and CEO.

SOVEREIGN COUNCILS OF THE
HAWAIIAN HOMELANDS ASSEMBLY,

Honolulu, HI, February 22, 2010.

Hon. Senator DANIEL INOUE,
U.S. Senate, Hart Senate Office Bldg., Wash-
ington, DC.

Hon. Senator DANIEL AKAKA,
U.S. Senate, Hart Senate Office Bldg., Wash-
ington, DC.

Hon. NEIL ABERCROMBIE,
House of Representatives, Longworth House Of-
fice Bldg., Washington, DC.

Hon. MAZIE HIRONO,
House of Representatives, Longworth House Of-
fice Bldg., Washington, DC.

HONORABLE MEMBERS: The Sovereign Councils of the Hawaiian Homeland Assembly

(SCHHA), submits its strong support for the amendment to the Native Hawaiian Government Reorganization Act, as drafted by our Hawaii Congressional delegation. The content of the legislation is the result of input from broad constituencies, including state government officials, Tribal leaders, Native Hawaiian leaders and legal experts in the specialized area of federal Native law.

This measure is the work of ten years, done with extraordinary transparency, bipartisanship and a diligence that is reflected in the amendment drafted. It is time to give this measure an up or down vote in the House of Representatives and the Senate of the United States. Mahalo for your work to express a fair and just measure that extends the policy of self-determination and self-governance to the Native Hawaiian people.

Malama pono,

KAMAKI KANAHELE,
SCHHA Chairman.

STATE OF HAWAII,
STATE CAPITOL,

Honolulu, Hawaii, February 22, 2010.

Hon. Senator DANIEL INOUE,
Hart Senate Office Building, Washington, DC.

Hon. Senator DANIEL AKAKA,
Hart Senate Office Building, Washington, DC.

Hon. Congressman NEIL ABERCROMBIE,
Longworth House Office Building, Washington,
DC.

Hon. Congresswoman MAZIE HIRONO,
Longworth House Office Building, Washington,
DC.

ALOHA MEMBERS OF THE HAWAII DELEGATION: For twelve years, I have served as a State Senator in Hawaii's 21st district and for the last three, as Senate President. I am writing to express my full support for Congressman Abercrombie's proposed amendment to the Native Hawaiian Government Reorganization Act of 2009.

Native Hawaiians are our host culture; they are the indigenous people of Hawaii and are what defines our state and makes Hawaii what it is today. Native Hawaiian self-governance and self-determination is critical to the vitality of the Native community and to the character and fabric of the State of Hawaii.

While I fully support the bill as passed by the Senate Committee on Indian Affairs in December 2009, I understand that the delegation has been working to address changes requested by the Hawaii State Attorney General and the state Office of Hawaiian Affairs. I have reviewed Congressman Abercrombie's proposed amendment and am satisfied that it addresses any legitimate changes that maintain the purpose, integrity and spirit of the reorganization process.

I have followed the issue of federal recognition for Native Hawaiians for ten years, and I believe the proposed substitute amendment expected to be heard before the full House of Representatives is a strong and balanced measure that creates a fair and meaningful process for Native Hawaiians and for the State of Hawaii.

It is time to pass this measure for our state, that we might reach for a future that does not repeat a difficult past. I'd like to express my sincere thanks to each member of the Hawaii Congressional Delegation for working tirelessly to advance federal recognition for Native Hawaiians. The balanced measure that is currently before the House and the Senate speaks volumes about your dedication to the State of Hawaii and Native Hawaiians, as well as your commitment to the notion of justice.

Sincerely,

COLLEEN HANABUSA,
President,
Hawaii State Senate.

OSAGE NATION,

Pawhuska, OK, February 22, 2010.

Hon. JOHN SULLIVAN,
House of Representatives, Cannon House Office
Building, Washington, DC.

DEAR CONGRESSMAN SULLIVAN: The Osage Nation stands firmly with the Native Hawaiian people in their quest for self-determination and we support the Native Hawaiian Government Reorganization Act of 2009 (H.R. 2314). It is a just and balanced bill that brings parity to Native Hawaiians, granting them rights that have been extended to native governments across the country.

As Oklahoma and other states have shown, when Native peoples are provided with the means to exercise self-determination, not only do they rightfully advance the welfare of their own peoples, but they also function as an important economic and job-creating engine for the entire state. We believe that H.R. 2314 provides an empowering and stable structure on which Native Hawaiians can build a prosperous future for their people and for the state of Hawaii.

The Native Hawaiian people have sought passage of this bill for 10 years. It has bipartisan support, including Republican co-sponsors Congressman Tom Cole of Oklahoma and Congressman Don Young of Alaska, who recognize it is time to deliver a fair process for Native Hawaiians to resolve longstanding concerns in their community as we have done in ours. As the Osage Nation can attest, federal recognition is a vital component in advancing the social and economic rights of native peoples.

We ask that you provide Native Hawaiians with an opportunity to exercise the principles of liberty and justice our nation was founded upon—principles which our tribe has been afforded—and support the passage of H.R. 2314.

Sincerely,

JIM GRAY,
Principal Chief.

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

Mr. Speaker, the Hawaii State Attorney General argues that granting the Native Hawaiian governing entity inherent powers could have an adverse impact on Hawaii, and I think that is the thrust, essentially, of the critique that has been made about the legislation this afternoon and this early evening.

In response, Mr. Speaker, I would like to say to the Members, and to yourself, of course, that the current bill language gives the Native Hawaiian governing entity no powers that are currently exercised by other government entities until negotiated. This would prevent the entity from providing general assistance to its members or caring for a needy child, absent the amendment as a substitute.

The substitute amendment resolves this by acknowledging certain inherent powers of the governing entity upon recognition, the same inherent powers that other native governments possess today; no more, no less. This is not, therefore, a radical notion. By definition, this is what Federal recognition does: It acknowledges that an entity is a quasi-sovereign tribal government. The acknowledged inherent powers of the entity are limited by language in the amendment, in the substitute amendment that states, and I quote:

“Nothing in this act shall preempt Federal or State authority over Native Hawaiians or their property under existing law.”

Upon recognition, the entity will have no land akin to Indian country over which it could exercise jurisdiction. Since some inherent powers are tied to having such land, like certain regulatory authorities, the entity will not be able to exercise those powers.

Finally, the negotiations process will further modify the powers and authority of the governing entity by virtue of the negotiation themselves.

Therefore, Mr. Speaker, I request that those Members who have some trepidation about voting for the amendment in the nature of a substitute reflect that we believe, those of us who support it—and it was certainly my intention in offering the amendment to address those concerns in a positive way and in a legislatively viable way.

I would ask at this time in closing, Mr. Speaker, that those Members who come to the floor to vote tonight consider voting for it, and I earnestly solicit the favorable attention of all members in voting for the amendment in the nature of a substitute.

I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, once again, I want to congratulate and commend my good friend from Hawaii, because I know he has been working on this all the time that he has been here and probably before. But I just fundamentally disagree with the approaches taken with his substitute simply because, at least in the broadest sense, this is the only State that is affected by this legislation, the State of Hawaii.

Why should we push forward when the Governor of this State does not agree with the substitute and when the chief legal officer has some question, apparently—in fact, it is not apparent, it is pretty obvious—with some of the remarks I think that my friend just made as it relates to laws and regulations to the State of Hawaii?

Since this legislation only affects one State, wouldn't it be prudent for this body and representatives of the other 49 States to suggest to the State of Hawaii and all their elected officials, Why don't you come up with something that you can fundamentally agree on? But that has not been the case. It has not been the case in the other body, and, if this substitute passes, it will not be the case in this body. And that disturbs me. That disturbs me that we completely apparently don't want to take into consideration their concerns on issues that affect the citizens of the State of Hawaii.

So it is for those reasons, Mr. Speaker, that I urge my colleagues to vote against the Abercrombie substitute; because if the Abercrombie substitute is defeated, we will now have a bill that the Governor of Hawaii can support.

That is a good starting point in future negotiations if the House or the Senate, the other body, were to pass this legislation.

With that, Mr. Speaker, I urge my colleagues to vote “no” on the Abercrombie amendment.

I yield back the balance of my time.

The SPEAKER pro tempore. It is now in order to consider the amendments printed in part B of House Report 111-413.

PART B AMENDMENT NO. 1 OFFERED BY MR. HASTINGS OF WASHINGTON

Mr. HASTINGS of Washington. Mr. Speaker, I have an amendment made in order under the rule.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. HASTINGS of Washington:

Strike subparagraphs (A) and (B) of section 8(c)(8), and insert the following:

(A) the approval of the organic governing documents by a statewide popular vote in which all registered voters in the State of Hawaii are eligible to participate;

(B) the approval of the organic governing documents by the Secretary under subparagraph (A) or (C) of paragraph (4); and

(C) the officers of the Native Hawaiian governing entity elected under paragraph (5) have been installed.

The SPEAKER pro tempore. Pursuant to House Resolution 1083, the gentleman from Washington (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, my amendment simply requires a statewide vote of approval in Hawaii before the Federal recognition is extended to the Native Hawaiian entity.

The use of a statewide vote in Hawaii is not uncommon. For example, it has been used to establish staggered terms for the State Senate, to modify the term length for the State Tax Commission, to issue bonds for private schools, and to establish residency requirements for candidates seeking higher office.

My amendment merely proposes that before Congress changes the civil rights of all Hawaiians and establishes a two-tiered government in Hawaii, one of which is based on an individual's ancestry and race, a vote of all Hawaiians should be held to approve these changes.

The most important statewide vote held in Hawaii occurred in 1959, when 94.3 percent of Hawaiians voted in favor of the Hawaiian Admissions Act in joining the Union as one unified State. When the outcome of the statewide vote was published, there was no footnote indicating that Native Hawaiians would be separated from their neighbors as a distinct political unit.

□ 1930

In fact, there is ample testimony and statements from public officials de-

scribing the racial harmony in the melting pot that was and still is Hawaiian culture. This is not to say Native Hawaiians should not have a distinct culture and history though, Mr. Speaker. We all honor and respect their culture and its contributions to all Americans, but this does not mean that there must be a separate legal and political status for them just as there must not be a separate legal and political status for anyone else based on their race and ancestry. It would be a grave mistake for Congress to impose this new separate government affecting the citizens of Hawaii without their consent, as H.R. 2314 proposes to do.

I must point out that even if my amendment is adopted, Mr. Speaker, it will not relieve the serious concerns that many of my colleagues and constitutional experts outside of Congress have with the underlying subject of this legislation, but what this amendment does do is that it puts the question to the people this legislation affects most, the citizens of Hawaii. In 1959, as I said, 94-plus percent of Hawaiians voted for statehood. Today, Hawaiians should be afforded a statewide vote on the question of creating a separate government based on race.

With that, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, the Hastings amendment would require a referendum by all the registered voters of Hawaii for approval of the Native Hawaiian governing entity's organic governing documents.

The Hastings amendment is inconsistent with State law as the State of Hawaii has no mechanism for a statewide referendum, thereby forcing the State of Hawaii to change its laws to comply with the Hastings amendment. This raises the question of it being an unfunded mandate on the State.

The Abercrombie substitute proposes to treat the Native Hawaiian governing entity the same as other native governments. Neither the States nor non-native citizens have the authority to approve the organic governing documents of other Native governments. So I oppose the amendment.

Mr. Speaker, I yield 1½ minutes to the gentlelady from Hawaii (Ms. HIRONO).

Ms. HIRONO. Mr. Speaker, I rise in strong opposition to the Hastings amendment, which is unnecessary and, frankly, insulting to Native Hawaiians.

We can no longer treat Native Hawaiians as any less deserving of Federal recognition than other indigenous people. Citizens of one State don't get to approve or disapprove the laws of another State or proposed amendments to another State's constitution. This is also true of native governments in the United States. Citizens of States that include Indian nations or tribes are not

able to approve or disapprove governing documents of these native governments unless they are also citizens of the native government in question.

This bill provides a process of self-termination for Native Hawaiians by Native Hawaiians. The idea that everyone else in Hawaii should vote on whether they should be allowed to do so is completely contrary to the intent of this bill.

The Hastings amendment undercuts a basic principle in our constitutional principle of government, that citizens have a right to determine their own laws and be governed by those laws. It would set a precedent that could have negative consequences on other native and even State governments.

Put more bluntly, unless you believe that citizens of other States should be able to vote to approve or amend the organic governing documents of your own State, you should oppose the Hastings amendment. I urge my colleagues to do so.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, just in response, the State of Hawaii can and does hold statewide votes during general elections. Article 17 of the Hawaii Constitution describes the process for holding such votes, and it takes the action of the legislature. This is consistent with Hawaii's political culture.

Since 1994, for example, the State of Hawaii has considered 25 different statewide votes. They include a number of things, and I talked about that in my opening remarks. But Mr. Speaker, I am convinced that if we were to pass this bill, article 17 would come into play, because I believe in all likelihood, because of recent polling, the legislature of Hawaii would say, you know, we have the ability to put this to a vote; maybe we ought to do this since we are creating another governmental entity that has different rules and regulations than the State of Hawaii. That seems self-evident to me. My amendment simply facilitates that by saying that that should happen and it can happen under article 17 of the Hawaiian Constitution.

With that, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, may I inquire as to the time remaining?

The SPEAKER pro tempore. The gentleman from West Virginia has 3 minutes remaining. The gentleman from Washington has 1 minute remaining.

Mr. RAHALL. I yield 1 minute to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. I thank the gentleman for yielding.

I have the utmost respect for my good friend, Mr. HASTINGS, for proposing his amendment, but I do have some very serious concerns about the amendment. In the first place, when we talk about the event that took place in 1959, it was a referendum of whether or not the voters or the people of Hawaii would accept statehood. What we are

establishing here is a very dangerous precedent, in my humble opinion, so that for everything now we are going to be referring to referendums to State governments to tell us the will of the people of the State, when in fact this should be done that the Congress expresses that will for collectively all, on behalf of our Federal Government.

So I do oppose the gentleman's amendment.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of the time.

The SPEAKER pro tempore. The gentleman is recognized for 1½ minutes.

Mr. HASTINGS of Washington. Let me just make reference to the 1959 vote. The vote was not whether you accept statehood—because if they had voted no, they could not have been a State—the question is whether they wanted statehood. Over 94 percent said yes, they want statehood. So that is a little bit of semantics there, but it is very important.

This issue to me is equally as important because the vote there said we want to become part of the United States as a unified State. This action that we are debating here today could divide the State of Hawaii. They ought to have the opportunity to vote. So I urge my colleagues to vote for the Hastings amendment.

With that, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield the balance of my time to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, with all due respect to my good colleague and friend, Mr. HASTINGS from Washington State, I have to oppose this amendment because it has no precedent—or indeed any place I believe in Federal law that has been in place for well over 150 years as that law relates to Native governments.

Under our Constitution, the citizens of the United States are the only citizens who are authorized and recognized as having a right to have a say in the laws which govern our Nation, be they Federal statutes or amendments to our Constitution. In a similar manner, the citizens of one State in our Union do not get to weigh in on the laws of another State or any proposed amendments to another State's constitution. Put simply, they cannot vote for changes in the law of a State for which they are not citizens. It goes without saying that foreign governments have no role to play in the formulation of the laws of the United States or the U.S. Constitution.

All of these fundamental principles have in their foundation the fact that each government is a separate sovereign, and only the citizens of that sovereign government may determine what governmental powers and authorities that sovereign government may exercise. It is no different for native governments in the United States.

The largest native government in the United States is the Navajo Nation. It

is situated in four States. Because they are not citizens of the Navajo Nation, the non-Navajo citizens of the States of Arizona, New Mexico, Utah and Colorado do not, under our constitutional principles, formulate, amend, or approve the governing documents either of the constitution or the laws of the Navajo Nation.

In like manner, under our Federal statutory and constitutional framework, the non-Indian citizens of Washington State do not have the right to approve the constitution or the laws of the 28 Indian tribal governments in the State of Washington, nor do the citizens of any other State have the right, under our Federal Constitution or Federal laws, to approve the governing documents, the constitutions, of the native governments in their States if they are not citizens of the native government.

I would suggest to my colleagues that they vote down the Hastings amendment on the basis that it is an inherent conflict of interest.

If the gentleman's premise is that without regard to citizenship in a sovereign government, any citizen of the United States should have a right to vote to approve the organic governing documents of another sovereign government, then every American would have a right to determine the laws of every State in the Union. The citizens of Vermont could vote to amend the constitution of the State of California. The citizens of Utah could vote to legalize gaming in another State, even though the laws of Utah criminally prohibit all forms of gaming.

This is counter to our constitutional family of governments in which each sovereign government and its citizens has the right to determine its own laws and be governed by those laws.

I would suggest to my colleagues that to even take a step in this direction would create constitutional chaos in our Federal system as well as in the laws which govern each State and each Native government. This is not one of the fundamental principles on which this country was founded, nor does it have a place in our constitutional system of governments.

The SPEAKER pro tempore. All time for debate on the amendment has expired.

The question is on the amendment by the gentleman from Washington (Mr. HASTINGS) to the amendment in the nature of a substitute offered by the gentleman from Hawaii (Mr. ABERCROMBIE).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 1083, further proceedings on the amendment offered by the gentleman from Washington will be postponed.

PART B AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Speaker, I have an amendment at the desk that has been made in order.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 2 offered by Mr. FLAKE:

At the end of the bill, add the following:

SEC. __. APPLICATION OF 14TH AMENDMENT.

Nothing in the Act shall relieve a Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.

The SPEAKER pro tempore. Pursuant to House Resolution 1083, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. This amendment, I would hope, would not be controversial. It has nothing to do with earmarks either, I'll let everybody know. But it would simply ensure that the equal protection clause, the 14th Amendment of the Constitution, applies to the Native Hawaiian governing authority established by this legislation.

I just want to say how much I admire the gentleman from Hawaii (Mr. ABERCROMBIE). I have worked with him for a number of years on a number of issues and I know that he brings to this debate a lot of hard work and a lot of care. I just want to commend him for that and for all that he does.

I think that this amendment simply clarifies, I would hope, that this does not violate any portion of the Constitution. Now, it has been said here many times by the proponents of the legislation that it does not, but there are still a lot of questions out there. As has been noted, the Governor of Hawaii and the Attorney General do not support this substitute amendment to the bill, and they have repeatedly expressed concerns fearing that it would apply different rules to those under their jurisdiction. I think that if there is any question, that we ought to ensure, at least at a minimum, that we are complying with the 14th Amendment.

The 14th Amendment states, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

I should note that on August 28, 2009, the United States Commission on Civil Rights voiced its opposition in a letter to Members of the Congress stating, The Commission recommends against passage of the Native Hawaiian Government Reorganization Act, or any other legislation that would discrimi-

nate on the basis of race or national origin and further subdivide the American people into discrete subgroups according to varying degrees of privilege.

And you can have arguments on either side. Proponents will say that this complies with the Constitution. Some question that it may not. And no less authority than the U.S. Commission on Civil Rights has those worries.

So what we are saying here is, why not adopt language that says that it simply complies, or no language in this legislation shall be contrary to the 14th Amendment?

With that, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I rise to claim the time in opposition.

The SPEAKER pro tempore. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Mr. Speaker, this amendment proposes to require the Native Hawaiian governing authority to comply with the equal protection clause of the 14th Amendment. The Abercrombie substitute will correctly treat the Native Hawaiian governing entity the same as any other Native American government is treated.

Specifically, the Abercrombie substitute mandates that the Native Hawaiian government's organic governing documents must provide for the protection of the civil rights of Native Hawaiian citizens. It requires that the Native Hawaiian government's organic governing documents must provide for the protection of the civil rights of all persons affected by an exercise of Native Hawaiian governmental powers and authorities. And the Abercrombie substitute subjects the Native Hawaiian governing entity to the Indian Civil Rights Act of 1968, which prohibits, among other things, a denial of the equal protection of any person.

There is no reason for this amendment, and I would urge its defeat.

I reserve the balance of my time.

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Mr. FLAKE. I thank the gentleman. I guess the gentleman is arguing that it is simply redundant.

I would suggest that, if the Governor of the State of Hawaii and the Attorney General of the State of Hawaii both have concerns about it and if the U.S. Commission on Civil Rights recommends against its passage for these very concerns, there is at least some question about whether or not it complies with the 14th Amendment.

So why not adopt this amendment? If we are saying straight out that this complies with the 14th Amendment, why not simply adopt this amendment? There is definitely a question out there. If it were unanimous and if everyone were saying, Let's pass this legislation as it is, as there is no constitutional question, that would be one thing, but we certainly don't have that today.

Let me just say that something was sent around to Members that was urg-

ing opposition to the Flake amendment, saying, "H.R. 2314 already applies ICRA," or the Indian Civil Rights Act, "to the entity, and requires the Secretary of the Interior to certify that the Native Hawaiian governing entity is in compliance with Federal law and that its governing documents provide for the protection of the civil rights of the citizens of the Native Hawaiian governing authority or entity."

I would argue that we are talking apples and oranges here. What ICRA stipulates is that civil rights are applied equally to those within the governing authority, and so it simply stipulates that those within the Native Hawaiian governing act will comply with Federal law. In other words, there will be no discrimination among them. It doesn't address the core question here that we are seeking to address. It doesn't address whether or not there is a constitutional question about whether or not individuals outside of the governing entity here might be discriminated against.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FLAKE. I urge adoption of the amendment.

Mr. RAHALL. Mr. Speaker, I yield the balance of my time to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. I will take the first few seconds of it, Mr. Speaker, because I believe this will be the last discussion of both the amendments and of the bill prior to voting, to thank Mr. FLAKE for his friendship over these years and to say to him that I admire his independent spirit; I admire his devotion to this House; I admire his steadfast sense of responsibility in the various amendments that he offers. I wish I could support it on the basis of that friendship and in my admiration for him.

Yet I would like to say in that context—and I hope I am stating the purpose of the amendment correctly—that Mr. FLAKE wants to require any native governing entity to comply with the Equal Protection Clause of the 14th Amendment of the United States Constitution. If I had to summarize it in a sentence, that's the way I would put it.

In the course of his remarks, he asked, Why not make sure? I think that's a perfectly reasonable request, but my contention would be, in asking that the amendment not be voted favorably upon, that precisely what he seeks to succeed in with his amendment is exactly what is in the bill, itself, which is in the amendment as a substitute. Mr. FLAKE's amendment then is duplicative of current Federal law.

Only after a thoughtful and deliberate process did Congress impose most of the provisions on the Bill of Rights on tribes through the Indian Civil Rights Act of 1968. The Equal Protection and Due Process provisions of the Bill of Rights were included verbatim in the Indian Civil Rights Act.

The Indian Civil Rights Act specifically states, "No Indian tribe in exercising the powers of self-government shall deny any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law."

In section 1302, Constitutional Rights, again quoting, "No Indian tribe in exercising powers of self-government shall:

"No. 8: deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law."

The Flake amendment essentially then ignores the provision of H.R. 2314, as amended, should we pass the substitute.

The bill applies the Indian Civil Rights Act to the entity, the Native Hawaiian entity, and it requires the Secretary of the Interior to certify that the Native Hawaiian governing entity is in compliance with Federal law and that its governing documents provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity as well.

Thus, the Flake amendment, as I indicated, I believe, is a duplication, and would actually create a double standard for the Native Hawaiian governing entity, not treating them as other federally recognized tribal governments are today.

Finally, I believe the amendment could be subject to broad interpretation, the scope of which is unclear. As a result, litigation would likely flourish in the Federal courts, which might take years to resolve as the courts would have to examine the U.S. Constitution, Federal law and numerous Federal court decisions upholding the current law, which already imposes the same equal protection guarantees on tribes that Mr. FLAKE's amendment seeks to impose.

Therefore, I ask, in the context of my admiration and respect for Mr. FLAKE, that his amendment, however, be defeated.

With that, Mr. Speaker, if I have time remaining, I would like to take the occasion then to thank Mr. HASTINGS, Mr. FLAKE and all of those on the Resources Committee—Republican and Democratic alike—who have been my colleagues and friends all these years. I think the Resources Committee is one of the most unappreciated committees, unappreciated in the sense of comprehension by, perhaps, even Members of Congress and by the public at large. No committee deals with as detailed and as difficult a set of circumstances as the Resources Committee does. My respect and admiration for all its members abides with me as I take leave of the House.

Mr. Speaker, "aloha" to you. "Aloha" to the House of Representatives. "Aloha" to all Members here tonight.

Ms. HIRONO. Mr. Speaker, I rise in strong opposition to the amendment introduced by Congressman FLAKE.

Congressman FLAKE has personal ties to the State of Hawaii and I appreciate his interest in the underlying bill. However, his amendment duplicates existing legal guarantees in the Indian Civil Rights Act of 1968.

Contrary to what opponents of the bill have stated, everyone in Hawaii, Native Hawaiians and non-Native Hawaiians, will continue to be citizens of the United States upon passage of the bill, and therefore, afforded all the protections of the U.S. Constitution.

The Abercrombie Substitute Amendment further clarifies that upon recognition by the United States, the Native Hawaiian governing entity would have no authority over nonmembers, unless those nonmembers expressly consented to the jurisdiction of the governing entity.

Section 10 of the Substitute would make the governing entity adhere to the Indian Civil Rights Act, which guarantees protections for both members of the governing entity and nonmembers alike.

This bill provides for a careful balance of the interests of the federal government, the State of Hawaii, and the Native Hawaiian governing entity. I urge my colleagues to oppose the Flake Amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE) to the amendment in the nature of a substitute offered by the gentleman from Hawaii (Mr. ABERCROMBIE).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. FLAKE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 1083, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 1083, proceedings will now resume on the amendments printed in House Report 111-413 on which further proceedings were postponed, in the following order:

Amendment printed in part B by Mr. HASTINGS of Washington;

Amendment printed in part B by Mr. FLAKE of Arizona;

Amendment printed in part A by Mr. ABERCROMBIE of Hawaii.

Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

PART B AMENDMENT NO. 1 OFFERED BY MR.

HASTINGS OF WASHINGTON

The SPEAKER pro tempore. The unfinished business is the question on adoption of the amendment printed in part B of House Report 111-413 by the gentleman from Washington (Mr. HASTINGS) on which the yeas and nays were ordered.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The SPEAKER pro tempore. The question is on the amendment.

The vote was taken by electronic device, and there were—yeas 163, nays 241, not voting 28, as follows:

[Roll No. 56]

YEAS—163

Aderholt	Gallegly	Moran (KS)
Akin	Garrett (NJ)	Murphy, Tim
Alexander	Gerlach	Myrick
Austria	Gingrey (GA)	Neugebauer
Bachmann	Gohmert	Nunes
Bachus	Goodlatte	Olson
Bartlett	Granger	Paul
Barton (TX)	Graves	Paulsen
Biggert	Griffith	Pence
Billbray	Guthrie	Petri
Bilirakis	Hall (TX)	Pitts
Bishop (UT)	Harper	Platts
Blackburn	Hastings (WA)	Poe (TX)
Boehner	Heller	Posey
Bonner	Hensarling	Price (GA)
Boozman	Herger	Putnam
Boustany	Hunter	Rehberg
Brady (TX)	Inglis	Roe (TN)
Bright	Issa	Rogers (AL)
Broun (GA)	Jenkins	Rogers (KY)
Brown (SC)	Johnson (IL)	Rogers (MI)
Brown-Waite,	Johnson, Sam	Rohrabacher
Ginny	Jordan (OH)	Rooney
Buchanan	King (IA)	Roskam
Burgess	King (NY)	Royce
Burton (IN)	Kingston	Ryan (WI)
Buyer	Kirk	Scalise
Calvert	Kline (MN)	Schmidt
Camp	Lamborn	Schock
Campbell	Lance	Sensenbrenner
Cantor	Latham	Sessions
Capito	LaTourette	Shadegg
Carter	Latta	Shimkus
Cassidy	Lee (NY)	Shuster
Chaffetz	Lewis (CA)	Simpson
Coble	Linder	Smith (NE)
Coffman (CO)	LoBiondo	Smith (NJ)
Conaway	Lucas	Smith (TX)
Crenshaw	Luetkemeyer	Souder
Davis (KY)	Lummis	Stearns
Deal (GA)	Lungren, Daniel	Sullivan
Dent	E.	Terry
Diaz-Balart, L.	Manzullo	Thompson (PA)
Diaz-Balart, M.	Marchant	Thornberry
Dreier	McCarthy (CA)	Tiahrt
Duncan	McCaul	Tiberi
Ehlers	McClintock	Upton
Emerson	McCotter	Walden
Fallin	McHenry	Westmoreland
Flake	McKeon	Whitfield
Fleming	McMorris	Wilson (SC)
Forbes	Rodgers	Wittman
Fortenberry	Mica	Wolf
Fox	Miller (FL)	Young (FL)
Franks (AZ)	Miller (MI)	
Frelinghuysen	Miller, Gary	

NAYS—241

Abercrombie	Chandler	Engel
Ackerman	Childers	Eshoo
Adler (NJ)	Chu	Etheridge
Altmire	Clarke	Farr
Arcuri	Clay	Fattah
Baca	Cleaver	Finer
Baird	Clyburn	Foster
Baldwin	Cohen	Frank (MA)
Barrow	Cole	Fudge
Bean	Connolly (VA)	Garamendi
Becerra	Conyers	Giffords
Berkley	Cooper	Gonzalez
Berry	Costa	Grayson
Bishop (GA)	Courtney	Green, Al
Bishop (NY)	Crowley	Green, Gene
Blumenauer	Cuellar	Grijalva
Bocchieri	Cummings	Gutierrez
Boren	Dahlkemper	Hall (NY)
Boswell	Davis (AL)	Halvorson
Boucher	Davis (CA)	Hare
Boyd	Davis (IL)	Harman
Brady (PA)	Davis (TN)	Hastings (FL)
Brale	DeFazio	Heinrich
Brown, Corrine	DeGette	Herseth Sandlin
Butterfield	DeLauro	Higgins
Cao	Dicks	Hill
Capps	Doggett	Himes
Capuano	Donnelly (IN)	Hinchoy
Cardoza	Doyle	Hirono
Carnahan	Driehaus	Hodes
Carney	Edwards (MD)	Holden
Carson (IN)	Edwards (TX)	Holt
Castle	Ellison	Honda
Castor (FL)	Ellsworth	Hoyer

Insole	Michaud	Schiff
Israel	Miller (NC)	Schrader
Jackson (IL)	Miller, George	Schwartz
Jackson Lee (TX)	Minnick	Scott (GA)
Johnson, E. B.	Mitchell	Scott (VA)
Jones	Mollohan	Serrano
Kagen	Moore (KS)	Sestak
Kanjorski	Moran (VA)	Shea-Porter
Kaptur	Murphy (CT)	Sherman
Kennedy	Murphy (NY)	Shuler
Kildee	Murphy, Patrick	Skelton
Kilpatrick (MI)	Nadler (NY)	Slaughter
Kilroy	Napolitano	Smith (WA)
Kind	Neal (MA)	Snyder
Kirkpatrick (AZ)	Nye	Space
Kissell	Oberstar	Speier
Klein (FL)	Obey	Spratt
Kosmas	Olver	Stupak
Kratovil	Ortiz	Sutton
Kucinich	Owens	Tanner
Langevin	Pallone	Taylor
Larsen (WA)	Pascrell	Teague
Larson (CT)	Pastor (AZ)	Thompson (CA)
Lee (CA)	Perriello	Thompson (MS)
Levin	Peters	Tierney
Lewis (GA)	Peterson	Titus
Lipinski	Pingree (ME)	Tonko
Loeb sack	Polis (CO)	Towns
Lofgren, Zoe	Pomeroy	Tsongas
Lujan	Price (NC)	Van Hollen
Lynch	Quigley	Velazquez
Maffei	Rahall	Visclosky
Maloney	Rangel	Walz
Markey (MA)	Reyes	Wasserman
Marshall	Rodriguez	Ross
Massa	Rothman (NJ)	Schultz
Matheson	Roybal-Allard	Waters
Matsui	Ruppersberger	Watson
McCarthy (NY)	Rush	Watt
McCollum	Ryan (OH)	Waxman
McDermott	Salazar	Weiner
McGovern	Sanchez, Linda	Welch
McIntyre	T.	Wilson (OH)
McNerney	Sanchez, Loretta	Woolsey
Meek (FL)	Sarbanes	Wu
Meeks (NY)	Schakowsky	Yarmuth
Melancon	Schauer	Young (AK)

NOT VOTING—28

Andrews	Hinojosa	Radanovich
Barrett (SC)	Hoekstra	Reichert
Berman	Johnson (GA)	Richardson
Blunt	Lowe	Ros-Lehtinen
Bono Mack	Mack	Sires
Costello	Markey (CO)	Stark
Culberson	McMahon	Turner
Delahunt	Moore (WI)	Wamp
Dingell	Payne	
Gordon (TN)	Perlmutter	

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Messrs. BOSWELL, BUTTERFIELD, DICKS, RANGEL, SCOTT of Georgia, KRATOVIL, WALZ, HEINRICH, CARSON of Indiana, WATT, Ms. SLAUGHTER, Mr. ARCURI, Ms. EDWARDS of Maryland, Ms. PINGREE of Maine, Messrs. HONDA, DOGGETT, MCINTYRE, CLEAVER, PASTOR of Arizona, and Ms. VELAZQUEZ changed their vote from “yea” to “nay.”

Messrs. ADERHOLT, SHUSTER, SOUDER, and KING of Iowa changed their vote from “nay” to “yea.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

(By unanimous consent, Mr. DREIER was allowed to speak out of order.)

MOMENT OF SILENCE IN MEMORY OF ETHIE RADANOVICH

Mr. DREIER. Mr. Speaker, I think all of our colleagues are aware of the fact that a week-and-a-half ago, after a more than 3½-year battle against ovarian cancer, Ethie Radanovich, the wife of our California colleague, GEORGE, tragically passed away. She was a wonderful, wonderful human being.

I would like to ask our colleagues to join in a moment of silence in memory of Ethie Radanovich, and to extend, Mr. Speaker, our thoughts and prayers to GEORGE and their 11-year-old son, King.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

PART B AMENDMENT NO. 2 OFFERED BY MR.

FLAKE

The SPEAKER pro tempore. The unfinished business is the question on adoption of the amendment printed in part B of House Report 111-413 by the gentleman from Arizona (Mr. FLAKE) on which the yeas and nays were ordered.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The SPEAKER pro tempore. The question is on the amendment.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 177, nays 233, not voting 22, as follows:

[Roll No. 57]

YEAS—177

Aderholt	Foxx	McKeon
Adler (NJ)	Franks (AZ)	McMahon
Akin	Frelinghuysen	McMorris
Alexander	Gallely	Rodgers
Arcuri	Garrett (NJ)	Mica
Austria	Gerlach	Miller (FL)
Bachmann	Giffords	Miller (MI)
Bachus	Gingrey (GA)	Miller, Gary
Bartlett	Gohmert	Minnick
Barton (TX)	Goodlatte	Moran (KS)
Bean	Granger	Myrick
Biggart	Graves	Neugebauer
Bilbray	Griffith	Nunes
Bilirakis	Guthrie	Olson
Bishop (UT)	Hall (TX)	Paulsen
Blackburn	Halvorson	Pence
Boehner	Harper	Perlmutter
Bonner	Hastings (WA)	Petri
Boozman	Heller	Pitts
Boustany	Hensarling	Platts
Brady (TX)	Herger	Poe (TX)
Bright	Himes	Polis (CO)
Broun (GA)	Hunter	Posey
Brown (SC)	Inglis	Price (GA)
Brown-Waite,	Issa	Putnam
Ginny	Jenkins	Rehberg
Buchanan	Johnson (IL)	Roe (TN)
Burgess	Johnson, Sam	Rogers (AL)
Burton (IN)	Jordan (OH)	Rogers (KY)
Buyer	King (IA)	Rogers (MI)
Calvert	King (NY)	Rohrabacher
Camp	Kingston	Rooney
Campbell	Kirk	Roskam
Cantor	Kosmas	Royce
Capito	Kratovil	Ryan (WI)
Carter	Lamborn	Scalise
Cassidy	Lance	Schmidt
Chaffetz	Latham	Schock
Coble	LaTourette	Sensenbrenner
Coffman (CO)	Latta	Sessions
Conaway	Lee (NY)	Shadegg
Crenshaw	Lewis (CA)	Shimkus
Davis (KY)	Linder	Shuster
Deal (GA)	LoBiondo	Simpson
Dent	Lucas	Smith (NE)
Diaz-Balart, L.	Luetkemeyer	Smith (NJ)
Diaz-Balart, M.	Lummis	Smith (TX)
Dreier	Lungren, Daniel	Smith (WA)
Duncan	E.	Souder
Ehlers	Manzullo	Stearns
Emerson	Marchant	Sullivan
Fallin	Marshall	Taylor
Flake	McCarthy (CA)	Terry
Fleming	McCaul	Thompson (PA)
Forbes	McClintock	Thornberry
Fortenberry	McCotter	Tiahrt
Foster	McHenry	Tiberi

Upton	Whitfield	Wolf
Walden	Wilson (SC)	Wu
Westmoreland	Wittman	Young (FL)

NAYS—233

Abercrombie	Gutierrez	Neal (MA)
Ackerman	Hall (NY)	Nye
Altmire	Hare	Oberstar
Baca	Harman	Obey
Baird	Hastings (FL)	Olver
Baldwin	Heinrich	Ortiz
Barrow	Herseht Sandlin	Owens
Becerra	Higgins	Pallone
Berkley	Hill	Pascrell
Berry	Hinchev	Pastor (AZ)
Bishop (GA)	Hirono	Paul
Bishop (NY)	Hodes	Perriello
Blumenauer	Holden	Peters
Bocieri	Holt	Peterson
Boren	Honda	Pingree (ME)
Boswell	Hoyer	Pomeroy
Boucher	Inslee	Price (NC)
Boyd	Israel	Quigley
Brady (PA)	Jackson (IL)	Rahall
Braley (IA)	Jackson Lee	Rangel
Brown, Corrine	(TX)	Reyes
Butterfield	Johnson (GA)	Richardson
Cao	Johnson, E. B.	Rodriguez
Capps	Jones	Ross
Capuano	Kagen	Rothman (NJ)
Cardoza	Kanjorski	Roybal-Allard
Carnahan	Kaptur	Ruppersberger
Carney	Kennedy	Rush
Carson (IN)	Kildee	Ryan (OH)
Castle	Kilpatrick (MI)	Salazar
Castor (FL)	Kilroy	Sanchez, Linda
Chandler	Kind	T.
Childers	Kirkpatrick (AZ)	Sanchez, Loretta
Chu	Kissell	Sarbanes
Clarke	Klein (FL)	Schakowsky
Clay	Kline (MN)	Schauer
Cleaver	Kucinich	Schiff
Clyburn	Langevin	Schrader
Cohen	Larsen (WA)	Schwartz
Cole	Larson (CT)	Scott (GA)
Connolly (VA)	Lee (CA)	Scott (VA)
Conyers	Levin	Serrano
Cooper	Lewis (GA)	Sestak
Costa	Lipinski	Sherman
Courtney	Loeb sack	Shuler
Crowley	Lofgren, Zoe	Skelton
Cuellar	Lowe	Slaughter
Cummings	Lujan	Snyder
Dahlkemper	Lynch	Space
Daves (AL)	Maffei	Speier
Davis (CA)	Maloney	Spratt
Davis (IL)	Markey (CO)	Stupak
Davis (TN)	Markey (MA)	Sutton
DeFazio	Massa	Tanner
DeGette	Matheson	Teague
DeLauro	Matsui	Thompson (CA)
Dicks	McCarthy (NY)	Thompson (MS)
Doggett	McCollum	Tierney
Donnelly (IN)	McDermott	Titus
Doyle	McGovern	Tonko
Driehaus	McIntyre	Towns
Edwards (MD)	McNerney	Tsongas
Edwards (TX)	Meek (FL)	Van Hollen
Ellison	Meeks (NY)	Velazquez
Ellsworth	Melancon	Visclosky
Engel	Michaud	Walz
Eshoo	Miller (NC)	Wasserman
Etheridge	Miller, George	Schultz
Farr	Mitchell	Waters
Fattah	Mollohan	Watson
Filner	Moore (KS)	Watt
Frank (MA)	Moore (WI)	Waxman
Fudge	Moran (VA)	Weiner
Garamendi	Murphy (CT)	Welch
Gonzalez	Murphy (NY)	Wilson (OH)
Grayson	Murphy, Patrick	Woolsey
Green, Al	Murphy, Tim	Yarmuth
Green, Gene	Nadler (NY)	Young (AK)
Grijalva	Napolitano	

NOT VOTING—22

Andrews	Dingell	Ros-Lehtinen
Barrett (SC)	Gordon (TN)	Shea-Porter
Berman	Hinojosa	Sires
Blunt	Hoekstra	Stark
Bono Mack	Mack	Turner
Costello	Payne	Wamp
Culberson	Radanovich	
Delahunt	Reichert	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining to cast their votes.

□ 2027

So the amendment was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PART A AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ABERCROMBIE

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute by the gentleman from Hawaii (Mr. ABERCROMBIE).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 245, nays 164, not voting 23, as follows:

[Roll No. 58]

YEAS—245

Abercrombie	Edwards (MD)	Levin
Ackerman	Edwards (TX)	Lewis (GA)
Adler (NJ)	Ehlers	Lipinski
Altmire	Ellison	Loebsack
Arcuri	Ellsworth	Lofgren, Zoe
Baca	Engel	Lowe
Baird	Eshoo	Lujan
Baldwin	Etheridge	Lynch
Barrow	Farr	Maffei
Bean	Fattah	Maloney
Becerra	Filner	Markey (CO)
Berkley	Foster	Markey (MA)
Berry	Frank (MA)	Massa
Bishop (GA)	Fudge	Matheson
Bishop (NY)	Garamendi	Matsui
Blumenauer	Giffords	McCarthy (NY)
Boccieri	Gonzalez	McCollum
Boren	Grayson	McDermott
Boswell	Green, Al	McGovern
Boucher	Green, Gene	McIntyre
Boyd	Grijalva	McNerney
Brady (PA)	Gutierrez	Meek (FL)
Braley (IA)	Hall (NY)	Meeks (NY)
Brown, Corrine	Halvorson	Melancon
Butterfield	Hare	Michaud
Cao	Harman	Miller (NC)
Capps	Hastings (FL)	Miller, George
Capuano	Heinrich	Minnick
Cardoza	Herseth Sandlin	Mitchell
Carnahan	Higgins	Mollohan
Carney	Hill	Moore (KS)
Carson (IN)	Hinchev	Moore (WI)
Castor (FL)	Hirono	Moran (VA)
Chandler	Hodes	Murphy (CT)
Childers	Holden	Murphy (NY)
Chu	Holt	Murphy, Patrick
Clarke	Honda	Murphy, Tim
Clay	Hoyer	Nadler (NY)
Cleaver	Inslee	Napolitano
Clyburn	Israel	Neal (MA)
Cohen	Jackson (IL)	Nye
Cole	Jackson Lee	Oberstar
Connolly (VA)	(TX)	Obey
Conyers	Johnson (GA)	Olver
Cooper	Johnson, E. B.	Ortiz
Costa	Kagen	Owens
Courtney	Kanjorski	Pallone
Crowley	Kaptur	Pascarell
Cuellar	Kennedy	Pastor (AZ)
Cummings	Kildee	Perlmutter
Dahlkemper	Kilpatrick (MI)	Perriello
Davis (AL)	Kilroy	Peters
Davis (CA)	Kind	Peterson
Davis (IL)	Kirkpatrick (AZ)	Pingree (ME)
Davis (TN)	Kissell	Polis (CO)
DeFazio	Klein (FL)	Pomeroy
DeGette	Kosmas	Price (NC)
DeLauro	Kratovil	Quigley
Dicks	Kucinich	Rahall
Doggett	Langevin	Rangel
Donnelly (IN)	Larsen (WA)	Reyes
Doyle	Larson (CT)	Richardson
Driehaus	Lee (CA)	Rodriguez

Ross	Shea-Porter	Towns
Rothman (NJ)	Sherman	Tsongas
Roybal-Allard	Shuler	Van Hollen
Ruppersberger	Skelton	Velázquez
Rush	Slaughter	Visclosky
Ryan (OH)	Smith (WA)	Walz
Salazar	Snyder	Walters
Sánchez, Linda	Space	Watson
T.	Speier	Watt
Sánchez, Loretta	Spratt	Waxman
Sarbanes	Stupak	Weiner
Schakowsky	Sutton	Welch
Schauer	Tanner	Whitfield
Schiff	Taylor	Wilson (OH)
Schrader	Teague	Woolsey
Schwartz	Thompson (CA)	Wu
Scott (GA)	Thompson (MS)	Yarmuth
Scott (VA)	Tierney	Titus
Serrano	Titus	Young (AK)
Sestak	Tonko	

NAYS—164

Aderholt	Gallegly	Mica
Akin	Garrett (NJ)	Miller (FL)
Alexander	Gerlach	Miller (MI)
Austria	Gingrey (GA)	Miller, Gary
Bachmann	Gohmert	Myrick
Bachus	Goodlatte	Neugebauer
Bartlett	Granger	Nunes
Barton (TX)	Graves	Olson
Biggart	Griffith	Paul
Bilbray	Guthrie	Paulsen
Bilirakis	Hall (TX)	Pence
Bishop (UT)	Harper	Petri
Blackburn	Hastings (WA)	Pitts
Boehner	Heller	Platts
Bonner	Hensarling	Poe (TX)
Boozman	Herger	Posey
Boustany	Himes	Price (GA)
Brady (TX)	Hunter	Putnam
Bright	Inglis	Rehberg
Brown (GA)	Issa	Roe (TN)
Brown (SC)	Jenkins	Rogers (AL)
Brown-Waite,	Johnson (IL)	Rogers (KY)
Ginny	Johnson, Sam	Rogers (MI)
Buchanan	Jones	Rohrabacher
Burgess	Jordan (OH)	Rooney
Burton (IN)	King (IA)	Roskam
Buyer	King (NY)	Royce
Calvert	Kingston	Ryan (WI)
Camp	Kirk	Scalise
Campbell	Kline (MN)	Schmidt
Cantor	Lamborn	Schock
Capito	Lance	Sensenbrenner
Carter	Latham	Sessions
Cassidy	LaTourette	Shadegg
Castle	Latta	Shimkus
Chaffetz	Lee (NY)	Shuster
Coble	Lewis (CA)	Simpson
Coffman (CO)	Linder	Smith (NE)
Conaway	LoBiondo	Smith (NJ)
Crenshaw	Lucas	Smith (TX)
Davis (KY)	Luetkemeyer	Souder
Deal (GA)	Lummis	Stearns
Dent	Lungren, Daniel	Sullivan
E.	E.	Terry
Diaz-Balart, L.	Manzullo	Thompson (PA)
Diaz-Balart, M.	Marchant	Thornberry
Dreier	Marshall	Tiahrt
Duncan	McCarthy (CA)	Tiberi
Emerson	McCaul	Upton
Fallin	McClintock	Walden
Flake	McCotter	Westmoreland
Fleming	McHenry	Wilson (SC)
Forbes	McKeon	Wittman
Fortenberry	McMahon	Wolf
Fox	McMorris	Young (FL)
Franks (AZ)	Rodgers	
Frelinghuysen		

NOT VOTING—23

Andrews	Dingell	Reichert
Barrett (SC)	Gordon (TN)	Ros-Lehtinen
Berman	Hinojosa	Sires
Blunt	Hoekstra	Stark
Bono Mack	Mack	Turner
Costello	Moran (KS)	Wamp
Culberson	Payne	Wasserman
Delahunt	Radanovich	Schultz

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining.

□ 2034

So the amendment was agreed to.
The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 1083, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 245, nays 164, not voting 23, as follows:

[Roll No. 59]

YEAS—245

Abercrombie	Ehlers	Lofgren, Zoe
Ackerman	Ellison	Lowe
Adler (NJ)	Ellsworth	Lujan
Altmire	Engel	Lynch
Arcuri	Eshoo	Maffei
Baca	Etheridge	Maloney
Baird	Farr	Markey (CO)
Baldwin	Fattah	Markey (MA)
Barrow	Filner	Marshall
Bean	Foster	Massa
Becerra	Frank (MA)	Matheson
Berkley	Fudge	Matsui
Berry	Garamendi	McCarthy (NY)
Bishop (GA)	Gonzalez	McCollum
Bishop (NY)	Grayson	McDermott
Blumenauer	Green, Al	McGovern
Boccieri	Green, Gene	McIntyre
Boren	Grijalva	McNerney
Boswell	Gutierrez	Meek (FL)
Boucher	Hall (NY)	Meeks (NY)
Boyd	Halvorson	Melancon
Brady (PA)	Hare	Michaud
Brale (IA)	Harman	Miller, George
Brown, Corrine	Hastings (FL)	Minnick
Butterfield	Heinrich	Mitchell
Cao	Herseth Sandlin	Mollohan
Capps	Higgins	Moore (KS)
Capuano	Hill	Moore (WI)
Cardoza	Cardoza	Moran (VA)
Carnahan	Hirono	Murphy (CT)
Carney	Hodes	Murphy (NY)
Carson (IN)	Holden	Murphy, Patrick
Castor (FL)	Holt	Murphy, Tim
Chandler	Honda	Nadler (NY)
Childers	Hoyer	Napolitano
Chu	Inslee	Neal (MA)
Clarke	Israel	Nye
Clay	Jackson (IL)	Oberstar
Cleaver	Jackson Lee	Obey
Clyburn	(TX)	Ortiz
Cohen	Johnson (GA)	Owens
Cole	Jones	Pallone
Connolly (VA)	Kagen	Pascarell
Conyers	Kanjorski	Pastor (AZ)
Cooper	Kaptur	Perlmutter
Costa	Kennedy	Perriello
Courtney	Kildee	Peters
Crowley	Kilpatrick (MI)	Peterson
Cuellar	Kilroy	Pingree (ME)
Cummings	Kind	Polis (CO)
Dahlkemper	Kirkpatrick (AZ)	Pomeroy
Davis (AL)	Kissell	Price (NC)
Davis (CA)	Klein (FL)	Quigley
Davis (IL)	Kosmas	Rahall
Davis (TN)	Kratovil	Rangel
DeFazio	Kucinich	Reyes
DeGette	Langevin	Richardson
DeLauro	Larsen (WA)	Rodriguez
Dicks	Larson (CT)	Ross
Doggett	Lee (CA)	Rothman (NJ)
Donnelly (IN)	Doyle	Roybal-Allard
Doyle	Driehaus	Ruppersberger
Driehaus	Edwards (MD)	Rush
	Edwards (TX)	Loebsack
		Ryan (OH)

Salazar
 Sánchez, Linda T.
 Sanchez, Loretta
 Sarbanes
 Schakowsky
 Schauer
 Schiff
 Schrader
 Schwartz
 Scott (GA)
 Scott (VA)
 Serrano
 Sestak
 Shea-Porter
 Sherman
 Shuler
 Skelton

Slaughter
 Smith (WA)
 Snyder
 Space
 Speier
 Spratt
 Stupak
 Sutton
 Tanner
 Taylor
 Teague
 Thompson (CA)
 Thompson (MS)
 Tierney
 Titus
 Tonko
 Towns
 Tsongas

Van Hollen
 Velázquez
 Visclosky
 Walz
 Wasserman
 Schultz
 Waters
 Watson
 Watt
 Waxman
 Weiner
 Welch
 Wilson (OH)
 Woolsey
 Wu
 Yarmuth
 Young (AK)

NAYS—164

Aderholt
 Akin
 Alexander
 Austria
 Bachmann
 Bachus
 Bartlett
 Barton (TX)
 Biggert
 Bilbray
 Bilirakis
 Blackburn
 Boehner
 Bonner
 Boozman
 Boustany
 Brady (TX)
 Bright
 Broun (GA)
 Brown (SC)
 Brown-Waite,
 Ginny
 Buchanan
 Burgess
 Burton (IN)
 Buyer
 Calvert
 Camp
 Campbell
 Cantor
 Capito
 Carter
 Cassidy
 Castle
 Chaffetz
 Coble
 Coffman (CO)
 Conaway
 Crenshaw
 Davis (KY)
 Deal (GA)
 Dent
 Diaz-Balart, L.
 Diaz-Balart, M.
 Dreier
 Duncan
 Emerson
 Fallon
 Flake
 Fleming
 Forbes
 Fortenberry
 Foxx
 Franks (AZ)
 Frelinghuysen
 Gallegly

NOT VOTING—23

Andrews
 Barrett (SC)
 Berman
 Bishop (UT)
 Blunt
 Bono Mack
 Costello
 Culberson

Delahunt
 Dingell
 Gordon (TN)
 Hinojosa
 Hoekstra
 Mack
 Miller (NC)
 Payne

Miller (MI)
 Miller, Gary
 Moran (KS)
 Myrick
 Neugebauer
 Nunes
 Olson
 Paul
 Paulsen
 Pence
 Petri
 Pitts
 Hastings (WA)
 Heller
 Hensarling
 Herger
 Himes
 Hunter
 Inglis
 Issa
 Jenkins
 Johnson (IL)
 Johnson, Sam
 Jordan (OH)
 King (IA)
 King (NY)
 Kingston
 Kirk
 Kline (MN)
 Lamborn
 Lance
 Latham
 LaTourette
 Latta
 Lee (NY)
 Lewis (CA)
 Linder
 LoBiondo
 Lucas
 Luetkemeyer
 Lummis
 Lungren, Daniel E.
 Manzano
 Marchant
 McCarthy (CA)
 McCaul
 McClintock
 McCotter
 McHenry
 McKeon
 McMahon
 McMorris
 Rodgers
 Mica
 Miller (FL)

Rohrabacher
 Rooney
 Roskam
 Royce
 Ryan (WI)
 Scalise
 Schmidt
 Schock
 Sensenbrenner
 Sessions
 Shadegg
 Shimkus
 Shuster
 Simpson
 Smith (NE)
 Smith (NJ)
 Smith (TX)
 Souder
 Stearns
 Sullivan
 Terry
 Thompson (PA)
 Thornberry
 Tiahrt
 Tiberi
 Upton
 Walden
 Westmoreland
 Whitfield
 Wilson (SC)
 Wittman
 Wolf
 Young (FL)

WHEN WILL CONGRESS TAKE A
 STAND ON GUN CONTROL?

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Mr. Speaker, today I had the honor of speaking with Chicago Firefighter Annette Nance-Holt and Chicago Police Officer Ronald Holt.

On May 10, 2007, their 16-year-old son Blair was shot and killed when a gang member opened fire on a crowded city bus. Blair jumped in front of another student to shield her.

When the child of two public servants gives his life to save another child from the scourge of gun violence, I have to ask, What are we prepared to do for these kids?

Over 500 Chicago public school students were involved in gun incidents over the last 2 years. That is two students for every Member of this House who signed a brief urging the Supreme Court to put even more guns in Chicago's streets and schools.

This Congress has allowed unlicensed gun dealers to sell guns at gun shows to people on terrorist watch lists and refuses to reauthorize the assault weapon ban. Congress has failed to hold the middle ground on guns.

Blair Holt was willing to take a bullet to protect a stranger. Is it too much to ask this House to take a tough vote to protect our kids?

HEALTH CARE REFORM

(Mr. CASSIDY asked and was given permission to address the House for 1 minute.)

Mr. CASSIDY. Mr. Speaker, I am a physician. I still see uninsured patients at the public hospital where I've worked for 20 years. Now, to give uninsured patients access to private health care, we've got to lower costs. But lowering health costs is more than just access; it's also about a stronger economy.

According to the White House Council on Economic Advisers, they had a study that explained that lowering health care costs lowers unemployment, raises the standard of living, and prevents disastrous budgetary consequences. Unfortunately, neither the House nor Senate bill lowers costs. The Congressional Budget Office says that each will more than double costs over the next decade.

Yesterday, the President released a new proposal combining the House and the Senate bill. But combining two bills that don't lower costs results in a third bill which certainly doesn't lower costs. If you don't lower costs, access and quality suffer, our economy suffers, people lose their jobs.

The American people—Republicans, Democrats, and Independents—want health care reform but they want reform which controls costs in reality, not just in rhetoric. They know that their health care, economy, and jobs depend upon it.

REAUTHORIZE SURFACE
 TRANSPORTATION BILL

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I rise today as a result of the Senate invoking cloture on what is being called a jobs bill. I believe we should be calling this bill what it really is. It's a cash infusion to keep the highway trust fund solvent.

Mr. Speaker, the Senate majority leader has said that a full reauthorization of surface transportation will be on the table by the end of the year. I ask, why not now? I ask, why not last February when we were debating the stimulus bill? Of the total stimulus spending in 2009, only 4 percent went to roads and bridges.

And while it is widely acknowledged that government spending does not end recessions, the money that has been otherwise squandered on portions of the stimulus that have been highly contested could have been used to promote maintaining or expanding our infrastructure. In turn, this would lead to safety enhancement, and above all, a more productive country.

The American people deserve some certainty—whether it's looming health care mandates, cap-and-trade legislation, or planners just wondering if the highway dollars are going to be there.

If we want real stimulus, Congress will do its work and reauthorize surface transportation legislation immediately.

NETWORKS BOOST SO-CALLED
 STIMULUS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, network news coverage of the administration's so-called stimulus package has been overwhelmingly one-sided, according to a recent analysis by the Business and Media Institute. Since the President signed it into law a year ago, ABC, CBS, and NBC have featured supporters of the stimulus over those who oppose it by a margin of 2 to 1. Incredibly, about half of the network news reports have shown no opposing opinions about the stimulus bill.

Americans are not buying the media's spin. Three out of four say the stimulus money has been wasted, and only 6 percent think it has created jobs, according to a CBS/New York Times poll. In fact, 3.3 million jobs have been lost since the stimulus was signed.

The national media should give Americans the facts about jobs; not tell them what to think.

□ 2051

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.