

MAR 10 2016

---

## SENATE CONCURRENT RESOLUTION

---

REQUESTING THE UNITED STATES CONGRESS TO AMEND THE UNITED STATES  
CODE TO ENSURE THAT THE PROGRAMS AND SERVICES OF THE NATIVE  
HAWAIIAN HEALTH CARE IMPROVEMENT ACT RECEIVE PERMANENT  
FUNDING.

1 WHEREAS, the Native Hawaiian Health Care Act of 1988, later  
2 renamed the Native Hawaiian Health Care Improvement Act, is a  
3 permanent federal law codified in 42 United States Code chapter  
4 122; and

5  
6 WHEREAS, in the Native Hawaiian Health Care Improvement Act  
7 itself, the United States Congress states, among other findings,  
8 that:

9  
10 (1) Native Hawaiians comprise a distinct and  
11 unique indigenous people with a historical  
12 continuity to the original inhabitants of  
13 the Hawaiian archipelago whose society was  
14 organized as a Nation prior to the arrival  
15 of the first nonindigenous people in 1778.

16  
17 (2) The Native Hawaiian people are determined to  
18 preserve, develop and transmit to future  
19 generations their ancestral territory, and  
20 their cultural identity in accordance with  
21 their own spiritual and traditional beliefs,  
22 customs, practices, language, and social  
23 institutions.

24  
25 . . . . .

26  
27 (4) At the time of the arrival of the first  
28 nonindigenous people in Hawaii in 1778, the  
29 Native Hawaiian people lived in a highly



1 organized, self-sufficient, subsistence  
2 social system based on communal land tenure  
3 with a sophisticated language, culture, and  
4 religion.

5  
6 . . . .

7  
8 (6) Throughout the 19th century and until 1893,  
9 the United States: (A) recognized the  
10 independence of the Hawaiian Nation; (B)  
11 extended full and complete diplomatic  
12 recognition to the Hawaiian Government; and  
13 (C) entered into treaties and conventions  
14 with the Hawaiian monarchs to govern  
15 commerce and navigation in 1826, 1842, 1849,  
16 1875 and 1887.

17  
18 (7) In the year 1893, the United States Minister  
19 assigned to the sovereign and independent  
20 Kingdom of Hawaii, John L. Stevens,  
21 conspired with a small group of non-Hawaiian  
22 residents of the Kingdom, including citizens  
23 of the United States, to overthrow the  
24 indigenous and lawful Government of Hawaii.

25  
26 . . . .

27  
28 (9) In a message to Congress on December 18,  
29 1893, then President Grover Cleveland  
30 reported fully and accurately on these  
31 illegal actions, and acknowledged that by  
32 these acts, described by the President as  
33 acts of war, the government of a peaceful  
34 and friendly people was overthrown, and the  
35 President concluded that a "substantial  
36 wrong has thus been done which a due regard  
37 for our national character as well as the  
38 rights of the injured people required that  
39 we should endeavor to repair".

40  
41 . . . .



1 (11) In 1898, the United States annexed Hawaii  
2 through the Newlands Resolution without the  
3 consent of or compensation to the indigenous  
4 people of Hawaii or their sovereign  
5 government who were thereby denied the  
6 mechanism for expression of their inherent  
7 sovereignty through self-government and  
8 self-determination, their lands and ocean  
9 resources.

10  
11 (12) Through the Newlands Resolution and the 1900  
12 Organic Act, the United States Congress . .  
13 . [established] a special trust relationship  
14 between the United States and the  
15 inhabitants of Hawaii.

16  
17 (13) In 1921, Congress enacted the Hawaiian Homes  
18 Commission Act, 1920, which designated two  
19 hundred thousand acres of the ceded public  
20 lands for exclusive homesteading by Native  
21 Hawaiians, thereby affirming the trust  
22 relationship between the United States and  
23 the Native Hawaiians, as expressed by then  
24 Secretary of the Interior Franklin K. Lane  
25 who was cited in the Committee Report of the  
26 United States House of Representatives  
27 Committee on Territories as stating, "One  
28 thing that impressed me . . . was the fact  
29 that the natives of the islands who are our  
30 wards, I should say, and for whom in a sense  
31 we are trustees, are falling off rapidly in  
32 numbers and many of them are in poverty".

33  
34 . . . . .

35  
36 (15) Under the Act entitled "An Act to provide  
37 for the admission of the State of Hawaii  
38 into the Union", approved March 18, 1959 (73  
39 Stat. 4), the United States transferred  
40 responsibility for the administration of the  
41 Hawaiian Home Lands to the State of Hawaii  
42 but reaffirmed the trust relationship which



1           existed between the United States and the  
2           Hawaiian people by retaining the exclusive  
3           power to enforce the trust, including the  
4           power to approve land exchanges, and  
5           legislative amendments affecting the rights  
6           of beneficiaries under such Act.

7  
8           . . . . .

9  
10          (18)   In furtherance of the trust responsibility  
11               for the betterment of the conditions of  
12               Native Hawaiians, the United States has  
13               established a program for the provision of  
14               comprehensive health promotion and disease  
15               prevention services to maintain and improve  
16               the health status of the Hawaiian people.

17  
18          . . . . .

19  
20          (22)   Despite such services, the unmet health  
21               needs of the Native Hawaiian people are  
22               severe and the health status of Native  
23               Hawaiians continues to be far below that of  
24               the general population of the United States.

25  
26          42 United States Code section 11701; and

27  
28          WHEREAS, the Native Hawaiian Health Care Improvement Act  
29          also states:

30  
31               The Congress hereby declares that it is the  
32               policy of the United States in fulfillment  
33               of its special responsibilities and legal  
34               obligations to the indigenous people of  
35               Hawaii resulting from the unique and  
36               historical relationship between the United  
37               States and the Government of the indigenous  
38               people of Hawaii-

39  
40               (1)   to raise the health status of Native  
41                      Hawaiians to the highest possible  
42                      health level; and



1  
2 (2) to provide existing Native Hawaiian  
3 health care programs with all resources  
4 necessary to effectuate this policy.  
5

6 42 United States Code section 11702; and  
7

8 WHEREAS, the codified language of the Native Hawaiian  
9 Health Care Improvement Act commits to provide funding for the  
10 programs and services of the Act only for specified fiscal  
11 years; and  
12

13 WHEREAS, the Native Hawaiian Health Care Act of 1988 (P.L.  
14 100-579) created codified language in 42 United States Code  
15 chapter 122 that authorized appropriations for the programs and  
16 services of the Act for fiscal years 1990 through 1992, but was  
17 silent regarding funding for future fiscal years; and  
18

19 WHEREAS, section 9168 of P.L. 102-396, enacted in 1992,  
20 gave the Native Hawaiian Health Care Improvement Act its current  
21 name and made several amendments to the Act, including codified  
22 language that "authorized to be appropriated such sums as may be  
23 necessary for fiscal years 1993 through 2001" for the programs  
24 and services of the Act, but was silent regarding funding for  
25 future fiscal years; and  
26

27 WHEREAS, before 2010, 42 United States Code chapter 122 was  
28 not amended to assure Native Hawaiians that funding for the  
29 programs and services of the Native Hawaiian Health Care  
30 Improvement Act would continue beyond fiscal year 2001; and  
31

32 WHEREAS, while annual congressional budget acts for fiscal  
33 years 2002 to 2009 continued to authorize appropriations for the  
34 programs and services of the Native Hawaiian Health Care  
35 Improvement Act, stakeholders faced continued uncertainty  
36 regarding long-term funding during those years; and  
37

38 WHEREAS, in 2010, section 10221(a) of the Patient  
39 Protection and Affordable Care Act (P.L. 111-148) amended 42  
40 United States Code chapter 122 to state that "[t]here are  
41 authorized to be appropriated such sums as may be necessary for  
42 fiscal years 1993 through 2019" for the programs and services of



1 the Act, but was silent regarding funding for future fiscal  
2 years; and  
3

4 WHEREAS, according to the United States Census Bureau's  
5 report, "The Native Hawaiian and Other Pacific Islander  
6 Population: 2010", the nation's Native Hawaiian population  
7 increased by 31.4 per cent between 2000 and 2010, and  
8 approximately fifty-five per cent of that population lives in  
9 Hawaii; and  
10

11 WHEREAS, in 2013, the Department of Native Hawaiian Health  
12 of the John A. Burns School of Medicine at the University of  
13 Hawaii at Manoa published a report entitled "Assessment and  
14 Priorities for Health and Well-Being in Native Hawaiians and  
15 other Pacific Peoples", which found that Hawaii's Native  
16 Hawaiian population had a lower life expectancy than other  
17 populations, and had higher rates of death from heart disease,  
18 cancer, stroke, diabetes, and injuries compared to the State's  
19 overall population; and  
20

21 WHEREAS, social determinants of health and other factors  
22 contribute to the continued health disparities that affect the  
23 Native Hawaiian population; and  
24

25 WHEREAS, while the United States of America and the State  
26 of Hawaii have made strides toward improving the health of  
27 Native Hawaiians, long-term federal funding for necessary health  
28 programs and services remains at risk; and  
29

30 WHEREAS, the Indian Health Care Improvement Act, as  
31 codified in 42 United States Code chapter 18, is intended to  
32 provide descendants of the indigenous people of the continental  
33 United States assistance with health services; and  
34

35 WHEREAS, section 10221(a) of the Patient Protection and  
36 Affordable Care Act amended the codified language of the Indian  
37 Health Care Improvement Act to state in part that "[t]here are  
38 authorized to be appropriated such sums as are necessary to  
39 carry out this chapter for fiscal year 2010 and each fiscal year  
40 thereafter, to remain available until expended"; and  
41



## S.C.R. NO. 89

1 WHEREAS, Native Hawaiians should have the same assurance  
 2 that other indigenous people in the United States have regarding  
 3 federal funding for health programs and services; now,  
 4 therefore,

5  
 6 BE IT RESOLVED by the Senate of the Twenty-eighth  
 7 Legislature of the State of Hawaii, Regular Session of 2016, the  
 8 House of Representatives concurring, that the United States  
 9 Congress is requested to amend the United States Code to ensure  
 10 that the programs and services of the Native Hawaiian Health  
 11 Care Improvement Act receive permanent funding; and

12  
 13 BE IT FURTHER RESOLVED that certified copies of this  
 14 Concurrent Resolution be transmitted to the Majority Leader of  
 15 the United States Senate; the Speaker of the United States House  
 16 of Representatives; Hawaii's congressional delegation; the  
 17 United States Secretary of Health and Human Services; the  
 18 Governor of the State of Hawaii; the Chairperson of the Board of  
 19 Trustees of the Office of Hawaiian Affairs; the Mayor of each  
 20 county in the State of Hawaii; the President of the Board of  
 21 Directors of Papa Ola Lokahi; and the Chair of the Board of each  
 22 Native Hawaiian health care system, as defined by the Native  
 23 Hawaiian Health Care Improvement Act.  
 24  
 25  
 26

OFFERED BY:

Michelle Tidoni

G.L.H.

Randy H. Baker

Lorraine R. Brown

D.A. Eich-Adams

Anne Hironaka

Miki

Elizabeth Chun Oakland

Mike Gabbard

B.

