

MAR 10 2016

SENATE 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

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

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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.
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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.
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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
30 organized, self-sufficient, subsistence
31 social system based on communal land tenure



1 with a sophisticated language, culture, and
2 religion.

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

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

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

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41 (11) In 1898, the United States annexed Hawaii
42 through the Newlands Resolution without the



1 consent of or compensation to the indigenous
2 people of Hawaii or their sovereign
3 government who were thereby denied the
4 mechanism for expression of their inherent
5 sovereignty through self-government and
6 self-determination, their lands and ocean
7 resources.

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

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

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



power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act.

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

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

42 United States Code section 11701; and

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

The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

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



1 (2) to provide existing Native Hawaiian
2 health care programs with all resources
3 necessary to effectuate this policy.
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5 42 United States Code section 11702; and
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7 WHEREAS, the codified language of the Native Hawaiian
8 Health Care Improvement Act commits to provide funding for the
9 programs and services of the Act only for specified fiscal
10 years; and
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12 WHEREAS, the Native Hawaiian Health Care Act of 1988 (P.L.
13 100-579) created codified language in 42 United States Code
14 chapter 122 that authorized appropriations for the programs and
15 services of the Act for fiscal years 1990 through 1992, but was
16 silent regarding funding for future fiscal years; and
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18 WHEREAS, section 9168 of P.L. 102-396, enacted in 1992,
19 gave the Native Hawaiian Health Care Improvement Act its current
20 name and made several amendments to the Act, including codified
21 language that "authorized to be appropriated such sums as may be
22 necessary for fiscal years 1993 through 2001" for the programs
23 and services of the Act, but was silent regarding funding for
24 future fiscal years; and
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26 WHEREAS, before 2010, 42 United States Code chapter 122 was
27 not amended to assure Native Hawaiians that funding for the
28 programs and services of the Native Hawaiian Health Care
29 Improvement Act would continue beyond fiscal year 2001; and
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31 WHEREAS, while annual congressional budget acts for fiscal
32 years 2002 to 2009 continued to authorize appropriations for the
33 programs and services of the Native Hawaiian Health Care
34 Improvement Act, stakeholders faced continued uncertainty
35 regarding long-term funding during those years; and
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37 WHEREAS, in 2010, section 10221(a) of the Patient
38 Protection and Affordable Care Act (P.L. 111-148) amended 42
39 United States Code chapter 122 to state that "[t]here are
40 authorized to be appropriated such sums as may be necessary for
41 fiscal years 1993 through 2019" for the programs and services of



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

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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

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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

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

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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

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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

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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



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

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Majority Leader of the United States Senate; the Speaker of the United States House of Representatives; Hawaii's congressional delegation; the United States Secretary of Health and Human Services; the Governor of the State of Hawaii; the Chairperson of the Board of Trustees of the Office of Hawaiian Affairs; the Mayor of each county in the State of Hawaii; the President of the Board of Directors of Papa Ola Lokahi; and the Chair of the Board of each Native Hawaiian health care system, as defined by the Native Hawaiian Health Care Improvement Act.

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