

103^D CONGRESS
2^D SESSION

S. 2174

To provide for the administration of the Hawaiian Homes Commission Act, 1920, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 7), 1994

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the administration of the Hawaiian Homes Commission Act, 1920, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hawaiian Home Lands
5 Recovery Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

8 (1) **BENEFICIARY.**—The term “beneficiary” has
9 the same meaning as is given the term “native Ha-

1 waiian” under section 201(7) of the Hawaiian
2 Homes Commission Act.

3 (2) CHAIRPERSON.—The term “Chairperson”
4 means the Chairperson of the Department of Hawai-
5 ian Home Lands of the State of Hawaii.

6 (3) COMMISSION.—The term “Commission”
7 means the Hawaiian Homes Commission established
8 by section 202 of the Hawaiian Homes Commission
9 Act.

10 (4) HAWAIIAN HOMES COMMISSION ACT.—The
11 term “Hawaiian Homes Commission Act” means the
12 Hawaiian Homes Commission Act, 1920 (42 Stat.
13 108 et seq., chapter 42).

14 (5) HAWAII STATE ADMISSIONS ACT.—The term
15 “Hawaii State Admissions Act” means the Act enti-
16 tled “An Act to provide for the admission of the
17 State of Hawaii into the Union”, approved March
18 18, 1959 (73 Stat. 4, chapter 339; 48 U.S.C. note
19 prec. 491).

20 (6) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 **SEC. 3. SETTLEMENT OF FEDERAL CLAIMS.**

23 (a) IN GENERAL.—

24 (1) IN GENERAL.—The Secretary is authorized
25 to settle claims against the United States by bene-

1 ficiaries through negotiations with a representative
2 of the beneficiaries and the State of Hawaii. A settle-
3 tlement made under this paragraph may include an
4 exchange of lands under paragraph (2).

5 (2) EXCHANGE.—

6 (A) AUTHORIZATION.—(i) Subject to sub-
7 paragraphs (B) and (C), pursuant to a settle-
8 ment entered into under this section, the Sec-
9 retary may convey Federal lands described in
10 subparagraph (C) to the Department of Hawai-
11 ian Home Lands in exchange for the continued
12 retention by the Federal Government of lands
13 described in clause (ii).

14 (ii) The lands described in this clause are
15 lands under the control of the Federal Govern-
16 ment that—

17 (I) were initially designated as Hawai-
18 ian home lands under section 203 of the
19 Hawaiian Homes Commission Act; and

20 (II) were nevertheless transferred to
21 or otherwise acquired by the Federal Gov-
22 ernment.

23 (B) VALUE OF LANDS.—(i) The value of
24 any lands conveyed to the Department of Ha-
25 waiian Home Lands by the Federal Government

1 in accordance with an exchange made under
2 subparagraph (A) may not be less than the
3 value of the lands retained by the Federal Gov-
4 ernment pursuant to such exchange.

5 (ii) For the purposes of this paragraph,
6 the value of any lands exchanged pursuant to
7 subparagraph (A) shall be the value of the
8 lands subject to the exchange on the date that
9 the exchange is carried out, or any other date
10 determined by the Secretary, with the concur-
11 rence of the appropriate official of the State of
12 Hawaii and the representative of the bene-
13 ficiaries referred to in paragraph (1).

14 (C) FEDERAL LANDS FOR EXCHANGE.—(i)
15 Subject to clause (ii), the Federal lands that
16 may be conveyed to the Department of Hawai-
17 ian Home Lands under subparagraph (A) are
18 lands located in Hawaii that—

19 (I) are under the control of the Sec-
20 retary (other than lands within the Na-
21 tional Park System or the National Wild-
22 life Refuge System); or

23 (II) have been declared surplus prop-
24 erty under the Federal Property and Ad-

1 ministrative Services Act of 1949 (40
2 U.S.C. 471 et seq.).

3 (ii) No Federal lands that the Federal
4 Government is required to convey to the State
5 of Hawaii under section 5 of the Hawaii State
6 Admissions Act may be exchanged under sub-
7 paragraph (A).

8 (D) COMPENSATION FOR LOSS OF USE.—
9 The Secretary may convey lands to the Depart-
10 ment of Hawaiian Home Lands under this
11 paragraph as compensation for the lost use of
12 lands described in subparagraph (A)(ii).

13 (E) CONDITIONS.—(i) Subject to clause
14 (ii), the Secretary shall require that lands con-
15 veyed to the Department of Hawaiian Home
16 Lands under this paragraph shall have the sta-
17 tus of available lands under the Hawaiian
18 Homes Commission Act.

19 (ii) Notwithstanding any other provision of
20 law, lands conveyed to the Department of Ha-
21 waiian Home Lands under this paragraph may
22 later be exchanged pursuant to section 204(3)
23 of the Hawaiian Homes Commission Act.

24 (3) REPRESENTATIVE OF THE BENE-
25 FICIARIES.—

1 (A) IN GENERAL.—Notwithstanding any
2 other provision of law, for the purpose of nego-
3 tiating and settling claims described in para-
4 graph (1), the actions of the representative of
5 the beneficiaries shall be binding on the bene-
6 ficiaries.

7 (B) CONSULTATION.—In carrying out re-
8 sponsibilities under this Act, the representative
9 of the beneficiaries shall—

10 (i) consult with the beneficiaries and
11 organizations representing the bene-
12 ficiaries; and

13 (ii) report to such organizations on a
14 regular basis concerning the progress of
15 negotiations relating to claims described in
16 paragraph (1).

17 (b) NOTIFICATION.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), if the Secretary, the representative of the
20 beneficiaries, and the State of Hawaii do not settle
21 all claims described in subsection (a)(1) during the
22 1-year period beginning on the date of enactment of
23 this Act, upon the termination of such period, the
24 Secretary shall provide written notification of the
25 status of the claims to the Committee on Energy

1 and Natural Resources of the Senate and the Com-
2 mittee on Natural Resources of the House of Rep-
3 resentatives.

4 (2) EXTENSION OF NEGOTIATIONS.—

5 (A) IN GENERAL.—The Secretary, with the
6 concurrence of the representative of the bene-
7 ficiaries and the State of Hawaii, may extend
8 the termination date of the period for negotiat-
9 ing and settling claims specified in paragraph
10 (1) beyond the termination date specified in
11 such paragraph, except that the extended period
12 shall terminate not later than 2 years after the
13 date of enactment of this Act.

14 (B) NOTIFICATION.—The Secretary shall
15 provide written notification to the Committee
16 on Energy and Natural Resources of the Senate
17 and the Committee on Natural Resources of the
18 House of Representatives of any extension of
19 the period specified in paragraph (1) made pur-
20 suant to subparagraph (A).

21 (c) STATUTORY CONSTRUCTION.—Nothing in this
22 Act is intended to limit the right—

23 (1) of the representative of the beneficiaries to
24 seek relief in a civil action against the United
25 States; or

1 (2) of any person to seek further legislative re-
2 lief.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as are nec-
5 essary to carry out this section.

6 **SEC. 4. PROCEDURE FOR APPROVAL OF AMENDMENTS TO**
7 **HAWAIIAN HOMES COMMISSION ACT.**

8 (a) NOTICE TO THE SECRETARY.—Not later than 60
9 days after the legislature of the State of Hawaii approves
10 a proposed amendment to the Hawaiian Homes Commis-
11 sion Act in the manner required for State legislation, the
12 Chairperson shall submit to the Secretary—

13 (1) a copy of the proposed amendment;

14 (2) the nature of the change proposed to be
15 made by the amendment; and

16 (3) an opinion by the Chairperson regarding
17 whether the proposed amendment requires the ap-
18 proval of Congress under section 4 of the Hawaii
19 State Admissions Act.

20 (b) DETERMINATION BY SECRETARY.—Not later
21 than 60 days after receiving the materials required to be
22 submitted by the Chairperson pursuant to subsection (a),
23 the Secretary shall determine whether the proposed
24 amendment requires the approval of Congress under sec-
25 tion 4 of the Hawaii State Admissions Act, and shall no-

1 tify the Chairperson and Congress of the determination
2 of the Secretary.

3 (c) CONGRESSIONAL APPROVAL REQUIRED.—If, pur-
4 suant to subsection (b), the Secretary determines that the
5 proposed amendment requires the approval of Congress,
6 the Secretary shall submit to the Committee on Energy
7 and Natural Resources of the Senate and the Committee
8 on Natural Resources of the House of Representatives—

9 (1) a draft joint resolution approving the
10 amendment;

11 (2) a description of the change made by the
12 proposed amendment and an explanation of how the
13 amendment advances the interests of the bene-
14 ficiaries;

15 (3) a comparison of the existing law (as of the
16 date of submission of the proposed amendment) that
17 is the subject of the amendment with the proposed
18 amendment;

19 (4) a recommendation concerning the advisabil-
20 ity of approving the proposed amendment; and

21 (5) any documentation concerning the amend-
22 ments received from the Chairperson.

23 **SEC. 5. LAND EXCHANGES.**

24 (a) NOTICE TO THE SECRETARY.—If the Chairperson
25 recommends for approval an exchange of Hawaiian home

1 lands, the Chairperson shall submit a report to the Sec-
2 retary on the proposed exchange. The report shall con-
3 tain—

4 (1) a description of the acreage and fair market
5 value of the lands involved in the exchange;

6 (2) surveys and appraisals prepared by the De-
7 partment of Hawaiian Home Lands, if any; and

8 (3) an identification of the benefits to the par-
9 ties of the proposed exchange.

10 (b) APPROVAL OR DISAPPROVAL.—

11 (1) IN GENERAL.—Not later than 120 days
12 after receiving the information required to be sub-
13 mitted by the Chairperson pursuant to subsection
14 (a), the Secretary shall approve or disapprove the
15 proposed exchange.

16 (2) NOTIFICATION.—The Secretary shall notify
17 the Chairperson, the Committee on Energy and Nat-
18 ural Resources of the Senate, and the Committee on
19 Natural Resources of the House of Representatives
20 of the reasons for the approval or disapproval of the
21 proposed exchange.

22 (c) EXCHANGES INITIATED BY SECRETARY.—

23 (1) IN GENERAL.—The Secretary may rec-
24 ommend to the Chairperson an exchange of Hawai-
25 ian home lands for Federal lands described in

1 subclauses (I) and (II) of section 3(a)(2)(C)(i), other
2 than lands described in section 3(a)(2)(C)(ii). If the
3 Secretary initiates a recommendation for such an ex-
4 change, the Secretary shall submit a report to the
5 Chairperson on the proposed exchange that meets
6 the requirements of a report described in subsection
7 (a).

8 (2) APPROVAL BY CHAIRPERSON.—Not later
9 than 120 days after receiving a recommendation for
10 an exchange from the Secretary under paragraph
11 (1), the Chairperson shall provide written notifica-
12 tion to the Secretary of the approval or disapproval
13 of a proposed exchange. If the Chairperson approves
14 the proposed exchange, upon receipt of the written
15 notification, the Secretary shall notify the Commit-
16 tee on Energy and Natural Resources of the Senate,
17 and the Committee on Natural Resources of the
18 House of Representatives of the approval of the
19 Chairperson of the proposed exchange.

20 (3) EXCHANGE.—Upon providing notification
21 pursuant to paragraph (2) of a proposed exchange
22 that has been approved by the Chairperson pursuant
23 to this section, the Secretary may carry out the ex-
24 change.

25 (d) SURVEYS AND APPRAISALS.—

1 (1) REQUIREMENT.—The Secretary shall con-
2 duct a survey of all Hawaiian home lands based on
3 the report entitled “Survey Needs for the Hawaiian
4 Home Lands”, issued by the Inspector General of
5 the Department of the Interior, and dated July
6 1991.

7 (2) OTHER SURVEYS.—The Secretary is author-
8 ized to conduct such other surveys and appraisals as
9 may be necessary to make an informed decision re-
10 garding approval or disapproval of a proposed ex-
11 change.

12 **SEC. 6. ADMINISTRATION OF ACTS.**

13 (a) DESIGNATION.—

14 (1) IN GENERAL.—Not later than 120 days
15 after the date of enactment of this Act, the Sec-
16 retary shall designate an individual from within the
17 Department of the Interior to administer the respon-
18 sibilities of the United States under this Act and the
19 Hawaiian Homes Commission Act.

20 (2) DEFAULT.—If the Secretary fails to make
21 an appointment by the date specified in paragraph
22 (1), or if the position is vacant at any time there-
23 after, the Assistant Secretary for Policy, Budget,
24 and Administration of the Department of the Inte-

1 rior shall exercise the responsibilities for the Depart-
2 ment in accordance with subsection (b).

3 (b) RESPONSIBILITIES.—The individual designated
4 pursuant to subsection (a) shall, in administering the Acts
5 referred to in such subsection—

6 (1) advance the interests of the beneficiaries;
7 and

8 (2) assist the beneficiaries and the Department
9 of Hawaiian Home Lands in obtaining assistance
10 from programs of the Department of the Interior
11 and other Federal agencies that will promote home-
12 steading opportunities, economic self-sufficiency, and
13 social well-being of the beneficiaries.

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