cross-referencing, and the insertion of appropriate headings.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2007

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 764, I call up the bill (H.R. 505) to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 764, the bill is considered read.

The text of the bill is as follows:

H.R. 505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native Hawaiian Government Reorganization Act of 2007''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States;

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal relationship to promote the welfare of the native people of the United States, including Native Hawaiians;

(4) under the treaty making power of the United States, Congress exercised its constitutional authority to confirm treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

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

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

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

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

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

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

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

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

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

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

(10) the Hawaiian Home Lands and other ceded lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii;

(12) on November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the ''Apology Resolution'') was enacted into law, extending an apology on behalf of the United States to the native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(13) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

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

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

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

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

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

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

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

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

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

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

(xii) traditional justice programs, and

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

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

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

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

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

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

(21) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), by—

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

(B) transferring the United States' responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the 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;

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

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the indigenous, native people of a once-sovereign nation with whom the United States has a 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

(23) 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 people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

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

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893, overthrow of the Kingdom of Hawaii.

(4) COMMISSION.—The term ''commission'' means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in paragraph (10).

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

(6) 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.

(7) 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).

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

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

(10) NATIVE HAWAIIAN.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the term ''Native Hawaiian'' means—

(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 (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(B) NO EFFECT ON OTHER DEFINITIONS.—Nothing in this paragraph affects the definition of the term ''Native Hawaiian'' under any other Federal or State law (including a regulation).

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

(12) NATIVE HAWAIIAN PROGRAM OR SERVICE.—The term ''Native Hawaiian program or service'' means any program or service provided to Native Hawaiians because of their status as Native Hawaiians.

(13) OFFICE.—The term ''Office'' means the United States Office for Native Hawaiian Relations established by section 5(a).

(14) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(15) 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) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

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

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3, 73 Stat. 4); and

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

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—The purpose of this Act is to provide a process for the reorganization of the 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 FOR NATIVE HAWAIIAN RELATIONS.

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

(b) DUTIES.—The Office shall—

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

(2) upon the reaffirmation of the special political and legal 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) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Interagency Coordinating Group, other Federal agencies, 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 Resources of the House of Representatives an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

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

(2) the Office.

(c) LEAD AGENCY.—

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

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

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

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

(2) consult with the Native Hawaiian governing entity, through the coordination referred to in section 6(d)(1), but the consultation obligation established in this provision shall apply only after the satisfaction of all of the conditions referred to in section 7(c)(6); 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. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE SPECIAL POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—The right of the Native Hawaiian people to reorganize the 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 the adult members of the Native Hawaiian community who elect to participate in the reorganization of the single Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(10).

(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 organization.

(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; 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 the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(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 THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) ROLL.—

(A) CONTENTS.—The roll shall include the names of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(10) by the Commission.

(B) FORMATION OF ROLL.—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(10).

(C) DOCUMENTATION.—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(10);

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

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

(D) CONSULTATION.—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

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

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(10) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(F) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(10), the Secretary shall publish the roll in the Federal Register.

(G) APPEAL.—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(10) and to be 18 years of age or older.

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

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

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

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(10) after the initial publication of the roll or after any subsequent publications of the roll.

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

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

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

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

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

(ii) determine the structure of the Council; and

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

(B) POWERS.—

(i) IN GENERAL.—The Council—

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

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

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

(iii) ACTIVITIES.—

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

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

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

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

(dd) other issues determined appropriate by the Council.

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

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

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

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

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

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

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the 3 governments, not later than 90 days after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

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

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

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

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity, including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the 3 governments;

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

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

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

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

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

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

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

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

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

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

(6) REAFFIRMATION.—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the special political and legal relationship between the United States and the Native Hawaiian governing entity is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

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

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3, 73 Stat. 4), is reaffirmed.

(b) 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 addressing such matters as—

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

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

(C) the exercise of civil and criminal jurisdiction;

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

(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, the State of Hawaii, and the Native Hawaiian governing entity, the parties are authorized to submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the 3 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 3 governments.

(3) GOVERNMENTAL AUTHORITY AND POWER.—Any governmental authority or power to be exercised by the Native Hawaiian governing entity which is currently exercised by the State or Federal Governments shall be exercised by the Native Hawaiian governing entity only as agreed to in negotiations pursuant to section 8(b)(1) of this Act and beginning on the date on which legislation to implement such agreement has been enacted by the United States Congress, when applicable, and by the State of Hawaii, when applicable. This includes any required modifications to the Hawaii State Constitution in accordance with the Hawaii Revised Statutes.

(c) CLAIMS.—

(1) DISCLAIMERS.—Nothing in this Act—

(A) creates a cause of action against the United States or any other entity or person;

(B) alters existing law, including existing case law, regarding obligations on the part of the United States or the State of Hawaii with regard to Native Hawaiians or any Native Hawaiian entity;

(C) creates obligations that did not exist in any source of Federal law prior to the date of enactment of this Act; or

(D) establishes authority for the recognition of Native Hawaiian groups other than the single Native Hawaiian Governing Entity.

(2) FEDERAL SOVEREIGN IMMUNITY.—

(A) SPECIFIC PURPOSE.—Nothing in this Act is intended to create or allow to be maintained in any court any potential breach-of-trust actions, land claims, resource-protection or resource-management claims, or similar types of claims brought by or on behalf of Native Hawaiians or the Native Hawaiian governing entity for equitable, monetary, or Administrative Procedure Act-based relief against the United States or the State of Hawaii, whether or not such claims specifically assert an alleged breach of trust, call for an accounting, seek declaratory relief, or seek the recovery of or compensation for lands once held by Native Hawaiians.

(B) ESTABLISHMENT AND RETENTION OF SOVEREIGN IMMUNITY.—To effectuate the ends expressed in section 8(c)(1) and 8(c)(2)(A), and notwithstanding any other provision of Federal law, the United States retains its sovereign immunity to any claim that existed prior to the enactment of this Act (including, but not limited to, any claim based in whole or in part on past events), and which could be brought by Native Hawaiians or any Native Hawaiian governing entity. Nor shall any preexisting waiver of sovereign immunity (including, but not limited to, waivers set forth in chapter 7 of part I of title 5, United States Code, and sections 1505 and 2409a of title 28, United States Code) be applicable to any such claims. This complete retention or reclaiming of sovereign immunity also applies to every claim that might attempt to rely on this Act for support, without regard to the source of law under which any such claim might be asserted.

(C) EFFECT.—It is the general effect of section 8(c)(2)(B) that any claims that may already have accrued and might be brought against the United States, including any claims of the types specifically referred to in section 8(c)(2)(A), along with both claims of a similar nature and claims arising out of the same nucleus of operative facts as could

give rise to claims of the specific types referred to in section 8(c)(2)(A), be rendered nonjusticiable in suits brought by plaintiffs other than the Federal Government.

(3) STATE SOVEREIGNTY IMMUNITY.—

(A) Notwithstanding any other provision of Federal law, the State retains its sovereign immunity, unless waived in accord with State law, to any claim, established under any source of law, regarding Native Hawaiians, that existed prior to the enactment of this Act.

(B) Nothing in this Act shall be construed to constitute an override pursuant to section 5 of the Fourteenth Amendment of State sovereign immunity held under the Eleventh Amendment.

SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—

(1) 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) The foregoing prohibition in section 9(a)(1) on the use of Indian Gaming Regulatory Act and inherent authority to game apply 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) TAKING LAND INTO TRUST.—Notwithstanding any other provision of law, including but not limited to part 151 of title 25, Code of Federal Regulations, the Secretary shall not take land into trust on behalf of individuals or groups claiming to be Native Hawaiian or on behalf of the native Hawaiian governing entity.

(c) REAL PROPERTY TRANSFERS.—The Indian Trade and Intercourse Act (25 U.S.C. 177), does not, has never, and will not apply after enactment to lands or lands transfers present, past, or future, in the State of Hawaii. If despite the expression of this intent herein, a court were to construe the Trade and Intercourse Act to apply to lands or land transfers in Hawaii before the date of enactment of this Act, then any transfer of land or natural resources located within the State of Hawaii prior to the date of enactment of this Act, by or on behalf of the Native Hawaiian people, or individual Native Hawaiians, shall be deemed to have been made in accordance with the Indian Trade and Intercourse Act and any other provision of Federal law that specifically applies to transfers of land or natural resources from, by, or on behalf of an Indian tribe, Native Hawaiians, or Native Hawaiian entities.

(d) 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 of the Code of Federal Regulations or any other administrative acknowledgment or recognition process.

(e) JURISDICTION.—Nothing in this Act alters the civil or criminal jurisdiction of the United States or the State of Hawaii over lands and persons within the State of Hawaii. The status quo of Federal and State jurisdiction can change only as a result of further legislation, if any, enacted after the conclusion, in relevant part, of the negotiation process established in section 8(b).

(f) INDIAN PROGRAMS AND SERVICES.—Notwithstanding section 7(c)(6), because of the eligibility of the Native Hawaiian governing entity and its citizens for Native Hawaiian programs and services in accordance with subsection (g), nothing in this Act provides an authorization for eligibility to participate in any Indian program or service to any individual or entity not otherwise eligible for the program or service under applicable Federal law.

(g) NATIVE HAWAIIAN PROGRAMS AND SERVICES.—The Native Hawaiian governing entity and its citizens shall be eligible for Native Hawaiian programs and services to the extent and in the manner provided by other applicable laws.

SEC. 10. SEVERABILITY.

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

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

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

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 110–404 if offered by the gentleman from Arizona (Mr. FLAKE) or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered read, and shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Utah (Mr. BISHOP) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 505.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

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

Mr. Speaker, I rise today in strong support of H.R. 505, the Native Hawaiian Government Reorganization Act of 2007. Without the hard work, dogged determination, persistence and leadership of our colleagues from Hawaii, we would not be where we are today on this legislation. Indeed, Mr. NEIL ABERCROMBIE has been at this for many years, and it is because of his dedication to his people that I have also agreed to strongly support this bill. I also want to commend MAZIE HIRONO for her work, and the entire delegation deserves words of praise for their leadership.

This bill has been years in the making and Mr. ABERCROMBIE, in particular, never failed to take every opportunity to educate and encourage the rest of us on the need for this important legislation.

H.R. 505 would establish a process by which the Native Hawaiian governing body would be reorganized and the political and legal relationship with the United States would once again be reaffirmed.

Starting in 1920, Congress began passing legislation specifically for the benefit of Native Hawaiians. To date, over 160 laws have been enacted authorizing Native Hawaiian participation in government programs ranging from housing to the repatriation of Hawaiian bones from our Nation's museums.

Recent court challenges have necessitated the need for this legislation to codify a government-to-government relationship with the indigenous peoples of Hawaii. Simply put, this legislation will finally bring parity to the way the United States relates to Indian tribes, Alaska Natives and Native Hawaiians.

I will tell you a bit about what H.R. 505 does not do:

It does not allow for gaming of any kind. It does not provide for additional land to be transferred to Native Hawaiians. It does not change any current civil or criminal jurisdiction by the State or Federal Government.

□ 1315

It does not provide for any new eligibility for Native Hawaiians into Indian programs.

Mr. Speaker, Congress's authority to address the conditions of the aboriginal indigenous people, regardless of how organized, stems from our United States Constitution. In recognition of this authority, we passed similar legislation in the House under the suspension of the rules during the 106th Congress. My committee, the Committee on Natural Resources, has passed similar legislation three times, each time with overwhelming bipartisan support.

We need to make a clear statement. We need to pass H.R. 505 overwhelmingly, and I would urge all my colleagues to vote ''yea'' on this important bill.

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

Mr. BISHOP of Utah. Mr. Speaker, the gentleman from Alaska (Mr. YOUNG) very much wanted to manage H.R. 505 today, but he is on his way to an annual convention of the Alaska Federation of Natives, something that's very important to him as well as to that particular group. So I have consented to manage this issue, though there are few Members in this House who feel as strongly in favor of H.R. 505 as Mr. YOUNG.

The sponsor of this bill, the gentleman from Hawaii (Mr. ABERCROMBIE) has done something that is very unique in this body. He's written a bill that only affects his own State. Recognizing the Native Hawaiian governing entity does not affect Native American tribes in my State, does not affect the lands or resources in my district. That is something that's becoming very unusual around here. Mr. ABERCROMBIE, you need to be careful, you're almost becoming a Republican.

Congress has already enacted dozens of authorizing laws and appropriations bills for the benefit of Native Hawaiians. This bill does not create a new source of funds, nor does it let Native Hawaiians seek funds through the BIA.

This bill has the support of the Hawaiian delegation, Governor Lingle and the State legislature. Their judgment should be given some respect.

Georgetown Professor Viet Dinh, who was the U.S. Assistant Attorney General for Legal Policy in 2001 to 2003, testified that ''Congress has constitutional authority to enact the Native Hawaiian Government Recognition Act, and to recognize a Native Hawaiian governing entity as a dependent sovereign government within the United States or, in other words, to treat Native Hawaiians just as it treats Native Americans and Alaska Natives.''

Professor Dinh explained that when Congress recognizes Native people, it does so in a political way, not a racial way, and he established two criteria that Congress must deem having met in order to exercise this authority. Basically, one, that people must have a native ancestry on lands that became part of the United States; two, they must be members of a distinct native community. H.R. 505 appears to have passed these two tests.

This bill deserves a fair and open debate in this body, just as the native people who are seeking formal recognition from the government do.

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

Mr. RAHALL. Mr. Speaker, I'm very happy to yield 6 minutes to the main drive behind this legislation, a valued member of our Committee on Natural Resources, the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I'm very grateful and thank you. I want to thank Mr. BISHOP for his kind remarks. It exemplifies, I think, the kind of relationship we have on the Resources Committee. And I want to repeat that for those who are in their offices, maybe are not here on the floor but in their offices and may be tuning in. I want to emphasize that the tenor of his remarks and the courtesy with which he put it forward, including his sense of humor, which is well recognized in the committee and appreciated, reflects that this legislation is not only bipartisan, it's nonpartisan. That is to say, it's not a Republican issue or a Democratic issue and has never been presented on this floor, through all the different sections of the Congress, from its introduction over the past 7 years and as it has moved through the Congress over past sessions, it has never ever been presented as a partisan issue, Republican or Democrat. And I say ''nonpartisan'' because the committee reflects the full spectrum of the left of the Democratic Party and the right of the Republican Party. Whether you are characterized as a progressive or a conservative, this issue transcends that precisely for what Mr. BISHOP so rightly pointed out.

This bill directly affects and only affects the ceded lands and the Hawaiian homelands and the assets associated with Native Hawaiians in Hawaii. Everybody who's on the Resources Committee and everybody who has dealt with issues that have come before the body as a whole coming out of the Resources Committee understands that there are particular and peculiar instances associated with each Member's district, whether it's salmon runs in the Northwest or whether it's water issues based on treaty obligations in the Southwest, whether it's indigenous people in Alaska or indigenous people in Hawaii. Each area has particular contexts and situations that need to be addressed legislatively. And so what the committee tries to do in a nonpartisan way is address those issues in a very specific manner so that they can be resolved without impinging on any other aspect of constitutional consideration.

Let me point out practically how that happens. For those of you who have visited Hawaii, when you land at the airport, you're landing on what's called ceded land. That ceded land produces revenue. Now, obviously the airport didn't exist back when the Kingdom of Hawaii was overthrown in 1893, and it didn't exist when the United States annexed the Kingdom of Hawaii as a territory of the United States, and that airport as it is configured today did not exist with the advent of statehood. And so what we have now is very, very valuable land producing revenue. And that's what this is all about, 1.8 million acres of ceded land coming in a continuum from the time of the overthrow of the kingdom down to the State of Hawaii today where the ownership of the land, and the benefit's very clearly recognized, including in the Admissions Act of Hawaii to the State of the Union: Public Law 8–3, March 18, 1959, which specifically requires us to address questions of benefiting Native Hawaiians through the lands that have been ceded to them or which were created for them by the Hawaiian Homes Commission Act of 1920. That's what we're dealing with here today.

So we are asking that deference be given to the committee's work, which has been nonpartisan, which has no ideological difficulties associated with it, that deference be given and understanding to what the Admissions Act requires of us.

And I find it ironic that support comes from Mr. YOUNG, Mr. DON YOUNG, as it came from other Republican chairmen. In fact, this was first introduced under Republican chairmen, passed under Republican chairmen. Mr. Hansen of Utah and Mr. Pombo of California and Mr. YOUNG of Alaska, as well as Mr. MILLER and Mr. RAHALL, all have supported this act, as have the committees. Mr. YOUNG is now in Alaska speaking to the Federation of Natives, of Alaskan Natives, because we recognize that there are indigenous people who were not a party to the Constitution when it was formed and first passed but have activities, and in the contemporary context, their lives' affected by how we deal with them. The Constitution requires us as a Member of Congress to be able to do that.

So what is at stake here very, very simply for the Members is that this is enabling legislation. That's all it is. This creates the opportunity for Native Hawaiians to take responsibility for their own actions with regard to the control and administration of their own assets. That is not in dispute. The land boundaries are there. The amount of money that's coming in is not in dispute. What's in dispute is who's going to control those assets. That's what this is about. This gives the opportunity to Native Hawaiians to organize themselves to come back to the Secretary of the Interior, whoever that may be, and to ask the Secretary of the Interior to recognize that governing entity over these assets. If the Secretary of the Interior disagrees with it, they have to go back to the drawing board. This is enabling legislation, and it's enabling legislation that has been put together responsibly by responsible members of the Resources Committee in consultation with one another and with various administrations, and we would ask for your favorable consideration on the floor today.

Mr. BISHOP of Utah. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Speaker, our decision on Native Hawaiian recognition ought to be governed by two very basic principles: First, the concerns of the people of Hawaii, and second, the established principles of sovereignty of indigenous people under which this Republic has operated for over 200 years.

This bipartisan bill is supported by the Hawaii delegations in both the House and the Senate, which are Democratic, by a Republican Governor for the State of Hawaii, and by the Hawaii State Legislature, which has adopted bipartisan resolutions overwhelmingly in 2000, 2001 and 2005, by the National Congress of American Indians, and by the Alaska Federation of Natives.

Some are concerned that the establishment of a Native Hawaiian governing body is only a Federal issue. I would submit, as has been suggested, it's as much a State question as a national one, and we ought to respect, as conservatives, the wishes of people at the State level.

Despite what some believe or say, this is not about race; this is about the sovereignty of an indigenous people. The Native Hawaiian governing body, having the same characteristics as Native American governments, deserves Federal recognition.

Some sometimes say that Native Hawaiians should not be set apart as a separate category, yet our Congress has passed over 160 statutes addressing the conditions of Native Hawaiians and repeatedly recognizing the United States' political and legal relationship

and trust relationship with Native Hawaiians.

Again, despite what some say, this bill will not allow the Native Hawaiian governing body to establish gaming facilities in the State of Hawaii. It will not limit Federal control of Federal military facilities in Hawaii, and the Native Hawaiian governing body will not drain resources currently allocated to Native American tribes, Alaskan Natives, or threaten their interests in any way. Indeed, as I mentioned earlier, the NCAI actually supports this legislation.

I think fundamentally, as conservatives, we ought to allow the people of Hawaii to manage their own affairs as they see fit. We ought to respect the Constitution that we have, which recognizes the sovereignty of indigenous people. And we ought to support the passage of this very important and long-overdue legislation, H.R. 505.

And in closing, let me just add my congratulations to Mr. ABERCROMBIE, who has labored long and hard for this legislation and has garnered significant bipartisan support, and I look forward to your success today.

Mr. RAHALL. Mr. Speaker, I'm very happy to yield to another Representative from Hawaii, the gentlelady, Ms. MAZIE HIRONO, for 5 minutes.

Ms. HIRONO. Mr. Speaker, I rise today in strong support of H.R. 505, the Native Hawaiian Government Reorganization Act, which begins to provide a measure of justice for the indigenous native people of the Hawaiian Islands. I'd like to take a few moments to share some of the history to show why this bill is so important to all the people of Hawaii.

The Kingdom of Hawaii was overthrown in 1893. Hawaii's last Queen, Lili'uokalani, was deposed by an armed group of businessmen and sugar planters who were American by birth or heritage, with the support of U.S. troops. The Queen agreed to relinquish her throne, under protest, to avoid bloodshed. She believed the United States, with which Hawaii had diplomatic relations, would restore her to the throne. As we now know, despite the objections of President Grover Cleveland, the injustice of the overthrow was allowed to stand and the Republic of Hawaii was established.

A few years later, in 1898, the United States annexed Hawaii. Prior to annexation, a petition drive was organized by Native Hawaiians securing signatures of almost two-thirds of the Native Hawaiian population opposing annexation; 29,000 signatures out of an estimated Native Hawaiian population of 40,000 at that time.

□ 1330

These petitions are now in the National Archives.

The Hawaiian culture was under siege. The Republic of Hawaii prohibited the use of the Hawaiian language in Hawaii schools. Everyday use of the Hawaiian language diminished greatly. Hula, which had been suppressed by the missionaries and then restored by King Kalaukaua a few years before the overthrow, survived but did not thrive. Hawaiians were pressured to assimilate and much was lost.

When Prince Jonah Kuhio Kalaniana'ole was elected to serve as Hawaii's Delegate to Congress, he succeeded in passing the Hawaiian Homes Commission Act of 1920, which set aside some 200,000 acres of land for Native Hawaiians. The reason for the legislation was the landless status of so many Native Hawaiians who were displaced by newcomers and became the most impoverished population in their own land. In recognition of its trust responsibility to our Native Hawaiians, Congress passed the Hawaiian Homes Commission Act, which is still in force.

Hawaii became a State in 1959. Beginning in the late 1960s and early 1970s, a Native Hawaiian cultural rediscovery began in music, hula, language, and other aspects of the culture. This cultural renaissance was inspired by hula masters, kumu hula, who helped bring back ancient and traditional hula; musicians and vocalists, who brought back traditional music sung in the Hawaiian language; and political leaders, who sought to protect Hawaii's sacred places and natural beauty.

This flowering of Hawaiian culture was not met with fear in Hawaii but with joy and celebration and an increased connection with each other. People of all ethnicities in Hawaii respect and honor the Native Hawaiian culture.

In 1978, Hawaii convened a constitutional convention that was designed, in part, to right some of the wrongs done to Native Hawaiians. The constitutional convention created the Office of Hawaiian Affairs, or OHA, so that Native Hawaiians would have some ability to manage their own affairs.

The constitutional convention also laid the groundwork for the return of some Federal lands to Native Hawaiians, including the island of Kaho'olawe, which currently is held in trust for a future Native Hawaiian governing entity. The convention also designated the Hawaiian language, along with English, as the official State language of Hawaii for the first time since the overthrow in 1893.

We can trace the genesis of this bill, embodying the hope of an indigenous people to control their own fate, all the way back to the overthrow of 1893. It has been a long road. I believe how we treat our native indigenous people reflects our values and who we are. Clearly, there is much in the history of our interactions with the native people of what is now the United States that makes us less than proud. But one of the great attributes of America has always been our ability to look objectively at our history, learn from it, and where possible make amends.

Native Hawaiians, like American Indians and Alaska Natives, have an inherent sovereignty based on their status as indigenous, native people. They desire the right to exercise management over their own affairs and land.

Our State motto, which is the same as that of the Kingdom of Hawaii, is ''Ua mau ke ea o ka aina i ka pono,'' which means ''the life of the land is perpetuated in righteousness.'' This is an historic vote and one that helps to perpetuate righteousness by righting an historic wrong.

I ask my colleagues to stand with the people of Hawaii and support this bill.

Mahalo nui loa.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Georgia (Mr. WESTMORELAND).

(Mr. WESTMORELAND asked and was given permission to revise and extend his remarks.)

Mr. WESTMORELAND. I thank my friend for yielding.

I feel like Bill Murray in ''Groundhog Day,'' the movie. I've only been in Congress for 3 years, but my respect for Mr. ABERCROMBIE has grown. I try to take experiences with people I have differences with and learn. He is one of the most patient people that I have seen up here, and the fact that he took a big problem and has ate it just a little at a time, I admire that. And I want him to know how much respect I do have for him for his tenaciousness, and I hope I can be just as tenacious with things that are important to my constituents as he has been and also the gentlewoman from Hawaii.

Let me say that from what we have heard today, it reminds me of a story of some gentlemen down in the Okefenokee swamp that were going coon hunting. If you're not familiar with coon hunting, you use dogs and you go at night, typically build a campfire, and you all sit around and talk and gossip and share stories and some other activities sometimes while you're waiting for the dog to tree. One night this old World War I veteran was down there in the Okefenokee, and he had a wooden peg leg. It was pretty cold that night, and the dogs were out running; so he laid down and he got a little too close to the campfire and he burned off about 6 inches of that wooden leg. Well, when the dog started barking and they had really treed the coon, he was the first one up. And he got up, and he said, ''Come on, boys. Old Sam has treed one.'' And he started running off across the field with that one leg about 6 inches shorter. And after two or three steps, he turned around and he said, ''Watch out, boys. There's a hole every other step.''

Well, there are a few holes in this, and I want to try to plug up those holes today as far as what the ability of Congress is able to do and what our Constitution says.

So I rise today to oppose the legislation. I want to try to go into what this bill actually does and how it relates to what I feel like our Constitution says and what the limits of our Congress is.

Every aspect of this bill from its goal to its methods, I think, undermines the

idea that we are one that has come from many people. I think the legislation is divisive and will give a group of U.S. citizens special rights over other citizens based solely on race.

Our Constitution seeks to eliminate racial separation, not promote it. How can we promote equality while separating our people?

Some people here today have characterized this legislation as nothing more than a kind gesture to Native Hawaiians. This is not the case. This bill will not only create a new race-based government but it will allow rights and privileges to Native Hawaiian descendants throughout the United States that their neighbors and friends throughout this country do not enjoy.

The Federal Government today will decide what is best for 20 percent of the Hawaiians who have Native Hawaiian ancestry. The Federal Government should not and cannot create a new Indian tribe for ethnic Hawaiians. Congress does not have this power. The Bush administration has rightly promised to veto the bill if it passes because it will ''discriminate on the basis of race or national origin and further subdivide the American people.''

This attempt to divide America sets a frightening precedent for separating groups of Americans based on racial backgrounds. This bill is irresponsible, I believe, and simply unconstitutional.

My good friend from Oklahoma got up and spoke about that the leaders of the State want this legislation. Well, in 2006 there was a survey done of the Hawaiian people by a nonpartisan grassroots institute of Hawaii that found that 69.89 percent of Hawaii's residents want to vote on a Native Hawaiian government before it is considered at the national level, and 80.16 of Hawaii's residents do not support laws that provide preferences for people groups based on their race; 68.3 percent of residents in the First Congressional District, Mr. ABERCROMBIE's district, want that vote; and 66.95 percent of the entire State opposed the 2006 bill to create a Native Hawaiian government.

DEFINITION OF NATIVE HAWAIIAN

This bill will grant broad governmental powers to Native Hawaiians including all living descendents of the original inhabitants of Hawaii. Geographic, cultural, and political connections are not required.

This bill does not effectively define what it means to be a member of the new Native Hawaiian government. Anyone with one traceable drop of Native Hawaiian blood could claim the same right to this alternate government, regardless of how far removed they are from their ancestors or even what State they live in.

There is nothing in this bill that prohibits this newly organized government entity from including members with Native Hawaiian backgrounds from Arizona or Connecticut. Furthermore, this new government entity will then have to come up with a system for assessing and cataloguing all the people who claim to have Native Hawaiian heritage. This could be more costly and time consuming than anyone today realizes.

The new government will have authority over more than 20 percent of Hawaii's population, and possibly countless more nationwide. And no where in this legislation is there an opportunity for citizens of the state of Hawaii (Native or not) to vote to accept this newly created government. This is a Federal imposition of the worst kind, one in which the citizens who this bill affects most, have little or no say in acceptance or implementation.

In fact, a 2006 survey of the Hawaiian people done by the non-partisan Grassroot Institute of Hawaii found that:

69.89 percent of Hawaii's residents want to vote on a Native Hawaii government before it is considered at the national level.

80.16 percent of Hawaii's residents do not support laws that provide preferences for people groups based on their race.

68.3 percent of residents in the first Congressional District (Rep Neil ABERCROMBIE) want that vote.

66.95 percent of the entire State opposed the 2006 bill to create a Native Hawaiian government.

77.83 percent of Hawaiians would vote for statehood if the vote was held today. (In 1959, 94 percent voted for statehood.)

NATIVE HAWAIIANS ARE A RACIAL GROUP, NOT A TRIBE

The Bureau of Indian Affairs has seven mandatory requirements for tribal recognition. Among other things the tribe must have existed as a tribe since 1900 as documented by the state; existed as a community—including 50% of the group residing together; and possessed governing documents and membership criteria

The Supreme Court's definition of a tribe in Montoya v. United States asserts that a 'tribe' must be a united community under one leadership or government, and inhabiting a particular territory. Former Attorney General Ed Meese emphasizes the distinction between racial groups and tribes, ''If sharing one drop of aboriginal Hawaiian blood makes a tribe, then Chicanos, Latinos, African Americans, and Mexicans could become a tribe if Congress so decrees''.

Meese went on to say that the phrase ''Indian Tribe'' has a fixed and distinct Constitutional meaning that cannot be changed by a simple act of Congress. This definition limits ''tribes'' to preexisting tribes within North America, or their offshoots, that were thought to be ''dependent nations'' at the time of the framing of the Constitution. Such American Indian tribes had to live an independent existence in a separate community, apart from the rest of American society.

By these standards Native Hawaiians would never qualify as a tribe. Hawaii is the most integrated society in the U.S.—there are no Hawaiians living apart from other Americans. All U.S. citizens who reside in Hawaii are equally citizens of Hawaii and the United States and are entitled to enjoy all the privileges and immunities common to other citizens, including protection against discriminatory laws, and racially-discriminatory laws.

Even the U.S. Commission on Civil Rights have objected strongly and consistently to the 'race based' classifications in this legislation. Their report released on May 18, 2006 said that passage of a similar bill would ''discriminate on the basis of race or national origin and further subdivide the American people into subgroups accorded varying decrees of privilege.''

CONSERVATIVE CONCERNS; CONGRESS CAN'T CREATE TRIBES

Congress lacks the power to invent Indian tribes. In U.S. v. Sandoval, the Supreme Court reaffirmed that Congress can recognize existing tribes, but does not have the authority to create them. ''It is not meant by this that Congress may bring a community or body of people within the range of this power by arbitrarily calling them an Indian tribe.''

Congress can only acknowledge groups who have long operated as a tribe with preexisting political structure and who live separately and distinctly from other communities both geographically and culturally. Neither is true of the Native Hawaiians today who live in different States, and under different State laws and systems, and who for years have co-existed in the same communities with non-Native Hawaiians.

COMMUNITY DISTINCTIONS

The fact that Native Hawaiians have lived and currently live in Hawaii in the same communities as non-native Hawaiians will cause many potential problems should this bill become law—in effect creating one set of laws for Native Hawaiians and a potentially drastic different set of laws for non-native Hawaiians living in the same house.

Different codes of law would apply to people differently based on race, even though all Hawaiians now currently live and function in one community, attend the same churches, shop at the same stores and attend the same schools. One business may be exempt from State taxes, State business regulations, and zoning laws while the other one is not. Because of this, the Native Hawaiian Government Reorganization Act could be found in violation of the 14th amendment equal protection clause.

BILL PROVISIONS:

Creation of New Federal Offices: This bill will create a Native Hawaiian Relations Office within the Department of Interior and a new interagency coordinating group to coordinate political and legal relationships between the new tribe and all agencies of the U.S. Federal government.

Formal Negotiations—Government to Government: This legislation would allow for negotiations between the three governments, the United States, the State of Hawaii, and the new Native Hawaiian government. The Native Hawaiian people would be able to negotiate with these governments on the transfer of lands, natural resources, and other assets and the authority over these transferred lands.

The Native Hawaiians could renegotiate the exercise of civil and criminal jurisdiction in their government, possibly changing which laws or even Constitutional rights they will adhere to by having the option of redrawing various jurisdictional lines. This new government will also be able to negotiate on the delegation of powers and authorities they have from the Federal and State government and possible reparations or grievances for historical wrongs committed against Native Hawaiians.

HAWAII CASES—RACE

Rice v. Cayetano—2000: Currently there are more than 150 statutes that confer Federal benefits to the Native Hawaiian people. Rice v. Cayetano put many of these benefits in jeopardy and casts serious doubt on the Constitutionality of this legislation.

The Court hold that the State of Hawaii's limitation on voting for certain posts to only

"Native Hawaiians" contradicted the Fifteenth Amendment because it used ancestry as a substitute for race.

Morton v. Mancari—1974: In this 1974 case, the Court noted there was a large distinction between a racial group consisting of "Indians" and a political group, a federally recognized tribe.

The Court asserted that all government programs that extend benefits according to racial classifications must be "strictly scrutinized" and are presumed invalid under the Equal Protection Clause of the Fourteenth Amendment.

The Hawaiians—pushing for the passage of this bill before us today—seek to provide a process for the United States to recognize Native Hawaiians as a governing tribe that is political in nature. The stated goal of this legislation is to ensure that "Native Hawaiians are treated as a unique and distinct, indigenous, native people with whom the U.S. has a special political and legal relationship."

Mr. RAHALL. Mr. Speaker, I am very happy to yield 5 minutes to another distinguished member of our Natural Resources Committee, the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in strong support of H.R. 505.

First, I want to commend the author of this bill, my good friend and colleague, the gentleman from Hawaii, for his leadership and tireless efforts in bringing this legislation to the floor for consideration. I also want to commend my good friend the gentlewoman from Hawaii (Ms. HIRONO) for her coauthorship of this legislation.

Mr. Speaker, I want to commend the chairman of the committee, the gentleman from West Virginia (Mr. RAHALL); and the senior ranking member, Mr. YOUNG, for their support of this legislation.

This bill is important for many reasons but none more critical than to address the serious needs of the indigenous Native Hawaiians who are the indigenous and aboriginal people who not only inhabited these islands way before Europeans ever arrived, but they are still there, I submit, Mr. Speaker.

In 1893 a great injustice took place. The government of the sovereign nation of Hawaii, then ruled by its Queen Liliokalani, was overthrown by U.S. military forces, which later the President of the United States stated that this overthrow of the Queen's government was done without authorization neither from the President nor from the Congress of the United States. It was not until 1993 that Congress passed a joint resolution to acknowledge and apologize on behalf of the United States on the illegal and unlawful overthrow of the Hawaiian Kingdom in 1893 and for the deprivation of the rights of Native Hawaiians to self-determination.

This is not the first time Congress has shown deference towards the status of the indigenous Native Hawaiians. In the Hawaiian Homes Commission Act of 1921, Congress expressed and reaffirmed the "special" and "trust" relationship between the United States and the Native Hawaiians. Moreover, Congress, in passing the Hawaiian Homes Commission Act of 1921, also recognized Native Hawaiians as "a distinct and unique indigenous people."

This bill sets the institutional framework for the establishment of a relationship between the United States and the indigenous Native Hawaiians just as Congress has done for the indigenous American Indians and the indigenous Native Alaskans.

At this point I want to personally commend the gentleman from Oklahoma for his support of this legislation, not only as the cochair of our Native American Congressional Caucus but certainly as a proud member of the Chickasaw Nation from Oklahoma. I cannot think of a better person who understands and appreciates more the plight and sufferings of his own indigenous people, almost an exact replica of the fate of the indigenous people of Hawaii, the Native Hawaiians. I hope my colleagues in their officers have had a chance to listen to Mr. COLE's eloquent statement that he just shared with us.

Mr. Speaker, I also want to note the particularly strong support of this bill from the senior ranking member of our committee, the gentleman from Alaska (Mr. YOUNG). In my opinion, the gentleman from Alaska is probably the most recognized expert in this Chamber who understands historically how Congress has also accepted Native Alaskans as a "trust responsibility" in the same way that American Indians are treated under the U.S. Constitution.

Mr. Speaker, I submit to my colleagues that this should not be a partisan issue. If there are doubts among our colleagues on the other side of the aisle, I would strongly suggest consultations with the gentlemen from Oklahoma and Alaska.

Mr. Speaker, after 114 years our national government, especially this body, the Congress of the United States, which has plenary authority under the Constitution to deal with issues affecting the rights and general welfare of the indigenous population of our Nation, this bill seeks to correct that remaining group, the indigenous people who inhabited the Hawaiian Islands and later established a sovereign nation and later established treaty relations with other countries, even with our own country.

After the unlawful and illegal overthrow of the Hawaiian Kingdom, the status of the indigenous people of the Hawaiian Kingdom was never properly addressed by the Congress of the United States. Mr. Speaker, Congress has properly determined that American Indians of the lower 48 States are an indigenous people. We have also declared Native Alaskans as an indigenous people. The only remaining group to be recognized are the indigenous people of the State of Hawaii, some 400,000 Native Hawaiians.

Mr. Speaker, this bill is not based upon race. It is a bill to establish a reconciliation process by giving the indigenous Native Hawaiians the same status as we have done for the indigenous American Indians and the indigenous Native Alaskans.

I respectfully urge my colleagues to support this bill.

□ 1345

Mr. RAHALL. Mr. Speaker, I yield 1½ minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. I want to thank my friend, Mr. WESTMORELAND, for his kind compliments that came my way. I knew something would follow on that, and of course it was his reservations about the bill.

But he cited a poll which seemed to indicate, I believe he said, that people were obviously against race-based legislation and so on. I don't blame them; I would think they would be. I'm surprised it wasn't 100 percent. But let me read what the question was. He didn't read us the question. Here's the question: "If 505 would allow Native Hawaiians to create their own government not subject to all the same laws, regulations and taxes that apply to other citizens of Hawaii, do you want Congress to approve this bill?" Well, I'm dumbfounded they couldn't get 100 percent against that question. And, of course, 505 doesn't do any of that; quite the opposite. As Mr. RAHALL indicated, we specifically address those issues, and taxes, of course, are going to be paid.

Let me give you the Ward Research Poll, done this year, that is a real poll, and I will tell you the question: "Have you heard of the bill, the Akaka bill?" Yes, 84 percent. "Do you think Hawaiians should be recognized by the U.S. as an indigenous group similar to recognition given American Indians and Native Alaskans?" Yes, 70 percent. "Do you believe Hawaiians have a right to make these decisions?" Yes, 87 percent. "Do you believe programs that have been passed by the Congress for Native Hawaiians should continue?" Yes, 83 percent. This goes on and on at that kind of level in Hawaii.

So, I appreciate my good friend bringing up the question of polling, but I think it's useful for us to know that when the people of Hawaii are polled on an objective basis, there is overwhelming support, Republican and Democrat and independent, for resolving this issue in the manner in which 505 addresses.

Mr. BISHOP of Utah. Mr. Speaker, I yield as much time as he may consume to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

I have an amendment that has been made in order which I plan to offer later.

When I came on the floor yesterday, I was approached by several Members who pointed out that my amendment was, perhaps, overly broad. I went back to the office and took a look, and I

happen to agree, it is. And it might confuse people. Because in my original amendment I said nothing in the action will relieve any sovereign entity within the jurisdiction of the United States, including the Native Hawaiian governing authority, from complying with the equal protection clause of the 14th amendment of the United States Constitution.

And so I would like to see if the proponents of the measure would agree to a unanimous consent request to narrow the amendment so that it would simply apply only to the Native Hawaiian governing authority, as opposed to the Native American or any sovereign entity within the United States.

I would yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Well, I regret to say that I don't have the revised language in front of me. And I understand the intent of the first amendment. Mr. FLAKE knows that I supported the opportunity for him to put that forward for discussion before the Rules Committee. But I'm sorry, I can't consent, despite my friendship and respect for Mr. FLAKE, because I'm not sure that the revised language, even if I had it in front of me, which I don't, would not be subject to the same kind of difficulty, perhaps an interpretation that we can't foresee on first glance. So I reluctantly cannot accede unanimous consent.

Mr. FLAKE. I thank the gentleman.

Let me just state what the narrowed one would do: ''Nothing in the act shall relieve the Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.''

I'm not trying to play a game of ''gotcha'' here at all. I have the utmost respect, and that respect has grown over the years, for the gentleman from Hawaii. No Member of Congress works harder for his constituents and is more thoughtful in legislating than Mr. ABERCROMBIE. But for those of us who have some concerns that this goes beyond land disposition or other smaller issues, this is not an idle concern that we have.

The U.S. Civil Rights Commission noted recently that this legislation ''would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups according to varying degrees of privilege.''

Mr. ABERCROMBIE. Would the gentleman yield?

Mr. FLAKE. I would be glad to yield.

Mr. ABERCROMBIE. Could I then yield to the expert on the civil rights matter? Because you did kindly bring it to my attention yesterday and we did have a discussion, so I deferred my inquiry to the expert in the House of Representatives on civil rights and Native Americans; that's Mr. KILDEE. Would it be all right if I yielded to him to have a dialogue with you on this?

Mr. FLAKE. That would be fine with me.

Mr. KILDEE. I thank the gentleman for yielding.

First of all, no one questions your sincerity on this. I do think that we could really create a legal situation here without knowing the consequences of the amendment.

Now, Congress, back in 1968, recognizing that in certain areas, the 14th amendment, by the way, says ''States'' shall not do certain things. So they wrote the Indian Civil Rights Act of 1968. That was written very, very carefully by both Houses. The great constitutional attorney Senator Sam Irwin played a major role in that, and they carved out how the basic rights contained within the fifth and the 14th amendment would apply on Indian tribes.

It's a well-done bill. And had we had the chance to discuss this in committee, perhaps we could have reached some agreement; I'm not sure. But I'm very concerned about adopting anything without knowing the consequences when it took them months, in 1968, to craft the Indian Civil Rights Act. It's a two-page bill, and it really enumerates pretty well the fifth amendment and the 14th amendment.

So, at this time, I think that we would be treading on rather dangerous territory to have the courts have to look at, first of all, the Constitution, the treaties, the 14th amendment and the Flake amendment and decide where they conflict, which one to apply.

So, despite your sincerity, I wish we had discussed this in committee, perhaps we could have arrived at some remedy there. But here I think we're going to create a lawyer's delight.

Mr. ABERCROMBIE. If the gentleman would continue to yield for a moment.

Mr. FLAKE. Yes.

Mr. ABERCROMBIE. And I won't take more than a moment or two.

The question, nonetheless, as I indicated when we spoke yesterday and as I indicated to the Rules Committee, is an important one that needs to be addressed. I don't want to run anything by anybody where they might feel even for a moment that they haven't had full consideration of important fundamental issues like civil rights and equality before the law.

If the gentleman would consider the idea of not offering the amendment right now for the reasons that have been stated, we're not quite sure where we're going with it, I can assure the gentleman that, should the bill pass, it has to go to the Senate, it has to come out of the Senate, and we can address those issues, as has been done with other bills with which we are acquainted again and again. You have my word that I will sit down and go over with you in detail and in depth the issues involved here and, should the bill move forward, seek to have those addressed in whatever comes from the other body, if it's able to move forward.

Mr. KILDEE. Will the gentleman yield?

Mr. FLAKE. I would.

Mr. KILDEE. I would take that as a very helpful and constructive suggestion.

First of all, Mr. FLAKE, you and I are friends, and you are a friend of Mr. ABERCROMBIE, also. And I think what he suggests would be a good thing. Perhaps, I'm just saying, I'm not sure, perhaps the 1968 law somehow could be worked into this, but we aren't prepared to do that now without knowing exactly what we're doing. And I think it would be helpful. I would take Mr. ABERCROMBIE's willingness to sit with you. I will be glad to sit with you. We all believe in civil rights, we all believe in the principles of the fifth and the 14th amendment, and I think we could very well work this out in conference.

Mr. FLAKE. I thank the gentleman, and I thank him for providing the text of ICRA yesterday. I did read through it and was convinced and compelled that my original amendment was overly broad, and that's why I sought to restrict it here.

Seeing that we cannot restrict it, I will withdraw the amendment. But I will offer the motion to recommit later. And the motion to recommit is pretty much similar to what the amendment would have been, further restricted.

I take the gentleman's concerns. We don't know what the implications will be with the amendment, but I would submit that we don't really know what the implications might be without the amendment. And what the motion to recommit will do will simply have three sections. It's just one page here. It will say that what will apply is the U.S. Constitution's Bill of Rights, the Federal civil rights laws, and that no racially defined burdens of immunities, so we will make sure that no persons shall, as a result of the operation of this act, be exempted from any Federal or State law, regulation tax or legal burden that is the basis of the law.

I would say that it is true, this needs to go to the Senate and then come back here. And if there are problems in that this is overly broad, the motion to recommit, then that, perhaps, can be fixed as the bill works its way through. But I think that, because we swear an oath to uphold the Constitution, that we should endeavor to make sure that what we pass does not run afoul of, in particular, the 14th amendment.

I understand the gentleman's concerns in talking about ICRA of 1968, but I think we can all agree here that the sovereign nature of Native American tribes in the United States is a little different than what we're talking about here.

So, I think it would behoove us to be careful here and to make sure that we aren't doing anything that might upset the applecart, that we need to make sure that we're not creating something here that might run afoul of the Constitution. I think that's our obligation.

So, that's what the motion to recommit will be. It will be ''forthwith,'' so this will not take any time. It won't have to come back to committee. And I will be glad to give copies across so people can be familiar with it before we're voting on it.

But, again, this is not a game of ''gotcha'' at all. I have great respect for those on the other side of the aisle who have worked hard on this legislation.

With that, I would yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Rather than having a motion to recommit, because I would ask you not to do that for the reasons already enumerated, this deserves our specific attention. And we both know, I think, what happens on a motion to recommit: people come to the floor; they see superficially what's involved. Who can argue about everybody wanting to have civil rights?

And I don't want to have to get into a debate with you about the question of recommittal. Here is what section 7 says of the bill, if you would allow me: ''Prior to conferring Federal recognition on a reorganized governing entity, the Secretary of the Interior must certify that the organic governing documents provide for the protection of the civil rights of the citizens of the entity, as well as all other persons affected by the exercise of the entity's governmental powers and authorities. In addition, the organic governing documents must be consistent with applicable Federal law. If the Secretary finds that the organic governing documents, or any part of these documents, do not meet these requirements, the organic governing documents will not be certified.''

□ 1400

This has to be certified by the Secretary of the Interior as meeting every Federal responsibility. Now, up until this time, and I am sure you agree, if the Speaker will just grant me a little more time and if you will, this bill has never been subject to partisan rhetoric or activity in the committee or elsewhere. From a realistic point of view, motions to recommit really have to do with who is in charge and who is not in charge and that kind of thing. I am not disputing that your question isn't real. But the motion to recommit essentially is repeating, in some fashion, without my quite knowing what the real consequences of that language would be, whereas the language that I am citing to you from section 7 has been vetted again and again and again by minority staff, majority staff, legal staff all over to fit exactly what the gentleman seeks to succeed with.

So I am asking you not to make a motion to recommit on the basis that what I have read to you, in good faith, is language that has been put forward in good faith within the existing bill. And if you conclude that it is not adequate, I pledge to you that I will certainly sit down with you as will Mr. KILDEE and anyone else who is interested in it to try and see what we can do to make the language work as the bill moves along. But I don't want to get trapped in a recommital action which may then put language into the bill, the consequences of which I have no idea. Nor, I think, does the gentleman.

Your intentions are good. I have complete faith and say so publicly in your intentions and your desire to make this a better bill. So I ask you on the basis of a collegial respect for each other and on the basis of our friendship to let the bill go without a recommital based on section 7 and my promise to you that we will address any and all issues that may still be on the table once you have had a chance to examine the consequences of the language you might otherwise propose.

Mr. FLAKE. I appreciate the gentleman's concern about motions to recommit. They are sometimes by their nature political. I don't always vote for the ones offered by my side because of that. However, I am only going to the motion to recommit now because I can't offer my amendment as modified. I would be glad to forgo offering the motion to recommit if I could get a commitment under unanimous consent to restrict my amendment to what I outlined, and I will be glad to read it again. If it is true that the legislation does address this concern, it would be redundant at best, or at worst, but it would at least give us here, and I think, frankly, there is a pretty safe harbor I would think for those of us who are concerned about the constitutionality in saying that this legislation should have the Bill of Rights apply to it, Federal civil rights laws, and there would be no racially defined burdens or immunities. So that is a pretty safe harbor, and I am not seeing it as political. But I would be glad to withdraw that if we could go back and have my amendment accepted as modified.

Mr. ABERCROMBIE. My difficulty is, and I'll conclude with this. Mr. BISHOP, I am very appreciative of your indulgence in this and the other Members. Obviously it is very, very important to all of us and important on a fundamental constitutional basis as well. The difficulty for me in doing that is that I am seeing it right now for the first time. The language in the bill has been gone over and over and over again with a legal fine tooth comb so that I have confidence in that.

My problem is that your intention and my intention may not be what the consequences legally would be when somebody reads it as written on the paper. My friend and mentor on the Armed Services Committee, the chairman, IKE SKELTON, who usually characterizes himself as a country lawyer, which should put everybody on edge and make them wary when he says it, has a saying that he admonishes us with on the Armed Services Committee all the time: Read it. What he means by that is the words on the paper are what will be referred to when legal recourse is taken. And what my fear is, is that not knowing the consequences of the language, despite the gentleman's intention, if I accepted such a thing, I am doing it on blind faith. Not on blind faith in you. I have faith in your good intentions. But I am doing it on blind faith as to what the safe harbor would be or not be or what the consequences would be. I am sorry I can't accept that and I ask you once again to give us the opportunity to work on this in the quiet and in the contemplative atmosphere outside the volatility of the floor.

Mr. FLAKE. I thank the gentleman.

I think that we can work with this in the quiet if we simply accept the motion to recommit or preferably the actual amendment that simply says, and let me read it again, ''Nothing in the act shall relieve the Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.'' That's a pretty safe harbor. And I think that if it goes to the Senate and we find there is something in there that needs to be modified or tweaked, we can do that as the bill comes back. But we ought to have at least that, I would submit. And so with the knowledge that we can't modify that, then we will offer the motion to recommit later.

Mr. RAHALL. Mr. Speaker, how much time is left for each side?

The SPEAKER pro tempore (Mr. ROSS). The gentleman from West Virginia has 9 minutes remaining. The gentleman from Utah has 2½ minutes remaining.

Mr. RAHALL. Mr. Speaker, before yielding to my next speaker, I do want to certainly recognize the gentleman from Arizona (Mr. FLAKE) who has, for the first time in quite a few months if not this year, been so gracious and so kind to give us at least 5 minutes' notice of what the minority side's motion to recommit is going to be all about instead of at the last nanosecond receiving such recommittal motions as we have on so many bills before this body in an effort to play gotcha. So I do appreciate knowing what that recommittal motion is going to be ahead of time.

Thank you, Mr. FLAKE.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, I rise today as chairman of the Congressional Asian Pacific American Caucus in unconditional support of H.R. 505, the Native Hawaiian Government Reorganization Act of 2007. This bill provides a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship.

Since the annexation of the Territory of Hawaii, Native Hawaiians, Hawaii's indigenous peoples, have been treated by Congress in a manner similar to

American Indians and Alaska Natives. Congress has passed over 160 statutes to address the conditions of Native Hawaiians and has repeatedly recognized the United States' political and legal relationship with Native Hawaiians.

H.R. 505 formally extends the Federal policy of self-governance and self-determination to Native Hawaiians, thereby providing parity in Federal policies toward American Indians, Alaska Natives, and Native Hawaiians.

This bill does not grant Federal recognition, but provides a process for Native Hawaiians to be federally recognized. The Secretary of Interior will be required to certify the Native Hawaiian governing entity before it is federally recognized.

This bill will also provide a structured process to address the longstanding issues resulting from the overthrow of the Kingdom of Hawaii. The bill provides for a negotiation process to resolve these issues with the Federal and State governments and will alleviate the growing mistrust, misunderstanding, anger and frustration about these matters.

This measure is supported by Hawaii's Republican Governor, Linda Lingle, Hawaii's congressional delegation, and the Hawaii State legislature. The bill is supported by the National Congress of American Indians and Alaska Federation of Natives as well as numerous other national organizations. In addition, the bill is also supported by a number of organizations in Hawaii who have passed resolutions in support of enacting this bill.

I ask my colleagues to support this measure and advance the reconciliation process for our people.

Mr. BISHOP of Utah. Mr. Speaker, I will continue to reserve.

Mr. RAHALL. Mr. Speaker, I have the right to close and I will reserve the balance of my time.

Mr. BISHOP of Utah. In closing, I will merely state I have appreciated this particular dialogue we have had, without the long colloquy we went through in this particular area. I would humbly submit that at least some of the times in the past when more than adequate time to consider a recommital has been given, the bill tends to disappear from the floor before the vote takes place. So we are happy this may not necessarily be the case today.

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

Mr. RAHALL. Mr. Speaker, according to the American Bar Association, ''The right of Native Hawaiians to use of property held in trust for them and the right to govern those assets is not in conflict with the equal protection clause since it rests on independent constitutional authority regarding the rights of native nations contained within articles I and II of the Constitution.''

The ABA further adds, ''Our courts have upheld Congress' power to recognize indigenous nations and has specifically recognized that this power includes the power to re-recognize nations whose recognition has been compromised in the historical past.''

Indeed, I would note that this body, the Congress, has recognized 530 of the 561 federally recognized Indian tribes. It is clear that we have this power and this authority and that is simply what we are doing today with respect to Native Hawaiians.

I again want to commend the delegation from Hawaii, Mr. ABERCROMBIE and Ms. HIRONO, for the work that they have put into this legislation. I commend our Committee on Natural Resources and the staff that have worked so hard to, once again, bring this effort to the floor of the House in a nonpartisan, bipartisan piece of legislation. I join my colleague from Hawaii (Mr. ABERCROMBIE) in hoping that the motion to recommit is not offered by the gentleman from Arizona. But should it be offered, then I hope my colleagues will certainly recognize that what we are attempting to prevent by arguing against that motion is a discrimination against Native Hawaiians. And we are asking that we treat them no differently than other Indians.

I would close by again urging my colleagues to join, once again, in supporting this legislation in a strong bipartisan manner and I would urge a ''no'' on any motion to recommit.

Ms. HIRONO. Mr. Speaker, I rise today in strong support of H.R. 505, the Native Hawaiian Government Reorganization Act, which begins to provide a measure of justice for the indigenous, native people of the Hawaiian islands. I could argue the legal and constitutional arguments on why this bill should be passed, but I want to take a few minutes to share some of the history to show why this bill is so important to all the people of Hawai'i.

As many of you know, the Kingdom of Hawai'i was overthrown in 1893. Hawai'i's last Queen, Lili'uokalani, was deposed by an armed group of businessmen and sugar planters, who were American by birth or heritage, with the support of U.S. troops. The Queen agreed to relinquish her throne, under protest, to avoid bloodshed. She believed the United States, which with Hawai'i had diplomatic relations, would restore her to the throne. As we now know, despite the objections of President Grover Cleveland, the injustice of the overthrow was allowed to stand, and the Republic of Hawai'i was established.

A few years later, in 1898, the United States annexed Hawai'i. Prior to annexation, a petition drive organized by Native Hawaiians secured signatures of almost two-thirds of the Native Hawaiian population opposing annexation (29,000 signatures out of an estimated Native Hawaiian population of 40,000). These petitions are now in the National Archives.

The Hawaiian culture was under siege. The Republic of Hawai'i prohibited the use of the Hawaiian language in Hawai'i schools. Everyday use of the Hawaiian language diminished greatly and it was in danger of dying out. Hula, which had been suppressed by the missionaries and then restored by King Kalaukaua a few years before the overthrow, survived but did not flourish. Hawaiians were pressured to assimilate and much was lost.

When Prince Jonah Kuhio Kalaniana'ole was elected to serve as Hawai'i's delegate to Congress, he succeeded in passing the Hawaiian Homes Commission Act of 1920, which set aside some 200,000 acres of land for Native Hawaiians. The reason for the legislation was the landless status of so many Native Hawaiians, who were displaced by newcomers and became the most impoverished population in their native land. In recognition of its trust responsibility toward Native Hawaiians, Congress passed the Hawaiian Homes Commission Act, which is still in force.

Hawai'i became a state in 1959. Beginning in the late 1960s and early 1970s, a Native Hawaiian cultural rediscovery began in music, hula, language, and other aspects of the culture. This cultural renaissance was inspired by hula masters (kumu hula), who helped bring back ancient and traditional hula; musicians and vocalists, who brought back traditional music and sang in the Hawaiian language; and political leaders, who sought to protect Hawai'i's sacred places and natural beauty.

This flowering of Hawaiian culture was not met with fear in Hawai'i, but with joy and celebration and an increased connection with each other. People of all ethnicities in Hawai'i respect and honor the Native Hawaiian culture. We are not threatened by the idea of self determination by Native Hawaiians.

In 1978, Hawai'i convened a constitutional convention that was designed, in part, to right some of the wrongs done to Native Hawaiians. The constitutional convention created the Office of Hawaiian Affairs or OHA so that Native Hawaiians would have some ability to manage their own matters. The people of Hawai'i ratified the creation of OHA and voted to allow the trustees of the Office of Hawaiian Affairs to be elected solely by Native Hawaiians. Although the Supreme Court in Rice v. Cayetano decided that limiting the vote in this manner violated the 15th Amendment, that decision was based on the fact that the State of Hawai'i ran the elections, not whether or not Native Hawaiians are an indigenous, native group with an inherent sovereignty. In fact, the court expressly avoided the issue of whether or not Native Hawaiians are analogous to an Indian tribe.

The Constitutional Convention also laid the ground work for the return of some federal lands to Native Hawaiians, including the island of Kaho'olawe, which is currently held in trust for a future Native Hawaiian governing entity. The ConCon, as it is known in Hawai'i, also designated the Hawaiian language (along with English) as the official state language of Hawai'i for the first time since the overthrow in 1893.

I was in the Hawai'i State Legislature when we approved creation of Hawaiian language immersion schools, recognizing that language is an integral part of a culture and people. The Hawaiian language was in danger of disappearing. Public Hawaiian language preschools, called Punana Leo, were started in 1984. We now have Hawaiian language elementary, middle, and high schools in Hawai'i, and a new generation of fluent Hawaiian language speakers are helping to keep this beautiful and culturally important language alive. Other native peoples are looking to the Hawai'i model as a means of preserving and perpetuating their native languages.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support H.R. 505, and I do so in recognition

of the long-standing ties between Native Hawaiians and Alaska Natives, who themselves underwent a struggle to be recognized for the purpose of settling their aboriginal land claims. H.R. 505 concerns a struggle involving Native Hawaiians, who are seeking to formalize a kind of relationship among the Federal government, the State of Hawaii, and Hawaii's aboriginal peoples based on the powers of the Congress to regulate Indian affairs. I have been proud to work with my good friend, the Gentleman from Hawaii (Mr. ABERCROMBIE), to work on passing this bill for all the years we have served together. I want to recognize and congratulate the Gentleman for his iron commitment to this legislation and to the well-being of Hawaii and the nation.

This Congress has passed several laws of unique application to Native Hawaiians, invoking the authority of the so-called Indian Commerce Clause of Article I, Section 8 of the Constitution. An important example of these laws is when Congress conveyed lands in Hawaii for the purpose of benefiting the Natives. This has been supplemented with additional benefits and services exclusively for Natives based on their status as Natives.

But there is a shortcoming in these laws: Congress has not yet authorized the Natives to organize a governing entity. At some point, we the Congress have to provide a means for the Native Hawaiians to administer these benefits in accordance with our current policy of promoting self-determination among Native American people in general. Native Hawaiians have largely stayed intact as a distinct community and we would be doing a great disservice to them if we did not set up a process for their recognition as a governing entity. The governing entity will be the vehicle they use to advance their economies, and preserve and pass on their special heritage and language to future generations.

I understand that some Members have a problem with this bill. It has been said many times already but it's worth emphasizing again: H.R. 505 has the endorsement of the Governor, the Congressional Delegation and the State Legislature of Hawaii. It does not cut into programs for American Indians and Alaska Natives. Enrollment to the governing entity is elective.

We can trace the genesis of this bill, embodying the hope of an indigenous people to control their own fate, all the way back to the overthrow of 1893. It has been a long road. I believe how we treat our native indigenous people reflects our values and who we are. Clearly, there is much in the history of our interactions with the native people of what is now the United States that makes us less than proud. But one of the great attributes of America has always been the ability to look objectively at our history, learn from it, and where possible make amends.

Native Hawaiians, like American Indians and Alaska Natives, have an inherent sovereignty based on their status as indigenous, native people. They desire the right to exercise management over their own affairs and land. By law, a portion of income from the former crown lands of the Kingdom of Hawai'i (also called ceded lands) is allocated to benefit the native Hawaiian people. At present, that income is managed by the Office of Hawaiian Affairs, a state agency. Management of this income and Hawaiian lands should be done by a Native Hawaiian governing entity now that the trustees of the Office of Hawaiian Affairs are elected by all the residents of the State of Hawai'i and not just Native Hawaiians.

As has already been mentioned today, this legislation is supported by the great majority of Hawai'i's people, by its Republican governor, by our State Legislature, and by dozens of organizations, including the Congress of American Indians and the Alaska Federation of Natives.

This legislation primarily affects the State of Hawai'i. Our state motto, which is the same as that of the Kingdom of Hawai'i, is ''Ua man ke ea o ka aina i ka pono,'' which means ''the life of the land is perpetuated in righteousness.'' This is a historic vote and one that helps to perpetuate righteousness by righting a historic wrong. I ask that you stand with the people of Hawai'i and oppose the Flake amendment, oppose the motion to recommit, and support passage of the bill.

Mahalo nui loa (thank you very much).

For these reasons, we owe a great deal of deference to the judgment of the elected representatives of the State of Hawaii. They are the ones who are accountable for this legislation on their islands. The Delegation of Hawaii understands best that Native Hawaiians have struggled for decades to achieve a status that adequately promotes their self-determination.

Let's keep in mind that Congress has recognized Native Americans for various purposes over the years. We are not limited by a strict set of criteria such as those set forth in the Interior Department's Federal acknowledgment regulations. While these criteria are sensible to apply in some cases, a quick look at some of the Indian statutes passed in the early days of our republic make it clear that Congress viewed its powers to deal with Indians in a very broad sense.

Opponents often say that Native Hawaiians are not a tribe and that Article I, Section 8 of the Constitution limits Congress to recognize only tribes in the contiguous 48 States.

The meaning of ''tribes'' in Article I, Section 8—commonly called the Indian Commerce Clause—is broad in scope. There is nothing that limits Congress to recognizing only the aboriginal people of the Lower 48 States. In fact, Congress was recognizing Indians for special reasons when they were in lands that were not part of the United States. And Congress has authorized the reorganization of reservations that were broken up and tribes that were terminated. Again, Congress has broad, plenary authority to recognize Native peoples.

H.R. 505 is a good bill and it is a first, critical step for Native Hawaiians to deal with Hawaii and the Federal government in a fashion befitting their special status as a distinct Native community. In their wisdom, the Representatives from Hawaii have left issues regarding benefits, services, and lands to future negotiations with the newly organized governing entity. We can deal with these issues in a deliberative, careful fashion with the Native governing entity when it is organized.

I'm pleased to support H.R. 505 and to advance a process for recognizing a Native Hawaiian entity.

Mr. RAHALL. I yield back the balance of my time.

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

Pursuant to House Resolution 764, the previous question is ordered on the bill.

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.

MOTION TO RECOMMIT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FLAKE. In its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Flake moves to recommit the bill H.R. 505 to the Committee on Natural Resources with instructions to report the same back to the House forthwith with the following amendment:

Page 44, after line 22, insert the following:

(h) APPLICABILITY OF THE UNITED STATES CONSTITUTION'S BILL OF RIGHTS.—The Native Hawaiian governing entity shall be subject to the United States Constitution's Bill of Rights and other protections in the same manner and to the same extent as a State or local government of the United States.

(i) APPLICABILITY OF FEDERAL CIVIL RIGHTS LAWS.—The Native Hawaiian governing entity shall be subject to Federal civil rights and antidiscrimination laws in the same manner and to the same extent as a State or local government of the United States.

(j) NO RACIALLY DEFINED BURDENS OR IMMUNITIES.—No persons shall, as a result of the operation of this Act, be exempted from any Federal or State law, regulation, tax, or other legal burden on the basis of that person's race or ancestry or on the basis of any classification that is defined by race or ancestry.

Mr. FLAKE (during the reading). I ask unanimous consent that the motion be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona is recognized for 5 minutes in support of his motion.

Mr. FLAKE. Mr. Speaker, as I mentioned before, I originally had an amendment that I would have liked to have offered which would simply say that we would add the following: ''Nothing in this act shall relieve a Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.''

This motion to recommit is very similar to that.

As I mentioned before, the U.S. Civil Rights Commission has concerns about the legislation. They said, ''This would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege.''

I think there is sufficient concern that we should find the safe harbor here of making sure that the 14th amendment applies. This motion to recommit, I will read the entire thing, it is not long. So I will read all of it.

□ 1415

It simply says: ''Page 44, after line 22, insert the following: Applicability of

the United States Constitution's Bill of Rights. The Native Hawaiian governing entity shall be subject to United States Constitution's Bill of Rights and other protections in the same manner and to the same extent as a State or local government of the United States.

''Section (i). Applicability of Federal civil rights laws. Shall be subject to civil rights and antidiscrimination laws in the same manner and to the same extent as a State or local government of the United States. Section (j). No racially defined burdens or immunities. No person shall, as a result of the operation of this Act, be exempted from any Federal or State law, regulation, tax, or other legal burden on the basis of that person's race or ancestry or on the basis of any classification that is defined by race or ancestry.''

This is a pretty good default, a default back to the Constitution, and says that nothing in this act has to be compatible, has to fit within the Constitution. That is all that this motion to recommit does. Some will raise the concern that this might apply to Native American groups here on the mainland. It does not. This only applies to this act, to the Native Hawaiian governing entity.

Mr. Speaker, this is a very narrowly drafted motion to recommit. It is drafted ''forthwith'' so it will come immediately back so it won't spend any more time in committee. Then, if there are issues unforeseen, when it goes to the Senate and comes back, we can work on them. But in the meantime, I think it is a much better option to actually have this default and to go back to the U.S. Constitution.

The gentleman mentioned earlier that the act provides that the Secretary of the Interior has to certify that we are in compliance with the U.S. Constitution. I would just state for the record that we haven't had the best record relying on the Secretary of the Interior to manage trust accounts or other things. We shouldn't delegate that authority here. We shouldn't delegate our responsibility to uphold the Constitution to an official in the executive. That is our purpose here. We make the laws. We should ensure that they are given the guidelines and given the protections here that the Constitution affords.

So I would urge adoption of the motion to recommit. As I mentioned, I offered it reluctantly. I would have rather, because motions to recommit sometimes become political, and this is not, so I would have preferred to offer this as a straight amendment narrowed to this specific act, but wasn't afforded that opportunity.

Mr. Speaker, I also want to say again that I want to commend those on the other side of the aisle for working so hard on this legislation and for their diligence in working to make sure that this is a good bill. This will improve it. This will simply say that those under this act are afforded the guarantees and the protections of the U.S. Constitution and the Bill of Rights.

Mr. Speaker, I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I rise in opposition to the motion to recommit.

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

Mr. ABERCROMBIE. Mr. Speaker, this bill before us is the result of years of bipartisan and nonpartisan work, which has been mentioned. I take second to none my regard for Mr. FLAKE and recitation once again of our personal regard for one another; however, I am afraid that the reason I have to oppose this motion to recommit is for precisely the reasons I mentioned during our previous dialog.

I am pleased that he actually read what the motion to recommit says because the part here, and you may recall in my previous commentary where I said we can't be sure what the consequences might be unless we have had a chance to vet them. The bill itself has been vetted again and again by counsel on both sides of the aisle and by groups that have an interest in the bill. This is the consensus that this meets all relevant legal technicalities.

Here, look what it says: ''The Native Hawaiian governing entity shall be subject to the United States Constitution's Bill of Rights and other protections in the same manner and to the same extent as a State or local government of the United States.'' That is an invitation to an avalanche of litigation. How are you going to define ''same manner'' and ''same extent'' of a State or local government?

The indigenous people, whether they are Native Americans in tribes, whether they are Alaska Natives in corporations, Native Hawaiians trying to put together a government, and they are not a State, they are not a local government, and to say in a motion to recommit that we are going to require them to exactly replicate State and local governments, which is subject to litigation all the time, you would have to have a trust fund set up to handle the litigation, I think, that would result from that.

Mr. Speaker, I don't think that that is Mr. FLAKE's intent. In fact, I would stipulate that that is not his intent. Our problem is we haven't had a chance to sit down and go over this to see whether we can cover any of these contingencies. I wish he had accepted my plea, my offer, and I wish he would stand up now and say, I have seen the light and I am going to withdraw my motion to recommit. Because if you go to number (i), applicability of Federal civil rights laws, it says the same thing with respect to civil rights and antidiscrimination laws in the same manner and to the same extent as a State or local government of the United States.

My friends, my colleagues, I agree that Mr. FLAKE has brought this not for political reasons but because of his sincere belief that this needs to be addressed. I can assure you that if anything is political, this is political by default. Far from saying simply that it is a simple explication of his point of view, it is an absolute wellspring of complication to try and figure out what the same extent of State and local government laws are with regard to civil rights, antidiscrimination or Bill of Rights and other protections. ''Other protections,'' what does that mean? That will be litigated to death.

So, Mr. Speaker, I ask Mr. FLAKE, now that I have analyzed his simple language for him, if he would reconsider withdrawing the motion to recommit. If he does not, I pledge to him now that if we are able to defeat the motion to recommit, which I think should be defeated by anybody who's worked on this bill. I make this final plea in all seriousness, Mr. Speaker. We have worked too hard, come too far on a nonpartisan basis, Republican and Democrat alike, to come to this conclusion and throw ourselves into the briar patch of State and government applicability of laws as recommended in the recommittal. The bill itself deals with all these issues on civil rights.

Mr. Speaker, I ask that the motion to recommit be defeated and that we move to a vote, an overwhelming vote on the underlying bill, H.R. 505, which is an exemplary product, a singular stalwart example of what bipartisan work can do in this House of Representatives.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes 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 clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 178, nays 235, not voting 19, as follows:

[Roll No. 999]

YEAS—178

Aderholt	Boustany	Coble
Akin	Brady (TX)	Conaway
Alexander	Broun (GA)	Crenshaw
Bachmann	Brown (SC)	Cubin
Bachus	Brown-Waite, Ginny	Culberson
Baker	Buchanan	Davis, David
Barrett (SC)	Burgess	Davis, Tom
Bartlett (MD)	Burton (IN)	Deal (GA)
Barton (TX)	Calvert	Dent
Biggert	Camp (MI)	Diaz-Balart, L.
Bilirakis	Campbell (CA)	Diaz-Balart, M.
Bishop (UT)	Cannon	Doolittle
Blackburn	Cantor	Drake
Blunt	Capito	Dreier
Boehner	Carter	Duncan
Bonner	Castle	Ehlers
Bono	Chabot	Emerson
Boozman		Everett

Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goodlatte
Granger
Graves
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—235

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Renzi
Reynolds
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Yarmuth

NOT VOTING—19

Bilbray
Buyer
Carson
Davis (CA)
Davis (KY)
Hinojosa
Hunter
Issa
Jindal
Johnson, E. B.
Knollenberg
Lewis (CA)
Reyes
Ros-Lehtinen
Shea-Porter
Walberg
Wilson (OH)
Wynn
Young (AK)

□ 1450

Messrs. EDWARDS, STUPAK, MITCHELL, CARNEY, Mrs. McCARTHY of New York, Messrs. COSTELLO, LYNCH, HALL of Texas, Ms. BERKLEY, Messrs. SCOTT of Georgia, ENGLISH of Pennsylvania, TIERNEY, DONNELLY and LOBIONDO changed their vote from ''yea'' to ''nay.''

Messrs. CARTER, SMITH of New Jersey, TERRY, WELDON of Florida, SHADEGG, CHABOT, and PICKERING changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. KNOLLENBERG. Mr. Speaker, on rollcall No. 999, I was unavoidably detained. Had I been present, I would have voted ''yea.''

Mr. WALBERG. Mr. Speaker, on rollcall No. 999, I was unable to vote. Had I been present, I would have voted ''yea.''

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 999, had I been present, I would have voted ''nay.''

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

LONGEST YARD CLASSIC CONGRESSIONAL FOOTBALL GAME

Mr. SHULER. Mr. Speaker, I would like to congratulate everyone and thank everyone who took part in this year's Longest Yard Classic; although the game didn't quite go like we had expected it to go. It was 28–0. Zero is something I've come to know pretty well during my Washington days with the Redskins. We knew quite well about that zero.

Quarterback rating did not go up during that game. I will say that we had some great wide receivers. Every one offensively who got in the game got a chance to catch the football, which was great.

I do want to say and congratulate the Capitol Hill Police, not only for their great win over the Members of Congress, but for what they do when they sacrifice their lives every single day of their lives.

We were able to see firsthand how actually across the aisle we can work together, Democrats and Republicans, 7 a.m. practices. No one showed up late, almost never.

Ken Harvey and John Booty from the NFL came down and helped coach us, and we have special thanks to them and to all the participants, all the Members who played and to the Members who came out to watch us.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. SHULER. I yield to the gentleman from Pennsylvania, my friend.

Mr. SHUSTER. Mr. Speaker, I want to thank the gentleman, and I just want to echo what he said about the Capitol Hill Police and what they do every day, protecting us, making sure the grounds are safe, not only for us but the people who do business here, the visitors here. So we owe them a great debt of gratitude.

I would urge all of you, while not all of you were able to get out to the game and not all of you were able to play in the game, but I would urge all of you, when you see a Capitol Hill Police officer out there, thank them. Thank them for what they do for you, for your family and for, as I said, everybody that uses this great Capitol Hill complex.

The game, as HEATH pointed out, didn't end up the way we thought it would. Some thought we gave better than we took. Some thought that the Capitol Hill Police could have scored 56 on us. That will remain to be seen, but nobody was hurt during the game. Everybody played. We all had a lot of fun, and we raised some money for the benevolent fund that goes to the kids of the Capitol Hill Police. So it was a great success.

I appreciate all those that participated. Practices were early. HEATH and John Booty and Ken Harvey, who really ran the show, did a great job of getting us out there in the morning.

I also want to thank the Members that showed up to the game. Some of you came out: HENRY BROWN, MIKE CONAWAY, STEPHANIE TUBBS JONES, JESSE JACKSON, GREGORY MEEKS and LINCOLN DAVIS. Thank you guys for coming out there to the game. I think that's extremely important that when you are out there, we're out there, leaving a little skin on the field, a little blood, but all of it's for a great cause to the Capitol Hill Police.

Sergeant at Arms, Bill Livingood, thank you. The Chief of Police, Philip Morse, thank you for all your help. And also a special thanks to Vardell Williams, who's now become the voice of the Longest Yard Classic. Thank you. He works here for the superintendent, but he volunteered to be out there to be the voice of the Longest Yard Classic.

So again I thank everybody, and congratulations to the Capitol Hill Police.

The following is our team roster.

Member name	State	Jersey number
Kendrick Meek	Florida	0
Zach Wamp	Tennessee	1
Pat Murphy	Pennsylvania	3
Jim Jordan	Ohio	4
Joe Donnelly	Indiana	7
Anthony Weiner	New York	9
Charlie Dent	Pennsylvania	15
Brad Ellsworth	Indiana	18
Heath Shuler	North Carolina	21
Jason Altmire	Pennsylvania	24
Sam Graves	Missouri	27
Jack Kingston	Georgia	28
Jim Gerlach	Pennsylvania	30
John Sullivan	Oklahoma	39
Dean Heller	Nevada	42
Jeff Flake	Arizona	44
Todd Tiahrt	Kansas	45
Michael Arcuri	New York	58
Thaddeus McCotter	Michigan	65
Rick Renzi	Arizona	67
Gresham Barrett	South Carolina	76
Paul Ryan	Wisconsin	80
Bill Shuster	Pennsylvania	00
Kevin McCarthy	California	11*

*Might change.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

There was no objection.

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 ayes appeared to have it.

Mr. RAHALL. 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 261, nays 153, not voting 18, as follows:

[Roll No. 1000]

YEAS—261

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Bono
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Calvert
Cannon
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, Lincoln
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Perlmutter
Peterson (MN)
Peterson (PA)
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Sherman
Shuler
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walz (MN)
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Yarmuth
Young (FL)

NAYS—153

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilirakis
Blackburn
Blunt
Boehner
Bonner
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Camp (MI)
Campbell (CA)
Cantor
Capito
Carter
Castle
Chabot
Coble
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Everett
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hoekstra
Hulshof
Inglis (SC)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
Lamborn
Latham
Lewis (KY)
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pence
Petri
Pickering
Pitts
Platts
Poe
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (TX)
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Upton
Walberg
Walsh (NY)
Wamp
Waters
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf

NOT VOTING—18

Bilbray
Buyer
Carson
Davis (CA)
Dicks
Feeney
Hunter
Issa
Jindal
Johnson, E. B.
Lewis (CA)
Reyes
Ros-Lehtinen
Rush
Shea-Porter
Wilson (OH)
Wynn
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining on this vote.

□ 1504

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FLY OUR FRIENDLY AND SAFE SKIES?

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

Mr. POE. Mr. Speaker, ''Fly the friendly and safe American skies.'' That's what Americans are being told by our government. But not so fast.

NASA just completed a 4-year survey of thousands of pilots on the issue of air safety. The results have been compiled, but NASA not only won't release the results, they have ordered the survey to be deleted from official computers.

NASA officials have said if the results are public, the airline customers' confidence in air safety will be jeopardized. The taxpayers paid $8 million for this survey, and the results should be open and not held hostage just because the results may reveal bad news.

The American public and the airline industry should know what the pilots say about air safety. If it wasn't for the press, the mere knowledge of this survey would not have been exposed, but would have remained a dark secret behind the Moon. Our ''Challenge'' is to continue to ''Endeavor'' to ''Discover'' the truth.

NASA should not be in the business of hiding the truth. Americans can deal with the truth, even if NASA cannot.

And that's just the way it is.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SARBANES). Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING DEVEN AMIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.