

# NATIVE AMERICAN REPORT



The Independent News Source on Native American Issues

Vol. 8 No. 12

June 13, 2003

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## INDIAN LEGISLATION

### Resources Chairman Shows Leadership On Tribal Interests On House Floor

Earlier this month, Indian tribes lost a battle on the House floor to ensure they would get equal treatment compared with state and local governments under an Internet gambling bill.

Despite the loss, tribal leaders came away with positive acknowledgments, saying the leadership demonstrated by House Resources Committee Chairman Richard Pombo (R-Calif.) on the issue bodes well for Indian matters during the latter part of the legislative session.

“Pombo really stuck his neck out for tribes, even under pressure from the Republican party,” a Capitol Hill source on Indian legislation told *NAR*.

#### ‘Pombo Fought Tooth-And-Nail’

The acknowledgments referred to several actions Pombo took on behalf of tribes’ interests as the Unlawful Internet Gambling Funding Prohibition Act (H.R. 2143) made its way to the House floor this month.

Aimed at restricting offshore Internet gambling practices that are vulnerable to money laundering, the bill provided an exemption for licensed state or local businesses. But tribes called for a similar exemption for businesses in Indian Country.

Pombo, joining forces with Rep. Dale Kildee (D-Mich.), offered an amendment to include tribes in the exemption. However, the Rules Committee did not allow the amendment onto the floor. Later, Pombo twice in one week wrote letters to House leaders, successfully pulling the bill from the calendar to keep it from being voted on without the protection for tribes, sources told *NAR*. On June 10, the House passed the bill by a 319-104 vote, with Pombo voting in the minority.

“Mr. Pombo took a lot of heat in sticking with the tribes so that Indians wouldn’t be treated as

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### Medicaid Benefits

#### Ore. Tribes Safe from Medicaid Cuts Following Unanimous Bill Passage

Tribes hope other states will take the cue from Oregon, where legislators of both houses have voted to protect American Indians from the state’s Medicaid cuts. Republican Gov. Ted Kulongoski signed the bill last month, which now awaits approval from the Centers for Medicare and Medicaid Services.

“The unanimous votes of the legislature and the governor’s signature speak volumes about the bill,” Eric Metcalf, health and human services administrator for the Coquille Indian Tribe, told *NAR*.

According to tribal health leaders, the separate Medicaid standard for Indians is based not only on historical treaties that promised health care to tribes in exchange for millions of acres of land, but also on the logic that Oregon’s budget would not be hurt if its Medicaid cuts did not apply to tribes. The federal government reimburses states 100 percent for the health costs of eligible tribal members enrolled in the low-income health program.

Therefore the bill has been a win-win situation for both state and tribal governments, Metcalf said.

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Business Publishers, Inc. • 8737 Colesville Road • Suite 1100 • Silver Spring, MD 20910-3928 • Leonard A. Eiserer, President & Publisher

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**Native American Report** (ISSN 1092-7549), published 25 times a year. Subscription rate: \$271 per year (includes shipping). For subscribers outside North America, please add \$16. Six-month and multiple-year rates available on request. POSTMASTER: Send address changes to BPI, 8737 Colesville Road, #1100, Silver Spring, MD 20910-3928. Editorial: (301) 587-6300; FAX (301) 587-1081. Customer Service: (301) 589-5103 or (800) 274-6737; FAX (301) 589-8493. For fastest service, include account number when you call or write. For information on reprints, contact Copyright Clearance Center, (978) 750-8400. To purchase documents flagged , call 1-800-274-6737.

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**Resources Committee** (Cont. from p. 111)

second-class citizens,” Doug Heye, spokesman for Pombo, told *NAR*.

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**“At any given point,** the easy way out for Pombo would have been to drop the issue and say, ‘I’ll deal with it another day,’ but he didn’t.”

**Doug Heye**  
Rep. Pombo’s office

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A later amendment sponsored by Congressmen James Sensenbrenner (R-Wis.) and John Conyers (D-Mich.) tried to put states, local governments and tribes on an equal footing by eliminating exemptions for any businesses, but it failed.

Pombo’s actions come at a time when some in Indian Country are commenting that the Resources Committee has seen little action by way of hearings or legislation on Indian-related issues. Spokesmen for several members of the committee acknowledged to *NAR* that the committee has been caught up with issues such as the Healthy Forests Initiative and the energy bill and has not been able to focus much on Indian issues.

**Committee Not Limited to Hearings**

Yet tribal leaders familiar with the legislative process have deflected many of the concerns, saying that the number of hearings held is not necessarily the way to gauge progress.

“People have different styles — Pombo’s working things really hard on the floor,” Mary Pavel, lobbyist for Indian issues, told *NAR*. “He’s writing letters. He’s met with tribal leaders. I am loathe to criticize any member of Congress, but in terms of being an advocate for tribes in the House, I do think Chairman Pombo is out there.”

A source on Capitol Hill told *NAR* it is still early to assess the chairman’s commitment to tribal issues but that progress has been noted. Comparing the two most recent committees, the committee chaired last Congress by James Hansen (R-Utah) would have taken little action on Indian issues were it not for Rep. J.D. Hayworth (R-Ariz.) who offered to chair Indian hearings himself. “Again this year, Hayworth has offered to chair them, but Pombo wanted to chair them himself, and I see that as progress,” the source told *NAR*.

The word on the street is that a trust reform hearing is expected in the coming weeks. As for field hearings in Indian Country, which Pombo mentioned to tribal leaders earlier in the year, Pombo spokesman Heye said he does not know of any that are scheduled yet. But Indian leaders are

optimistic about the prospects of such hearings this as soon as this summer.

Contacts: Mary Pavel, Sonosky, Chambers, Sachse, Endreson & Perry, (202) 682-0240; House Resources Committee, (202) 225-2761.

**Medicaid** (Cont. from p. 111)

However, tribal leaders also attribute the ease of passage to “tremendous efforts” by tribes and state officials in past years to establish good intergovernmental relationships.

“It’s just another example of two government entities putting their heads together and coming up with a way for everybody to win,” Metcalf told *NAR*. “The state’s not spending any more money, and they’re getting healthier citizens. And the tribes aren’t having to spend their own money to cover up for the losses.”

**Tribes Understand Funding Pressures**

The fact that tribes are able to relate to difficult decision-making in low budgets has also helped. “We, as natives, completely understand the terrible task that state officials have of trying to make ends meet.”

In fact, Oregon’s cuts to Medicaid, which came through in early spring, have hit the state’s tribes rather hard in the first few months. Already, the Coquille Indian Tribe has obligated more than 80 percent of this year’s funding, Metcalf said. “We’ve never had this type of urgent issue except when this [health cuts] package fell on our doorstep, then everything started going downhill.”

Even so, it is difficult to quantify how much would be lost or saved depending on Medicaid. Calculating services not rendered, third party resources not being collected and tribes having to pay themselves, the estimated loss would range between \$5 million and \$10 million throughout a full year, Metcalf said.

Even Indian clinics that are more isolated from urban health clinics and therefore rely less on Medicaid, encourage patients to get benefits from the state whenever possible to “alleviate our health costs,” Elwood Patawa, chief executive officer of the Yellowhawk Tribal Health Center, told *NAR*.

Oregon tribes are hoping tribes in other states catch on and push for the same provisions, though state health plans do vary. The Centers for Medicare and Medicaid did not return phone calls by press time.

Contacts: Mary Ellen Glynn, Gov. Kulonski’s office, (503) 378-6496; Eric Metcalf, Coquille Indian Tribe, (541) 888-9494.

## ENVIRONMENT

### Clinton Era Rules

#### **Executive Order on Enviro Justice Would Become Law under New Bill**

Under recent bills introduced separately by two congressmen, executive orders issued by former Pres. Bill Clinton to protect Native Americans' environment and sacred sites would become law.

The Environmental Justice Act of 2003 (H.R. 2200) proposes to codify a 1994 executive order that required all federal agencies to give fair treatment to low-income and minority — including American Indian — communities when deciding where to site and dispose of hazardous material, toxins or pollutants. The bill also would provide greater resources for such populations to protect themselves earlier in the game when it comes to the siting of waste facilities near their communities.

#### **Bill Takes Preventative Action**

According to a spokesman for Rep. Mark Udall (D-Colo.), who sponsored the bill, H.R. 2200 is necessary to cement Clinton's action because "what was created by executive order could also be swept away by executive order."

Udall and his cosponsor Rep. Hilda Solis (D-Calif.) are not taking chances, based on the "entire administration's record since day one of their coming into power," Udall spokesman Lawrence Pacheco told *NAR*.

The Environmental Justice Act would create an Interagency Environmental Justice Working Group of federal agency representatives who would focus on the impacts of siting environmentally sensitive facilities. The group would develop strategies, provide guidance to agencies on environmental justice, and coordinate research and hold public meetings to help protect groups that lack the resources to fight such proposals.

#### **Communities Get Involved Earlier**

"What this does is it makes the community involved at the very outset of a proposed plan," Pacheco told *NAR*. Most of the legal action by communities takes place at the end of the process because that is their first point of involvement.

"This is being more proactive in terms of including tribes and minority groups in the decision the federal government makes, rather than being informative, where a decision already has been made."

Indian Country's sacred sites also would get added protection under a familiar bill, Native

American Sacred Lands Act, which Rep. Nick Rahall (D-W.Va.) reintroduced June 11. The bill would establish the first legal mechanism to guarantee protection of sacred lands from energy, logging and other development activities.

Contacts: Lawrence Pacheco, Rep. Udall's office, (202) 226-7661; Kristen Bossi, Rep. Rahall's office, (202) 226-1736.

## HOMELAND SECURITY

### TRU Waste

#### **Study Shows Tribes Not Equipped To Handle Potential Emergencies**

Tribes in New Mexico are not able, in terms of equipment or training, to deal with a spill of nuclear waste associated with the state's Waste Isolation Pilot Plant (WIPP), a new survey reveals.

"We realized there was a limited amount, if not a dearth, of information on emergency preparedness by Native Americans," said Sandy Straus, founder of Environment, Safety and Risk Associates Corp. (ESRA), the firm that surveyed 24 tribes in the state.

The concern with WIPP is that many of the routes used to deliver transuranic (TRU) nuclear waste to the facility in Southeastern New Mexico run through or near Indian reservations. TRU waste is contaminated with plutonium or other highly radioactive elements.

Roughly 35 percent of tribes said they were not trained to deal with WIPP-related hazards, while another 35 percent of tribes, who said they had been trained, said they did not have the equipment to respond to an emergency. Only 8 percent of tribes felt prepared to deal with hazards, and the remaining tribes did not live on or near TRU waste transportation routes.

#### **Tribes Left Behind**

"The government has invested millions into training for emergency preparedness issues," Straus told *NAR*. "But, with respect to the Native American communities in New Mexico, there is room for improvement."

The survey was an independent report conducted by ESRA — not the state or federal government, which oversees WIPP. "The tribal leaders want this information out there," she said. "They felt they had not had the opportunity to incorporate

*(Continued on p. 114)*

## TRU Waste (Cont. from p. 113)

their assessment into the other reports.” The state has published the survey results on its Web site.

Straus said her company plans to publish a technical version of the report, with individual comments from tribal leaders, in a trade journal in the near future. The survey results are online at [www.state.nv.us/nucwaste/news2003/pdf/esra03a.pr.pdf](http://www.state.nv.us/nucwaste/news2003/pdf/esra03a.pr.pdf). Contact: Sandy Straus, ESRA, (561) 381-0600, [sandy@esracorp.com](mailto:sandy@esracorp.com).

## Environment

### Zuni Indian Water Settlement Passes After Being Pulled from Bill Package

In an overwhelming 389-3 vote June 5, the House approved the Zuni Indian Water Rights Settlement Act of 2003, which aims to help resolve longstanding water rights disputes over a wetlands area known as “Zuni Heaven.”

Sponsored by Sen. Jon Kyl (R-Ariz.) and Rep. Rick Renzi (R-Ariz.) in both houses of Congress, the settlement bill will provide \$19 million to the Zuni Pueblo members to buy water rights and to help restore Zuni Heaven, located near the Little Colorado River in Arizona.

Passage of the bill spells much relief for Zuni Indians, who make a religious pilgrimage to the sacred lands in Zuni Heaven every four years. The Indian community has spent the last roughly 25 years in legal disputes with nearby Arizona communities and local power industries over the lands.

Despite having the support of both parties, the settlement bill initially failed to garner the two-thirds vote necessary for passage in the House because it was placed as part of a legislative package opposed by Democrats. Two days later, however, the legislation passed as a stand-alone bill, bringing it before President Bush for his signature. The Senate unanimously passed its version in March. Contacts: Sen. Kyl’s office, (202) 224-4521; Rep. Renzi’s office, (202) 225-2315.

## Economic Development

### New Consulting Center to Help Indians Cross Cultural Barriers in Small Biz

A new small business center established on the Colville Indian Reservation aims to overcome cultural barriers in order to help tribal members with business and finance. Members of the Colville Tribal Business Council celebrated the grand opening of the \$400,000 center, which occupies a 1,200-square-foot addition to an existing tribal office.

Available to nonIndians and members of other reservations, the center provides business and financial tools that often are unfamiliar or not accessible to American Indians living on reservations. Two employees with business development experience will be on hand at the center to provide consulting services for both start-ups and existing businesses.

Funding for the center is drawn from Rural Business Enterprise grant, a Rural Business Opportunity grant and the Colville Business Council. Contact: Colville Tribal Enterprise Corp., (509) 633-2822.

## INDIAN ROADS

### Combined Indian Roads Legislation Expected from Committee Chairman

Tribal leaders testifying before the Senate Committee on Indian Affairs voiced their support and concerns over provisions in Indian transportation bills S. 281, S. 725 and S. 1122, which Committee Chairman Ben Nighthorse Campbell (R-Colo.) plans to report in a bill by the end of the month.

The resulting transportation bill will coincide with the House of Representatives’ plans to pick up the highly anticipated reauthorization of the Transportation Equity Act of the 21<sup>st</sup> Century, or TEA-21, in July.

According to tribal leaders’ testimony, a key issue of contention continues to be the 6 percent set-aside taken out of tribes’ overall Indian Reservation Roads (IRR) funding, which is given to the Bureau of Indian Affairs’ (BIA) to pay its administrative costs.

But under “self-governance” initiatives, some tribes have begun getting their own professional engineers to do work. Therefore, BIA no longer needs the full 6 percent set-aside to merely “rubberstamp” others’ engineering work. The set-aside only serves to eat into the little funding tribes have for Indian roads, witnesses told the committee.

Some witnesses also expressed continued dissatisfaction with the legislatively mandated IRR negotiated rulemaking committee, in which BIA’s delays often lead to issues not being adequately addressed. James Garrigan, transportation planner for the Red Lake Band of Chippewa Indians, called the situation “disheartening,” saying it was far from being a tribally driven process. Contact: Senate Committee on Indian Affairs, (202) 224-2251.

# Native Hawaiian Sovereignty

*For years, Native Hawaiians have campaigned for federally recognized status, similar to what American Indian tribes and Alaska Native villages currently have. However, controversy and a lack of consensus among Native Hawaiian leaders have kept the issue at bay in Congress. This year, Native Hawaiians could be poised for greater opportunities with the support of a new governor, focused lobbying from Washington law firm Patton Boggs, and a brand new D.C. bureau for the Office of Hawaiian Affairs — the semi-autonomous governing body set up under the state constitution to administer Native Hawaiian trust lands.*

## Native Hawaiians Focus Time, Funds Toward Earning Political Recognition

Having spent years calling for everything from a special trust relationship to federal recognition to outright secession, Native Hawaiians may have some progress to show for their efforts during this legislative session.

In mid-May, the Senate Committee on Indian Affairs approved a bill that would pave the way for Native Hawaiians to achieve federal recognition as a self-governing entity that would enjoy a government-to-government relationship with the United States, much the same way American Indian tribes and Alaska Native communities do.

“Native Hawaiians are the only indigenous group without access to recognition,” Martha Ross, chief of the Office of Hawaiian Affairs’ (OHA) D.C. Bureau, told *NAR*. OHA consists of elected trustees who administer the funds generated on trust lands for Native Hawaiians.

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**“This is about making sure** Hawaiians as a political and cultural entity are not eliminated from our country.”

**Martha Ross**  
Office of Hawaiian Affairs

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S. 344, sponsored by Sen. Daniel Akaka (D-Hawaii), would provide a process by which Native Hawaiians could apply for recognized status. It also would establish an Office of Native Hawaiian Relations within the Interior Department, as well as a Native Hawaiian Interagency Coordinating Group.

Proponents regard the recognition of Native Hawaiians as critical to affirming their sovereignty, property titles and rights to natural resources, all of which have remained uncertain, despite promises

made to Native Hawaiians when Hawaii became a state in 1959. Native Hawaiians also cite the 1893 overthrow of the Hawaiian government as a reason the United States has a special responsibility toward the welfare of natives.

Finally, and perhaps most urgent, the recognition of a political governing entity would bring an end to the legal uncertainty surrounding federal funding for Native Hawaiians, which has been increasingly challenged as a discriminatory race-based policy (*see story, 117*).

## OHA Goes to Washington

While bills similar to S. 344 passed House and Senate committees last year, neither received a floor vote.

This year, however, Native Hawaiians are capitalizing on a highly focused agenda that has created a flurry of mostly behind-the-scenes lobbying activity during the past few months. In February OHA opened its new D.C. bureau, aiming to give OHA a stronger base from which to coordinate lobbying efforts.

The opening of the D.C. bureau also was timed to coincide with a Senate Committee on Indian Affairs hearing on S. 344, where Hawaii Gov. Linda Lingle (R) testified in full support of the bill. Lingle’s Republican ties, combined with newly retained lobbying forces of law firm Patton Boggs, are expected to help chances of securing endorsement from the Bush administration, which could prove critical to the endeavor.

*(Continued on p. 116)*

## Rice v. Cayetano (98-818)

Native Hawaiians have had greater reason to seek certainty of status ever since the Supreme Court struck down a Native Hawaiians-only voting policy in 2000, which then gave rise to more legal challenges against Native preference.

In *Rice v. Cayetano*, a white Hawaiian resident sued the Hawaiian government, arguing that the restriction of Office of Hawaiian Affairs’ (OHA) trustee elections to Native Hawaiians was an unconstitutional race-based policy, since Native Hawaiians are not a recognized political entity. Though OHA specifically administers income from trust lands for Native Hawaiians, the high court agreed, saying the restrictions violated the 15<sup>th</sup> Amendment, which states that no person can be denied the right to vote based on race.

## Native Hawaiian (Cont. from p. 115)

But Native Hawaiian leaders maintain that the bid for federal recognition is “a bipartisan initiative,” Ross said. “The Republican governor and Hawaii’s Democratic delegation are working together, and to have all of them involved really helps demonstrate the bipartisan nature of this.”

### Not So Fast

Still, there is a reason why there have been seven Senate hearings on the issue, two bills passed by the House Resources Committee and still no recognition of a Hawaiian indigenous government.

According to critics of the effort, federal recognition is tantamount to creating a new nation — a major step that raises a host of issues and players. In Hawaii, a coalition of groups is fighting the effort by lobbying members of Congress, circulating petitions and citing a broad range of concerns. Some worry that federal recognition could open the doors to gambling, and that it would be a divisive move for Hawaiian citizens.

Perhaps the most publicized argument, however, is that granting special status to Native Hawaiians could be deemed unconstitutional and discriminatory. According to retired attorney William Burgess, who has led the opposition to S. 344, there is no historical basis, as there is with Indian tribes, for granting Native Hawaiians preferential treatment.

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**“The Akaka bill would give** Native Hawaiians something that no Indian tribe ever had — that is the right to create an entity out of a tribe where none existed before, based strictly on ancestry, not on membership.”

**William Burgess**  
Aloha For All

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“Historically Indians and Native Hawaiians are different, and legally they are different,” Burgess told *NAR*.

Whereas Indians had separate governments similar to foreign nations at the inception of the United States, Hawaii was a multi-ethnic nation long before 1898 when it became a U.S. territory. And when Hawaii became a state in 1959, the entire Hawaiian kingdom was embraced — there was no separate governing entity, he said.

“Let me put it to you this way: What Indian tribe has there been that, long before the United States came to be, had adopted Western religion, the English language?” Burgess told *NAR*.

While Native Hawaiians are indigenous people, “there is nothing in the Constitution that says indigenous people can be treated differently from others,” he said.

The National Congress of American Indians (NCAI) has supported Native Hawaiian recognition, yet some in Indian Country fear that new programs for Native Hawaiians could siphon from the pool of funding available for Indian tribes and Alaska Natives. According to Burgess, it is inevitable that tribes’ pie slice in federal funding would become smaller as a result of S. 344.

However, Mary Pavel, a Washington attorney specializing in Indian affairs, told *NAR* that Native Hawaiians and Indian tribes

“don’t even fish from the same pond.” Pavel said there are dollars that go to many other groups that should go to tribes.

### Government Holds the Key

Despite the debate, the initiative’s fate ultimately lies in the hands of Congress, with the Bush administration playing an influential role.

The Department of Interior has been cautious toward a Native Hawaiian government, raising several questions about how such a governing entity would be implemented. In fact, before S. 344 was passed by committee last month, it was revised in accordance with the department’s request for a specific process by which Native Hawaiians would seek recognition. Interior officials did not return *NAR*’s phone calls by press time.

A Justice Department spokesman told *NAR* the department had not yet formed an official position, though an official recently questioned the legality of providing grants to Native Hawaiians because they are not a recognized tribe (*see story, p. 117*).

The White House likewise has yet to come out in favor of S. 344, a move that would greatly help the bill’s viability, according to Sen. Daniel Inouye (D-Hawaii), ranking member of the Senate Indian Affairs Committee and one of the bill’s four sponsors.

Burgess, who spent last month meeting with members of Congress, said “there is strong opposition to the bill.” OHA representatives are continuing to meet with members of Congress this month “to try to explain Native Hawaiians’ unique position,” OHA Bureau Chief Ross told *NAR*.

Contacts: Martha Ross, OHA, (202) 721-1388; H. William Burgess, Aloha For All, (808) 947-3234; Senate Committee on Indian Affairs, (202) 224-2251; Sen. Akaka’s office, (202) 224-6361.

Native Hawaiian Funding**Justice Department Questions Legality Of Small Biz Grants to Native Hawaiians**

A bill to extend eligibility for small business grants to Native Hawaiians is being stalled in a Senate committee after a Justice Department official questioned the constitutionality of the race-based funding.

H.R. 1166, sponsored by Rep. Tom Udall (D-N.M.), proposes to amend the Small Business Act to allow Small Business Development Centers to provide grants for American Indians, Alaska Natives and Native Hawaiians. The bill passed the House in March.

However, according to a letter from Assistant Attorney General William Moschella to the Senate Small Business and Entrepreneurship Committee, funding for Native Hawaiians could constitute illegal use of race and ethnic criteria, since Native Hawaiians are not federally recognized as a political and self-governing entity the way American Indians or Alaska Natives are.

“To avoid this constitutional concern, the bill should be amended to include only those individuals who have a close affiliation with a recognized tribal entity,” Moschella wrote. Unless it could be demonstrated that funding for Native Hawaiians served “a compelling governmental interest,” he said the term “Native Hawaiians” should be deleted from the bill.

**Native Hawaiians Status Is ‘Unresolved’**

According to Moschella, grants to federally recognized tribes and Alaska Native villages could stand up in court under the 1974 *Morton v. Mancari* ruling, which said that tribes are political groups, therefore preferential treatment does not constitute race-based discrimination.

As for whether Congress may treat Native Hawaiians in the same manner as Indian tribes, Moschella said “there is a substantial, unresolved question.”

The Senate committee currently is reviewing the letter and looking to address the concerns, which may delay the passage of the bill for another six weeks. “We’re trying to find a way the bill could be amended or moved to address the legal concerns,” Craig Orfield, Republican committee spokesman, told *NAR*.

Meanwhile, speculation abounds as to whether the Justice Department’s actions are indicative of

its stance on Native Hawaiians’ efforts to obtain federal recognition through S. 344 (*see story, p. 115*).

While Orfield said he could not speak to the issue, he said it was not common for the Justice Department to send letters such as Moschella’s. Blain Rethmeier, public affairs specialist at the Justice Department, told *NAR* the letter strictly addresses H.R. 1166. The department has not taken a position on S. 344 and he could not elaborate on when it will take a position, he said.

Contacts: Blain Rethmeier, Justice Department, (202) 616-2777; Craig

Orfield, Senate Small Business and Entrepreneurship Committee, (202) 224-5175.

## Native Hawaiian Sovereignty Special Report

Ceded Lands**Tug-of-War, Uncertainty Continue Over Historical Promises to Natives**

As Native Hawaiians try to earn recognition similar to that of Native Americans under federal law, they also fight an uphill battle on another front. This conflict is over continuing revenues Native Hawaiians were promised in return for handing over their lands near the end of the nineteenth century.

The controversy over ceded lands always seems to flare up when the state economy struggles, said Dan Boylan a political analyst and instructor at the University of Hawaii.

“Our budget was in difficult financial circumstances in the 1990s,” he told *NAR*. “The result of that was increasingly that the Hawaiian community grew more and more unhappy about it. The financial crisis is worse today.”

**Historical Promise for Native Hawaii**

The controversy over ceded lands has its roots in the Hawaiian annexation treaty, ratified in 1898, which ceded Hawaiian lands to the U.S. government and provided that revenue from most lands be used “solely for the benefit of the inhabitants of the Hawaiian islands.”

While the treaty was federal, Hawaii became a state in 1959. As a condition of statehood, the federal government required Hawaii to set aside revenues from the ceded lands for Native Hawaiians. Included in the ceded lands are the Honolulu International Airport and tourist hot spots like Waikiki.

In 1978, Hawaii amended its constitution and created the Office of Hawaiian Affairs (OHA) to

(Continued on p.118)

## Ceded Lands (Cont. from p. 117)

handle Native Hawaiian issues and to be a repository for revenues from the ceded lands. The problem, however, was that there was never any clarity over how much money should be provided to OHA.

OHA was believed to be entitled to 20 percent of the ceded land revenue until 2001, when a state Supreme Court ruled in *OHA v. State* that the state legislature would have to decide how much because it was not clearly spelled out.

In April, the legislature agreed to pay \$9.5 million to OHA for a year-and-a-half time span following the court decision. However, the government has not come up with a final plan for future payments. "The question is what percentage will the state pay OHA," Boylan said.

Haunani Apoliona, OHA chairwoman, said the office wants to work with the legislature for a "fair and reasonable action to reconcile long-standing state issues relating to the ceded lands and ceded lands revenues." So far, Gov. Linda Lingle (R) has been a supporter of OHA, which Boylan said served her well in her election campaign.

### Minority Should Not Get Millions

Opponents of OHA believe it is unfair to give millions of dollars of revenue to natives because they make up less than 10 percent of the population.

Retired attorney H. William Burgess, one of the most vocal opponents of ceded lands money, contends that sending revenues to OHA burdens tax payers unfairly because OHA is not paying to help bring revenue to the ceded lands.

"Land doesn't just produce money naturally," he told NAR. "The amount the state has to spend to generate the income equals or exceeds the amount received as revenue from the land. The reason we object is the state pays 20 percent of the gross to OHA."

Burgess also contends the ceded land revenue program as it currently stands is an unconstitutional race-based program. "The public lands of Hawaii are held in a public trust for all the citizens of Hawaii, not just Native Hawaiians." Because the treaty language says funds should go to the "inhabitants of Hawaii," Burgess says that it means all citizens of the state, not just those who are of Hawaiian ancestry. Contacts: H. William Burgess, attorney, (808) 947-3234; Dan Boylan, University of Hawaii, (808) 454-4763; OHA, (808) 594-1888.

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## AROUND INDIAN COUNTRY

**NAVAJO SEXUAL ASSAULT CENTER** — A San Diego Sexual Assault Response Team (SART) has established a new center for the Navajo Nation. Within 72 hours of a reported assault, SART centers provide services ranging from counseling to forensic evidence collection and other crisis intervention assets. The center is meant to address the crisis of sexual assault on the Navajo reservation. In 1999, the Bureau of Justice Statistics reported that the rate of sexual assault among Native Americans was as high as 3.5 times the national average. The group of nurses that established the center hail from Palomar Pomerado Health, an 800-square-mile hospital district in California. "The Navajo Nation's commitment to the SART program is a signal to their society that the status quo is completely unacceptable," said Diana Faugno of Palomar Pomerado Health who leads the SART effort. Contact: Tamara Hemmerly, Palomar Pomerado Health, (858) 675-5129, [tamarahemmerly@pph.org](mailto:tamarahemmerly@pph.org).

**SPIRIT OF SOVEREIGNTY** — The National Indian Gaming Association (NIGA) has launched a new Web site for its Spirit of Sovereignty Foundation, which sponsors scholarship programs for Indian undergraduate and graduate students. Formed in 2000, the nonprofit organization has provided 11 scholarships since. The purpose of the scholarships is to encourage Native American communities to increase education and self-sufficiency among their peoples and to reward self-determination in Indian students. Contact: Letha Lamb, Spirit of Sovereignty Foundation, (480) 820-2464, [letha@mktgfactory.net](mailto:letha@mktgfactory.net); NIGA, (202) 546-7711.

**HOMEBUYERS TAX CREDIT** — The National American Indian Housing Council (NAIHC) is throwing support behind the First-Time Homebuyers Tax Credit Act of 2003, which would authorize a tax credit to help subsidize closing costs or down payments for first-time homebuyers. The one-time tax credit (\$3,000 for individuals, \$6,000 for married couples) could also be claimed in the first year of purchase for such homebuyers on their income tax statement. Currently, the high closing costs and downpayments are obstacles preventing many Native American families from buying their first homes. According to NAIHC Chairman Russell Sosamon, the legislation "recognizes that homeownership can bring about financial independence and pride through equity-building for many individuals and families throughout the United States." Bill sponsors are Sens. Debbie Stabenow (D-Mich.) and Gordon Smith (R-Ore.). Contacts: Raven Miller, NAIHC, (202) 789-1754; Sen. Stabenow's office, (202) 224-4822.

## FUNDING OPPORTUNITIES

### Asthma Grants

**Agency:** Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC).

**Amount:** A total of \$4.45 million in FY 2003 to fund about 9-12 awards. About \$600,000 for 1-3 awards under the "Developing State Capacity to Address Asthma" category. About \$2.45 million for seven awards under "Enhancing State Capacity to Address Asthma." About \$1.4 million for 1-2 awards under "Implementation of State Asthma Plans."

**Purpose:** CDC is looking to award cooperative agreements under the "Addressing Asthma from a Public Health Perspective" program. The program aims to develop capacity to address asthma from a public health perspective by promoting a focus of asthma-related activity within the agency; greater understanding of asthma-related data and its application to program planning through development of an ongoing surveillance system; and other goals. Eligible applicants include Indian tribes, federally recognized tribal governments and tribal organizations. Deadline is **July 14**.

**Contacts:** For business management and budget assistance, Mildred Garner, CDC, (770) 488-2745, [mqg4@cdc.gov](mailto:mqg4@cdc.gov); for program technical assistance, Kathie Sunnarborg, CDC, (404) 498-1451, [ksunnarborg@cdc.gov](mailto:ksunnarborg@cdc.gov). *Federal Register (FR)*, May 28, pp. 31707-31720.

### Rural Health Research Grants

**Agency:** HHS, Health Resources and Services Administration.

**Amount:** About \$900,000 in FY2003 for six awards lasting 12 months.

**Purpose:** The Office of Rural Health Policy is awarding grants to support research projects that address rural health services. The grants aim to advance areas of rural health services research in which a limited amount of research exists. The research will be useful in informing policy-makers concerned with rural health issues. Research topics sought include American Indian/Alaska Native/Native Hawai'ian Health Issues; Integration of Native and Non-Native Health Care; mental health; substance abuse, and more. Eligible applicants include public, private, and nonprofit organizations, including faith-based and community-based groups. Deadline is **July 7**.

**Contacts:** Janice Gordon, Grants Management Officer, (301) 443-2385, [jgordon@hrsa.gov](mailto:jgordon@hrsa.gov); Darren Buckner, Grants Management Specialist, (301) 443-1913, [dbuckner@hrsa.gov](mailto:dbuckner@hrsa.gov). *(FR)*, June 4, pp. 33506-33507.

### Judicial Course

## **Tribal Law Center Offers Scholarships For Course for Tribal Appellate Judges**

Tribal judges who handle civil or criminal cases on appeal could get funding to take a course on appellate judicial skills.

The National Tribal Judicial Center at the National Judicial College in Reno, Nev., is offering partial and full scholarships for an educational course designed to improve the specific skills needed by tribal appellate judges. Called "Essential Skills for Tribal Appellate Judges," the course aims to help participants make decisions in a group setting; analyze appellate issues logically; write clear, well-reasoned decisions; and explore appellate techniques that have been found to be effective in a variety of jurisdictions.

Faculty members include judges with appellate experience and experts in the field of writing, logic and legal reasoning. The course uses a "tell, show, do" format for skills development. Scholarships are awarded based on need.

Contact: Traci Hobson, National Tribal Judicial Center, (775) 327-8202 or (800) 25-JUDGE, [www.judges.org](http://www.judges.org), [hobson@judges.org](mailto:hobson@judges.org).

### Grants Awarded

## **Indians Benefit from SAMHSA Grants To Expand Substance Abuse Treatment**

Organizations servicing Native Americans are among the recipients of federal government grants to expand substance abuse treatment capacity in local communities.

Awarded by the Substance Abuse and Mental Health Services Administration (SAMHSA), the grants target "hard-to-reach populations," according to Secretary of Health and Human Services Tommy Thompson. The grants, totaling almost \$3.5 million per year for three years, focus on local areas where there are serious, emerging substance abuse problems or demands for alcohol and drug treatment services.

Recipients include: Cook Inlet Tribal Council Inc., Anchorage, Alaska, \$500,000 per year; City of Gallup, N.M., for the Native American Wellbriety Path, \$500,000 per year; Fairbanks Native Association, Fairbanks, Alaska, \$466,700 per year; City of Huntington, W.Va., for services in the Treatment Access for Rural Populations program, \$497,000 per year.

Contact: Leah Young, SAMHSA, (301) 443-8956, [www.samhsa.gov](http://www.samhsa.gov).

<b>FEDERAL REGISTER</b>
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**Ed Department/Reopening program application.**

The Education Department is extending the application dates for certain applicants to the following programs: Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program, and Alaska Native and Native Hawaiian-Serving Institutions Programs. Due to conflicting information given at a department-sponsored technical assistance workshop, there was confusion about the page-limit of the application. Those who submitted timely applications will be allowed to resubmit them to meet the page limit requirements. The new deadline is **June 23**. Contacts: for title III, part A programs, Darlene Collins, (202) 502-7576; for title V program: Louis Venuto, (202) 502-7763. *Federal Register (FR)*, June 13, pp. 35393-35394.

**IHS/Award for dialysis service.** Notice. The Indian Health Service (IHS) has awarded a one-time \$75,000 grant to the Porcupine Clinic in South Dakota to cover start-up costs in reopening the Porcupine Dialysis Center. The Porcupine Clinic provides care to Native American people who live on the Pine Ridge and Rosebud reservations or who live in non-reservation areas with significant Native American populations. Dialysis patients must travel a long distance to make their appointments two to three times a week at the clinic. Contact: Paul Iron Cloud, Porcupine Clinic Executive Director, (605) 867-5665; for grants information, Sylvia Ryan, IHS, (301) 443-5204. *FR*, June 11, p. 34982.

**BIA/Loan Guaranty, Insurance program.** Request for comment. The Bureau of Indian Affairs (BIA) is seeking comments on the collection of information it conducts for participants in the Loan Guaranty, Insurance, and Interest Subsidy Program. The program encourages private lending to Indian individuals and organizations by providing lenders with loan guaranties or loan insurance to reduce their potential risk. The information is collected from users of the program to help BIA determine eligibility and credit worthiness of respondents. Submit comments by **Aug. 11**. Send comments to Ray Brown, BIA, 1849 C St., NW, Mail Stop 2412-MIB, Washington, DC 20240, or fax to (202) 208-7419. *FR*, June 10, pp. 34640-34641.

**BIA/Tribal federal acknowledgment.** Request for comments. The Bureau of Indian Affairs (BIA) is seeking comments on its information collection on documented petitions for federal acknowledgment, which will expire Sept. 30. The information collection helps BIA establish whether a petitioning group has the characteristics necessary to be ac-

knowledged as having a sovereign-to-sovereign relationship with the United States. BIA seeks comments on the information collection before it requests extension from the Office of Management and Budget. Submit written comments by **Aug. 1** to R. Lee Fleming, Chief, Branch of Acknowledgment and Research, BIA, 1849 C Street, NW, MS-4660 MIB, Washington, DC 20240, or by fax (202) 219-3008. Contact: R. Lee Fleming, BIA, (202) 208-3592. *FR*, June 2, pp. 32765-32766.

**NAHASDA/Negotiated Rulemaking Meeting.**

Notice. The Negotiated Rulemaking Committee of the Native American Housing Assistance and Self-Determination Act (NAHASDA) will meet June 17-19 in Seattle. The purpose of the meeting will be to discuss and negotiate a proposed rule that would change the regulations for the Indian Housing Block Grant (IHBG) program allocation formula, and other regulatory issues involving the allocation or reallocation of IHBG funds. Contact: Rodger Boyd, Deputy Assistant Secretary for **Native American Programs**, Department of Housing and Urban Development, (202) 401-7914. *FR*, June 9, p. 34344.

END

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