PUBLIC LAW 100-175—NOV. 29, 1987
101 STAT. 973

PREMIE'S DISEASE
ARCH

ALTRIALS.

of the National Institute on Aging clinical trials on the efficacy of the
agents as have been or may be
further scientific analysis by the
Food and Drug Administration’s
disease, to retard the progress
sease, or to improve the function-

nothing in this title shall be con-
search being conducted as of the

RATIONS.

section 301, there is authorized to
year 1988.

I SCHOOLS LUNCH
MENT

PERSONS AND CHRONICALLY I-
S IN CHID CARE FOOD PROGR.

child Lunch Act (42 U.S.C. 1766) is

adult day care centers shall be
reimbursement for meals or
years of age or older or to chronic-
cluding victims of Alzheimer’s
neurological and organic brain
d to such institutions for such
of meals or level of services

center’ means any public agency

ited by Federal, State, or local
care services to chronically
years of age or older
their homes on a less than 24-

services directly or under
ency or organization whereby
ains professional manage-
services; and
MIX or title XX center’ means
iding adult day care services
from amounts granted to the
the Social Security Act and
anicipies were not less than 25
ants in a calendar month

preceding initial application or annual reapplication for pro-
gram participation.
(3)(A) The Secretary of Agriculture, in consultation with the
Commissioner on Aging, may establish separate guidelines for re-
bursement of institutions described in this subsection.

(B) The guidelines shall contain provisions designed to assure
reimbursement under this subsection shall not duplicate re-
bursement under part C of title III of the Older Americans Act of
1965, for the same meal served.”.

TITLE V—NATIVE AMERICAN PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the “Native American Programs Act
Amendments of 1987”.

SEC. 502. REVIEW OF APPLICATIONS FOR ASSISTANCE.

The Native American Programs Act of 1974 (42 U.S.C. 2991-
2992d) is amended—

(1) in the first sentence of section 803(a) by inserting “, on a
single year or multiyear basis,” after “financial assistance”; and

2) by redesignating sections 813 and 814 as sections 815 and
816, respectively,

3) by redesignating sections 806 through 812, as sections 807
through 813, respectively, and

4) by inserting after section 805 the following:

“PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 806. (a)(1) The Secretary shall establish a formal panel
review process for purposes of—

(A) evaluating applications for financial assistance under
sections 803 and 805; and

(B) determining the relative merits of the projects for which
such assistance is requested.

(2) To implement the process established under paragraph (1),
the Secretary shall appoint members of review panels from among
individuals who are not officers or employees of the Administration
for Native Americans. In making appointments to such panels, the
Secretary shall give preference to American Indians, Native Hawai-
ians, and Alaskan Natives.

(b) Each review panel appointed under subsection (a)(2) that
reviews any application for financial assistance shall—

(1) determine the merit of each project described in such
application;

(2) rank such application with respect to all other applica-
tions it reviews for the fiscal year involved, according to the
relative merit of all of the projects that are described in such
application and for which financial assistance is requested; and

(3) submit to the Secretary a list that identifies all applica-
tions reviewed by such panel and arranges such applications
according to rank determined under paragraph (2).

(c) Upon the request of the chairman of the Select Committee
on Indian Affairs of the Senate or of the chairman of the Committee
on Education and Labor of the House of Representatives made with
respect to any application for financial assistance under section 803
or 805, the Secretary shall transmit to the chairman written notice—

“(1) identifying such application;
“(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;
“(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and
“(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—
“(A) approving the application with respect to which such notice is transmitted; and
“(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).”.

SEC. 553. PROCEDURAL REQUIREMENTS.

(a) RULEMAKING.—The Native American Programs Act of 1974 (42 U.S.C. 2991–2992d) is amended by inserting after section 813, as so redesignated by section 502, the following:

“ADDITIONAL REQUIREMENTS APPLICABLE TO RULEMAKING

“Sec. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.
“(b)(1) Subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any interpretative rule or general statement of policy—
“(A) proposed under this title; or
“(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.
“(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—
“(A) proposed under this title; or
“(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.
“(3) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—
“(A) proposed under this title; or
“(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title;
unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.
“(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—
PUBLIC LAW 100-175—NOV. 29, 1987

SEC. 504. INCLUSION OF OTHER NATIVE AMERICAN PACIFIC ISLANDERS.

(a) FINANCIAL ASSISTANCE.—Section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by inserting after the first sentence the following: "The Secretary is authorized, subject to the availability of funds appropriated under the authority of section 512(c), to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoa Natives) for projects pertaining to the purposes of this Act.”.

(b) CONFORMING AMENDMENTS.—(1) Section 802 of the Native American Programs Act of 1974 (42 U.S.C. 2991a) is amended by inserting "other Native American Pacific Islanders (including American Samoa Natives)" after "Hawaiian Natives”.

(2) Section 806(a)(2) of the Native American Programs Act, as added by section 502(4) of this Act, is amended by inserting "other Native American Pacific Islanders (including American Samoa Natives),” after "Hawaiian Natives”.

(3) Section 506 of the Native American Programs Act of 1974 (42 U.S.C. 2991f), as so redesignated by section 502, is amended by inserting "or Territory” after "State” each place it appears.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502 of this Act, is amended—
(1) in subsection (a) by striking "1979 through 1986" and inserting "1988, 1989, 1990, and 1991", and
(2) by adding at the end the following:

"(c)(1) Except as provided in paragraph (2), there are authorized to be appropriated $500,000 for each of the fiscal years 1988, 1989, 1990, and 1991 for the purpose of providing financial assistance to other Native American Pacific Islanders (including American Samoan Natives) under section 803(a).

"(2) No funds may be appropriated under paragraph (1) for a fiscal year unless the amount appropriated under subsection (a) for such fiscal year exceeds 105 percent of the amount appropriated under subsection (a) for the preceding fiscal year.".

SEC. 506. REVOLVING LOAN FUND FOR NATIVE HAWAIANS.

(a) Establishment of Fund and Authority for Grants.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting after section 803 the following:

"LOAN FUND: DEMONSTRATION PROJECT

SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Secretary shall award grants to one agency of the State of Hawaii, or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians, which shall use such grants to establish and carry out, in the State of Hawaii, a 5-year demonstration project involving the establishment of a revolving loan fund—

"(A) from which such agency or Native Hawaiian organization shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

"(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

"(2) The agreement under which a grant is awarded under paragraph (1) shall contain provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant.

"(b)(1) The agency or organization to which a grant is awarded under subsection (a)(1) may make loans to a borrower under subsection (a)(1)(A) only if the agency or organization determines that—

"(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

"(B) there is a reasonable prospect that the borrower will repay the loan.

"(2) Loans made under subsection (a)(1)(A) shall be—

"(A) for a term that does not exceed 5 years; and

"(B) at a rate of interest that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made.

"(3) The agency or organization to which a grant is awarded under subsection (a)(1) may require any borrower of a loan made under subsection (a)(1)(A) to provide such collateral as the agency or organization determines to be necessary to secure the loan.

"(4) Prior to making loans under subsection (a)(1)(A), the agency or organization to which a grant is awarded under subsection (a)(1)
shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Secretary. Such agency or organization shall provide to each applicant for a loan under subsection (a)(1)(A), at the time application for the loan is made, a written copy of such procedures and definitions.

(5) The agency or organization to which a grant is awarded under subsection (a)(1) may not lend to itself any of the funds awarded under the grant.

(6) No loan may be made from the revolving fund that is required to be established under subsection (a) after the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987.

(c)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall provide the Secretary at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the agency or organization to which a grant is awarded under subsection (a)(1) shall notify the Secretary that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall include recommendations for future action to be taken by the agency or organization.

(B) Upon receiving such notice, the Secretary shall instruct the agency or organization—

(1) to continue with its collection activities;

(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

(c)(2) The agency or organization shall carry out all instructions received under subparagraph (B) from the Secretary.

(d)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall, out of funds available in the revolving loan fund established under such subsection—

(A) pay expenses incurred by the agency or organization in administering the revolving loan fund; and

(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

(2) The Secretary shall provide to the agency or organization to which a grant is made under subsection (a)(1) such management and technical assistance as the agency or organization may request in order to carry out the provisions of this section.

(e) Not later than 120 days after the date of enactment of the Native American Programs Act Amendments of 1987, the Secretary, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

(1) in making loans under subsection (a)(1)(A); and

(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.
The Secretary may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

"(X)(1) There is authorized to be appropriated for fiscal years 1988, 1989, and 1990 the aggregate amount $3,000,000 for all such fiscal years for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

"(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

"(3)(A) All monies that are in the revolving loan fund at the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987 and that are not otherwise needed (as determined by the Secretary) to carry out the provisions of this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(B) All monies deposited in the revolving loan fund after the close of such period pursuant to subsection (a)(1)(B) shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(g)(1) The Secretary, in consultation with the agency or organization to which a grant is awarded under subsection (a)(1), shall submit to the Congress—

"(A) an interim report not later than 2 years after the date of enactment of the Native American Programs Act Amendments of 1987; and

"(B) a final report not later than 4 years after the date of enactment of the Native American Programs Act Amendments of 1987;

regarding the administration of this section.

"(2) Each such report shall include the views and recommendations of the Secretary regarding—

"(A) the effectiveness of the demonstration project;

"(B) whether the demonstration project should be expanded to other groups eligible for assistance under this title; and

"(C) whether the duration of the demonstration project should be extended.

(b) CONFORMING AMENDMENTS.—Subsections (a) and (b) of section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502, are each amended by inserting "(other than section 803A)" after "title".

(c) TECHNICAL AMENDMENTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

42 USC 2991a.

(1) in section 802 by striking "Hawaiian Natives" and inserting "Native Hawaiians", and

42 USC 2991b.

(2) in the first sentence of section 803 by striking "Hawaiian Natives" and inserting "Native Hawaiians".