

112TH CONGRESS  
1ST SESSION

# H. R. 1250

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2011

Ms. HIRONO (for herself, Ms. HANABUSA, Mr. YOUNG of Alaska, Mr. FALEOMAVAEGA, Ms. BORDALLO, Mr. COLE, Mrs. MALONEY, Mr. HONDA, Mr. KILDEE, Ms. DEGETTE, Mr. MCDERMOTT, Mr. FARR, Mr. STARK, Mr. COURTNEY, Mr. BOSWELL, Ms. MATSUI, Mr. HINCHEY, Mr. CARNAHAN, Mr. WALZ of Minnesota, Mr. PAYNE, Mr. SABLAN, Ms. WOOLSEY, Mr. KUCINICH, Mr. MCINTYRE, Ms. ROYBAL-ALLARD, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

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.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native Hawaiian Gov-  
5 ernment Reorganization Act of 2011”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the Constitution vests Congress with the au-  
4 thority to address the conditions of the indigenous,  
5 native people of the United States and the Supreme  
6 Court has held that under the Indian Commerce,  
7 Treaty, Supremacy, and Property Clauses, and the  
8 War Powers, Congress may exercise that power to  
9 rationally promote the welfare of the native peoples  
10 of the United States so long as the native people are  
11 a “distinctly native community”;

12 (2) Native Hawaiians, the native people of the  
13 Hawaiian archipelago that is now part of the United  
14 States, are 1 of the indigenous, native peoples of the  
15 United States, and the Native Hawaiian people are  
16 a distinctly native community;

17 (3) the United States has a special political and  
18 legal relationship with, and has long enacted legisla-  
19 tion to promote the welfare of, the native peoples of  
20 the United States, including the Native Hawaiian  
21 people;

22 (4) under the authority of the Constitution, the  
23 United States concluded a number of treaties with  
24 the Kingdom of Hawaii, and from 1826 until 1893,  
25 the United States—

1 (A) recognized the sovereignty of the King-  
2 dom of Hawaii as a nation;

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

5 (C) entered into treaties and conventions  
6 of peace, friendship and commerce with the  
7 Kingdom of Hawaii to govern trade, commerce,  
8 and navigation in 1826, 1842, 1849, 1875, and  
9 1887;

10 (5) pursuant to the Hawaiian Homes Commis-  
11 sion Act, 1920 (42 Stat. 108, chapter 42), the  
12 United States set aside approximately 203,500 acres  
13 of land in trust to better address the conditions of  
14 Native Hawaiians in the Federal territory that later  
15 became the State of Hawaii and in enacting the Ha-  
16 waiian Homes Commission Act, 1920, Congress ac-  
17 knowledged the Native Hawaiian people as a native  
18 people of the United States, as evidenced by the  
19 Committee Report, which notes that Congress relied  
20 on the Indian affairs power and the War Powers, in-  
21 cluding the power to make peace;

22 (6) by setting aside 203,500 acres of land in  
23 trust for Native Hawaiian homesteads and farms,  
24 the Hawaiian Homes Commission Act, 1920, assists  
25 the members of the Native Hawaiian community in

1 maintaining distinctly native communities through-  
2 out the State of Hawaii;

3 (7) approximately 9,800 Native Hawaiian fami-  
4 lies reside on the Hawaiian Home Lands, and ap-  
5 proximately 25,000 Native Hawaiians who are eligi-  
6 ble to reside on the Hawaiian Home Lands are on  
7 a waiting list to receive assignments of Hawaiian  
8 Home Lands;

9 (8)(A) in 1959, as part of the compact with the  
10 United States admitting Hawaii into the Union,  
11 Congress delegated the authority and responsibility  
12 to administer the Hawaiian Homes Commission Act,  
13 1920, lands in trust for Native Hawaiians and es-  
14 tablished a new public trust (commonly known as  
15 the “ceded lands trust”), for 5 purposes, 1 of which  
16 is the betterment of the conditions of Native Hawai-  
17 ians, and Congress thereby reaffirmed its recogni-  
18 tion of the Native Hawaiians as a distinctly native  
19 community with a direct lineal and historical succes-  
20 sion to the aboriginal, indigenous people of Hawaii;

21 (B) the public trust consists of lands, including  
22 submerged lands, natural resources, and the reve-  
23 nues derived from the lands; and

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

1           (9) Native Hawaiians have continuously sought  
2           access to the ceded lands in order to establish and  
3           maintain native settlements and distinct native com-  
4           munities throughout the State;

5           (10) the Hawaiian Home Lands and other  
6           ceded lands provide important native land reserves  
7           and resources for the Native Hawaiian community  
8           to maintain the practice of Native Hawaiian culture,  
9           language, and traditions, and for the continuity, sur-  
10          vival, and economic self-sufficiency of the Native  
11          Hawaiian people as a distinctly native political com-  
12          munity;

13          (11) Native Hawaiians continue to maintain  
14          other distinctly native areas in Hawaii, including na-  
15          tive lands that date back to the ali'i and kuleana  
16          lands reserved under the Kingdom of Hawaii;

17          (12) through the Sovereign Council of Hawaiian  
18          Homelands Assembly, Native Hawaiian civic associa-  
19          tions, charitable trusts established by the Native Ha-  
20          waiian ali'i, nonprofit native service providers and  
21          other community associations, the Native Hawaiian  
22          people have actively maintained native traditions and  
23          customary usages throughout the Native Hawaiian  
24          community and the Federal and State courts have  
25          continuously recognized the right of the Native Ha-

1 waiian people to engage in certain customary prac-  
2 tices and usages on public lands;

3 (13) on November 23, 1993, Public Law 103–  
4 150 (107 Stat. 1510) (commonly known as the  
5 “Apology Resolution”) was enacted into law, extend-  
6 ing an apology on behalf of the United States to the  
7 native people of Hawaii for the United States role  
8 in the overthrow of the Kingdom of Hawaii;

9 (14) the Apology Resolution acknowledges that  
10 the overthrow of the Kingdom of Hawaii occurred  
11 with the active participation of agents and citizens  
12 of the United States, and further acknowledges that  
13 the Native Hawaiian people never directly relin-  
14 quished to the United States their claims to their in-  
15 herent sovereignty as a people over their national  
16 lands, either through the Kingdom of Hawaii or  
17 through a plebiscite or referendum;

18 (15)(A) the Apology Resolution expresses the  
19 commitment of Congress and the President—

20 (i) to acknowledge the ramifications of the  
21 overthrow of the Kingdom of Hawaii; and

22 (ii) to support reconciliation efforts be-  
23 tween the United States and Native Hawaiians;

24 (B) Congress established the Office of Hawai-  
25 ian Relations within the Department of the Interior

1 with 1 of its purposes being to consult with Native  
2 Hawaiians on the reconciliation process; and

3 (C) the United States has the duty to reconcile  
4 and reaffirm its friendship with the Native Hawaiian  
5 people because, among other things, the United  
6 States Minister and United States naval forces par-  
7 ticipated in the overthrow of the Kingdom of Ha-  
8 waii;

9 (16)(A) despite the overthrow of the Govern-  
10 ment of the Kingdom of Hawaii, Native Hawaiians  
11 have continued to maintain their separate identity as  
12 a single distinctly native political community  
13 through cultural, social, and political institutions,  
14 and to give expression to their rights as native peo-  
15 ple to self-determination, self-governance, and eco-  
16 nomic self-sufficiency; and

17 (B) there is clear continuity between the ab-  
18 original, indigenous, native people of the Kingdom of  
19 Hawaii and their successors, the Native Hawaiian  
20 people today;

21 (17) Native Hawaiians have also given expres-  
22 sion to their rights as native people to self-deter-  
23 mination, self-governance, and economic self-suffi-  
24 ciency—

1 (A) through the provision of governmental  
2 services to Native Hawaiians, including the pro-  
3 vision of—

4 (i) health care services;

5 (ii) educational programs;

6 (iii) employment and training pro-  
7 grams;

8 (iv) economic development assistance  
9 programs;

10 (v) children’s services;

11 (vi) conservation programs;

12 (vii) fish and wildlife protection;

13 (viii) agricultural programs;

14 (ix) native language immersion pro-  
15 grams;

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

18 (xi) college and master’s degree pro-  
19 grams in native language immersion in-  
20 struction; and

21 (xii) traditional justice programs; and

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



1           (18) Native Hawaiian people are actively en-  
2           gaged in Native Hawaiian cultural practices, tradi-  
3           tional agricultural methods, fishing and subsistence  
4           practices, maintenance of cultural use areas and sa-  
5           cred sites, protection of burial sites, and the exercise  
6           of their traditional rights to gather medicinal plants  
7           and herbs, and food sources;

8           (19) the Native Hawaiian people wish to pre-  
9           serve, develop, and transmit to future generations of  
10          Native Hawaiians their lands and Native Hawaiian  
11          political and cultural identity in accordance with  
12          their traditions, beliefs, customs and practices, lan-  
13          guage, and social and political institutions, to con-  
14          trol and manage their own lands, including ceded  
15          lands, and to achieve greater self-determination over  
16          their own affairs;

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

24          (21) Congress—

1 (A) has declared that the United States  
2 has a special political and legal relationship for  
3 the welfare of the native peoples of the United  
4 States, including Native Hawaiians;

5 (B) has identified Native Hawaiians as an  
6 indigenous, distinctly native people of the  
7 United States within the scope of its authority  
8 under the Constitution, and has enacted scores  
9 of statutes on their behalf; and

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

14 (22) the United States has recognized and re-  
15 affirmed the special political and legal relationship  
16 with the Native Hawaiian people through the enact-  
17 ment of the Act entitled, “An Act to provide for the  
18 admission of the State of Hawaii into the Union”,  
19 approved March 18, 1959 (Public Law 86–3; 73  
20 Stat. 4), by—

21 (A) ceding to the State of Hawaii title to  
22 the public lands formerly held by the United  
23 States, and mandating that those lands be held  
24 as a public trust for 5 purposes, 1 of which is

1 for the betterment of the conditions of Native  
2 Hawaiians; and

3 (B) transferring the United States respon-  
4 sibility for the administration of the Hawaiian  
5 Home Lands to the State of Hawaii, but retain-  
6 ing the exclusive right of the United States to  
7 consent to any actions affecting the lands in-  
8 cluded in the trust and any amendments to the  
9 Hawaiian Homes Commission Act, 1920 (42  
10 Stat. 108, chapter 42), that are enacted by the  
11 legislature of the State of Hawaii affecting the  
12 beneficiaries under the Act;

13 (23) the United States has continually recog-  
14 nized and reaffirmed that—

15 (A) Native Hawaiians have a direct genea-  
16 logical, cultural, historic, and land-based con-  
17 nection to their forebears, the aboriginal, indig-  
18 enous, native people who exercised original sov-  
19 ereignty over the Hawaiian Islands;

20 (B) Native Hawaiians have never relin-  
21 quished their claims to sovereignty or their sov-  
22 ereign lands;

23 (C) the United States extends services to  
24 Native Hawaiians because of their unique sta-  
25 tus as the native people of a prior-sovereign na-

1           tion with whom the United States has a special  
2           political and legal relationship; and

3                   (D) the special relationship of American  
4           Indians, Alaska Natives, and Native Hawaiians  
5           to the United States arises out of their status  
6           as aboriginal, indigenous, native people of the  
7           United States; and

8                   (24) the State of Hawaii supports the reaffir-  
9           mation of the special political and legal relationship  
10          between the Native Hawaiian governing entity and  
11          the United States, as evidenced by 2 unanimous res-  
12          olutions enacted by the Hawaii State Legislature in  
13          the 2000 and 2001 sessions of the Legislature and  
14          by the testimony of the Governor of the State of Ha-  
15          waii before the Committee on Indian Affairs of the  
16          Senate on February 25, 2003, and March 1, 2005.

17 **SEC. 3. DEFINITIONS.**

18          In this Act:

19                   (1) ABORIGINAL, INDIGENOUS, NATIVE PEO-  
20          PLE.—The term “aboriginal, indigenous, native peo-  
21          ple” means a people whom Congress has recognized  
22          as the original inhabitants of the lands that later be-  
23          came part of the United States and who exercised  
24          sovereignty in the areas that later became part of  
25          the United States.

1           (2) APOLOGY RESOLUTION.—The term “Apol-  
2           ogy Resolution” means Public Law 103–150 (107  
3           Stat. 1510), a Joint Resolution extending an apol-  
4           ogy to Native Hawaiians on behalf of the United  
5           States for the participation of agents of the United  
6           States in the January 17, 1893, overthrow of the  
7           Kingdom of Hawaii.

8           (3) COMMISSION.—The term “Commission”  
9           means the Commission established under section  
10          8(b).

11          (4) COUNCIL.—The term “Council” means the  
12          Native Hawaiian Interim Governing Council estab-  
13          lished under section 8(c)(2).

14          (5) INDIAN PROGRAM OR SERVICE.—

15                (A) IN GENERAL.—The term “Indian pro-  
16                gram or service” means any federally funded or  
17                authorized program or service provided to an  
18                Indian tribe (or member of an Indian tribe) be-  
19                cause of the status of the members of the In-  
20                dian tribe as Indians.

21                (B) INCLUSIONS.—The term “Indian pro-  
22                gram or service” includes a program or service  
23                provided by the Bureau of Indian Affairs, the  
24                Indian Health Service, or any other Federal  
25                agency.

1           (6) INDIAN TRIBE.—The term “Indian tribe”  
2           has the meaning given the term in section 4 of the  
3           Indian Self-Determination and Education Assistance  
4           Act (25 U.S.C. 450b).

5           (7) INDIGENOUS, NATIVE PEOPLE.—The term  
6           “indigenous, native people” means the lineal de-  
7           scendants of the aboriginal, indigenous, native peo-  
8           ple of the United States.

9           (8) INTERAGENCY COORDINATING GROUP.—The  
10          term “Interagency Coordinating Group” means the  
11          Native Hawaiian Interagency Coordinating Group  
12          established under section 6.

13          (9) NATIVE HAWAIIAN GOVERNING ENTITY.—  
14          The term “Native Hawaiian governing entity”  
15          means the governing entity organized pursuant to  
16          this Act by the qualified Native Hawaiian constitu-  
17          ents.

18          (10) NATIVE HAWAIIAN MEMBERSHIP ORGANI-  
19          ZATION.—The term “Native Hawaiian Membership  
20          Organization” means an organization that—

21                 (A) serves and represents the interests of  
22                 Native Hawaiians, has as a primary and stated  
23                 purpose the provision of services to Native Ha-  
24                 waiians, and has expertise in Native Hawaiian  
25                 affairs;

1 (B) has leaders who are elected democrat-  
2 ically, or selected through traditional Native  
3 leadership practices, by members of the Native  
4 Hawaiian community;

5 (C) advances the cause of Native Hawai-  
6 ians culturally, socially, economically, or politi-  
7 cally;

8 (D) is a membership organization or asso-  
9 ciation; and

10 (E) has an accurate and reliable list of Na-  
11 tive Hawaiian members.

12 (11) OFFICE.—The term “Office” means the  
13 United States Office for Native Hawaiian Relations  
14 established by section 5(a).

15 (12) QUALIFIED NATIVE HAWAIIAN CON-  
16 STITUENT.—For the purposes of establishing the  
17 roll authorized under section 8, and prior to the rec-  
18 ognition by the United States of the Native Hawai-  
19 ian governing entity, the term “qualified Native Ha-  
20 waiian constituent” means an individual who the  
21 Commission determines has satisfied the following  
22 criteria and who makes a written statement certi-  
23 fying that he or she—

24 (A) is—

1 (i) an individual who is 1 of the indig-  
2 enous, native people of Hawaii and who is  
3 a direct lineal descendant of the aboriginal,  
4 indigenous, native people who—

5 (I) resided in the islands that  
6 now comprise the State of Hawaii on  
7 or before January 1, 1893; and

8 (II) occupied and exercised sov-  
9 ereignty in the Hawaiian archipelago,  
10 including the area that now con-  
11 stitutes the State of Hawaii; or

12 (ii) an individual who is 1 of the in-  
13 digenous, native people of Hawaii and who  
14 was eligible in 1921 for the programs au-  
15 thorized by the Hawaiian Homes Commis-  
16 sion Act, 1920 (42 Stat. 108, chapter 42),  
17 or a direct lineal descendant of that indi-  
18 vidual;

19 (B) wishes to participate in the reorganiza-  
20 tion of the Native Hawaiian governing entity;

21 (C) is 18 years of age or older;

22 (D) is a citizen of the United States; and

23 (E) maintains a significant cultural, social,  
24 or civic connection to the Native Hawaiian com-



1 munity, as evidenced by satisfying 2 or more of  
2 the following 10 criteria:

3 (i) Resides in the State of Hawaii.

4 (ii) Resides outside the State of Ha-  
5 waii and—

6 (I)(aa) currently serves or served  
7 as (or has a parent or spouse who  
8 currently serves or served as) a mem-  
9 ber of the Armed Forces or as an em-  
10 ployee of the Federal Government;  
11 and

12 (bb) resided in the State of Ha-  
13 waii prior to the time he or she (or  
14 such parent or spouse) left the State  
15 of Hawaii to serve as a member of the  
16 Armed Forces or as an employee of  
17 the Federal Government; or

18 (II)(aa) currently is or was en-  
19 rolled (or has a parent or spouse who  
20 currently is or was enrolled) in an ac-  
21 credited institution of higher edu-  
22 cation outside the State of Hawaii;  
23 and

24 (bb) resided in the State of Ha-  
25 waii prior to the time he or she (or

1           such parent or spouse) left the State  
2           of Hawaii to attend such institution.

3           (iii)(I) Is or was eligible to be a bene-  
4           ficiary of the programs authorized by the  
5           Hawaiian Homes Commission Act, 1920  
6           (42 Stat. 108, chapter 42), and resides or  
7           resided on land set aside as “Hawaiian  
8           home lands”, as defined in such Act; or

9           (II) Is a child or grandchild of an in-  
10          dividual who is or was eligible to be a ben-  
11          eficiary of the programs authorized by  
12          such Act and who resides or resided on  
13          land set aside as “Hawaiian home lands”,  
14          as defined in such Act.

15          (iv) Is or was eligible to be a bene-  
16          ficiary of the programs authorized by the  
17          Hawaiian Homes Commission Act, 1920  
18          (42 Stat. 108, chapter 42).

19          (v) Is a child or grandchild of an indi-  
20          vidual who is or was eligible to be a bene-  
21          ficiary of the programs authorized by the  
22          Hawaiian Homes Commission Act, 1920  
23          (42 Stat. 108, chapter 42).

24          (vi) Resides on or has an ownership  
25          interest in, or has a parent or grandparent

1 who resides on or has an ownership inter-  
2 est in, “kuleana land” that is owned in  
3 whole or in part by a person who, accord-  
4 ing to a genealogy verification by the Of-  
5 fice of Hawaiian Affairs or by court order,  
6 is a lineal descendant of the person or per-  
7 sons who received the original title to such  
8 “kuleana land”, defined as lands granted  
9 to native tenants pursuant to Haw. L.  
10 1850, p. 202, entitled “An Act Confirming  
11 Certain Resolutions of the King and Privy  
12 Council Passed on the 21st day of Decem-  
13 ber, A.D. 1849, Granting to the Common  
14 People Allodial Titles for Their Own Lands  
15 and House Lots, and Certain Other Privi-  
16 leges”, as amended by Haw. L. 1851, p.  
17 98, entitled “An Act to Amend An Act  
18 Granting to the Common People Allodial  
19 Titles for Their Own Lands and House  
20 Lots, and Certain Other Privileges” and as  
21 further amended by any subsequent legis-  
22 lation.

23 (vii) Is, or is the child or grandchild  
24 of, an individual who has been or was a  
25 student for at least 1 school year at a

1 school or program taught through the me-  
2 dium of the Hawaiian language under sec-  
3 tion 302H–6, Hawaii Revised Statutes, or  
4 at a school founded and operated primarily  
5 or exclusively for the benefit of Native Ha-  
6 waiians.

7 (viii) Has been a member since Sep-  
8 tember 30, 2009, of at least 1 Native Ha-  
9 waiian Membership Organization.

10 (ix) Has been a member since Sep-  
11 tember 30, 2009, of at least 2 Native Ha-  
12 waiian Membership Organizations.

13 (x) Is regarded as a Native Hawaiian  
14 and whose mother or father is (or if de-  
15 ceased, was) regarded as Native Hawaiian  
16 by the Native Hawaiian community, as evi-  
17 denced by sworn affidavits from two or  
18 more qualified Native Hawaiian constitu-  
19 ents certified by the Commission as pos-  
20 sessing expertise in the social, cultural,  
21 and civic affairs of the Native Hawaiian  
22 community.

23 (13) SECRETARY.—The term “Secretary”  
24 means the Secretary of the Interior.

1           (14) SPECIAL POLITICAL AND LEGAL RELA-  
2           TIONSHIP.—The term “special political and legal re-  
3           lationship” shall refer, except where differences are  
4           specifically indicated elsewhere in the Act, to the  
5           type of and nature of relationship the United States  
6           has with the several federally recognized Indian  
7           tribes.

8 **SEC. 4. UNITED STATES POLICY AND PURPOSE.**

9           (a) POLICY.—The United States reaffirms that—

10           (1) Native Hawaiians are a unique and distinct,  
11           indigenous, native people with whom the United  
12           States has a special political and legal relationship;

13           (2) the United States has a special political and  
14           legal relationship with the Native Hawaiian people,  
15           which includes promoting the welfare of Native Ha-  
16           waiians;

17           (3)(A) Congress possesses and hereby exercises  
18           the authority under the Constitution, including but  
19           not limited to article I, section 8, clause 3, to enact  
20           legislation to better the conditions of Native Hawai-  
21           ians and has exercised this authority through the en-  
22           actment of—

23           (i) the Hawaiian Homes Commission Act,  
24           1920 (42 Stat. 108, chapter 42);

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

5           (iii) more than 150 other Federal laws ad-  
6           dressing the conditions of Native Hawaiians;

7           (B) other sources of authority under the Con-  
8           stitution for legislation on behalf of the indigenous,  
9           native peoples of the United States, including Native  
10          Hawaiians, include but are not limited to the Prop-  
11          erty, Treaty, and Supremacy Clauses, War Powers,  
12          and the Fourteenth Amendment, and Congress here-  
13          by relies on those powers in enacting this legislation;  
14          and

15          (C) the Constitution’s original Apportionment  
16          Clause and the 14th Amendment Citizenship and  
17          amended Apportionment Clauses also acknowledge  
18          the propriety of legislation on behalf of the native  
19          peoples of the United States, including Native Ha-  
20          waiians;

21          (4) Native Hawaiians have—

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

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

1 (C) the right to reorganize a Native Ha-  
2 waiian governing entity; and

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

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

8 (b) PURPOSE.—The purpose of this Act is to provide  
9 a process for the reorganization of the single Native Ha-  
10 waiian governing entity and the reaffirmation of the spe-  
11 cial political and legal relationship between the United  
12 States and that Native Hawaiian governing entity for pur-  
13 poses of continuing a government-to-government relation-  
14 ship.

15 **SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RE-**  
16 **LATIONS.**

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

20 (b) DUTIES.—The Office shall—

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

24 (2) upon the reaffirmation of the government-  
25 to-government relationship between the single Native

1 Hawaiian governing entity and the United States,  
2 effectuate and coordinate the special political and  
3 legal relationship between the Native Hawaiian gov-  
4 erning entity and the United States through the  
5 Secretary, and with all other Federal agencies;

6 (3) provide timely notice to, and consult with,  
7 the Native Hawaiian governing entity before taking  
8 any actions that may have the potential to signifi-  
9 cantly affect Native Hawaiian resources, rights, or  
10 lands;

11 (4) work with the Interagency Coordinating  
12 Group, other Federal agencies, and the State of Ha-  
13 waii on policies, practices, and proposed actions af-  
14 fecting Native Hawaiian resources, rights, or lands;  
15 and

16 (5) prepare and submit to the Committee on  
17 Indian Affairs and the Committee on Energy and  
18 Natural Resources of the Senate and the Committee  
19 on Natural Resources of the House of Representa-  
20 tives an annual report detailing the activities of the  
21 Interagency Coordinating Group that are under-  
22 taken with respect to the continuing process of rec-  
23 onciliation and to effect meaningful consultation  
24 with the Native Hawaiian governing entity and may  
25 provide recommendations for any necessary changes



1 to Federal law or regulations promulgated under the  
2 authority of Federal law.

3 (c) APPLICABILITY TO DEPARTMENT OF DE-  
4 FENSE.—This section shall have no applicability to the  
5 Department of Defense or to any agency or component  
6 of the Department of Defense, but the Secretary of De-  
7 fense may designate 1 or more officials as liaison to the  
8 Office.

9 **SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING**  
10 **GROUP.**

11 (a) ESTABLISHMENT.—In recognition that Federal  
12 programs authorized to address the conditions of Native  
13 Hawaiians are largely administered by Federal agencies  
14 other than the Department of the Interior, there is estab-  
15 lished an interagency coordinating group, to be known as  
16 the “Native Hawaiian Interagency Coordinating Group”.

17 (b) COMPOSITION.—The Interagency Coordinating  
18 Group shall be composed of officials, to be designated by  
19 the President, from—

20 (1) each Federal agency whose actions may sig-  
21 nificantly or uniquely impact Native Hawaiian pro-  
22 grams, resources, rights, or lands; and

23 (2) the Office.

24 (c) LEAD AGENCY.—

1           (1) IN GENERAL.—The Department of the Inte-  
2           rior and the White House Office of Intergovern-  
3           mental Affairs shall serve as the leaders of the  
4           Interagency Coordinating Group.

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

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

9           (1) coordinate Federal programs and policies  
10          that affect Native Hawaiians or actions by any agen-  
11          cy or agencies of the Federal Government that may  
12          significantly or uniquely affect Native Hawaiian re-  
13          sources, rights, or lands;

14          (2) consult with the Native Hawaiian governing  
15          entity, through the coordination referred to in para-  
16          graph (1), but the consultation obligation established  
17          in this provision shall apply only after the satisfac-  
18          tion of all of the conditions referred to in section  
19          8(c)(8); and

20          (3) ensure the participation of each Federal  
21          agency in the development of the report to Congress  
22          authorized in section 5(b)(5).

23          (e) APPLICABILITY TO DEPARTMENT OF DE-  
24          FENSE.—This section shall have no applicability to the  
25          Department of Defense or to any agency or component

1 of the Department of Defense, but the Secretary of De-  
2 fense may designate 1 or more officials as liaison to the  
3 Interagency Coordinating Group.

4 **SEC. 7. DESIGNATION OF DEPARTMENT OF JUSTICE REP-**  
5 **RESENTATIVE.**

6 The Attorney General shall designate an appropriate  
7 official within the Department of Justice to assist the Of-  
8 fice in the implementation and protection of the rights of  
9 Native Hawaiians and their political and legal relationship  
10 with the United States, and upon the recognition of the  
11 Native Hawaiian governing entity as provided for in sec-  
12 tion 8, in the implementation and protection of the rights  
13 of the Native Hawaiian governing entity and its political  
14 and legal relationship with the United States.

15 **SEC. 8. PROCESS FOR REORGANIZATION OF NATIVE HA-**  
16 **WAIIAN GOVERNING ENTITY AND REAFFIR-**  
17 **MATION OF SPECIAL POLITICAL AND LEGAL**  
18 **RELATIONSHIP BETWEEN UNITED STATES**  
19 **AND NATIVE HAWAIIAN GOVERNING ENTITY.**

20 (a) **RECOGNITION OF NATIVE HAWAIIAN GOVERNING**  
21 **ENTITY.**—The right of the qualified Native Hawaiian con-  
22 stituents to reorganize the single Native Hawaiian gov-  
23 erning entity to provide for their common welfare and to  
24 adopt appropriate organic governing documents is recog-  
25 nized by the United States.

1 (b) COMMISSION.—

2 (1) IN GENERAL.—There is authorized to be es-  
3 tablished a Commission to be composed of 9 mem-  
4 bers for the purposes of—

5 (A) preparing and maintaining a roll of  
6 qualified Native Hawaiian constituents; and

7 (B) certifying that the individuals on the  
8 roll of qualified Native Hawaiian constituents  
9 meet the definition of qualified Native Hawai-  
10 ian constituent set forth in section 3.

11 (2) MEMBERSHIP.—

12 (A) APPOINTMENT.—

13 (i) IN GENERAL.—Not later than 180  
14 days after the date of enactment of this  
15 Act, the Secretary shall appoint the mem-  
16 bers of the Commission in accordance with  
17 subparagraph (B).

18 (ii) CONSIDERATION.—In making an  
19 appointment under clause (i), the Sec-  
20 retary may take into consideration a rec-  
21 ommendation made by any Native Hawai-  
22 ian Membership Organization.

23 (B) REQUIREMENTS.—Each member of  
24 the Commission shall demonstrate, as deter-  
25 mined by the Secretary—

1 (i) not less than 10 years of experi-  
2 ence in the study and determination of Na-  
3 tive Hawaiian genealogy (traditional cul-  
4 tural experience shall be given due consid-  
5 eration); and

6 (ii) an ability to read and translate  
7 into English documents written in the Ha-  
8 waiian language.

9 (C) VACANCIES.—A vacancy on the Com-  
10 mission—

11 (i) shall not affect the powers of the  
12 Commission; and

13 (ii) shall be filled in the same manner  
14 as the original appointment.

15 (3) EXPENSES.—Each member of the Commis-  
16 sion shall be allowed travel expenses, including per  
17 diem in lieu of subsistence, at rates authorized for  
18 employees of agencies under subchapter I of chapter  
19 57 of title 5, United States Code, while away from  
20 their homes or regular places of business in the per-  
21 formance of services for the Commission.

22 (4) DUTIES.—The Commission shall—

23 (A) prepare and maintain a roll of quali-  
24 fied Native Hawaiian constituents as set forth  
25 in subsection (c); and

1 (B) certify that the individuals on the roll  
2 of qualified Native Hawaiian constituents meet  
3 the definition of that term as set forth in sec-  
4 tion 3.

5 (5) STAFF.—

6 (A) IN GENERAL.—The Commission may,  
7 without regard to the civil service laws (includ-  
8 ing regulations), appoint and terminate an execu-  
9 tive director and such other additional per-  
10 sonnel as are necessary to enable the Commis-  
11 sion to perform the duties of the Commission.

12 (B) COMPENSATION.—

13 (i) IN GENERAL.—Except as provided  
14 in clause (ii), the Commission may fix the  
15 compensation of the executive director and  
16 other personnel without regard to the pro-  
17 visions of chapter 51 and subchapter III of  
18 chapter 53 of title 5, United States Code,  
19 relating to classification of positions and  
20 General Schedule pay rates.

21 (ii) MAXIMUM RATE OF PAY.—The  
22 rate of pay for the executive director and  
23 other personnel shall not exceed the rate  
24 payable for level V of the Executive Sched-

1                   ule under section 5316 of title 5, United  
2                   States Code.

3                   (6) DETAIL OF FEDERAL GOVERNMENT EM-  
4                   PLOYEES.—

5                   (A) IN GENERAL.—An employee of the  
6                   Federal Government may be detailed to the  
7                   Commission without reimbursement.

8                   (B) CIVIL SERVICE STATUS.—The detail of  
9                   the employee shall be without interruption or  
10                  loss of civil service status or privilege.

11                  (7) PROCUREMENT OF TEMPORARY AND INTER-  
12                  MITTENT SERVICES.—The Commission may procure  
13                  temporary and intermittent services in accordance  
14                  with section 3109(b) of title 5, United States Code,  
15                  at rates for individuals that do not exceed the daily  
16                  equivalent of the annual rate of basic pay prescribed  
17                  for level V of the Executive Schedule under section  
18                  5316 of that title.

19                  (8) EXPIRATION.—The Secretary shall dissolve  
20                  the Commission upon the reaffirmation of the spe-  
21                  cial political and legal relationship between the Na-  
22                  tive Hawaiian governing entity and the United  
23                  States.

24                  (c) PROCESS FOR REORGANIZATION OF NATIVE HA-  
25                  WAIAN GOVERNING ENTITY.—

1 (1) ROLL.—

2 (A) CONTENTS.—The roll shall include the  
3 names of the qualified Native Hawaiian con-  
4 stituents who are certified by the Commission  
5 to be qualified Native Hawaiian constituents, as  
6 defined in section 3.

7 (B) FORMATION OF ROLL.—Each indi-  
8 vidual claiming to be a qualified Native Hawai-  
9 ian constituent shall submit to the Commission  
10 documentation in the form established by the  
11 Commission that is sufficient to enable the  
12 Commission to determine whether the individual  
13 meets the definition set forth in section 3; *Pro-*  
14 *vided*, That an individual presenting evidence  
15 that he or she satisfies the definition in section  
16 2 of Public Law 103–150 shall be presumed to  
17 meet the requirement of section 3(12)(A)(i).

18 (C) DOCUMENTATION.—The Commission  
19 shall—

20 (i)(I) identify the types of documenta-  
21 tion that may be submitted to the Commis-  
22 sion that would enable the Commission to  
23 determine whether an individual meets the  
24 definition of qualified Native Hawaiian  
25 constituent set forth in section 3;



1 (II) recognize an individual’s identi-  
2 fication of lineal ancestors on the 1890  
3 Census by the Kingdom of Hawaii as a re-  
4 liable indicia of lineal descent from the ab-  
5 original, indigenous, native people who re-  
6 sided in the islands that now comprise the  
7 State of Hawaii on or before January 1,  
8 1893; and

9 (III) permit elderly Native Hawaiians  
10 and other Native Hawaiians lacking birth  
11 certificates or other documentation due to  
12 birth on Hawaiian Home Lands or other  
13 similar circumstances to establish lineal de-  
14 scent by sworn affidavits from 2 or more  
15 qualified Native Hawaiian constituents;

16 (ii) establish a standard format for  
17 the submission of documentation and a  
18 process to ensure veracity; and

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

21 (D) CONSULTATION.—In making deter-  
22 minations that each individual proposed for in-  
23 clusion on the roll of qualified Native Hawaiian  
24 constituents meets the definition of qualified  
25 Native Hawaiian constituent in section 3, the

1 Commission may consult with Native Hawaiian  
2 Membership Organizations, agencies of the  
3 State of Hawaii including but not limited to the  
4 Department of Hawaiian Home Lands, the Of-  
5 fice of Hawaiian Affairs, and the State Depart-  
6 ment of Health, and other entities with exper-  
7 tise and experience in the determination of Na-  
8 tive Hawaiian ancestry and lineal descendancy.

9 (E) NOTIFICATION.—The Commission  
10 shall—

11 (i) inform an individual whether they  
12 have been deemed by the Commission a  
13 qualified Native Hawaiian constituent; and

14 (ii) inform an individual of a right to  
15 appeal the decision if deemed not to be a  
16 qualified Native Hawaiian constituent.

17 (F) CERTIFICATION AND SUBMITTAL OF  
18 ROLL TO SECRETARY.—The Commission  
19 shall—

20 (i) submit the roll containing the  
21 names of those individuals who meet the  
22 definition of qualified Native Hawaiian  
23 constituent in section 3 to the Secretary  
24 within 2 years from the date on which the  
25 Commission is fully composed; and

1                   (ii) certify to the Secretary that each  
2                   of the qualified Native Hawaiian constitu-  
3                   ents proposed for inclusion on the roll  
4                   meets the definition set forth in section 3.

5                   (G) PUBLICATION.—Upon certification by  
6                   the Commission to the Secretary that those list-  
7                   ed on the roll meet the definition of qualified  
8                   Native Hawaiian constituent set forth in section  
9                   3, the Commission shall publish the notice of  
10                  the certification of the roll in the Federal Reg-  
11                  ister, notwithstanding pending appeals pursuant  
12                  to subparagraph (H).

13                  (H) APPEAL.—The Secretary, in consulta-  
14                  tion with the Commission, shall establish a  
15                  mechanism for an administrative appeal for any  
16                  person whose name is excluded from the roll  
17                  who claims to meet the definition of qualified  
18                  Native Hawaiian constituent in section 3.

19                  (I) PUBLICATION; UPDATE.—The Commis-  
20                  sion shall—

21                         (i) publish the notice of the certifi-  
22                         cation of the roll regardless of whether ap-  
23                         peals are pending;

1           (ii) update the roll and provide notice  
2 of the updated roll on the final disposition  
3 of any appeal;

4           (iii) update the roll to include any  
5 person who has been certified by the Com-  
6 mission as meeting the definition of quali-  
7 fied Native Hawaiian constituent in section  
8 3 after the initial publication of the roll or  
9 after any subsequent publications of the  
10 roll; and

11           (iv) provide a copy of the roll and any  
12 updated rolls to the Council.

13           (J) EFFECT OF PUBLICATION.—The publi-  
14 cation of the initial and updated roll shall serve  
15 as the basis for the eligibility of qualified Na-  
16 tive Hawaiian constituents whose names are  
17 listed on those rolls to participate in the reorga-  
18 nization of the Native Hawaiian governing enti-  
19 ty.

20           (2) ORGANIZATION OF COUNCIL.—

21           (A) ORGANIZATION.—The Commission, in  
22 consultation with the Secretary, shall hold a  
23 minimum of 3 meetings and each meeting shall  
24 be at least 2 working days of the qualified Na-

1           tive Hawaiian constituents listed on the roll es-  
2           tablished under this section—

3                   (i) to develop criteria for candidates  
4                   to be elected to serve on the Council;

5                   (ii) to determine the structure of the  
6                   Council, including the number of Council  
7                   members; and

8                   (iii) to elect members from individuals  
9                   listed on the roll established under this  
10                  subsection to the Council.

11           (B) POWERS.—

12                   (i) IN GENERAL.—The Council—

13                           (I) shall represent those listed on  
14                           the roll established under this section  
15                           in the implementation of this Act; and

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

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

23                   (iii) ACTIVITIES.—

24                           (I) IN GENERAL.—The Council  
25                           shall conduct, among the qualified

1 Native Hawaiian constituents listed  
2 on the roll established under this sub-  
3 section, a referendum for the purpose  
4 of determining the proposed elements  
5 of the organic governing documents of  
6 the Native Hawaiian governing entity,  
7 including but not limited to—

8 (aa) the proposed criteria  
9 for future membership in the Na-  
10 tive Hawaiian governing entity;

11 (bb) the proposed powers  
12 and authorities to be exercised by  
13 the Native Hawaiian governing  
14 entity, as well as the proposed  
15 privileges and immunities of the  
16 Native Hawaiian governing enti-  
17 ty;

18 (cc) the proposed civil rights  
19 and protection of the rights of  
20 the citizens of the Native Hawai-  
21 ian governing entity and all per-  
22 sons affected by the exercise of  
23 governmental powers and au-  
24 thorities of the Native Hawaiian  
25 governing entity; and

1 (dd) other issues determined  
2 appropriate by the Council.

3 (II) DEVELOPMENT OF ORGANIC  
4 GOVERNING DOCUMENTS.—Based on  
5 the referendum, the Council shall de-  
6 velop proposed organic governing doc-  
7 uments for the Native Hawaiian gov-  
8 erning entity and may seek technical  
9 assistance from the Secretary on the  
10 draft organic governing documents to  
11 ensure that the draft organic gov-  
12 erning documents comply with this  
13 Act and other Federal law.

14 (III) DISTRIBUTION.—The Coun-  
15 cil shall publish to all qualified Native  
16 Hawaiian constituents of the Native  
17 Hawaiian governing entity listed on  
18 the roll published under this sub-  
19 section notice of the availability of—

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

23 (bb) a brief impartial de-  
24 scription of the proposed organic  
25 governing documents;

## (IV) ELECTIONS.—

1  
2 (aa) IN GENERAL.—Not  
3 sooner than 180 days after the  
4 proposed organic governing docu-  
5 ments are drafted and distrib-  
6 uted, the Council, with the assist-  
7 ance of the Secretary, shall hold  
8 elections for the purpose of rati-  
9 fying the proposed organic gov-  
10 erning documents.

11 (bb) PURPOSE.—The Coun-  
12 cil, with the assistance of the  
13 Secretary, shall hold the election  
14 for the purpose of ratifying the  
15 proposed organic governing docu-  
16 ments 60 days after publishing  
17 notice of an election.

18 (cc) OFFICERS.—On certifi-  
19 cation of the organic governing  
20 documents by the Secretary in  
21 accordance with paragraph (4),  
22 the Council, with the assistance  
23 of the Secretary, shall hold elec-  
24 tions of the officers of the Native



1 Hawaiian governing entity pursu-  
2 ant to paragraph (5).

3 (3) SUBMITTAL OF ORGANIC GOVERNING DOCU-  
4 MENTS.—Following the reorganization of the Native  
5 Hawaiian governing entity and the adoption of or-  
6 ganic governing documents, the Council shall submit  
7 the organic governing documents of the Native Ha-  
8 waiian governing entity to the Secretary.

9 (4) CERTIFICATIONS.—

10 (A) IN GENERAL.—Within the context of  
11 the future negotiations to be conducted under  
12 the authority of section 9(b)(1), and the subse-  
13 quent actions by the Congress and the State of  
14 Hawaii to enact legislation to implement the  
15 agreements of the 3 governments, not later  
16 than 180 days, which may be extended an addi-  
17 tional 90 days if the Secretary deems necessary,  
18 after the date on which the Council submits the  
19 organic governing documents to the Secretary,  
20 the Secretary shall certify or decline to certify  
21 that the organic governing documents—

22 (i) establish the criteria for member-  
23 ship in the Native Hawaiian governing en-  
24 tity;

1           (ii) were adopted by a majority vote of  
2 those qualified Native Hawaiian constitu-  
3 ents whose names are listed on the roll  
4 published by the Secretary and who voted  
5 in the election;

6           (iii) provide authority for the Native  
7 Hawaiian governing entity to negotiate  
8 with Federal, State, and local govern-  
9 ments, and other entities;

10          (iv) provide for the exercise of inher-  
11 ent and other appropriate governmental  
12 authorities by the Native Hawaiian gov-  
13 erning entity;

14          (v) prevent the sale, disposition, lease,  
15 or encumbrance of lands, interests in  
16 lands, or other assets of the Native Hawai-  
17 ian governing entity without the consent of  
18 the Native Hawaiian governing entity;

19          (vi) provide for the protection of the  
20 civil rights of the citizens of the Native  
21 Hawaiian governing entity and all persons  
22 affected by the exercise of governmental  
23 powers and authorities by the Native Ha-  
24 waiian governing entity; and

1 (vii) are consistent with applicable  
2 Federal law.

3 (B) RESUBMISSION IN CASE OF NON-  
4 COMPLIANCE.—

5 (i) RESUBMISSION BY THE SEC-  
6 RETARY.—If the Secretary determines that  
7 the organic governing documents, or any  
8 part of the documents, do not meet all of  
9 the requirements set forth in subparagraph  
10 (A), the Secretary shall resubmit the or-  
11 ganic governing documents to the Council,  
12 along with a justification for each of the  
13 Secretary’s findings as to why the provi-  
14 sions are not in full compliance.

15 (ii) AMENDMENT AND RESUBMISSION  
16 OF ORGANIC GOVERNING DOCUMENTS.—If  
17 the organic governing documents are re-  
18 submitted to the Council by the Secretary  
19 under clause (i), the Council shall—

20 (I) amend the organic governing  
21 documents to ensure that the docu-  
22 ments meet all the requirements set  
23 forth in subparagraph (A); and

24 (II) resubmit the amended or-  
25 ganic governing documents to the Sec-

1                   retary for certification in accordance  
2                   with this paragraph.

3                   (C) CERTIFICATIONS DEEMED MADE.—

4                   The certifications under this paragraph shall be  
5                   deemed to have been made if the Secretary has  
6                   not acted within 180 days after the date on  
7                   which the Council has submitted the organic  
8                   governing documents of the Native Hawaiian  
9                   governing entity to the Secretary.

10                  (5) ELECTIONS.—On completion of the certifi-  
11                  cations by the Secretary under paragraph (4), the  
12                  Council, with the assistance of the Secretary, shall  
13                  hold elections of the officers of the Native Hawaiian  
14                  governing entity.

15                  (6) PROVISION OF ROLL.—The Council shall  
16                  provide a copy of the roll of qualified Native Hawai-  
17                  ian constituents to the governing body of the Native  
18                  Hawaiian governing entity.

19                  (7) TERMINATION.—The Council shall cease to  
20                  exist and shall have no power or authority under  
21                  this Act after the officers of the governing body who  
22                  are elected as provided in paragraph (5) are in-  
23                  stalled.

24                  (8) REAFFIRMATION.—Notwithstanding any  
25                  other provision of law, the special political and legal

1 relationship between the United States and the Na-  
2 tive Hawaiian people is hereby reaffirmed and the  
3 United States extends Federal recognition to the  
4 Native Hawaiian governing entity as the representa-  
5 tive sovereign governing body of the Native Hawai-  
6 ian people after—

7 (A) the approval of the organic governing  
8 documents by the Secretary under subpara-  
9 graph (A) or (C) of paragraph (4); and

10 (B) the officers of the Native Hawaiian  
11 governing entity elected under paragraph (5)  
12 have been installed.

13 **SEC. 9. REAFFIRMATION OF DELEGATION OF FEDERAL AU-**  
14 **THORITY TO STATE OF HAWAII; NEGOTIA-**  
15 **TIONS; CLAIMS.**

16 (a) REAFFIRMATION.—The delegation by the United  
17 States of authority to the State of Hawaii to address the  
18 conditions of the indigenous, native people of Hawaii con-  
19 tained in the Act entitled “An Act to provide for the ad-  
20 mission of the State of Hawaii into the Union”, approved  
21 March 18, 1959 (Public Law 86–3; 73 Stat. 4), is re-  
22 affirmed.

23 (b) NEGOTIATIONS.—

24 (1) IN GENERAL.—Upon the reaffirmation of  
25 the special political and legal relationship between

1 the United States and the Native Hawaiian gov-  
2 erning entity, the United States and the State of  
3 Hawaii may enter into negotiations with the Native  
4 Hawaiian governing entity designed to lead to an  
5 agreement or agreements addressing such matters  
6 as—

7 (A) the transfer of State of Hawaii lands  
8 and surplus Federal lands, natural resources,  
9 and other assets, and the protection of existing  
10 rights related to such lands or resources;

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

14 (C) the exercise of civil and criminal juris-  
15 diction;

16 (D) the exercise of other powers and au-  
17 thorities that are recognized by the United  
18 States as powers and authorities typically exer-  
19 cised by governments representing indigenous,  
20 native people of the United States;

21 (E) any residual responsibilities of the  
22 United States and the State of Hawaii; and

23 (F) grievances regarding assertions of his-  
24 torical wrongs committed against Native Ha-

1           waiians by the United States or by the State of  
2           Hawaii.

3           (2) AMENDMENTS TO EXISTING LAWS.—Upon  
4           agreement on any matter or matters negotiated with  
5           the United States or the State of Hawaii, and the  
6           Native Hawaiian governing entity, the parties may  
7           submit—

8                   (A) to the Committee on Indian Affairs of  
9                   the Senate, the Committee on Energy and Nat-  
10                  ural Resources of the Senate, and the Com-  
11                  mittee on Natural Resources of the House of  
12                  Representatives recommendations for proposed  
13                  amendments to Federal law that will enable the  
14                  implementation of agreements reached between  
15                  the governments; and

16                   (B) to the Governor and the legislature of  
17                   the State of Hawaii, recommendations for pro-  
18                   posed amendments to State law that will enable  
19                   the implementation of agreements reached be-  
20                   tween the governments.

21           (3) GOVERNMENTAL AUTHORITY AND  
22           POWER.—The Native Hawaiian governing entity  
23           shall be vested with the inherent powers and privi-  
24           leges of self-government of a native government  
25           under existing law, except as set forth in section

1 10(a). Said powers and privileges may be modified  
2 by agreement between the Native Hawaiian gov-  
3 erning entity, the United States, and the State pur-  
4 suant to paragraph (1), subject to the limit de-  
5 scribed by section 10(a). Unless so agreed, nothing  
6 in this Act shall preempt Federal or State authority  
7 over Native Hawaiians or their property under exist-  
8 ing law or authorize the State to tax or regulate the  
9 Native Hawaiian governing entity.

10 (4) MEMBERSHIP.—Once the United States ex-  
11 tends Federal recognition to the Native Hawaiian  
12 governing entity, the United States will recognize  
13 and affirm the Native Hawaiian governing entity’s  
14 inherent power and authority to determine its own  
15 membership criteria, to determine its own member-  
16 ship, and to grant, deny, revoke, or qualify member-  
17 ship without regard to whether any person was or  
18 was not deemed to be a qualified Native Hawaiian  
19 constituent under this Act.

20 (c) CLAIMS.—Nothing in this Act—

21 (1) alters existing law, including case law, re-  
22 garding obligations of the United States or the State  
23 of Hawaii relating to events or actions that occurred  
24 prior to recognition of the Native Hawaiian gov-  
25 erning entity;



1           (2) creates, enlarges, revives, modifies, dimin-  
2           ishes, extinguishes, waives, or otherwise alters any  
3           claim or cause of action against the United States  
4           or its officers or the State of Hawaii or its officers,  
5           or any defense (including the defense of statute of  
6           limitations) to any such claim or cause of action; or

7           (3) amends section 2409a of title 28, United  
8           States Code (commonly known as the “Quiet Title  
9           Act”), chapter 171 of title 28, United States Code  
10          (commonly known as the “Federal Tort Claims  
11          Act”), section 1491 of title 28, United States Code  
12          (commonly known as the “Tucker Act”), section  
13          1505 of title 28, United States Code (commonly  
14          known as the “Indian Tucker Act”), the Hawaii Or-  
15          ganic Act (31 Stat. 141), or any other Federal stat-  
16          ute, except as expressly amended by this Act.

17 **SEC. 10. APPLICABILITY OF CERTAIN FEDERAL LAWS.**

18           (a) INDIAN GAMING REGULATORY ACT.—

19           (1) IN GENERAL.—The Native Hawaiian gov-  
20           erning entity and Native Hawaiians may not con-  
21           duct gaming activities as a matter of claimed inher-  
22           ent authority or under the authority of any Federal  
23           law, including the Indian Gaming Regulatory Act  
24           (25 U.S.C. 2701 et seq.) or under any regulations

1       thereunder promulgated by the Secretary or the Na-  
2       tional Indian Gaming Commission.

3           (2) APPLICABILITY.—The prohibition contained  
4       in paragraph (1) regarding the use of Indian Gam-  
5       ing Regulatory Act (25 U.S.C. 2701 et seq.) and in-  
6       herent authority to game applies regardless of  
7       whether gaming by Native Hawaiians or the Native  
8       Hawaiian governing entity would be located on land  
9       within the State of Hawaii or within any other State  
10      or territory of the United States.

11      (b) SINGLE GOVERNING ENTITY.—This Act will re-  
12     sult in the recognition of the single Native Hawaiian gov-  
13     erning entity. Additional Native Hawaiian groups shall not  
14     be eligible for acknowledgment pursuant to the Federal  
15     Acknowledgment Process set forth in part 83 of title 25,  
16     Code of Federal Regulations, or any other administrative  
17     acknowledgment or recognition process.

18      (c) INDIAN CIVIL RIGHTS ACT OF 1968.—The Coun-  
19     cil and the subsequent governing entity recognized under  
20     this Act shall be an Indian tribe, as defined in section 201  
21     of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301)  
22     for purposes of sections 201 through 203 of that Act (25  
23     U.S.C. 1301–1303).

24      (d) INDIAN PROGRAMS, SERVICES, AND LAWS.—

1           (1) IN GENERAL.—Notwithstanding any other  
2 provision of this Act, nothing in this Act extends eli-  
3 gibility for any Indian program or service to the Na-  
4 tive Hawaiian governing entity or its members un-  
5 less a statute governing such a program or service  
6 expressly provides that Native Hawaiians or the Na-  
7 tive Hawaiian governing entity is eligible for such  
8 program or service. Nothing in this Act affects the  
9 eligibility of any person for any program or service  
10 under any statute or law in effect before the date of  
11 enactment of this Act.

12           (2) APPLICABILITY OF OTHER TERMS.—In Fed-  
13 eral statutes or regulations in force prior to the  
14 United States’ recognition of the Native Hawaiian  
15 governing entity, the terms “Indian” and “Native  
16 American”, and references to Indian tribes, bands,  
17 nations, pueblos, villages, or other organized groups  
18 or communities, shall not apply to the Native Ha-  
19 waiian governing entity or its members, unless the  
20 Federal statute or regulation expressly applies to  
21 Native Hawaiians or the Native Hawaiian governing  
22 entity.

23           (e) REAL PROPERTY TRANSFERS.—Section 2116 of  
24 the Revised Statutes (commonly known as the “Indian  
25 Trade and Intercourse Act”) (25 U.S.C. 177) does not

1 apply to any purchase, grant, lease, or other conveyance  
2 of lands, or of any title or claim thereto, from Native Ha-  
3 waiians, Native Hawaiian entities, or the Kingdom of Ha-  
4 waii that occurred prior to the date of the United States  
5 recognition of the Native Hawaiian governing entity.

6 **SEC. 11. SEVERABILITY.**

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

10 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

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

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