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# A BILL FOR AN ACT

RELATING TO GOVERNMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the State has never  
2 explicitly acknowledged that native Hawaiians are the only  
3 indigenous, aboriginal, "maoli" population of Hawaii.

4           Native Hawaiians are the indigenous, native people of the  
5 Hawaiian archipelago and are a distinctly native community.

6 From its inception, the State has had a special political and  
7 legal relationship with the native Hawaiian people and has  
8 continually enacted legislation for the betterment of their  
9 conditions.

10           In section 5(f) of the Admission Act, Congress created what  
11 is commonly known as the ceded lands trust. The ceded lands  
12 trust, consisting of lands, including submerged lands, natural  
13 resources, and the proceeds from the disposition or use of those  
14 lands--purportedly ceded to the United States by the Republic of  
15 Hawaii--is for five purposes, one of which remains the  
16 betterment of the conditions of native Hawaiians.

17           At the 1978 constitutional convention, the State  
18 established the office of Hawaiian affairs, approved by the



1 voters on November 7, 1978, and codified as chapter 10, Hawaii  
2 Revised Statutes. The State's designation of the office of  
3 Hawaiian affairs as a trust vehicle to act on behalf of native  
4 Hawaiians until a Native Hawaiian governing entity could be  
5 reestablished reaffirmed the State's obligations to the native  
6 Hawaiian people.

7 The 1978 constitutional convention further amended the  
8 Hawaii State Constitution to affirm its protection of all  
9 "rights, customarily and traditionally exercised for  
10 subsistence, cultural and religious purposes and possessed by  
11 ahupuaa tenants who are descendants of native Hawaiians who  
12 inhabited the Hawaiian Islands prior to 1778." Moreover, the  
13 Hawaii Revised Statutes also specifically protects Native  
14 Hawaiians' ability to practice their traditional and customary  
15 rights. The federal and state courts have continuously  
16 recognized the right of the native Hawaiian people to engage in  
17 customary and traditional practices on public lands.

18 In 1993, the United States formally apologized to Native  
19 Hawaiians for the United States' role in the overthrow of the  
20 Hawaiian Kingdom through Public Law 103-150 (107 Stat. 1510),  
21 commonly known as the "Apology Resolution." The Apology  
22 Resolution acknowledges that the illegal overthrow of the



1 Hawaiian Kingdom occurred with the active participation of  
2 agents and citizens of the United States and further  
3 acknowledges that the native Hawaiian people never directly  
4 relinquished to the United States their claims to their inherent  
5 sovereignty as a people over their national lands, either  
6 through a Treaty of Annexation or through a plebiscite or  
7 referendum. The Apology Resolution expresses the commitment of  
8 Congress and the President to acknowledge the ramifications of  
9 the overthrow of the Hawaiian Kingdom and to support  
10 reconciliation efforts between the United States and native  
11 Hawaiians. Pursuant to the Apology Resolution, the United  
12 States departments of Justice and the Interior conducted  
13 reconciliation hearings with the Native Hawaiian people in 1999  
14 and issued a joint report entitled, "From Mauka to Makai: The  
15 River of Justice Must Flow Freely," which identified promoting  
16 the reorganization of a native Hawaiian government as a priority  
17 recommendation for continuing the process of reconciliation. To  
18 further this process of reconciliation, Congress created the  
19 Office of Native Hawaiian Relations in the Department of the  
20 Interior, with one of its purposes being to consult with native  
21 Hawaiians on the reconciliation process.



1           In December 2010, the departments of Justice and the  
2 Interior reaffirmed the federal support for the Native Hawaiian  
3 Government Reorganization Act. This reaffirmation recognized  
4 that native Hawaiians are the only one of the nation's three  
5 major indigenous peoples who currently lack a government-to-  
6 government relationship with the United States.

7           The United States became a charter member of the United  
8 Nations in 1945. The United States submitted Hawaii as a  
9 territory of the United States to be listed as a non-self-  
10 governing territory entitled to self-government under Article  
11 73, Charter of the United Nations, via United Nations General  
12 Assembly Resolution 66 (1946). Also in December 2010, the  
13 United States endorsed the United Nations Declaration on the  
14 Rights of Indigenous Peoples, which acknowledged, among other  
15 things:

16           **ARTICLE 3**

17           Indigenous peoples have the right to self-  
18 determination. By virtue of that right they freely  
19 determine their political status and freely pursue  
20 their economic, social and cultural development.

21  
22           The United States' endorsement of the United Nations  
23 Declaration on the Rights of Indigenous Peoples included  
24 recognition of its support not only for the Native Hawaiian  
25 Government Reorganization Act but also many additional statutes



1 for native Hawaiians such as the National Historic Preservation  
2 Act, the Native Hawaiian Education Act, the Native American  
3 Housing Assistance and Self-Determination Act, and the Native  
4 American Graves Protection and Repatriation Act.

5 Native Hawaiians have continued to maintain their separate  
6 identity as a single, distinctly-native political community  
7 through cultural, social, and political institutions and have  
8 continued to maintain their rights to self-determination, self-  
9 governance, and economic self-sufficiency.

10 The State has supported the reorganization of a Native  
11 Hawaiian governing entity. It has supported the Sovereignty  
12 Advisory Council, the Hawaiian Sovereignty Advisory Commission,  
13 the Hawaiian Sovereignty Elections Council, and Native Hawaiian  
14 Vote, and the convening of the Aha Hawai'i O'iwi (the Native  
15 Hawaiian Convention). The legislature has adopted various  
16 resolutions during its regular sessions throughout the 1990s and  
17 2000s. The Governor has testified before Congress regarding the  
18 State's support for Native Hawaiians as the indigenous people of  
19 Hawaii with the right to self-government. Recognizing the  
20 likelihood of a reorganized Native Hawaiian governing entity,  
21 the State has also provided for the transfer of the management  
22 and control of the island of Kahoolawe and its waters to the



1 sovereign native Hawaiian entity upon its recognition by the  
2 United States and the State of Hawaii.

3 The purpose of this bill is to recognize native Hawaiians  
4 as the only indigenous, aboriginal, "maoli" population of  
5 Hawaii. It is also the State's desire to support the continuing  
6 development of a reorganized native Hawaiian governing entity  
7 and to promote, ultimately, the federal recognition of native  
8 Hawaiians. The legislature urges the office of Hawaiian affairs  
9 to continue to support the self-determination process by native  
10 Hawaiians in the formation of their chosen governmental entity.

11 SECTION 2. The Hawaii Revised Statutes is amended by a  
12 adding a new chapter to be appropriately designated and to read  
13 as follows:

14 "CHAPTER

15 NATIVE HAWAIIAN RECOGNITION

16 § -1 Statement of recognition. The native Hawaiian  
17 people are hereby recognized as the only indigenous, aboriginal,  
18 maoli people of Hawaii."

19 Section 3. This Act shall take effect upon its approval.



**Report Title:**

Native Hawaiians; Recognition

**Description:**

Recognizes the native Hawaiian people as the only indigenous, aboriginal, maoli people of Hawaii. (SB1520 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

