
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 condition.

10 In section 5(f) of the Admission Act of 1959, Congress
11 created what is commonly known as the ceded lands trust. The
12 ceded lands trust, consisting of lands, including submerged
13 lands, natural resources, and the proceeds from the disposition
14 or use of those lands--purportedly ceded to the United States by
15 the Republic of Hawaii--is for five purposes, one of which
16 remains the betterment of the conditions of native Hawaiians.

17 At the 1978 constitutional convention, the delegates
18 proposed a constitutional amendment to establish the office of



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

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

20 In 1993, the United States formally apologized to Native
21 Hawaiians for the United States' role in the overthrow of the
22 Hawaiian Kingdom through Public Law 103-150 (107 Stat. 1510),



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



1 Interior, to consult with Native Hawaiians on the reconciliation
2 process.

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

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

19 **ARTICLE 3**

20 Indigenous peoples have the right to self-
21 determination. By virtue of that right they freely
22 determine their political status and freely pursue
23 their economic, social and cultural development.
24



1 The United States' endorsement of the United Nations
2 Declaration on the Rights of Indigenous Peoples included
3 recognition of its support not only for the Native Hawaiian
4 Government Reorganization Act of 2010 but also many additional
5 laws for Native Hawaiians such as the National Historic
6 Preservation Act, the Native Hawaiian Education Act, the Native
7 American Housing Assistance and Self-Determination Act, and the
8 Native American Graves Protection and Repatriation Act.

9 Native Hawaiians have continued to maintain their separate
10 identity as a single, distinctly native political community
11 through cultural, social, and political institutions and have
12 continued to maintain their rights to self-determination, self-
13 governance, and economic self-sufficiency.

14 The State has supported the reorganization of a Native
15 Hawaiian governing entity. It has supported the Sovereignty
16 Advisory Council, the Hawaiian Sovereignty Advisory Commission,
17 the Hawaiian Sovereignty Elections Council, and Native Hawaiian
18 Vote, and the convening of the Aha Hawai'i O'iwi (the Native
19 Hawaiian Convention). The legislature has adopted various
20 resolutions during its regular sessions throughout the 1990s and
21 2000s. The Governor has testified before Congress regarding the
22 State's support for Native Hawaiians as the indigenous people of



1 Hawaii with the right to self-government. Recognizing the
2 likelihood of a reorganized Native Hawaiian governing entity,
3 the State has also provided for the transfer of the management
4 and control of the island of Kahoolawe and its waters to the
5 sovereign Native Hawaiian entity upon its recognition by the
6 United States and the State of Hawaii.

7 The purpose of this Act is to recognize Native Hawaiians as
8 the only indigenous, aboriginal, maoli population of Hawaii. It
9 is also the State's desire to support the continuing development
10 of a reorganized Native Hawaiian governing entity and,
11 ultimately, the federal recognition of Native Hawaiians. The
12 legislature urges the office of Hawaiian affairs to continue to
13 support the self-determination process by Native Hawaiians in
14 the formation of their chosen governmental entity.

15 SECTION 2. The Hawaii Revised Statutes is amended by a
16 adding a new chapter to be appropriately designated and to read
17 as follows:

18 "CHAPTER

19 NATIVE HAWAIIAN RECOGNITION

20 § -1 **Statement of recognition.** The Native Hawaiian
21 people are hereby recognized as the only indigenous, aboriginal,



1 maoli people of Hawaii."

2 SECTION 3. This Act shall take effect on January 7, 2059.



Report Title:

Native Hawaiians; Recognition

Description:

Recognizes the Native Hawaiian people as the only indigenous, aboriginal, maoli people of Hawaii. Effective January 7, 2059.
(SB1520 HD2)

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

