

JAN 28 2011

SENATE RESOLUTION

REQUESTING A STUDY TO IDENTIFY STATE OF HAWAII'S LAWS THAT MAY
NEED AMENDMENT SOON AFTER THE ENACTMENT OF THE NATIVE
HAWAIIAN GOVERNMENT REORGANIZATION ACT.

1 WHEREAS, the Native Hawaiian Government Reorganization Act
2 provides a process within the framework of federal law for the
3 Native Hawaiian people to exercise their inherent rights as a
4 distinct, indigenous, native community to reorganize a single
5 unified Native Hawaiian governing entity for the purpose of
6 giving expression to their rights as a native people to self-
7 determination and self-governance; and

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9 WHEREAS, the Native Hawaiian Government Reorganization Act
10 process will result in the reaffirmation of the special
11 political and legal relationship between the United States and
12 the Native Hawaiian people and recognition by the United States
13 of the Native Hawaiian governing entity as the representative
14 sovereign governing body of the Native Hawaiian people; and

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16 WHEREAS, upon the reaffirmation of the special political
17 and legal relationship between the United States and the Native
18 Hawaiian governing entity, the United States and the State of
19 Hawai'i are authorized to enter into negotiations with the
20 Native Hawaiian governing entity designed to lead to agreements
21 on such matters as:

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23 (1) The transfer of lands, natural resources, and other
24 assets, and the exercise of governmental authority
25 over these assets;
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27 (2) The exercise of civil and criminal jurisdiction;
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29 (3) The authority to tax and other powers and authorities
30 typically exercised by governments representing
31 indigenous, native people of the United States;
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33 (4) Residual responsibilities of the United States and the
34 State of Hawai'i; and



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2 (5) Grievances regarding assertions of historical wrongs
3 committed against Native Hawaiians by the United
4 States or by the State of Hawai'i; and
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6 WHEREAS, these post-federal-recognition negotiations may
7 result in recommendations by the parties for amendments to State
8 of Hawai'i and federal law; and
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10 WHEREAS, these post-federal-recognition negotiations and
11 any resulting recommendations for amending state and federal law
12 will likely not occur until a considerable time passes, perhaps
13 years, after enactment of the Native Hawaiian Government
14 Reorganization Act; and
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16 WHEREAS, a more immediate concern exists as to whether
17 amendments to state and federal law may also be needed soon
18 after the enactment of the Native Hawaiian Government
19 Reorganization Act to facilitate the process of establishing and
20 achieving federal recognition of a Native Hawaiian governing
21 entity that will later negotiate with the state and federal
22 governments; and
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24 WHEREAS, with regard to state law, a study under the
25 auspices of the Hawai'i State Legislature would be most helpful
26 in identifying the state laws that may need amendment soon after
27 enactment of the Native Hawaiian Government Reorganization Act;
28 and
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30 WHEREAS, the Legislative Reference Bureau, with its
31 extensive background, knowledge, and publications regarding
32 state law, state policy, and the legislative process, is well-
33 positioned and well-qualified to perform the study; now,
34 therefore;
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36 BE IT RESOLVED by the Senate of the Twenty-sixth
37 Legislature of the State of Hawai'i, Regular Session of 2011,
38 that the Legislative Reference Bureau is requested to conduct a
39 study of State of Hawai'i laws that may need amendment to
40 facilitate the process under the Native Hawaiian Government
41 Reorganization Act of establishing a Native Hawaiian governing
42 entity that will later negotiate with the state and federal
43 governments; and
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1 BE IT FURTHER RESOLVED that the scope of the study is
2 requested to include laws that may need to be amended to
3 facilitate the timely and effective implementation of both:
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5 (1) The steps in the Native Hawaiian Government
6 Reorganization Act process leading up to federal
7 recognition; and
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9 (2) Federal recognition itself; and
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11 BE IT FURTHER RESOLVED that the Legislative Reference
12 Bureau in planning and conducting the study is requested to give
13 substantial attention to how best in the short term to lay the
14 statutory groundwork for other future amendments that may result
15 from negotiations involving the Native Hawaiian governing
16 entity, the State of Hawai'i, and the United States in the long
17 term; and
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19 BE IT FURTHER RESOLVED that the Legislative Reference
20 Bureau is requested to include the following in the report of
21 its study:
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23 (1) An identification of the laws that may need amendment;
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25 (2) An explanation of why the laws may need amendment; and
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27 (3) Proposed language for the amendments; and
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29 BE IT FURTHER RESOLVED that the Legislative Reference
30 Bureau is requested to consult closely with the Office of
31 Hawaiian Affairs when planning and conducting the study; and
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33 BE IT FURTHER RESOLVED that all government agencies are
34 requested to provide their full cooperation and all relevant
35 data and other information to the Legislative Reference Bureau
36 during the planning and implementation of the study; and
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38 BE IT FURTHER RESOLVED that the Legislative Reference
39 Bureau is requested to submit, not later than twenty days prior
40 to the convening of the Regular Session of 2012, its findings
41 and recommendations, including any proposed legislation; and
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43 BE IT FURTHER RESOLVED that certified copies of this
44 Resolution be transmitted to the Governor, the President of the



1 Senate, the Speaker of the House of Representatives, the United
2 States Secretary of the Interior, the Acting Director of the
3 Legislative Reference Bureau, and the Chairperson of the Office
4 of Hawaiian Affairs.
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OFFERED BY: *A.S.T.R.*
By Request