

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

S. 1011

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. AKAKA

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native Hawaiian Gov-
5 ernment Reorganization Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Constitution vests Congress with the au-
9 thority to address the conditions of the indigenous,

1 native people of the United States and the Supreme
2 Court has held that under the Indian Commerce,
3 Treaty, Supremacy, and Property Clauses, and the
4 War Powers, Congress may exercise that power to
5 rationally promote the welfare of the native peoples
6 of the United States so long as the native people are
7 a “distinctly native community”;

8 (2) Native Hawaiians, the native people of the
9 Hawaiian archipelago that is now part of the United
10 States, are 1 of the indigenous, native peoples of the
11 United States, and the Native Hawaiian people are
12 a distinctly native community;

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

18 (4) under the authority of the Constitution, the
19 United States concluded a number of treaties with
20 the Kingdom of Hawaii, and from 1826 until 1893,
21 the United States—

22 (A) recognized the sovereignty of the King-
23 dom of Hawaii as a nation;

24 (B) accorded full diplomatic recognition to
25 the Kingdom of Hawaii; and

1 (C) entered into treaties and conventions
2 of peace, friendship and commerce with the
3 Kingdom of Hawaii to govern trade, commerce,
4 and navigation in 1826, 1842, 1849, 1875, and
5 1887;

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

18 (6) by setting aside 203,500 acres of land in
19 trust for Native Hawaiian homesteads and farms,
20 the Hawaiian Homes Commission Act, 1920, assists
21 the members of the Native Hawaiian community in
22 maintaining distinctly native communities through-
23 out the State of Hawaii;

24 (7) approximately 6,800 Native Hawaiian fami-
25 lies reside on the Hawaiian Home Lands, and ap-

1 proximately 18,000 Native Hawaiians who are eligi-
2 ble to reside on the Hawaiian Home Lands are on
3 a waiting list to receive assignments of Hawaiian
4 Home Lands;

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

17 (B) the public trust consists of lands, including
18 submerged lands, natural resources, and the reve-
19 nues derived from the lands; and

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

22 (9) Native Hawaiians have continuously sought
23 access to the ceded lands in order to establish and
24 maintain native settlements and distinct native com-
25 munities throughout the State;

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

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

13 (12) through the Sovereign Council of Hawaiian
14 Homelands Assembly, Native Hawaiian civic associa-
15 tions, charitable trusts established by the Native Ha-
16 waiian ali'i, nonprofit native service providers and
17 other community associations, the Native Hawaiian
18 people have actively maintained native traditions and
19 customary usages throughout the Native Hawaiian
20 community and the Federal and State courts have
21 continuously recognized the right of the Native Ha-
22 waiian people to engage in certain customary prac-
23 tices and usages on public lands;

24 (13) on November 23, 1993, Public Law 103-
25 150 (107 Stat. 1510) (commonly known as the

1 “Apology Resolution”) was enacted into law, extend-
2 ing an apology on behalf of the United States to the
3 native people of Hawaii for the United States’ role
4 in the overthrow of the Kingdom of Hawaii;

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

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

16 (i) to acknowledge the ramifications of the
17 overthrow of the Kingdom of Hawaii; and

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

20 (B) Congress established the Office of Hawai-
21 ian Relations within the Department of the Interior
22 with 1 of its purposes being to consult with Native
23 Hawaiians on the reconciliation process; and

24 (C) the United States has the duty to reconcile
25 and reaffirm its friendship with the Native Hawaiian

1 people because, among other things, the United
2 States Minister and United States naval forces par-
3 ticipated in the overthrow of the Kingdom of Ha-
4 waii;

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

13 (B) there is clear continuity between the ab-
14 original, native citizens of the Kingdom of Hawaii
15 and their successors, the Native Hawaiian people
16 today;

17 (17) Native Hawaiians have also given expres-
18 sion to their rights as native people to self-deter-
19 mination, self-governance, and economic self-suffi-
20 ciency—

21 (A) through the provision of governmental
22 services to Native Hawaiians, including the pro-
23 vision of—

24 (i) health care services;

25 (ii) educational programs;

- 1 (iii) employment and training pro-
2 grams;
- 3 (iv) economic development assistance
4 programs;
- 5 (v) children's services;
- 6 (vi) conservation programs;
- 7 (vii) fish and wildlife protection;
- 8 (viii) agricultural programs;
- 9 (ix) native language immersion pro-
10 grams;
- 11 (x) native language immersion schools
12 from kindergarten through high school;
- 13 (xi) college and master's degree pro-
14 grams in native language immersion in-
15 struction; and
- 16 (xii) traditional justice programs; and
- 17 (B) by continuing their efforts to enhance
18 Native Hawaiian self-determination and local
19 control;
- 20 (18) Native Hawaiian people are actively en-
21 gaged in Native Hawaiian cultural practices, tradi-
22 tional agricultural methods, fishing and subsistence
23 practices, maintenance of cultural use areas and sa-
24 cred sites, protection of burial sites, and the exercise

1 of their traditional rights to gather medicinal plants
2 and herbs, and food sources;

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

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

19 (21) Congress—

20 (A) has declared that the United States
21 has a special political and legal relationship for
22 the welfare of the native peoples of the United
23 States, including Native Hawaiians;

24 (B) has identified Native Hawaiians as an
25 indigenous, distinctly native people of the

1 United States within the scope of its authority
2 under the Constitution, and has enacted scores
3 of statutes on their behalf; and

4 (C) has delegated broad authority to the
5 State of Hawaii to administer some of the
6 United States' responsibilities as they relate to
7 the Native Hawaiian people and their lands;

8 (22) the United States has recognized and re-
9 affirmed the special political and legal relationship
10 with the Native Hawaiian people through the enact-
11 ment of the Act entitled, "An Act to provide for the
12 admission of the State of Hawaii into the Union",
13 approved March 18, 1959 (Public Law 86-3; 73
14 Stat. 4), by—

15 (A) ceding to the State of Hawaii title to
16 the public lands formerly held by the United
17 States, and mandating that those lands be held
18 as a public trust for 5 purposes, 1 of which is
19 for the betterment of the conditions of Native
20 Hawaiians; and

21 (B) transferring the United States respon-
22 sibility for the administration of the Hawaiian
23 Home Lands to the State of Hawaii, but retain-
24 ing the exclusive right of the United States to
25 consent to any actions affecting the lands in-

1 cluded in the trust and any amendments to the
2 Hawaiian Homes Commission Act, 1920 (42
3 Stat. 108, chapter 42), that are enacted by the
4 legislature of the State of Hawaii affecting the
5 beneficiaries under the Act;

6 (23) the United States has continually recog-
7 nized and reaffirmed that—

8 (A) Native Hawaiians have a direct genea-
9 logical, cultural, historic, and land-based con-
10 nection to their forebears, the aboriginal, indig-
11 enous, native people who exercised original sov-
12 ereignty over the Hawaiian Islands;

13 (B) Native Hawaiians have never relin-
14 quished their claims to sovereignty or their sov-
15 ereign lands;

16 (C) the United States extends services to
17 Native Hawaiians because of their unique sta-
18 tus as the native people of a prior-sovereign na-
19 tion with whom the United States has a special
20 political and legal relationship; and

21 (D) the special relationship of American
22 Indians, Alaska Natives, and Native Hawaiians
23 to the United States arises out of their status
24 as aboriginal, indigenous, native people of the
25 United States; and

1 (24) the State of Hawaii supports the reaffir-
2 mation of the special political and legal relationship
3 between the Native Hawaiian governing entity and
4 the United States, as evidenced by 2 unanimous res-
5 olutions enacted by the Hawaii State Legislature in
6 the 2000 and 2001 sessions of the Legislature and
7 by the testimony of the Governor of the State of Ha-
8 wahi before the Committee on Indian Affairs of the
9 Senate on February 25, 2003, and March 1, 2005.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) **ABORIGINAL, INDIGENOUS, NATIVE PEO-**
13 **PLE.**—The term “aboriginal, indigenous, native peo-
14 ple” means a people whom Congress has recognized
15 as the original inhabitants of the lands that later be-
16 came part of the United States and who exercised
17 sovereignty in the areas that later became part of
18 the United States.

19 (2) **APOLOGY RESOLUTION.**—The term “Apol-
20 ogy Resolution” means Public Law 103–150 (107
21 Stat. 1510), a Joint Resolution extending an apol-
22 ogy to Native Hawaiians on behalf of the United
23 States for the participation of agents of the United
24 States in the January 17, 1893, overthrow of the
25 Kingdom of Hawaii.

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

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

7 (5) INDIAN PROGRAM OR SERVICE.—

8 (A) IN GENERAL.—The term “Indian pro-
9 gram or service” means any federally funded or
10 authorized program or service provided to an
11 Indian tribe (or member of an Indian tribe) be-
12 cause of the status of the members of the In-
13 dian tribe as Indians.

14 (B) INCLUSIONS.—The term “Indian pro-
15 gram or service” includes a program or service
16 provided by the Bureau of Indian Affairs, the
17 Indian Health Service, or any other Federal
18 agency.

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

23 (7) INDIGENOUS, NATIVE PEOPLE.—The term
24 “indigenous, native people” means the lineal de-

1 scendants of the aboriginal, indigenous, native peo-
2 ple of the United States.

3 (8) INTERAGENCY COORDINATING GROUP.—The
4 term “Interagency Coordinating Group” means the
5 Native Hawaiian Interagency Coordinating Group
6 established under section 6.

7 (9) NATIVE HAWAIIAN GOVERNING ENTITY.—
8 The term “Native Hawaiian governing entity”
9 means the governing entity organized pursuant to
10 this Act by the qualified Native Hawaiian constitu-
11 ents.

12 (10) NATIVE HAWAIIAN MEMBERSHIP ORGANI-
13 ZATION.—The term “Native Hawaiian Membership
14 Organization” means an organization that—

15 (A) serves and represents the interests of
16 Native Hawaiians, has as a primary and stated
17 purpose the provision of services to Native Ha-
18 waiians, and has expertise in Native Hawaiian
19 affairs;

20 (B) has leaders who are elected democrat-
21 ically, or selected through traditional Native
22 leadership practices, by members of the Native
23 Hawaiian community;

1 (C) advances the cause of Native Hawai-
2 ians culturally, socially, economically, or politi-
3 cally;

4 (D) is a membership organization or asso-
5 ciation; and

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

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

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

20 (A) is—

21 (i) an individual who is 1 of the indig-
22 enous, native people of Hawaii and who is
23 a direct lineal descendant of the aboriginal,
24 indigenous, native people who—

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

4 (II) occupied and exercised sov-
5 ereignty in the Hawaiian archipelago,
6 including the area that now con-
7 stitutes the State of Hawaii; or

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

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

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

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

19 (E) maintains a significant cultural, social,
20 or civic connection to the Native Hawaiian com-
21 munity, as evidenced by satisfying 2 or more of
22 the following 10 criteria:

23 (i) Resides in the State of Hawaii.

24 (ii) Resides outside the State of Ha-
25 waii and—

1 (I)(aa) currently serves or served
2 as (or has a parent or spouse who
3 currently serves or served as) a mem-
4 ber of the Armed Forces or as an em-
5 ployee of the Federal Government;
6 and

7 (bb) resided in the State of Ha-
8 waii prior to the time he or she (or
9 such parent or spouse) left the State
10 of Hawaii to serve as a member of the
11 Armed Forces or as an employee of
12 the Federal Government; or

13 (II)(aa) currently is or was en-
14 rolled (or has a parent or spouse who
15 currently is or was enrolled) in an ac-
16 credited institution of higher edu-
17 cation outside the State of Hawaii;
18 and

19 (bb) resided in the State of Ha-
20 waii prior to the time he or she (or
21 such parent or spouse) left the State
22 of Hawaii to attend such institution.

23 (iii)(I) Is or was eligible to be a bene-
24 ficiary of the programs authorized by the
25 Hawaiian Homes Commission Act, 1920

1 (42 Stat. 108, chapter 42), and resides or
2 resided on land set aside as “Hawaiian
3 home lands”, as defined in such Act; or

4 (II) Is a child or grandchild of an in-
5 dividual who is or was eligible to be a ben-
6 efiary of the programs authorized by
7 such Act and who resides or resided on
8 land set aside as “Hawaiian home lands”,
9 as defined in such Act.

10 (iv) Is or was eligible to be a bene-
11 ficiary of the programs authorized by the
12 Hawaiian Homes Commission Act, 1920
13 (42 Stat. 108, chapter 42).

14 (v) Is a child or grandchild of an indi-
15 vidual who 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 (vi) Resides on or has an ownership
20 interest in, or has a parent or grandparent
21 who resides on or has an ownership inter-
22 est in, “kuleana land” that is owned in
23 whole or in part by a person who, accord-
24 ing to a genealogy verification by the Of-
25 fice of Hawaiian Affairs or by court order,

1 is a lineal descendant of the person or per-
2 sons who received the original title to such
3 “kuleana land”, defined as lands granted
4 to native tenants pursuant to Haw. L.
5 1850, p. 202, entitled “An Act Confirming
6 Certain Resolutions of the King and Privy
7 Council Passed on the 21st day of Decem-
8 ber, A.D. 1849, Granting to the Common
9 People Allodial Titles for Their Own Lands
10 and House Lots, and Certain Other Privi-
11 leges”, as amended by Haw. L. 1851, p.
12 98, entitled “An Act to Amend An Act
13 Granting to the Common People Allodial
14 Titles for Their Own Lands and House
15 Lots, and Certain Other Privileges” and as
16 further amended by any subsequent legis-
17 lation.

18 (vii) Is, or is the child or grandchild
19 of, an individual who has been or was a
20 student for at least 1 school year at a
21 school or program taught through the me-
22 dium of the Hawaiian language under sec-
23 tion 302H–6, Hawaii Revised Statutes, or
24 at a school founded and operated primarily

1 or exclusively for the benefit of Native Ha-
2 waiians.

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

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

9 (x) Is regarded as a Native Hawaiian
10 and whose mother or father is (or if de-
11 ceased, was) regarded as a Native Hawai-
12 ian by the Native Hawaiian community, as
13 evidenced by sworn affidavits from 2 or
14 more qualified Native Hawaiian constitu-
15 ents certified by the Commission as pos-
16 sessing expertise in the social, cultural,
17 and civic affairs of the Native Hawaiian
18 community.

19 (13) SECRETARY.—The term “Secretary”
20 means the Secretary of the Interior.

21 (14) SPECIAL POLITICAL AND LEGAL RELA-
22 TIONSHIP.—The term “special political and legal re-
23 lationship” shall refer, except where differences are
24 specifically indicated elsewhere in the Act, to the
25 type of and nature of relationship the United States

1 has with the several federally recognized Indian
2 tribes.

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

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

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

8 (2) the United States has a special political and
9 legal relationship with the Native Hawaiian people,
10 which includes promoting the welfare of Native Ha-
11 waiians;

12 (3)(A) Congress possesses and hereby exercises
13 the authority under the Constitution, including but
14 not limited to Article I, Section 8, Clause 3, to enact
15 legislation to better the conditions of Native Hawai-
16 ians and has exercised this authority through the en-
17 actment of—

18 (i) the Hawaiian Homes Commission Act,
19 1920 (42 Stat. 108, chapter 42);

20 (ii) the Act entitled “An Act to provide for
21 the admission of the State of Hawaii into the
22 Union”, approved March 18, 1959 (Public Law
23 86–3; 73 Stat. 4); and

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

1 (B) other sources of authority under the Con-
2 stitution for legislation on behalf of native peoples of
3 the United States, including Native Hawaiians, in-
4 clude but are not limited to the Property, Treaty,
5 and Supremacy Clauses, War Powers, and the Four-
6 teenth Amendment, and Congress hereby relies on
7 those powers in enacting this legislation; and

8 (C) the Constitution’s original Apportionment
9 Clause and the 14th Amendment Citizenship and
10 amended Apportionment Clauses also acknowledge
11 the propriety of legislation on behalf of the native
12 peoples of the United States, including Native Ha-
13 waiians;

14 (4) Native Hawaiians have—

15 (A) an inherent right to autonomy in their
16 internal affairs;

17 (B) an inherent right of self-determination
18 and self-governance;

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

21 (D) the right to become economically self-
22 sufficient; and

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

1 (b) PURPOSE.—The purpose of this Act is to provide
2 a process for the reorganization of the single Native Ha-
3 waiian governing entity and the reaffirmation of the spe-
4 cial political and legal relationship between the United
5 States and that Native Hawaiian governing entity for pur-
6 poses of continuing a government-to-government relation-
7 ship.

8 **SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RE-**
9 **LATIONS.**

10 (a) ESTABLISHMENT.—There is established within
11 the Office of the Secretary the United States Office for
12 Native Hawaiian Relations.

13 (b) DUTIES.—The Office shall—

14 (1) continue the process of reconciliation with
15 the Native Hawaiian people in furtherance of the
16 Apology Resolution;

17 (2) upon the reaffirmation of the government-
18 to-government relationship between the single Native
19 Hawaiian governing entity and the United States,
20 effectuate and coordinate the special political and
21 legal relationship between the Native Hawaiian gov-
22 erning entity and the United States through the
23 Secretary, and with all other Federal agencies;

24 (3) provide timely notice to, and consult with,
25 the Native Hawaiian governing entity before taking

1 any actions that may have the potential to signifi-
2 cantly affect Native Hawaiian resources, rights, or
3 lands;

4 (4) work with the Interagency Coordinating
5 Group, other Federal agencies, and the State of Ha-
6 waii on policies, practices, and proposed actions af-
7 fecting Native Hawaiian resources, rights, or lands;
8 and

9 (5) prepare and submit to the Committee on
10 Indian Affairs and the Committee on Energy and
11 Natural Resources of the Senate and the Committee
12 on Natural Resources of the House of Representa-
13 tives an annual report detailing the activities of the
14 Interagency Coordinating Group that are under-
15 taken with respect to the continuing process of rec-
16 onciliation and to effect meaningful consultation
17 with the Native Hawaiian governing entity and may
18 provide recommendations for any necessary changes
19 to Federal law or regulations promulgated under the
20 authority of Federal law.

21 (c) **APPLICABILITY TO DEPARTMENT OF DE-**
22 **FENSE.**—This section shall have no applicability to the
23 Department of Defense or to any agency or component
24 of the Department of Defense, but the Secretary of De-

1 fense may designate 1 or more officials as liaison to the
2 Office.

3 **SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING**
4 **GROUP.**

5 (a) ESTABLISHMENT.—In recognition that Federal
6 programs authorized to address the conditions of Native
7 Hawaiians are largely administered by Federal agencies
8 other than the Department of the Interior, there is estab-
9 lished an interagency coordinating group, to be known as
10 the “Native Hawaiian Interagency Coordinating Group”.

11 (b) COMPOSITION.—The Interagency Coordinating
12 Group shall be composed of officials, to be designated by
13 the President, from—

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

17 (2) the Office.

18 (c) LEAD AGENCY.—

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

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

1 (d) DUTIES.—The Interagency Coordinating Group
2 shall—

3 (1) coordinate Federal programs and policies
4 that affect Native Hawaiians or actions by any agen-
5 cy or agencies of the Federal Government that may
6 significantly or uniquely affect Native Hawaiian re-
7 sources, rights, or lands;

8 (2) consult with the Native Hawaiian governing
9 entity, through the coordination referred to in para-
10 graph (1), but the consultation obligation established
11 in this provision shall apply only after the satisfac-
12 tion of all of the conditions referred to in section
13 8(c)(8); and

14 (3) ensure the participation of each Federal
15 agency in the development of the report to Congress
16 authorized in section 5(b)(5).

17 (e) APPLICABILITY TO DEPARTMENT OF DE-
18 FENSE.—This section shall have no applicability to the
19 Department of Defense or to any agency or component
20 of the Department of Defense, but the Secretary of De-
21 fense may designate 1 or more officials as liaison to the
22 Interagency Coordinating Group.

1 **SEC. 7. DESIGNATION OF DEPARTMENT OF JUSTICE REP-**
2 **RESENTATIVE.**

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

12 **SEC. 8. PROCESS FOR REORGANIZATION OF NATIVE HA-**
13 **WAIAN GOVERNING ENTITY AND REAFFIR-**
14 **MATION OF SPECIAL POLITICAL AND LEGAL**
15 **RELATIONSHIP BETWEEN UNITED STATES**
16 **AND NATIVE HAWAIIAN GOVERNING ENTITY.**

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

23 (b) **COMMISSION.**—

24 (1) **IN GENERAL.**—There is authorized to be es-
25 tablished a Commission to be composed of 9 mem-
26 bers for the purposes of—

1 (A) preparing and maintaining a roll of
2 qualified Native Hawaiian constituents; and

3 (B) certifying that the individuals on the
4 roll of qualified Native Hawaiian constituents
5 meet the definition of qualified Native Hawai-
6 ian constituent set forth in section 3.

7 (2) MEMBERSHIP.—

8 (A) APPOINTMENT.—

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

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

19 (B) REQUIREMENTS.—Each member of
20 the Commission shall demonstrate, as deter-
21 mined by the Secretary—

22 (i) not less than 10 years of experi-
23 ence in the study and determination of Na-
24 tive Hawaiian genealogy (traditional cul-

1 tural experience shall be given due consid-
2 eration); and

3 (ii) an ability to read and translate
4 into English documents written in the Ha-
5 waiian language.

6 (C) VACANCIES.—A vacancy on the Com-
7 mission—

8 (i) shall not affect the powers of the
9 Commission; and

10 (ii) shall be filled in the same manner
11 as the original appointment.

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

19 (4) DUTIES.—The Commission shall—

20 (A) prepare and maintain a roll of quali-
21 fied Native Hawaiian constituents as set forth
22 in subsection (c); and

23 (B) certify that the individuals on the roll
24 of qualified Native Hawaiian constituents meet

1 the definition of that term as set forth in sec-
2 tion 3.

3 (5) STAFF.—

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

10 (B) COMPENSATION.—

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

19 (ii) MAXIMUM RATE OF PAY.—The
20 rate of pay for the executive director and
21 other personnel shall not exceed the rate
22 payable for level V of the Executive Sched-
23 ule under section 5316 of title 5, United
24 States Code.

1 (6) DETAIL OF FEDERAL GOVERNMENT EM-
2 PLOYEES.—

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

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

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

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

22 (c) PROCESS FOR REORGANIZATION OF NATIVE HA-
23 WAIIAN GOVERNING ENTITY.—

24 (1) ROLL.—

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

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

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

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

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(IV) ELECTIONS.—

(aa) IN GENERAL.—Not sooner than 180 days after the proposed organic governing documents are drafted and distributed, the Council, with the assistance of the Secretary, shall hold elections for the purpose of ratifying the proposed organic governing documents.

(bb) PURPOSE.—The Council, with the assistance of the Secretary, shall hold the election for the purpose of ratifying the proposed organic governing documents 60 days after publishing notice of an election.

(cc) OFFICERS.—On certification of the organic governing documents by the Secretary in accordance with paragraph (4), the Council, with the assistance of the Secretary, shall hold elections 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 addressing such matters as—

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

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

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

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

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

22 (F) grievances regarding assertions of his-
23 torical wrongs committed against Native Ha-
24 waiians by the United States or by the State of
25 Hawaii.

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

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

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

19 (3) GOVERNMENTAL AUTHORITY AND
20 POWER.—The Native Hawaiian governing entity
21 shall be vested with the inherent powers and privi-
22 leges of self-government of a native government
23 under existing law, except as set forth in section
24 10(a). Said powers and privileges may be modified
25 by agreement between the Native Hawaiian gov-

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

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

18 (c) CLAIMS.—Nothing in this Act—

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

24 (2) creates, enlarges, revives, modifies, dimin-
25 ishes, extinguishes, waives, or otherwise alters any

1 claim or cause of action against the United States
2 or its officers or the State of Hawaii or its officers,
3 or any defense (including the defense of statute of
4 limitations) to any such claim or cause of action; or
5 (3) amends section 2409a of title 28, United
6 States Code (commonly known as the “Quiet Title
7 Act”), chapter 171 of title 28, United States Code
8 (commonly known as the “Federal Tort Claims
9 Act”), section 1491 of title 28, United States Code
10 (commonly known as the “Tucker Act”), section
11 1505 of title 28, United States Code (commonly
12 known as the “Indian Tucker Act”), the Hawaii Or-
13 ganic Act (31 Stat. 141), or any other Federal stat-
14 ute, except as expressly amended by this Act.

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

16 (a) INDIAN GAMING REGULATORY ACT.—

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

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

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

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

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

23 (1) IN GENERAL.—Notwithstanding any other
24 provision of this Act, nothing in this Act extends eli-
25 gibility for any Indian program or service to the Na-

1 tive Hawaiian governing entity or its members un-
2 less a statute governing such a program or service
3 expressly provides that Native Hawaiians or the Na-
4 tive Hawaiian governing entity is eligible for such
5 program or service. Nothing in this Act affects the
6 eligibility of any person for any program or service
7 under any statute or law in effect before the date of
8 enactment of this Act.

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

20 (e) REAL PROPERTY TRANSFERS.—Section 2116 of
21 the Revised Statutes (commonly known as the “Indian
22 Trade and Intercourse Act”) (25 U.S.C. 177) does not
23 apply to any purchase, grant, lease, or other conveyance
24 of lands, or of any title or claim thereto, from Native Ha-
25 waiians, Native Hawaiian entities, or the Kingdom of Ha-

1 waii that occurred prior to the date of the United States'
2 recognition of the Native Hawaiian governing entity.

3 **SEC. 11. SEVERABILITY.**

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

7 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums
9 as are necessary to carry out this Act.