



# United States Department of the Interior

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This document reflects the informal views of federal agencies asked to comment on the provisions of S. 746.

With the exception of Section <sup>10</sup> regarding ethics, the proposed amendments were not accepted by the Hawaii Congressional Delegation.

Proposed Amendments to S.746: To express the policy of the United States regarding the United States' relationship with Native Hawaiians, and for other purposes.

**Global:**

Delete the word "trust" throughout the bill when associated with "special trust responsibility" or "special trust relationship" or "trust responsibility."

Change "Native Hawaiian people" to "Native Hawaiians."

**Section 1. Findings**

§1(1) Substitute: *Congress has plenary authority over Native Hawaiians under the commerce clause of the Constitution.*

Add before § 5: *Native Hawaiians became American citizens under the Hawaii Organic Act of 1900, 31 Stat. 141.*

§ 1(12) the Kingdom of Hawaii, *even though the U.S. annexation of Hawaii in 1893 was then consistent with international law.*

§1(13) Delete

§1(15) ~~Despite the overthrow of the Hawaiian Government, Native Hawaiians have continued . . . and to give expression to their rights as native people to self-determination and self-governance~~

§1(16) ~~give expressions to their rights as native people to self-determination and self-governance through the provision of governmental services to Native Hawaiians~~

§1(19) Substitute: *This Act provides for a process within the framework of Federal law for the Native Hawaiian community to reorganize a Native Hawaiian governing entity for the purpose of giving expression to their rights as native people and for its recognition.*

ADD preceding § 1(21): *In 1959, the people of Hawaii, including Native Hawaiians, exercised their right of self-determination under international law and freely chose their current political status by voting in favor of admission of Hawaii as the 50<sup>th</sup> State. On December 13, 1959, by UN General Assembly Resolution 1469, Hawaii was removed from the list of non-self-governing territories under Article 73(e) of the UN Charter.*

§1(22) (B) Delete.

§ 1(22)(C) line 3, ~~has~~ had a political and legal relationship . . .

§ 1(22)(D) Delete.

**Section 2. Definitions**

§ 2(1) Delete

§ 2(4) Delete

§ 2(5) Delete

§ 2(6)(A) Substitute: *Prior to the reorganization of the Native Hawaiian governing entity, the term "Native Hawaiian" means any descendant of not less than one-half part of the blood of the peoples inhabiting the Hawaiian Islands previous to 1778.*

§ 2(6)(B) Following the ~~recognition~~ reorganization by the United States of the Native Hawaiian governing entity . . .

**Section 3. United States Policy**

§ 3(a)(1) has had a political and legal relationship:

§ 3(a)(4)(A) Delete

§ 3(a)(4)(B) Delete

§3(b) It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization and the recognition by the United States of an Native Hawaiian governing entity for purposes of ~~continuing~~ a government-to-government relationship.

**Section 4. Establishment of the Office for Native Hawaiian Relations**

§ 4(b)(1). ~~and with all other Federal agencies.~~

§ 4(b)(3) by providing timely notice to, and consulting with the ~~Native Hawaiian people and the Native Hawaiian governing entity~~ prior to taking....

§ 4(b)(4) consult with the ~~Interagency Coordinating Group~~, other Federal agencies . . .

§ 4(b)(5) may prepare and submit . . . detailing the activities of the ~~Interagency Coordinating Group~~ that are undertaken . . .

**Section 5. Native Hawaiian Interagency Coordinating Group**

Delete section.

**Section 6. Process for Recognition of the Native Hawaiian Governing Body**

§ 6(a). ~~Reorganization~~ Recognition of the Native Hawaiian Governing Entity.

§ 6(b)(1) Substitute: *Following the organization of the interim Native Hawaiian governing entity and the selection of interim officers, and with a letter of approval by the Governor of Hawaii, the interim officers shall submit draft organic documents to the Secretary for review.*

§ 6(b)(2)(A) Within ~~90~~ 120 days of the date that the *interim duly elected* officers of the Native Hawaiian governing entity submit the *draft* organic governing documents to the Secretary, the Secretary shall certify *whether that the draft* organic governing documents . . .

§ 6(b)(2)(A)(ii) Substitute: *provide for their approval based on a process including the maximum participation by Native Hawaiians;*

§ 6(b)(2)(A)(vii) are consistent with applicable Federal law ~~and the special trust relationship between the United States and the indigenous native people of the United States.~~

§ 6(b)(2)(B) Delete

§ 6(b)(2)(C)(i) shall resubmit the *draft* organic governing documents to the *interim duly elected* officers of the Native Hawaiian governing entity . . .

§ 6(b)(2)(C)(ii) *draft* organic governing documents . . . to the *interim duly elected* officers of the . . . under clause (i), the *interim duly elected* officers of the Native Hawaiian governing entity . . .

§ 6(b)(2)(D) CERTIFICATION § . . . the certifications authorized in subparagraph ~~(B)~~ (b)(2) . . . of the date that the *interim duly elected* officers of the Native Hawaiian governing entity . . .

ADD before § 6(b)(3): *The interim Native Hawaiian governing entity shall hold an election on the organic documents as certified by the Secretary and if the certified organic documents are approved by a majority of the voters in the election, to elect officers thereunder.*

ADD before § 6(b)(3): *The duly elected officers of the Native Hawaiian governing entity shall submit to the Secretary the approved organic governing documents and shall submit a resolution or act of the Hawaii State legislature which supports the recognition of the Native Hawaiian governing entity and which certifies the election results.*

§ 6(b)(3) Substitute: *Notwithstanding any other provision of law, upon the submission of the duly approved organic documents and a resolution or act of the Hawaii State legislature which supports the Native Hawaiian governing entity, the United States hereby extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiians.*

## Section 7. Authorization of Appropriations

## Section 8. Reaffirmation of Delegation of Federal Authority; Negotiations

~~§ 8(b) Nothing in this Act is intended to serve as a settlement of any claims against the United States.~~

### **Section 9. Applicability of Certain Federal Laws.**

§ 9(b) BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE - . . . provided by the Bureau of Indian Affairs or *Indian Health Service* for any persons . . .

ADD Section: *Disclaimers*

*(1) Nothing in this Act shall be deemed to acknowledge or establish a trust relationship between the United States and any Native Hawaiian governing entity or its members.*

*(2) Nothing in this Act shall be deemed to acknowledge or create any claim, whether legal, equitable, or moral in character, of any Native Hawaiian governing entity or its members against the United States arising out of the Joint Resolution of 1893, the Hawaii Organic Act of 1900, the Hawaiian Homes Commission Act of 1921, the Hawaii Statehood Act of 1958, or any other source.*

*(3) Nothing in this Act shall be deemed to apply statutes specifically applicable to Indians because of their status as Indians to any Native Hawaiian governing entity or its members.*

ADD section: *Ethics*

*The provisions of 18 U.S.C. 208(a) prohibiting involvement by a federal government officer or employee in particular matters where the officer or employee or his or her spouse or minor child has a financial interest shall not apply to Native Hawaiians employed by the United States Office for Native Hawaiian Relations if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee or his or her spouse or minor child that results from his or her status as a Native Hawaiian.*

### **Section 10. Severability**

HR 617 RH

Union Calendar No. 80

107th CONGRESS

1st Session

H. R. 617

[Report No. 107-140]

To express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 14, 2001

Mr. ABERCROMBIE (for himself, Mrs. MINK of Hawaii, Mr. KILDEE, Mr. FALEOMAVAEGA, Mr. YOUNG of Alaska, Mr. HANSEN, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Resources

July 16, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 14, 2001]

A BILL

To express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SECTION 1. FINDINGS.

Congress makes the following findings:

- (1) ~~The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.~~ **Congress has plenary authority over Native Hawaiians under the commerce clause of the Constitution.**
- (2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.
- (3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.
- (4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.
- (5) **Native Hawaiians became American Citizens under the Hawaii Organic Act of 1900, 31 Stat. 141.** Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.
- (6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.
- (7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.
- (8) In 1959, as part of the compact admitting Hawaii into the United States, Congress established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 1,800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct native communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiians people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

(12) On November 23, 1993, Public Law 103-150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii, even though the U.S. annexation of Hawaii in 1893 was then consistent with international law.

~~(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.~~

~~(14) The Apology Resolution expresses the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President's designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.~~

~~(14) (15) Despite the overthrow of the Hawaiian Government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.~~

~~(16) (15) Native Hawaiians also give expression to their rights as native people to self-determination and self-governance through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten~~



through high school, as well as college and master's degree programs in native language immersion instruction, and traditional justice programs, and by continuing their efforts to enhance Native Hawaiian self-determination and local control.

~~(17)~~ (16) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

~~(18)~~ (17) The Native Hawaiians people wish to preserve, develop, and transmit to future Native Hawaiian generations their ancestral lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, and to achieve greater self-determination over their own affairs.

~~(19)~~ (18) This Act provides for a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct aboriginal, indigenous, native community to reorganize a Native Hawaiian governing entity for the purpose of giving expression to their rights as native people to self-determination and self-governance **community to reorganize a Native Hawaiian governing entity for the purpose of giving expression to their rights as native people and for its recognition.**

~~(20)~~ (19) The United States has declared that--

(A) the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) Congress has identified Native Hawaiians as a distinct indigenous group within the scope of its Indian affairs power, and has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.

~~(21)~~ (20) In 1959, the people of Hawaii, including Native Hawaiians, exercised their right of self-determination under international law and freely chose their current political status by voting in favor of admission of Hawaii as the 50<sup>th</sup> State. On December 13, 1959, by UN General Assembly Resolution of 1469, Hawaii was removed from the list of non self-governing territories under Article 73(e) of the UN Charter. The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiians people through the enactment of the Act entitled 'An Act to provide for the admission of the State of Hawaii into

the Union', approved March 18, 1959 (Public Law 86-3; 73 Stat. 4) by--

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held in public trust for 5 purposes, one of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands which comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act.

~~(22)~~(21) The United States continually has recognized and reaffirmed that--

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, native people who exercised sovereignty over the Hawaiian Islands; and

~~(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;~~

~~(C) (B) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, native people of a once sovereign nation with whom the United States has had a political and legal relationship; and~~

~~(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States.~~

## SEC. 2. DEFINITIONS.

In this Act:

~~(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE- The term 'aboriginal, indigenous, native people' means those people whom Congress has recognized as the original inhabitants of the lands and who exercised sovereignty prior to European contact in the areas that later became part of the United States.~~

~~(2)~~ (1) APOLOGY RESOLUTION- The term 'Apology Resolution' means Public Law 103-150 (107 Stat. 1510), a joint resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of

agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

~~(3)~~ (2) CEDED LANDS- The term 'ceded lands' means those lands which were ceded to the United States by the Republic of Hawaii under the Joint Resolution to provide for annexing the Hawaiian Islands to the United States of July 7, 1898 (30 Stat. 750), and which were later transferred to the State of Hawaii in the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union' approved March 18, 1959 (Public Law 86-3; 73 Stat. 4).

~~(4) INDIGENOUS, NATIVE PEOPLE-~~ The term 'indigenous, native people' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

~~(5) INTERAGENCY COORDINATING GROUP-~~ The term 'Interagency Coordinating Group' means the Native Hawaiian Interagency Coordinating Group established under section 5.

~~(6)~~ (3) NATIVE HAWAIIAN-

(A) Prior to the recognition by the United States of the Native Hawaiian governing entity, reorganization of the Native Hawaiian governing entity, the term "Native Hawaiian" means any descendant of not less than one-half part of the blood of the peoples inhabiting the Hawaiian Islands previous to 1778. ~~the term 'Native Hawaiian' means the indigenous, native people of Hawaii who are the direct lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.~~

(B) Following the recognition reorganization by the United States of the Native Hawaiian governing entity, the term 'Native Hawaiian' shall have the meaning given to such term in the organic governing documents of the Native Hawaiian governing entity.

~~(7)~~ (4) NATIVE HAWAIIAN GOVERNING ENTITY- The term 'Native Hawaiian governing entity' means the governing entity organized by the Native Hawaiian people.

~~(8)~~ (5) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

SEC. 3. UNITED STATES POLICY AND PURPOSE.

(a) POLICY- The United States reaffirms that--

- (1) Native Hawaiians are a unique and distinct, indigenous, native people, with whom the United States has had a political and legal relationship;
- (2) the United States has a special ~~trust~~ relationship to promote the welfare of Native Hawaiians;
- (3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of--

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (Public Law 86-3; 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have

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

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

~~(C) the right to reorganize a Native Hawaiian governing entity; and~~

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

(b) PURPOSE- It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization and the recognition by the United States of a Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) IN GENERAL- There is established within the Office of the Secretary the United States Office for Native Hawaiian Relations.

(b) DUTIES OF THE OFFICE- The United States Office for Native Hawaiian Relations shall--

- (1) effectuate and coordinate the trust special relationship between the Native Hawaiian people and the United States, and upon the recognition of the Native Hawaiian governing entity by the United States, between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;
- (2) continue the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian governing entity by the United States, continue the process of reconciliation with the Native Hawaiian governing entity;
- (3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with the Native Hawaiian people and the Native Hawaiian governing entity prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;
- (4) consult with the Interagency Coordinating Group, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and
- (5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to existing Federal statutes or regulations promulgated under the authority of Federal law.

~~SEC. 5. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.~~

- ~~(a) ESTABLISHMENT- In recognition of the fact that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the Native Hawaiian Interagency Coordinating Group:~~
- ~~(b) COMPOSITION- The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from--~~
  - ~~(1) each Federal agency that administers Native Hawaiian programs, establishes or implements policies that affect Native Hawaiians, or whose actions may significantly or uniquely impact on Native Hawaiian resources, rights, or lands; and~~

~~(2) the United States Office for Native Hawaiian Relations established under section 4.~~

~~(c) LEAD AGENCY- The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group, and meetings of the Interagency Coordinating Group shall be convened by the lead agency.~~

~~(d) DUTIES- The responsibilities of the Interagency Coordinating Group shall be--~~

~~(1) the coordination of Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;~~

~~(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon recognition of the Native Hawaiian governing entity by the United States, consultation with the Native Hawaiian governing entity, and~~

~~(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5).~~

#### SEC. 6-5. PROCESS FOR THE RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) ~~RECOGNITION-REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY-~~ The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(b) PROCESS FOR RECOGNITION-

(1) ~~SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS-~~ Following the organization of the Native Hawaiian governing entity, the adoption of organic governing documents, and the election of officers of the Native Hawaiian governing entity, the duly elected officers of the Native Hawaiian governing entity shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary. **organization of the interim Native Hawaiian governing entity and the selection of interim officers, and with a letter of approval by the Governor of Hawaii, the interim officers shall submit draft organic documents to the Secretary for review.**

(2) CERTIFICATIONS-

(A) ~~IN GENERAL-~~ Within ~~90~~ 120 days of the date that the duly elected interim officers of the Native Hawaiian governing entity submit the **draft organic**

governing documents to the Secretary, the Secretary shall certify whether that the draft organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

~~(ii) were adopted by a majority vote of the citizens of the Native Hawaiian governing entity~~ provide for their approval based on a process including the maximum participation by Native Hawaiians;

(iii) provide for the exercise of governmental authorities by the Native Hawaiian governing entity;

(iv) provide for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons subject to the authority of the Native Hawaiian governing entity, and ensure that the Native Hawaiian governing entity exercises its authority consistent with the requirements of section 202 of the Act of April 11, 1968 (25 U.S.C. 1302); and

~~(vii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States.~~

~~(B) BY THE SECRETARY- Within 90 days of the date that the duly elected officers of the Native Hawaiian governing entity submit the organic governing documents to the Secretary, the Secretary shall certify that the State of Hawaii supports the recognition of the Native Hawaiian governing entity by the United States as evidenced by a resolution or act of the Hawaii State legislature.~~

~~(C)(B) RESUBMISSION IN CASE OF NONCOMPLIANCE-~~

(i) RESUBMISSION BY THE SECRETARY- If the Secretary determines that the draft organic governing documents do not address the criteria described in subparagraph (A) or that the draft organic governing documents, or any part thereof, are not consistent with

other applicable Federal law, the Secretary shall resubmit the organic governing documents to the ~~duly elected interim~~ officers of the Native Hawaiian governing entity along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(ii) AMENDMENT AND RESUBMISSION BY THE NATIVE HAWAIIAN GOVERNING ENTITY- If the draft organic governing documents are resubmitted to the ~~duly elected interim~~ officers of the Native Hawaiian governing entity by the Secretary under clause (i), the ~~duly elected interim~~ officers of the Native Hawaiian governing entity shall--

(I) amend the organic governing documents to ensure that the documents comply with applicable Federal law and address the criteria described in subparagraph (A); and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with the requirements of this paragraph.

~~(D)~~ (C) CERTIFICATIONS DEEMED MADE- The certifications authorized in subparagraph (A) shall be deemed to have been made if the Secretary has not acted within 90 days of the date that the ~~duly elected interim~~ officers of the Native Hawaiian governing entity have submitted the draft organic governing documents of the Native Hawaiian governing entity to the Secretary.

~~(3) FEDERAL RECOGNITION- Notwithstanding any other provision of law, upon the election of the officers of the Native Hawaiian governing entity and the certifications by the Secretary required under paragraph (2), the United States hereby extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.~~

The interim Native Hawaiian governing entity shall hold an election on the organic documents as certified by the Secretary and if the certified organic documents are approved by a majority of the voters in the election, to elect officers thereunder.

(4) The duly elected officers of the Native Hawaiian governing entity shall submit to the Secretary the approved organic governing documents and shall submit a resolution or act of the Hawaii State legislature which supports the recognition of the Native Hawaiian governing entity and which certifies the election results.

(5) Notwithstanding any other provision of law, upon the submission of the duly approved organic documents and a resolution or act of the Hawaii State legislature which supports the Native Hawaiian governing entity, the United States hereby extends Federal recognition to the Native Hawaiian governing entity as the



representative governing body of the Native Hawaiians.

**SEC. 7-6. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out the activities authorized in this Act.

**SEC. 8-7. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS.**

(a) REAFFIRMATION- The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union' approved March 18, 1959 (Public Law 86-3; 73 Stat. 5) is hereby reaffirmed.

(b) NEGOTIATIONS- Upon the Federal recognition of the Native Hawaiian governing entity by the United States, the United States is authorized to negotiate and enter into an agreement with the State of Hawaii and the Native Hawaiian governing entity regarding the transfer of lands, resources, and assets dedicated to Native Hawaiian use to the Native Hawaiian governing entity. ~~Nothing in this Act is intended to serve as a settlement of any claims against the United States.~~

**SEC. 9-8. APPLICABILITY OF CERTAIN FEDERAL LAWS.**

(a) INDIAN GAMING REGULATORY ACT- Nothing contained in this Act shall be construed as an authorization for the Native Hawaiian governing entity to conduct gaming activities under the authority of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE- Nothing contained in this Act shall be construed as an authorization for eligibility to participate in any programs and services provided by the Bureau of Indian Affairs or Indian Health Service for any persons not otherwise eligible for such programs or services.

**SEC. 9. DISCLAIMERS**

(a) Nothing in this Act shall be deemed to acknowledge or establish a trust relationship between the United States and any Native Hawaiian governing entity or its members.

(b) Nothing in this Act shall be deemed to apply statutes specifically applicable to Indians because of their status as Indians to any Native Hawaiian governing entity or its members.

## SEC. 10. ETHICS

The provisions of 18 U.S.C. 208(a) prohibiting involvement by a federal government officer or employee in particular matters where the officer or employee or his or her spouse or minor child has a financial interest shall not apply to Native Hawaiians employed by the United States Office for Native Hawaiian Relations if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee or his or her spouse or minor child that results from his or her status as a Native Hawaiian.

## SEC. ~~10~~ 11. SEVERABILITY.

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