

Resolution

No. 23-230

COMMEMORATING THE 30TH ANNIVERSARY
OF THE ENACTMENT OF PUBLIC LAW 103-150,
THE “APOLOGY RESOLUTION”

WHEREAS, on November 23, 1993, President Bill Clinton enacted Public Law 103-150, “Joint Resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawai‘i,” commonly known as the “Apology Resolution”; and

WHEREAS, the Apology Resolution’s SECTION 1 stated in its entirety:

“The Congress—

(1) on the occasion of the 100th anniversary of the illegal overthrow of the Kingdom of Hawaii on January 17, 1893, acknowledges the historical significance of this event which resulted in the suppression of the inherent sovereignty of the Native Hawaiian people;

(2) recognizes and commends efforts of reconciliation initiated by the State of Hawaii and the United Church of Christ with Native Hawaiians;

(3) apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination;

(4) expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people; and

(5) urges the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and the Native Hawaiian people”; and

WHEREAS, the factual statements in the Apology Resolution, many of which had not been previously acknowledged by the United States, have since been cited in congressional findings in support of federal legislation

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and in litigation at the Hawai'i Supreme Court and U.S. Supreme Court, and have had a significant influence on many issues affecting Native Hawaiians; and

WHEREAS, passage of the Apology Resolution encouraged and supported members of the Native Hawaiian community to reassert their inherent sovereignty, demand mitigation of ongoing harms from the overthrow of the Kingdom of Hawai'i and loss of lands, and further their efforts towards self-determination; and

WHEREAS, in 1994, following decades of effort by the Protect Kaho'olawe 'Ohana and the Native Hawaiian community, title to the Island of Kaho'olawe was officially transferred by the U.S. Navy to the State of Hawai'i to be held in trust until the formation of a federally recognized, sovereign Native Hawaiian entity; and

WHEREAS, in 1995, in consultation with the Hawaiian Homes Commission, the Hawai'i State Legislature and United States Congress passed legislation to help settle longstanding claims against the State and federal governments for unauthorized and uncompensated use of Hawaiian Home Lands; however, many of the commitments to transfer lands to or otherwise compensate the Hawaiian Home Lands Trust remain unfulfilled; more specifically,

1. Act 14 (1995) was enacted by the Hawai'i State Legislature, which settled claims made on behalf of the Hawaiian Home Lands Trust against the State for the illegal conveyance or use of trust lands between 1959 and 1988; created the Hawaiian Homes Lands Trust Fund to be used by the Department of Hawaiian Home Lands ("DHHL") to support its projects; required the State to make annual deposits into the trust fund; and transferred certain State land to the trust; and
2. The Hawaiian Home Lands Recovery Act, Public Law 104-42 (1995), was enacted in which Congress required the U.S. Department of the Interior ("DOI") to identify federal lands, including Lualualei, O'ahu, that had originally been part of the Hawaiian Home Lands Trust and to either return them, provide lands in exchange for them, or provide compensation for them to the DHHL, as administrator of the trust, and in which Congress authorized an administrative process to oversee the federal government's responsibilities under the Hawaiian Homes Commission Act; and

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WHEREAS, in 2000, spurred by the Apology Resolution's call for reconciliation, the U.S. Department of Justice and the DOI held a series of meetings and hearings in Hawai'i and issued a joint report entitled "From Mauka to Makai: The River of Justice Must Flow Freely," known as the "Reconciliation Report," expressing support for the self-determination of Native Hawaiians within the framework of federal law and recommending a series of actions to facilitate reconciliation; and

WHEREAS, the Reconciliation Report described the economic deprivation, low educational attainment, poor health status, substandard housing, and social dislocation disproportionately affecting the Native Hawaiian people; unfortunately, these challenges persist and are perhaps even more acute today; and

WHEREAS, in 2004, the Office of Native Hawaiian Relations, an office within the DOI, was established via an appropriations bill and the Hawaiian Home Lands Recovery Act to: effectuate the special legal relationship between the Native Hawaiian people and the United States, continue the process of reconciliation, and implement consultation with the Native Hawaiian people regarding any federal actions that may significantly affect Native Hawaiian resources, rights, or lands; and

WHEREAS, in 2009, following litigation at the Hawai'i Supreme Court and the U.S. Supreme Court regarding the use and disposition of Ceded Lands, the Hawai'i State Legislature enacted Act 176 (2009), which established a de facto moratorium on any transfer of Ceded Lands (former Crown, Government, and public lands of the Kingdom of Hawai'i ceded to the United States upon Hawai'i becoming a U.S. Territory in 1898); and

WHEREAS, in 2011, in the Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples, the United States articulated its support for Native Hawaiian self-determination and recognized the plethora of federal programs that Congress has enacted to support the Native Hawaiian people; and

WHEREAS, in 2016, the DOI issued procedures to reestablish a formal government-to-government relationship between the United States and the Native Hawaiian community, thus recognizing the Apology Resolution's call for executive support of reconciliation and recognizing that Native Hawaiians are indigenous people of the United States, retain inherent sovereignty, and are in a special trust relationship with the United States; and

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WHEREAS, the Maui County Council supports reconciliation with the Native Hawaiian people and addressing the unique challenges facing the Native Hawaiian people, the origin of many of which can be traced to the 1893 overthrow of the Kingdom of Hawai‘i, as seen through these recent efforts:

1. The Council adopted Resolution 22-182, approving the appointment of a Hawaiian Language Communications Specialist for the County, providing ‘Ōlelo Hawai‘i as a medium for the Council’s public information;
2. Supported amendments to the Charter of the County of Maui (1983), as amended, approved at the 2022 General Election to:
 - Create the Department of ‘Ōiwi Resources, effective July 1, 2024, and affirm that Maui County will operate as a bilingual government by implementing opportunities to include the Hawaiian language; and
 - Bifurcate the Department of Housing and Human Concerns and create a liaison to the DHHL on all matters involving housing development in the County, ensuring that planning and permitting for affordable housing are expedited;
3. In 2022, the Council approved via the Fiscal Year 2023 Budget \$43 million for the Department of Management and received an \$11 million grant delivered by U.S. Senator Brian Schatz for the construction of the Hālau of ‘Ōiwi Arts, a facility dedicated to the study, practice, celebration, and perpetuation of Hula and associated arts, the first of its kind in Hawai‘i;
4. The Council enacted Ordinance 5313, acknowledging and affirming that water is a natural and cultural resource that must be protected, preserved, and managed as a public trust and amending Section 14.12.030, Maui County Code, to exempt development by DHHL from the water-availability policy to advance affordable-housing projects;
5. The Council enacted Ordinance 5551 (2023) requiring 20 percent of all revenue generated by the General Excise and Use Tax Surcharge to be for projects that directly support the DHHL

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homestead development, as there are approximately 28,000 Native Hawaiians waiting for land awards;

6. The Council adopted Resolution 21-168 and purchased nearly 500 acres for \$10.5 million from Alexander & Baldwin, LLC in Waikapū, where iwi kupuna were found, and dedicated a portion as a cultural preserve, demonstrating the Council's commitment to preserving lands with cultural significance;
7. The Council amended the Maui County Code to provide real property tax exemptions for:
 - Property designated as Kuleana land and Kuleana Act government land, in accordance with "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as originally enacted and as amended;
 - Parcels used for farming taro where the assessed value times the current agricultural class tax rate is less than the minimum real property tax; and
 - Land dedicated as 'āina kūpuna, for real property owned in whole or in part in fee simple by one or more descendants of the person who owned the property at least eighty years prior to the application; and
8. The Council supported in 2020 Dr. Janet L. Six becoming the first archeologist to work for Maui County in a position created to protect the County's significant natural, cultural, and historical resources; and
9. The Council applied the Ka Pa'akai analysis and consultation process, as directed by "Ka Pa'akai O Ka 'Aina v. Land Use Commission (2000)" during the creation of the Maui Island Water Use and Development Plan to identify and protect Native Hawaiian cultural, historical, and natural resources and to help ensure Native Hawaiian customary and traditional rights; and

WHEREAS, the Countywide Policy Plan notes the following core principles:

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- “Excellence in the stewardship of the natural environment and cultural resources”; and
- “Honor for all cultural traditions and histories”; and

WHEREAS, on November 1, 2023, the Honolulu City Council adopted Resolution 23-255, FD1, commemorating the 30th Anniversary of the “Apology Resolution”; and

WHEREAS, the Apology Resolution has had a profound nationwide impact in supporting federal legislation benefitting Native Hawaiians, in serving as a foundation for the ongoing process of reconciliation, and on the public’s understanding of the events of 1893, including the understanding that the Kingdom of Hawai‘i was illegally overthrown; and

WHEREAS, reconciliation is an evolving and continuing process to address the political status and rights of the Native Hawaiian people, and the future of Ceded Lands is based on dialogue among the federal and State governments, Native Hawaiians, and Hawai‘i’s Congressional delegation and on further action by the United States; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it commemorates the 30th anniversary of the enactment of Public Law 103-150, the “Apology Resolution”;
2. That it believes, although the County, State, and federal governments have made efforts, further progress in the reconciliation process is direly needed to address the many challenges affecting the Native Hawaiian community today;
3. That it urges the County, State, and federal governments to advance reconciliation efforts with the Native Hawaiian people, respond to and mitigate ongoing harms from the overthrow of the Kingdom of Hawai‘i, and support community-led initiatives to further Native Hawaiian self-determination; and
4. That certified copies of this Resolution be transmitted to the Honorable Joseph R. Biden, Jr., President, United States of America; the Honorable Deb Haaland, Secretary of the Interior, United States of America; the Honorable

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Merrick B. Garland, Attorney General, United States of America; the Honorable Antony J. Blinken, Secretary of State, United States of America; the Honorable Mazie Hirono, Senator, United States Senate; the Honorable Brian Schatz, Senator, United States Senate; the Honorable Ed Case, Representative, United States House of Representatives; the Honorable Jill Tokuda, Representative, United States House of Representatives; the Honorable Josh Green, M.D., Governor, State of Hawai'i; the Honorable Ronald D. Kouchi, President, Hawai'i State Senate; the Honorable Scott K. Saiki, Speaker, Hawai'i State House of Representatives; and the Honorable Richard T. Bissen, Jr., Mayor, County of Maui.

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INTRODUCED BY:



KEANI N.W. RAWLINS-FERNANDEZ