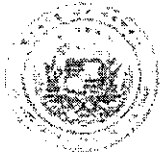


**TESTIMONY**  
**SB2302**  
**LATE**

LINDA LINGLE  
GOVERNOR OF HAWAII



# LATE TESTIMONY

*KŪKULU KE EA A KANALOA*

## KAHO'OLAWE ISLAND RESERVE COMMISSION

811 Kolu Street, Suite 201, Wailuku, HI 96793  
Telephone (808) 243-5020 Fax (808) 243-5885  
Website: <http://kahooolawe.hawaii.gov>

**Testimony of  
MICHAEL K. NAHO'OPI'I  
Executive Director**

**Before the Senate Committee on  
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**Friday, January 29, 2010  
2:45 PM  
State Capitol, Conference Room 229**

**In consideration of  
SENATE BILL 2302  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**

Senate Bill 2302 would transfer the functions and responsibilities for the preservation and protection of native Hawaiian burial sites to the Office of Hawaiian Affairs; these duties are currently under the purview of the Department of Land and Natural Resources, State Historic Preservation Division and the Kaho'olawe Island Reserve Commission (KIRC) for the island of Kaho'olawe. KIRC opposes the inclusion of Kaho'olawe burial sites in Senate Bill 2302 and would prefer to retain its burial council duties.

Kaho'olawe is the only main Hawaiian island that has had an island-wide inventory survey prepared and accepted. Burial sites have been identified and a KIRC- approved burial treatment plan requires that regular surveys be conducted of all burial sites. To accomplish all that is culturally appropriate, KIRC works very closely with the Protect Kaho'olawe 'Ohana, a native Hawaiian group that has provided all necessary cultural protocols for burials on Kaho'olawe for more than thirty years. Thus, these duties and responsibilities should remain with the KIRC.

### COMMISSION MEMBERS

NOA EMMETT ALULI, M.D.  
*Chairperson*  
CRAIG NEFF  
*Vice-Chair*  
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COLETTE Y. MACHADO  
LAURA H. THIELEN  
AMBER NĀMAKA WHITEHEAD

Michael K. Nāho'opi'i  
*Executive Director*



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2010**

**LATE TESTIMONY**

**ON THE FOLLOWING MEASURE:  
S.B. NO. 2302, RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.**

**BEFORE THE:**

**SENATE COMMITTEE ON  
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**DATE: Friday, January 29, 2010 TIME: 2:45 p.m.**

**LOCATION: State Capitol, Room 229**

**TESTIFIER(S): Mark J. Bennett, Attorney General, or  
Randall K. Ishikawa, Deputy Attorney General**

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**Chair Hee and Members of the Committee:**

The Department of the Attorney General has the following concerns with this bill:

- (1) The bill uses the term "prehistoric or historic burial sites associated with the native Hawaiian people," at p. 19, ln. 11-19, p. 20, ln. 9-10, p. 22, ln. 9-11, and p. 23, ln. 21-22. The term "associated with the native Hawaiian people" is not defined. To eliminate confusion, a definition of that term should be included. In addition, it is unclear whether the use of the term "associated with the native Hawaiian people" as opposed to the term "of native Hawaiian origin" has any significance.
- (2) The bill uses the term "of native Hawaiian origin" at p. 26, ln. 10-12. The term "of native Hawaiian origin" is not defined. To eliminate confusion, a definition of that term should be included. In addition, it is unclear whether the use of the term "associated with the native Hawaiian people" as opposed to the term "of native Hawaiian origin" has any significance.

Testimony of the Department of the Attorney General  
Twenty-Fifth Legislature, 2010  
Page 2 of 2

- (3) The bill repeals section 6E-43.6, Hawaii Revised Statutes, relating to inadvertent discovery of human remains. While the provisions of the new section 10-H, set forth at pp. 8-9, restate the provisions of section 6E-43.6, the proposed section 10-H applies only to native Hawaiian burial sites. Section 6E-43.6 presently applies to both native Hawaiian and non-native Hawaiian burials. Repeal of section 6E-43.6 would then leave the Department of Land and Natural Resources without guidance as to how to deal with inadvertent discoveries of non-native Hawaiian remains.

**TESTIMONY**  
**SB2302**  
**LATE**  
**(END)**