

NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII



ALBERT "ALAPAKI" NAHALE-A
CHAIRMAN
HAWAIIAN HOMES COMMISSION

ROBERT J. HALL
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF ALAPAKI NAHALE-A, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON JUDICIARY

ON SB 1520 SD 2 HD 1, RELATING TO GOVERNMENT

March 21, 2011

Aloha Chair Keith-Agaran, Vice-Chair Rhoads and Members of the
Committee:

The Department of Hawaiian Home Lands (DHHL) supports the purpose and intent of SB 1520 SD 2 HD 1 which provides for a reorganization process for a Native Hawaiian governing entity and for the State of Hawaii's recognition of this entity.

DHHL has supported the various versions of the Native Hawaiian Government Reorganization Act that have been vetted in the U.S. Congress since 2000. The premise for DHHL supporting this federal legislation was achieving federal recognition to protect the Hawaiian Home Lands trust from 14th Amendment legal challenges and to advance Native Hawaiian self-governance and self-determination. We do support state recognition of a Native Hawaiian entity as an intermediate step for Native Hawaiians to ultimately achieve federal recognition, however, our department must further study this measure and engage in consultation with our beneficiaries to fully understand its impact to our trust and its legal implications. Mahalo for the opportunity to testify.

Testimony on SB 1520, HD 1

From Poka Laenui, Chairperson
Native Hawaiian Convention

Aloha Members of the House Judiciary Committee:

I support the HD 1 version of the bill calling for the recognition of the Native Hawaiian people as the indigenous people of Hawaii as well as calling for the support of the Native Hawaiian Convention's completion of its work.

All of us in Hawaii find ourselves walking a delicate and sometimes treacherous path, on the one hand being forced to operate within a colonial system which has become so pervasive in Hawaii that it is the reality of political and practical life of Hawaii, while on the other hand, being faced with undeniable truths from our history of these islands, i.e. that the present colonial system of U.S. hegemony is illegal according to international law and U.S. Constitutional law, and is a direct violation of the human rights and fundamental freedoms of the Hawaiian nationals.

The present HD 1 of HB 1520 tries to address both of these realities in as dignified a way as is available, preparing for a path of securing indigenous peoples rights within this colonial framework, as well as attempting to advance those human rights and fundamental freedoms appropriate for the Native Hawaiian people and eventually all of the nationals of Hawaii.

Thus, we have two basic statements being made in this HD 1, i.e., recognizing the Native Hawaiians as the indigenous peoples of Hawaii, as a form of meeting Federal standards for protection of Native Hawaiian assets; and protecting the integrity of Native Hawaiians right of self-determination, sometimes called "sovereignty".

In this attempt to protect the integrity of Native Hawaiian's right to self-determination, this House Draft properly recognizes the history of the Legislature and the State of Hawaii in prior years, supporting the Native Hawaiians to identify their own process of addressing the formation of a governmental entity. This draft is a testament to the House that they have not forgotten the modern attempt to accede to the Native Hawaiian people the process designed by them through the Sovereignty Advisory Commission, the Native Hawaiian Sovereignty Council, the Native Hawaiian Elections Commission, the educational efforts of Hui Na'auao, the Native Hawaiian Vote which elected delegates from the Native Hawaiian people, and the partial work of the Native Hawaiian Convention.

This House Draft has been able to pierce the curtain of interruption of the Congressional effort of passage of the Akaka Bill, an attempt to organize the Native Hawaiian people under the broader jurisdiction of the United States of America. Rather than continuing to chase after that outcome, this draft calls for clarity of the issue – the

right of self-determination of a people should first, and foremost, belong to the people, and expressed in a process ratified by the people.

This draft goes further in reciting a brief history of the role of international law and its applicability to the Hawaiian nationals, citing the formation of the United Nations, the place set aside for non-self governing territories such as Hawaii within this UN framework, the placement of Hawaii by the United States on a listing of non-self governing territories subject to self-determination, and the failure of the United States to meet that obligation through the so-called "Statehood" vote. This draft presents one of the core principles of international law and the process of decolonization which had not been given to Hawaii.

Finally, the draft is appropriate because it has been able to give meaning to the United Nations Declaration on the Rights of Indigenous Peoples. Today, there are no members of the United Nations which now stand against the U.N. Declaration. As a declaration which faces no member states against it, it is on its way of becoming more than a non-binding expression of principles, to serve merely as a guideline for countries which have indigenous peoples within their territories. It is on a similar path of the Universal Declaration of Human Rights, another declaration which has now been transformed into customary international law by the fact that it has been so universally adopted by members of the United Nations.

It may be appropriate to recite Article 3 of that Declaration which recognizes:

"Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development."

This House Draft calls for the recognition of the right of Native Hawaiians to do precisely that, to practice their self-determination. They have expressed their desire to do so through the Native Hawaiian Convention. The State should support this effort. Please pass this House Draft version of SB 1520.

Mahalo.

ASSOCIATION OF HAWAIIAN CIVIC CLUBS
Testimony of President Soulee Stroud

**Senate Bill 1520, SD2, HD1
Relating to Government**

Before the
HOUSE COMMITTEE ON JUDICIARY
Tuesday, March 22, 2011, 2:00 p., Room 325

Aloha Chairman Keith-Agaran and vice chair Rhoads, I am Soulee Stroud, President of the Association of Hawaiian Civic Clubs here today to testify in support of SB 1520 SD2HD1, Relating to Government.

The first civic club was founded in 1918 and we continue to thrive with clubs on all islands of the State of Hawaii, 11 states on the continent and the District of Columbia. We now have sixty component clubs participating in those activities that our founders envisioned.

Introduced into the Legislature this session were three bills intending to deal with the issue of State recognition of the Native peoples of Hawai'i nei. SB 1520 SD2HD1 has as its purpose an intent to provide a process for the reorganization of a first nation government by the Native Hawaiians and for the subsequent recognition by the State of Hawai'i.

We support the Findings and Definition sections of SB 1520 SD2 HD1 and find them to be a substantial articulation of the historic conditions of kanaka o'iwi that provides for appropriate participation and representation of Hawaii's native peoples.

We acknowledge and understand that both chambers are preparing themselves for the upcoming conference committees and are trying to develop a strategy for your bills. We hope that you will give careful thought and attention to the positions taken on this matter as you structure your response to the need for State recognition of a Native Hawaiian governing entity.

Thank you for consideration of our testimony on SB 1520 SD2, HD1 .



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Founder/Legislative Director

**TESTIMONY ON SENATE BILL 1520, SENATE DRAFT 2, HOUSE DRAFT 1,
RELATING TO GOVERNMENT**

**House Committee on Judiciary
Hon. Gilbert S.C. Keith-Agaran, Chair
Hon. Karl Rhoads, Vice Chair**

**Monday, March 22, 2011, 2:00 PM
State Capitol, Conference Room 325**

Honorable Chair Keith-Agaran and committee members:

I am Kris Coffield, representing the Imua Alliance, a nonpartisan political advocacy organization that currently boasts over 60 local members. On behalf of our members, we offer this testimony in support to SB 1520, SD2, HD1, relating to government.

One of the most conspicuous and shameful gaps in Hawaii state law is the lack of any statute defining Native Hawaiians as the official, and only, indigenous people of our island home. Thankfully, this measure would *finally* rectify that discrepancy. The merits of such a move have been argued by Hawaiian scholars and indigenous activists in so complete and competent a manner as to leave scarcely anything to say. American colonialism, epitomized by the illicit overthrow of the Hawaiian monarchy, in 1893, and consummated in the ensuing annexation of the islands, in 1898, left the Hawaiian people dispossessed, disenfranchised, and marginalized. Over time, that dispossession has been manifested in economic and social strife, as Native Hawaiians suffer disproportionate rates of incarceration, poverty, alcoholism, heart disease, and illness, when compared to the general population. According to the U.S. Department of Health and Human Services, for example, Native Hawaiians and Pacific Islanders are 30 percent more likely to be diagnosed with cancer than non-Hispanic Caucasians, and are 5.7 times more likely to die from diabetes. With regard to education, approximately 10 percent of Native Hawaiians attain a college degree, compared with 27 percent of Caucasians. Undoubtedly, myriad socioeconomic factors play a role in the continued struggles of the Hawaiian community. In a very real sense, however, all of those factors can be located in the theft of land and suppression of culture that was perpetrated by the

federal government. Thus, at this point, the need for recognition of Hawaiians' unique political position as the archipelago's native people should be self-evident.

Additionally, the Imua Alliance encourages the committee to hear SB1, SD2, HD1, relating to the state recognition of the Native Hawaiian people, their lands, entitlements, health, education, welfare, heritage, and culture, which sets forth a process for establishing self-governance for qualified Native Hawaiians. Please do not usurp the will of our state's indigenous population by merely passing SB1520, SD2, HD1, a bill that, while necessary to right a historical wrong, does little to ensure self-determination within the realm of popular politics.

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

Testimony for SB1520 on 3/22/2011 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, March 22, 2011 8:06 AM

To: JUDtestimony

Cc: info@schha.org

Testimony for JUD 3/22/2011 2:00:00 PM SB1520

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Michael Kahikina

Organization: Sovereign Councils of the Hawaiian Homelands Assembly

Address:

Phone:

E-mail: info@schha.org

Submitted on: 3/22/2011

Comments:

If there are any questions or comments, please contact Annie Au Hoon, SCHHA
Executive Assistant at 529-1627.



SB 1520, SD2, HD1
RELATING TO GOVERNMENT
House Committee on Judiciary

March 22, 2011

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) offers the following comments on SB 1520, SD2, HD1, which states in its Section 2: "The native Hawaiian people are hereby recognized as the only indigenous, aboriginal, maoli people of Hawaii":

OHA supports state recognition of Native Hawaiians provided that it does not diminish efforts to pursue and obtain federal recognition.

As to the specifics of state recognition, OHA is carefully considering possible approaches, including SB 1520, SD2, HD1, so as to be able to continue to offer constructive suggestions as this legislative session proceeds. We look forward to continuing to communicate with our beneficiaries, legislators and other public officials, our advisors, and others about how best to approach state and federal recognition. We appreciate the willingness of our legislators to not only listen to, but to also incorporate into this bill, many of the public's perspectives. We are encouraged by the open and full dialogue on this very important topic.

We do wish to raise a concern about the use of the term "native Hawaiian" in the HD1. One of the many differences between the SD2 and the HD1 is that the former tends to use the term "Native Hawaiian" (upper-case N) while the latter tends to use the term "native Hawaiian" (lower-case n). This change may have been viewed simply as a technical drafting matter. However, the change could also create substantive confusion with regard to, for example: the scope of the population being recognized; the relationship to federal documents that use the term "Native Hawaiian"; and the relationship to state laws that define OHA's group of beneficiaries as both "native Hawaiians and Hawaiians." During deliberations on the HD1, we encourage careful attention to the appropriate use of terms.

Mahalo for the opportunity to testify on this important measure.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2011 1:22 PM
To: JUDtestimony
Cc: merway@hawaii.rr.com
Subject: Testimony for SB1520 on 3/22/2011 2:00:00 PM

Testimony for JUD 3/22/2011 2:00:00 PM SB1520

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Marjorie Erway
Organization: Individual
Address:
Phone:
E-mail: merway@hawaii.rr.com
Submitted on: 3/19/2011

Comments:

It's important to all of the State to support HCR. 107 & oppose this bill, as well as SB1, SB 1520, and any others which are in conflict w/the Resolution.

Testimony on SB 1520, HD 1

From Ho`oipo DeCambra

Aloha Members of the House Judiciary Committee:

I support the HD 1 version of the bill calling for the recognition of the Native Hawaiian people as the indigenous people of Hawaii as well as calling for the support of the Native Hawaiian Convention's completion of its work.

“Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.” Article 3, Universal Declaration of Human Rights

This House Draft calls for the recognition of the right of Native Hawaiians to do precisely that, to practice their self-determination. They have expressed their desire to do so through the Native Hawaiian Convention. The State should support this effort. Please pass this House Draft version of SB 1520.

Mahalo

Testimony for SB1520 on 3/22/2011 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, March 21, 2011 2:04 PM

To: JUDtestimony

Cc: Ken_Conklin@yahoo.com

Testimony for JUD 3/22/2011 2:00:00 PM SB1520

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Kenneth R. Conklin, Ph.D.
Organization: Individual
Address:
Phone:
E-mail: Ken_Conklin@yahoo.com
Submitted on: 3/21/2011

Comments:

We already have a nation. It's called The United States of America. Any member of this committee who votes to demolish our nation, or rip it apart, in order to create a new nation is not only guilty of violating the Oath Of Office which you all took "to support and defend the Constitution of the United States" but also guilty of treason.

One practical difficulty with this bill is that it will spend Hawaii taxpayer dollars for the benefit of people who are not citizens of Hawaii, and who might never have even been present in Hawaii. According to the requirements for membership in the new "nation", someone could be born and raised and living in Las Vegas or Los Angeles or Boston, have 1/64 Hawaiian native blood quantum, be acknowledged as being "Hawaiian" by a couple of other ethnic Hawaiians; and be a member of a hula halau or "Hawaiian" club or be a registrant with Kau Inoa racial registry. Such a person would have zero connection with Hawaii; yet the esteemed members of this committee are apparently contemplating spending my tax dollars to recruit this person for membership in a phony new racially defined "nation."

Now here are some fundamental arguments against the whole concept of creating an Akaka tribe.

SB1520 is fundamentally the same as the federal Hawaiian Government Reorganization bill, also known as the Akaka bill; except that instead of having the federal government recognize the Akaka tribe, this bill would have only the State of Hawaii recognizing that tribe.

The clear purpose of the bill is to authorize the creation of an entity with governmental powers, but restricted to people who have at least one drop of Hawaiian native blood.

That racist concept is unconstitutional under the 14th Amendment of the U.S. Constitution. Since all legislators have taken an oath to support and defend the U.S. Constitution, any legislator who votes in favor of this bill has thereby violated that oath and must resign from office.

The concept of this bill also violates the first sentence of the first Constitution of the Kingdom of Hawaii, sometimes called the "kokokahi" (one blood) sentence,

which proclaimed "Ua hana mai ke Akua i na lahuikanaka a pau i ke koko hookahi, e noho like lakou ma ka honua nei me ke kuikahi, a me ka pomaikai." In English, it can be translated into modern usage as follows: "God has made of one blood all races of people to dwell upon this Earth in unity and blessedness." What a beautiful and eloquently expressed concept! SB1520 is an ugly and disgusting violation of that kokokahi sentence.

King Kamehameha III wrote the kokokahi sentence as the first sentence of his Declaration of Rights in 1839, which was then incorporated in its entirety to become the preamble of the Constitution of 1840. In making that proclamation the King exercised sovereignty and self-determination on behalf of his native people, and on behalf of all people of all races who were subjects and residents of his Kingdom.

Today's Hawaiians are ethically bound to respect the wisdom of their ancestors. They are also legally and morally bound to respect the full partnership between natives and non-natives which enabled the Kingdom to be established and to thrive. All subjects of the Kingdom were fully equal under Kingdom laws, regardless of race, including voting rights and property rights. When partners work together in full equality to create and sustain a business or nation, it is morally and legally wrong for one partner to toss out or set aside or segregate other partners.

A zealous minority within the ethnic Hawaiian minority demands racial separatism. Should we allow that? Will you legislators be accomplices to such evil?

Consider the historical struggle for identity within the African-American community. Elijah Muhammad's Nation of Islam, and the early Malcolm X, advocated racial separatism and portrayed the white man as a devil. Some radicals called for setting aside several southern states for a Nation of New Africa. Fortunately Martin Luther King used Gandhi's spiritual tool of non-violence to appeal to people's inner goodness, which led to full integration. After his pilgrimage to Mecca Malcolm X understood the universal brotherhood of people of all races, but was gunned down by the separatists when he tried to persuade them to pursue integration.

In Hawaii we see a similar struggle now unfolding. Some demagogues use racial grievances to stir up hatred, and leaders use victimhood statistics to build wealthy and powerful institutions on the backs of needy people who end up getting very little help.

The Akaka bill, and SB1520, would empower the demagogues and racial separatists. These bills are supported primarily by large, wealthy institutions; not by the actual people they claim to represent. Institutions like the \$400 Million Office of Hawaiian Affairs, and the \$9 Billion Kamehameha Schools, seek to entrench their political power. They want an exemption from the 14th Amendment requirement that all persons be given the equal protection of the laws regardless of race.

But Hawaiians are voting with their feet against the Akaka bill. After seven years and untold millions of dollars in state government money for advertising (and free T-shirts!), fewer than one-fourth of those eligible have signed up for the Kau Inoa racial registry likely to be used as a membership roll for the Akaka tribe. Sadly, if either the Akaka bill or SB1520 passes then the separatists will be able to create their tribe even though the majority of ethnic Hawaiians oppose the idea. And 80% of Hawaii's people, having no native blood, will see our beautiful Hawaii carved up without even asking us.

Do the racial separatists have a right to go off in a corner and create their own private club for members only? Perhaps. But should the rest of us give them our encouragement and our resources to enable them to do that? Absolutely not.

It's time for this legislature to stop encouraging racial separatism. It's time to stand up in support of unity and equality. Just say no to SB1520 and all other bills motivated by the same mentality.

Please read my 302-page book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State." 27 copies are available in the Hawaii Public Library system, and portions of it can be read on a webpage where the book can also be purchased:

<http://tinyurl.com/2a9fqa>