

SB 1520



SB 1520
RELATING TO GOVERNMENT
Senate Committee on Hawaiian Affairs
Senate Committee on Judiciary and Labor

February 14, 2011

3:00 p.m.

Room 224

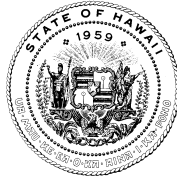
The Office of Hawaiian Affairs (OHA) offers the following comments on SB 1520, which sets forth a process for the reorganization of a first nation government by Native Hawaiians and its subsequent recognition by the State of Hawai'i:

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, so as to be able to offer constructive suggestions as this legislative session proceeds. We look forward to communicating with our beneficiaries, legislators and other public officials, our advisors, and others about how best to approach state and federal recognition.

Mahalo for the opportunity to testify on this important measure.

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 SENATE COMMITTEES ON HAWAIIAN AFFAIRS & JUDICIARY AND LABOR

ON SB 1520, RELATING TO GOVERNMENT

February 14, 2011

Aloha Chair Galuteria, Vice-Chair Hee and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) supports the purpose and intent of SB 1520 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.

Thank you for the opportunity to testify.

TESTIMONY BEFORE
THE COMMITTEE ON HAWAIIAN AFFAIRS
AND
THE COMMITTEE ON JUDICIARY AND LABOR
HAWAII STATE SENATE
ON S.B. NO. 1520 RELATING TO GOVERNMENT

BY JON M. VAN DYKE
Attorney at Law
4191 Round Top Drive
Honolulu, Hawaii 96822

AND

SHERRY P. BRODER
Attorney at Law
Seven Waterfront Plaza, Suite 400
500 Ala Moana Blvd.
Honolulu, Hawaii 96813

FEBRUARY 14, 2011

This testimony is submitted to support the passage of S.B. No. 1520 and to provide background addressing the legal issues raised by this bill. We regret that we cannot submit this testimony in person, because we are in Berkeley, California for the current semester.

S.B. No. 1520 would facilitate the reestablishment of a First Nation Government for Native Hawaiians and would commence a process to return lands and resources to Native Hawaiians. The status of Native Hawaiians as the indigenous people of Hawaii has been recognized by this Legislature and by the U.S. Congress repeatedly. The claim of Native Hawaiians to lands and resources has also been well established. In *Rice v. Cayetano*, 528 U.S. 495, 524 (2000), Justice Anthony Kennedy wrote for the majority that “the native Hawaiian people” experienced a common “loss” that has had effects that have “extended down through generations,” and that it has been appropriate for the State of Hawaii “to address these realities.” *See also State of Hawaii v. Office of Hawaiian Affairs*, 129 S.Ct. 1436, 1439-40, 1445 (2009) (describing the role of U.S. officials in the overthrow of the Kingdom of Hawaii and referring to “past wrongs”).

The Native Hawaiians are the only native group in the United States of any substantial size that has never had either a settlement agreement or a claims commission established by the

government to address their claims. The enactment of a bill like S.B. No. 1520 is long overdue, and this bill would be helpful in providing justice to the Native Hawaiians.

The language in S.B. No. 1520 is modeled (with appropriate adjustments) on the latest version of the Native Hawaiian Government Reorganization Act (frequently called The Akaka Bill), which was passed by the U.S. House of Representatives last year, but was not acted upon by the U.S. Senate. It will be reintroduced into the U.S. Congress this session, and efforts will continue to seek passage at the federal level. S.B. No. 1520 is compatible with the Akaka Bill and demonstrates the continuing commitment of the State of Hawaii to provide a process to achieve justice for Native Hawaiians. It is appropriate for the State of Hawaii to participate and assist in facilitating the reestablishment of a First Nation Government for Native Hawaiians.

S.B. No. 1520 calls for the creation of a Commission with the responsibility of developing a membership roll of qualified Native Hawaiian constituents, who would be eligible to participate in the First Nation Government. Once the roll is developed, meetings would be held with the Native Hawaiian constituents, and these constituents would elect members of a Council. The Council would hold a referendum to determine the elements of the First Nation Government and then, based on the outcome of the referendum, would develop proposed organic documents for the First Nation Government. A ratification election would then be held among the Native Hawaiian constituents to approve (or reject) the organic documents, and the Council would also hold an election to select the officers of the First Nation Government. Under this Bill, therefore, the Native Hawaiians would determine their form of government, and the State's role would be only to facilitate this process, not to determine the outcome. No claims would be settled or abandoned during this process of reestablishing First Nation Government.

If the organic documents are ratified by the Native Hawaiian constituents, they would be submitted to the Governor, who would determine whether they complied with certain stated criteria, and, if they do, the State of Hawaii would extend recognition to the First Nation Government as the representative sovereign governing body of the Native Hawaiian people. The First Nation Government would be vested with the inherent powers and privileges of self-government of a native government, except as set forth in the Bill. Once these steps are completed, negotiations would begin between the State of Hawaii and the First Nation Government to transfer lands, natural resources, and other assets to the First Nation Government, and to address claims and grievances of Native Hawaiians against the State.

Although the federal government has taken the lead in establishing relationships with native peoples, it is not uncommon for states to establish such relationships. New York State, for instance, has extensive statutes relating to Indians. At least four states – Connecticut, Massachusetts, Maine, and Alaska – have permitted native communities to incorporate as municipalities. North Carolina and Rhode Island, among other states, also have direct relationships with the native peoples living within their borders. *See generally* Noelle M. Kahanu & Jon M. Van Dyke, *Native Hawaiian Entitlement to Sovereignty: An Overview*, 17 UNIVERSITY OF HAWAII LAW REVIEW 427, 435-37, 453-56 (1995).

The State of Hawaii already plays a strong role in addressing the concerns of Native Hawaiians. As a condition of statehood, the State took over responsibility to administer the

Department of Hawaiian Home Lands, and is required by the State Constitution to provide funding for DHHL. The 1978 amendments to the State Constitution established the Office of Hawaiian Affairs with the responsibility “to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians.” Hawaii Constitution, Article XII, Section 6. The Hawaii Supreme Court has stated repeatedly that the State has responsibility to protect and promote the rights of Native Hawaiians that are rooted in Hawaii’s Constitution. *See, e.g., Office of Hawaiian Affairs v. State*, 96 Hawaii 388, 31 P.3d 901 (2001) (stating that “the State’s obligation to native Hawaiians is firmly established in our constitution”). The State of Hawaii has a particular responsibility to help to facilitate the self-determination of Native Hawaiians because the State is now the title-holder to most of the lands that were “ceded” to the United States after the illegal overthrow of the Kingdom of Hawaii in the 1890s.

S.B. No. 1520 leaves unresolved the question of funding for the self-determination process that would be facilitated by this Bill. Section --.6(c) of the proposed Act at page 28 lines 1-3 states that “[t]he council may enter into a contract with, or obtain a grant from, any federal or state agency to carry out the purposes of this section.” Section 3 of the Bill also indicates that some funding “shall be expended by the office of Hawaiian affairs for the purposes of this Act; provided that no additional funds shall be appropriated for the purposes of this Act.” It thus appears that the Bill anticipates that funding will be obtained from federal sources, such as the Administration for Native Americans (ANA), and from state sources, such as the Office of Hawaiian Affairs (OHA). It is commonplace for ANA funds to be used to assist native self-determination, and OHA has a constitutional and statutory responsibility to promote self-determination.

The U.S. Court of Appeals for the Ninth Circuit recently ruled in *Day v. Apoliona*, 616 F.3d 918 (2010), that the OHA Trustees and the State of Hawaii, as trustees of the Ceded Lands Trust established by Section 5(f) of the 1959 Admission Act, “have broad discretion in determining what qualifies as use for a trust purpose,” *id.* at 926, and that funds from the Ceded Lands Trust spent by OHA to support the Native Hawaiian Government Reorganization Act, for instance, did not violate the terms of Section 5(f) of the Admission Act. *Id.* at 927. The Ninth Circuit found that “The [OHA] trustees need only ensure that each expenditure “is one that would ... be accepted as reasonable by persons of prudence.” *Id.* (citing Restatement (Third) Trusts § 87 cmt. C). See also *Price v. Akaka*, 3 F.3d 1220, 1226 3 (9th Cir.1993) (granting OHA trustees qualified immunity where they “reasonably believed that [funding] a referendum to determine Hawaiian opinion” on whether to expand the definition of “native Hawaiian” was for the “betterment of the conditions of native Hawaiians” without any showing that native Hawaiians would benefit more than or differently from non-native Hawaiians).

Similarly, Hawaii’s Intermediate Court of Appeals recently ruled that the State Legislature was required by Article XII of Hawaii’s Constitution to provide sufficient funds to DHHL. *Nelson v. Hawaiian Homes Commission*, -- P.3d --, 2011 WL 174728 (Hawaii Intermediate Court of Appeals, Jan. 12, 2011). It would appear, therefore, that providing funds to facilitate the establishment of a First Nation Government for Native Hawaiians would not violate any constitutional or statutory limitations.

Some might argue that language in *Rice v. Cayetano*, 528 U.S. 495 (2000), prohibits the use of state funds to fund that very specific aspect of the process in the bill relating to the conduct of Hawaiians-only elections, as a violation of the Fifteenth Amendment of the U.S. Constitution. It can be observed in response, however, that specific elections designed to facilitate the establishment of a First Nation Government for Native Hawaiians would not be prohibited by *Rice*, because many examples can be found of U.S. government facilitation of such elections in other locations. *See, e.g.*, Menominee Restoration Act, Public Law 93-197, 25 U.S.C. sec. 903b (which set in motion a process to reestablish the Menominee nation, a process that included a government-facilitated election of a Menominee Restoration Committee and a government-facilitated election to determine the tribe's constitution and bylaws). Thus the idea of using ANA or other federal monies for the election itself is a good one.

The Court in *Rice* declined to determine whether rational-basis judicial review applied to programs benefiting Native Hawaiians, saying that such an inquiry would require the court to determine whether Congress “may, and has, delegated to the State a broad authority to preserve that status,” *i.e.*, the status of Native Hawaiians as a native people. 528 U.S. at 518. Since *Rice*, the U.S. Congress has reaffirmed the responsibility of the State of Hawaii to provide for Native Hawaiians, in, for instance, the 2002 Native Hawaiian Education Act, which says “[t]he United States has recognized and reaffirmed that...Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii.” 20 U.S.C. sec. 7512(12)(c). (Also, since *Rice*, U.S. District Judge Alan C. Kay has explained that rational-basis judicial review should apply to programs involving Native Hawaiians. *Kahawaiolaa v. Norton*, 222 F.Supp.2d 1213 (D. Hawaii 2002), *affirmed on other grounds*, 386 F.3d 1271 (9th Cir. 2004).)

Another important recent development has been the adoption by the U.N. General Assembly in 2007 of the Declaration on the Rights of Indigenous Peoples, which has strong language in Article 3 stating that “[i]ndigenous peoples have the right to self-determination” and in Article 26(1) stating that “[i]ndigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.” U.N.G.A. Res. 61/295 (Sept. 13, 2007, <http://www.un.org/esa/socdev/unpfii/en/drip.html>). Although the United States was one of four countries that voted against that Declaration, President Obama announced in December 2010 that the United States now supports it (and the other three countries that voted against it, Australia, Canada, and New Zealand, have also subsequently expressed support for it). Caren Bohan, *Obama Backs U.N. Indigenous Rights Declaration*, Reuters, Dec. 16, 2010.

S.B. No. 1520 is consistent with constitutional and statutory requirements, and its passage would be a useful step to continue the reconciliation process necessary to address the wrongs that occurred in the 1890s when the Kingdom of Hawaii was overthrown and the national lands of the Native Hawaiians were transferred to the United States without compensation or consent.

ASSOCIATION OF HAWAIIAN CIVIC CLUBS

TESTIMONY BY
PRESIDENT SOULEE STROUD

IN SUPPORT OF SENATE BILL 1520 SD1 Relating to Government

Before the Joint Senate Committees on Hawaiian Affairs
and Judiciary and Labor
February 14, 2011; 3:00 pm Room 224

Aloha Chairman Galuteria, and Chairman Hee and members of the Senate committees meeting jointly today. I am Soulee Stroud, President of the Association of Hawaiian Civic Clubs here today to support the passage of Senate Bill 1520 SD1 .

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 more than fifty component clubs participating in those activities that our founders envisioned – historic preservation, education of Native Hawaiian students, protection of traditional culture and advocacy for Hawaiian Home Lands. We have also been very active in the support and protection of the public land trust that was created with the annexation of Hawai'i by the United States in 1898. These lands, were the original public, government and crown lands of the Kingdom of Hawai'i and we taken and held in a federal and later with the admission of Hawai'i as a State, in a State public land trust for the benefit of the people of Hawai'i in general and the native Hawaiian people, in particular.

The purpose of SB 1520 SD1 is to establish procedures for State recognition of a first nation government. We note that this Senate Draft closes matches H.R. 2314 The Native Hawaiian Government Reorganization Act, with the amendments that were submitted by the then Governor Linda Lingle. It was a conservative approach to the recognition of the first nation, intending to retain much of the powers of state government and subject everything to negotiation rather than simply permitting certain powers to accrue, as a first nation.

While the Association of Hawaiian Civic Clubs has always supported Sen. Akaka and his efforts to gain recognition of Native Hawaiians, it has been difficult to ascertain the amendments being proposed and the most contemporary version before Congress. It is therefore, heartening, that we can respond to and monitor

the progress of a proposed state recognition bill for the first peoples of Hawai'i nei.

This proposed version of SB1520 tends to mirror Sen. Akaka's bill, with certain changes specifically deleting language that relates to Federal programs, Indian Tribal programs, the Department of Interior jurisdiction, and the Federal Office of Hawaiian Relations. We agree with these deletions.

However, we also notice that the broader section of governmental authority to the first nation as articulated in the Akaka bill under Section 9 "Reaffirmation of Delegation of Federal Authority to State of Hawaii; Governmental Authority and Powers; Negotiations; Claims (1) In General " has been deleted. The deletions include exercise of governmental authority over transferred lands, natural resources and other assets. It also deletes the exercise of civil and criminal jurisdictions, the exercise of the authority to tax and other residual authorities. All of these, we surmise, are now subject to negotiation.

On the face of it, we can see no reason to disagree with these deletions, rather we acknowledge that this is a starting point. It is a new beginning of recognition of the first peoples of Hawai'i. We are supportive of taking these first steps together and look forward to joining in the long discussions ahead.

Thank you for your consideration of our testimony . We urge your support of this measure.

For further information please contact our Government Relations Chair, Jalna Keala at jalna.keala2@hawaiiantel.net

www.aohcc.org

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 10, 2011 5:38 PM
To: HWN Testimony
Cc: evernw@aol.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Evern E Williams
Organization: Kupaa Mahopa O Liliuokalani
Address: 3220 Esther Street Honolulu, HI 96815
Phone: 808-392-1486
E-mail: evernw@aol.com
Submitted on: 2/10/2011

Comments:

We are adamantly against this bill because in the long run it will NOT protect Hawaiian entitlements. Most important, it will set down a path for taking away basic Hawaiian rights. Look at Alaska natives and see what happened to them and don't follow what their legislation did to their people and their basic rights. Again, we DO NOT support this bill!

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 12, 2011 5:43 PM
To: HWN Testimony
Cc: info@schha.org
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: support
Testifier will be present: Yes
Submitted by: Kamaki Kanahale
Organization: Sovereign Councils of the Hawaiian Homelands Assembly
Address:
Phone:
E-mail: info@schha.org
Submitted on: 2/12/2011

Comments:

Will be present to provide testimony at the hearing. Please contact Annie Auhoon at #529-1627 for questions.

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 8:10 AM
To: HWN Testimony
Cc: momishells@msn.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Anna Subiono
Organization: Individual
Address:
Phone:
E-mail: momishells@msn.com
Submitted on: 2/11/2011

Comments:

Hawaiians never consented and never will. The Akaka bill and any bill that tries to define who we are (according to the u.s. and feds) is a dictatorship. I'm against it all. We don't need a bill to define our nationality or determine our rights. You all wasted ten years talking about the Akaka bill which is an attempt to decide the status of another country and we have already been deemed an independent nation. Dismantle OHA and DHHL, and give the land back. WE can manage it much better then it has every been managed by the fake state of Hawaii.

Mahalo,

Anna Subiono

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 8:53 AM
To: HWN Testimony
Cc: gehcc@hotmail.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: casina waterman
Organization: Individual
Address:
Phone:
E-mail: gehcc@hotmail.com
Submitted on: 2/11/2011

Comments:

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 13, 2011 1:17 AM
To: HWN Testimony
Cc: imua_1nation@yahoo.co.uk
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Curt H. Sharp
Organization: Individual
Address:
Phone:
E-mail: imua_1nation@yahoo.co.uk
Submitted on: 2/13/2011

Comments:
this bill is like a big cockroach! the "state" has no jurisdiction nor the legal authority to put any element in to law.

Kawaipuna

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 6:24 PM
To: HWN Testimony
Cc: tane_1@msn.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: David M.K. Inciong, II
Organization: Individual
Address:
Phone:
E-mail: tane_1@msn.com
Submitted on: 2/11/2011

Comments:

At a time when money is tight, this is a waste of expenditures because SB1520 is self-serving, self-contradictory, self-incriminating and fosters the racist U.S. WASP Manifest Destiny doctrines.

To minimize the U.S. involvement to destabilize the Kingdom of Hawaii's government, invade and belligerently occupying it is seditious and criminal. These nefarious actions of the U.S. has been admitted and acknowledged by the U.S.A. We know as a fact that there is no treaty of annexation required by international law; The Ku'e Petition of 1897 was a plebiscite of the citizens of the Kingdom of Hawaii; the illegitimate Statehood Act was unlawful by its procedures and that only about 36% of eligible voters voted while some Hawaii nationals were banned from participating in it and 96% of the 36% voted for Statehood. Nonetheless, without a treaty of annexation, statehood is null and void.

The Kingdom of Hawaii still exists albeit under U.S. belligerent occupation. This is a national issue and not an ethnic issue which violates international law of occupation and neutrality law.

As a bona fide Hawaii national, patriot, and true citizen of the still-existing multi-ethnic Kingdom of Hawaii, I strenuously object to the intent of this bill to integrate us into the U.S.A. by force and against our will.

TESTIMONY OF EDWARD AND MAHEALANI WENDT
IN OPPOSITION TO

S.B. 1520 and S.B. 1
Hearing before the Senate Committees
on Judiciary and Hawaiian Affairs
February 14, 2010

S.B. 1520: We support state recognition, but only after a Native Hawaiian government is organized by the Hawaiian people themselves. We do not support those provisions of S.B. 1520 that propose a state process for organizing the government.

Explanation: A true self-determination process for organizing a Native Hawaiian government must be undertaken by the people affected, not proscribed by another government. We have personally supported sovereignty organizing efforts and participated in several efforts to organize a Native Hawaiian government for over 30 years. Some of these efforts include:

- A. Hui Na` auao, a statewide Sovereignty and Self-Determination Community Education project involving 60 participants who convened monthly, representatives of major Native Hawaiian organizations;
- B. Hawaiian Sovereignty Elections Council (HSEC), whose deliberations resulted in a referendum in which approximately 30,000 Native Hawaiians participated, more than 60% of whom supported creation of a Native Hawaiian government;
- C. Ha Hawai` i, which carried out the election referenced above, of popularly elected representatives from every moku district, apportioned by population, to convene a constitutional convention; and
- D. The Nation Hawaiian Convention ("Na O` iwi Hawai` i), consisting of approximately 70 popularly elected delegates from every moku district throughout Hawai` i, and which proposed a referendum on a "nation-within-a-nation" vs.

“independent” nation status, a referendum which was never held due to lack of funding.

All of the above efforts involved thousands of volunteer hours and were severely underfunded. We believe the Hawaiian community has the intellectual wherewithal and resources necessary to continue this government organizing effort, which might include (a) certification of a list of eligible participants in an election of delegates to a constitutional convention; (b) convening a constitutional convention; (c) conducting a referendum for approval/disapproval of the proposed constitution; (d) conducting an election of office holders and representatives consistent with provisions of the constitution, once it is approved.

In short, we support a process of political self-determination wherein the Native Hawaiian people organize their own government.

S.B. 1: We do not support this measure because it is premature. Any proposal for disposition of Native Hawaiian trust assets, including trust lands, should be deferred until the Native Hawaiian political entity (a government, not a business corporation) is formed, and the electorate have had an opportunity for meaningful engagement and participation in the decision-making process.

Respectfully,

Edward and Mahealani Wendt
185 Wailua Road
Haiku, Hawai`i 96708
Telephone: 808-248-7730
ed.wendt@hawaiiantel.net

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 9:48 PM
To: HWN Testimony
Cc: kekahunakeaweiwi@yahoo.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Foster Ampong
Organization: Individual
Address:
Phone:
E-mail: kekahunakeaweiwi@yahoo.com
Submitted on: 2/11/2011

Comments:

As a lineal descendant of Hawaii nationals, a bona fide Hawaii national and tenant of ko hawaii pae aina (Islands of Hawaii) I object and oppose to the intent and imposition by force and against my will of Senate Bill 1520.

For lawmakers of the State of Hawaii to further pursue the intent and objective of Senate Bill 1520 is both unlawful and a gross violation of the fundamental human rights to all Hawaii nationals of ko hawaii pae aina.

THE SENATE

THE TWENTY-SIXTH LEGISLATURE

REGULAR SESSION OF 2011

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Brickwood Galuteria, Chair

Senator Pohai Ryan, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Monday, February 14, 2011

TIME: 3:00 p.m.

PLACE: Conference Room 224

State Capitol

415 South Beretania Street

Testimony on SB 1520, A Bill for An Act Relating to Government

From: Ho`oipo DeCambra, Member of `Aha Hawai`i `Oiwī

Aloha Kakou:

Thank you for the part you played in keeping us on straight and narrow journey towards self-determination.

I have grown old, look at my hair, and still others have lost their hair, through this movement for self-determination, the right to self-govern ourselves. I now have 15 mo`opuna who need to know clearly that they **the right to self-govern** themselves, and they have **the freedom to use their own language and to practice their own culture** as

Native Hawaiians. This testimony is for the yet unborn Hawaiian children, and my 14 mo`opuna, Kaimana, Kainalu, Ikaika, Luke, Ka`enaleiehukai, Jordan, Kiaka, Wailani, Kameaaloha, Kapuaokalani, Paula-Ann Leilani, BJ, Makalapua, and (1) Great grandchild Genesis Leina`ala.

As a Native Hawaiian and member of `Aha Hawai`i `Oiwī (AHO) who contributed to the work in progress, I concur that there emerged two models of a governmental form, one called for an integration approach in which the native Hawaiian government would operate within the United States of America, very much like the commonly known Akaka Bill framework. The second model was one of an independent nation-state. The convention had determined to submit two models to the native Hawaiian constituency upon finalization of these models.

And I concur it is our intention to reconvene the AHO.

With regards to the current bill under consideration, I believe that it would not be appropriate at this time for the legislature to create yet another process in the formation of a native Hawaiian governance entity. Rather, the legislature should support the completion of the mandate of the native Hawaiian vote, providing and/or encouraging the Office of Hawaiian Affairs to assist in the provision of necessary resources to see this work to fruition.

I ask the legislature to continue to support this effort of the convention. All I want is to take the process we started a few years back through to the finish line. This bill could serve as a vehicle to the finish line.

Sincerely,
Ho`oipo DeCambra

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 6:03 AM
To: HWN Testimony
Cc: Imakakoloa@yahoo.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Imakakoloaihenenui Nauha
Organization: Individual
Address:
Phone:
E-mail: Imakakoloa@yahoo.com
Submitted on: 2/11/2011

Comments:

The time has come, that the issue of Hawaii is a State of the Union of the United States of America, be brought before the courts more so the International Court of Justice, the Hague Court.

Hawaii is not a state, but a sovereign nation. When America illegally Annexed Hawaii and then further by means of Illegality made Hawaii a State, America became military occupier of Hawaii.

Since Hawaii is still a sovereign nation, the FAKE STATE of HAWAII cannot make another entity government.

I, Imakakoloaihenenui Nauha by my birthright have claimed the throne that Queen Lili'uokalani was forced to abdicate. She was forced at gun point to give up her power and her rights as the Sovereign ruler of the lands, but she never gave up her sovereignty or the sovereignty of the Hawaiian Island.

I have sent a letter to the President of the United States with regard to this issue and have asked him to come to Hawaii and meet with me to discuss the return of the Hawaiian Islands to its King. My great great great grandfather was Kaumuali'i and Queen Lili'uokalani was my third cousin from the same genealogical line.

Imakakoloaihenenui Nauha
Mo'i of the Hawaii Kingdom

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 10:44 AM
To: HWN Testimony
Cc: imua-hawaii@hawaii.rr.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM
Attachments: 1959 BALLOT.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Isaac Harp
Organization: Individual
Address:
Phone:
E-mail: imua-hawaii@hawaii.rr.com
Submitted on: 2/11/2011

Comments:

As a descendant of Hawaii Nationals and thus a Hawaii National myself, I oppose this measure. There was no Treaty of Annexation between the United States and the Hawaiian Kingdom, therefore Hawaii was never a part of the United States in any way, shape or form other than as an occupied nation occupied by a belligerent occupier. The statehood process was fatally flawed thereby invalidating the state. Please see the example of the 1959 statehood ballot that I have provided to see for yourselves that there were no options other than statehood. In addition, United States citizens and United States military personnel were allowed to vote for statehood further invalidating the process. The truth regarding the United States - Hawaiian Kingdom relationship is well documented and known by thousands, if not millions. The time is here to correct the injustices done to Hawaii and it's people. This measure adds yet another injustice to the list.

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 1:09 PM
To: HWN Testimony
Cc: fitzz@maui.net
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: John FitzGerald
Organization: Individual
Address:
Phone:
E-mail: fitzz@maui.net
Submitted on: 2/11/2011

Comments:

As a direct descendant of 3 Naturalized Hawaiian Citizens; Dr. Gerrit P. Judd (3/9/1832), Amos S. Cooke (3/22/1850), and William H. Rice (7/16/1849), and having no Hawaiian blood, and being purposefully excluded from the Hawaiian Community by today's modern Hawaiians, I am completely opposed to the Akaka Bill and any such legislation as this type designed to permanently keep the Hawaiian people from their right of "self determination"; plus it is a racial oriented legislation as it does not include all the offspring of the Hawaiian people at the time of the annexation (which even the United States Congress admits but will not correct). If the United States Government and the Political Elite were true to its values, the people of Hawaii would be encouraged to seek their "self determination". Lithuania, Estonia, Berlin Wall, Tunisia, Egypt, etc. are excellent examples of peoples seeking their own "self Determination".

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Brickwood Galuteria, Chair

Senator Pohai Ryan, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile Shimabukuro, Vice Chair

DATE: Monday, February 14, 2011

TIME: 3:00 p.m.

PLACE: Conference Room 224

State Capitol

415 South Beretania Street

Re: SB 1520 – Testimony in **SUPPORT**

Aloha nui e Chair Galuteria, Chair Hee, Vice Chair Ryan and Vice Chair Shimabukuro,

I would like to share my **support** for SB 1520. I do not claim to be an expert in law nor am I the most knowledgeable in matters pertaining to self-determination. I respect other views that my own people have regarding this piece of legislation. It may differ from mine. However, I do know that we all have this feeling in common; we are tired of seeing our people suffer.

I do not believe I am a racist but instead I believe that I am a person who would desire that our Hawaiian people be treated with dignity and respect. Our Hawaiian people allowed others into our home and treated them with dignity and respect, just as the Native Americans and Native Alaskans did to those that entered into their homeland. We are happy that some of their rights . . . and dignity have been restored to them and that they have been allowed to once again govern themselves to the best of their ability. We are only asking for those same things, the same opportunities to be given to us. We opened our hearts to the western world and soon after nearly everything we believed to be sacred was taken from us.

Today is a new day and I believe that the time has come for us as a people to rise again and be given an opportunity to take a hold of our destiny and holomua. I believe in this manao of our kupuna, “Ke paa ke kahua, e paa io no ka hale” (When the foundation is

strong, the house indeed will be strong). Hawaiian people are the foundation of this aina and if we are strong, I believe our poe Kepani, poe Pake, poe Pukiki, poe Paniolo, poe Kolea and every other poe malihini that call Hawaii their home now will be strong as well. Hawaiian people do not allow people into their home and then not take care of them. Aole. Instead, we malama them.

I respectfully request that SB 1 be passed. I believe it can give us an opportunity to come together and create our future. It might not be perfect in everyone's eyes but it is one vehicle that can take us to where we want to go. If we don't pass it, we may not have another vehicle for a long while.

Whatever we decide to do will almost definitely have challenges, but that is okay. We are no strangers to pilikia. We can overcome these pilikia together.

No laila, e ae aku i keia palapala, ia SB 1520. Mahalo nui i ko oukou heluhelu ana mai i ua manao nei.

Aloha,

Kama Hopkins

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 6:53 AM
To: HWN Testimony
Cc: caide65@aol.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Ken Ng
Organization: Individual
Address:
Phone:
E-mail: caide65@aol.com
Submitted on: 2/11/2011

Comments:
NO to the Akaka Bill. YES to a Free Hawaii!

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Brickwood Galuteria, Chair

Senator Pohai Ryan, Vice Chair

Fax to: 586-6829

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

NOTICE OF HEARING

DATE: Monday, February 14, 2011 TIME: 3:00pm

PLACE: State Capitol, Conference Room 224
415 South Beretania Street

A G E N D A

SENATE BILL 1520

RELATING TO GOVERNMENT.

HWN/JDL, WAM

Establishes procedures for state recognition of a first nation government.

Aloha Senators:

My name is Leona M. Kalima.

I speak on behalf of myself and my adult family members ... numbering 10. AND WE VOTE... Mahalo for the opportunity to submit testimony in SUPPORT of SENATE BILL 1520.

I have the counted support of family members, who don't engage in the legislative process but do care about their beloved inherent rights as Kanaka Maoli. I am their voice. I believe Senate Bill 1520 and Senate Bill 1 is the right way to establish recognition for the Native Hawaiians, the indigenous first peoples of Hawaii. Start at home first... should send a message to the Federal -"rallies" that Hawaii stands behind its indigenous native peoples.

Mahalo to the brilliance of Senator Hee, Senator Solomon, and the supporting Senators, for taking the bold initiative of introducing these pieces of legislation; these measures are long overdue. Over 10 years and millions of dollars spent on promoting the Native Hawaiian Reorganization Act, better known as the Akaka Bill on the Federal level, has proven to be unproductive and divisive.

I hope the Native Hawaiian Community is widely and properly informed on this initiative so they too can assist in submitting testimony and engage in communicating with their respective legislators to support this measure as it goes through the Senate and the House.

Taking the best from both I suggest Senate Bills 1520 and 1 merge into one. By crafting the measure into a vital and living document, it will be the most excellent, monumental piece of legislation that has come out of the Hawaii State Legislature.

Please feel free to recycle this testimony as SENATE BILL 1520 and SENATE BILL 1 move through the legislature; as the opportunity may not lend itself to a personal attendance at subsequent hearings.

MAHALO and GOD BLESS

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 10:54 AM
To: HWN Testimony
Cc: atayloragain@yahoo.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: MariaT
Organization: Individual
Address:
Phone:
E-mail: atayloragain@yahoo.com
Submitted on: 2/11/2011

Comments:

If Congress can annex a nation such as Canada on executive order or congressional approval - without conquest or treaty - then it can annex Hawaii. Until then, the Hawaiian Nation exists and its assets freed to a working constitutional monarchy. Your role should be unilaterally focused on returning the assets, restoring the nation and asking forgiveness for the theft of the land and trusts, and the genocidal practices to those who pledge their allegiance to the great Nation of Hawaii.



Na Koa Ikaika o Ka Lahui Hawaii

Affiliate of Indigenous World Association

Mililani B. Trask, Convenor

P.O.Box 6377 ❖ Hilo, HI 96720



Senate Bill 1520 Re: Government

Hearing Date: 2-14-11

Room 224

Time: 3:00 pm

Committees – JUD & HA

STRONG OPPOSITION

Aloha Committee Members,

I strongly oppose this measure, the State version of the failed Akaka Bill.

This measure has languished in the US Congress for 10 years, during this time the Hawaiian peoples repeated requests for hearings on Hawaii, Molokai, Maui, Lanai, Kauai and Oahu have been ignored while the voices of a few service agency and non-profits like the CNHA have dictated language which would create a nation for which 70% of the Hawaiian people would not qualify to participate in.

It is common knowledge that this is “special interest” legislation that has been crafted by the CNHA in order to bring more and exclusive benefits to themselves and those recognized by the State of Hawaii as “DHHL Homesteaders”. The exclusion of the Hawaiian peoples is accomplished by language relating to “qualified Hawaiian constituents” ‘constituents’ refers to constituents of service agencies, non-profits and associations. The Title and language of the measure refer to a “First Nation” government, rather than a nation of the Hawaiian peoples. This American Indian language is inappropriate for Kanaka Maoli who are neither continental nor Indian.

The failure of the Akaka Bill was the result of bitter fighting in the Congress, and (according to ex-OHA Trustee, Judge Heen,) a backdoor deal between Robin Danner, the White House, and Senators Akaka and Inouye who inserted language into an agreed upon version of the measure which had been negotiated by OHA, the State (Lingle & Bennet) and D.C. Republicans. This measure did not come from the Hawaiian People or the public, both groups having been excluded from Hearings in DC and Hawaii. This measure was created in secret, negotiated behind closed doors and killed in public. This measure was introduced by Senator Hee at the request of the very same parties that created it, lobbied for its passage in the Congress and eventually participated in its demise by betraying the Republicans who thought they had a deal. The fight that occurred in DC has now moved to Hawaii, as can be seen from the earlier hearing of the companion measure in the House. Its time to dump the dead Akaka Bill.

Mililani B. Trask

galuteria1 - Ikaika

From: noa napoleon [noa.1960@hotmail.com]
Sent: Friday, February 11, 2011 11:26 AM
To: HWN Testimony
Subject: oppose SB 1520

Follow Up Flag: Follow up
Flag Status: Flagged

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Brickwood Galuteria, Chair
Senator Pohai Ryan, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Vice Chair
Senator Maile Shimabukuro, Vice Chair

SB 1520 RELATING TO GOVERNMENT

(Establishes procedures for state recognition of a first nation government)

Hearing Date: Monday February 14, 2011
Time: 3:00 pm
Room 224

Senator's PLEASE STOP, you are doing this backwards!!

The attempt to establish a "procedure for state recognition of a first nation government" must begin with some kind of formal **tribunal** if it is to be a honest effort to do right by the U.S. Constitution. Such a tribunal would uncover the relevant legal questions about the constitutionality of statehood and it would ensure that the question of legitimacy is openly and objectively debated before such recognition efforts become codified into law. The claim for example that Kanaka Maoli are indigenous peoples of the United States of American should be open for debate "before" the Legislature recognizes any such first nation, especially since the legislation you offer explicitly attempts to remedy what happened in 1893. Legitimacy issues regarding how statehood was promulgated and or what events preceded or enabled its creation cannot be bypassed, buried, or overlooked, especially since DHHL, which is a fiat or manufactured trust obligation, was and is still believed to be unconstitutional. Using the remedial language of the Admissions Act (DHHL) to justify a first nation process only confuses matters and further perpetuates the fraud's and lies advanced by the self proclaimed Republic of Hawaii, who ceded Hawaii national lands to the United States who admitted in the 1993 Apology Resolution (Publiuc Law 103-150) to having played a significant role in the 1893 overthrow.

It is impossible, constitutionally speaking, to define native Hawaiians as Native Americans (indigenous peoples of America). A trust obligation that is lawful would not and cannot be forced on a people who wish to remain separate and self-governing, nor should it involve blood quantum, as DHHL now requires. If Congress or the State of Hawaii manufactures the recognition process (does it back words), it will have ignored the constitutional limitations that are spelled out in the Bill of Rights regarding the scope of Congress' power both domestically and in foreign matters. Such a process should never ignore the treaties, which also speak to the question of Congress' prior sworn obligations not to create a protectorate over Hawaii. The State of Hawaii is attempting by this legislation to permanently subjugate native Hawaiians to set of extra rules that would in the end prevent any and all legal paths to total independence.

Just because there is a building called the State Capitol, and just because its officials are elected, doesn't mean everything that happens within its walls are legit or legally binding on Kanaka Maoli, who will remain a separate nation (people) with or without your legislation. If the State of Hawaii were really legal, lawmakers would not still be haggling over how to recognize native Hawaiians!! If the racial provisions of Statehood were in fact constitutional, and if Native Hawaiians were really truly Native Americans as the 1959 Admissions Act says they are, we would not be revisiting the race issues year after year, rehashing as we do all the contradictions and implications built into Statehood. The fact that you are seeking legislation to make or recognize a first nation attests to the perversion of US power in the islands. You cannot make legislation to create a nation that you are simultaneously tying with this same legislation to undermine and destroy. Neither Congress nor the State of Hawaii has the power to enact laws that create a protectorate while the native people continue to REFUSE TO RELINGUISH THEIR INHERANT SOVEREIGNTY. If our nation still exists (albeit in dormant form) then there should be no need for recognition legislation except to create what would be a formal tribunal or something close to it. If the first question about legitimacy can be dealt with separately from the issue of how to address reconciliation for the overthrow, you might actually have a path that would produce the once and for all outcome we all desire. In other words instead of trying to do two separate actions involving two very different issues, you should deal with each issue separately and order. Failing to do this as I have outlined it will make you appear to be trying to avoid the truth.

Legislators need to first ask if there really is what some are calling an outstanding or longstanding injustice that still needs to be satisfied (adjudicated)? What is the constitutionally permissible way (other than DHHL) to remedy this particular kind of injustice? Once this question is settled only then can you proceed to the reconciliation issue.

If the State does recognition and reconciliation in a political vacuum, i.e., as if Annexation and Statehood were perfectly legit, the process will always be deemed by Hawaiians to be unjust and unconstitutional. There must be a way to do reconciliation without ending up with DHHL/ a perverted trust obligation called the State of Hawaii, where it is presumed that native Hawaiians in fact relinquished their sovereignty. You cannot have it both ways. If sovereignty was never fully relinquished then you have no recourse other than to deal with the legality issues first. Doing it backwards as you seem to be doing now belies your so called commitment to justice.

If you cannot get the protocol correct, and if you keep putting the cart before the horse as you have here, then the process to recognize a fist nation will be done in a political vacuum, no different than when the Provisional Government had conspired to do away with our civil minded Queen, guaranteeing that superficial remedies will need to be redone over and over again. Committing Hawaiians to this kind of redundancy will only further injure those who have been denied due process at every stage going all the way back Annexation.

Testimony for HWN/JDL

Conference Room 224; 2/14/2011; 3:00 PM

SB 1520

Testifier position : OPPOSE

Submitted by : Paulette Ka'anohi Kaleikini

89-107 Nanaikala St

Waianae Hawaii 96792

I am a Hawaii national, patriot and citizen of the still existing multi ethnic Kingdom of Hawaii. I strenuously object to the intent of this bill SB 1520 to integrate us into the U.S.A. By force and against our will.

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 5:56 AM
To: HWN Testimony
Cc: flygad2000@yahoo.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Pete Munoz, Director
Organization: Citizens for Truth and Justice-Maui County (A Non-Profit Citizen Advocacy Group
Address:
Phone:
E-mail: flygad2000@yahoo.com
Submitted on: 2/11/2011

Comments:

THE SENATE

THE TWENTY-SIXTH LEGISLATURE

REGULAR SESSION OF 2011

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Brickwood Galuteria, Chair

Senator Pohai Ryan, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Monday, February 14, 2011

TIME: 3:00 p.m.

PLACE: Conference Room 224

State Capitol

415 South Beretania Street

Testimony on SB 1520, A Bill for An Act Relating to Government

From Poka Laenui, Chairperson, Native Hawaiian Convention

Aloha Kakou:

History can play an instructive role in our understanding of current affairs and provide us the guidance necessary in following a path into our futures. So it is with this Bill's call for the State to establish procedures for recognition of a first nation government. For that purpose, permit me to call attention to the history of the formation of the `Aha Hawai`i `Ōiwi, aka the Native Hawaiian Convention.

Hui Na`auao in the early 1990's organized and pulled together a multiplicity of individuals and organizations under a broad umbrella of Hawaiian rights especially as it regarded issues of historical injustice in the overthrow of the Hawaiian nation.

The Sovereignty Advisory Council (SAC) was formed by the State Legislature, circa 1991, appointing a handful of organizational representatives or individuals, charged with the mandate "to develop a plan to discuss and study the sovereignty issue". This council submitted a report to the State Legislature detailing the events of the overthrow, the remaining issues still unresolved, and made suggestions on the State's taking further action on this issue.

The Legislature subsequently created the Hawaiian Sovereignty Advisory Council (HSAC) in 1993, naming several organizations to sit on the council and authorizing the Governor to appoint additional individuals, nominated by Hawaiian organizations or individuals. HSAC was charged with advising the Legislature on the next step to take in moving ahead on the matter of Hawaiian self-governance. This council visited the communities in Hawai'i and in America, trying to obtain the opinions of the people on how to proceed with moving forward on self-governance. HSAC concluded that a plebiscite should be called asking the native Hawaiian population if an election of delegates should be held to propose a form of native Hawaiian governance. The legislature received the report, adopted the recommendations and followed by the appointment of an elections commission.

In the same year, U.S. President William Clinton signed Public Law 103-150, often called the Apology Resolution.

The Hawaiian Sovereignty Elections Commission was subsequently formed (1994) to pose the question of the formation of a governmental form to the native Hawaiian population.

Ha Hawaii was incorporated (1995) as a not-for-profit corporation to aid in the administration of the convention to result from the election of delegates, anticipating a favorable outcome on the question to be posed.

The balloting, called the "Native Hawaiian Vote" was done by mail in 1996. The question on the ballot was, "Shall the Hawaiian people elect delegates to propose a native Hawaiian form of government?" The vote was overwhelmingly in favor (73%) of such an election.

Delegates were subsequently elected from the traditional Hawaiian Moku and a special moku of people living in the continental U.S. portion of North America, by Native Hawaiian voters. In total, 78 delegates were elected. The Native Hawaiian Convention (Aha Hawai'i `Ōiwi) was subsequently constituted. Their deliberations began in July 1999.

Funding for this process was generally supported through the Office of Hawaiian Affairs and the State legislature.

As the work progressed, there emerged two models of a governmental form, one called for an integration approach in which the native Hawaiian government would operate within the United States of America, very much like the commonly known Akaka Bill framework. The second model was one of an independent nation-state. The convention had determined to submit two models to the native Hawaiian constituency upon finalization of these models.

The work of the convention has met several obstacles including the lack of adequate funding by OHA and the State Legislature as well as the intervention of the introduction of the Akaka Bill in the U.S. Congress.

Delegates of the AHO have been patiently watching the progress of the Akaka Bill which would inform the further work of the convention. We have seen in December 2010 that the Akaka Bill has met its demise, although we are fully aware of the fact that it may be reintroduced in the Congress in the coming years.

The current executive officers of the convention are:

Pōkā Laenui, Chairperson,

Dante Carpenter, Vice Chair,

Glenn Oamilda, Vice Chair,

Maurice Kahawai`i, Treasurer,

The position of Secretary is vacant due to the untimely death of Nalani Gersabe.

In consultation with the executive officers and other delegates of the AHO, it is our intention to reconvene the AHO as soon as we are able to obtain sufficient funds, which funds would go primarily to the cost of travel of delegates, meeting facilities, and a minimum of support staff to maintain records and files, and a continuity between sessions.

It is my estimate that the convention would take three more sessions to complete its drafting of two models of Hawaiian governance for presentation to the Native Hawaiian constituents. There will be a final function of education, discussion, debate, and a vote on the models to conclude the mandate of the Aha Hawai`i `Ōiwi.

With regards to the current bill under consideration, I believe that it would not be appropriate at this time for the legislature to create yet another process in the formation of a native Hawaiian governance entity. Rather, the legislature should support the completion of the mandate of the native Hawaiian vote, providing and/or encouraging the Office of Hawaiian Affairs to assist in the provision of necessary resources to see this work to fruition. This bill could serve as a vehicle to reach that conclusion.

I have heard some concern about whether or not the Federal or State government should be involved in the support of indigenous peoples forming their own governmental

structures. I see no reason why they should not, and in fact, find that colonial governments which overthrow indigenous governments should play an active role in assisting and promoting the rights of indigenous peoples to their own self-governance. They should provide funds for indigenous peoples to restore or form a government of the people's choice.

I base my opinion on my review of certain areas of international law. At the U.N. Charter under Article 73 regarding Non-self-governing Territories, it says in part, "Members of the United Nations ... accept as a sacred trust the obligation to promote to the utmost, ... the well-being of the inhabitants of these territories, and, to this end: ... (d) to promote constructive measures of development ... with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article"

ILO Convention 169 at Article 2 states: Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinate and systematic action to protect the rights of these peoples and to guarantee respect for their integrity. Article 4 says: "Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned."

The Organization of American States, Inter-American Commission on Human Rights in their draft declaration on the rights of indigenous peoples requires: Art. XIV: 1. The States shall promote the necessary measures to guarantee to indigenous communities and their members their right of association, assembly and expression . . .

These are merely examples of the international community calling for governments to be active in promoting the rights of indigenous peoples. Certainly, providing funds for native Hawaiians to be able to propose a form of government is consistent with the international communities expressions of responsibility found in these documents.

In closing, let me recite a portion of the United Nations Declaration on the Rights of Indigenous Peoples which no member of the United Nations is now standing against, with the recent signing on by the U.S. Administration of Mr. Obama. It states:

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

The Native Hawaiian Convention is already on that path, through representatives chosen by the Native Hawaiian people. I ask the legislature to continue to support this effort of the convention.

Sincerely,

Pōkā Laenui, Chairperson, Aha Hawai`i `Ōiwi (Native Hawaiian Convention)

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 5:17 AM
To: HWN Testimony
Cc: alwyz_aloha@msn.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM
Attachments: Treaty.rtf

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Pono Kealoha
Organization: Individual
Address:
Phone:
E-mail: alwyz_aloha@msn.com
Submitted on: 2/11/2011

Comments:

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 11, 2011 10:19 AM
To: HWN Testimony
Cc: shelleymuneoka@gmail.com
Subject: Testimony for SB1 on 2/12/2011 10:00:00 AM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/WLH 2/12/2011 10:00:00 AM SB1

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Shelley Muneoka
Organization: Individual
Address:
Phone:
E-mail: shelleymuneoka@gmail.com
Submitted on: 2/11/2011

Comments:

I'm writing in opposition to SB1. This bill is essentially a state level Akaka Bill. You do not want that fight here. Please do not try and sneak this through. When attempted at the national level (which was thus far stopped) People in Hawai`i were very upset by the misrepresentation that we supported such legislation. I strongly oppose this bill.

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 12, 2011 2:32 PM
To: HWN Testimony
Cc: kipikoa1@hotmail.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: steven tayama
Organization: Nation of Hawaii
Address:
Phone:
E-mail: kipikoa1@hotmail.com
Submitted on: 2/12/2011

Comments:

The Hawaiian People must be given time to discuss, debate, design, envision, all options available to them. This must happen before anything like the Akaka Bill can even begin to be talked about. We demand a full measure of Self Determination, and a free, fair, and open process to nationhood.

galuteria1 - Ikaika

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 10, 2011 6:32 PM
To: HWN Testimony
Cc: deetex123@hawaii.rr.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Diane Texidor
Organization: Individual
Address:
Phone:
E-mail: deetex123@hawaii.rr.com
Submitted on: 2/10/2011

Comments:

I stongly oppose this legislation.

The United States, through Congress, did not have constitutional, legal, and interational authority over the Hawaiian Kingdom/Hawaiian Nation.

The language in this bill continues to perpetuate the illegal actions of the United States government and challenges the existence of the State of Hawaii.

The bill states "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. I would conclude that is was the Hawaiian government that extended diplomatic recognition to the American government which governed commerce and navigation in "Hawaiian waters" under the maritime laws of the Hawaiian kingdoom and between the two countries. It is a fact that Hawaiian Nation was and is part of the Family of Nations being recognized as such and evidenced by the many treaties with other countries. The U.S./State of Hawaii smudged over historical facts (from 1893-1920)and proceeds to the year 1920 - the language in this bill goes on to say "(4) Pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land in trust to better address the condition of Native Hawaiians in the federal territory that later became the State of Hawaii (?)" Then it further states "and in enacting the Hawaiian Homes Commission Act, 1920 (domestic within the US but applied to another nation), Congress (the governing body of the U.S.) acknowledged the Native Hawaiian people as a native people of the United States(how does a "native people" of the Hawaiian Nation now become a native people of another Nation, the United States?), as evidenced by the committee report, which notes that Congress relied on the Indian (native people of the Americas) affairs power and the War Powers, including the power to make peace (only applies within the boundaries of the U.S.);" These statements and untruths CONTINUALLY smudge over historical facts, rewrite history, and perpetuate the illegal actions of the United States government - and is the fabrication by the colonizer/occupier.

See the protest of Queen Lili'uokalani and Princess Ka'iulani before U.S. Congress. See the Ku'e petitions of 1897 of Hawaiian Nationals "discovered" in the Library of Congress by Professor Noenoe Silva. See the 1993 Apology Bill signed by President Clinton. See the dissertation of Dr. Keanu Sai. See the bibliography list from "The American Occupation . . ." by Keanu Sai.

The Nation of Hawaii has been and still is illegally occupied by the United States and this legislation continues the falsehood and injustices against the Hawaiian Nation and its people. . . . another attempt to smudge over the truth.

I do not give up my birthright, my ancestral birthright, as a Hawaiian and as a Hawaiian National. Aloha.

sb1520 kenneth conklin oppose

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 08, 2011 5:46 PM
To: HWN Testimony
Cc: Ken_Conklin@yahoo.com
Subject: Testimony for SB1520 on 2/14/2011 3:00:00 PM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for HWN/JDL 2/14/2011 3:00:00 PM SB1520

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Kenneth R. Conklin, Ph.D.
Organization: Individual
Address: 46-255 Kahuhi pa St. # 1205 Kane' ohe HI
Phone: 247-7942
E-mail: Ken_Conklin@yahoo.com
Submitted on: 2/8/2011

Comments:

To the Senate Committee on Hawaiian Affairs and The Senate Committee on Judiciary and Labor

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 Lahui kanaka a pau i ke koko hookahi, e noho like lakou ma ka honua nei me ke kui kahi, a me ka pomai kai." 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.

sb1520 kenneth conklin oppose

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>

galuteria1 - Ikaika

From: Tracy A Ryan [tracyar@hawaiiantel.net]
Sent: Tuesday, February 08, 2011 3:10 PM
To: HWN Testimony
Subject: Testimony for Monday the 14th

TESTIMONY

The Libertarian Party
c/o 1658 Liholiho St #205
Honolulu, HI 96822

February 8, 2011

RE: SB 1520 to be heard Monday, February 14, 2011 at 3:00 PM in conference room 224.

To the members of the Senate Committees on Judiciary and Labor and on Hawaiian Affairs

We oppose passage of SB 1520. This bill is an attempt to mix two conflicting ideas concerning Hawaiian rights and claims against the US. Either Hawaiian claims are based on the legal status of Hawaii prior to annexation under the monarchy whose treaties with the United States are noted as part of the justification of this bill or they are based on aboriginal claims similar to those of American Indian tribes. In the first case the situation recognizes the validity of the population that lived under the monarchy at the end of the nineteenth century. This was a multi-ethnic sovereign country not a Native Hawaiian specific tribe.

If you are trying to create a sovereign entity that includes only persons who can trace their ancestry to a person alive in Hawaii prior to Captain Cook's arrival you run into a set of problems that this bill does not address. As a tribal government based on the pre-western contact set of affairs any logical claims for ceded lands or other benefits that were established subsequently are irrelevant. A tribal homeland may be established under the same conditions that all the other "Indian" tribes have been subjected to. They get what the US is willing to give which is not much in terms of valuable lands.

For an entity to be sovereign it must have sovereign control, rather than ownership, of some coherent area of land. Ownership of numerous non contiguous parcels is not sovereignty. Sovereignty means the ability of a government to tax and regulate activities on land under its sovereign control. As a practical matter you cannot have two sovereign governments presiding over the same area unless one is clearly subordinate to the other as the counties are to the State. You cannot have it over parcels spread out over a patchwork throughout the State of Hawaii. When you are talking about lands of that nature you can only address the question of ownership. The State of Hawaii can distribute revenues from these lands that include support for programs that aid Native Hawaiians, but they cannot simply turn over ownership to a tribal government without raising fourteenth amendment objections. The courts have ruled on this issue several times in relation to the blood quantum tests for voting and serving on the OHA board of trustees. The State Constitutional clause creating OHA clearly indicates it was to benefit both Hawaiians and Native Hawaiians. Two groups are noted one including all residents of the State the other those of Hawaiian ethnicity.

If the legislature wishes to address fundamental questions of Hawaiian sovereignty it can only do so within the context of a multi-ethnic entity as the Hawaiian Kingdom and subsequent Republic were. It can only do so with the permission of the US Government, and by an all party plebiscite here in Hawaii. No truly sovereign entity can be created by the act being considered here and no aboriginal based government has any

standing to ask for what Native Hawaiians seem to be asking for in terms of land settlements. In short this bill is a non-starter and should be held in committee.

Sincerely:

A handwritten signature in black ink, appearing to read "Tracy Ryan", with a long horizontal flourish extending to the right.

Tracy Ryan
Oahu County Chair
The Libertarian Party of Hawaii

(808) 534-1846

tracyar@hawaiiantel.net