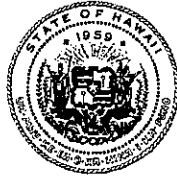


NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII



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

**SB 1 SD 2 HD 1, RELATING TO STATE RECOGNITION OF THE NATIVE HAWAIIAN
PEOPLE, THEIR LANDS, ENTITLEMENTS, HEALTH, EDUCATION, WELFARE,
HERITAGE, AND CULTURE.**

March 22, 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 1 SD 2 HD 1 which provides for the recognition of
Native Hawaiians as the indigenous people of Hawaii and establishes a
process for the reorganization and recognition of a Native Hawaiian
Governing 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

DHHL Testimony on SB 1 SD 2 HD 1
House Committee JUD
March 21, 2011
Page 2

consultation with our beneficiaries to fully understand its impact to our trust and its legal implications. Thank you for the opportunity to testify.

SB 1, HD 1
Testimony Against Passage

Submitted by Poka Laenui
Chairperson
Native Hawaiian Convention

Aloha Kakou:

I ask that you do not pass SB 1, HD 1.

This bill essentially contradicts the rights of indigenous peoples to self-determination. This draft calls for the Governor, the House of Representatives and the Senate to each select 3 members of a roll commission to develop a roll of qualified native Hawaiians who meet the qualifications as set by the Legislature. This commission may hire an Executive Director and establish an office, contracting for various services. This roll created by this commission shall be the basis of native Hawaiians establishing their own governing entity by convening their own convention.

This is a plan which completely contradicts the whole principle of indigenous peoples rights. It is a contradiction to the promise made to the Native Hawaiian people that their previously identified process would be the method of forming the Native Hawaiian governing entity.

Let's take a quick visit to the United Nations Declaration of the Rights of Indigenous Peoples, a set of rights regarded as the basis of rights to be recognized by nations throughout the world.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

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.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

This present house draft of SB 1 contradicts these fundamental principles.

I ask that this committee do not support SB 1, HD 1.

Mahalo.

ASSOCIATION OF HAWAIIAN CIVIC CLUBS
Testimony of President Soulee Stroud

Senate Bill 1, SD2, HD1
Relating to State Recognition of the Native Hawaiian People,
Their Lands, Entitlements, Health, Education,
Welfare, Heritage and Culture

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 SB1SD2HD1.

On January 22, 2011 the Association Board of directors met and agreed to support SB1 in concept. This bill provides for the recognition of Native Hawaiians as the indigenous people of Hawaii and establishes a process for the reorganization and recognition of a Native Hawaiian governing entity.

Amendments to the bill include: a revision to the definition of qualified native Hawaiians; other requirements for a qualified native Hawaiian; eliminates the interim council; provides for a native Hawaiian convention by qualified native Hawaiians after publication of the roll of qualified native Hawaiians; requires that the Governor dissolve the commission once the roll notice has been published and other technical non-substantive changes.

The Association supports State recognition for Native Hawaiians in this bill just as it has supported federal recognition for many years. Thank you for the opportunity to support this bill and we urge its passage.

Contact: jalna.keala2@hawaiiantel.net



Aha Kiolo Advisory Committee

**TESTIMONY IN SUPPORT OF SB 1 SD 2 HD
1 RELATING TO NATIVE HAWAIIANS**

Committee on Judiciary

March 22, 2011

2:00 p.m.

Room 325

Submitted by: The Aha Kiolo Advisory Committee: Vanda Hanakahi, Moloka'i (Chair), Leslie Kuloloio, Kahoolawe, (Vice-Chair); Timmy Bailey, Maui; Winifred Basques, Lana'i; Pi'ilani Ka'awaloa, (Po'o) Hawai'i; Charles Kapua, O'ahu; Sharon Pomroy, Kaua'i; Keith Robinson, (Konohiki) Ni'ihau.

Aloha Chair Keith-Agaran and members of the Judiciary Committee,

Thank you for the opportunity to testify in support of S.B. 1, SD 2 HD 1, the bill that relates to the State recognition of the Native Hawaiian people.

We support this measure as reported in SCR 993 and agree with the amendments stated to revise the definition of qualified native Hawaiian to descendants whose people, "prior to 1778, occupied and exercised sovereignty in the Hawaiian Islands."

We also support a native Hawaiian convention which may be commenced by qualified Native Hawaiians following the publication of the roll of qualified Native Hawaiians. Hawaii is made up of eight distinctly different islands that are characterized by unique characteristics within the Hawaiian people who reside on each island and who are recognized to have different dialects, geography and diverse natural and cultural resources. So while we are all identified as indigenous Native Hawaiians, we are all not similar in how we practice our culture. These differences are part of the strength of the Kanaka Maoli. It is important to retain the individuality and unique characteristics of the different islands and this must be reflected in the make-up of a Native Hawaiian convention.

S.B. 1, SD 2 HD 1 provides the recognition of the Native Hawaiian people by the State of Hawaii, long overdue. It is critical that this recognition includes the means and methods that will further assist with self governance. Too often government loses sight of how important the knowledge and skills of Native Hawaiians in their own land are; or, how traditional cultural practices are enmeshed in Hawaiians of today. State recognition would correct that oversight.

We urge you to support the passage of S.B. 1, SD 2 HD 1 that calls for the recognition of Native Hawaiians by the State of Hawaii.

Mahalo nui loa,

Vanda Hanakahi, Moloka'i Kiole, Chair

Aha Kiole Advisory Committee

P.O. Box 507

Ho'olehua, HI 96729

Phone: 808-336-6184

Email: kaiwilauula@yahoo.com

Testimony for SB1 on 3/22/2011 2:00:00 PM

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

Sent: Tuesday, March 22, 2011 8:03 AM

To: JUDtestimony

Cc: info@schha.org

Testimony for JUD 3/22/2011 2:00:00 PM SB1

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:

Support with Reservations. Contact SCHHA Executive Assistant, Annie Au Hoon, at 527-1629 for any questions or comments.



SB 1, SD2, HD1
RELATING TO STATE RECOGNITION OF THE NATIVE HAWAIIAN PEOPLE,
THEIR LANDS, ENTITLEMENTS, HEALTH, EDUCATION, WELFARE, HERITAGE,
AND CULTURE
House Committee on Judiciary

March 22, 2011

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) offers the following comments on SB1, SD2, HD1, which provides for the recognition of the native Hawaiian people 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 SB1, 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 appreciate that recently, the House Committee on Hawaiian Affairs crafted an HD1 that addressed certain OHA concerns such as the definition of "qualified Native Hawaiian." 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 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 and the relationship to federal documents that use the term "Native Hawaiian." 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.

SB 1, HD 1
Testimony Against Passage

Submitted by Ho'oiipo DeCambra

Aloha my Friends,

I ask that you do not pass SB 1, HD 1.

This bill essentially contradicts the rights of indigenous peoples to self-determination. This draft calls for the Governor, the House of Representatives and the Senate to each select 3 members of a roll commission to develop a roll of qualified native Hawaiians who meet the qualifications as set by the Legislature. This commission may hire an Executive Director and establish an office, contracting for various services. This roll created by this commission shall be the basis of native Hawaiians establishing their own governing entity by convening their own convention.

This is a plan which completely contradicts the whole principle of indigenous peoples rights. It is a contradiction to the promise made to the Native Hawaiian people that their previously identified process would be the method of forming the Native Hawaiian governing entity.

This present house draft of SB 1 contradicts these fundamental principles.

I ask that this committee do not support SB 1, HD 1.

Mahalo.

Testimony for SB1 on 3/22/2011 2:00:00 PM

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

Sent: Monday, March 21, 2011 2:10 PM

To: JUDtestimony

Cc: Ken_Conklin@yahoo.com

Testimony for JUD 3/22/2011 2:00:00 PM SB1

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:

Below are two types of analysis: General principles explaining why racial separatism is wrong for Hawaii; and specific items in this bill that must be rejected.

GENERAL PRINCIPLES EXPLAINING WHY THIS BILL IS BAD

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 SB1 and all other bills motivated by the same mentality.

The concept of this bill 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! 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.

The oldest bones in Mauna Ala (The Royal Mausoleum) are the bones of John Young (Olohana), an Englishman without whom Kamehameha The Great could not have unified the Kingdom. Young's bones are buried below a monument designed to look like a heiau, and guarded by a pair of pulo'ulo'u (sacred taboo sticks). Young served as battlefield general, and member of the council of ruling chiefs. Kamehameha appointed him as Governor of Hawaii Island and gave him a home immediately next to

the great Pu'ukohola Heiau. Young's son, Keoni Ana, was Kuhina Nui, second in rank only to King Kamehameha III, and his signature was required alongside the King's before any act of the legislature could become law (those are the only two signatures on the second Kingdom Constitution of 1852). His granddaughter was Queen Emma. Hundreds of other people with no native blood served as cabinet ministers, members of the legislature, judges, and department heads throughout the Kingdom's history.

A zealous minority within the ethnic Hawaiian minority now demands racial separatism. That idea would be totally repulsive to the Hawaiians who actually lived in the Kingdom. 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 SB1, 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 SB1 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 the resources of our State to enable them to do that? Absolutely not.

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. Portions are available on a webpage where the book can also be purchased:

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

SPECIFIC ITEMS IN THIS BILL THAT MUST BE REJECTED

Section 1 says "The purpose of this Act is to provide for the recognition of the Native Hawaiian people by the State of Hawaii and to implement that recognition by means and methods that will facilitate their self governance, including the establishment of or the amendment to programs, entities, and other matters that

relate, or affect ownership, possession, or use of lands by the Native Hawaiian people, and by further promoting their entitlements, health, education, welfare, heritage, and culture."

While it's a wonderful thing for Native Hawaiians, and people of all races, to own and use land, it is morally and legally wrong to designate particular lands as belonging solely and exclusively to people who have any particular racial component in their ancestry. Some suburban communities and gated communities across America formerly had racial covenants in their property deeds whereby it was prohibited for non-Caucasians to own land there. But such racial covenants have been ruled unconstitutional. Are we going to create such racial covenants in Hawaii?

There should not be racial "entitlements" as mentioned in this bill. Hawaiian culture is the core of what makes Hawaii a special place, and it has the active participation of thousands of people with no Hawaiian blood. This bill would seem to demand racial ownership of particular art forms and language. The concept of indigenous intellectual property rights might be appropriate for a small, homogeneous primitive tribe living a subsistence lifestyle in isolation from surrounding population, but it is not appropriate for Hawaii. See "Indigenous Intellectual Property Rights -- The General Theory, and Why It Does Not Apply in Hawaii" at <http://tinyurl.com/2b77k>

Pages 2 and 3 would establish a "Native Hawaiian corporation, which shall be a body corporate and a public instrumentality of the State ..."

Hey, wait a minute! Isn't it contrary to the U.S. Constitution to establish a corporation whose membership is restricted by race? And even if it were legal to have a private corporation that is racially restricted, isn't it illegal to have a government agency whose executives and beneficiaries are racially restricted?

Page 3 says that one purpose of this racist corporation shall be to receive title to "The public lands conveyed to the State pursuant to section 5 (f) of the Admission Act, and commonly referred to as 'ceded lands' ... These lands collectively shall be referred to as the Native Hawaiian lands."

But wait! The U.S. Supreme Court issued a unanimous ruling on March 31, 2009 declaring that the State of Hawaii owns the ceded lands in fee simple absolute, and that the apology resolution of 1993 has no power to undo the granting of the ceded lands to the State in the Admissions Act of 1959, nor to retroactively impose new requirements on them. So these lands SHOULD NOT COLLECTIVELY BE REFERRED TO AS THE NATIVE HAWAIIAN LANDS. They must be referred to collectively as THE PUBLIC LANDS OF THE STATE OF HAWAII. This legislature must not take away the public lands belonging to 100% of our people and give them over to a racially defined group of 20% of our people.

Shame on anyone who votes for this racist bill.