



*The Judiciary, State of Hawai‘i*

**Testimony to the Thirty-First Legislature, 2022 Regular Session**

**Senate Committee on Judiciary**  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

Thursday, February 10, 2022, 9:30 a.m.  
Via Videoconference

by  
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Hawai‘i State Judiciary

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2734, Relating to the Judiciary’s ‘Ōlelo Hawai‘i Initiatives

**Purpose:** Appropriates funds for staff positions and various services to support the ‘Ōlelo Hawai‘i Initiatives

**Judiciary’s Position:**

The Judiciary strongly supports Senate Bill No. 2734 and the appropriation of \$200,000 for implementation of the Judiciary’s ‘Ōlelo Hawai‘i projects, including interpretation and translation services, website translation and upgrades, educational outreach, and coordination of collaboration efforts; and \$100,000 for a program coordinator to manage such implementation. The Judiciary is committed to enlist specialists, agencies, and sources of knowledge to implement the recommendations enumerated in the *Report of the Hawaiian Language Web Feasibility Task Force* in accordance with 2015 House Concurrent Resolution No. 217, House Draft 1, Senate Draft 1 (HCR 217).

The Judiciary especially appreciates the appropriation for a program coordinator position to oversee the important responsibilities in this measure and requests a permanent position count to support it. The Judiciary looks forward to continuing to support the revitalization of the Hawaiian language and sees Senate Bill No. 2734 as a helpful means to support our efforts.

Thank you for the opportunity to testify in support of Senate Bill No. 2734.

DAVID Y. IGE  
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OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEE ON JUDICIARY  
ON  
SENATE BILL NO. 2734

**February 10, 2022**  
**9:30 a.m.**  
**Via Videoconference**

RELATING TO THE JUDICIARY'S 'OLELO HAWAII INITIATIVES

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2734 makes a \$300,000 general fund appropriation in FY 23 to the Judiciary to support its 'Olelo Hawai'i projects to promote and explore ways to provide Hawaiian language interpreter and translation services to the public. Of the \$300,000, \$100,000 is for a program coordinator and \$200,000 is for implementation.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON JUDICIARY

For hearing Thursday, February 10, 2022

Re: SB2734 RELATING TO THE JUDICIARY'S 'OLELO HAWAI'I INITIATIVES.  
Appropriates funds for staff positions and various services to support the  
'Olelo Hawai'i Initiatives.

TESTIMONY IN OPPOSITION

List of 3 main points

1. \$300,000 proposed in this bill is merely seed money for a project that will mushroom to hundreds of millions in future, as shown by demands made in previous legislation and in Chief Justice Recktenwald's own 50-page report.

2. Practical need for using a language vs. ethnic pride or vanity in seeing a language displayed -- who should pay?

3. The case of Samuel Kaleikoa Kaeo.

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1. \$300,000 proposed in this bill is merely seed money for a project that will mushroom to hundreds of millions in future, as shown by demands made in previous legislation and in Chief Justice Recktenwald's own 50-page report.

This bill proposes to appropriate \$300,000 seed money to establish the beginnings of a new bureaucracy inside the Judiciary for the purpose of fostering and normalizing Hawaiian language, by translating various legal documents into Hawaiian. First comes \$100,000 for salary for a chief bureaucrat (who might already have been chosen behind the scenes); and then an additional \$200,000 "for implementation, including translation services, website upgrades, preparation of materials, and educational efforts." Of course that's only the beginning.

A hidden purpose of this bill is to set up a bureaucracy that will expand by leaps and bounds to provide paid employment for the growing number of people who become fluent in Hawaiian language but cannot find jobs as teachers of it. Let's remember how the labor unions lobbied aggressively for the Honolulu rail project because they wanted jobs; but now the people of Hawaii are stuck paying more than \$10 Billion for an ugly makework project that most people don't want and will never use (like translating the Hawaii Revised Statutes into Hawaiian).

As this bill points out, "[I]n 2015, the legislature adopted a concurrent resolution, H.C.R. No. 217, Session Laws of Hawaii 2015, that requested the judiciary to convene a task force to examine and report on establishing 'Ōlelo Hawai'i resources for the judiciary... made several recommendations and identified projects that can serve as a guide to the judiciary."

In the regular session of 2016 this legislature entertained companion bills SB2162 and HB2180 whose purpose was to appropriate \$500,000.00 in seed money for the judiciary to begin a program to train people to become expert in both Hawaiian language and the specialized concepts of the legal

profession to the point where they can translate the Hawaii Revised Statutes into Hawaiian, along with case law that might be cited to support or oppose legal briefs or memos in current courtroom proceedings. And that was only seed money!

Bill SB560 in the legislature of 2017 provides evidence of the costs for translation services. For translating just one document from English to Hawaiian -- the state Constitution -- SB560 proposed an appropriation of \$25,000.00 for year 2017 and an additional \$25,000.00 for year 2018, to be given to the University of Hawaii.

The \$300,000 proposed in this year's bill is merely an acorn poised to grow into a mighty oak tree. Why is the Judiciary proposing a make-work boutique project when it presumably has plenty of work to cope with the practical realities of a huge backlog of cases [especially jury trials] resulting from the COVID pandemic?

I have read the 50-page report by Chief Justice Mark Recktenwald to the House Judiciary Committee dated December 16, 2015: "Report of the Hawaiian Language Web Feasibility Task Force" appointed pursuant to House Concurrent Resolution No. 217, House Draft 1, Senate Draft 1 adopted by the Legislature in 2015. IT PROPOSES A PAY RATE OF \$500 PER HOUR FOR THE EXPERT TRANSLATORS proposed in SB2162 regular session of 2016. How many hundreds of millions of dollars would be needed to translate the Hawaii Revised Statutes into Hawaiian, along with case law that might be cited to support or oppose legal briefs or memos in current courtroom proceedings? Mr. Recktenwald did NOT hire anyone to translate his own report into Hawaiian language. Why not? He should be willing to take a pay cut to get the job done! His document was 50 pages long. If each page required one hour to translate, the cost for just that one document alone, at his proposed pay rate of \$500.00 per hour, would be \$25,000.00.

2. Practical need for using a language vs. ethnic pride or vanity in seeing a language displayed -- who should pay?

There is no practical NEED for anyone to speak Hawaiian in court, nor to have state laws or legal documents pleadings or documents available in Hawaiian, because everyone who can speak Hawaiian is more fluent in English. By contrast, there is great NEED for translations of documents into and from Asian and European languages, and NEED for courtroom interpreters for those languages. Let's spend taxpayer dollars for what is

NEEDED; not for using Hawaiian language as a vanity display of ethnic heritage and pride.

According to OHA's latest annual report, on June 30, 2021 OHA had assets of \$764,820,000.00. And according to bills which are winning unanimous approval in "Hawaiian Affairs" legislative committees this year, OHA demands \$638 Million in arrears plus \$79 Million per year in future from ceded land revenues. Let OHA pay for using Hawaiian language as a vanity display of ethnic heritage and pride. The \$300,000 called for in this bill, and all the money needed to fund the future dreams of Mark Recktenwald and the Hawaiian language empire, is a smaller portion of OHA's wealth than a single puakenikeni blossom on a Kamehameha Day float.

Giving priority to Hawaiian language is a political stunt to bolster ethnic pride and get votes from a constituency that demands visible tokens of validation and status; but it has no practical usefulness. It seems likely that every person outside Ni'ihau who speaks Hawaiian also speaks English with greater fluency.

Princess Ruth Ke'elikolani (hoo dat?) insisted on speaking Hawaiian when giving speeches, interviews, or testimony, even though she was perfectly capable of understanding and speaking English fluently. She was famous for humiliating haole diplomats and news reporters this way, forcing them to hire translators. She felt she was having a political and "moral" victory by forcing them to use Hawaiian. Hawaiian sovereignty activists and language zealots follow her lead and do this same stunt nowadays -- see discussion about the case of Samuel Kaleikoa Kaeo who did precisely this stunt in court recently, humiliating the individual judge by forcing him to knuckle under to the demand for a court interpreter and humiliating the entire Judiciary by eliciting a policy to unnecessarily provide interpreters for Hawaiian language in the same manner as they provide necessary interpreters for speakers of other languages who lack understanding of English.

Nobody NEEDS to speak or hear Hawaiian to express himself or to understand what someone is saying -- the activists demand it to score a political point; and sometimes to simply "gum up the works" when there is testimony on an environmental impact statement regarding telescopes on Mauna Kea or construction on a military base. Please see a large and detailed webpage "Hawaiian Language as a Political Weapon" at <http://www.angelfire.com/big09/HawLangPolitWeapon.html>

There are numerous Hawaiian sovereignty activists and Hawaiian language zealots who certainly would make demands for thousands of documents -- not because there is any real need to have those documents in Hawaiian language, but merely for the pleasure and ethnic pride of seeing them and with the conscious intention of providing employment for their friends.

### 3. The case of Samuel Kaleikoa Kaeo.

Samuel Kaleikoa Kaeo is a community college instructor who speaks English fluently. In fact he teaches classes using English as the language of instruction, makes fiery political speeches in English, and has also learned to speak Hawaiian fluently. He demanded to give court testimony in Hawaiian, not because he is unable to speak English, but merely as a stunt -- a form of Hawaiian sovereignty street theatre or political activism.

Hawaii is filled with the Aloha Spirit. Our people are kind and generous, and show our good will to people who cannot speak English by allowing them to give testimony in their own language and by providing them at our own taxpayer expense with interpreters who have been certified by the court to be fluent in both their own language and English. But Kaeo's political stunt was neither kind nor generous. It did not display good will, let alone the Aloha Spirit. He could easily have spoken English, but he chose to speak Hawaiian as a way to FORCE everyone else to either learn Hawaiian or to spend taxpayer dollars to hire speakers of Hawaiian. That's what today's bill in our legislature is all about -- a political stunt that would inconvenience everyone and, over time, would cost a lot of money merely for the sake of cultural/ linguistic chauvinism.

Hawaii has large numbers of people from many ethnic backgrounds who speak different languages in their homes; but we all come together in shared spaces where we are expected to speak English. Inability to speak English is treated as a disability or handicap. People who cannot speak English are given special accommodation to help them communicate in their own language, just as someone who is deaf gets a sign-language interpreter, someone who is blind is allowed to use a seeing-eye dog even in places where dogs are not normally allowed, and someone who cannot walk is allowed to use a wheelchair and elevator. Kaeo who is fluent in English but insists on speaking Hawaiian is like a marathon runner who might demand just for fun to come to court in a noisy wheelchair with a taxpayer-supplied assistant to push it for him.



Honolulu Star-Advertiser of January 25, 2018 reported: "A Maui District Court judge on Wednesday issued a bench warrant for the arrest of a University of Hawaii-Maui College assistant professor of Hawaiian studies after he refused in court to acknowledge himself in the English language. Kaleikoa Kaeo, who was scheduled to start a trial for his August 2017 arrest for trying to block a shipment of parts to the Daniel K. Inouye Solar Telescope under construction atop Haleakala, spoke only in the Hawaiian language when Judge Blaine J. Kobayashi asked him repeatedly if he was present for the trial. While an interpreter was provided for Kaeo during his initial court appearance, Kobayashi in December approved a motion by the Maui Prosecutor's Office requiring that the trial be conducted in English. There is no legal requirement to have Hawaiian language interpreters for those who speak English but prefer to speak Hawaiian in court, according to the state Judiciary. Nevertheless, Wednesday's events prompted outrage within the Hawaiian community. Office of Hawaiian Affairs Chief Executive Officer Kamana'o pono Crabbe issued a statement saying the agency is "deeply disturbed and offended" that Kaeo was prohibited from defending himself in the Hawaiian language and that a bench warrant was issued for his arrest. Office of Hawaiian Affairs Chief Executive Officer Kamana'o pono Crabbe issued a statement saying the agency is "deeply disturbed and offended" that Kaeo was prohibited from defending himself in the Hawaiian language and that a bench warrant was issued for his arrest. "Punishing Native Hawaiians for speaking our native language (evokes) a disturbing era in Hawaii's history when olelo Hawaii (Hawaiian language) was prohibited in schools, a form of cultural suppression that substantially contributed to the near extinction of the Hawaiian language," the statement said. "It is disappointing that the state government continues to place barriers on olelo Hawaii, 40 years after Hawaii's Constitution was amended to recognize the Hawaiian language as an official language of the state. We demand that the state Judiciary find an immediate solution to this issue."

Honolulu Star-Advertiser, January 26, 2018 reported: "An interpreter was not available when Kaeo showed up for a Nov. 22 hearing at which the prosecutor told Kobayashi she wanted to conduct the trial in English. In its written request the prosecutor says requiring a Hawaiian-language interpreter will cause needless delay and unnecessary expense because Kaeo is fluent in English. The prosecutor also said a federal judge had ruled in a civil case that the right to assert a federally protected language does not extend to judicial proceedings. Kaeo did not submit a written response. ... The Hawaii Judiciary says Title VI of the Civil Rights Act of 1964 requires it to provide language interpreters when a party or a witness in a case has

limited English proficiency or is unable to hear, understand, speak or use English sufficiently to effectively participate in court proceedings. Hawaiian cultural practitioner Daniel Anthony says he has intentionally gotten traffic tickets so he can go to court and assert his right to participate in the proceeding in Hawaiian. "I've been detained a couple of times," he said, but no longer than six hours. When the judge ordered him back into court in the afternoon to conduct the hearing, the prosecutor would ask to have the case continued every time he refused to speak in English. Anthony said the cases were dismissed, and the court eventually provided him a Hawaiian-language interpreter."

Chelsea Davis, Hawaii News Now, January 26, 3:45 PM reported: "The state Judiciary says it will provide interpreters to those seeking to speaking Hawaiian in court "to the extent reasonably possible." ... In a statement, the Judiciary said it will start implementing the new policy immediately. It also asked those interested to serve as Hawaiian interpreters to contact the Office of Equality and Access to the Courts at 539-4860. The policy stands in contrast to the Judiciary's previous statements on using Hawaiian in court. Earlier this week, the Judiciary said: "There is no legal requirement to provide Hawaiian language interpreters to court participants who speak English but prefer to speak in Hawaiian. In those cases, judges have the discretion to grant, or deny, a request for an interpreter."... Kaeo said. "This is not just about language. This is a larger questions in which Hawaiians have been struggling to become visible within Hawaii and the world." ... The Hawaii State Judiciary issued a statement to Hawaii News Now on Wednesday stating, "there is no legal requirement to provide Hawaiian language interpreters to court participants who speak English but prefer to speak in Hawaiian. In those cases, judges have the discretion to grant, or deny, a request for an interpreter."

Honolulu Star-Advertiser, January 26, 2018, Breaking news at 4:28 PM reported: "The Hawaii State Judiciary will allow the use of Hawaiian language interpreters in courtrooms when participants in legal proceedings "choose to express themselves through the Hawaiian language." The new policy was announced today, following a widely reported incident ... In announcing the new policy yesterday, the Judiciary said it would develop implementation procedures and solicited public input. Comments may be sent to [pao@courts.hawaii.gov](mailto:pao@courts.hawaii.gov)."

On January 27, 2018 I, Kenneth Conklin, sent an email to the Judiciary's public affairs office at the email address in the news report, which included the following points:

The Hawaiian language is a great treasure for Hawaii's people of all races, and indeed for all the world. Most people of good will are pleased to assist in preserving the language, reviving it and helping it to thrive in everyday use. I myself have spent considerable time and effort over a period of many years learning Hawaiian language to a level of moderate fluency; and I'm proud to use it for reading, writing, and occasionally in public speaking.

However, the primary purpose of our courts is to adjudicate cases in controversy in accord with the Constitution and statutes; it is not to engage in well-meaning adventures in cultural expression or "social justice." Indeed, there are good reasons why judges are given considerable protection against political pressure, including the campaign we have seen in recent days in the criminal trial of Samuel Kaleikoa Kaeo (Maui) and the civil case regarding possession and occupancy of the Coco Palms resort (Kaua'i).

Let me remind you that judges and lawyers take an oath to support and defend the Constitution of the United States and of the State of Hawaii -- not an oath of allegiance to the Kingdom of Hawaii nor to an effort to restore Hawaii as an independent nation nor to help create a Hawaiian tribe.

Perhaps you intend to persist in a newly adopted policy of allowing testimony in Hawaiian language by people who are equally fluent in English, and perhaps also allowing written documents in Hawaiian language to be introduced as testimony or evidence or exhibits, and perhaps also providing Hawaiian language interpreters at taxpayer expense.

If you do these things for ethnic Hawaiians, and/or for speakers of Hawaiian language, then you **MUST** also do these things for people of all ethnicities and all languages. The 14th Amendment to the U.S. Constitution includes the Equal Protection clause which requires all people to be treated equally under the law and has been interpreted to require equal treatment regardless of race, religion, or national origin.

Hawaii has thousands of people who are first or second generation from Philippines, Japan, China, Korea, etc. who are fluent in English but who might prefer to use their native language in court. You must now allow them to do so. Indeed, their right to use their native language is superior to the right of

an ethnic Hawaiian to use Hawaiian, because virtually 100% of the people who speak Hawaiian are native speakers of English (i.e., they grew up speaking English) even though they are genetically natives of Hawaii.

Let me remind you that Article XV Section 4 of the Hawaii Constitution includes a disclaimer or restriction, which I have emphasized in this quotation of it: "English and Hawaiian shall be the official languages of Hawaii, EXCEPT THAT HAWAIIAN SHALL BE REQUIRED FOR PUBLIC ACTS AND TRANSACTIONS ONLY AS PROVIDED BY LAW."

I have researched the legislative history of Article XV Section 4 from the transcripts of the Constitutional Convention of 1978, and have found no evidence that there was any legislative intent to place Hawaiian on an equal footing with English in legal proceedings. Indeed, the author of Article XV Section 4, Adelaide (Frenchy) De Soto, explicitly said that her reason for introducing it was her unhappiness that Hawaiian was grouped with foreign languages in college catalogues. Please see my webpage on this topic at <https://tinyurl.com/ybn4l6pd>

One more point needs to be raised here even though it is "politically incorrect" and perhaps painful to do so.

Probably everyone who chooses to use Hawaiian language in court proceedings will do so for political reasons as an act of resistance, defiance and hostility toward the United States and its "puppet regime" the State of Hawaii.

The Hawaiian-speakers in your courtrooms are engaged in street-theatre. They are literally in contempt of court, because they claim your court has no jurisdiction over them due to the "illegal military invasion and occupation" of Hawaii as admitted in the U.S. "confession" of 1993 (i.e., the apology resolution). So even after you are so kind to let them testify in Hawaiian, and you are so generous to pay for their interpreters, they will then refuse to obey your decision or court order.

These Hawaiian sovereignty protesters are intentionally using Hawaiian language as a political weapon to delay and disrupt court proceedings, and to assert the continuing existence of a Hawaiian nation. By allowing Hawaiian language testimony you are allowing your courtroom to be used as the stage for a political rally by people who refuse to recognize your jurisdiction or legitimacy. Whether you realize it or not, you are an enabler and accessory to racial divisiveness, anti-Americanism, anarchy and revolution. Please see my large, detailed webpage "Hawaiian Language as a Political Weapon" at <http://tinyurl.com/668vqyz>

**SB-2734**

Submitted on: 2/8/2022 9:25:14 PM

Testimony for JDC on 2/10/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Emma Kim	Individual	Support	No

Comments:

Karl Rhoads

Chair of Senate Committee on Judiciary

SB2734

February 10, 2022 9:30AM

IN SUPPORT

My name is Emma Kim and I am testifying in favor of SB2734.

I was born and raised here in Hawai'i, and I was privileged to have attended Kamehameha Schools Kāpalama. At this school, we were taught not only the history and traditions of the Hawaiian people, but also the language and its importance. I, like many others, took this opportunity for granted and am now left with a limited vocabulary and regrets. However, as a young kanaka wahine, it is my kuleana to fight to preserve what is left of our culture, not just for myself, but for the generations who came before us and the generations who will come after us.

The Kingdom of Hawaii was illegally overthrown in 1893. For the past 129 years, this land and its people have been under illegal foreign rule. I believe that as a government occupying this land, it is your duty to install Hawaiian ideologies and traditions into these systems that have long since been used to oppress Native Hawaiians. Especially the judiciary system.

Native Hawaiians have been, and are still, overrepresented in the State's criminal justice system. Yet, there are not many resources available for these kānaka. Even 44 years after the Constitution was amended to recognize Hawaiian as an official language, the state government continues to place barriers on the language. The due process clause of the Fourteenth Amendment states that a defendant shall be entitled to an interpreter. This right must extend to those who choose to speak Hawaiian in court.

I do acknowledge that the judiciary has taken small steps in incorporating 'ōlelo Hawai'i into the legal processes, but these initiatives, like many things, need funding. The \$300,000 being asked for is a small amount of state funding that can, and should, be directed towards this bill and this issue.

When the language of colonizers had been forcefully imprinted upon kanaka maoli tongues, so much of Hawaiian history had been lost and many of our traditions were forced underground. It is your kuleana to make the changes needed for the Judiciary to be able to operate in 'Ōlelo Hawai'i and provide resources for those who speak it. The decisions you and I make today will cement us in the stories that are told. I implore you as representatives of the people, as those who directly profit off of the illegal occupation of indigenous lands, to vote in favor of this bill.

I am available to take any questions you may have. If there are none, thank you for your time and consideration.