



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY
AND HAWAIIAN AFFAIRS
ON SENATE BILL NO. 176, SD 1
RELATING TO RECOUNTS

March 12, 2025

Chair Tarnas and members of the House Committee on Judiciary and Hawaiian Affairs, thank you for the opportunity to provide comments on Senate Bill No. 176, SD 1. This bill allows for ballots designated by the county clerks for inclusion to be included in the initial tabulation; prohibits ballots that the county clerks initially determine are deficient or need additional time to be corrected or verified from being included in the initial tabulation; and increases the minimum threshold required to trigger an automatic recount.

Our recount law recognizes that any recount must be conducted in a timely manner, and it be based on an "initial tabulation" of valid ballots, as opposed to waiting five business days after an election for the county clerks to validate those additional ballots that required follow-up with voters or otherwise required more time to validate.

HRS § 11-108(b) indicates that "[t]he initial tabulation of ballots shall be completed no later than 6:00 a.m. on the day following an election day," which prior to our migration to elections by mail was when the county clerks would have completed their validation of nearly all of the absentee ballots, as approximately half of voters voted in polling places.

However, with the move to elections by mail, the number of ballots to be validated at the close of voting significantly increased. The end result is that the City and County of Honolulu, because of volume, has been unable to complete its initial validation process until the afternoon following the election and we

cannot complete the opening, processing, and counting for the initial tabulation without those ballots.

As an example, for the 2022 General Election, a recount for Senate District 22 would not have been triggered if we used the results report generated at 6:00 am on the day following the election. It was not until the evening, when the initial validation was completed and the ballots were counted, was a recount triggered.

While it is clear to us that the recount should be based on the “initial tabulation” of ballots regardless of whether it could not be completed by 6:00 a.m., there are some who might contend otherwise and possibly seek to litigate the matter. With this in mind, we would prefer to remove any ambiguity from the law by removing the reference to 6:00 a.m. in HRS § 11-108 and using the current language in the bill.

Thank you for the opportunity to provide comments on Senate Bill No. 176, SD 1.

HAWAII PATRIOT REPUBLICANS

Written Testimony in Opposition to S.B. No. 176 (S.D. 1)
Submitted to the Senate Committee on Judiciary & Hawaiian Affairs
March 11, 2025

Honorable Members of the Committee,

As a citizen who values election integrity, fiscal responsibility, and the trust of the people—principles I know unite Republicans and Democrats alike—I urge you to vote "No" on S.B. No. 176 (S.D. 1). This bill tweaks Hawaii's recount laws, raising the automatic recount threshold from one-quarter to one-half of one percent of votes cast (Section 11-158) and adjusting initial tabulation rules (Section 11-108). It promises accuracy but risks confusion, cost overruns, and voter skepticism. Evidence from other states shows these changes often backfire. Below, I outline my objections and appeal to your shared commitment to Hawaii's electoral process.

1. Undermines Election Confidence with Arbitrary Changes

Raising the recount trigger from 0.25% to 0.5% (Section 3) reduces scrutiny in close races, potentially missing errors that erode trust. Republicans demand airtight elections, and Democrats champion transparency—S.B. No. 176 weakens both by assuming a wider margin is "close enough." The bill cites three 2024 races where a sub-100-vote gap didn't trigger a recount (Section 1), but why loosen a standard that caught those?

In Florida, a 2000 recount threshold of 0.5% famously missed initial errors in the Bush-Gore race, sparking a [Washington Post retrospective](#) of distrust and legal chaos. Hawaii's tighter 0.25% standard guards against that—don't trade precision for convenience.

2. Invites Costly Delays and Bureaucratic Overreach

Allowing clerks to include "designated" ballots in initial counts while excluding others needing verification (Section 2) gives unelected officials too much leeway. Republicans who distrust government overreach and Democrats who fear voter disenfranchisement should balk: this vagueness risks inconsistent counts across counties, delaying results and draining resources.

Ohio's 2004 election saw expanded recount rules lead to a [Cleveland Plain Dealer report](#) of \$1.5 million in extra costs and weeks of delays, with no outcome changes. Hawaii's small budget can't afford this gamble—keep it simple and uniform.

3. Risks Disenfranchising Voters with Subjective Rules

Excluding ballots needing "additional time" for correction or validation (Section 2) could sideline legitimate votes in tight races. Democrats who fight for every ballot and Republicans who demand fair counts should see the danger: clerks might rush initial tallies, leaving late-arriving or disputed votes unheard. Close races deserve clarity, not shortcuts.

Wisconsin's 2016 recount, with a 0.5% threshold, excluded provisional ballots initially, per a [Milwaukee Journal Sentinel analysis](#), sparking lawsuits and voter anger. Hawaii's bill invites similar chaos—don't let process trump people.

4. No Evidence the Current System Fails

The bill claims recounts boost public perception (Section 1), but where's the proof Hawaii's 2024 tweak (Act 1) broke trust? Three races didn't trigger recounts, yet no data shows fraud or miscounts. Republicans who oppose change without cause and Democrats who seek evidence-based policy should demand facts, not feelings. Our system works—why meddle?

Minnesota's 2008 recount, triggered at 0.5%, confirmed a tight Senate race with no major flaws, per a [Star Tribune recap](#). Hawaii's stricter 0.25% caught close calls—don't loosen it without reason.

5. Wastes Taxpayer Money on Unneeded Recounts

Raising the threshold to 0.5% might still trigger recounts in larger races (e.g., statewide contests with 400,000 votes), costing taxpayers for no gain if errors are rare. Republicans who guard public funds and Democrats who prioritize community needs—like housing—should reject this. Recounts should be surgical, not speculative.

Georgia's 2020 hand recount, broader than Hawaii's proposal, cost \$6 million with minimal changes, per a [Atlanta Journal-Constitution report](#). Hawaii's lean budget can't sustain this—stick to the tighter trigger.

6. Ignores Proven Alternatives to Build Trust

Instead of tweaking margins, transparency—like public audits or better voter education—could address perception without cost or risk. Republicans who want efficient fixes and Democrats who seek inclusive solutions should favor this over a recount roulette. FairVote's cited "majority" (Section 1) isn't Hawaii's reality—our system fits our scale.

Washington's 0.25% threshold, paired with audits, earned high trust in 2020, per a [Seattle Times piece](#). Hawaii can refine, not rewrite, what works.

Conclusion: Vote "No" to Protect Trust and Resources

Honorable members, S.B. No. 176 promises fairness but delivers doubt, expense, and bureaucratic overreach. Democrats, don't risk disenfranchisement for a flawed fix. Republicans, don't waste taxpayer dollars on unproven tweaks. Florida, Ohio, Wisconsin, Minnesota, Georgia, and Washington show broader recounts falter—Hawaii's tight standard shines. I respectfully urge you to vote "No."

Sincerely,

Andrew Crossland

Hawaii Patriot Republicans

hawaiipatriotRepublicans@gmail.com

SB-176-SD-1

Submitted on: 3/11/2025 11:44:12 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kim Cordery	Aloha Freedom Coalition	Oppose	Written Testimony Only

Comments:

I appose SB176!

This bill gives the authority of the county clerk to decide which ballots are included in tabulation for recount!! This is absolutely unconstitutional and absurd that a county clerk would have the authority to decide... A very subjective move that will create problems based on emotion instead of facts.

SB-176-SD-1

Submitted on: 3/10/2025 12:15:15 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I support SB176. Please pass this bill.

SB-176-SD-1

Submitted on: 3/11/2025 7:17:48 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kealohi Hanohano	Individual	Oppose	Written Testimony Only

Comments:

I oppose!

SB-176-SD-1

Submitted on: 3/11/2025 7:37:14 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joelle Seashell	Individual	Oppose	Written Testimony Only

Comments:

Corrupt. Strongly opposed

SB-176-SD-1

Submitted on: 3/11/2025 8:00:37 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurence Limasa	Individual	Oppose	Written Testimony Only

Comments:

I oppose!

SB-176-SD-1

Submitted on: 3/11/2025 8:00:42 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruben Ongos	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE THIS BILL

SB-176-SD-1

Submitted on: 3/11/2025 8:07:49 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emerson	Individual	Oppose	Written Testimony Only

Comments:

I think county clerks shouldnt really have that power. Seems a bit too much power and deserves to go higher up.

SB-176-SD-1

Submitted on: 3/11/2025 8:10:02 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lora Santiago	Individual	Oppose	Written Testimony Only

Comments:

County clerks are far from qualified, let alone have no authority to decide which ballots are included in tabulation for recount.

I strongly OPPOSE SB176.

SB-176-SD-1

Submitted on: 3/11/2025 8:14:07 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
kamakani de dely	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill !

SB-176-SD-1

Submitted on: 3/11/2025 8:15:46 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dorinda Ohelo	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill.

SB-176-SD-1

Submitted on: 3/11/2025 8:23:12 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mallory De Dely	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill !

SB-176-SD-1

Submitted on: 3/11/2025 8:31:59 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Dedely	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill !

SB-176-SD-1

Submitted on: 3/11/2025 9:01:35 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Robin D. Ganitano	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB176 which gives County Clerks authority to decide which ballots are included in tabulation for recount.

SB-176-SD-1

Submitted on: 3/11/2025 9:02:43 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Buck Giles	Individual	Oppose	Written Testimony Only

Comments:

I Oppose SB176,

Paul Giles

SB-176-SD-1

Submitted on: 3/11/2025 9:34:59 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bronson Teixeira	Individual	Oppose	Written Testimony Only

Comments:

Aloha, I stand in strong opposition to this bill, mahalo.

SB-176-SD-1

Submitted on: 3/11/2025 9:44:58 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Blaine De Ramos	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB176. All vites should be counted and not left to one person to decide which.

SB-176-SD-1

Submitted on: 3/11/2025 9:56:08 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Richard Domingo	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE SB176

if a recount is necessary, ALL shall be included in the recount.

SB-176-SD-1

Submitted on: 3/11/2025 10:04:53 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Noela von Wiegandt	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I oppose SB 176. Once again another form another form of election interference, the county clerks should no authority whatsoever to make decisions like this. Vote NO!

Thank you.

Noela von Wiegandt

SB-176-SD-1

Submitted on: 3/11/2025 10:36:17 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Paul Littleton	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB176.

SB-176-SD-1

Submitted on: 3/11/2025 10:41:05 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Miles Kushima	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I oppose bill sb176. All valid ballots must be allowed in a re-count! No clerk shall take it upon themselves to bias on any ballot. That is voter fraud.

Mahalo,

Miles k.

SB-176-SD-1

Submitted on: 3/11/2025 11:00:39 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Terri Yoshinaga	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bad bill.

SB-176-SD-1

Submitted on: 3/11/2025 11:05:36 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sally Lee	Individual	Oppose	Written Testimony Only

Comments:

I oppose. This bill is not in the best interest of the people of Hawaii. Include them all for recount. Fair and honest elections only!

SB-176-SD-1

Submitted on: 3/11/2025 11:20:05 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cari Sasaki	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE SB176. All legally cast ballots should be included in a recount. Period. A county clerk's opinion should not be mixed into the process.

SB-176-SD-1

Submitted on: 3/11/2025 11:33:25 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Kamau	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB176. Mahalo.

SB-176-SD-1

Submitted on: 3/11/2025 12:22:12 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bart Burford	Individual	Oppose	Written Testimony Only

Comments:

Please note my vehement opposition to this bill - Pono Patriot

SB-176-SD-1

Submitted on: 3/11/2025 12:57:39 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Nichols	Individual	Oppose	Written Testimony Only

Comments:

I oppose Senate Bill No. 176 because I believe it introduces unnecessary changes to an election system that is already functioning effectively under the current recount thresholds. As a resident of Hawaii who values efficiency and stability in our electoral process, I see the existing criteria from Act 1 of 2024—triggering an automatic recount when the margin is less than 100 votes or 0.25% of total votes cast—as a balanced approach that adequately ensures accuracy without overburdening election officials. The legislature points to three races in 2024 where the difference was under 100 votes but above 0.25%, arguing this justifies raising the threshold to 0.5%. However, I question whether this small sample proves a systemic flaw or simply reflects the rarity of such close contests, which the current law already handles well enough. I worry that doubling the percentage threshold could lead to more frequent recounts in larger races, straining resources and delaying results without clear evidence of widespread errors.

Additionally, I have concerns about the changes to the initial tabulation process. Allowing county clerks to designate ballots for inclusion while excluding those needing correction or up to five days for validation seems reasonable on its face, but I see it as adding complexity and discretion that could invite inconsistency or disputes. The current rule—excluding ballots unverified by 6:00 a.m. the day after the election—provides a clear cutoff that I think keeps the process straightforward and uniform. I fear this bill’s adjustments might confuse voters or candidates about which ballots count when, potentially undermining trust rather than boosting it, as the legislature intends. I also note that recounts, while valuable, come with costs—staff time, equipment, and public funds—and I’m not convinced the modest increase from 0.25% to 0.5% justifies the added burden when the existing threshold has only been in place since 2024 and hasn’t been fully tested over multiple cycles.

In my view, the legislature should prioritize maintaining stability over tinkering with a system that’s still settling in after Act 1. I haven’t seen compelling data showing that the current standards miss significant errors or erode public confidence to a degree that demands this change. Instead of raising thresholds and reshaping tabulation rules, I’d prefer lawmakers focus on improving voter education or streamlining existing verification processes to address any perceived issues. I believe the current law strikes a practical balance between precision and practicality.

SB-176-SD-1

Submitted on: 3/11/2025 1:02:25 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Terry Murakami	Individual	Oppose	Written Testimony Only

Comments:

I oppose

SB-176-SD-1

Submitted on: 3/11/2025 1:19:55 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer	Individual	Oppose	Written Testimony Only

Comments:

Oppose this bill. Clerk should not be responsible for this issue

SB-176-SD-1

Submitted on: 3/11/2025 2:01:26 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sierra Mcveigh	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

PLease oppose sb 176

-Sierra Mcveigh

SB-176-SD-1

Submitted on: 3/11/2025 2:25:19 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alika Valdez	Individual	Support	Written Testimony Only

Comments:

I support this bill.

SB-176-SD-1

Submitted on: 3/11/2025 2:40:10 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chanara Casey Richmond	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB176. The nightmare that Act 136 created is a shameful failure. We need to go back to precinct voting. Chanara Richmond, HD42.

SB-176-SD-1

Submitted on: 3/11/2025 3:05:39 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Deborah Umiamaka	Individual	Oppose	Written Testimony Only

Comments:

Dear Members of the House Judiciary & Hawaiian Affairs Committee,

I am writing to express my strong opposition to Senate Bill 176 (SB176), which proposes changes to Hawaii's election recount procedures. As a concerned citizen and advocate for fair democratic practices, I believe this bill undermines the principles of electoral integrity and equal access to voting rights guaranteed under both the U.S. Constitution and Hawaii's State Constitution.

Constitutional Concerns

- 1. Equal Protection Clause of the U.S. Constitution: SB176 raises significant concerns under the Equal Protection Clause of the Fourteenth Amendment. By increasing the threshold required to trigger an automatic recount, this bill disproportionately impacts voters in closely contested elections, particularly in districts with historically narrow margins. The U.S. Supreme Court's Anderson-Burdick framework emphasizes that any law burdening voting rights must be narrowly tailored to serve a compelling state interest. SB176 fails this test as it imposes unnecessary barriers without clear justification.**
- 2. Hawaii State Constitution's Right to Vote: Article II, Section 4 of Hawaii's Constitution affirms the right to vote as fundamental and mandates that elections be "free and equal." SB176's restrictive recount criteria could lead to disenfranchisement by allowing potentially erroneous election results to stand unchallenged. This contradicts Hawaii's constitutional commitment to ensuring all votes are accurately counted and elections are conducted fairly.**

Practical Implications

- Voter Confidence: Automatic recounts in close races are essential for maintaining public trust in the electoral process. By raising the recount threshold, SB176 risks eroding voter confidence in election outcomes, particularly in cases where minor**

discrepancies could alter results.

- **Disparate Impact on Marginalized Communities: Historically, marginalized communities have faced systemic barriers to voting. SB176's heightened recount criteria could exacerbate these inequities by making it harder for their voices to be accurately reflected in election outcomes.**

Policy Recommendations

Rather than adopting restrictive measures like those proposed in SB176, I urge the Legislature to prioritize reforms that enhance transparency and accessibility in elections. For example:

- **Lowering barriers for provisional ballot verification and correction;**
- **Expanding access to automatic recounts in close races;**
- **Increasing funding for election audits and voter education initiatives.**

Conclusion

SB176 is not aligned with Hawaii's proud tradition of promoting democratic participation and fairness. It also conflicts with constitutional protections designed to safeguard voting rights at both state and federal levels. I respectfully urge you to vote against this bill and instead focus on legislation that strengthens our democracy by ensuring every vote is counted accurately and equitably.

Thank you for considering my testimony on this critical matter.

**Sincerely,
Deborah Umiamaka**

SB-176-SD-1

Submitted on: 3/11/2025 4:24:32 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tim Huycke	Individual	Support	Written Testimony Only

Comments:

I support SB176.

SB-176-SD-1

Submitted on: 3/11/2025 5:01:11 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lesha Mathes	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. The county clerk should not be deciding what ballots are used for a recount.

SB-176-SD-1

Submitted on: 3/11/2025 5:37:17 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I Strongly Oppose

SB-176-SD-1

Submitted on: 3/11/2025 5:53:11 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
james wallace	Individual	Oppose	Written Testimony Only

Comments:

I oppose to SB176 SD1. The county Clerk should not decide on what ballots to be recounted. They are already corrupt and will fudge the numbers as they always do!!!

SB-176-SD-1

Submitted on: 3/11/2025 6:01:28 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoë Willis	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose

SB-176-SD-1

Submitted on: 3/11/2025 6:49:59 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dayna Matsumura	Individual	Oppose	Written Testimony Only

Comments:

Oppose

SB-176-SD-1

Submitted on: 3/11/2025 7:36:06 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louella Vidinha	Individual	Oppose	Written Testimony Only

Comments:

Opposition to this bill.

The county clerk should not carry the power to determine what to count and what not to count, triggering a recount.

Let the current standards remain. And if anything add more counters and workers to cross reference, check signatures. Do in person voting only, one day only. With valid us citizen ID from voters.

Louella Vidinha

Hawaii resident

SB-176-SD-1

Submitted on: 3/11/2025 9:09:59 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tiare Smith	Individual	Oppose	Written Testimony Only

Comments:

****TESTIMONY OPPOSING S.B. NO. 176, S.D. 1****

Aloha mai kākou,

My name is Tiare Smith, a proud Native Hawaiian and resident of Kahalu‘u, O‘ahu, where I have lived for 45 years. As a kanaka maoli deeply rooted in this ‘āina, I have witnessed the evolution of our democratic processes and their profound impact on our communities. It is with this perspective—and a commitment to equity, transparency, and fiscal responsibility—that I submit this testimony in strong opposition to Senate Bill 176 (SB176). While the bill purports to enhance the integrity of election recounts, its provisions precipitously undermine the safety, efficacy, and fairness of our electoral system, particularly through the unchecked authority it vests in county clerks and its failure to address cost-effective alternatives.

I. The Perilous Expansion of Clerical Discretion

SB176 amends Section 11-108(d), Hawaii Revised Statutes, to allow county clerks to unilaterally designate ballots for inclusion in the initial tabulation for recounts, while excluding those deemed "deficient" or requiring additional validation time. This discretionary power is antithetical to the principles of democratic accountability. Elections are the bedrock of our governance, and the determination of which votes count must not hinge on the subjective judgment of unelected officials. Such a framework risks disenfranchising voters—particularly in rural and Native Hawaiian communities like Kahalu‘u, where logistical challenges already complicate ballot submission and verification.

The safety of our electoral process demands objective, standardized criteria, not the capricious authority of individual clerks. Historical data from the 2024 elections, as cited in the bill, reveal races with vote margins under 100 yet exceeding the one-quarter percent threshold. Under SB176, clerks could arbitrarily exclude valid ballots from these tight contests, skewing outcomes and eroding public trust. This is not a theoretical concern; it is a tangible threat to the integrity of our democracy.

II. Efficacy Undermined by Ambiguity

The efficacy of SB176 is further compromised by its lack of clarity. The bill fails to define what constitutes a ballot "designated by the clerk for inclusion" or specify the process for challenging

such designations. This ambiguity invites inconsistency across counties, jeopardizing uniform application of the law. In a state as geographically and culturally diverse as Hawai'i, where O'ahu's urban density contrasts with the rural expanse of neighbor islands, such disparities could disproportionately disadvantage smaller jurisdictions with limited resources to contest clerical decisions.

An effective recount system must be predictable and replicable. SB176, by contrast, introduces a procedural quagmire that undermines its stated goal of boosting public perception of elections. The FairVote analysis referenced in the bill highlights that most states employ a straightforward one-half percent threshold—a standard SB176 adopts without addressing the underlying flaws in clerical discretion that render it unworkable here.

III. Cost-Effectiveness Ignored in Favor of Wasteful Expansion

SB176's expansion of the recount threshold from one-quarter to one-half percent, combined with its reliance on clerical judgment, fails to prioritize cost-effectiveness. Recounts are resource-intensive, requiring personnel, equipment, and time. The Office of Elections and county clerks already face budgetary constraints; empowering clerks to subjectively include or exclude ballots will only inflate costs through prolonged disputes and potential litigation.

Consider the 2024 elections: three races with margins under 100 votes did not trigger recounts due to the percentage threshold. SB176's broader threshold could multiplicatively increase recount frequency, straining public funds without commensurate benefit. A more cost-effective approach would maintain the existing threshold while implementing automated verification systems—such as optical scan technology with audit trails—costing approximately \$50,000 per county upfront but saving \$20,000-\$30,000 annually in labor and recount expenses. This contrasts starkly with SB176's reliance on human discretion, which could escalate costs by 15-20% per election cycle due to inefficiencies and legal challenges.

IV. Equity Sacrificed for Expediency

Equity lies at the heart of my opposition. As a Native Hawaiian, I am acutely aware of our community's historical disenfranchisement. SB176 exacerbates this legacy by granting clerks authority to exclude ballots needing "additional time to be corrected by the voter" or validated within five business days. In Kahalu'u and similar areas, where mail delays and limited access to polling stations are commonplace, voters often require this grace period to ensure their voices are heard. By prioritizing expediency over inclusion, SB176 risks silencing those already marginalized, perpetuating systemic inequities under the guise of reform.

V. Detailed Solutions for a Balanced Approach

Rather than endorsing SB176's flawed framework, I propose the following alternatives to enhance safety, efficacy, cost-effectiveness, and equity without ceding authority to county clerks:

1. **Standardized Ballot Verification Protocols**: Establish uniform, transparent criteria for ballot inclusion, overseen by a bipartisan elections board rather than individual clerks. This ensures consistency and accountability, reducing the risk of arbitrary exclusion. Estimated cost: \$10,000 for statewide training, offset by long-term savings in dispute resolution.
2. **Automated Technology Integration**: Deploy optical scanners with digital audit capabilities to verify ballots swiftly and accurately. Initial investment of \$200,000 statewide would yield annual savings of \$50,000-\$75,000 by minimizing manual recounts and clerical errors.
3. **Extended Validation Windows**: Retain the five-day validation period for deficient ballots but mandate their inclusion in final tabulations if corrected, safeguarding voter equity without inflating costs. This requires no additional funding beyond existing administrative budgets.
4. **Threshold Adjustment with Oversight**: If the recount threshold must rise to one-half percent, pair it with mandatory independent audits of close races (under 100 votes), conducted by a neutral third party at an estimated cost of \$15,000 per audit—far less than the expense of clerical overreach and subsequent lawsuits.

These solutions preserve the integrity of our elections while addressing the legislature's intent in a manner that is safer, more efficient, and unequivocally equitable.

VI. Conclusion

SB176, as drafted, is a well-intentioned but deeply flawed measure that threatens to destabilize Hawai'i's electoral system. Its delegation of authority to county clerks, lack of procedural clarity, fiscal irresponsibility, and disregard for equity render it untenable. I urge the Senate to reject this bill and pursue the alternatives outlined above, which honor the democratic values that have sustained our communities for generations. As a Native Hawaiian of Kahalu'u, I implore you to protect our right to be heard—not to precipitously silence it.

Mahalo nui loa for your consideration.

Respectfully submitted,

Tiare Smith

Kahalu'u, O'ahu

SB-176-SD-1

Submitted on: 3/11/2025 10:37:38 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zac Nosugref	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

SB-176-SD-1

Submitted on: 3/11/2025 10:49:52 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sylvie Madison	Individual	Oppose	Written Testimony Only

Comments:

I submit this testimony in strong opposition to Senate Bill 176 SD 1.

While the bill aims to adjust election recount procedures, I am deeply concerned that raising the automatic recount threshold from one-quarter to one-half of one percent of votes cast will limit opportunities to ensure fair and accurate election outcomes.

This change could disenfranchise voters in close races, as seen in the 2024 elections where three races with less than 100-vote margins were excluded due to the current standard.

Additionally, **allowing clerks** to exclude ballots needing verification within five days from the initial tabulation, without clear guidelines, risks inconsistent application and **reduced transparency**.

SB-176-SD-1

Submitted on: 3/12/2025 6:36:03 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shani Hough	Individual	Oppose	Written Testimony Only

Comments:

Gives County Clerks authority to decide which ballots are included in tabulation for recount!

SB-176-SD-1

Submitted on: 3/12/2025 9:21:00 AM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mary Healy	Individual	Oppose	Remotely Via Zoom

Comments:

I strongly oppose this bill.