

several high-profile first amendment cases on a pro-bono basis. Before joining that firm, Mr. Simon was a trial attorney in the Antitrust Division of the U.S. Department of Justice. Mr. Simon has the strong support of his two home State Senators. His nomination was reported by the Committee with strong bipartisan support.

These consensus nominees are in addition to the other highly qualified nominations on which the Senate has not been allowed to vote for many months.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.  
The Senator from Illinois.

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate move to morning business with Senators allowed to speak for up to 10 minutes each.

Mr. McCAIN. Mr. President, reserving the right to object, if I could.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I would say to the Senator from Illinois that I have an agreement with everybody on a 6-week extension of the Trade Adjustment Assistance and the Trade Preference Act, and on both sides everybody has agreed.

I know I can't do that in morning business, so I ask unanimous consent, as soon as it is written up, that I be permitted to propose that legislation.

Mr. DURBIN. I have no objection to your bringing it up whenever it is prepared, and we will of course consider it at that time.

I thank the Senator for his work on this effort.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Republican leader.

#### FIRST RESPONDERS BILL

Mr. MCCONNELL. Mr. President, I am delighted the Senate was able to reach an agreement to provide health care for the men and women who helped in the rescue, recovery, and cleanup efforts after the 9/11 attacks.

In the years since then, as we all know, a number of these brave Americans have become ill. Today represents an important step in making sure they receive the care they need as a result of their extraordinary service. No one has ever questioned whether to provide the care they need. The only question was how to do so.

Like many of my colleagues, I have been concerned that attempts to rush this legislation at the end of the session would prevent us from ensuring

the bill was written in a responsible fashion. I still believe this cause and this legislation would have benefited from a bipartisan committee process. But thanks to the hard work of a number of Senators—most notably Senators COBURN and ENZI and their staffs—we have come a long way in improving this bill.

We have made sure that more compensation will go to victims than trial lawyers. It has got improved oversight, so money isn't siphoned away from the people who need it. We put time limits on the legislation so Congress can come back and review what has worked and where improvements can be made. So this is a much better product.

Some have tried to portray this debate as a debate between those who support 9/11 workers and those who don't. This is a gross distortion of the facts. There was never any doubt about supporting the first responders. It was about doing it right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding the Senator from Hawaii has to make a quick departure, so I ask he be recognized after this quick request.

#### HELPING HEROES KEEP THEIR HOMES ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4058 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 4058) to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 4058) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4058

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Helping Heroes Keep Their Homes Act of 2010".

#### SEC. 2. EXTENSION OF ENHANCED PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURE UNDER SERVICEMEMBERS CIVIL RELIEF ACT.

Paragraph (2) of section 2203(c) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) is amended—

(1) by striking "December 31, 2010" and inserting "December 31, 2012"; and

(2) by striking "January 1, 2011" and inserting "January 1, 2013".

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise today to reaffirm my strong commitment to have the Native Hawaiian Government Reorganization Act enacted into law. This bill is of great importance to all of the people of Hawaii. The bill would simply put the State of Hawaii on equal footing with the rest of the country in the treatment of its indigenous people. It provides a process for the reorganization of a Native Hawaiian governing entity. However, since I first introduced this common-sense bill 10 years ago, it has been the subject of misleading attacks and procedural hurdles, and has never had the opportunity for an up-or-down vote here on the Senate floor.

Earlier this month, a handful of my colleagues who oppose this measure put out a press release, fueling speculation that I was seeking to attach this bill to must-pass, end-of-session legislation. One of these colleagues said that this measure—and I quote, "should be brought up separately and debated openly on the Senate floor with the opportunity for amendment." I could not agree more.

A structured debate followed by an up-or-down vote on this legislation is long overdue. The people of Hawaii have waited for far too long.

This Congress, the bill was favorably reported by the Senate Committee on Indian Affairs, and it was passed by the House of Representatives. Despite this, it was not given an opportunity to be debated and voted on, here on the Senate floor.

I am deeply disappointed that we did not have the opportunity to consider this bill during the 111th Congress. This historic Congress saw a great many accomplishments on behalf of the American people, but tragically, it also saw unprecedented obstruction.

I remain committed to passing this bill. I am hopeful that, when we convene next year in the new Congress, I can count on every one of my colleagues to be supportive of my efforts to bring this bill to the Senate floor.

The Native Hawaiian Government Reorganization Act is a Hawaii-specific measure. In the long traditions of the U.S. Senate, it was considered a courtesy to stand with your colleagues on matters specifically addressing the needs of their home State. This civility seems to have vanished from this Chamber.

It is frustrating to me that some of my colleagues have worked aggressively to block this bill. For some reason, they have made it a priority to prevent the people of my State from moving forward to resolve issues caused by the illegal overthrow of the Native Hawaiian government in 1893.

This bill has widespread support among elected leaders and the citizens of Hawaii. Both chambers of the Hawaii State Legislature have voiced their support of the measure, and our new Governor, Neil Abercrombie, was the chief sponsor of the bill in the U.S. House of Representatives. This legislation is also supported by community and civic organizations, including the Association of Hawaiian Civic Clubs and the Council for Native Hawaiian Advancement, and the Office of Hawaiian Affairs, a State agency.

The bill also has broad support outside of Hawaii. Indigenous leaders and community organizations across the United States support the bill, such as the Alaska Federation of Natives and the National Congress of American Indians.

The American Bar Association sent a letter this year to Members of the Senate reaffirming its support and outlining the sound Constitutional basis for the legislation. The ABA wrote, "The right of Native Hawaiians to use the property held in trust for them and the right to govern those assets are not in conflict with the Equal Protection Clause since they rest on independent constitutional authority regarding the rights of native nations contained in Articles I and II of the Constitution." Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. AKAKA. The bill also has the support of the Obama Administration. When the measure passed the House in February of this year, the White House Press Secretary issued a statement noting that President Obama, "looks forward to signing the bill into law and establishing a government-to-government relationship with Native Hawaiians." And earlier this month, Attorney General Eric Holder and Secretary of the Interior Ken Salazar wrote to the Senate Leaders to reiterate the administration's support for the Native-Hawaiian Government Reorganization Act, and to make note of the urgent need for this bill. The letter reads, "Of the Nation's three major indigenous groups, Native Hawaiians—unlike American Indians and Alaska Natives—are the only one that currently lacks a government-to-government relationship with the United States." I ask unanimous consent to have a copy of this letter printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. AKAKA. Opponents have spread misinformation about the bill. Let me set the record straight. This bill does not allow Hawaii to secede from the United States. It does not allow private lands to be taken. It does not authorize gaming in Hawaii.

Opponents of the bill also distort the history of the Native Hawaiian people. I welcome the chance to speak with any of my colleagues about the history of my great State and of its indigenous

people. I want to help you understand why this bill is necessary for Hawaii to move forward, and how it is consistent with the United States' existing policies of Federal recognition for Alaska Natives and American Indians.

Opponents also point to a vocal minority in Hawaii who oppose this bill. The reality is that this legislation is strongly supported by the people of Hawaii. A poll conducted by the Honolulu Advertiser in May of this year found that 66 percent of people in Hawaii support Federal recognition for Native Hawaiians. Of the poll participants, 82 percent identifying themselves as Native Hawaiians said they support Federal recognition. Mr. President, I ask unanimous consent to have this article printed in the RECORD.

(See exhibit 3.)

Mr. AKAKA. This year marked the commemoration of the 200th anniversary of the unification of the Hawaiian Islands into one kingdom, under King Kamehameha. This year also marked 51 years of statehood and more than 100 years since Hawaii became a United States territory. And yet the people of Hawaii have still not been given the chance to participate in a government-to-government relationship similar to those already extended to this Nation's other indigenous people.

I have worked tirelessly to educate my colleagues on the importance of this bill. I hope that you will continue to welcome my efforts to speak with you. I extend my heartfelt aloha and mahalo, thank you, to the many, many supporters who have worked to advocate for this legislation. Your support makes a difference and is greatly appreciated. I thank my colleague, Chairman DORGAN, who has been a great friend of mine and to the people of Hawaii. His leadership on this issue will be missed.

My work to enact this bill is not over. I look forward to having the opportunity to debate this bill on its merits. I will not give up until the Native Hawaiian people have the same rights to self-governance already afforded to the rest of the Nation's indigenous people.

Mr. President, mahalo—thank you—to all of my colleagues for listening to this matter of great importance to me and my State. I yield back the remainder of my time.

EXHIBIT 1

SEPTEMBER 28, 2010.

U.S. Senate,  
Washington, DC

DEAR SENATOR: On behalf of the American Bar Association, which has nearly 400,000 members nationwide, I urge your support for H.R. 2134, the Native Hawaiian Government Reorganization Act of 2010. The legislation, as amended, passed the House of Representatives with bipartisan support early in the session and was placed on the Senate calendar where it is still awaiting Senate floor action. As amended, H.R. 2314 is supported by the White House, the Department of Justice, Hawaii's Congressional Delegation and the Governor of Hawaii.

The ABA has a long-standing interest in the legal issues concerning America's native and indigenous peoples. Over the past twenty years, our House of Delegates has adopted

numerous policies supporting self-determination and self-governance for American Indians and Alaska Natives. In 2006, the ABA adopted policy specifically supporting the right of Native Hawaiians to seek federal recognition of a native governing entity within the United States similar to that which American Indians and Alaska Natives possess under the U.S. Constitution.

H.R. 2314 would establish a process that would lead eventually to the formation of a native governing entity that would have a government-to-government relationship with the United States. Developed by Native Hawaiians, this federally recognized entity would serve, maintain and support their unique cultural and civic needs and advocate on their behalf at the federal and state levels. Prior to the overthrow of the Hawaiian monarchy in 1893 by U.S. agents acting without official sanction, Native Hawaiians lived under an organized political framework governed by the rule of law. This Kingdom had a written constitution and was recognized by the U.S. government as a sovereign nation. Congress ratified treaty agreements with it and recognized its representatives.

In addition to establishing a lasting trust relationship with the Native Hawaiian people after the coup, Congress acknowledged the illegal overthrow of the Kingdom of Hawaii, issued a formal apology to the Native Hawaiian people in 1993, and has consistently supported reconciliation efforts. Congressional support for legislation that would lead to a process for federal recognition for Native Hawaiians is the next logical step.

Opponents of this legislation claim that allowing Native Hawaiians the right to self-governance would imperil the constitutional rights of non-Native Hawaiians to equal protection under the law. They point to the former Kingdom's wealth and claim that self-determination will create a system of benefits disadvantaging those who are not of Native Hawaiian heritage. However, Native Hawaiians, in seeking rights and privileges that other indigenous people of the United States enjoy under our system of law, are not compromising the rights of others but exercising their own rights to property, to self-determination, and to be recognized as an indigenous people by Congress.

The right of Native Hawaiians to use of the property held in trust for them and the right to govern those assets are not in conflict with the Equal Protection Clause since they rest on independent constitutional authority regarding the rights of native nations contained in Articles I and II of the Constitution. The constitutional framers recognized the existence of native nations within the United States that predated our own democracy and created a system for federal recognition of indigenous nations within our then expanding borders.

The framers empowered Congress through the Indian Commerce Clause and the Treaty Clause to maintain relations between the U.S. federal government and the governments of these native nations. Our courts have upheld Congress' power to recognize indigenous nations and have specifically recognized that this power includes the power to re-recognize nations whose recognition has been terminated in the past. Thus, the Native Hawaiians have the right to be recognized by the Congress, this right is not in conflict with the rights of others, and this recognition may be renewed despite historical lapses.

The American Bar Association urges you to support the rights of Native Hawaiians to self-determination by voting for H.R. 2314.

Sincerely,

THOMAS M. SUSMAN.

EXHIBIT 2

DECEMBER 9, 2010.

Hon. HARRY REID.

*Majority Leader,**U.S. Senate, Washington, DC.*

DEAR SENATOR REID: We write to express the Administration's strong support for the Native Hawaiian Government Reorganization Act of 2010 (S. 3945).

This legislation establishes a process for Native Hawaiians to organize a government roughly akin to the government of an American Indian tribe. Once the Native Hawaiian government is created and its leaders elected, the United States would officially recognize the new governing entity and work with it on a government-to-government basis, just as the United States works with federally recognized Indian tribes in other States.

Senator Akaka first introduced a version of this legislation more than a decade ago. Since 1999, Senator Akaka, Senator Inouye, and other members of Hawaii's congressional delegation have worked tirelessly with the last three Administrations—and especially with our Departments—to greatly improve the bill, which has now received bipartisan support from the House of Representatives, the Senate Committee on Indian Affairs, and Hawaii's Governor and Attorney General.

Of the Nation's three major indigenous groups, Native Hawaiians—unlike American Indians and Alaska Natives—are the only one that currently lacks a government-to-government relationship with the United States. This bill provides Native Hawaiians a means by which to exercise the inherent rights to local self-government, self-determination, and economic self-sufficiency that other Native Americans enjoy.

For these reasons, we urge the Senate to pass the Native Hawaiian Government Reorganization Act of 2010 and send it to the President for his signature.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the Administration's program.

Sincerely,

ERIC H. HOLDER, JR.,  
*Attorney General.*KEN SALAZAR,  
*Secretary of the Interior.*

EXHIBIT 3

[From the Honolulu Advertiser, May 3, 2010]  
66% OF HAWAII RESIDENTS FAVOR RECOGNITION FOR NATIVE HAWAIIANS—POLL SHOWS SLIGHT UPTICK FROM 2006, WHEN 63% APPROVED

(By Gordon Y.K. Pang)

Hawaii residents still favor federal recognition of Native Hawaiians by a 2-to-1 margin, the latest Advertiser Hawaii Poll numbers show.

Polling conducted last week found that 66 percent of the participants support Native Hawaiians being "recognized by Congress and the federal government as a distinct group, similar to the special recognition given to American Indians and Alaskan Natives."

Such recognition could come about under a process created by the Akaka bill, formally known as the Native Hawaiian Government Reorganization Act of 2009. The bill passed the U.S. House in February and is awaiting a vote in the Senate.

The Hawaii Poll appears to indicate that, in recent years, a large segment of Hawaii residents have settled into how they think about federal recognition and the Akaka bill. In 2000, the Advertiser Hawaii Poll showed 73 percent in favor of federal recognition. That support appeared to dip in the latter part of the decade, when in 2006 the poll showed 63 percent of respondents in favor of recognition.

The poll was conducted by locally based Ward Research Inc. with a sampling size of 604 respondents.

Over the course of the last decade, during the administrations of President George W. Bush and President Obama, language in the Akaka bill has been widely debated and amended in the effort to get it passed.

Gov. Linda Lingle and her administration oppose the current version of the bill. Lingle had been a strong and influential supporter of the bill, but now believes this version grants too much authority to the Native Hawaiian entity at the onset of negotiations that would take place among the entity and the state and the federal governments.

For instance, it would grant "sovereign immunity" to the entity and its employees from the state's criminal, public health, child safety and environmental laws.

Clyde Nāmu'o, administrator of the Office of Hawaiian Affairs, said he is "not surprised and actually pleased" by the latest poll numbers, especially given the new opposition by Lingle and others.

"It's fairly consistent with the polls that we did," Nāmu'o said. "Obviously, there's still a majority of the people who still support" federal recognition.

Two of three major candidates in the 1st Congressional District special election, Democrat Ed Case and Republican Charles Djou, have said they do not support the current language of the bill that passed the House, leaving Democrat Colleen Hanabusa as the sole staunch supporter.

'NOBODY KNOWS'

Longtime opponents of the Akaka bill and/or federal recognition said the Hawaii Poll numbers show only that a majority of Hawaii residents don't know what federal recognition means.

"I think the big problem is nobody knows what's inside the bill," said Thurston Twigg-Smith, former Honolulu Advertiser owner. "They keep changing it, people don't have a chance to read it."

Congress should hold hearings on the measure in Hawaii so the public can get a better understanding of the language, he said.

Hawaiian rights activist Dennis Pu'uhonua "Bumpy" Kanahele said the poll "only tells me that people aren't even aware of what the Akaka bill is all about."

The state's politicians and "mainstream Hawaiian organizations" support the bill and not other models of self-determination, such as complete independence from the U.S. government, he said.

Kanahele said that's why he's been pushing for a constitutional convention, so Hawaiians can look at the different models and determine what's best.

Among the 115 poll respondents who identified themselves as Native Hawaiians, 82 percent said they support federal recognition. Among other ethnic groups, 66 percent of those describing themselves as Japanese support it, while 61 percent of Filipinos and Caucasians indicated support.

Only 58 percent of those who identified themselves as 55 and older support federal recognition, while 72 percent of those ages 35 to 54 support it, and 79 percent of those under 35 do.

## TRIBUTE TO RETIRING SENATORS

BYRON DORGAN

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to pay tribute to my colleague, Senator BYRON DORGAN. This is his last day voting in the Senate. He is retiring after serving the people of North Dakota in the Congress, the House, and Senate, for 30 years. But BYRON'S

record in North Dakota goes even beyond that—another 12 years in State office, so a total of 42 years of serving the people of North Dakota.

I want to first say I am not objective when it comes to BYRON DORGAN because he is my best friend. We have been friends and allies for all of those 42 years. In 1968 I was running a campaign to lower the voting age in North Dakota and first met BYRON DORGAN, a young tax commissioner—very young, in his twenties, appointed after the previous tax commissioner took his life. BYRON had extraordinary responsibility thrust on him at a very young age, the youngest statewide official in our State's history. BYRON disposed of those responsibilities with real distinction, becoming recognized as the most influential State leader, even more influential than the Governor of the State, by a major publication in North Dakota.

I met BYRON DORGAN in that year and was so struck by his ability, his charisma, and his vision for our State and our Nation that I thought: This is somebody I want to work with in my career.

We started a friendship that has lasted to this day. In 1970 I was helping run the reelection campaign of Senator Quentin Burdick, who served in this Chamber for more than 30 years. I got to know BYRON even better then. In fact, my wife and I spent time with him and his wife. In the years that followed we became very close friends. In 1974, when I got back from business school, BYRON called me and asked me to come to his office. I did the day after I returned home. We took a walk around the Capitol Grounds of the State of North Dakota and he talked to me about what he saw as the future—the future of our State, things that were happening in the country that needed to be addressed, and how the two of us might, working together, change that future and make a difference.

I agreed that day to be his campaign manager for the House of Representatives. In that campaign, EARL POMEROY, now North Dakota's lone Congressman, was the driver. I was the campaign manager. BYRON is always quick to point out it was the only election he ever lost. He always said it was the fault of the campaign manager. I always said it was the fault of the driver. And EARL always believed we would have won if only he had been the candidate.

Those were incredible days. I remember so well that campaign, the three of us—we bonded in a way that I think is very rare in politics and served together in a way that is unusual. There was never the kind of competition that often exists between Members. But there was always a keen friendship and a real partnership. We were allies, fighting for North Dakota, fighting to