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L A T E

**H.B. 397, H.D. 2, S.B. 1
RELATING TO LANDS CONTROLLED BY THE STATE**

**Committee on Ways and Means
Decision Making
Hearing on Friday, April 1, 2011, at 9:00 a.m.**

I submit this testimony in **support** of H.B. 397, H.D. 2, S.D. 1, which would provide more specificity and information in the resolutions submitted to the Legislature for the exchange or alienation of state controlled public lands. I am an associate professor at the William S. Richardson School of Law and director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. I submit this testimony, however, in my personal capacity as a private citizen and as an attorney who has worked, litigated, and written on Native Hawaiian legal controversies, including the public land trust, for many years.

One of the most troubling issues related to the public land trust for the Native Hawaiian community, and indeed our greater community, has been the lack of a detailed and accurate inventory of the lands. Without this information, it is difficult for the community to provide rational and meaningful input when the Legislature considers exchanging or alienating the trust lands. Thus, amending Act 176 (codified in sections 171-50(c) and 171-64.7 of Hawai'i Revised Statutes) as outlined in H.B. 397, H.D. 2, S.D. 1, makes great sense and is good public policy.

After a year of experience with the mechanism established in Act 176, this bill seeks to improve that process by identifying specific information that should be disclosed by state agencies and departments in order to ensure that the Legislature, the Office of Hawaiian Affairs, the Native Hawaiian community, and the general public, are fully informed. This bill will give the Legislature the critical information it needs to make important decisions on the public land trust and other state controlled lands, and will provide greater transparency in government decision-making. Moreover, amending the bill to have it start upon approval, as set out in S.D. 1, means that that information will be provided in the next legislative session. Most importantly, this will help to ensure that the Legislature is fully implementing the State's trust responsibilities related to the public land trust.

Mahalo for this opportunity to submit testimony on this important bill.



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HOUSE BILL 397, HD 2, SD 1 RELATING TO THE LANDS CONTROLLED BY THE STATE

BEFORE THE SENATE WAYS AND MEANS COMMITTEE

L A T E

DATE: Friday, April 1, 2011
TIME: 9:00 a.m.
PLACE: Conference Room 211

Chair Ige, Vice-Chair Kidani, and members of the Senate Ways and Means Committee. Aloha. My name is Moses Haia and I am the Executive Director of the Native Hawaiian Legal Corporation (NHLC). NHLC is a non-profit, public interest law firm which endeavors to provide low cost legal assistance to Native Hawaiian individuals, families and communities in their individual and collective efforts to preserve their traditional Hawaiian way of life. Thank you for this opportunity to provide testimony in strong support of House Bill 397, H.D. 2, S.D. 1, relating to the lands controlled by the state.

The cases undertaken by NHLC and on behalf of native Hawaiians and Hawaiians include assertion of ahupua'a tenants' and kuleana rights; access and water rights; protection and preservation of traditional and customary practices; and the protection of historic sites, including burials. Many of these cases involve resources and/or constitutionally protected rights on or related to state-controlled lands.

Section 1 of Article XI of the Hawaii Constitution recognizes the application of the public trust doctrine to all of Hawaii's resources including land and requires that the State protect all such resources for the benefit of its people. In Hawaii, this doctrine was originally established to preserve the rights of native tenants during the transition to a western system of private property.

Article XII, section 7 of the Hawaii Constitution recognizes the importance of such rights by placing an affirmative duty on the State and its agencies to preserve and protect traditional and customary native Hawaiian rights and confers upon the State and its agencies a solemn duty to protect these rights and prevent any interference with the exercise of these rights. The exercise of such rights is, in effect, a public trust purpose.

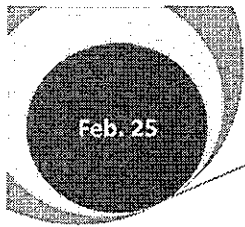
Section 5(f) of the Hawaii Admission Act established a public land trust for, among other things, the betterment of the conditions of native Hawaiians. Pursuant to Article XII, Section 6 of Hawaii's constitution, the Office of Hawaiian Affairs was created in part to "manage and administer the proceeds from the sale or other disposition

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of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians” and to “formulate policy relating to affairs of native Hawaiians and Hawaiians.” The Office of Hawaiian Affairs must therefore ensure that any proposed sale, gift, or exchange of state-controlled lands is in the best interests of native Hawaiians and Hawaiians.

Act 176, Session Laws of Hawaii 2009, established a more comprehensive process for the sale or gift of state-owned land to ensure that the State of Hawaii, through the Legislature and OHA receive the type of information that will allow each, in light of their respective duties and obligations, to engage in informed decision making with respect to the appropriateness of the proposed sale, gift, or exchange. The bill under consideration seeks to provide OHA and the Legislature with an opportunity to engage in a more reasoned and less hurried analysis of such by requiring that a proposal be provided to OHA well in advance of the convening of the Legislature and contain additional detail, including an explanation of whether the land was classified as government or crown land prior to August 15, 1895, or acquired by the State in exchange for such lands. This additional information will also greatly assist the Legislature’s consideration of the potential impact of the transaction on the ceded lands trust, the public land trust, and other key policy matters.

Mahalo for the opportunity to testify in strong support of this measure.



RELATING TO AGRICULTURE

L A T E

HB 397, HD2, SD1

RELATING TO LANDS CONTROLLED BY THE STATE.

I oppose this bill. I think it's great to have the **STATE OF HAWAII LAND DIVISION OF DLNR lease and sub lease crown lands to crystal meth drug dealers**. I won't say names, but contact Barry Cheung and Steve Lau of Land Division of the accusations that have been brought to their attention. Since these are accusations and no convictions or "hard" evidence has been presented, this remains to be accusations and ignored.

Yes, continue to lease and sublease to crystal meth drug dealers and users. We have no problem for this, since "ice" has become a way of life here for Hawaiians. It has been socially accepted as the "thing to do". Give more control to STATE Officials who choose to continue to lease to Druggies and unqualified ex-inmates of Halawa Prison!! These people are managing and are maintaining our Hawaiian Crown Lands and maintain our Hawaiian Culture for us Hawaiians.

We thank the STATE of Hawaii, Land Division of DLNR and we hope that more "Drug Dealers, cock-fighters, and ex-felons" will have the opportunity to expand their business on State land. Mahalo!!

Thank you for reading my testimony.
Again I OPPOSE this bill.