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From: mailinglist@capitol.hawaii.gov
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Subject: Submitted testimony for HB2101 on Jan 27, 2014 09:00AM

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HB2101

Submitted on: 1/26/2014

Testimony for OMH/WAL on Jan 27, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michele McLean	County of Maui / KIRC	Support	No

Comments: Please support this important measure to provide financial support and stability for the restoration and protection of the Kahoolawe Island Reserve, which will benefit all of Hawaii's people for generations to come.

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KŪKULU KE EA A KANALOA

KAHO`OLAWE ISLAND RESERVE COMMISSION

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COMMISSION MEMBERS

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HŌKŪLANI HOLT
COLETTE Y. MACHADO

Michael K. Nāho`opi`i
Executive Director

Testimony of MICHAEL K. NAHO`OPTI Executive Director

Before the House Committee on OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS and WATER & LAND

**Monday, January 27, 2014
9:00 AM
State Capitol, Conference Room 329**

In consideration of HOUSE BILL 2101 RELATING TO THE KAHO`OLAWE ISLAND RESERVE

House Bill 2101 authorizes a portion of the conveyance tax revenues to be used to replenish the Kaho`olawe Rehabilitation Trust Fund for the long-term restoration of Kaho`olawe. The Kaho`olawe Island Reserve Commission (KIRC) supports this measure that would provide permanent state statutory funding for the restoration of Kaho`olawe.

When the State of Hawaii accepted the return of the island of Kaho`olawe in 1994, it accepted the responsibility "to preserve and protect a corner of their island state so that future generations can become familiar with their island's past human and natural heritage. For many Native Hawaiians and others, Kaho`olawe is a special place that has been sanctified by the loss of life in a struggle between traditional values and Western concepts of land use and management" (Restoring a Cultural Treasure, Kaho`olawe Island Conveyance Commission).

As stated in the Federally-mandated Kaho`olawe Island Conveyance Commission (KICC) final report to Congress in 1993, "in the short term, federal funds will provide the bulk of the program support for specific soil conservation projects and related activities. In the longer term, however, state revenues will be needed to continue and enhance those activities initiated with federal funds." For the past 16 years, the initial Federal funding has allowed the KIRC to establish many of its innovative programs that emphasize ancestral and traditional knowledge, provide a cultural approach of respect and connectivity to the environment, and integrate ancient and modern resource management techniques.

The purposes of the Kaho`olawe Rehabilitation Trust Fund is similar to the purposes of two of the current recipient of conveyance tax funding, the Land Conservation Fund and the Natural

Area Reserve Fund so that Kaho`olawe could be considered as an additional recipient to the disposition of this tax.

The Land Conservation Fund, was established under Chapter 173A, HRS to acquire and manage lands that “have natural, environmental, recreational, scenic or historic value” to the State. HRS 173A-5 allows these funds to be used for the “cost necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands...” These funds can be used for invasive species control, as well as reforestation and run-off mitigation controls. Both of the last two purposes are core functions and great challenges of the Kaho`olawe Island Reserve Commission (KIRC).

The Natural Area Reserve System (NARS) was established under Chapter 195, HRS to protect and preserve unique natural assets, for the enjoyment of future generations and to provide base lines against which changes in the environment can be measured. The Natural Area Reserve Fund was created for the identification, establishment, and management of natural area reserves.

Both funds echo the KIRC’s mission and vision for the restoration and preservation of the Kaho`olawe Island Reserve (Reserve) and to provide meaningful and safe use of the Reserve. Therefore, the Kaho`olawe Rehabilitation Trust Fund could be considered an ideal match to the existing beneficiaries of HRS 247-7.

Without a secure future funding source, the KIRC estimates two more years of funding are left. With 25% of the island still uncleared of unexploded ordnance and only 10% cleared for intensive use, the KIRC’s continuing presence on Kaho`olawe is needed to ensure the protection of the general public. Passage of this measure is critical for fulfilling the State of Hawai'i's long-term commitment to restore and protect this one last untouched corner of Hawai'i.

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SUBJECT: CONVEYANCE, Disposition for Kaho'olawe rehabilitation trust fund

BILL NUMBER: SB 2743; HB 2101 (Similar)

INTRODUCED By: SB by English, Baker, Galuteria, Ige, Keith-Agaran, Nishihara, Ruderman, Shimabukuro and 7 Democrats; HB by Carroll

BRIEF SUMMARY: Amends HRS section 247-7 to provide that 10% of conveyance tax revenues shall be paid into the Kaho'olawe rehabilitation trust fund.

This act shall be repealed on June 30, 2026 or upon the recognition of the sovereign Native Hawaiian entity by the State of Hawaii and the United States, whichever occurs sooner.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at that time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device. The conveyance tax is imposed each time property changes title or ownership.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per \$100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per \$100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. As a result of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of the value transferred. Until 2005, 50% of the receipts went into the general fund and the other half was split with the affordable rental housing program and the natural area reserve program. Beginning in 2005, another 10% was taken for the land conservation fund. When the state general fund began to hemorrhage, the allocation was reshuffled after rates were again increased and the portion that went to the state general fund rose from 35% of collections in 2007 to 45% beginning in 2009. Currently, 10% of conveyance tax revenues is earmarked for the land conservation fund, 30% for the rental housing trust fund and 25% for the natural area reserve fund with the remainder deposited into the general fund. The proposed measures would earmark another 10% and deposit it into the Kaho'olawe trust fund - so each time a transfer or conveyance of realty by way of deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreement of sale, instruments, writings, or any other document occurs, a portion of the conveyance tax would be used for the long-term restoration of Kaho'olawe.

While the proposed measures would yet again tap conveyance tax revenues for another program, it should be remembered that all of the collections of this tax were originally a receipt of the general fund. That is the problem with earmarking the conveyance tax. With a hot real estate market, the collections of this tax soared. However, as the market cools, as it did after the Japanese bubble burst in the mid 1990's and now in the aftermath of the subprime credit crisis, the collections of this tax will wane. Collections rise and fall with the fortunes of the real estate market. When the housing market slows down, revenues may not be sufficient to meet the expectations of the fund. If the additional revenues are not sufficient or another "important" program needs funding, will the conveyance tax be increased to generate even more revenue?

If the legislature deems any of the programs for which conveyance tax revenues are earmarked to be such a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues is not desirable for a number of reasons. First, it absolves elected officials from setting priorities. Second, the beneficiaries of such earmarked sources look upon the receipts as "their" money and refuse to be held accountable for the use of those funds while all other programs not so favored like education, public safety, and health and human services, are cut when general fund tax revenues either shrink or do not increase in line with expectations.

Instead of further clouding the financial picture of the state, all of these earmarked funds and the programs they underwrite, should be brought back to the general fund table so that they can be measured against all the other pressing needs of the state. Only then will lawmakers and taxpayers be able to set priorities for what little tax resources taxpayers have to share especially in these difficult economic times. Earmarking resources that bear little relationship to the program being funded represents poor public finance policy.

Digested 1/24/14

Comments on HB21010

Christopher McLeod, Director, Sacred Land Film Project of Earth Island Institute
January 24, 2014

I fully support the work of the KIRC including the full participation of the Protect Kaho`olawe Ohana in the planning and implementation of restoration of the island.

Kaho`olawe is internationally significant as a story of cultural and ecological healing and restoration and the people who have been guiding this process for 30 years should be given the funding and no strings attached freedom to plan the islands future and they continue their restoration work.

Please give full funding from the Hawaii state conveyance tax fund for 12 years strategic plan development and island management, and create a state treasury trust fund, with minimal intrusion or conditions from the state or department of natural resources. The KIRC and the PKO deserve full support and continuing leadership in healing Kaho`olawe. PKO positions of the KIRC board should be maintained in full.

Thank you.

Christopher (Toby) McLeod

Director, Standing on Sacred Ground, a new four-part documentary film series

StandingOnSacredGround.org

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Unmani Cynthia Groves	Individual	Support	No

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