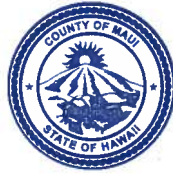


ALAN M. ARAKAWA  
Mayor

WILLIAM R. SPENCE  
Director

MICHELE CHOUTEAU McLEAN  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

Hearing Date: February 3, 2016

Representative Kaniela Ing, Chair  
Representative Nicole E. Lowen, Vice Chair  
and Members of the House Committee on Ocean,  
Marine Resources, & Hawaiian Affairs  
State Capitol Conference Room 325  
415 South Beretania Street  
Honolulu, Hawai'i

Aloha Chair Chair Ing, Vice Chair Lowen, and Committee Members,

**RE: SUPPORT FOR HB2200**

Please accept this testimony in support of House Bill 2200, which authorizes the Chair of the Board of Land and Natural Resources to transfer funds from the Department of Land and Natural Resources' public land trust accounts for the Kaho`olawe Island Reserve.

As the Chair and Maui County representative for the Kaho`olawe Island Reserve Commission (KIRC), I can attest to the urgency and importance of providing this secure source of funding. Those of you who have been able to visit Kaho`olawe would hopefully agree.

When the State accepted the return of Kaho`olawe from the United States, it clearly accepted the responsibility to preserve and manage the Reserve while holding it as part of the public land trust until the island and its waters are transferred to the native Hawaiian sovereign entity. The terms of this acceptance were also stated in the federally-mandated Kaho`olawe Island Conveyance Commission 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**" (emphasis added). This funding responsibility, therefore, belongs to the State.

KIRC's Restoration, Ocean Resources and Cultural programs have made great strides in restoring and protecting Kaho`olawe's native ecosystems and cultural resources, which benefit all of Hawai'i's people. These activities are consistent with the authorized uses of public land trust revenues, and warrant secure state support for them to continue. HB2200 provides this funding support.

Passage of HB2200 will fulfill the State's commitment to restore and protect the Reserve; your support will be sincerely appreciated.

Mahalo for your consideration,

A handwritten signature in blue ink, appearing to read "Michele McLean".

MICHELE MCLEAN  
Deputy Planning Director, County of Maui  
Chair, Kaho`olawe Island Reserve Commission



*KŪKULU KE EA A KANALOA*  
**KAHO`OLAWE ISLAND RESERVE COMMISSION**

811 Kolu Street, Suite 201, Wailuku, HI 96793  
Telephone (808) 243-5020 Fax (808) 243-5885  
Website: <http://kahoolawe.hawaii.gov>

COMMISSION MEMBERS

MICHELE MCLEAN  
*Chairperson*  
AMBER NĀMAKA WHITEHEAD  
*Vice-Chair*

C. KALIKO BAKER, PhD  
SUZANNE CASE  
HŌKŪLANI HOLT  
JOSHUA KAAKUA  
CARMEN HULU LINDSEY

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**

**Wednesday, February 3, 2016**  
**10:15 AM**  
**State Capitol, Conference Room 325**

**In consideration of**  
**HOUSE BILL 2200**  
**RELATING TO NATIVE HAWAIIAN RESOURCES**

House Bill 2200 authorizes the chairperson of the board of land and natural resources to transfer funds from the department of land and natural resources' public land trust accounts to the Kaho`olawe rehabilitation trust fund and authorizes the office of Hawaiian affairs to expend a portion of its public land trust revenues for purposes consistent with those of the Kaho`olawe rehabilitation trust fund. The Kaho`olawe Island Reserve Commission (KIRC) strongly supports this measure.

The Kaho`olawe rehabilitation trust fund (trust fund) was the primary source of funding for the KIRC to carry out its stated purposes in Hawaii Revised Statute Chapter 6K, the control and management of the Kaho`olawe Island Reserve. In the twenty-two years of the KIRC's existence, the KIRC has used the trust fund to protect and restore the natural and cultural resources of the Kaho`olawe Island Reserve from the ravages of its past environmental damage and years of neglect. Over the years, the KIRC has been able to implement innovative restoration projects, plant over 400,000 native plants and safely escort over 11,000 volunteers to Kaho`olawe through the use of the trust fund.

The initial investment into the trust fund were a series of federal appropriation, last made in 2004 that provided a considerable fund to begin the long task of restoring this natural and cultural treasure. In an 1994 agreement, signed between the United States Navy and the State of Hawaii, the Navy was responsible for the removal of unexploded ordnance from Kaho`olawe, while the State accepted the task to restored the damaged environment of Kaho`olawe caused by centuries of uncontrolled ranching and goat populations. Even though the initial funding was significant, it was not enough to permanently fund the entire restoration effort. The Navy did not completed the unexploded ordnance clearance to the level agreed upon.

Additionally, the Kaho`olawe Island Reserve is held in trust by the State provided that the State shall transfer management and control of the island and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawaii.

Since 2009, the KIRC has projected that without any further investments into the trust fund, the trust fund will be depleted by 2015. Since 2009, the KIRC has worked with the legislature and administration to identify a viable source of revenue that could sustain the continued restoration of Kaho`olawe. Past proposals include a Molokini user fees, outdoor recreation fees, portions of the conveyance tax and general fund appropriations. In 2015, a general fund appropriation authorized in Act 84 ensured the continuing function of the KIRC for fiscal year 2016 and 2017.

This measure further explores a possible future funding source that could sustain the continued restoration of a damaged and previously neglected island, protects the unique cultural and natural resources of Kaho`olawe and prepares the island for its future intended uses.

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Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

For hearing Wednesday, February 03, 2016

Re: HB2200 RELATING TO NATIVE HAWAIIAN RESOURCES.

Authorizes the BLNR Chairperson to transfer public land trust funds to the Kaho'olawe Rehabilitation Trust Fund. Authorizes the Office of Hawaiian Affairs to expend public land trust funds for purposes consistent with those of the Kaho'olawe Rehabilitation Trust Fund.

TESTIMONY IN OPPOSITION

The concept of this bill is misguided, for reasons that will be explained below. But if the legislature unwisely chooses to enact the concept, please delete the leading sentence/paragraph. Here are the four main points to be explained below.

1. The first sentence/paragraph of HB2200 is false and should be deleted.

2. 20% of ceded land revenue is already being given to OHA for the betterment of Native Hawaiians; therefore the other 80% should not be additionally diverted to that purpose.

3. Kaho'olawe is already set aside by law to become property of the Hawaiian tribe as soon as that tribe has received state and federal recognition, which is now underway. Therefore no state government money should be given to rehabilitate land which is already in the process of being given away to another "nation."

4. Let OHA give whatever funding is necessary to rehabilitate Kaho'olawe. OHA has \$620 Million in assets including \$350 Million in its investment portfolio. OHA can afford to pay for Kaho'olawe; the State cannot afford it.

1. The first sentence/paragraph of HB2200 is false and should be deleted.

There was never a federal law that mandated 20% of ceded land revenue to be used for the betterment of the conditions of native Hawaiians. In 1898 Article 2 of the Treaty of Annexation said ceded land revenues "shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes." -- there was no mention of betterment of Native Hawaiians.

Section 5(f) of the Statehood Act of 1959 identified 5 purposes for ceded land revenues, with all or part of the money to be used for any one or more of the five purposes. One of those purposes was "betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act of 1920)" The purpose of that provision was obviously to ensure that some of the ceded land money COULD be (but was not required to be) used to support the implementation of the Hawaiian Homes Commission Act of 1920.

There was no requirement to spend any money on "betterment of native Hawaiians", and certainly not on social welfare programs or reclamation of a bomb-scarred island to be used by all Native Hawaiians regardless of blood quantum.

The State legislature did pass a law that mandated 20% of ceded land revenue to be used for the betterment of the conditions of native Hawaiians, but that law (Act 273) was passed in 1980, which was not "almost a century" ago.

2. 20% of ceded land revenue is already being given to OHA for the betterment of Native Hawaiians; therefore the other 80% should not be additionally diverted to that purpose.

By setting aside 20% of ceded land revenue for OHA, the clear intention was that the other 80% of ceded land revenue should go to the general fund for the benefit of all the citizens of Hawaii (indeed, Native Hawaiians should be excluded from any of the benefits flowing from that 80%, since they already got their own 20% first).

However, if this bill HB2200 is enacted, then additional money from the ceded land revenue would be transferred to the Kaho'olawe Island Reserve Commission, where it would be used exclusively for the benefit of Native Hawaiians (explanation below), thereby depriving the other 80% of Hawaii's people of money that is rightfully theirs. Amazingly, nobody complains when Native Hawaiians demand "their" 20% of ceded land revenue and then selfishly push for more through legislation such as this bill. Perhaps it's time for the rest of us to stand up for our own rights.

3. Kaho'olawe is already set aside by law to become property of the Hawaiian tribe as soon as that tribe has received state and federal recognition, which is now underway. Therefore no state government money should be given to rehabilitate land which is already in the process of being given away to another "nation."

Language in this bill explains why money going to KIRC is exclusively for the benefit of Native Hawaiians, because "... since its return to the State in 1993, the resources and waters of Kaho'olawe have been held in trust as part of the public land trust; provided that the State shall transfer management and control of the island and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawai'i."

In Act 195 (2011) this legislature set in motion a process now underway to create a Hawaiian tribe; and the U.S. Department of Interior has now proposed a regulation whereby that tribe can get federal recognition. Both Act 195 and the Department of Interior regulation insist that the Hawaiian tribe must be exclusively for Native Hawaiians, and that anyone lacking a drop of the magic blood must be ruthlessly excluded. If events unfold as intended, a Native Hawaiian "nation" will become a federally recognized Indian tribe before President Obama's term in office comes to an end. As soon as recognition happens, according to the language cited in this bill, the island of Kaho'olawe will be ripped away from the State of Hawaii and handed over to the Hawaiian tribe, to which people with no native blood are forbidden to belong.

4. Let OHA give whatever funding is necessary to rehabilitate Kaho'olawe

This bill proposes to authorize OHA to give money to assist the rehabilitation of Kaho'olawe. But no such authorization is necessary. OHA's primary mission is "the betterment of Native Hawaiians", and OHA has given millions of dollars in gifts (grants) to provide funding for various organizations devoted to helping Native Hawaiians (usually to the exclusion of all other people). Since Kaho'olawe is destined to become the property of the Hawaiian tribe, and OHA has loudly pledged to dissolve itself and transfer its assets to the forthcoming tribe, then the state should let OHA fulfill its responsibility.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 01, 2016 11:50 AM  
**To:** omhtestimony  
**Cc:** 2kahaualea@gmail.com  
**Subject:** Submitted testimony for HB2200 on Feb 3, 2016 10:15AM

**HB2200**

Submitted on: 2/1/2016

Testimony for OMH on Feb 3, 2016 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kylee Mar	Individual	Support	No

Comments: I personally support HB2200. The Kaho'olawe Island Reserve Commission has been trying for years to develop a funding source for the continuing protection and restoration of Kaho`olawe. I Ola Kanaloa!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS**

**Wednesday, February 3, 2016  
10:15 AM  
State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 2200  
RELATING TO NATIVE HAWAIIAN RESOURCES**

House Bill 2200 proposes to authorize the Chairperson of the Board of Land and Natural Resources (“BLNR”) to transfer public land trust funds to the Kahoolawe Rehabilitation Trust Fund. The measure also proposes to authorize the Office of Hawaiian Affairs (“OHA”) to expend public land trust funds for purposes consistent with those of the Kahoolawe Rehabilitation Trust Fund. **The Department cannot support this bill and offers the following comments and explanation.**

Pursuant to Act 178, Session Laws of Hawaii 2006, the annual payment to OHA from the use and disposition of ceded lands is currently fixed at \$15.1 million per year. However, the current Senate Bill 2124 proposes to increase the ceded land payment amount to OHA from the fixed annual \$15.1 million to 20% of gross receipts from the use or disposition of ceded lands by all state departments or agencies. This does not take into account that some receipts are prohibited by law from being transferred to OHA, such as those received by the Airports Division of the Department of Transportation (DOT), or are otherwise used to fulfill one of the other trust purposes under Section 5(f) of The Admission Act. If these divisions and agencies were to be assessed 20% of their gross receipts, the result would be \$15.2 million dollars that the state would have to come up with and pay to OHA in addition to the 20% that would be paid to OHA by the other state departments. In other words, there would be “shortage” of about \$15.2 million after all the other agencies pay over to OHA 20% of their public land trust proceeds.

Considering the significant fiscal implications if Senate Bill 2124 becomes law, the Department cannot support additional designations for the use of public land trust revenues at this time, but

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

instead would respectfully suggest an alternative source of funding such as an annual general fund appropriation to the Kahoolawe Rehabilitation Trust Fund.



**LATE**

**HB 2200**  
**RELATING TO NATIVE HAWAIIAN RESOURCES**  
House Committee on Ocean, Marine Resources, and Hawaiian Affairs

February 3, 2016

10:15 a.m.

Room 325

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the OHA Board of Trustees a position of **OPPOSE** on HB2200.

Commendably, this bill seeks to facilitate the continuing preservation, restoration, and appropriate use of the Kaho‘olawe Island Reserve.

Kaho‘olawe, a kinolau of Kanaloa, remains a piko of Hawaiian culture, yet still retains visible scars from decades of previous mismanagement. Kaho‘olawe was critical to the Hawaiian cultural renaissance and continues to serve as an integral educational center for traditional navigation, hula, natural resource management and other cultural traditions and disciplines. In light of this, OHA has provided funding over the years to the Protect Kaho‘olawe ‘Ohana, including a current \$129,000 grant to facilitate cultural practitioner trips to the island to conduct Makahiki ceremonies, document kupuna fishing knowledge, and host workdays, which involve environmental restoration projects. In addition, OHA assisted KIRC with navigating the congressional appropriation request process last year, and we are still waiting for KIRC’s response to our April 8, 2015 request for additional information to support KIRC’s initial budget request to OHA.

Unfortunately, the funding mechanism in Section 3 of the bill could undermine OHA’s constitutional right to a pro rata share of the public land trust. Section 3 authorizes the BLNR chair to transfer to the Kaho‘olawe Rehabilitation Trust Fund up to \$3 million annually from DLNR’s “public land trust accounts set aside . . . for the betterment of native Hawaiians.” While it is unclear precisely which accounts would be involved, Section 3 risks being interpreted in a way that would reduce the annual trust moneys that would be transferred to OHA if either HB 1655 or SB2124 of the current session is enacted. Those bills would require that state departments and agencies transfer 20 percent of their public land trust receipts to OHA and that the state return to OHA certain “overages” claimed by the state in trust monies previously transferred to OHA. Furthermore, Section 4 of HB2200 would seemingly elevate the needs of Kaho‘olawe to a higher status than the plethora of other Hawaiian needs that compete for OHA’s public land trust funds, including housing, education, health, income, and the protection and preservation of ‘āina and cultural practices across Ka Pae ‘Āina Hawai‘i.

We look forward to being part of the discussion on how best to word this bill. Mahalo for the opportunity to testify.



**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

**LATE**

Testimony of  
Leslie Kuloloio  
Aha Moku Advisory Committee (AMAC) – Moku O Kanaloa (Kahoolawe)

Before the House Committee on  
Ocean, Marine Resources, & Hawaiian Affairs

Wednesday, February 03, 2016  
10:15 A.M.  
State Capitol, Conference Room 325

**In Consideration of  
HOUSE BILL 2200  
RELATING TO NATIVE HAWAIIAN RESOURCES**

House Bill 2200 authorizes the BLNR Chairperson to transfer public land trust funds to the Kaho’olawe Rehabilitation Trust Fund. It authorizes the Office of Hawaiian Affairs to expend public land trust funds for purposes consistent with those of the Kaho’olawe Rehabilitation Trust Fund.

**Aha Moku SUPPORTS this measure.**

Aha Moku encompasses the eight main Hawaiian Islands, which in turn is comprised of 47 moku and 607 ahupua’a. The Aha Moku, created by the Legislature, assists the State through its attachment to the Department of Land and Natural Resources, in the protection and sustainability of its unique natural and cultural resources by bringing forward Native Hawaiian generational and traditional resource methodology. Each Island, with its own moku and ahupuaa, is distinctive and has its own exclusive resources unique to the history and culture of that island.

In the case of Kahoolawe, its place in Hawaiian history is assured and the promise of the United States and the State of Hawaii to return the island to the Hawaiian people must be upheld. Portions of that promise have already lapsed since the Navy did not complete the cleansing of all unexploded ordinances on the island.

As the Po’o of the Aha Moku Advisory Committee representing the Island of Kahoolawe, I and the generational families and communities of Honuaula, the traditional moku attached to Kahoolawe, are strongly behind Aha Moku who supports this measure. Our direct ancestors gave all of the place names to the island. It is we who hold the knowledge of the ancient history and lineage of the ahupua’a on the island, of the ocean, the currents, the winds, the water – every resource that is on or linked to the island. The State of Hawaii cannot allow their protection of Kahoolawe to dwindle into uncertainty and neglect.

OHA cannot allow their priorities to exclude Kahoolawe. By their own mission statement, OHA is mandated to “better the conditions for native Hawaiians”. Expending their public land trust funds to assist the Kahoolawe Island falls within that role.



**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 9:52 AM  
**To:** omhtestimony  
**Cc:** awhitehe@hawaii.edu  
**Subject:** \*Submitted testimony for HB2200 on Feb 3, 2016 10:15AM\*

**HB2200**

Submitted on: 2/3/2016

Testimony for OMH on Feb 3, 2016 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amber Nāmaka Whitehead	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 10:27 AM  
**To:** omhtestimony  
**Cc:** dkapua@gmail.com  
**Subject:** Submitted testimony for HB2200 on Feb 3, 2016 10:15AM

**HB2200**

Submitted on: 2/3/2016

Testimony for OMH on Feb 3, 2016 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kapua Keliikoa-Kamai	Individual	Oppose	No

Comments: Aloha kakou, I have reservations on this Bill and request it be deferred for further discussion. I apologize for this delay, but it appears that OHA's supportive funding of the Kahoolawe rehabilitation program is being circumvented by the chairperson of the BLNR, via this Bill. OHA needs to receive its FULL 20% share of the income and proceeds from the public land trust. OHA will continue its supportive funding of Kahoolawe as it sees fit, not the BLNR. Again, I ask that this Bill be deferred at this time. Mahalo, Kapua Keliikoa-Kamai, Concerned Wai'anae Resident.

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