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DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of  
SUZANNE D. CASE  
Chairperson

Before the Senate Committee on  
WATER, LAND, AND AGRICULTURE

Monday, February 1, 2016  
2:45 PM  
State Capitol, Conference Room 224

In consideration of  
SENATE BILL 2356  
RELATING TO DISPOSITION OF TAX REVENUES

Senate Bill 2356 proposes to require ten percent or \$7,600,000, whichever is less, of conveyance taxes collected to be paid into the Land Conservation Fund; require twenty-five percent in each fiscal year or \$19,000,000, whichever is less, of conveyance taxes collected to be paid into the Natural Area Reserve Fund, with specified allocations; and allow the Department of Land and Natural Resources (Department) to use moneys in the Forest Stewardship Fund to administer the program and manage the State Forest Reserve System. **The Department supports this measure with the following requested modifications, provided that this appropriation does not adversely impact appropriations for other priorities in the Executive Supplemental Budget request or any existing funding to the Department's programs.**

**Land Conservation Fund:** The Land Conservation Fund serves as a source of funding for the protection of rare and important natural, cultural, agricultural, coastal, and recreational resources. The impact of raising the cap will be positively magnified because this program leverages \$2 for every \$1 of State funding. A \$7,600,000 cap on conveyance tax deposits to the Land Conservation Fund will make the cap proportionally consistent with the cap allocated to the Rental Housing Trust Fund. This is because the Land Conservation Fund's percentage of the revenues from the Conveyance Tax is one-fifth the Rental Housing Trust Fund's percentage, whereas the land conservation fund's cap is less than one-fifth of the Rental Housing Trust Fund's cap (\$6,800,000 vs. \$38,000,000). This increase in the funds will also cover the \$1,500,000 annual Turtle Bay debt service payments - if the spending ceiling is also raised.

**Natural Area Reserve Fund (NARF):** The Department supports legislative proposals that provide stable funding for long-term critical natural resource management programs. The Department is seeking conversion of these programs to general funding in the base budget through the Administration's supplemental budget request, acknowledging the policy shift through Act 84, Session Laws of Hawaii 2015, to transition these programs from special to general funds.



Testimony of the O'ahu Invasive Species Committee  
Supporting the Intent of S.B. 2356 Relating to Disposition of Tax Revenues  
Senate Committee on Water, Land, and Agriculture  
Monday, February 1, 2015, 2:45PM, Room 224

The O'ahu Invasive Species Committee supports re-instating the Natural Area Reserves Fund. As the population of Hawai'i grows, the health of our forests will become increasingly important. Our natural areas need to be looked after because they will be taken over by invasive species if they are not. Our water supply depends on healthy forests. DLNR has always been underfunded in relation to its mandate. Restoring this fund would help protect our natural resources for generations to come.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Disposition of revenue dollar limitations

BILL NUMBER: SB 2356

INTRODUCED BY: L. THIELEN, GREEN, IHARA, RUDERMAN, Espero, Galuteria, Shimabukuro

EXECUTIVE SUMMARY: This bill would establish maximum dollar amounts of conveyance tax revenues to be deposited into each of the designated funds. If the legislature deems these program areas a priority, then a direct appropriation for these programs would increase transparency and accountability.

BRIEF SUMMARY: Amends HRS section 247-7 to provide that conveyance tax revenue shall be distributed in each fiscal year as follows: (1) ten percent or **\$7.6 million**, whichever is less, shall be paid into the land conservation fund; (2) twenty-five percent or **\$19 million**, whichever is less, shall be paid into the natural area reserve fund. Establishes priorities for dispositions from the natural area reserve fund.

Amends HRS section 195F-4(a) to provide that conveyance tax money may also be used to administer the forest stewardship program and manage the forest reserve system.

EFFECTIVE DATE: July 1, 2016.

STAFF COMMENTS: This measure would establish maximum dollar amounts of conveyance tax revenues to be distributed to the various special funds now being fed. It would, however, perpetuate the earmarking of conveyance tax revenues. As with any earmarking of revenues, the legislature will be approving an "automatic funding" mechanism for each of the programs into which the conveyance tax revenues are funneled. Through this system, monies are diverted into these funds without any legislative intervention, expenses from the funds largely avoid legislative scrutiny, and it will be difficult to ascertain the effectiveness of the programs funded. It would also be difficult to ascertain whether or not the fund has too little or too much revenue.

The conveyance tax is one of the least dependable sources upon which to rely for funding with collections rising and falling with the fortunes of the real estate market. Any amount collected under this tax will depend on activity in the real estate market. As the housing market slows down, revenues may not be sufficient to meet the expectations of the programs that the fund supports. If the conveyance tax revenues are not sufficient or another "important" program needs funding, will the conveyance tax rates need to be "adjusted" to generate even more revenue?

If the legislature deems the programs and purposes funded by conveyance tax revenues to be a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials

from setting priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each particular program.

Digested 1/29/2016



**Testimony to the Senate Committee on Water, Land, and Agriculture  
Monday, February 1, 2016 at 2:45 P.M.  
Conference Room 224, State Capitol**

**RE: SENATE BILL 2356 RELATING TO DISPOSITION OF TAX REVENUES**

Chair Gabbard, Vice Chair Nishihara, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 2356, which proposes to amend Chapter 247-7 HRS by doing the following:

- Increasing the cap on the amount paid into the land conservation fund from \$6,800,000.00 to \$7,600,000.00;
- Add the natural area reserve fund as another program that will receive twenty-five per cent in each fiscal year or \$19,000,000, whichever is less, of conveyance taxes collected.
- Allows DLNR to use moneys in the forest stewardship fund to administer the program and manage the forest reserve system

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber maintains its position that the Conveyance tax is not the appropriate means to fund these natural resource management programs. We are deeply troubled by the manner in which the Conveyance Tax has been used to generate reviews for unrelated purposes. There is no rational nexus between the real estate transactions that are being taxed at conveyance, and the uses identified in HRS 247 as the beneficiaries of the tax. We do not believe that the conveyance tax is being used in an appropriate manner. We believe the Auditor of the State of Hawaii had similar findings.

In July 2012 the Auditor of the State of Hawaii prepared a report entitled, "Study of the Transfer of Non-general Funds to the General Fund," Report No. 12-04. On page 26 of the report, the Auditor found:

"In 2002, the Legislature set the criteria for determining whether special or revolving funds should be established or continued through Act 178, SLH 2002 and codified in Sections



37-52.3 and 37-52.4, HRS. To justify the creation and continuance, the Legislature must ensure that a special or revolving fund:

- Serves the purpose for which it was originally established;
- Reflects a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process; . . .”

The Conveyance Tax should be limited to “the administrative costs of recording the real estate transactions.” There would be strong organized opposition to taxing all future real estate transactions to fund non-related programs, if you could organize all future buyers. The reality is you can’t, and as such, the Legislature has used the Conveyance Tax to fund legitimate programs rather than funding these programs through general fund appropriations which is the proper way to finance these programs.

The Chamber does not support the use of the Conveyance Tax to fund these programs.

Thank you for the opportunity to testify.

# BIA-HAWAII

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THE VOICE OF THE CONSTRUCTION INDUSTRY

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## Testimony to the Senate Committee on Water, Land, & Agriculture The Honorable Mike Gabbard, Chair The Honorable Clarence Nishihara, Vice-Chair Members of the Committee Monday, February 1, 2016

### **RE: SB 2356: Relating to Disposition of Tax Revenues.**

Dear Chair Gabbard, Vice-Chair Nishihara, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA Hawaii is opposed to S.B. 2356 which proposes to amend Chapter 247-7 HRS by doing the following:

- Increasing the cap on the amount paid into the land conservation fund from \$6,800,000.00 to \$7,600,000.00;
- Add the natural area reserve fund as another program that will receive twenty-five per cent in each fiscal year or \$19,000,000, whichever is less, of conveyance taxes collected.
- Allows DLNR to use moneys in the forest stewardship fund to administer the program and manage the forest reserve system.

BIA Hawaii maintains its position that the Conveyance tax is not the appropriate means to fund these natural resource management programs. We are deeply troubled by the manner in which the Conveyance Tax has been used to generate reviews for unrelated purposes. There is no rational nexus between the real estate transactions that are being taxed at conveyance, and the uses identified in HRS 247 as the beneficiaries of the tax. We do not believe that the conveyance tax is being used in an appropriate manner. We believe the Auditor of the State of Hawaii had similar findings.

In July 2012 the Auditor of the State of Hawaii prepared a report entitled, "Study of the Transfer of Non-general Funds to the General Fund," Report No. 12-04. On page 26 of the report, the Auditor found:

"In 2002, the Legislature set the criteria for determining whether special or revolving funds should be established or continued through Act 178, SLH 2002 and codified in Sections 37-52.3 and 37-52.4, HRS. To justify the creation and continuance, the Legislature must ensure that a special or revolving fund:

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- Reflects a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process; . . ."

The conveyance tax should be limited to "the administrative costs of recording the real estate transactions." There would be strong organized opposition to taxing all future real estate transactions to fund non-related programs, if you could organize all future buyers. The reality is you can't, and as such, the Legislature has used the Conveyance Tax to fund legitimate programs rather than funding these programs through general fund appropriations which is the proper way to finance these programs.

BIA Hawaii cannot support the use of the Conveyance Tax to fund these programs.

Thank you for the opportunity to express our views on this matter.





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## The Trust For Public Land's Testimony In Support of SB 2356 Relating To The Disposition Of Tax Revenues

Senate Committee on Water, Land & Agriculture, Conf. Room 224  
Monday, February 1, 2016, 2:45 p.m.

Aloha Chair Gabbard, Vice-Chair Nishihara, and Committee Members:

The Trust for Public Land supports Senate Bill 22356 relating to the disposition of tax revenues. This bill requires that 10% or \$7,600,000 (whichever is less) of the real estate conveyance tax to be paid into the Legacy Land Conservation Fund. It also would require 25% or \$19 million (whichever is less) to be paid into the Natural Area Reserve Fund, with specified allocations. The bill also allows DLNR to use forest stewardship funds to administer the program and the forest reserve system.

The Trust for Public Land is a national non-profit that conserves land for people. It supports the bill's intent to provide predictable funding to the Legacy Land Conservation Program and the Natural Area Reserve Fund, and increase flexibility relating to the Division of Forestry and Wildlife's forest stewardship program and forest reserves. However, deposits in the funds are only part of the problem – the Legislature places a cap on spending in its budget for each of these funds. Unless the caps are increased in the budget, it will not matter how much money each fund receives – DLNR will not be able to increase its spending (currently, the cap is a little over \$5 million). Therefore, the Trust for Public Land requests that efforts be made to ensure that the spending caps are increased to the intended levels (\$7.6 million and \$19 million).

Increasing the Legacy Land Conservation Fund's spending cap is appropriate. In the 2015 legislative session, the Legislature passed a bill allocating \$1.5 million of the fund to the Turtle Bay Makai (Kahuku Kawela Forever project) every year for the foreseeable future (20+ years). The Legacy Land Conservation Program is intended to conserve special lands throughout the entire State of Hawai'i. By increasing the spending cap, the Legislature can allow all districts and islands to benefit from the fund.

Mahalo for this opportunity to testify. I regret that I cannot make attend the hearing in person due to a prior commitment.

Me ke aloha,

Lea Hong  
Hawaiian Islands State Director





Conservation Council  
for Hawai'i

*Hawai'i's voice for wildlife*

*Kō Hawai'i leo no nā holoholona lōhiu*



Testimony Submitted to the Senate Committee on Water, Land, and Agriculture  
Hearing: Monday, February 1, 2016 2:45 pm  
Conference Room 224

Support for SB 2356 Relating to Disposition of Tax Revenues

Chair Gabbard, Vice Chair Nishihara, and Members of the Committee.

Aloha. Conservation Council for Hawai'i supports SB 2356, which requires ten per cent or \$7,600,000, whichever is less, of conveyance taxes collected to be paid into the land conservation fund. Requires twenty-five per cent in each fiscal year or \$19,000,000, whichever is less, of conveyance taxes collected to be paid into the natural area reserve fund, with specified allocations. Allows the Department of Land and Natural Resources to use moneys in the forest stewardship fund to administer the program and manage the forest reserve system.

These funds are among the most important programs to protect State-managed land, including ceded land, which is held in trust for the people. With all due respect, the State is not doing enough to protect and properly manage – our land and our natural resources. The legislature is not providing enough funding to protect and manage forests, watersheds, habitats for rare and endangered species, recreation areas, open space, and other public trust resources for the people and future generations.

Please support SB 2356 and provide more funding for the DLNR.

Mahalo nui loa for the opportunity to testify.

A handwritten signature in cursive script that reads "Marjorie Ziegler".

Marjorie Ziegler

Testimony of The Nature Conservancy of Hawai'i  
Supporting the Intent of S.B. 2356 Relating to the Disposition of Tax Revenue  
Senate Committee on Water, Land, and Agriculture  
Monday, February 1, 2016, 2:45PM, Room 224

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. We manage 40,000 acres in 14 preserves and work in 19 coastal communities to help protect the near-shore reefs and waters of the main Hawaiian Islands. We forge partnerships with government, private parties and communities to protect Hawai'i's important watershed forests and coral reefs.*

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The Nature Conservancy supports the intent of S.B. 2356 and agrees with the need to restore consistent long-term funding to the DLNR's forest and watershed protection programs. Whether it's through the reinstatement of the conveyance tax allocation to the Natural Area Reserve Fund, other dedicated funding source, or consistent general fund allocations, our native forests need continued and enhanced management to continue to be ecologically healthy and deliver fresh water for our use.

Fresh water is clearly a limiting factor here in the middle of the Pacific. Several locations in the state have experienced prolonged drought and, though we had some reprieve in 2015, we are again entering a drought cycle. Science indicates that the likely effects of climate change in Hawai'i will include:

- More frequent and more severe storms that can increase runoff and siltation;
- Overall, less rainfall and therefore less fresh water; and
- Higher temperatures that affect watershed health, but can be beneficial to pests.

Healthy Hawaiian forests that are not overrun by invasive species act like a sponge, collecting rain and moisture, slowly delivering fresh water into streams and aquifers, absorbing greenhouse gases, and reducing runoff and siltation into near shore waters. Hawai'i is already exhibiting telltale signs of climate change. UH's 2011 Rainfall Atlas catalogues a century of declining rainfall that is worse in recent decades. Last summer, temperature records were broken across the state and a record number of storms took aim at Hawai'i. In 2014, tropical storm Iselle hit Hawai'i island hard. Fallen albizia trees left Puna a quagmire of damaged houses, blocked roads and downed power lines. At the same time, native 'ōhi'a and koa forests in the area were virtually undamaged. These same native forests are also showing that they are better at capturing rain water and recharging aquifers than invasive species.

Protecting and enhancing the health and function of Hawai'i's forests from the threats of invasive species and severe weather is one of the most important and effective things we can do to ensure a stable and productive environment for our future, including our most precious resource—fresh water.

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**Subject:** Submitted testimony for SB2356 on Feb 1, 2016 14:45PM  
**Date:** Friday, January 29, 2016 2:51:53 PM

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**SB2356**

Submitted on: 1/29/2016

Testimony for WLA on Feb 1, 2016 14:45PM in Conference Room 224

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

Comments: I testify in support of SB 2356. Hawai'i needs to protect its most valuable resources - its natural environment for social, cultural, and, I'd argue, economic reasons. While the first two factors are obvious, Hawai'i's political leaders need to invest in the protection of its natural resources as a foundation for its tourist industry. It's what makes us unique as a tourist destination. A win-win. Invest now.

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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**Subject:** \*Submitted testimony for SB2356 on Feb 1, 2016 14:45PM\*  
**Date:** Friday, January 29, 2016 6:35:56 PM

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**SB2356**

Submitted on: 1/29/2016

Testimony for WLA on Feb 1, 2016 14:45PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wayne Shimokawa	Individual	Support	No

Comments:

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