

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
FINANCE**

**Tuesday, February 25, 2020
12:30PM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2358, HOUSE DRAFT 1
RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL
RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE
COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE,
RECREATIONAL, AND FOOD PRODUCTION PURPOSES**

House Bill 2358, House Draft 1 proposes to: 1) authorize the Board of Land and Natural Resources (Board) to amend and extend existing pasture leases for public purposes; 2) authorize the Board to issue new pasture leases by negotiation in furtherance of public purposes; and 3) require the Department of Land and Natural Resources (Department) and the Department of Agriculture (DOA) to identify potentially transferable lands whose land classification is at dispute and petition the Land Use Commission (LUC) for a determination. **The Department supports this Administration measure with the exception of SECTION 4.**

Act 90, Session Laws of Hawaii 2003, codified into law as Chapter 166E, Hawaii Revised Statutes (HRS), provides for transfer of agricultural lands to the Department of Agriculture (DOA). The Department has transferred approximately 18,491 acres to DOA over the years. However, pasture lands are not classified the same as agricultural lands under the Department's public lands statute and are a critical part of the Department's forest protection and restoration, traditional gathering, and hunting and trails and other recreation responsibilities. The attached maps show the proximity of large tracts of pasture lands to forest reserves on Hawaii Island, and provide details on native ecosystems, potential for restoration and occurrence of endangered species. The Department is retaining these lands and is willing to support extending and amending the pasture leases with the Department under collaborative management terms compatible with both grazing and public trust natural and cultural resource protection and enhancement.

The Hawaii State Constitution, Article XI, Section 1, requires that "(f)or the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources,

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.” The Department strongly believes this measure is a reasonable compromise that successfully fulfills the State’s constitutional obligations.

This bill proposes to provide incentives for the Department and ranchers to work together on mutually beneficial terms to promote public priorities by providing the Department with statutory powers similar to those exercised by DOA in the management of its leases. The bill proposes to authorize the Department to issue new pasture leases by direct negotiation with terms up to 65 years that include use restrictions on high resource value portions of the lease premises and allow the Department to factor use restrictions as well as the value of any land conservation and stewardship services lessees are required to perform under their leases into the determination of an appropriate rent to charge. The bill also proposes to give the Department the authority to amend existing leases to place use restrictions on high resource value portions of the lease premises and allow the Department to factor use restrictions and land conservation and stewardship services performed by lessees into determining an appropriate rent.

In discussions with the Office of Hawaiian Affairs (OHA), the Department was informed of their concern with the provision in the bill that would allow the Department to extend pasture leases up to an aggregate term of 99 years. In order to address OHA’s concerns, the Department respectfully requests that an amendment be adopted to SECTION 2 of the measure that strikes that provision, retaining the current 65-year aggregate term limit. A proposed revised amendment (in grey highlight) is provided below:

“(g) Any provision of this chapter to the contrary notwithstanding, the board may amend and extend pasture leases to further public purposes that are the responsibility of the department to promote, including, without limitation, preserving existing native forest, reforestation for watershed enhancement and forest carbon sequestration opportunities, facilitating public hunting, establishing and maintaining public access to landlocked reserves, enhancement of public recreational opportunities, and protection and propagation of current biological and other significant resources, subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than ~~ninety-nine~~ **sixty-five** years;

- (3) The public land has key characteristics that would benefit from the amendment and extension of a pasture lease, such as the capacity for public purposes to be promoted through a lease amendment and extension; and
- (4) The lessee under a pasture lease is agreeable to new lease obligations regarding natural resource conservation and stewardship that will achieve the identified public purposes.

Notwithstanding section 171-17, the chairperson may set the lease rent for the period of the lease term occurring after an amendment under this subsection on such terms and conditions as the chairperson may determine, including but not limited to a value that incentivizes or otherwise promotes ranching operations compatible with the public purposes that are the responsibility of the department to promote, including without limitation those specified above in this subsection. In arriving at a rental value, the chairperson may also consider: the specified use of the land; any restriction on grazing or other beneficial uses of the land or portions thereof by lessee; any conservation or stewardship services required to be performed by the lessee under the amended lease; and any withdrawal of lands from the lease premises. If an independent appraisal is procured to determine rent for an amended pasture lease, the chairperson may apply a lower rate of return if warranted after consideration of the public purpose served by the lease, use restrictions thereunder, and any obligation of the lessee to provide conservation or stewardship services."

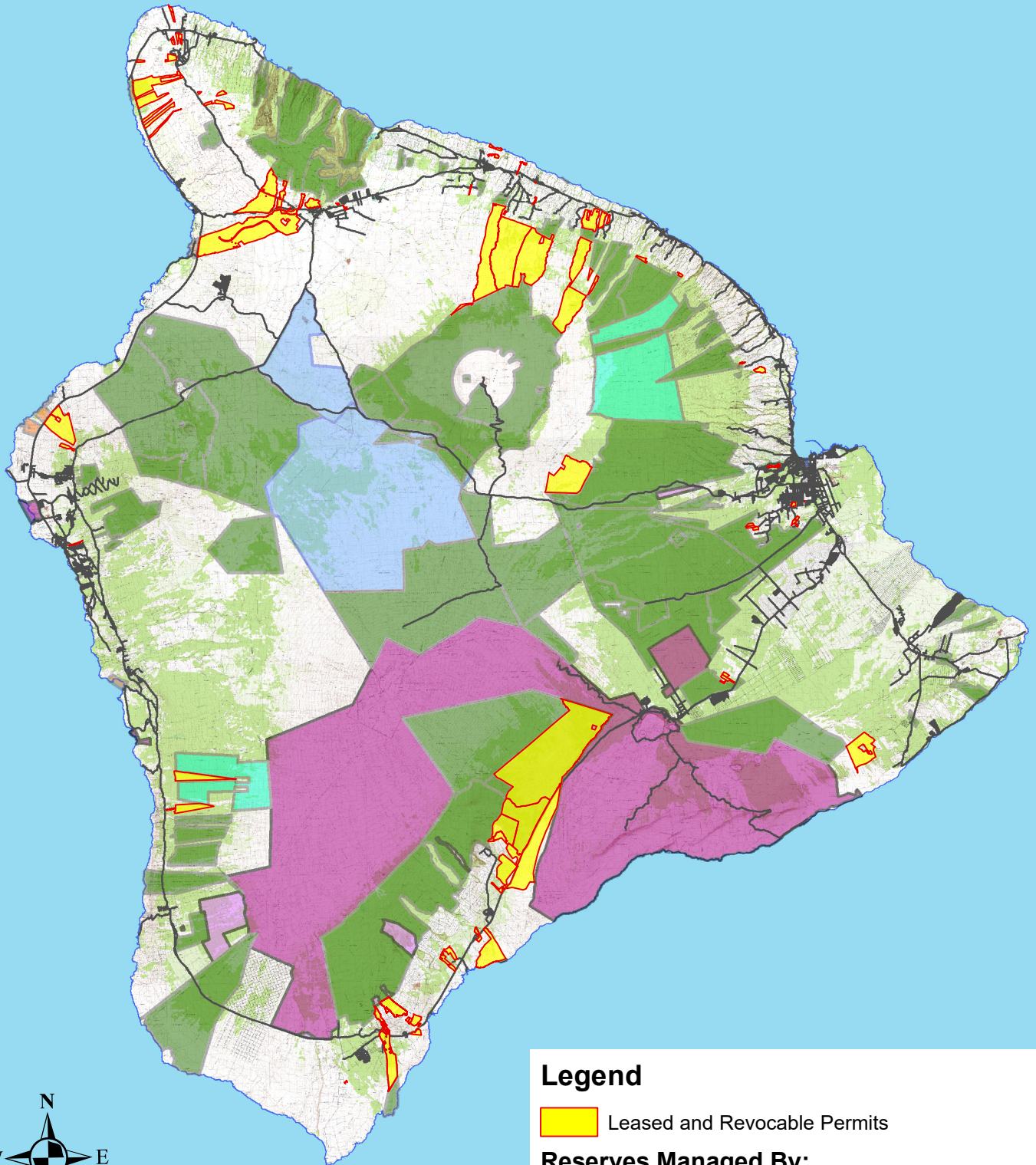
Regarding SECTION 4 of the measure, the Department appreciates the intent to have the Land Use Commission (LUC) conduct an independent third-party review but proposes a modification to allow for a more thorough review by multiple interested parties. The measure as currently written would require the Department to transfer lands to DOA following an appropriate determination by the LUC, contrary to the language and intent of Act 90, which requires the mutual agreement and approval of both agencies. Additionally, land use classification is not an appropriate means to assess natural resource values. Critical habitat for threatened and endangered species, forest reserves and reforestation, traditional gathering and recreational and hunting resources are not exclusively located on conservation zoned lands nor are agriculture zoned lands bereft of those resource values.

As an alternative, the Department recommends a different process where prior to seeking approval for any transfer or disposition of pasture lands by the Department or DOA, the subject disposition is reviewed by an advisory committee rather than the LUC. The advisory committee would consist of representatives of the Department, DOA, the Hawaii Cattlemen's Council, Hawaii Association of Watershed Partnerships and OHA. The advisory committee would review the land subject to the proposed disposition and assess the resource values according to the following criteria:

- Percentage of the land that is growing grass, invasive trees and native trees;
- Presence of endangered species;
- Presence of access, trails, hunting resources;
- Traditional and customary native Hawaiian practices using a Ka Pa`akai analysis;
- Food production for local consumption and export;
- Proposed rent including methodology and statutory justification; and
- Proposed measures to protect public trust values.

The findings of the advisory committee would then be reviewed and considered by the boards of both agencies when determining whether to approve a transfer or disposition of the subject lands. This would provide the agencies and the public with full disclosure of the costs and benefits of the proposed transaction. Additionally, both the Department and DOA would need to consider the resource values protections in their decision making.

Thank you for the opportunity to comment on this measure.

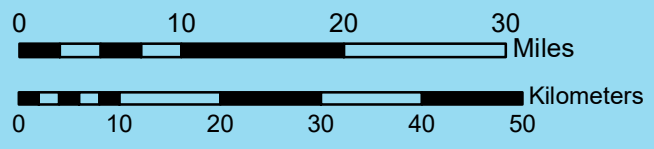
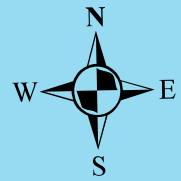


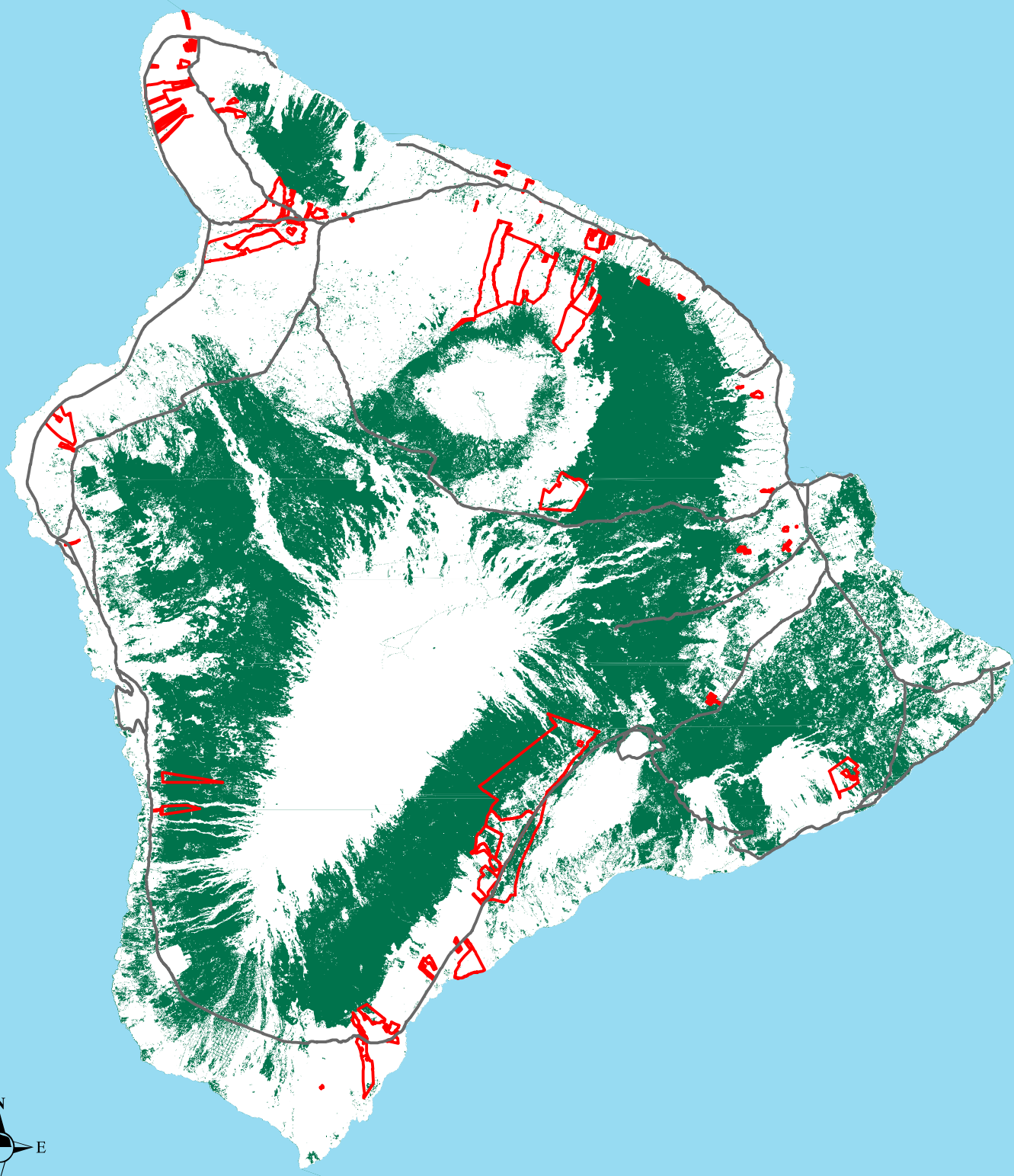
Legend

Leased and Revocable Permits

Reserves Managed By:

- Div. Forestry & Wildlife, or Jointly with Other Agency
- Div. State Park
- The Nature Conservancy
- U.S. Fish & Wildlife Service
- U.S. National Park Service
- U.S. Army








0 2.5 5 10 15 20 Miles

0 5 10 20 30 40 Kilometers

Legend

-  Leased and Revocable Permits
-  Forested Native Ecosystems
-  Major Roads

02/06/20

Parcels with Potential for Restoration Native Ecosystems Before Human Contact



Legend

-  Leased and Revocable Permits
-  Native Montane Wet Forest
-  Native Lowland Wet Forest
-  Native Montane Mesic Forest
-  Native Lowland Dry Mesic Forest
-  Native Subalpine Shrubland
-  Native Montane Dry Forest
-  Native Lowland Dry Forest
-  Barren or Alpine
-  Major Roads







0 2.5 5 10 15 20
Miles

0 5 10 20 30 40
Kilometers

Parcels with Potential for Restoration Remaining Native Ecosystems



Legend

-  Leased and Revocable Permits
-  Native Montane Wet Forest
-  Native Lowland Wet Forest
-  Native Montane Mesic Forest
-  Native Lowland Dry Mesic Forest
-  Native Subalpine Shrubland
-  Native Montane Dry Forest
-  Native Lowland Dry Forest
-  Barren or Alpine
-  Major Roads



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Miles





0 5 10 20 30 40
Kilometers



0 2.5 5 10 15 20
Miles

0 5 10 20 30 40
Kilometers

Legend

-  Leased and Revocable Permits
-  Endangered Species in Parcels
-  Critical Habitat for Endangered Species
-  Major Roads

02/06/20



SUMMARY

DESCRIPTION

EXPECTED BENEFITS





2020 LEGISLATIVE PROPOSALS

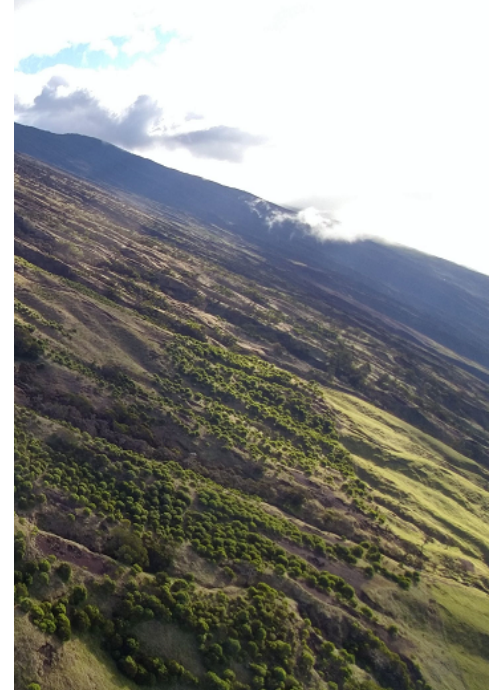
SB2812/HB2577 would transfer pasture leases to DOA because DOA appears to have greater flexibility under Chapter 166E, HRS to amend, extend, and issue new leases by negotiation. However, those goals could be achieved instead through SB2914/HB2358 to give DLNR similar statutory flexibility for negotiating pasture leases.



PASTURE LAND CONSERVATION VALUES

-  Water
-  Fire & Forest Health
-  Native Ecosystems
-  Forestry
-  Recreation

DLNR PARTNERSHIPS WITH RANCHERS



CLIMATE CHANGE AND CARBON NEUTRALITY

CONTACT PERSON



HB2358 HD1

RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE, RECREATIONAL, AND FOOD PRODUCTION PURPOSES

Ke Kōmike Hale o ka 'Oihana 'Imi Kālā

Pepeluali 25, 2020

12:30 p.m.

Lumi 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB2358 HD1, which may (1) tie the hands of future generations from ensuring the best possible use of vast pasture lands on Hawai'i island, and (2) significantly compromise the Department of Land and Natural Resources' (DLNR's) ability to properly protect and promote native forests, watersheds, and habitats, including the natural and cultural resources they contain.

First, HB2358 HD1 would authorize the leasing of public and "ceded" lands for up to 99 years, and thereby compromise the ability of future generations to ensure the best use of these lands, as well as potentially lead to the diminution of the "ceded" lands corpus. **OHA does acknowledge and appreciate that amendments being requested from the DLNR would obviate this concern, and OHA would have reconsidered its position on this measure as originally drafted, if the DLNR's requested amendment was adopted.** Second, OHA expresses additional concerns regarding recent changes made in this HD1 draft, which stripped away important specified considerations that offered clear guidance for the DLNR's issuance of lease extensions, such as the extent to which a lease extension would support native forests, reforestation efforts, public hunting opportunities, and other important potential uses and roles of a leased pasture parcel. Accordingly, **OHA recommends reinstating the specified lease considerations included in the original HB2358 draft, and removing the 99-year lease term provision requested by the DLNR; if such amendments are made, OHA's Administration would consider recommending to the Board of Trustees a change in OHA's position, to provide DLNR and its Board of Land and Natural Resources (BLNR) with flexibility in leasing pasture lands, while also maintaining important mechanisms ensuring the proper stewardship of these public lands.**

OHA appreciates this measure's intent, to provide the BLNR and DLNR with the flexibility they need ensure that their agricultural land leases can accommodate the range of important roles served by their "pasture" land portfolio. OHA understands that despite their characterization as "pasture" lands, such lands may in fact play critical roles in the protection and maintenance of the 'āina, such as by serving as "buffer" zones between native forests and watersheds and more intensive human uses; hosting undeveloped and unique native ecosystems themselves; and providing critical habitat to endangered and other native species. Accordingly, OHA appreciates that greater leasing flexibility may allow lessees of these lands to more properly steward DLNR's pasture lands, and

accommodate and protect the various important roles they may play with respect to the 'āina.

However, OHA remains steadfast in its concerns that the 99-year leases authorized by this measure would severely compromise future generations' ability to determine the best possible usage of "ceded" and public land trust lands. The state constitution, the Admission Act, and Hawai'i Revised Statutes Chapter 171 establish specific fiduciary obligations on the part of the state and the BLNR, with regards to the over 1 million acres of state lands – the vast majority of which are "ceded" lands – subject to the public trust and public land trust. These fiduciary obligations include the duties of due diligence and undivided loyalty, in making these lands productive and maximizing their benefits for the Native Hawaiian and public beneficiaries of the public trust and public land trust. **By authorizing 99-year leases of state lands, this measure may invite the creation of century-long leasehold interests that substantially inhibit the BLNR and future generations from ensuring the best and most appropriate uses of public trust and public land trust lands, which may otherwise provide much greater benefits to both Native Hawaiians and the public.**

Moreover, in addition to tying the state's and future generations' hands in ensuring the appropriate disposition of public trust and public land trust lands, the long-term leases that would be authorized under this measure may lead to a sense of entitlement amongst lessees that can result and has resulted in the sale of public lands, the vast majority of which are "ceded" lands to which Native Hawaiians have never relinquished their claims. **OHA objects to the sale or alienation of "ceded" lands except in limited circumstances, and has significant concerns over any proposal that may facilitate the diminution of the "ceded" lands corpus.**

OHA is aware and appreciative of suggested amendments proposed by the DLNR that would amend this 99-year leasing authority, and establish a maximum aggregate cap on any pasture lease and lease extension to 65 years. OHA understands that this 65-year aggregate cap would be consistent with other leasing authorities currently held by both the BLNR and the Department of Agriculture, and appreciates and agrees with the DLNR that the 99-year lease authority in this measure should be removed or reduced to an aggregate maximum lease cap of 65 years.

OHA has additional concerns regarding the latest amendments made in the HD1 draft of HB2358, which stripped away important specified considerations that would have provided clear guidance on the DLNR's issuance of lease extensions, such as the extent to which a lease extension would support native forests, reforestation efforts, public hunting opportunities, and other important potential uses and roles of a leased pasture parcel. The extremely broad authority for which leases may be extended under the measure as currently drafted could allow lease to be extended, including by future administrations and BLNR members, for any "public purpose." Although OHA appreciates the apparent desire to grant broad flexibility to the BLNR in issuing pasture leases, the lack of any clear guidance may only increase the chances of lease extensions that do not adequately protect or minimally consider the range of important public trust purposes and public interests that may be served in the use and disposition of pasture lands.

Accordingly, OHA urges the Committee to either **HOLD** HB2358 HD1, or to (1) remove the 99 year lease term provisions as recommended by the DLNR and (2) reinstate the specified lease considerations described in the original HB2358 draft. Mahalo nui for the opportunity to testify.

HB-2358-HD-1

Submitted on: 2/22/2020 12:48:30 PM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch Limited	Oppose	No

Comments:

Act 90 was passed in 2003 for the purpose of ensuring the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture. Hawaii's cattlemen support the transfer of agricultural lands, as DLNR and HDOA have different missions—DLNR is tasked with conserving natural, cultural, and historic resources. **HDOA's mission is to expand Hawaii's agriculture industry and protect resources for food production. It's clear to see that agricultural leases that are producing food belong under HDOA.** Moreover, ranchers are proponents for stewarding the land well and will continue to implement conservation practices when leases are transferred to HDOA—the health of the land allows ranchers to continue their production. They will continue to be cooperators with their Local Soil and Water Conservation Districts, housed under DLNR's, and manage their conservation plans. They will continue to be valued partners in their Local Watershed Partnerships, housed under DLNR.

While **HB2358** aims to provide similar management of agricultural leases, there is already a mechanism for giving agricultural leases the appropriate terms—Act 90, 2003. That is why we support HB2035, which gives a deadline to enforce the transfer of leases and fulfill the intent of ensuring the long-term productive use of public agricultural lands



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

HB2358

Authorizes the Board of Land and Natural Resources to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes the Department of Land and Natural Resources is responsible for promoting.

Tuesday, February 25, 2020, 12:30 pm
Conference Room 308, State Capitol
415 South Beretania Street

Chair Luke, Vice Chair Cullen, and Members of the Committee on Finance,

The Hawaii Cattlemen's Council **opposes HB2358**.

Act 90 was passed in 2003 for the purpose of ensuring the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture. Hawaii's cattlemen support the transfer of agricultural lands, as DLNR and HDOA have different missions—DLNR is tasked with conserving natural, cultural, and historic resources. HDOA's mission is to expand Hawaii's agriculture industry and protect resources for food production. It's clear to see that agricultural leases that are producing food belong under HDOA.

Moreover, ranchers are proponents for stewarding the land well and will continue to implement conservation practices when leases are transferred to HDOA—the health of the land allows ranchers to continue their production. They will continue to be cooperators with their Local Soil and Water Conservation Districts, housed under DLNR's, and manage their conservation plans. They will continue to be valued partners in their Local Watershed Partnerships, housed under DLNR.

While **HB2358** aims to provide similar management of agricultural leases, there is already a mechanism for giving agricultural leases the appropriate terms—Act 90, 2003. That is why we support HB2035, which gives a deadline to enforce the transfer of leases and fulfill the intent of ensuring the long-term productive use of public agricultural lands

Nicole Galase
Hawaii Cattlemen's Council
Managing Director





Email: communications@ulupono.com

HOUSE COMMITTEE ON FINANCE
Tuesday, February 25, 2020 — 12:30 p.m. — Room 308

Ulupono Initiative respectfully opposes HB 2358 HD 1, Relating to Authorizing the DLNR to Lease Pasture Lands on Terms that Promote Collaborative Beneficial Use for Forestry, Wildlife, Recreational, and Food Production Purposes.

Dear Chair Luke and Members of the Committee:

My name is Amy Hennessey, and I am the Senior Vice President of Communications & External Affairs at Ulupono Initiative. We are a Hawai'i-based impact investment firm that strives to improve our community's quality of life by creating more locally produced food; increasing affordable clean renewable energy and transportation options; and better managing waste and fresh water resources.

Ulupono respectfully opposes HB 2358 HD 1, which authorizes the DLNR to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes; and requires the DLNR and DOA to identify potentially transferable lands whose land use classification is at dispute and petition the land use commission for a determination.

Ulupono supports the local livestock industry and its efforts to provide fresh, healthy products for Hawai'i's consumers. With the DOA's affordable, long-term lease structure in place, local ranchers will be able to make the necessary investments into their respective operations, improving economic viability and increasing local food production for the State.

While we support the DLNR's mission to preserve natural resources and maintain watershed protection, Ulupono believes that all active agricultural pasture leases should be transferred to the DOA as per the intent of Act 90, SLH 2003. The DOA's mission and expertise to manage agricultural activities, including pastureland production, through a favorable lease structure, promotes local food production. As such, it is not necessary to pass this measure because a more feasible path forward exists in HB 2035, which seeks to uphold the 2003 law that will enable the transfer of active agricultural production pasture leases to the more appropriate DOA.

Ulupono is supportive of any potential agreements between the DLNR and the DOA,

Investing in a Sustainable Hawai'i



through memoranda of agreement or memoranda of understanding, to allow for dual-use where and when there are opportunities that exist to support both local food production and natural resource management.

As Hawai'i's local food issues become increasingly complex and challenging, organizations need additional resources and support to address and overcome them. We appreciate this committee's efforts to look at policies that support local food production.

Thank you for this opportunity to testify.

Respectfully,

Amy Hennessey, APR
Senior Vice President, Communications & External Affairs

HB-2358-HD-1

Submitted on: 2/24/2020 6:32:40 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jimmy Gomes	Ulupalakua Ranch	Oppose	No

Comments:

KAPAPALA RANCH

P. O. Box 537

Pahala, HI 96777

808-936-2922

Kapapala.ranch@aol.com

February 24, 2020

Chair Luke, Vice Chair Cullen, and Members of the Finance Committee.

We strongly oppose HB2358.

I do not trust the DLNR's intentions to manage the lands that we operate. This is a stop gap measure to maintain control of land that they fully intend to incorporate into the non-use status of the surrounding area of Hawaii Volcanoes National Park and the State of Hawaii Ka'u and Kapapala Forest Reserves.

30 years ago the Ranch agreed to turn over 1,250 acres of ideal native forest to DOFAW. Only a few trees have ever been used and an acre or two ever planted. This area is zoned Ag and thus was attractive to DOFAW because they would be able to work the land without the restrictions imposed in Conservation zoned areas yet little has been done to achieve their goal. There is another 540 acre Ag zoned parcel on the makai perimeter of the Ka'u Forest Reserve that is inundated with invasive weeds that has never been looked at for Koa management yet they have approached us to remove other ranch lands for Koa cultivation.

The Department as well as many other conservation organizations do not see the value of grazing animals and the role they play in managing land. Grazing animals are blamed for destroying forests, but if you look back at land policy or the lack of policy you find that these State lands have been poorly supported. Example is this lease which expired in the early 1970's. The former owner, C. Brewer stopped making leasehold improvements long before that, though, because at the end of a DLNR lease you own none of your improvements and if interested in continuance you need to go to public auction to buy yourself and all that you have done back. The HDOA leases are geared to proper stewardship through the life of the lease and at the end of a term the lessee is given the first option to lease it again after a new appraisal is completed.

The DLNR leases close to termination are allowed to fall apart as there is no incentive to continue good management practices. This leads to fences being allowed to fall down no longer containing animals in pastured areas. Cattle can quickly go feral in Hawaii's tropical environment and with no winter to contend with animals become adept at living on their own. Livestock was brought here by seamen to supply their vessels but no one thought to bring the canine and feline predators like coyotes, wolves and mountain lions that keep these animals in check. There is not a natural predator/prey balance here in Hawaii as they are in continental environments where they originated from.

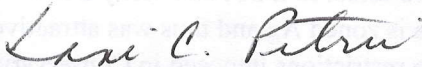
Revocable permits are not solution to having sound ecological, economical and socially acceptable land management. My parents operated this Ranch for 17 years trying relentlessly to secure tenure to the land and the water. Commercial financing was out of the question and no one would loan them money for quite some time. Finally under Act 237 some of the land we operate was converted to a long-term lease but the water remained on a 30 day revocable permit. Although the water is still under permit the Department has in the last several years made strides to resolving this issue.

I believe that all land should be managed for some determined landscape goal such as food, timber, recreation, and/or conservation. But the goal needs to be well planned, monitored, and reviewed as to whether the goal is achievable or not.

I ask that you consider transfer of these lands to the HDOA to manage and not, at the eleventh hour, consider changing the current DLNR's authority. Our stewardship does not go away because of a change in management, quite the contrary. We envision our operation being better able to work with conservation and public concerns because we would no longer fear losing our businesses and the investments that we've made for growing food.

Respectfully submitted,

KAPAPALA RANCH



Lani C. Petrie
Partner

HB-2358-HD-1

Submitted on: 2/24/2020 10:04:56 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Moore	Kealia Ranch	Oppose	No

Comments:

I believe in the wisdom and the purpose of Act 90 that was passed in 2003, for the purpose of ensuring the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture whose department is more suited to this goal.

Mahalo!

HB-2358-HD-1

Submitted on: 2/24/2020 9:58:13 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bud & Katy Gibson	Individual	Oppose	No

Comments:

We greatly oppose this bill and urge the agricultural leases that are presently under DLNR to be put where they belong, under DOA's supervision. If we are to become sustainable this needs to be done now.

mahalo

Bud and Katy Gibson

HB-2358-HD-1

Submitted on: 2/24/2020 2:45:25 PM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristin	Individual	Oppose	No

Comments:

HDOA should handle all agricultural leases, not DLNR. We need to be supporting Act 90.

HB-2358-HD-1

Submitted on: 2/23/2020 7:29:05 PM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
randall cremer	Individual	Oppose	No

Comments:

HB-2358-HD-1

Submitted on: 2/24/2020 6:09:01 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Taylor Kellerman	Individual	Oppose	No

Comments:

HB-2358-HD-1

Submitted on: 2/24/2020 7:27:09 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gregory FRIEL	Individual	Oppose	No

Comments:

HB-2358-HD-1

Submitted on: 2/24/2020 10:44:10 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bobby Farias	Individual	Oppose	No

Comments:

LATE

HB-2358-HD-1

Submitted on: 2/24/2020 6:53:28 PM
Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Phaethon Keeney	Individual	Support	No

Comments:

Aloha, please Support HB2358, HD1, as agreed by both the DLNR and DOA in their respective testimony, Hawaii's pasture lands are unique mixed use leases of public lands that should remain under the purview of DLNR management ensuring public trust natural and cultural resource protection alongside current grazing. The DLNR states that these lands are a critical part of the Department's forest protection and restoration, traditional gathering, and hunting and trails and other recreation responsibilities, and this bill would provide the Department with additional statutory powers similar to those exercised by the DOA in management of its leases, which will help provide incentives for the Department and ranchers to work together on mutually beneficial terms. Given that these public lands have been to date under the DLNR and that this bill allows for extension of leases and to provide incentives for better land management in consideration of public trust, HB2358 HD1 (with amended aggregate lease terms below 65 years as OHA requests) seems like a positive step forward, somehow current land management has failed Hawaii's forests, streams, reefs and people who rely on them. Whether that is due to failures by DLNR or the ranching industry is debatable as seen in the public testimony for this bill, but that is not important, what is important is that Hawaii must do better, water must return to the streams, and runoff prevented via better watershed management. Also, with oncoming Climate considerations, there are more threats to consider, forests must take heavier weight in land management decisions in the days to come, as the rain follows the forest, the wai, the wealth of Hawaii, should not be seen as simply an agricultural or private business concern. Rather the wai, and the uplands that provide and inspire, must remain a public natural resource for the people of Hawaii. As traditional land management divisions, the wao, teach, some areas need to be protected, collective caution needs to be exercised, and while agriculture/economy is a healthy part of the Island ecosystem solution in some areas, especially makai, protection and restoration of mauka lands needs be a larger priority as a society for so many reasons. The Protect Mauna Kea movement exemplifies this. It is sad that the streams in my area are empty, I hope to see both the water return and prosperity to the people who love this land so deeply, I hope HB2358 HD1 will help provide incentives to make that a reality.

Mahalo for your time, Phaethon Keeney, Honokaa Hawaii

LATE

PUBLIC TESTIMONY: HB2358 HD1
Tawn Keeney MD

Allow me to begin with the words of Secretary General of the UN, Antonio Guterres, in the spring of 2018 to the assembled leaders of over 100 nations: “Climate change is the defining issue of our time - and we are at a defining moment. We face a direct existential threat. Let there be no doubt about the urgency of the crisis. If we do not change course by 2020, we risk missing the point where we can avoid runaway climate change, with disastrous consequences for people and the natural systems that sustain us.”

This was before the world caught fire later that summer first in California and then in 2019, Alaska, Siberia and Australia.

It was before the world reached the ‘tipping points’ heralded by the climate scientists as they watched the positive feedback loops guide us irrevocably into that abyss.

I see everything through a lens reflecting relation to ‘climate change’. I ask that you do also.

The following data is taken directly from a recent presentation to the Hawaii County Council by Dr. Charles Fletcher, Climate Scientist at University of Hawaii School of Ocean and Earth Sciences and Vice Chairman of the Honolulu Climate Commission.
https://www.youtube.com/channel/UCjLzUPr31k14_8SQKhU_Z9w (75 min. entitled: Why the Next Few Years Will Be The Most Important in Human History)

1. Producing beef generates 100x more GHG than plant-based food
2. Over 80% of farmland is used for livestock but it produces just 18% of food calories and 37% of protein.
3. Cattle + grain they eat use one-third of available land surface on this planet.
 - . 16% of all available freshwater
 - . 1/3 of worldwide grain production
4. We are deforesting the planet at a rate of 30 football fields per minute, largely to raise cattle and the grain to feed them.

We are in the midst of a sea change - a paradigm shift. We can no longer proceed as if we are custodians of these lands ‘in service to our appetites’. That perspective has left us facing immanent societal collapse and possible human extinction. We are now recognizing that we must be in service to the ‘aina’ - that the natural world is looming heavily over us - that unless balance is restored nature will come crashing down. The land is not the province of Agriculture which asks “What can we extract from these lands to serve the public?” Now the question is becoming “How can we restore balance that existed for eons” before the Anthropocene. That is the question that is the directive of the Department of Land and Natural Resources. We must utilize the fruits of the natural world but in harmony with the needs of future generations and integrity of the Natural World. This is the overriding concern of the Department of Land and Natural Resources.

We can no longer look upon the land with a perspective of how can we use it to our perceived benefit without asking first, how can we regenerate and restore.

The Department of Agriculture principal directive is how can we guide the extraction of resources from the organic environment in service to the public. Dr. Fletcher's observations above suggests that, in this area, this directive has been far too short sighted.

The IPCC landmark study in 2019 on the usages of Land in relation to climate change was very clear that much of the land that is now dedicated to pasture should be reforested to the benefit of carbon sequestration. Are we actually going to plant ‘a trillion trees’ or is that just for the politicians and the ‘other guys’. The IPCC further emphasized shifting to a plant based diet as an important individual contribution to efforts in mitigation of climate change.

The two-lined Spittlebug has decimated 140,000 acres of Kona pasturelands. Is it the best use of this degraded land that unimaginable effort and energy and funds be utilized to restore it to grazing suitability? It is clear that the TLSB will not be eradicated. I endorse efforts to control its spread but the use of pesticide must be balanced with the effects on the various ecosystems encountered. I feel that the Department of Land and Natural Resources has the perspective on the ecosystem balances and interrelationships, the environmental restoration and potential for human impacts that demands the DLNR to be the authority on the utilization of these lands post TLSB degradation. It is clear to me that DOFAW, a division of DLNR, must have input into decisions regarding utilization of lands post TLSB degradation.

Authority over leased pasturelands must be administered by the Department of Land and Natural Resources, the agency with the most far-sighted vision and resources for restoring balance into our natural world.

Tawn Keeney MD, Honokaa



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February 25, 2020

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 2358, HD1
RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL
RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE
COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE, RECREATIONAL,
AND FOOD PRODUCTION PURPOSES

Room 308
12:30 PM

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau respectfully opposes HB 2358, HD1, which authorizes the Board of Land and Natural Resources to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes and requires DLNR and DOA to identify potentially transferable lands whose land use classification is at dispute and petition the land use commission for a determination.

While this bill technically *allows* DLNR more flexibility with regard to agricultural leases, it *does not compel* DLNR to extend any lease, to improve the terms of any lease, or to reduce any rents. In addition, it allows DLNR to impose potentially restrictive conditions in return for the possibility of a lease extension. Therefore, we believe strongly that HB 2358, HD1 will prevent the purpose intended by the legislature when it passed Act 90 in 2003: to promote agriculture by transferring certain lands to the department of agriculture. We respectfully request that your committee instead pass HB 2035, HD1, which would support Hawaii's farmers and ranchers by completing the land transfer required by Act 90.

Thank you for this opportunity to testify on this important matter.

LATE

HB-2358-HD-1

Submitted on: 2/25/2020 6:44:26 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keith	McCandless Ranch	Oppose	No

Comments:

McCandless Ranch opposes HB 2358. Ag leases should be managed by DOA. We support the enforcement of Act 90.



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu



**Submitted to the House Committee on Finance
Tuesday, February 25, 2020, 12:30pm
Conference Room 308
HB: 2358 HD1**

LATE

Conservation Council for Hawaii (CCH) supports HB 2358 HD1 Relating To Authorizing The Department Of Land And Natural Resources(DLNR) To Lease Pasture Lands On Terms That Promote Collaborative Beneficial Use For Forestry, Wildlife, Recreational, And Food Production Purposes.

Providing DLNR with the tools necessary to manage the lands, partner with current leasees and potential lessors supportive of preserving native forests, protecting the watershed, and forest carbon sequestration opportunities, facilitating public hunting, establishing and maintaining public access to landlocked reserves, enhancement of public recreational opportunities, and protection and propagation of current biological and other significant resources will prove beneficial to our natural environment and a diverse set of use groups. Leasees will be able to seek financial options with 65 year leases that will bolster abilities to operate effectively and efficiently.

This action is also in alignment with the Koa Reforestation effort in the Ka'u Koa Belt that supports carbon neutrality, cultural practices such as harvesting wood for canoe and other traditional practices, and provides homes for Native Wildlife to hopefully rebuild populations and flourish.

CCH acknowledges the provision to include in the "leasees" requirements a conservation or stewardship plan to ensure that best land practices are in place and maintained for future generations.

Thank you for the opportunity to support HB 2358 HD1.

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President Rachel Sprague | Vice President: Lisa Hinano Rey | Secretary: Julie Leialoha

Treasurer: Sunshine Woodford | Directors: Robin Kaye, Steven Lee Montgomery

National Wildlife Representatives: Les Welsh, Rachel Sprague

Executive Director: Moana Bjur | Operations and Events Director: Jonnetta Peters



LATE

HB-2358-HD-1

Submitted on: 2/25/2020 10:56:57 AM
Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Smith	Individual	Support	No

Comments:

This bill will allow DLNR to work collaboratively with ranching leasees on state lands, and keep good tenants on the land.



DAVID Y. IGE
Governor

JOSH GREEN
Lieutenant Governor

MIKE MCCARTNEY
Director

LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer

Bert K. Saruwatari
Planner

SCOTT A.K. DERRICKSON AICP
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Chief Clerk/Planner

RASMI AGRAHARI
Planner

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodenker
Executive Officer
State Land Use Commission

Before the
**House Committee on
Finance**

Tuesday February 25, 2020
12:30 PM
State Capitol, Conference Room 308

In consideration of
HB 2358 HD1

**RELATING TO AUTHORIZING THE DLNR TO LEASE PASTURE LANDS ON
TERMS THAT PROMOTE COLLABORATIVE BENEFICIAL USE FOR FORESTRY,
WILDLIFE, RECREATIONAL, AND FOOD PRODUCTION PURPOSES**

Chair Luke; Vice Chair Cullen; and members of the House Committee on Finance:

The Land Use Commission (LUC) provides comments on HB2358 HD1 intended to identify lands and facilitate transfer of lands between DLNR and DOA for agricultural leases. The LUC comments are restricted to Section 4 of the proposed bill.

The LUC recommends the following language amendments that will clarify the process being proposed involving the LUC. Our proposed additions are shown with underscore while proposed deletions are in strikethrough where appropriate.

“Section 4. No later than _____, the department of land and natural resources and department of agriculture shall identify lands in limbo. Upon identification of lands in limbo, the department of land and natural resources and department of agriculture shall submit a petition for declaratory ruling to the land use commission, pursuant to HRS §91-8 and land use commission administrative rules, to determine whether the lands in limbo are bona fide agricultural land, including pasture land, or conservation land. After a determination by the land use commission, the department of land and natural resources shall dispose of the lands in limbo ~~as appropriate in~~ accordance with the decision by the land use commission.”

LATE

Thank you for the opportunity to testify on this matter.

LATE

HB-2358-HD-1

Submitted on: 2/25/2020 11:51:28 AM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
J Ashman	Individual	Oppose	No

Comments:

With due respect, this bill is an attempt to subvert the legislative mandate in Act 90, which has been ignored for 17 years by the implementing agency.

The Department of Agriculture, not DLNR, is fully capable of managing agricultural lands, including pasture lands, while ensuring preservation of our precious natural resources.

This bill should be held. HB 2035 should be passed to facilitate active ag lease management by the appropriate agency.

Thank you.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
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LATE

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

TUESDAY, FEBRUARY 25, 2020
12:30 P.M.
CONFERENCE ROOM 308

HOUSE BILL NO. 2358, HOUSE DRAFT 1
RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL
RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE
COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE, RECREATIONAL,
AND FOOD PRODUCTION PURPOSES

Chairperson Luke and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2358, House Draft 1, Relating to Authorizing the Department of Land and Natural Resources to Lease Pasture Lands and Terms that Promote Collaborative Beneficial Use for Forestry, Wildlife, Recreational, and Food Production Purposes. This bill authorizes the Board of Land and Natural Resources to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes the Department of Land and Natural Resources ("DLNR") is responsible for promoting, and requires DLNR and Department of Agriculture ("Department") to identify potentially transferable lands whose land use classification is at dispute and petition the land use commission for a determination. The Department offers the following comments regarding this measure.

This bill is intended to allow the DLNR to offer favorable lease terms for pasture leases to provide an incentive to existing lessees to remain under its management jurisdiction while also preserving DLNR's ability to carry out its responsibilities to



preserve native forests, reforestation for watershed enhancement and carbon sequestration, facilitate access and opportunities for hunting and recreation, and protection of biological resources. The Department of Agriculture agrees that the DLNR is the appropriate agency for managing public lands for the public purposes delineated in the measure. We have equally maintained that managing agricultural matters, including pasture and ranching operations, on state lands is an important, integral, and appropriate responsibility of the Department's mission. The Department has the expertise and resources in animal husbandry and care, disease and pest control, food safety, marketing, and distribution, that are necessary for overseeing and supporting ranching, dairy, and other pasture-oriented agricultural activities effectively.

In instances where the Department's and DLNR's respective management purviews exist concurrently on the same parcel or group of parcels, we believe a collaborative oversight arrangement can be achieved that preserves the respective departmental priorities without hindering or interfering with either department's ability to carry out their important missions. Such collaborative arrangements can be established by memoranda of agreement or understanding, lease restrictions, statutory changes, and rulemaking, or by expressly imposing conditions, reservations, or restrictions on transfers of management authority in Governor's Executive Orders.

The measure, as amended, also establishes a process to address appropriate land use classifications for lands that may be in dispute between the DLNR and the Department. The Department appreciates the inclusion of a dispute resolution process and notes that land use classification is one of several issues that may impact the determination of whether a particular parcel is suitable for agricultural use. Additionally, agricultural use may be allowed under most land use classifications so a final determination based solely on such classifications may not fully resolve the issue of suitability.

Thank you for the opportunity to testify on this measure.

LATE

HB-2358-HD-1

Submitted on: 2/25/2020 12:48:49 PM

Testimony for FIN on 2/25/2020 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne	Individual	Oppose	No

Comments: