

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 Senate Committees on
WATER AND LAND
and
AGRICULTURE AND ENVIRONMENT**

**Monday, March 16, 2020
1:20PM
State Capitol, Conference Room 224**

**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 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.

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

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, 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.

It is of the utmost imperative that the pasture lands at issue remain under the management of the Department. There are significant resource values on these lands that require active management by the Department to ensure their continued sustainability. Pursuant to Chapter 166E, HRS, under DOA management, these lands would be used solely for pasture purposes without regard to native forest restoration. DOA lacks the staffing and expertise to incorporate resource management activities into their land management practices. Furthermore, use of these lands exclusively for pasture purposes would result in a significant detrimental impact to our environment.

According to the United States Geological Survey (USGS), the impact of deforestation in Hawaii is severe. Hawaii’s native wet and mesic forests store an average of 124 metric tons of carbon per acre. There are around 800,000 acres of native wet and mesic forest in Hawaii. Hawaii’s invasive wet and mesic grasslands store an average of 70 metric tons of carbon per acre. There are around 300,000 acres of invasive wet and mesic grasslands in Hawaii. When Hawaii’s native forests are converted to grasslands, they lose about half of their stored carbon - a loss of 54 metric tons of carbon per acre. When balanced against the limited benefit cattle ranching provides to the State’s food sustainability¹, it is outweighed by imperative environmental concerns to ensure that these lands are ultimately used for native reforestation.

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:

¹ According to the Hawaii Beef Industry Council, over 43,000 head of cattle were exported to the mainland in 2018 to due market conditions and better pricing.

"(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 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. A proposed revision to SECTION 4 is provided below for the Committees' consideration.

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, and prior to any disposition or transfer of such lands from the department of land and natural resources to the department of agriculture, the department of land and natural resources and department of agriculture shall convene an advisory committee consisting of the following members:

- (1) The chairperson of the board of land and resources or designee;
- (2) The chairperson of the board of agriculture or designee;
- (3) The chief executive officer of the office of Hawaiian affairs or designee;

- (4) A representative of the Hawaii Cattlemen's Council;
and
- (5) A representative of the Hawaii Association of
Watershed Partnerships.

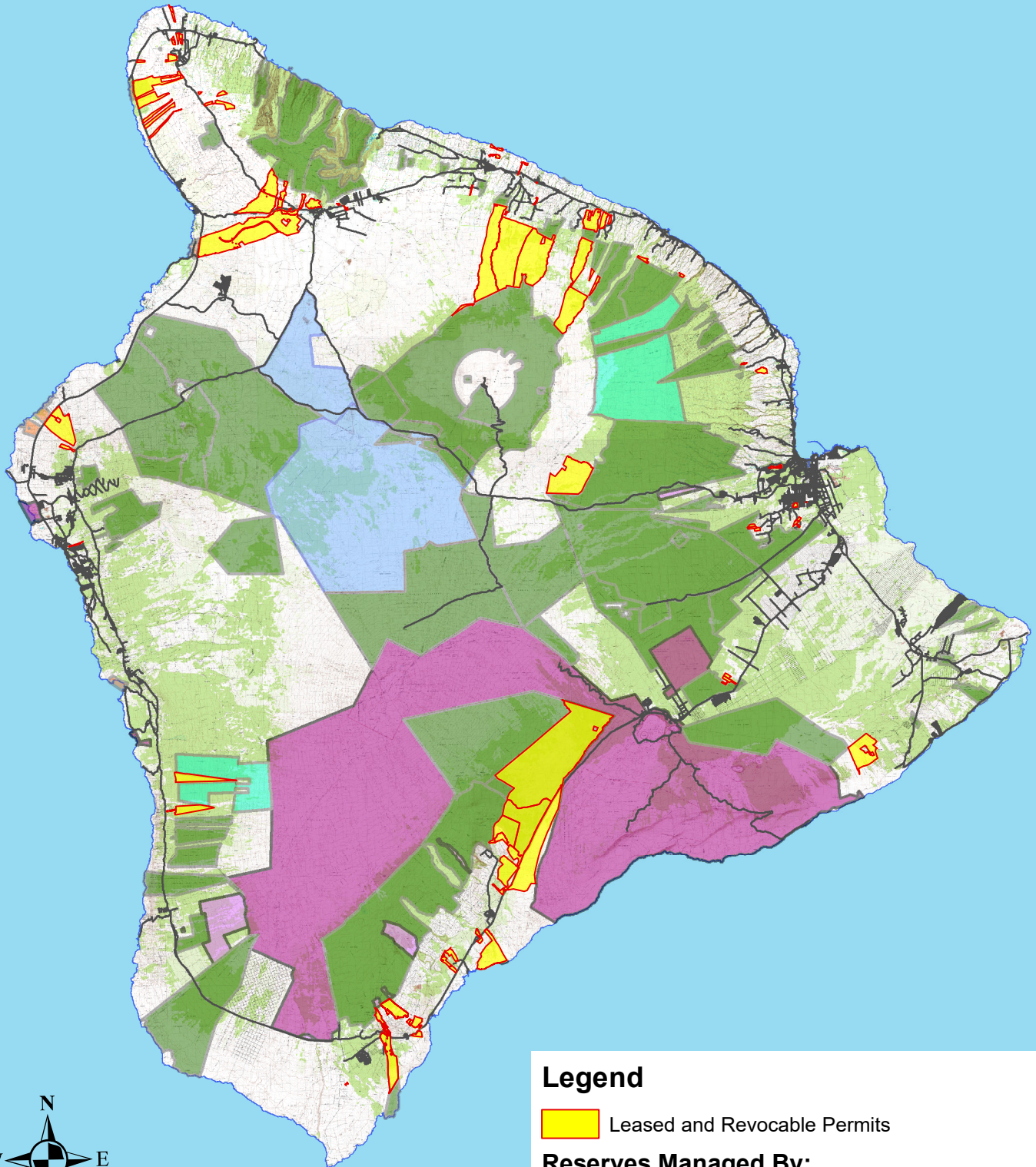
The advisory committee shall review the lands in limbo proposed
for disposition or transfer and assess the resource values
according to the following criteria:

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

The board of land and natural resources and the board of
agriculture shall review and consider the findings of the
advisory committee prior to approving any disposition or
transfer of lands in limbo. [~~submit a petition to the land use~~
commission 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.]

For purposes of this section, "lands in limbo" means state lands managed by the department of land and natural resources that may qualify for transfer to the department of agriculture under Act 90, Session Laws of Hawaii 2003, but have not been transferred because of a dispute between the department of land and natural resources and department of agriculture as to the land use classification of the land.

Thank you for the opportunity to comment on this measure.

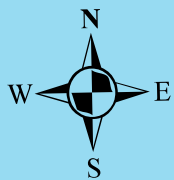


Legend

- Leased and Revocable Permits

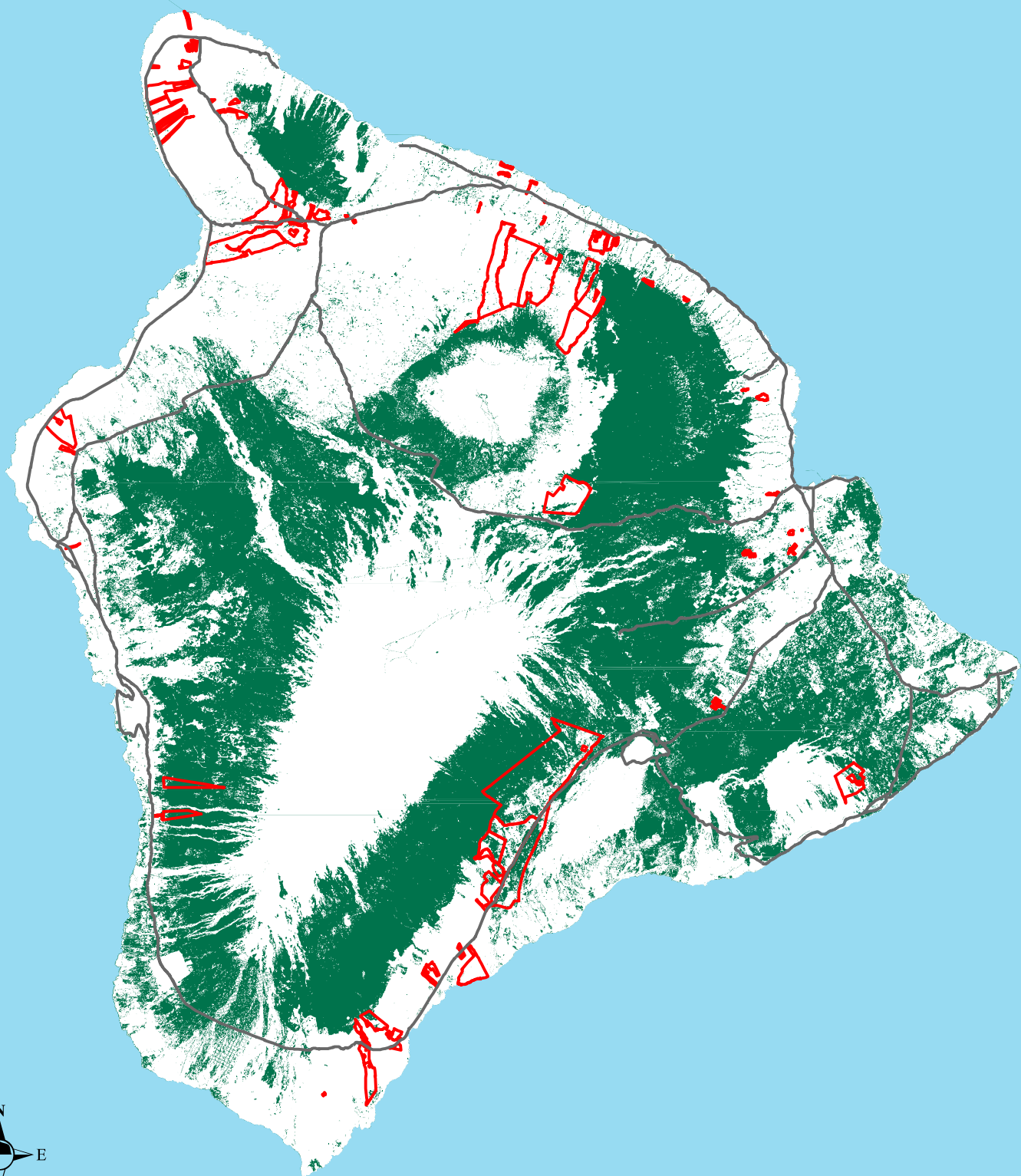
Reserves Managed By:

- 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 10 20 30 Miles




0 10 20 30 40 50 Kilometers



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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

0 5 10 20 30 40
Kilometers



0 2.5 5 10 15 20
Miles

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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



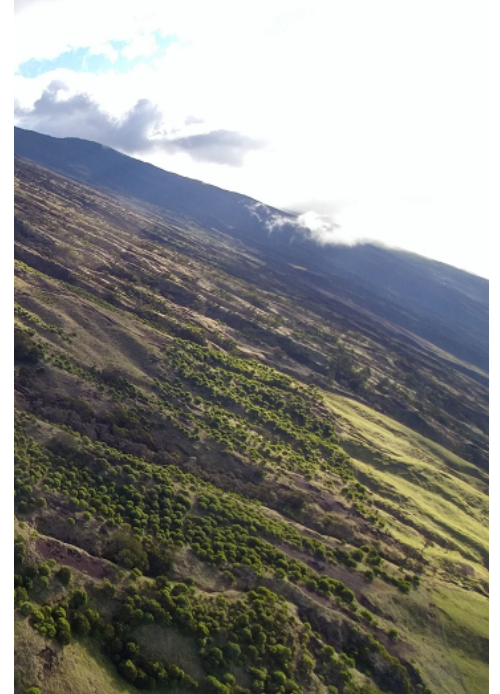
Forestry



Recreation

DLNR PARTNERSHIPS WITH RANCHERS

CLIMATE CHANGE AND CARBON NEUTRALITY



CONTACT PERSON



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
Planner

RILEY K. HAKODA
Chief Clerk/Planner

RASMI AGRAHARI
Planner

FRED A. TALON
Drafting Technician

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

Before the
Senate Committees on
Water and Land
And
Agriculture and Environment

Monday March 16, 2020
1:20 PM
State Capitol, Conference Room 224

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**

Chairs Kahele and Gabbard; Vices Chairs Keith-Agaran and Ruderman; and members of the Senate Committees on Water and Land; and, Agriculture and Environment:

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.”

Thank you for the opportunity to testify on this matter.



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

Senate Committee on Water and Land
Senate Committee on Agriculture and Environment

March 16, 2020

1:20 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB2358 HD1, to the extent that it may (1) tie the hands of future generations from ensuring the best possible use of vast pasture lands on Hawai'i Island, and potentially lead to the alienation of public and "ceded" lands, and (2) significantly compromise the public's interest in and public trust uses of public lands through future leases directly negotiated by the Department of Land and Natural Resources (DLNR), by failing to include specific considerations in such leases for the protection and promotion of potentially impacted native forests, watersheds, endangered species habitats, natural and cultural resources and sites, and Native Hawaiian traditional and customary practices.

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 DLNR would obviate this concern, and the adoption of DLNR's request would be critical to OHA reconsidering its position on this measure.** Second, OHA expresses additional concerns regarding changes made in this HD1 draft, which stripped away important 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 also recommends reinstating the specified lease considerations included in the original HB2358 draft, in addition to reducing 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.** Further details regarding OHA's concerns are provided below.

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 to more properly steward DLNR's pasture lands, to accommodate and protect the various important roles these lands may serve.

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 possible uses of public trust and public land trust lands, which may otherwise provide much greater benefits to both Native Hawaiians and the public.**

Moreover, the long-term leases under this measure may lead to a sense of entitlement amongst lessees that can result, and has resulted, in the alienation 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.**

Again, 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 under this measure as currently drafted could allow lease extensions 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 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 Committees 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.



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu



**Submitted to Senate Committee on Water and Land
and Senate Committee on Agriculture and Environment
Monday, March 16, 2020
Conference Room 224
HB 2358 HD1**

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 “lessee’s” 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 “lessee's” 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.

**Telephone/Fax: 808.593.0255 | email: info@conservehi.org | web:
conservationcouncilhawaii.org**

P.O. Box 2923 | Honolulu, HI 96802 | Office: 250 Ward Ave. Suite 215 | Honolulu, HI 96814

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



HB-2358-HD-1

Submitted on: 3/11/2020 10:22:57 AM

Testimony for WTL on 3/16/2020 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bobby Farias	Testifying for Hawaii Cattlemen's Council, Hawaii Meats LLC	Oppose	No

Comments:

HB-2358-HD-1

Submitted on: 3/11/2020 5:15:57 PM

Testimony for WTL on 3/16/2020 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Testifying for 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 HD1** 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 WATER AND LAND

Senator Kaiali'i Kahele, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Russell E. Ruderman, Vice Chair

HB2358 HD1

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.

Monday, March 16, 2020, 1:20 pm
Conference Room 224, State Capitol
415 South Beretania Street

Chair Kahele, Vice Chair Keith-Agaran, and Members of the Committee on Water and Land,
Chair Gabbard, Vice Chair Ruderman, and Members of the Committee on Agriculture and Environment,

The Hawaii Cattlemen's Council **opposes HB2358 HD1**.

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 HD1** aims to provide similar management of agricultural leases, there is already a mechanism for giving agricultural leases the appropriate terms—Act 90, 2003. It also does not ensure that pasture leases will receive these terms. 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



COMMITTEE ON WATER AND LAND
Senator Kaiali'i Kahele, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator Russell E. Ruderman, Vice Chair

HB2358 HD1

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.

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Chair Kahele, Vice Chair Keith-Agaran, and Members of the Committee on Water and Land,
Chair Gabbard, Vice Chair Ruderman, and Members of the Committee on Agriculture and Environment,

McCandless Ranch **opposes HB2358 HD1.**

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 HD1 intends to give lessees longer leases, there is already a mechanism for giving agricultural leases the appropriate terms—Act 90, 2003. Also, HB2358 HD1 does not ensure that pasture leases will receive these terms. 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.

Keith K. Unger
McCandless Ranch
President - HCC

HB-2358-HD-1

Submitted on: 3/12/2020 10:22:12 AM

Testimony for WTL on 3/16/2020 1:20:00 PM

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

Comments:



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March 16, 2020

HEARING BEFORE THE
SENATE COMMITTEE ON WATER AND LAND
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

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 224
1:20 PM

Aloha Chairs Kahele and Gabbard, Vice Chairs Keith-Agaran and Ruderman, and Members of the Committees:

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.

KAPAPALA RANCH

P. O. Box 537
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808-936-2922
Kapapala.ranch@aol.com

March 16, 2020

Chair Kahele, Vice Chair Keith-Agaran, and Members of the Senate Water and Land Committee:

Chair Gabbard, Vice Chair Ruderman and Members of the Senate Agriculture and Environment Committee:

My name is Lani Cran Petrie, Partner at Kapapala Ranch. **We strongly oppose HB2358.**

I ask that you consider transfer of these lands to the HDOA to manage and not, at the eleventh hour, consider changing the DLNR's authority.

Our stewardship does not go away because of a change in governing agency, 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.

Furthermore, to add another tier of review by the State Land Use Commission is redundant. Our operation has grown food for 160 years using the best known techniques available at the time. The checks and balances already in place with the Soil and Water Conservation Districts, which are funded in part by the DLNR, are superbly able to ensure good management practices on public trust lands.

Respectfully submitted,

KAPAPALA RANCH



Lani C. Petrie
Partner



Email: communications@ulupono.com

SENATE COMMITTEES ON WATER & LAND AND AGRICULTURE & ENVIRONMENT
Monday, March 16, 2020 — 1:20 p.m. — Room 224

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 Kahele, Chair Gabbard, and Members of the Committees:

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 BLNR 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, the agricultural industry will 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: 3/15/2020 4:33:38 PM

Testimony for WTL on 3/16/2020 1:20:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
james earl duffy	Testifying for 4-J Livestock Co.	Oppose	No

Comments:

HB-2358-HD-1

Submitted on: 3/9/2020 6:46:18 PM

Testimony for WTL on 3/16/2020 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Oppose	No

Comments:

I oppose 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. 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.

Please do not pass HB2358 HD1.

Mahalo for the opportunity to comment.

Benton Keali Pang, Ph.D.

HB-2358-HD-1

Submitted on: 3/12/2020 5:24:56 AM

Testimony for WTL on 3/16/2020 1:20:00 PM

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

Comments:

HB-2358-HD-1

Submitted on: 3/13/2020 7:33:19 AM

Testimony for WTL on 3/16/2020 1:20:00 PM

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

Comments:

HB-2358-HD-1

Submitted on: 3/15/2020 1:31:47 PM

Testimony for WTL on 3/16/2020 1:20:00 PM

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

Comments:

As a small rancher, this bill really upset me. DLNR had plenty of time to work with ranchers on these leases but didn't want to until they're being pressured right now.

The DOA, not DLNR, is fully capable of managing agricultural lands, including pasture lands, while ensuring preservation of our precious natural resources. DLNR doesn't even have the resources to manage its current forest land and watersheds. I hate to say it but ranchers can do a better job and produce food at the same time.

Please don't pass this bill.

HB-2358-HD-1

Submitted on: 3/15/2020 1:25:22 PM

Testimony for WTL on 3/16/2020 1:20:00 PM

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

Comments:

DLNR has had the opportunity to work with farmers and ranchers for 17 years since this legislative body enacted Act 90, making official and mandatory its intention to have DOA to manage State agricultural leases. Unfortunately for all concerned, these transfers have (mostly) not been done.

How can anyone believe that DLNR suddenly now has the will and the resources to sincerely work with Hawaii's food producers towards a common goal. **Please do not pass this bill.** Instead, pass SB 2812 to show your committment to both increased food production AND environmental protection and stewardship. Thank you.

HB-2358-HD-1

Submitted on: 3/13/2020 6:07:09 PM

Testimony for WTL on 3/16/2020 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Theresa M Thompson	Individual	Oppose	No

Comments: