

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
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON WAYS AND MEANS
AND
JUDICIARY**

**APRIL 6, 2021
10:00 A.M.
VIA VIDEOCONFERENCE**

**HOUSE BILL NO. 469 HD1 SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS**

Chairpersons Dela Cruz, Rhoads and Members of the Committees:

Thank you for the opportunity to testify on House Bill 469 HD1. This bill establishes a mechanism for the transfer of certain non-agricultural park lands from the Department of Land and Natural Resources (“DLNR”) to the Department of Agriculture (“Department”) pursuant to Act 90, (2003), and Chapter 166E, HRS. The Department offers the following concerns and comments.

The Department appreciates the efforts of the Legislature to ensure that sufficient agricultural lands are available to support the State’s food sustainability and food security goals. This bill establishes a dispute resolution process for resolving any disagreements between the DLNR and the Department regarding the suitability for transfer of targeted agricultural parcels by establishing a third-party advisory committee to render a decision.

The Department believes that agricultural interests must be adequately represented in the establishment, member selection, and decision-making guidelines of the third-party advisory committee. The indefinite default retention of management



jurisdiction during dispute resolution to maintain the status quo may disincentivize the underlying intent of expediting the transfer of appropriate agricultural lands to the Department. A mandatory dispute resolution timeline placing a reasonable time frame in which to resolve the dispute may address that issue.

Additionally, the measure's scope of applicability for lands considered for transfer is ambiguous and may benefit from further clarification. Many references to the lands considered for transfer appear limited to encumbered parcels. If it is the intent of the Legislature for the Department and DLNR to examine and consider all agriculturally zoned lands in DLNR's inventory for possible transfer to the Department, regardless of whether they are leased or vacant, the measure would benefit greatly from such clarification.

Furthmore, the establishment of and providing administrative support for a third-party advisory committee, however, may require additional staffing and resources that the Department does not possess at this time. Should the Legislature be inclined to adopt this measure, the Department requests that additional funding be provided to implement its purpose, provided that such funding does not adversely impact the Administration's priorities in the Executive Budget.

Thank you for the opportunity to testify on this measure.

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
WAYS AND MEANS
and
JUDICIARY**

**Tuesday, April 6, 2021
10:00 AM**

State Capitol, Via Videoconference, Room 211

**In consideration of
HOUSE BILL 469, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO TRANSFER OF NON-AGRICULTURAL PARK LANDS**

House Bill 469, House Draft 1, Senate Draft 1 proposes to facilitate the transfer of certain non-agricultural park lands from the Department of Land and Natural Resources (Department) to the Department of Agriculture (DOA) pursuant to Act 90, Session Laws of Hawaii (SLH) 2003, and Chapter 166E, Hawaii Revised Statutes (HRS). Senate Draft 1 of the measure, in PART II, reverts to the language of the bill as originally introduced. PART III proposes to incorporate the language that the Department sought in its Administration bills introduced this Session (House Bill 1014 and Senate Bill 1168) to secure flexibility in extending and issuing pasture leases, similar to the powers enjoyed by DOA, but expands that flexibility to industrial leases. **The Department appreciates the amendments made in PART III of Senate Draft 1 of the measure but objects to the inclusion of industrial leases in the expanded powers to be given to the Board of Land and Natural Resources (BLNR), as well as to the provisions of Part II that essentially mandate the transfer of all the Department's agricultural lands to DOA without regard to other public trust priorities and offers the following comments and amendments.**

Discussion

The Department understands a proposed Senate Draft 2 (Proposed SD2) of the measure is circulating. The Department supports the Proposed SD2 because it avoids the default land transfer mechanism used in PART II of Senate Draft 1. Proposed SD2 further walks back the applicability of the lease extension and issuance flexibility the Department has sought to pasture leases only, making industrial leases ineligible for the special consideration to be given to pasture leases. Finally, Proposed SD2 eliminates SECTION 7 of the bill that seeks to amend Section 171-37.5, HRS, and expand the kinds of investments that are compensable to a lessee in the event of a withdrawal of lands from an agriculture or pasture lease. Existing law already provides for rent reductions, compensation for the value of any

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

improvements taken, as well as for the value of trees, crops, and breeding livestock in the event of the withdrawal. Compensation for capital improvements such as water systems, pasture management systems, pasture and soil improvements, and invasive weed control as proposed in SECTION 7 would likely be difficult to value and disputes about value could effectively prevent the State from withdrawing lease lands for public purposes. The Department therefore supports Proposed SD2, which contains no amendment of Section 171-37.5, HRS. The following comments pertain to Senate Draft 1 of the measure.

House Bill 469, House Draft 1, Senate Draft 1 proposes to require the Department and DOA to meet no later than one year after the effective date of the measure to identify by mutual agreement the non-agricultural park lands under the jurisdiction of the Department that are not in use for the public purpose for which they were leased and should be rezoned as lands in the conservation district and remain under the jurisdiction of the Department. All other non-agricultural park lands currently leased and being utilized for the agricultural public purpose defined by their current lease agreements are required to be transferred to DOA. Furthermore, all non-agricultural park lands under the jurisdiction of the Department and not identified as described above are to be placed under the jurisdiction of DOA no later than December 31, 2023. In other words, all non-agricultural park lands under the Department will be transferred to DOA unless both the Department and DOA agree that they are not being used for the agricultural public purpose for which they were leased and should be rezoned to conservation lands.¹

Pursuant to Act 90, SLH 2003, now codified as Chapter 166E, HRS, the Department has transferred more than 19,000 acres of agricultural land to DOA, and additional transfers are in process, consisting of nearly all the agricultural crop land, such as former sugar cane land, held by the Department. Act 90, SLH 2003, requires each transfer to be individually reviewed and approved by both the BLNR and the Board of Agriculture. And they have been. Since 2003, numerous properties that the Department has offered to transfer to DOA have been rejected by DOA for various reasons including topography, lack of agricultural features like irrigation, inaccessibility, irregular parcel sizes, or non-compliant tenants that the DOA did not have the capacity to manage.

Additionally, the Department has generally excluded large-acre pasture leases from these transfers because of the high natural resource value of certain pasture lands. Some pasture lands are remnant native forests that have never been plowed and contain native and endangered plants and wildlife. They adjoin or are near forest reserves and, as a result, have great potential for reforestation, and/or are important in providing access to other public lands for management, traditional gathering, and public recreation including hunting and trails.

The Department objects to the proposed transfer process set forth in the bill. The leases and revocable permits managed by the Department cover approximately 103,000 acres statewide. The attached map shows the number and location of lands potentially subject to transfer under Act 90, SLH 2003. The attached flyer entitled “Importance of Pasture Lands to DLNR’s Mission” provides additional information. If the Department wants to keep agricultural land, it has to prove that the land “is not in

¹ The fallacy of this bill centers on the idea that lands historically zoned “agricultural” aren’t important for natural and cultural resource protection, or also that they should never be used for other public or priority purposes such as public schools, colleges (e.g., West Oahu University once was agricultural land), affordable homes and rentals, renewable energy projects or other income producing opportunities like commercial, resort or mixed uses that could provide the much needed support to the State’s financial situation.

use for the public purpose for which it has been leased and should be rezoned as lands in the conservation district.” Those criteria only address whether the land is currently leased for agricultural production, resulting in an automatic transfer the lands to DOA. Instead, there should be criteria that analyze all the public trust values of these lands, such as:

- what resources are on the land,
- presence of endangered species,
- protection and care of our precious watersheds,
- recreational and hunting access,
- historical sites, and
- usability for agriculture.

Further, the Department does have grazing agreements within or adjacent to forest reserves that support mitigation of wildfire threats that are essential to protecting rare native forests and important watershed lands. It appears that the broad language of this bill would include transferring even these leased forest reserves to DOA.

Additionally, even unencumbered agricultural lands appear to have to be transferred to DOA under the measure, including over 32,000 acres. This follows because the lands need to fulfill two criteria to be retained by the Department: 1) not being used for the purpose they were leased for and 2) should be rezoned to conservation land. In other words, *unencumbered lands not appropriate for conservation land would also be required to be transferred to DOA, without an analysis of whether DOA benefits from those lands, or whether they could be used for other public purposes.*

The proposed process favoring transfer to DOA will have unintended consequences detrimental to the public trust. For example, the 461-acre Onouli tract in Kealahou, Hawaii (Tax Map Key: (3) 8-1:005:001) is landlocked, unencumbered and not used for any agriculture though it is zoned in the agriculture district. It contains significant native forest resources that would be damaged by cattle grazing or other agricultural use, and is at a high-risk of conversion, wiping out native forests. It is in a region where substantial forest restoration and forestry production is developing and could be an important resource for supporting sustainable forestry management. If this sizable tract of land were to be approved for unconditional transfer to DOA, it would prevent the Department from directly managing the land for forestry conservation, and further threaten conversion of native forests in this region.

In addition, the Department’s Division of Forestry and Wildlife (DOFAW) does have forest reserves, game management areas, and timber management areas that are found within agricultural district, totaling over 81,000 acres. These lands support forest product development and management, and therefore have an agricultural production component to them, but fall within the Department’s commercial and cultural forestry mandates. DOFAW prefers that these areas remain under its management and within the agricultural district to support these types of activities, but the mandate of the bill is worded so broadly that these lands might also have to be transferred to DOA because they are not appropriate to be rezoned in the conservation district.

The perceived need to transfer pasture leases to DOA can be relieved by providing the Department with statutory powers similar to those exercised by DOA in the management of its leases. Accordingly, the Department supports PART III of Senate Draft 1 because it gives greater flexibility to deal with

pasture leases (although it goes too far in extending that flexibility to industrial leases, as discussed below). Positive advancement in carbon sequestration challenges, wildlife management, wildfire protection, forestry development, and forest health concerns can be best managed by the Department through mutually beneficial practices with ranching, wildlife protection, and native forest restoration.

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.² Reforesting grasslands is the largest carbon sequestration opportunity for Hawaii to reach the goal of carbon neutrality by 2045 (Act 15, SLH 2018). The Department is inventorying its natural and working lands for carbon sequestration opportunities, and plans on utilizing this information to support and encourage carbon positive practices including a combination of grazing, soil improvement, agroforestry, and reforestation projects where appropriate. The Department also offers voluntary incentive programs for ranchers to reforest lands and is developing standards for carbon credit projects that could further diversify revenues for ranchers. The wholesale transfer of agricultural lands without analysis of natural resource value would sever the Department's direct role in overseeing these stewardship options.

In similar bills last session, ranchers assured the Legislature that they would implement conservation measures on their own and do not need Departmental oversight. However, many of the conservation accomplishments the ranchers cited were directly from funding and oversight by the Department, or from federal funds rather than rancher investment. While ranchers should be commended for these conservation measures, they are voluntary and there are no assurances that they will continue, particularly when the Department's direct role has been severed.

The Department prefers the framework of the Proposed SD2 mentioned on the first page of this testimony. If the Proposed SD2 is not scheduled for hearing, however, then the Department would be more amenable to Senate Draft 1 if PART II were amended as indicated in the attached proposed amendment. Further, the Department believes that SECTION 7 of the bill is unnecessary for the reasons explained above and requests the deletion of that section. Finally, Senate Draft 1 includes a statement in the preamble that the Department needs greater flexibility to manage its industrial leases as well and extends the provisions of the bill to industrial leases. However, this bill was intended to address perceived issues with the implementation of Act 90 and should remain focused on agriculture and pasture leases. The flexibility the Department is seeking for pasture leases is inappropriate for industrial leases, and there is another bill this Session that addresses extensions of industrial leases (House Bill 499, House Draft 2, Senate Draft 1). Accordingly, the reference to industrial uses should be deleted from the bill.

Thank you for the opportunity to comment on this measure.

² Baseline and Projected Future Carbon Storage and Carbon Fluxes in Ecosystems of Hawai'i Editors: Paul C. Selmants, Christian P. Giardina, James D. Jacobi, and Zhiliang Zhu U.S. Geological Survey Professional Paper 1834, 2017.

PROPOSED AMENDMENT

The Department proposes the following amendments (highlighted in grey) to PART II, SECTION 3, §166E-3(d), (e) and (f):

"(d) No later than one year after the effective date of Act _____, Session Laws of Hawaii 2021, the department of agriculture ~~[and]~~ shall transmit to the department of land and natural resources a list of all agricultural lands that it requests be transferred to it pursuant to this chapter that have not already been set aside to the department. The department of land and natural resources shall review the list and determine whether any of the lands requested: (i) contain important natural resources including remnant native forests, important watersheds, and/or native and endangered plants and wildlife; (ii) adjoin or are near forest reserves or are former forest lands and, as a result, have potential for reforestation; (iii) and/or are important in providing access to other public lands for management, traditional gathering, and public recreation including hunting and trails; or (iv) could be used now or in the future for other public or priority purposes such as, without limitation, public schools, colleges, affordable homes and rentals, renewable energy projects or other income producing opportunities or possibilities such as commercial, hotel, mixed uses, or industrial use that could provide the much needed support to the State's financial situation. The department and the department of land and natural resources shall meet and ~~[identify]~~ determine by mutual agreement ~~[the non-agricultural park lands under the jurisdiction of the department of land and natural resources that are not in use for the public purpose for which it has been leased and should be rezoned as lands in the~~

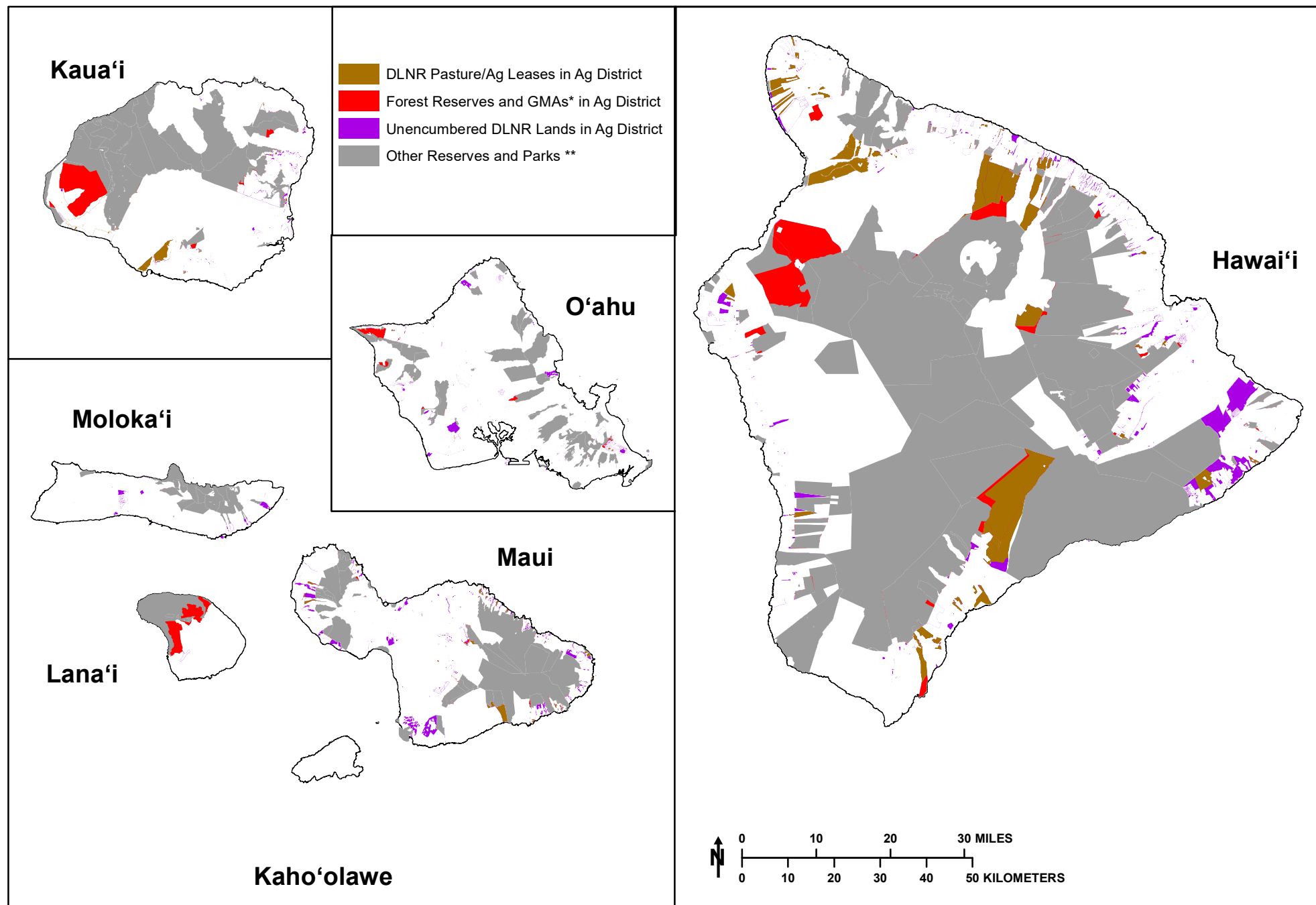
~~conservation district~~] whether all or any portion of the lands included in the list, or any portion of the lands under a lease or revocable permit encumbering the lands on the list, should be withdrawn from the lease or revocable permit or otherwise reserved to the department of land and natural resources by conservation easement or other reservation of rights and [should] remain under the jurisdiction of the department of land and natural resources. If the department and the department of land and natural resources are unable to reach a mutual agreement as to the transfer of any lands on the list, such lands and the leases or revocable permits encumbering them shall remain under the jurisdiction and management of the department of land and natural resources until such time as a mutual agreement can be reached as to their disposition. ~~[All other non-agricultural park]~~ As to those lands for which the department and the department of land and natural resources reach mutual agreement regarding disposition, ~~[currently leased and being utilized for the agricultural public purpose defined by their current lease agreements]~~ such lands shall be transferred to the department.

~~[(e) All non-agricultural park lands under the jurisdiction of the department of land and natural resources and not identified pursuant to subsection (d) shall be placed under the jurisdiction of the department no later than December 31, 2023.]~~

~~[(f)e) Beginning in the 2021-2022 fiscal year, and no less than every fifth fiscal year thereafter, the department of agriculture and the department of land and natural resources shall meet and determine additional lands that may be appropriate for transfer from the~~

department of land and natural resources to the department for the purposes of this chapter."

DLNR Lands in the Ag District



*GMA is Game Management Area. **Areas include lands both within and outside of the Ag District and DLNR management, and are shown for context. Features approximate and subject to change. DLNR (808) 587-4170. March 2021.



SUMMARY

DESCRIPTION

EXPECTED BENEFITS





2021 LEGISLATIVE PROPOSALS

The DLNR seeks greater flexibility under Chapter 166E, HRS to amend, extend, and issue new leases by negotiation. HB1014/SB1168 would give DLNR similar statutory flexibility as DOA for negotiating pasture leases.



PASTURE LAND CONSERVATION VALUES



Water



Fire & Forest Health



Native Ecosystems



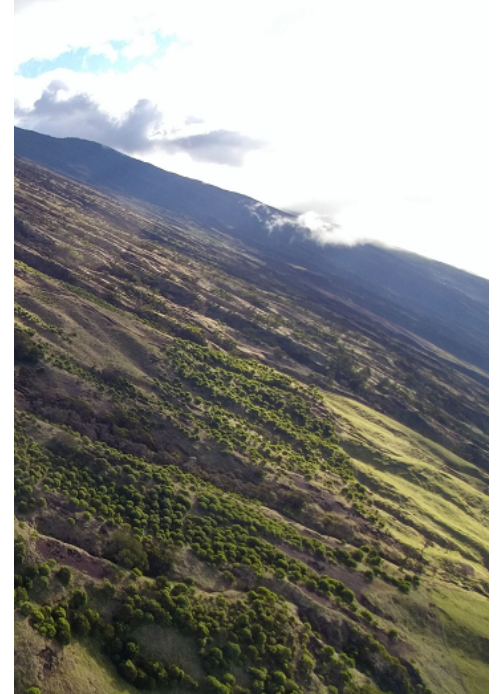
Forestry



Recreation

DLNR PARTNERSHIPS WITH RANCHERS

CLIMATE CHANGE AND CARBON NEUTRALITY



CONTACT PERSON

HB-469-SD-1

Submitted on: 4/1/2021 5:35:56 PM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Weidenbach	Testifying for Hawaii Aquaculture & Aquaponics Association	Support	No

Comments:

The Hawaii Aquaculture & Aquaponics Association (HAAA) strongly supports HB469 HD1 SD1 which sets a specific timeline for DLNR comply with Act 90 which was signed into law more than 17 years ago, requiring DLNR to transfer specific state ag leases to DOA, where they belong. Many farmers and ranchers have been waiting for decades to work under DOA's more beneficial and supportive lease program and management. If the State is serious about local food production and economic diversification, then the intent of this measure and its enforcement are essential. Thank you for the opportunity to testify in strong support of the very important measure for local agriculture producers. Please vote "yes" on HB 469 HD1 SD1.



SENATE COMMITTEE ON WAYS AND MEANS
AND
SENATE COMMITTEE ON JUDICIARY

April 6, 2021 – 10:00 A.M. - Videoconference

RE: HB 469 HD1 SD1 - Relating to the Transfer of Non-Agricultural Park Lands – Comments

Aloha Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole and Members of the Committees:

Hawai'i Aquaculture & Aquaponics Association
Hawai'i Cattlemen's Council
Hawai'i Farm Bureau Federation
Hawai'i Farmers' Union United
Hawai'i Food Industry Association
Hawai'i Food Manufacturers Association
Kohala Center
Land Use Research Foundation of Hawai'i
Maui Farm to School Network (Maui F2SN)
Ulupono Initiative
College of Tropical Agriculture and Human Resources - University of Hawai'i at Manoa

The Local Food Coalition offers comments on HB 469 HD1 SD1, which requires the Department of Land Natural Resources (DLNR) and Department of Agriculture (DOA) to meet and identify the non-agricultural park lands that should be rezoned as those in the conservation district. Requires that agricultural lands under the jurisdiction of DLNR be transferred to DOA no later than 12/31/2023. Requires DLNR and DOA to meet every five years to discuss transferring remaining lands. Requires DLNR to report to the Legislature. Requires DOA to inquire about any easements needed by DLNR before offering a lease. Authorizes the Board of Land and Natural Resources to amend and extend existing pasture or industrial leases and to issue new pasture or industrial leases by negotiation in furtherance of public purposes that DLNR and DOA are responsible for promoting.

Act 90 was passed in 2003 with the intent to transfer agricultural leases from DLNR to DOA. Farmers and ranchers need long term leases in order to reasonably invest in infrastructure improvements on the leased land. Without a deadline for transfer, they are left uncertain and it hampers any type of long-term planning. The success of ranchers and farmers is a key component in the State's goal to double local food production. **We respectfully request the committees to consider the original version of HB 469.**

The Local Food Coalition is an organization comprising of farmers, ranchers, livestock producers, investors and other organizations working to provide Hawaii's food supply.

Thank you for the opportunity to submit testimony.

John Garibaldi
808-544-8319
jgaribaldi@wik.com



Email: communications@ulupono.com

SENATE COMMITTEES ON WAYS & MEANS AND JUDICIARY
Tuesday, April 6, 2021 — 10:00 a.m.

Ulupono Initiative offers comments on HB 469 HD 1 SD 1, Relating to the Transfer of Non-Agricultural Park Lands.

Dear Chair Dela Cruz, Chair Rhoads, and Members of the Committees:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono offers comments on HB 469 HD 1 SD 1, which requires the Department of Land Natural Resources (DLNR) and Department of Agriculture (DOA) to meet and identify the non-agricultural park lands that should be rezoned as those in the conservation district; requires that agricultural lands under the jurisdiction of DLNR be transferred to DOA no later than 12/31/2023; requires DLNR and DOA to meet every five years to discuss transferring remaining lands; requires DLNR to report to the Legislature; requires DOA to inquire about any easements needed by DLNR before offering a lease; and, authorizes the Board of Land and Natural Resources to amend and extend existing pasture or industrial leases and to issue new pasture or industrial leases by negotiation in furtherance of public purposes that DLNR and DOA are responsible for promoting.

Ulupono supports the local livestock industry and its efforts to provide fresh, healthy products for Hawai'i's consumers and as such asks the Legislature to amend this measure to the original HB 469. 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 pasture land production, through a favorable lease structure promotes local food production. As Hawai'i's local food issues

Investing in a Sustainable Hawai'i



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 and increase our state's food security and resilience.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

HB-469-SD-1

Submitted on: 4/5/2021 6:43:26 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

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

Comments:

There is no need to go through a long process to give DLNR the ability to give agricultural leases-the DOA is already equipped to manage lands producing food-this is extremely important for ensuring these operations can continue to stay in agriculture and help reach the goal of doubling local food production.

DLNR's mission does NOT include food production, and leases under DLNR are not supported for food production, they also don't have the resources to implement this process.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

HB469 HD1, SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

Tuesday, April 6, 2021, 10:00 a.m.
VIA VIDEOCONFERENCE

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the committees,

The Hawaii Cattlemen's Council **offers comments on HB469 HD1, SD1**, as we have serious concerns about the new intent of this bill to change the law in favor of DLNR, rather than enforcing the law established 18 years ago to support food production. We respectfully suggest that the original language of HB469 be reconsidered so that the bill is indeed a mechanism to facilitate the transfer of non-agricultural park lands from DLNR to DOA. While the COVID-19 pandemic has exposed important issues to address, the transfer of these leases to DOA is still a pressing issue for Hawaii's ranchers and farmers. It is apparent, more so now than ever, that Hawaii needs to diversify its economy and support agriculture, an essential business. Ranchers need assurance that they will be able to continue operating on the land they have been stewarding.

As the purpose of Act 90, 2003 is to ensure the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture, lands identified by the DOA as being in active food production should be transferred, with any access or needs that DLNR requests tended to as part of an agreement or understand to the transfer. **The priority should be to transfer food producing leases to the Department of Agriculture – the leaseholders have been waiting 18 years for this to be done.** We should not make them wait further for rulemaking to occur to give them the lease terms they need, only to stay within a Department that does not have an interest in keeping the lands in active food production, but rather prioritizes reforestation. **The Department of Agriculture is already equipped to manage lands producing food—this is extremely important for ensuring these operations can continue to stay in agriculture and help reach the goal of doubling local food production.**

If a mutual decision is not made on the proper department to manage the land, then the land should be placed under management for which the major current use of the lands are being utilized, rather than stay under DLNR as default. This will ensure that agricultural production will get agricultural lease terms and management, but allows for lands to stay with the DLNR if there is currently work being done to reach DLNR's mission. While the prospect of potential management is understandable, it should not be given priority over the need for managing current activities.



Hawaii Cattlemen's Council, Inc.

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. With long-term leases based on agricultural production, ranchers will be even better situated to invest in long-term conservation practices.

There are still agricultural leases under the DLNR that should be transferred to the Department of Agriculture and we respectfully ask that the committee consider the original version of HB469. We appreciate the opportunity to testify on this critical matter for our industry.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director

**LARRY JEFTS FARMS, LLC
PO BOX 27
KUNIA, HAWAII 96759
(808) 688-2892**

HB469sd1, Relating to The Transfer of Non-Agricultural Park Lands
Senate WAM/JDC Decision Making Hearing – 10:00am
Tuesday, April 6, 2021

Testimony By: Larry Jefts
Position: Comments, Prefer HB469

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Senate Joint WAM/JDC Committee:

I am Larry Jefts, owner and operator of Larry Jefts Farms, LLC. We have more than 42 years of Hawaii farm experience on Molokai and Oahu. I am a volunteer director, serving as Chair of the West Oahu Soil and Water Conservation District (SWCD). I have been an officer of the Hawaii Farm Bureau for many years.

We understand that there are still agricultural leases in DLNR that should be transferred to the HDOA, where lease terms are favorable and encourage improvements to the land and expansion of local food production. This delay in lease transfers creates a situation where ranchers cannot do long-term planning to increase local grass-fed beef production.

In these times of heightened awareness of the need for food security, priority should be given to the transfer of food-producing DLNR leases to the HDOA. Some of the leaseholders have been waiting since 2003, when Act 90 was enacted.

The original HB469 is preferred since it provides a cleaner process that facilitates the transfer of non-agricultural park lands from DLNR to HDOA.

Ranchers, and all involved in agriculture production, need long-term leases before capital investments can be made for production.

Thank you for the opportunity to testify on this bill.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

April 6, 2021

HEARING BEFORE THE
SENATE COMMITTEE ON WATER AND MEANS
SENATE COMMITTEE ON JUDICIARY

TESTIMONY ON HB 469, HD1, SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Conference Room 211
10:00 AM

Aloha Chairs Dela Cruz and Rhoads, Vice-Chairs Keith-Agaran and Keohokalole, 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 provides comments on HB 469, HD1, SD1, which requires the Department of Land Natural Resources (DLNR) and Department of Agriculture (DOA) to meet and identify the non-agricultural park lands that should be rezoned as those in the conservation district, requires that agricultural lands under the jurisdiction of DLNR be transferred to DOA no later than 12/31/2023., requires DLNR and DOA to meet every five years to discuss transferring remaining lands, requires DLNR to report to the Legislature, requires DOA to inquire about any easements needed by DLNR before offering a lease, and authorizes the Board of Land and Natural Resources to amend and extend existing pasture or industrial leases and to issue new pasture or industrial leases by negotiation in furtherance of public purposes that DLNR and DOA are responsible for promoting.

The bill attempts to address the serious long-standing concerns of State pasture lessees under DLNR who provide economic diversity, further the State's goal of doubling food production, provide beneficial environmental stewardship and conservation services, and in general, act in the public interest.

We prefer the original version HB 469 which implements the intent of Act 90 SLH 2003 to ensure the long-term productive use of agricultural lands across the islands by transferring them to DOA, which is better equipped to manage agricultural lands. Nearly

18 years later, farmers and ranchers are still waiting for Act 90 SLH 2003 to be fully implemented.

The success of ranchers and farmers is critical to the State's goal to double local food production. DOA is the agency structured to advance agriculture and make it practical for producers to succeed and provide our communities with what they need. For example, under DOA, lands are appraised on their agricultural value while under DLNR, lands are auctioned for lease at the highest rates possible, which is typically unaffordable for farmers and ranchers. Additionally, DOA's long-term leases make it possible for farmers and ranchers to prudently invest in infrastructure improvement and resource conservation on the leased land.

Please pass this measure with the original language in HB 469 to support Hawaii's farmers and ranchers and our communities.

Thank you for taking our concerns into consideration and for your continued support of Hawaii agriculture.

HB-469-SD-1

Submitted on: 4/5/2021 9:19:23 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Testifying for Ponoholo Ranch Limited	Comments	No

Comments:

Ponoholo Ranch Limited **offers comments on HB469 HD1, SD1**, as we have serious concerns about the new intent of SD 1, rather than enforcing the law established 18 years ago to support food production. **Part 3 in SD 1 completely contradicts part 2 and the intent of HB 469.** Part 2 states that any lands under lease for agriculture will be transferred from DLNR to HDOA, but Part 3 gives a mechanism for DLNR to extend Ag leases. Which is it? **We respectfully suggest that HB 469 SD 1 be amended to completely drop part 3 or revert to the original language of HB469.**

As the purpose of Act 90, 2003 is to ensure the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the Department of Agriculture, lands identified by the DOA as being in active food production should be transferred, with any access or needs that DLNR requests tended to as part of an agreement or understand to the transfer. **The priority should be to transfer food producing leases to the Department of Agriculture – the leaseholders have been waiting 18 years for this to be done. The Department of Agriculture is already equipped to manage lands producing food—this is extremely important for ensuring these operations can continue to stay in agriculture and help reach the goal of doubling local food production.**

KAPAPALA RANCH
P. O. Box 537
Pahala, HI 96777
Kapapala.ranch@aol.com; lanipetrie@aol.com

Joint Hearing of:
Senate Ways and Means
Senate Judiciary

HB469 HD1 SD1
April 6, 2021 at 10:00 am

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Senate Ways and Means Committee

Chair Rhodes, Vice-Chair Keohokalole and Members of the Senate Judiciary Committee

Thank you for this opportunity to offer my reasons for opposing HB469 HD1 SD1.

A Tale of Two Factories

Love's Bakery and Hawaii Meats sat side by side on Middle Street on what was once the outskirts of Honolulu. Both factories fed our State's growing population. Both factories relied on raw product imports, flour to bake bread and corn to feed cattle. Thirty years ago Hawaii Meats' factory closed. Last week Love's Bakery closed. However, Hawaii Meats' shareholders were all hawaiian ranches that did not close. There is enough history steeped in the 30 years that followed the closure of Hawaii Meats to fill a small library. *First and foremost there must be an economic reason for rebuilding a closed factory;* be it a commercial scale bakery in Kalihi, a sugar refinery in Aiea, or a Middle Street abattoir for harvesting beef. The Detroit auto industry knows this lesson all too well.

Yet, emerging through the last three decades Hawaiian Ranchers, many of whom are ten to seventeen decades in business, are rebuilding and providing homegrown, grass-finished, island-processed beef. With huge influxes of capital and sheer determination the abattoirs are being rebuilt, retooled and renovated on each major island. These factory owners and rancher suppliers work together while grappling for market share in our schools, restaurants, and on the shelves our local grocers. Market brands like Mountain Apple, Maui Cattle Co., Paniolo Cattle Co., Hawaii Ranchers, Kuahiwi Ranch to name a few are gaining distinction daily in our grocery stores. Our ranch is a proud supplier to KTA's Mountain Apple program and also a supplier to the 'Farm to School' lunch program contributing beef for approximately 1,000,000 school lunches a year.

Ranchers are a resilient Hawaiian 'Grass Roots' industry. In the face of economic pressures from worldwide meat supplies, fickle consumer tastes, and the constant repurposing of agricultural lands, the cattle industry remains steadfast.

The DLNR pasture leases comprise 12.5% of the Agency's total land inventory of 800K acres. We ask you to consider Article 11 Section 3 of the Hawaii State Constitution: *"The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands."* Who should determine what is agriculturally

suitable land for the cattle industry? If this Bill passes as it is currently worded, you leave this decision entirely to the DLNR who has been reluctant to recognize food production as an equally important component contributing to the 'public's purpose'.

As a derivative of food production through cattle ranching there are millions of dollars of value contributed at no cost to the State, County and Federal governments and society. These highly overlooked benefits include things like water resources readily available to suppress fire. Habitat enhancement and preservation beneficial to Nēnē and game birds and soil conservation. Fuel load management through grazing further mitigates wildfire destruction including releasing stored carbon back into the atmosphere and oxygen production. At Kapapala, open ranch lands contribute to the public's recreational bird hunting experiences. As an economically viable business we are also able to manage public access to the Forest Reserves that has built a community of users resulting in collaborative cooperation that keeps the accesses free of abandoned vehicles, debris and litter. All of this comes as a backdrop, a by-product of food production by Hawaii's ranching community.

We will all cherish the memory of red checkered Love's bread bags and pink/white C&H sugar bags as products once proudly produced or grown in Hawaii. If you care for the future of Hawaii's food industry-

Please oppose HB469 HD1 SD1 and restore the original language set forth in HB469.

Respectfully submitted,

KAPAPALA RANCH

Bill and Lani Petrie

LATE

HB-469-SD-1

Submitted on: 4/5/2021 11:35:05 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bobby Farias	Testifying for Hawaii Meats LLC	Oppose	No

Comments:

Ranching is an essential business for Hawaii and we need assurance that we will be able to continue operating on the land that we were given. There are still agricultural leases under the DLNR that should be transferred to the Department of Agriculture and I respectfully ask that the committee consider the original version of HB469.

LATE

HB-469-SD-1

Submitted on: 4/5/2021 11:47:35 AM

Testimony for WAM on 4/6/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bud & Katy Gibson	Testifying for Rocker G Livestock	Oppose	No

Comments:

We very strongly oppose HB469. We have been under the control of DNLR for over 53+ years and have never had any help or support from DNLR as we have one our own, improved our pastures to increase our food production. The concern for food production is not their mission. That concern falls under the Department of Agriculture where it should be. DNLR has so much on their plate now to take care of, that not all aspects are being properly managed. During these 53+ years, we have also help to steward the area mauka of us that is now under Forrestry and Wildlife and contains many different hiking trails that are open to mountain bikers, hikers and equestrians, by helping to clear fallen trees, erosion amd most importantly fire control. DLNR has not had the personel to handle this maintenance.

Under DOA , lease rent is based on land production and DLNR is based on land value and highest and best use. This causes a higher lease rent and a heavy burden on those of us who are stewards and working towards our goal of self sustainability for food production. There is no need to take the time and the long process to give DNLR the ability to give agricultural leases when DOA is already equipped for this and is able to manage these lands for food production. We can not stress how important this is for ensuring these agricultural operation continue to stay in agriculture and help us to attain our goal of sustainability.



April 5, 2021

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

LATE

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senate Committee on Judiciary

Comments Regarding HB 469, HD1, SD1, Relating to Department of Agriculture (DOA); Department of Land and Natural Resources (DLNR); Non-Agricultural Park Lands; Pasture Leases; Industrial Leases (Requires the DLNR and DOA to meet and identify the non-agricultural park lands that should be rezoned as those in the conservation district; requires that agricultural lands under the jurisdiction of DLNR be transferred to DOA no later than 12/31/2023; requires DLNR and DOA to meet every five years to discuss transferring remaining lands; requires DLNR to report to the Legislature; requires DOA to inquire about any easements needed by DLNR before offering a lease; authorizes the Board of Land and Natural Resources [Board] to amend and extend existing pasture or industrial leases and to issue new pasture or industrial leases by negotiation in furtherance of public purposes that DLNR and DOA are responsible for promoting; effective 1/1/2050.)

Tuesday, April 6, 2021, 10:00 a.m.; Conference Room 211 & Videoconference

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF's mission is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to provide comments regarding **HB 469, HD1, SD1** and in consideration of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture in Hawaii.

HB 469, HD1, SD1. The original purpose of HB 469 was to establish a mechanism for the transfer of certain non-agricultural park lands from the DLNR to the DOA pursuant to Act 90, Session Laws of Hawaii (2003) (Act 90), and Chapter 166E, Hawaii Revised Statutes. It is important to recognize that the purpose and intent of Act 90 which was enacted in 2003 was to ensure the long-term productive use of public agricultural lands by allowing the transfer and management of said lands to the DOA, which is better suited to administer agricultural lands. Because many farmers and ranchers have been waiting for almost 18 years for the transfer of their land leases from DLNR to DOA pursuant to Act 90, enforcement measures including HB 469 have been introduced to further the effort to expedite the delayed transfer of such leases.

The purpose of the current iteration of HB 469, however, has now been curiously amended to detract from the measure's original enforcement purpose which was to expedite the long-delayed lease transfer process collaboratively by the DOA and DLNR, to seemingly afford the BLNR and DLNR more authority, control, and latitude over that process. While LURF acknowledges the significance of possible conservation interests in DLNR's agricultural landholdings, LURF believes that the proposed amendments in this SD1 version of HB 469 are unwarranted and would defeat the original intent of the underlying law (Act 90) which was clearly to ensure long-term productive use of public agricultural lands.

LURF's Position. LURF members include property owners, farmers and ranchers who own, maintain, and engage in agricultural enterprises, and who consider efforts to protect and support agriculture significant to the continued conduct of their operations and to help sustain and preserve farming and ranching businesses into the future.

Many farmers and ranchers have been awaiting the transfer of their land leases from the DLNR to the DOA pursuant to Act 90, which was enacted nearly 18 years ago to ensure long-term productive use of public agricultural lands to be managed by the DOA. The extended delay of the anticipated transfers has impaired the ability of farmers and ranchers to establish and implement long-term plans for their operations. The establishment of a mechanism for the transfer of leases, including determination of a time deadline by which to accomplish said transfer from the DLNR to the DOA, as well as the continued collaboration between the departments regarding such transfers, is therefore very much warranted and would greatly assist with this effort.

LURF supported the original measure as it promoted cooperation between the DOA and DLNR and recognized that the DOA can best advance and sustain the needs of agriculture and the agricultural industry in this State. LURF also understands that lands under the DOA are appraised on their agricultural value while lands under the DLNR are auctioned for lease at the highest rates possible, which is commonly beyond the affordability of local farmers and ranchers. Additionally, long term leases issued by the DOA make it possible for agricultural stakeholders to prudently invest in infrastructure improvement and resource conservation on the leased land.

As now drafted, the seemingly self-serving and strategic amendments of the original HB 469 (which pursuant to Act 90 had been to support farmers, ranchers and agricultural stakeholders via the establishment of a lease transfer process based on balanced interests and mutual agreement between the DOA and the DLNR), is lopsided and appears to accommodate the needs/wants of, and control over the transfer process by the BLNR/DLNR, which apparently have been determined to not only supersede and negate the bill's original intent, but the interests and significance of the State's agricultural industry.

The proposed language inserted into this SD1 can be interpreted as, and arguably used by the BLNR and DLNR to assert control over amongst other things: deciding (by disagreeing with DOA) which lands are to be transferred to DOA or retained; restrictions/encumbrances to be included in leases; the terms under which transferred lands must be used or else be rezoned as conservation land under DLNR's jurisdiction; and authority to amend and extend existing pasture or industrial lease for public purposes (whether it be for conservation purposes or food production).

The proposed SD1 may also be interpreted to unfairly allow the DLNR to exclude pasture leases from transfers based on its unilateral determination of significance for conservation, cultural, or recreational purposes, and fails to include amendment language which should require the DLNR to verify that lands over which it wishes to assert jurisdiction are presently being used for such purposes.

To now minimize the original intent and efforts of the Legislature to support the local agricultural industry by allowing prioritization of other issues (which are by no means insignificant, but which had not been the catalyst of the underlying Act 90) amounts to shoddy lawmaking and a callous disregard of, and disrespect for legislative intent and purpose.

By failing to recognize the significance of, and need to assist the local agriculture industry, and implement measures which help to support the viability and maintenance of agriculture in the State, this version of Bill 469 clearly contradicts ongoing efforts to promote economically viable agriculture, increased food production, and food self-sufficiency in Hawaii.

Because this measure necessarily affects two compelling, albeit competing social and economic concerns, care should be taken to avoid use of this bill to advocate or create an unfair advantage for one cause over the other. HB 469 should therefore explicitly require mutual collaboration and agreement between both the DOA and DLNR and the collective expertise of both departments to implement the mandated lease transfers of non-agricultural lands fairly and effectively.

For the reasons stated above, LURF has **serious concerns regarding HB 469, HD1, SD1**, and as explained above, must respectfully support the original intent of this bill, which was to establish a mechanism for the transfer of non-agricultural park lands from the DLNR to the DOA.

Senate Committee on Ways and Means
Senate Committee on Judiciary
April 5, 2021
Page 4

Thank you for the opportunity to present testimony regarding this matter.

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair



COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

HB469 HD1, SD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

Tuesday, April 6, 2021, 10:00 a.m.
VIA VIDEOCONFERENCE

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the committees,

My name is Jeri Moniz, my family and I own KK Ranch and we are currently pastoral lessees of the DLNR. We support the intent of HB469 to transfer agricultural leases including pastoral leases from the DLNR to the HDOA. We believe HDOA better understands the needs of agricultural lessees and will support our agricultural business to a greater extent than does the DLNR.

We feel that although certain sections of HB469 HD1 SD1 are supportive of the transfer to the HDOA there are other parts that are contradictory and supports providing DLNR with the same lease negotiation abilities as the HDOA thereby presumably negating the need for certain leases in agricultural production to be transferred to the DLNR. Please understand that there are other reasons for lessees such as us to want to come under the management of HDOA rather than DLNR.

- Although DLNR historically supported agriculture by leasing lands for agriculture production and provides water permits, it has also negatively impacted agricultural producers by taking lands out of agriculture and reducing water allocations necessary for production. We would not expect the HDOA to do the same unless some grievous neglect occurred on the part of the lessee that was detrimental to the lease.
- Although HB469 HD1 SD1 allows for the DLNR to negotiate leases, as does the HDOA, it does not require that the DLNR to renegotiate the lease with the current lessee at the end of a lease term. HDOA has adopted administrative rules, which clearly allow them to do so. By doing so the lessee is encouraged to continue making improvements to their leases throughout the life of their lease. Rather it is the case with DLNR leases, and not only agriculture leases, that the lessee quits making improvements towards the later part of their lease and allowing improvements to deteriorate. The concern by the lessee

is that capitol investments made towards the end would be lost if the DLNR would open bid or negotiate the lease with other than the current lessee. There is also real concern that DLNR intends remove current leases or sections of these leases with improvements for other public purposes more in line with their mission, as they have stated repeatedly is their intent, in their testimony.

- Historically the DLNR has not appraised and rented pastoral and agricultural leases at rates that were feasible for sustainable agricultural production. We believe that would not be an issue if the leases were managed by HDOA.

In closing we feel that HB469 HD1SD1 has some good intent. We are supportive of removing parts of leases that are not actively being utilized for agricultural production and having them rezoned for conservation and remain with the DLNR. We would also support working with the DLNR's expertise in some sort of cost share program like we do with USDA-NRCS to make conservation improvements to the leases, including reforestation. However such an endeavor must take into the account the current agricultural operation and the projects impact to it. Easements to forest reserves, natural area reserves and game management areas are also reasonable but impact to the agricultural operations must be mitigated. The DLNR has nearly a million acres in conservation, forest reserves, natural area reserves and game management. There is only 100,000 acres left in agricultural/pastoral leases. We are asking for your support to keep agricultural including the cattle industry in place on these leases. These lands have been in production and managed by agriculturalists and livestock producers for nearly 200 years.