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GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



ANNE E. PERREIRA-EUSTAQUIO
DIRECTOR

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JOVANIA DOMINGO DELA CRUZ
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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IN REPLY, REFER TO:
OCS 22.1086

April 1, 2022

To: The Honorable Sylvia Luke, Chair,
The Honorable Kyle T. Yamashita, Vice Chair, and
Members of the House Committee on Finance

Date: Monday, April 4, 2022
Time: 1:30 p.m.
Place: Room 308 Via Videoconference

From: Jovanie Domingo Dela Cruz, Executive Director
DLIR – Office of Community Services (OCS)

Re: S.B. No. 172, SD 1, HD 1, RELATING TO GRANTS

I. OVERVIEW OF PROPOSED LEGISLATION

This measure would expand the types of non-profit organizations that could qualify for grants under Chapter 42F, Hawaii Revised Statutes. Besides allowing an organization to qualify if the organization is incorporated under Hawaii law, the bill would allow organizations to qualify for Chapter 42F grants if they (1) spend at least 90% of their operating budget in Hawaii and (2) are registered with the Department of Commerce and Consumer Affairs and in possession of a valid Certificate of Vendor Compliance issued by the State, even though the organization is not incorporated in Hawaii.

II. CURRENT LAW

Under current legislation, HRS §42F-103, organizations must be incorporated in Hawaii. Chapter 42F is Hawaii's legislation that consolidates and organizes procedures for grants by the State through a legislative process to non-profit organizations for public benefit.

III. COMMENTS ON THE SENATE BILL

The Office of Community Services (OCS) has been regularly designated by the Legislature to be the expending agency for a number of Chapter 42F grants. Accordingly, OCS has experience in working with non-profits, both large and small. Also, OCS has administered GIA grants awarded to local chapters of Congressionally Chartered nonprofit organizations.

S.B. No. 172, SD 1, HD 1, RELATING TO GRANTS
April 4, 2022
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With regards to the 90% eligibility test, how far back in time the ninety-percent test would apply. Also, what courses of action the State could take if an organization fails to meet the 90% requirement after the grant has been issued but while the grant contract is still active? On a related issue, we anticipate that the organization's grant application would assure that its grant funds would be spent in Hawaii.

Thank you for the opportunity to testify on this matter.

OFFICE OF THE MAYOR

DEREK S.K. KAWAKAMI, MAYOR

MICHAEL A. DAHLIG, MANAGING DIRECTOR



Testimony of

Michael A. Dahilig

Managing Director, County of Kaua'i

Before the

House Committee on Finance

April 4, 2022 at 1:30 p.m.

Conference Room 302; Via Videoconference

In consideration of

Senate Bill 172 SD1 HD1

Relating to Grants

Honorable Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The County of Kaua'i **supports** SB172 SD1 HD1 which would allow an organization to qualify for grants under Chapter 42F, Hawai'i Revised Statutes, if the organization is incorporated under the laws of the State or spends at least 90% of its operating budget in the State and is registered with the department of commerce and consumer affairs and in possession of a valid certificate of vendor compliance issued by the State.

In rare cases, non-profits are incorporated under a Congressional Charter rather than a State Charter. Currently, non-profits with only a Congressional Charter are ineligible under Hawai'i statutes to participate in the Grant-In-Aid process.

With fewer than 100 non-profits with a Congressional Charter in existence across the country, the County of Kaua'i supports amending the existing law to allow any non-profits who spend at least ninety percent of its operating budget in Hawai'i, the same privileges as State Chartered non-profits who likewise function to improve the educational, cultural, and overall well-being of the residents and natural resources of Hawai'i.

The GIA program is robust and well vetted with many layers including Budget and Finance review. Understandably, the program is currently suspended due to the fiscal restraints from the COVID-19 pandemic. When the State is once again financially equipped to offer assistance to non-profits, we respectfully ask that all non-profits which meet the Department of Commerce and Consumer Affairs qualifications and spend at least ninety percent of its operating budget in Hawai'i be allowed to apply.

Passing SB 172 SD1 HD1 will allow organizations currently working in Hawaii who are already advancing the wellbeing of the State to be eligible to participate in the GIA process.

Thank you for your consideration in passing this measure.

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

April 4, 2022

TESTIMONY OF MASON K. CHOCK
COUNCIL VICE CHAIR, KAUAI COUNTY COUNCIL
ON
SB 172, SD1, HD1, RELATING TO GRANTS
House Committee on Finance
Monday, April 4, 2022
1:30 p.m.
Via Videoconference
Conference Room 308

Dear Chair Luke and Members of the Committee:

Thank you for this opportunity to provide testimony in support of SB 172, SD1, HD1, Relating to Grants. My testimony is submitted in my individual capacity as Vice Chair of the Kaua'i County Council.

The National Tropical Botanical Garden (NTBG) has been operating in the State of Hawai'i since 1970 and has established four (4) botanical gardens and five (5) preserves on the islands of Kaua'i, Maui, and Hawai'i. With over one hundred full-time employees, NTBG is steward to some of the most significant cultural sites in the state and manages the largest curated living collection of native Hawaiian plants in the world, a seed bank with over 14 million seeds of rare Hawaiian plants, and a herbarium of over 90,000 specimens of Hawaiian and Pacific Island plants. Over ninety-five percent (95%) of NTBG's annual operating budget is annually spent in Hawai'i.

I believe that nonprofit organizations that are working primarily in the State of Hawai'i and are doing work that benefits Hawai'i's communities, but are not incorporated in the State, like the NTBG, should be eligible for State funding through the GIA process.

Thank you again for this opportunity to provide testimony in support of SB 172, SD1, HD1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,

MASON K. CHOCK
Council Vice Chair, Kaua'i County Council

AAO:dmc



Hanalei Watershed Hui

April 1, 2022
Committee on Finance

Aloha Chair Luke, Vice Chair Yamashita and members of the committee,

The Hanalei Watershed Hui strongly supports SB 172 SD1, HD1.

Our organization is a community based 501 c3 working on Kauai to preserve, protect and support the cultures, environment and sustainable economies of the Hanalei watershed. We have done this work for more than two decades.

We have unsuccessfully applied for a Grant in Aid in the past. We consider Grants in Aid to be a necessary method of providing economic support for needed community projects. Our organization qualifies under the existing rules for application HOWEVER we strongly support this bill to provide the same opportunity for all.

We think the current amendments to this bill provide the needed protections and that opportunity.

Mahalo for the work on this legislation and your kind attention.

Me ke aloha,

Makaala Kaaumoana
Executive Director



NATIONAL TROPICAL BOTANICAL GARDEN

Saving Plants • Saving People

NATIONAL HEADQUARTERS 3530 Papalina Road, Kalāheo, Hawai'i 96741 USA
(808) 332-7324 · Fax (808) 332-9765 · www.ntbg.org

TO: The Honorable Rep. Sylvia Luke, Chair
Members of the House Committee on Finance (FIN)

DATE: Monday, April 4, 2022
TIME: 1:30 PM
PLACE: VIA VIDEOCONFERENCE in Conference Room 308

From: Chipper Wichman, President
National Tropical Botanical Garden

Re: **Testimony in Support of SB172 SD1 HD1 RELATING TO GRANTS**

I am writing today as the President of the National Tropical Botanical Garden (NTBG), an organization I have worked proudly for since 1976. NTBG is in STRONG support of SB172 SD1 HD1 – this is a bill that was introduced in 2021 at our request.

During the last legislative session, we successfully moved SB172 through various committee hearings and requested the amendments that are now reflected in the bill that is before you today. I am very pleased that at each hearing our bill was approved unanimously by the senators and representatives present at those hearings. This shows the broad support that this bill has received as it worked its way through the legislative session.

The final amendments to this bill were made on March 5, 2021, when SB172 SD1 was heard by EDC. At that hearing NTBG requested that the bill be amended to address concerns voiced by Finance Committee staff. The language in the amendment was drafted after I consulted with Mr. Jovanie Domingo Dela Cruz, Executive Director of the Office of Community Services (whose office administers a majority of the GIA awards). Mr. Dela Cruz's input was very helpful and he did not feel that the proposed spending requirement would be difficult for his office to verify.

As a bit of background for the Committee, the organization that I work for is an excellent example of why this bill is necessary. The National Tropical Botanical Garden (NTBG) has operated in Hawaii for over 50 years – we broke ground on Kauai in 1970. We spend millions of dollars every year employing Hawaii residents, paying Hawaii taxes, and protecting Hawaii's unique biocultural heritage in a way that no other organization in Hawaii does – through a network of botanical gardens and preserves that encompasses five different ecosystems on three different islands.

We are also unlike any other organization in Hawaii in that we operate under a Congressional Charter rather than a State Charter – this means that NTBG was incorporated in Washington, DC not Hawaii. Being a Congressionally Chartered 501(c)3 nonprofit organization is a status given to only a small number of organizations in the entire USA.

NTBG's Congressional Charter was a result of years of hard work of Senator Daniel Inouye and Representative Sparky Matsunaga who worked tirelessly to establish NTBG for the benefit of the

people of Hawaii. They believed that it would be very prestigious for Hawaii to have a Congressionally Chartered nonprofit operating in our State. We are a purpose-driven organization that was brought into being through the vision and commitment of these legendary political leaders.

Although we got our Congressional Charter in 1964, we existed in name only until we acquired our first property in 1969 on the island of Kauai. We officially broke ground on Jan 1, 1970, establishing the Lāwa'i valley as the location for our flagship operations which continues to this day. In the late 1970s, NTBG established our national headquarters in Kalāheo overlooking the Lāwa'i valley thanks to an extraordinary gift of land from Alexander and Baldwin.

From 1970 until 1990, NTBG operated solely in Hawaii. During that time NTBG acquired 2,000 acres of land including five different ecosystems and established four botanical gardens and five preserves on the islands of Kaua'i, Maui, and Hawaii.

In 1990, NTBG was gifted a 10-acre historic property in Miami, Florida. This property called The Kampong was the home of Dr. David Fairchild plant explorer extraordinaire. This is the only property NTBG holds outside of Hawaii and it is on the national register of Historic Places due to the importance of Dr. Fairchild in the history of the US Department of Agriculture.

Although NTBG does own and operate this small property in Miami, over 95% of NTBG's operating budget (which fluctuates between \$7-10 million annually) is spent exclusively in Hawaii each year. As part of our mission-driven work in Hawaii, NTBG manages the largest curated living collection of rare and endangered native Hawaiian plants in the world, a seed bank with over 14 million seeds of rare Hawaiian plants, and a research herbarium containing over 90,000 specimens of Hawaiian and Pacific Island plants and education programs that reach every school child on Kauai.

NTBG is also the steward to some of them most significant cultural sites in Hawaii including the 800-year old Piilanihale Heiau in Hana, Maui and the 1,000-year old Limahuli Archaeological Complex in Hā'ena, Kauai. NTBG's Breadfruit Institute maintains the world's largest germplasm collection of breadfruit (over 150 varieties) and has given away over 10,000 breadfruit trees to farmers and community groups in Hawaii to help establish the base of a future breadfruit industry in the Hawaiian Islands. Over the past 30 years we have been honored several times by resolutions passed by the Hawaii Legislature.

NTBG's has over 100 full-time employees in Hawaii and our payroll in Hawaii in 2022 will once again be over \$4 million per year (in spite of the impacts of COVID on our operations). This is 93% of total payroll for the whole organization and NTBG pays over \$40,000 in Hawaii GET annually. NTBG also brings in millions of dollars each year to Hawaii from donors and visitors from the continental US – these are funds that would otherwise not circulate in our Hawaiian economy.

In 2008, NTBG was awarded a \$200,000 GIA (GIA log No: 189-C) to support the construction of a new \$20 million botanical research center on Kauai to house our herbarium, labs, research offices, and our seed conservation lab. We did not apply again for a GIA until 2019 which is


when we discovered that HRS_0042F-0103 now requires organizations to be incorporated in Hawaii to qualify for a GIA.

This is why we asked members of our delegation from Kauai to introduce HB75 and the companion bill SB172. We believe that ALL nonprofit organizations that are working in Hawaii and which are in good standing with the State should be eligible for State funding through the GIA process.

Having been through the GIA process in the past, I can assure you that it is very well run and very competitive. The robust review process will effectively eliminate weak proposals and the Legislature itself will ultimately determine if a grant should be awarded. All we are asking for is the ability to apply and become part of this process.

On behalf of our employees and most importantly the natural and cultural resources of the State of Hawaii that we mālama every day, I thank you for your consideration of this testimony and hope that you agree that supporting SB172 SD1 HD1 is in the best interest of our State!

Me ke aloha a me ka mahalo nui,

A handwritten signature in black ink, appearing to read "Chipper Wichman", with a long, sweeping flourish extending to the right.

Chipper Wichman, President,
National Tropical Botanical Garden

SB-172-HD-1

Submitted on: 4/3/2022 8:58:41 AM

Testimony for FIN on 4/4/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Presley Wann	Hui Maka'ainana O Makana	Support	Written Testimony Only

Comments:

Aloha Representative Sylvia Luke Chair and House Committee on Finance members,

On behalf of the Hui Maka'ainana O Makana, Ha'ena, Kaua'i, we stand in strong support and urge the passage of SB172. We feel that this bill supports the shared visions and goals the Hui and Limahuli National Botanical Gardens have for our Ha'ena and other Kaua'i communities. We feel, that passage of this bill could benefit many of our local businesses by keeping grant funding locally. We see the benefit to the State of Hawaii economy as well. Mahalo for your consideration and attention to this matter, Presley Wann, President for the Hui Maka'ainana O Makana



HULIAUAPAA

HEARING OF THE HOUSE OF REPRESENTATIVES
ATTN: COMMITTEE ON FINANCE
Testimony Strongly Supporting SB172, SD1, HD1

Requesting the expansion of eligible organizations to qualify for grants under chapter 42F, HAR, **if** the organization is incorporated under the law of the State **or** spends at least ninety per cent (90%) of its operating budget in the State **and** is registered with the department of commerce and consumer affairs **and** in possession of a valid certificate of vendor compliance issued by the State.

April 4, 2022 1:30 pm, Via Videoconference

Aloha Chair Sylvia Luke, and Honorable Members of the Senate Committee on Judiciary,

My name is Dominique Leu Cordy and I am testifying today on behalf of Huliauapaa in **strong support** of SB172, HD1, SD1 as amended.

Huliauapaa is a 501(c)(3) non-profit organization incorporated in Hawaii, we are Hawaiian founded and majority run, our *Vision* is wahi kupuna thriving through Hawaiian self-determination. Our *Mission* is to grow Hawaii's communities through culturally based dimensions of innovative learning, leadership development and collaborative networking in wahi kūpuna stewardships. Huliauapaa has worked on every Hawaiian island except Niihau, and including Papahānaumokuākea, I for example am on Kauai.

As a tiny local non-profit we value the time and effort that law makers, such as yourselves, have put into restrictions for GIA funds; in order to prevent abuse from out of State organizations. We also feel that your time and effort on this issue acknowledge the work many of us small non-profits do in our own communities. And considering Hawaii's uniqueness, the importance of local, rural and in place organizations serving our diverse communities is impossible to understate.

We feel that the current language of this Bill, as amended, maintains the intent of the GIA for small local non-profits such as ourselves, but still allows other important place based (and local in operations—if not in incorporation) non-profits to participate.

Specifically, I support the National Tropical Botanical Gardens (NTBG), who has been a staunch and important partner within small rural Hawaii communities, that Huliauapaa works with in Haena and Hana. The National Tropical Botanical Garden (NTBG) has operated in Hawaii for over 50 years –broke ground on Kauai in 1970. They spend millions of dollars every year employing Hawaii residents, paying Hawaii taxes, and protecting Hawaii's unique biocultural heritage in a way that no other organization in



HULIAUAPA'A

Hawaii does – through a network of botanical gardens and preserves that encompasses five different ecosystems on three different islands. They also provide meaningful jobs in rural areas on outer islands of the State, that offer living wages.

Further we believe the current amended language, is a particularly important and effective expansion of the bill while still maintaining the integrity of its intent. We particularly support the inclusion of:

or spends at least ninety per cent (90%) of its operating budget in the State

This requirement in addition to mandating DCCA registration and a valid CVC is a sufficient gate keeper that protects Hawaii non-profits, like Huliauapaa. As amended this Bill is able to prevent abuse of the State GIA, while including organizations that provide important support within Hawaii and to our local and Hawaiian communities, and who have been previously excluded.

Please pass this Bill and allow organizations such as NTBG, who might have been incorporated out of state, but who spend *at least 90% of their operating budgets in the State of Hawaii* to be eligible for the GIA.

Me Ka Ha'aha'a,

Dominique Leu Cordy

Huliauapa'a

Strategy & Innovation Officer

Huliauapaa.org

Dear Chair Luke, Vice Chair Yamashita and Members of the Finance Committee:

My name is Joel Guy, the Executive Director of The Hanalei Initiative (THI), a non-profit in Hanalei, Kaua'i and I am writing in support of Senate Bill 172, SD1, HD1. THI is a community-based non-profit that is dedicated to finding sustainable solutions for pressing issues on the north-shore of Kaua'i.

In June 2021, the Board of Land and Natural Resources (BLNR) approved a one-year revocable permit (RP) for the non-profit Hui Maka'āinana o Makana (Hui) to (1) oversee and manage the Hā'ena State Park (HSP) reservation system, including collecting both parking and entry fees as well as an integrated shuttle system to reduce the number of cars that enter HSP each day and (2) to manage the cultural landscape of HSP. The Hui subcontracts THI to manage the reservation and parking system and to operate the shuttle, while the Hui conducts mālama 'āina activities and resource enhancement in HSP.

The National Tropical Botanical Garden's Limahuli Garden and Preserve in Limahuli Valley and uplands, the Hui and THI's mālama 'āina activities and park user management within HSP and the establishment of the The Hā'ena Community-Based Subsistence Fishing Area offshore is an important partnership and network of Kaua'i non-profits working together in adopting an ahupua'a approach for a sustainable land and marine management framework and is often sought out as a model for other rural communities throughout Hawai'i struggling with uncontrolled visitor growth.

It is unfortunate that an organization like the National Tropical Botanical Gardens, whose primary focus is healthy and thriving Hawaiian ecosystems, is not eligible for a State grant-in-aid because of the restrictive incorporation requirements. I hope the law can be corrected to address this inadvertent exclusion.



Joel Guy

The Hanalei Initiative

www.hanaleiinitiative.org

Community-led, Government-Supported

April 1, 2022

Aloha Chair Luke, Vice Chair Yamashita and Members of the Finance Committee:

I am writing in support of Senate Bill 172, SD1, HD1. From 1996 to 2002, as the State Representative of the Kauai-Maui canoe district, I was so proud of the fact that two of the four NTBG gardens and preserves, Limahuli in Haena and Kahanu in Hana, and were located in the communities I represented.

This legislation is necessary to address a situation where the National Tropical Botanical Garden (NTBG), a non-profit based in Hawaii, is ineligible for grants under HRS Chapter 42F-103 which requires organizations to be incorporated in Hawaii. This is a very unique situation because NTBG was established by a congressional charter through the efforts of Hawaii U.S. Senators Inouye and Matsunaga over 50 years ago to address Hawaii being identified as the “endangered species capital of the world,” recognizing the fact that while only comprising less than one percent of the United States’ land mass, Hawaii has 44 percent of the nation’s endangered and threatened plant species.

A June 2013 U.S. Government Accountability Office report on Congressional Chartered Organization (CCO) states:

Congress has chartered organizations for diverse purposes, but CCOs generally have missions and goals dedicated to promoting a public purpose to which private individuals and nonfederal partners are drawn. **CCOs have been described as being perceived to be better suited than typical government agencies to handle certain issues and deliver services by partnering activities with nonfederal entities to produce public value greater than what the federal government can accomplish alone.** We have previously reported that many of the meaningful results that the federal government seeks to achieve require the coordinated efforts of more than one federal agency, level of government, or sector. (emphasis added)

There is no doubt that within Hawaii NTBG has lived up to its CCO purpose and mission “to enrich life through discovery, scientific research, conservation, and education by perpetuating the survival of plants, ecosystems, and cultural knowledge of tropical regions” by partnering and coordinating its efforts with “more than one federal agency, level of government, or sector.” NTBG’s collection includes the largest assemblages of native Hawaiian plant species and breadfruit cultivars in existence. Many of the species in its collections are threatened and endangered or have disappeared from their native habitats, and where NTBG is working to restore habitats and/or save plants facing extinction within its preserves and gardens.

Although I understand that as a CCO, NTBG’s annual reports are scrutinized on a federal level, I do support the proposed amendment to require all out-of-state incorporated non-profits to be able to verify that 90% of their operating budget is spent in Hawaii to be eligible for public grants under Chapter 42F.

Mahalo for your favorable consideration of this bill.

Hermina “Mina” Morita
P.O. Box 791
Hanalei, Kauai, HI 96714
herminamorita@gmail.com

For the National Tropical Botanical Garden (NTBG) it is important that they qualify for Grant In Aid (GIA) funding to continue providing educational and other programs in direct support to our state and local communities.

As a private citizen and volunteer at NTBG I have personally had the opportunity to see first hand the contributions made to our community.

Through their Education department I have been part of a team introducing hundreds of students each year to NTBG's McBryde Garden on Kauai where students are given an opportunity to learn about plant evolution as well as historical and current Hawaiian cultural uses of plants. As we move towards building a more sustainable future for our state these are important learning opportunities for our students who will be our leaders of tomorrow.

I have been privileged to work at NTBG's Botanical Research Center to help make over 100,000 botanical specimens of Hawaiian and Pacific Island plants available digitally online to scientists and researchers around the world. In 2021 as part of a volunteer team at the BRC we made significant strides in high resolution imaging of botanical specimens that will enhance future research for other institutions as well as the University of Hawaii.

Over the 14 years I have been a volunteer at NTBG I have also worked with NTBG's Breadfruit Institute that has given away over 10,000 breadfruit trees in Hawaii to help establish a sustainable breadfruit industry. In recent times the Breadfruit Institute has developed a breadfruit agroforestry demonstration project for study of agricultural practices for the future.

These are just a few personal examples from a private citizen of the many contributions that the National Tropical Botanical Garden is making to our local community and state.

Nonprofit organizations that are working primarily in Hawaii and are doing work that benefits the State of Hawaii, but are not incorporated in Hawaii (like NTBG) should be eligible for State funding through the GIA process.

Frank O. Hay
kokee@okauai.com

4. April 2022

The Honorable Members of the Finance Committee
Representative Sylvia Luke, Chair
House of Representatives
Hawaii State Capitol
Honolulu, Oahu, Hawaii 96813

MEETING IN HONOLULU on April 4, 2022

TESTIMONY IN STRONG SUPPORT OF THE PROPOSED SENATE BILL 172, Relating to
Grants; Grants; Standards; Operating Budget; Qualifications

Aloha,

I have been a resident of Hawaii for almost sixty years. I am proud to have been a resident of the island of Kauai for almost fifty years, and a member of the National Tropical Botanical Garden for more than forty years. I have closely observed the amazing successes of the Garden in preserving native flora and its habitat, as a donor and a volunteer for many of those years.

I share the dream that our late Senator Daniel K. Inouye had when he introduced a Bill chartering the Garden by an Act of Congress. As previous testimony has offered, more than 90% of its expenditures for its operations are in Hawaii, and the same proportion of the lands under its stewardship are in our islands.

As such, it is appropriate that the Garden and other organizations, chartered elsewhere, but meeting the criteria of the amended Bill, be eligible for grants under Chapter 42F, Hawaii Revised Statutes.

I therefore ask your support in passing the Bill, as amended. Thank you for this opportunity to testify on this important matter.

Very truly yours,

A handwritten signature in black ink that reads "Hay". The signature is written in a cursive style with a large, sweeping loop at the end of the word.

268 Hua Place, Wailua Mauka, Kapaa, Kauai, Hawaii 96746-9608
(808) 635-3226