



**STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097**

March 20, 2023  
2:00 P.M.  
State Capitol, RM 224

**H.B. 1406 HD1  
RELATING TO ENVIRONMENTAL PROTECTION**

House Committees on Transportation and Culture and the Arts and  
Agriculture and Environment

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The Department of Transportation (DOT) offers **comments** on H.B. 1406 HD1 which requires that asphalt removed from roads and driveways be recycled, requires that the DOT adopt rules regarding best practices for paving projects, asphalt processing, and asphalt disposal. It also requires that the Department of Health (DOH) designates asphalt storage sites or develops a centralized asphalt state processing and storage facility.

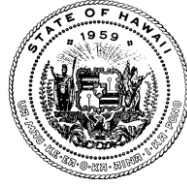
The DOT has already published a Construction Best Management Practices (BMPs) Field Manual, last updated in 2021. The manual includes guidance on BMPs for stockpile management to prevent release of old asphalt into the environment. BMPs include:

- Locating stockpiles a minimum of 50 feet, or as far as practicable, from concentrated runoff, waterbodies, and inlets. If impacted, additional precautions should be taken to protect storm drain inlets, open drainage facilities, and waterbodies.
- Providing physical diversions to protect stockpiles from concentrated runoff.
- Covering stockpiles with 10 mil plastic sheeting or comparable impermeable materials.
- Protecting stockpiles with a temporary perimeter sediment barrier.
- Requiring stockpiles of paving materials to be placed on 10 mil plastic sheeting, or similar impermeable material, or to be disposed of properly off-site at the end of the day. Stockpiles are not allowed to be placed directly on bare ground.
- Ensuring stockpile heights can be managed and that they are not taller than surrounding structures.

The manual also provides information about stockpile inspection and maintenance of BMPs.

There are already controls on facilities that manage/ process Reclaimed Asphalt Pavement (RAP). In our discussion with DOH, there are already permitted facilities on Oahu, Maui and Kauai that accept RAP for recycling. They are both state owned and privately owned (by contractors). The contractor's facilities are also required to obtain a National Pollutant Discharge Elimination System permit which regulates their stormwater discharge quality.

Thank you for the opportunity to provide testimony.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
P. O. BOX 3378  
HONOLULU, HI 96801-3378  
[doh.testimony@doh.hawaii.gov](mailto:doh.testimony@doh.hawaii.gov)

In reply, please refer to:  
File:

**Testimony COMMENTING on HB1406 HD1  
RELATING TO ENVIRONMENTAL PROTECTION.**

SENATOR CHRIS LEE, CHAIR  
SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS  
SENATOR MIKE GABBARD, CHAIR  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Hearing Date: 3/20/2023

Room Number: 415

1 **Fiscal Implications:** Unknown

2 **Department Testimony:** The Department of Health (Department) provides comments on this  
3 measure.

4 This measure proposes that the Department require projects greater than a specified size,  
5 which include asphalt removal as an activity, recycle a certain percentage of the planed asphalt  
6 generated by the project, except where asphalt recycling is not feasible that it be taken to a  
7 landfill and used as landfill cover. It also proposes that the Department of Transportation (DOT)  
8 in consultation with the Department adopt rules that establish paving project best practices,  
9 prohibit asphalt distribution into the environment, and establish asphalt disposal standards.  
10 Finally, it proposes that the Department designate either a site on each island or one central site  
11 for processing and storage of excess planed asphalt.

12 The Department encourages the use of clean, cured asphalt for reuse in reclaimed asphalt  
13 pavement (RAP) paving projects or as clean fill material. Section 342H-1, Hawaii Revised  
14 Statutes includes cured asphalt in its definition of inert fill. The Department has traditionally  
15 allowed cured asphalt, free of any contaminants, to be used as clean fill material except at  
16 chemical removal or remediation project sites overseen by the Department.

17 Additionally, the Department has permitted facilities on Oahu, Maui, and Kauai to accept  
18 cured asphalt for recycling purposes. Although Hawaii island does not have a permitted facility

1 to accept cured asphalt, the only landfill on the island reports that they do not receive significant  
2 amounts of asphalt for disposal. Similarly, on Oahu it has been reported that approximately  
3 45,000 tons of cured asphalt is taken to these permitted facilities versus approximately 2,500 tons  
4 going for landfill disposal.

5 Following discussion with DOT, it is the Department's understanding that the majority of  
6 cured asphalt from its paving projects are either reused in the same project to make new  
7 pavement or retained by the paving contractor for later reuse or recycling.

8 The Department concludes that much of clean, cured asphalt is being reused or recycled  
9 and is not being landfilled under existing practices and that the proposed goals of the bill will not  
10 significantly increase quantities of recycled asphalt.

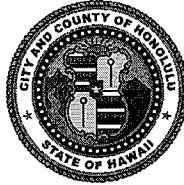
11 Thank you for the opportunity to testify.

12 **Offered Amendments:** None

DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813  
Phone: (808) 768-8480 • Fax: (808) 768-4567  
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RICK BLANGIARDI  
MAYOR



HAKU MILLES, P.E.  
DIRECTOR

BRYAN GALLAGHER, P.E.  
DEPUTY DIRECTOR

March 16, 2023

The Honorable Chris Lee, Chair  
The Honorable Lorraine R. Inouye, Vice-Chair  
and Members of the Committee on Transportation and Culture and the Arts

The Honorable Mike Gabbard, Chair  
The Honorable Herbert M. "Tim" Richards, III, Vice Chair  
and Members of the Committee on Agriculture and Environment  
The Senate  
State Capitol, Conference Room 224 & Video Conference  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Lee and Gabbard, Vice-Chairs Inouye and Richards, and Members:

SUBJECT: House Bill No. 1406 HD1  
Relating to Environmental Protection

The Department of Design and Construction (DDC) respectfully **opposes** House Bill No. 1406 HD1, the purpose of which is to:

- (1) Require public and private entities, including the State, the counties, and their contractors to recycle at least \_\_\_ per cent of old asphalt into new asphalt when executing a paving project greater than \_\_\_ square yards;
- (2) Require public and private entities, including the State, the counties, and their contractors to dispose of old asphalt as a landfill cover only after making the determination that recycling is not possible;
- (3) Require the department of transportation to set standard best management practices for paving projects requiring all asphalt processing, stockpiling, and disposal procedures to be explicitly prohibitive of the distribution and incorporation of old asphalt into the environment; and
- (4) Require the department of health, to either:
  - (A) Designate a site on each island where unused old asphalt can be safely and securely stored for future use in new pavement, not to be located in areas known to flood; or

The Honorable Chris Lee, Chair  
and Members of the Committee on Transportation and Culture and the Arts  
The Honorable Mike Gabbard, Chair  
and Members of the Committee on Agriculture and Environment  
March 16, 2023  
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- (B) Develop a centralized state processing and storage facility to serve as a repository for all excess old asphalt unable to be recycled in place.

The bill is unnecessary for the following reasons:

As indicated in the Department of Transportation's (DOT) testimony dated February 24, 2023, "The DOT has already published a Construction Best Management Practices (BMPs) Field Manual, last updated in 2021. The manual includes guidance on BMPs for stockpile management to prevent release of old asphalt into the environment... There are already controls on facilities that manage/ process Reclaimed Asphalt Pavement (RAP). In our discussion with DOH, there are already permitted facilities on Oahu, Maui and Kauai that accept RAP for recycling. They are both state owned and privately owned (by contractors). The contractor's facilities are also required to obtain a National Pollutant Discharge Elimination System permit which regulates their stormwater discharge quality."

Also, as indicated in the Department of Health's testimony dated February 24, 2023, "...the Department has permitted facilities on Oahu, Maui, and Kauai to accept cured asphalt for recycling purposes. Although Hawaii Island does not have a permitted facility to accept cured asphalt, the only landfill on the island reports that they do not receive significant amounts of asphalt for disposal. Similarly, on Oahu it has been reported that approximately 45,000 tons of cured asphalt is taken to these permitted facilities versus approximately 2,500 tons going for landfill disposal... Following discussion with DOT, it is the Department's understanding that the majority of cured asphalt from its paving projects are either reused in the same project to make new pavement or retained by the paving contractor for later reuse or recycling... The Department concludes that much of clean, cured asphalt is being reused or recycled and is not being landfilled under existing practices and that the proposed goals of the bill will not significantly increase quantities of recycled asphalt."

The proposed establishment of legal, numeric limits for asphalt recycling would be difficult to enforce and consume valuable resources to document precise areas and percentages of planned asphalt pavement. Furthermore, the proposed numeric limits might not accommodate site-specific conditions that would be best served by a higher quality asphalt-concrete pavement. Pavements with shorter service life are environmentally detrimental in the long term.

The Honorable Chris Lee, Chair  
and Members of the Committee on Transportation and Culture and the Arts  
The Honorable Mike Gabbard, Chair  
and Members of the Committee on Agriculture and Environment  
March 16, 2023  
Page 3

Based on the above consideration, DDC respectfully **opposes** House Bill  
No. 1406 HD1.

Thank you for the opportunity to **oppose** this bill.

Sincerely,



Haku Milles, P.E., LEEP AP  
Director

**HAPI****HAWAII ASPHALT PAVING INDUSTRY**

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March 16, 2023

2:00 p.m.

State Capitol, Conference Room 224

**H.B. 1406**  
**RELATING TO ENVIRONMENT PROTECTION**

Senate Committee on Transportation and Culture and the Arts  
Senate Committee on Agriculture and Environment

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The Hawaii Asphalt Paving Industry (HAPI) offers comments on H.B. 1406 which requires that asphalt removed from roads and driveways be recycled, requires that the DOT adopt rules regarding best practices for paving projects, asphalt processing, and asphalt disposal. It also requires that the Department of Health (DOH) designates asphalt storage sites or develops a centralized asphalt state processing and storage facility.

**HAPI opposes H.B. 1406 and believes It is not necessary.** This is a follow-up to our testimony submitted for the House Committee on Finance hearing on February 24, 2023.

Bullet point summary of the discussion points below:

- Item 1: Producers of asphalt pavement mixes strive to use the maximum amount of RAP allowed by the various government agencies.
- Item 2: It would make the most sense to continue the current practice of having contractors haul the RAP generated at their projects to asphalt plants for future use.
- Item 3: It would make the most sense to continue the current practice of dealing with RAP.
- Item 4: Contractors or asphalt plants paying any fee to deliver or pick-up material from a facility would increase the price of asphalt pavement.
- Item 5: Can the existing facility on each island can accommodate RAP generated?
- Item 6: Managing RAP stockpiles will be challenging and costly for the DOH.
- Item 7: H.B. 1406 would require the DOT to adopt rules regarding best practices; they already have said practice in place.
- Item 8: We confirm that the DOH understanding of the majority of cured asphalt from its paving projects is reused and concur with their conclusion that most of the RAP does not go to landfills.

Discussion points:

1. One goal of the bill is to encourage the use of reclaimed asphalt pavement (RAP).  
**Producers of asphalt pavement mixes strive to use the maximum amount of**



**RAP allowed by the various government agencies.** We support the DOT's current ongoing effort to increase the amount of RAP to 50% in their asphalt mixes and have worked together to find methods that can be used to meet this requirement.

Our member Grace Pacific LLC is scheduled to pave a section of Fort Weaver Road in 2023 as part of the DOT's pilot project to utilize more RAP in our mixes. Said pavement will be monitored by the DOT to evaluate the performance of that pavement. Let's applaud and support this forward-thinking initiative without adding legislation that will slow down the substantial progress. H.B. 1406 will not increase the amount of RAP currently being used in the operations of the AC plants.

2. Delivery of the RAP produced from paving projects to a central facility and then hauling from said location to a plant to be used in the production of asphalt pavements is not economical. It would result in an increase in the price of asphalt pavements due to the increase in hauling costs and would burn additional fossil fuels, furthering contribution to global warming.
3. Producers/contractors and the HDOT currently efficiently utilize RAP from the paving projects. **It would make the most sense to continue the current practice of having contractors haul the RAP generated at their projects to asphalt plants for future use.** The current practice saves time and energy and is the least cost and most competitive option to repurpose the #1 recycled product in Hawaii and in America as stated in bill H.B. 1406 itself. Let us not overregulate success.
4. What funding would be used to pay for the on-going operations of the storage location. Would producers pay a fee for RAP that is delivered to facility and then pay another fee when they pick-up RAP to use in production? **Paying any fee would increase the price of asphalt pavement since the asphalt plants do not pay a fee to obtain the RAP from contractors.** Although the Committee's finding is that implementing this measure will help Hawaii save costs, it will actually do the opposite.
5. **Can the existing facility on each island accommodate RAP generated?** For example, the amount of RAP generated annually on Oahu is conservatively 500,000 tons, which is approximately 7,000,000 cubic feet. If the average stockpile height is 10 feet, that would require approximately 700,000 square feet (approximately 16 acres) land not including haul roads and buildings.
6. **Managing RAP stockpiles will be challenging and costly.** It will be challenging to control the quality of the RAP that gets delivered to the storage locations. Monitoring the quality of the RAP delivered may require additional qualified manpower. Additional equipment, such as loaders and truck scales may also need to be purchased.

7. We concur with the Department of Transportation's (DOT) testimony dated February 4, 2023. As stated in their testimony "**the DOT has already published a Construction Best Management Practices (BMPs) Field Manual, last updated in 2021.** The manual includes guidance on BMPs for stockpile management to prevent release of old asphalt into the environment."

Their testimony goes on to say that "there are already controls on facilities that manage/ process Reclaimed Asphalt Pavement (RAP). In our discussion with DOH, DOH stated that there are already permitted facilities on Oahu, Maui and Kauai that accept RAP for recycling. They are both state owned and privately owned (by contractors). The contractor's facilities are also required to obtain a National Pollutant Discharge Elimination System permit which regulates their stormwater discharge quality."

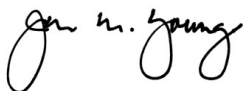
8. We also confirm that the Department of Health's (DOH) understanding "**that the majority of cured asphalt from its paving projects are either reused** in the same project to make new pavement or retained by the paving contractor for later reuse or recycling."

Further **we concur with the DOH's conclusion** "that much of clean, cured asphalt is being reused or recycled and is not being landfilled under existing practices and that the proposed goals of the bill will not significantly increase quantities of recycled asphalt."

I will be available to answer questions the committee may have.

Thank you for the opportunity to provide testimony.

Best Regards,



Jon M. Young  
Executive Director

### **About the Hawaii Asphalt Paving Industry (HAPI)**

**HAPI** represents asphalt pavement producers and laydown contractors in the State of Hawai'i as well as design consultants and industries related to pavement preservation. Formed in 1989, HAPI's purpose is to provide engineering promotion and education to advance the continuing use of asphalt pavement and pavement treatments throughout the State of Hawai'i. HAPI collects and disseminates technical data and guidelines, sponsors educational and technical seminars, and is available to assist architects, engineers, and contractors responsible for the design and

construction of asphalt pavements and pavement treatments. HAPI and its member firms constantly strive to improve the quality of asphalt paved roads. <http://www.hawaiiasphalt.org/>

Follows is a list of HAPI asphalt hot mix producer members in Hawaii and the number of plants they operate:

- Jas. W. Glover, Ltd. (4 Plants)
- Grace Pacific LLC (4 Plants)
- Maui Paving LLC (1 Plant)
- Road and Highway Builders, LLC (1 Plant)
- Road Builders Corporation (1 Plant)
- Yamada and Sons, Inc. (1 Plant)



# Environmental Caucus of The Democratic Party of Hawai'i

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TCA-AEN\_ 03-20-23 2:00PM HB1406

TO: COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS

Senator Chris Lee, Chair

Senator Lorraine R. Inouye, Vice Chair

and

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Herbert M. "Tim" Richards, III, Vice Chair

CONCERNING: HB 1406 HD1 (HSCR927) RELATING TO THE ENVIRONMENT

POSITION: SUPPORT

Aloha Chairs Lee and Gabbard and Vice-Chairs Inouye and Richards and members of both Committees

The Environmental Caucus of the Democratic Party of Hawaii supports this bill and all bills which address safer and environmentally friendly ways of disposing of toxic waste.

Asphalt is a petroleum based product which has become integral to our transportation technology. When it has to be replaced, or dug up or disposed of, we have to find a better and safer way to do that.

If it can be recycled so much the better. It is an imported, fossil fuel related product so we do not need to have to import more of it onto our islands. We support all efforts to reuse old asphalt if that is safe and productive. If there are reasons why we cannot do it, we must find safe places to store it or dispose of it.

Please vote to pass this bill

Martha E Randolph, on behalf of the Environmental Caucus  
SCC Rep for the Environmental Caucus of the  
Democratic Party of Hawaii



To: The Honorable Chairs Chris Lee and Mike Gabbard, the Honorable Vice Chairs Lorraine Inouye and Tim Richards, III, and Members of the Committees on Transportation and Culture and the Arts and Agriculture and Environment

From: Climate Protectors Hawai'i (by Ted Bohlen)

Re: **Hearing HB1406 HD1 RELATING TO ENVIRONMENTAL PROTECTION.**

Hearing: Tuesday February 14, 2023, 10:30 a.m., room 325

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Aloha Chairs Lee and Gabbard, Vice Chairs Inouye and Richards, and Members of the Committees on Transportation and Culture and the Arts and Agriculture and Environment:

The **Climate Protectors Hawai'i STRONGLY SUPPORTS HB1406 HD1!**

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Asphalt is used in most road and highway surfaces in the State. Asphalt is the single most recycled material in the world. Recycling of asphalt pavement is great way to rehabilitate pavement while saving costs, using less virgin materials, and reducing greenhouse gas emissions. According to the National Asphalt Paving Association, in 2021, approximately 2,600,000 metric tons of carbon dioxide equivalent was spared from the atmosphere through using reclaimed asphalt

pavement in new mixture. In Hawai'i, there are additional cost and carbon savings associated with the reduced need to import raw and virgin materials.

The State could do more to incorporate a circular asphalt model into its practices by requiring a maximized rate of recycling asphalt pavement and by requiring proper storage, stockpiling, and disposal of old asphalt that is not immediately recycled or that is deemed non-recyclable.

This bill would help Hawai'i save costs and avoid greenhouse gas emissions and other harm to the environment by recycling more asphalt.

Please pass this excellent bill!

Mahalo!

Climate Protectors Hawaii (by Ted Bohlen)



March 20, 2023

TO: HONORABLE CHRIS LEE, CHAIR, HONORABLE LORRAINE R. INOUE, VICE CHAIR, COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS. HONORABLE MIKE GABBARD, CHAIR, HONORABLE TIM RICHARDS, VICE CHAIR, COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT.

SUBJECT: **OPPOSITION OF H.B. 1406 HD1, RELATING TO ENVIRONMENTAL PROTECTION.** Requires that asphalt removed from roads and driveways be recycled. Requires the Department of Transportation to adopt rules regarding best practices for paving projects, asphalt processing, and asphalt disposal. Requires the Department of Health to designate asphalt storage sites or develop a centralized asphalt state processing and storage facility.

HEARING

DATE: Monday, March 20, 2023  
TIME: 2:30 p.m.  
PLACE: Capitol Room 224

Dear Chairs Lee and Gabbard, Vice Chairs Inouye and Richards and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA is in **opposition** of H.B. 1406 HD1, which requires that asphalt removed from roads and driveways be recycled. Requires the Department of Transportation to adopt rules regarding best practices for paving projects, asphalt processing, and asphalt disposal. Requires the Department of Health to designate asphalt storage sites or develop a centralized asphalt state processing and storage facility.

Bullet point summary of the discussion points below:

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- Item 3: It would make the most sense to continue the current practice of dealing with RAP.
- Item 4: Contractors or asphalt plants paying any fee to deliver or pick-up material from a facility would increase the price of asphalt pavement.
- ~~Item 5: Can the existing facility on each island accommodate RAP generated?~~



GENERAL  
CONTRACTORS  
ASSOCIATION  
OF HAWAII

- Item 6: Managing RAP stockpiles will be challenging and costly for the DOH.
- Item 7: H.B. 1406 would require the DOT to adopt rules regarding best practices; they already have.
- Item 8: We confirm that the DOH understanding of the majority of cured asphalt from its paving projects is reused and concur with their conclusion that most of the RAP does not go to landfills.

Discussion points:

1. One goal of the bill is to encourage the use of reclaimed asphalt pavement (RAP). **Producers of asphalt pavement mixes strive to use the maximum amount of RAP allowed by the various government agencies.** We support the DOT's current ongoing effort to increase the amount of RAP to 50% in their asphalt mixes and have worked together to find methods that can be used to meet this requirement.

Our member Grace Pacific LLC is scheduled to pave a section of Fort Weaver Road in March 2023 as part of the DOT's pilot project to utilize more RAP in our mixes. Said pavement will be monitored by the DOT to evaluate the performance of that pavement. Let's applaud and support this forward-thinking initiative without adding legislation that will slow down the substantial progress. H.B. 1406 will not increase the amount of RAP currently being used in the operations of the AC plants.

2. Delivery of the RAP produced from paving projects to a central facility and then hauling from said location to a plant to be used in the production of asphalt pavements is not economical. It would result in an increase in the price of asphalt pavements due the increase in hauling costs and would burn additional fossil fuels, furthering contribution to global warming.
3. Producers/contractors and the HDOT currently efficiently utilize RAP from the paving projects. **It would make the most sense to continue the current practice of having contractors haul the RAP generated at their projects to asphalt plants for future use.** The current practice saves time and energy and is the least cost and most competitive option to repurpose the #1 recycled product in Hawaii and in America as stated in bill H.B. 1406 itself. Let's not overregulate success.
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GENERAL  
CONTRACTORS  
ASSOCIATION  
OF HAWAII

6. **Managing RAP stockpiles will be challenging and costly.** It will be challenging to control the quality of the RAP that gets delivered to the storage locations. Monitoring the quality of the RAP delivered may require additional qualified manpower. Additional equipment, such as loaders and truck scales may also need to be purchased.

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Further **we concur with the DOH's conclusion** "that much of clean, cured asphalt is being reused or recycled and is not being landfilled under existing practices and that the proposed goals of the bill will not significantly increase quantities of recycled asphalt."

Thank you for the opportunity to testify in opposition of this measure.

**HB-1406-HD-1**

Submitted on: 3/15/2023 11:36:02 AM

Testimony for TCA on 3/20/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

**HB-1406-HD-1**

Submitted on: 3/15/2023 3:57:54 PM

Testimony for TCA on 3/20/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

Support

**HB-1406-HD-1**

Submitted on: 3/15/2023 10:23:29 PM

Testimony for TCA on 3/20/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB1406 HD1.