

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
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DAWN N.S. CHANG
CHAIRPERSON
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COMMISSION ON WATER RESOURCE
MANAGEMENT

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DEPUTY DIRECTOR - WATER

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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WATER AND LAND
and
HAWAIIAN AFFAIRS

Wednesday, February 8, 2023
1:05 PM

State Capitol, Conference Room 229 and Via Videoconference

In consideration of
SENATE BILL 1040
RELATING TO HOMELESSNESS

Senate Bill 1040 proposes to establish the Kauhale Pilot Program on the Leeward Coast of O'ahu under the Department of Hawaiian Home Lands. It also exempts the Kauhale Program from certain contracting, licensing and land use laws and extends these exemptions through the life of the lease. **Due to potential unintended consequences with the proposed exemptions, the Department of Land and Natural Resources (Department) offers the following comments which will focus on those exemptions related to the protection of natural and cultural resources and those sections that potentially affect the Department.**

The Department understands the need for housing, however, the broad exemptions provided in this bill raise concerns because it limits opportunities for the Department's beneficiaries to comment on this program and its potential effects on the Department's trust and mission.

SECTION III of this measure exempts the Kauhale Program from Hawaii Revised Statutes (HRS) Chapter 46 during construction, and SECTION IV continues the exemption throughout the life of the lease. Chapter 46 includes county permitting and zoning requirements. The exemption of these county requirements puts Hawaii at risk of losing its ability to participate in the National Flood Insurance Program (NFIP), which would result in the loss of federal flood insurance and disaster assistance. Pursuant to 44CFR§60.3(a), permits are required for all proposed construction or other development.

Compliance, or the intent to comply does not satisfy NFIP administration and enforcement requirements in accordance with 44CFR§59.21, §59.22, §59.24(b), §60.25(b)(1).

The Department suggests adding following condition after paragraph (e)(4):

(5) Any project constructed under the Kauhale Program shall comply with county floodplain management regulations.

Senate Bill 1040 requires the Department’s State Historic Preservation Division (SHPD) to complete its review of any project within 45 days or the project shall be exempt from HRS Chapter 6E and the developer shall commission a report to be provided to SHPD for informational purposes. The Department notes that submittals to SHPD often do not have the information necessary for SHPD to determine an effect to any historic sites on the property. The proposed language does not address the potential for this to happen. Further, it does not address any need for further studies should the initial study be insufficient. The Department notes that Archaeologists are not licensed.

A waiver of HRS Chapter 6E, even one with the best intentions, sweeps away protections for burials, and for historic and cultural sites of Native Hawaiians and other people of Hawai’i without any process for comments from the affected public or review by the Department’s SHPD. SHPD is working on multiple fronts to ensure reviews of projects happen within the statutory deadlines.

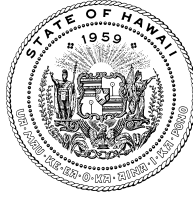
HRS Chapters 205 (Land Use Commission), 205A (Coastal Zone Management (CZM) Program) and 343 (Environmental Impact Statements) are not within the Department’s purview. However, the Department notes land use planning ensures the highest and best use of land, and that the CZM Program is important for preserving open space and reducing hazards to life and property from coastal hazards. As with all of the proposed land use waivers, failing to review the effects of these types of projects could have adverse effects on the public and on other land uses.

SECTION 4 makes exemption allowed under this bill last through the life of the underlying lease. Again, extending the exemption for HRS Chapter 46 puts the State at risk of losing its ability to participate in the National Flood Insurance Program.

Exemption proposals should be carefully considered for beneficiary concerns regarding the lack of transparency, accountability, and opportunities for public comment that this bill encourages by making the waivers of these laws permanently coded into law.

The Department suggests deleting item 2 under the “purpose” clause of this measure, as it does not seem applicable to this bill.

Mahalo for the opportunity to provide comments and proposed amendments to this measure.



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Testimony of **Nani Medeiros**
Chief Housing Officer, Office of the Governor

Before the
Senate Committee on Hawaiian Affairs
Senate Committee on Water and Land
Wednesday, February 8, 2023
1:05 p.m., Via Video Conference
Conference Room 229

In consideration of
Senate Bill No. 1040
RELATING TO HOMELESSNESS

Aloha Chair Shimabukuro, Chair Inouye, Vice-Chairs Elefante and Fevella, and members of the committees.

Mahalo for the opportunity to testify in support with comments and proposed amendments to Senate Bill 1040.

1. Section 3.

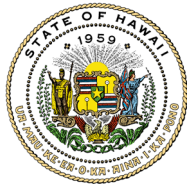
- a. Subsection (a): Does this pilot program apply to “Native Hawaiians” meaning any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai‘i, OR “native Hawaiians” as defined in the Hawaiian Homes Commission Act (blood quantum 50% or more.)
- b. Subsection (d): Recognizing this section is not mandated, we recommend removing item (F) or allowing units to be up to the ADU sq. ft. limitations. Two hundred square feet may not be suitable to provide a healthy, safe space for a family experiencing homelessness.
- c. Subsection (e): Item (1) requires construction conform to drawings and plans stamped by a licensed architect and engineer. The reality of construction is that sometimes alterations and changes must be made once you are in the field. This section needs to provide that flexibility and create a simple process for reporting any deviations.

- d. Subsection (h) should clarify that if a developer of a kauhale must commission a private report due to SHPD's inability to review projects in a timely manner, that cost will be borne by the department, or SHPD.
2. Overall comments:
- a. What land are these kauhale in Leeward O'ahu to be built on: Is this limited to DHHL owned property or will DHHL be authorized to lease or purchase land for the purpose of kauhale?
 - b. DHHL is not a homeless service provider agency and does not have expertise in the support services side and healthcare side of kauhale management. If the intent of this measure is to address homelessness amongst Native Hawaiians, we suggest language be included to ensure these vital services are made available to kauhale residents of this pilot program.

Mahalo for your consideration,

Nani Medeiros

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KENNETH S. HARA
DIRECTOR OF EMERGENCY
MANAGEMENT

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF DEFENSE
KA 'OIHANA PILI KAUA
HAWAI'I EMERGENCY MANAGEMENT AGENCY
4204 DIAMOND HEAD ROAD
HONOLULU, HAWAI'I 96816-4420

STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON SENATE BILL 1040
RELATING TO HOMELESSNESS

BEFORE THE SENATE COMMITTEES ON **HAWAIIAN AFFAIRS** AND **WATER AND LAND**

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

FEBRUARY 4, 2023

Aloha Chair Shimabukuro, Chair Inouye, Vice-Chair Fevella, Vice-Chair Elefante, and members of the committees:

I am James Barros, Administrator of the Hawai'i Emergency Management Agency (HI-EMA).

HI-EMA provides written testimony to **OFFER COMMENTS** of SB1040.

This bill would require the Department of Hawaiian Home Lands to establish a specified Kauhale Pilot Project in leeward O'ahu to provide micro-housing and services to specified Native Hawaiian persons experiencing homelessness, and exempt specified developments from certain provisions of existing law.

HI-EMA recognizes the value of such initiatives in addressing and reducing homelessness in Hawai'i. However, we have substantial concerns about portions of the bill which exempt developments from existing law.

One of the exemptions listed in SB1040 would exempt certain developments from provisions of Hawai'i Revised Statutes 46. The intent appears to be to remove potential regulatory obstacles to the rapid provision of housing and services.

However, HRS 46 is a vital provision for Hawaii's participation in the National Flood Insurance Program (NFIP). In the past, legislation which exempted development from HRS 46 threatened the State's participation in this national program, and potentially could lead to federal sanctions.

If Hawai'i were to be sanctioned by NFIP, the state's property owners would no longer be able to obtain federal flood insurance, and existing policies could not be renewed. As of the most recent data, more than 54,000 Hawai'i property owners were covered by NFIP, with more than \$13 billion in property insured. Typical homeowner's insurance does NOT cover flood damage, which is among the most common disaster-related claims in the state.

Any exemption from HRS 46 which triggers NFIP sanctions would leave those tens of thousands of property owners with no flood coverage, and they also potentially would be excluded from federal disaster relief.

We urge the committees to seek additional information from legal experts and the Department of Land and Natural Resources (DLNR), which serves as the State's coordinating agency for NFIP, to amend the language of these bills as needed to protect participation in the flood insurance program.

Several other pending bills which would exempt much-needed projects from HRS 46 contain similar potential threats to NFIP. We would also urge the committees to apply eagle-eyed scrutiny to these exemptions and amend them as needed to mitigate the risk of inadvertently leaving 54,000 property owners without flood insurance coverage.

Thank you for the opportunity to provide testimony.

James Barros: james.barros@hawaii.gov; 808-733-4300

SB-1040

Submitted on: 2/5/2023 10:04:31 PM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Juanita Brown Kawamoto	Individual	Support	In Person

Comments:

Aloha mai Honorable Chairs and Vice Chairs of Senate Committees for Hawaiian Affairs, Water and Land, and Ways & Means,

As a member of multiple Native Hawaiian organizations who advocates for solutions throughout my entire lifetime of 63 years, I not only strongly support SB1040, but I also commend Senator Maile Shimabukuro and the other electeds who helped to design this bill that saves lives and brings dignity and humanity to the many who as we testify is still waiting in silent suffering from generational cultural trauma, systemic illness to the mind body and spirit that could be healed with ALOHA - human kindness, MEA AI - healthy food and HALE - shelter from the ever-increasing adverse impacts of climate change and predatorial dangers that constantly threaten life and limb in the unprotected houseless community. Generational trauma and abuses were brought about by western systemic genocide and the disconnection of our Native Hawaiian healing practices and the kauhale cultural way of life. SB1040 and other similar legislative actions in 2023 should receive full legislative and financial support from the State of Hawaii's Senate, House, and Executive leadership. Full reparation for the Native houseless of the State of Hawaii is critical and necessary to stop the genocide of Hawaii's terminally suffering houseless Keiki to Kupuna. I support requiring the Department of Hawaiian Home Lands to establish the Kauhale Pilot Program on the Leeward Coast of Oahu to provide individual or shared micro-housing units and services to homeless Native Hawaiian individuals and families who meet the definition of homeless under federal guidelines. Exempts low-income rentals, tiny home villages, and kauhale from certain provisions for the duration of their underlying leases consistent with the Governor's 2015 and 2018 Proclamations on Homelessness. Appropriate funds must establish and administer the kauhale program to provide individual or shared housing units and support services to homeless individuals and families who meet the definition of "chronically homeless". The Hawaii State Government must authorize the Hawaii Public Housing Authority to establish a statewide advisory committee. It is imperative to require specific reports to the Legislature and the public as a means to record the necessary data in helping monitor the success of the Kauhale project and to assist with future funding in potentially duplicating the Kauhale project across the State of Hawaii.

Mahalo nui loa for the opportunity to testify.

Mrs. Juanita Mahienaena Brown Kawamoto

February 08, 2023

Senate Committee on Hawaiian Affairs
Senator Maile S.L. Shimabukuro, Chair
Senator Kurt Fevella, Vice Chair

Testimony in Opposition of SB-1040

Aloha Chair Shimabukuro, Vice Chair Fevella, and members of the Committee,

I'm Homelani Schaedel, a beneficiary residing in Malu'ohai, a homestead leader in Kapolei, and an advocate for the Hawaiian Home Lands Trust.

There are three (3) housing agencies under the State to serve all our homeless population, with access to more land for developing homes on O'ahu; yet you choose to lay your kuleana on the backs of the Hawaiian Homes Commission (HHC) and the Department of Hawaiian Home Lands (DHHL) who is mandated and protected by federal law under the Hawaiian Homes Commission Act, 1920 (HHCA) to specifically serve "Native Hawaiian" means any descendant of not less than one half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778. So, in the 2020 Point-In-Time Count; how many of those counted are Native Hawaiian as defined in the HHCA? I'm not even asking how many are on DHHL's Waitlist, I'm asking how many of those counted, are Native Hawaiian as defined in the HHCA? Because that's the only people the HHC and DHHL are mandated to serve under federal law.

Furthermore, you want DHHL to create another division, because that's what it will take to provide medical and social and support services; and transportation to appointments related to medical care or supportive services that are not available onsite. Will these same services be provided to our lessees and applicants on the Waitlist? If not, why? I just want to be clear, you not only want DHHL to take on kuleana of the State's housing agencies, you want them to take on kuleana from Department of Human Services, both of which are NOT their kuleana.

This bill contains forty-five (45) exemptions with the intent to "clear the way" for DHHL to build this Kauhale Project, including exemptions from appropriations and procurement laws. Why weren't these same provisions inserted into Act 279 for DHHL to advance the use of the 600 million dollars? Is it the intent of this committee to appropriate funds from the 600 million for this project? Instead of DHHL, why not provide funding and these same exemptions to the State housing agencies who do not have federal HHCA oversight and direct them to build this Kauhale Project?

This bill is opening a pandora's box unlike anything we've ever known with extremely serious consequences. It puts the HHCA, HHC, DHHL and more importantly beneficiaries of the HHCA Trust at high risk. If you advance this bill, who will take the brunt of the backlash and lawsuits; not you or this committee, it will be the HHC and DHHL, but more importantly our beneficiaries!

Believe me when I say, I'm not insensitive to the plight of homelessness, especially on the west side, I was raised along the coast. I know of and have had family living on the beach. Unfortunately, our government has marginalized our homeless crisis over the past 20 years.

The greatest travesty of this bill is that, for years the Legislature has pushed DHHL to provide homes for beneficiaries on the Waitlist, and now even with the limitations placed on the 600 million dollars; they are trying to move forward. Yet, once again you're setting them up for failure, by placing a mountain before them.

I'm before you to protect the Trust, and advocate for our beneficiaries, especially those on the Waitlist. This bill does not do that...instead it is the opposite of mine and your kuleana. A'ole pono! I strongly oppose this bill and ask you not to advance it.

Mahalo.

LATE

SB-1040

Submitted on: 2/7/2023 1:07:08 PM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kapua Keliikoa-Kamai	Individual	Oppose	In Person

Comments:

Aloha kakou,

I strongly oppose SB1040 RELATING TO HOMELESSNESS.

SB1040 does not help to get the 28,000 native Hawaiians off the waitlist. The DHHL has been working towards housing & rehabilitation for native Hawaiians since its inception; through all their trials, insufficient funding, challenges, etc.

If this is the former Voice of America lands that are currently slated to develop 200+ homes or anywhere that has already been identified and approved by our Hawaiian Homes Commission, HEWA!

We need DHHL to focus on reducing the Wait List with the \$600,000,000 the 2022 Legislature allocated. I look forward to their excellence in accomplishing this much needed feat, but with its limited timeline of 2025 it is very daunting (somewhat unrealistic & arbitrary) and I ask the Legislature for a 2-yr extension to 2027.

Mahalo,

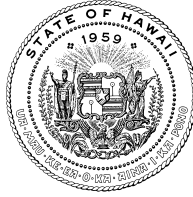
Kapua Keliikoa-Kamai

Wai'anae Valley Homestead

Wife & mother of HHL Waitlisters

HHCA Beneficiary & Lessee

LATE



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Testimony of **James Koshiba**
Governor's Coordinator on Homelessness
Before the
Senate Committees on Water and Land & Hawaiian Affairs
February 8, 2023
1:05 p.m., Conference Room 229

In consideration of
Senate Bill 1040
RELATING TO HOMELESSNESS

Aloha Chair Inouye, Chair Shimabukuro, and Committee Members,

I am writing to support the intent of SB1040 and offer comments, but defer to the Department of Hawaiian Homelands on all matters of implementation.

The need to house Native Hawaiians experiencing homelessness is urgent and acute. As Section 1 of the bill points out, half of all people experiencing unsheltered homelessness, i.e., those on our sidewalks and parks, are Native Hawaiian. To date, there has been no precise accounting for how many of those individuals are qualified beneficiaries of the Department of Hawaiian Homelands, but a substantial portion likely are.

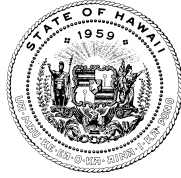
I would note that the exemptions in Part II and Part III of this measure, and modeled after Emergency Proclamations on homelessness in 2015 and 2018, are very broad. The Governor's latest Emergency Proclamation on homelessness, dated January 26, 2023, requires rules to address environmental, cultural, and other concerns. My office is in the process of crafting these emergency rules in consultation with state agencies, counties, and community stakeholders. These rules can offer ways to make the implementation of exemptions more targeted, and address a variety of concerns that arise due to the broad nature of past Proclamations.

Mahalo for your consideration.

James Koshiba
Governor's Coordinator on Homelessness

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia 'āina o ka Moku 'āina 'o
Hawai'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia 'āina o ka Moku 'āina
'o Hawai'i*



IKAIKA ANDERSON
CHAIRMAN DESIGNATE, HHC
Ka Luna Ho'okele

KATIE L. DUCATT
DEPUTY DESIGNATE TO THE
CHAIRMAN
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF IKAIKA ANDERSON, CHAIRMAN-DESIGNATE
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEES ON WATER AND LAND &
HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 8, 2023 AT 1:05PM IN CR 229

SB 1040, RELATING TO HOMELESSNESS

February 8, 2023

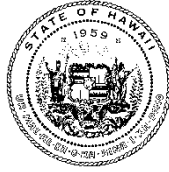
Aloha Chair Inouye, Chair Shimabukuro, and members of the Committees:

The Department of Hawaiian Home Lands (DHHL) submits comments on this measure that requires DHHL to establish a kauhale pilot program on the Leeward coast of Oahu to provide individual or shared micro housing units and services to homeless Native Hawaiian individuals and families who meet the definition of homeless under federal guidelines and exempts low-income rentals, tiny home villages, and kauhale from certain provisions for the duration of their underlying leases consistent with the Governor's 2015 and 2018 Proclamations on Homelessness.

The department appreciates the intent of this measure and supports the kauhale concept, recognizing that the department has focused on the development of homestead lots for award to beneficiaries. DHHL has recently begun to analyze the number of beneficiaries who are homeless and has a request for proposals (RFP) out for rehabilitation and renovation of a building in Kalaeloa for use as a temporary transitional housing for homeless native Hawaiian beneficiaries. If the Legislature prefers a kauhale pilot program, DHHL is interested in working with the Legislature on such opportunities for beneficiaries.

Thank you for your consideration of our testimony.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ACTING ADMINISTRATOR

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEES
ON
WATER AND LAND
AND
HAWAIIAN AFFAIRS

February 8, 2023, 1:05 PM

SENATE BILL 1040
RELATING TO HOMELESSNESS

Chair Inouye, Chair Shimabukuro, Vice Chair Elefante, Vice Chair Fevella, and members of the committees, thank you for the opportunity to submit testimony on Senate Bill 1040. The State Procurement Office (SPO) opposes the 103D exemption language on page 9, SECTION 4, lines 18 and 19.

The SPO testifies that the Kauhale Pilot Program should be competitively procured.

Chapter 103D, Hawaii Revised Statutes (HRS), Hawaii Public Procurement Code (Code), is the State's single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure, and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both Chapter 103D and 103F, HRS, conveys a sense of disproportionate equality in the law's application.

Exemptions to the Code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due

diligence, proper planning, or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials states that "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies are removed from the Hawaii Public Procurement Code, it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.

OFFICE OF INFORMATION PRACTICES

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To: Senate Committees on Water and Land and on Hawaiian Affairs

From: Cheryl Kakazu Park, Director

Date: February 8, 2023, 1:05 p.m.
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 1040
Relating to Homelessness

Thank you for the opportunity to submit testimony on this bill, which would establish a kauhale program in the Department of Hawaiian Home Lands. The Office of Information Practices (OIP) takes no position on the kauhale program generally, but **offers comments and suggests deletion of the proposed exemption from chapter 92, HRS, part I of which is the Sunshine Law**, “to the extent that any notice requirements or any other provisions of chapter 92 may delay the expeditious action, decision, or approval of any agency[.]”

It is not clear what the exemption would mean for the Sunshine Law’s requirements. The Sunshine Law applies specifically to government boards, not to “agencies” as a whole, and it is not clear which government boards, if any, would be acting on issues affecting a low-income rental, tiny home village, or kauhale built on state land. Beyond that, the Sunshine Law exemption for boards’ actions on permanent housing created under the governor’s proclamations would not exempt such boards’ consideration of other issues from the Sunshine Law. Would a board need to schedule a meeting with the housing issue as the only item on its agenda so the meeting could be held on fewer than six days’ notice, if six days was too long to

wait for an expeditious action or decision? Would the members of such a board be able to make an immediate commitment to vote during a permitted interaction outside a meeting when the law would otherwise require that such commitments be saved for the next meeting, or make a decision by an email poll of members (which the Sunshine Law would not otherwise allow) so the housing decision could move forward more expeditiously? Would the board be exempted from posting timely minutes if doing so would delay staff's work on the housing issue? **OIP has concerns about whether there is truly a need for such an exemption – whether the Sunshine Law and other parts of chapter 92 are truly preventing government boards from expeditious action on matters that come before them – and about the difficulty of implementing and interpreting so vague and subjective an exemption.**

OIP also notes that while it administers only part I of chapter 92, the Sunshine Law, there may be similar challenges in determining how this exemption would apply to other portions of chapter 92, such as the default quorum provision in section 92-15 or the authorization to charge copy fees for government records in section 92-21. **If it is only the Sunshine Law that the exemption is being applied to, then the bill should be amended to only refer to part I of chapter 92.**

OIP recommends deletion of proposed subsection (8) of bill section 4 on page 9, lines 7-10. Alternatively, OIP would be happy to work with the Committees and interested parties to understand the concerns behind this proposed exemption and offer language to better address them.

Thank you for considering OIP's testimony.



SB1040 Kauhale Leeward Native Hawaiian Housing Project

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Brandon J.C. Elefante, Vice Chair

COMMITTEE ON HAWAIIAN AFFAIRS

Senator Maile S.L. Shimabukuro, Chair

Senator Kurt Fevella, Vice Chair

Wednesday, Feb 8, 2023 1:05: Room 229

Hawaii Substance Abuse Coalition Supports SB1040:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

RE: Section 3 (d) (2) Medical and social support services;

Why We Need Strategies for both Homelessness and Substance Use Disorders

Kauhale can address one of the barriers for people with substance use disorders to achieve recovery because it removes the trigger and stresses to use that comes from the inability to pay rent and the threat of the loss of housing. People experiencing homelessness and substance abuse problems typically find it difficult to address their substance use without a safe place to live, because they often use alcohol or drugs to cope with the dangers of life on the streets.

Once people have a safe place to live are more apt to fully engage in substance use treatment and recovery services.

Successful housing strategies should employ **both a Housing First Model for non-abstinent-based living as well as once housed, provide a Supportive Housing environment** that combines housing with intensive coordinated services to help people with chronic physical and behavioral health issues to maintain a stable lifestyle and receive appropriate health and social supports.¹

As Kauhale implements **strategies to end homelessness**, services need to be able to provide **effective housing and services options** for people experiencing homelessness who have **diverse challenges** and service needs, **including substance use disorders**. Those strategies should be

¹ Center on Budget and Policy Priorities Meeting the Housing Needs of People With Substance Use Disorders <https://www.cbpp.org/research/housing/meeting-the-housing-needs-of-people-with-substance-use-disorders>

effectively integrated within each community's overall approach, strategies, and systems for addressing substance use.

HUD recommends that it is important to address each person's **preferences for stable living**, which means that there is a **mix of services** that can provide a **meaningful choice** to people experiencing both homelessness and substance use disorders who are in **various stages of recovery**.² HUD also recognizes individual choice supports various paths to recovery means that housing options include **both**:

1. **People who continue to use drugs or alcohol as well as**
2. **People who want substance abuse treatments or some kind of help to overcome or manage symptoms of overuse of alcohol, illicit drugs and non-prescribed medications.**

SAMHSA's Definition for Homeless towards Recovery³

1. Choice - Making informed, healthy choices that support physical and emotional wellbeing.
2. Home—A stable and safe place to live.
3. Purpose—Meaningful daily activities, such as a job, school, volunteerism, family caretaking, or creative endeavors, and the independence, income and resources to participate in society.
4. Community—Relationships and social networks that provide support, friendship, love, and hope.

To meet the medical needs of Kauhale's people, the project must include funding for onsite approaches that help people with substance use disorders.

SUMMARY

Kauhale programs should be designed and operated in a manner that is well-tailored to the **needs and challenges** of the homeless people and should be effectively integrated within the overall approach, strategies, and systems for addressing substance use.

When implemented with a **wide array of services**, HUD believes such housing models can provide a high degree of quality and positive outcomes for homeless people as well as fulfill a unique and **specific role within a community's homelessness services and behavioral healthcare systems; and can help provide meaningful choice in housing settings for people with substance use disorders.**

² HUD: Recovery Housing Policy Brief
<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://files.hudexchange.info/resources/documents/Recovery-Housing-Policy-Brief.pdf>

³ SAMHSA's Working Definition of Recovery. <http://store.samhsa.gov/shin/content//PEP12-RECDEF/PEP12-RECDEF.pdf>

Unfortunately, traditional housing infrastructures designed to serve chronically homeless individuals with alcohol problems often fail to engage residents and comprehensively address their complex needs.

- **Housing First approaches can fit the specific needs of chronically homeless individuals with substance use problems with the provision of low-barrier, non-abstinence-based immediate, and permanent housing.**
- **Specific to the project-based Housing First model, however, individuals are offered units within a single housing project, where they can elect to receive on-site case management and other supportive services.⁴**

We appreciate the opportunity to provide testimony and are available for further questions.

⁴ American Public Health Associations American Journal of Public Health (AJPH) March 2012
Project-Based Housing First for Chronically Homeless Individuals With Alcohol Problems: Within-Subjects Analyses of 2-Year Alcohol Trajectories <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2011.300403>

TESTIMONY IN SUPPORT OF SB 1040

TO: Chair Inouye, Vice Chair Elefante, & Water & Land Committee Members
Chair Shimabukuro, Vice Chair Fevella, & Hawaiian Affairs Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 8, 2023 (1:05 PM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 1040, which requires the Department of Hawaiian Home Lands to establish the Kauhale Pilot Program on the Leeward Coast of Oahu to provide individual or shared micro housing units and services to homeless Native Hawaiian individuals and families who meet the definition of homeless under federal guidelines.

Kauhale projects have proven to be an important means of providing housing, building community, and offering support to those who are unhoused, including those who have experienced long-term homelessness.

HHRC Executive Director Heather Lusk currently serves as Board Chair of [Partners in Care O'ahu](#), a planning, coordinating, and advocacy alliance that develops recommendations for programs and services to fill needs within O'ahu's continuum of care for homeless persons. HHRC provides homeless outreach and housing placement navigation services in urban Honolulu and the Upper Windward Coast, including North Shore.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.

Opportunity Youth Action Hawai'i

February 08, 2023

Senate Committee on Water and Land

Senate Committee on Hawaiian Affairs

Hearing Time: 01:05 p.m.

Location: State Capitol

Re: SB 1040, Relating to Homelessness

Aloha e Chair Inouye, Chair Shimabukuro, and members of the Committees:

We are writing in **strong support** of SB 1040, Relating to Homelessness.

This bill will require the Department of Hawaiian Home Lands to establish the Kauhale Pilot Program on the Leeward Coast of O'ahu to provide individual or shared micro housing units and services to homeless Native Hawaiian individuals and families who meet the definition of homeless under federal guidelines; exempt low-income rentals, tiny home villages, and kauhale from certain provisions for the duration of their underlying leases consistent with the Governor's 2015 and 2018 Proclamations on Homelessness; and appropriate funds.

According to the Partners in Care 2022 Point in Time Count, 52% of the overall homeless population identified Native Hawaiian and/or Pacific Islander (NHPI) as either their only race or part of their multiracial identity. As the ancestral inhabitants of this land, it is our duty and responsibility to make great efforts towards providing safe and secure housing for Native Hawaiians. The Kauhale Pilot Program would utilize land from the Department of Hawaiian Home Lands for these housing units – land that rightfully belongs to Kānaka Maoli (Native Hawaiians) in the first place. The State of Hawai'i has failed the Hawaiian people over the course of its history. It is high time we start remedying our harm and injustices, and we need to do so expeditiously.

Our collective, Opportunity Youth Action Hawai'i (OYAH), works to support young people under the age of 25 who are disconnected from school and work, referred to as “opportunity youth.” This developmental time period is extremely consequential to the individual growth and overall life chances of our children. **We support this measure.**

Opportunity Youth Action Hawai'i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and

housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support SB 1040.

SB-1040

Submitted on: 2/3/2023 9:20:53 PM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynette Cruz	Testifying for Malama Makua	Support	Written Testimony Only

Comments:

Great bill! Totally support!

SB-1040

Submitted on: 2/4/2023 9:52:08 AM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
James Rodrigues	Individual	Support	Written Testimony Only

Comments:

Having a safe space to heal live and shed ptsd of marginalize enforcment threats living homeless. The millions spent on criminalizing evictions and forced marginalization need to go to housing care and hope.

SB-1040

Submitted on: 2/4/2023 2:59:15 PM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Zeona Nahooikaikaholohokulani	Individual	Support	Written Testimony Only

Comments:

I was working for the State of Hawaii. I became homeless while doing my job and duty to protect keiki and Kupuna from abusive relatives. I was trained as a first responder through certified classes by the State of Hawaii, to help and assist those seniors, we were talking care of, thru the Senior Companion State Program. I am in favor of SB1040. Please make it a priority and expedite Hawaiian applications. This is far over due. Please find more housing. Golf courses have more priorities then your fiduciary duty to the precious Hawaiian people. Shameful and untrustworthy realty and banks lobbyist thatbrought all the greed. Everyone followed their lead for Hawaii lands. Lands not theirs to sell. Your laws allowed this to happen. Now correct the wrong your laws caused for deliberately hurting the precious Hawaiian people. Respectfully yours, I am Zeona Nahooikaikaholohokulani Waianae Moku Kupuna Council.

SB-1040

Submitted on: 2/5/2023 8:55:28 PM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Support	Written Testimony Only

Comments:

Please support this bill which is an innovative pilot program that is unique and consistent with ohana type living.



Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable Senator Lorraine R. Inouye, Chair
The Honorable Senator Brandon J.C. Elefante, Vice Chair
Members of the Committee on Water and Land

The Honorable Senator Maile S.L. Shimabukuro, Chair
The Honorable Senator Kurt Fevella, Vice Chair
Members of the Committee on Hawaiian Affairs

Re: **SB 1040 – RELATING TO HOMELESSNESS**

Hearing: Wednesday, February 8, 2023, 1:05 p.m., Conference 229, via videoconference

Position: **Strong Support**

Aloha, Chairs Inouye and Shimabukuro, Vice Chairs Elefante and Fevella, and Members of the Committee on Water and Land and Committee on Hawaiian Affairs:

The Environmental Caucus of the Democratic Party of Hawai'i which comprises of 7,500 members, stands in strong support of SB 1040. This measure requires the Department of Hawaiian Home Lands to establish the Kauhale Pilot Program on the Leeward Coast of Oahu to provide individual or shared micro housing units and services to homeless Native Hawaiian individuals and families who meet the definition of homeless under federal guidelines. It also exempts low-income rentals, tiny home villages, and kauhale from certain provisions for the duration of their underlying leases consistent with the Governor's 2015 and 2018 Proclamations on Homelessness and appropriates funds.

As provided in the Democratic Party of Hawai'i Platform adopted at the DPH State Convention on May 28, 2022, this is our policy on HOUSING:

We believe housing is a human right. We believe that each and every person should have access to safe, stable and adequate housing regardless of ability to pay. We support policies that deliver housing that is affordable to people at the bottom of the income scale where the need is greatest. We support policies that reduce barriers to the development of this housing, so long as these policies do not conflict with the tenets laid out in the Environment and Energy plank. We support policies that reduce barriers to homeownership for residents. We support policies that preserve housing for residents and discourage real estate speculation.

We believe that houselessness is the symptom of an inequitable economic system that creates generational poverty and hardship. We believe this system must be changed. We support policy that gets people experiencing houselessness re-housed quickly and efficiently, and we support policy that delivers wrap-around services to recently re-housed individuals and families. We support adequate public funding for these initiatives. [OUR PLATFORM | DPH \(hawaiidemocrats.org\)](https://www.hawaiidemocrats.org)

Requiring (1) the Department of Hawaiian Home Lands to establish the Kauhale Pilot Program on the Leeward Coast of Oahu to provide individual or shared micro housing units and services to homeless Native Hawaiian individuals and families who meet the definition of homeless under federal guidelines;

(2) exempting low-income rentals, tiny home villages, and kauhale from certain provisions for the duration of their underlying leases consistent with the Governor's 2015 and 2018 Proclamations on Homelessness; and (3) appropriating funds therefor, are consistent with the policies of the Democratic Party of Hawaii Platform on Homelessness in which its members are duly bound to adhere to. Please pass this measure.

Mahalo for this opportunity to testify.

/s/ Melodie Aduja and Alan Burdick,
Co-Chairs, Environmental Caucus of the Democratic Party of Hawai`i

**Testimony Presented Before
The Senate Committee on Hawaiian Affairs and Water and Land for**

Wednesday February 8, 2023 @ 1:05 pm

TESTIMONY IN OPPOSITION TO SB 1040

Submitted By: Randy Awo

Date: February 6, 2023

Aloha Senators. I am a lifelong DHHL beneficiary and currently serving as the Hawaiian Homes Commissioner, representing the island of Maui. I strongly oppose **SB 1040**. It is commendable that the Hawaii State legislature recognizes the need to address Homelessness in Hawaii. However, this bill violates the intent, purpose, and conditions of the Hawaiian Homes Commission Act (HHCA). This bill states in part, "the *legislature* finds that homelessness continues to be one of Hawaii's most dire and persistent challenges. Further, that Hawaiians are disproportionately affected..." Homelessness is a statewide problem and requires legislative solutions that do not infringe upon the HHCA. The "Kau Hale" project proposal violates the rights afforded to our Native Hawaiian beneficiaries who remain on the waitlist. Many have waited decades for an opportunity to come off the list. A **2020 DHHL Beneficiary Study Applicant Report** determined that **76%** of respondents prefer a single-family home or a vacant lot for a house. The remaining **16%** prefer to rent or rent with option to buy. These applicants identify single family homes, duplex, apartments, or town houses as the dwelling of choice for consideration. The Hawaii State Legislature wisely used this survey to determine how the 600 million dollars appropriated in Act 279 should be spent. Utilizing Hawaiian Home Lands to construct "shared micro units" that reduce homelessness not only violates the HHCA, the intent and purpose of Act 279, it also violates the voices of our beneficiaries. Lastly, it circumvents the authority granted to the Hawaiian Homes Commission to act exclusively on behalf of our native Hawaiian beneficiaries. Therefore, I ask that the Hawaii State Legislature support compliance with the HHCA as the best and most legitimate path forward in assisting with mitigating the over-all housing crisis facing native Hawaiians.

Respectfully Submitted - Randy Awo



HUI KAKO'O 'ĀINA HO'OPULAPULA

"Let the people flourish on the land."

Testimony Presented Before the
Senate Committees on Hawaiian Affairs and
Water and Land

Wednesday, February 8, 2023; 1:05 pm

By

Elmer Ka'ai
President and Chair

SB 1040 – RELATING TO HOMELESSNESS

Chairs Shimabukuro and Inouye, Vice Chairs Fevella and Elefante and members of the Committees:

Hui Kako'o 'Āina Ho'opulapula (Hui Kako'o) strongly opposes this measure, as it **REQUIRES** the Department of Hawaiian Home Lands (DHHL) to circumvent the Hawaiian Homes Commission Act to institute the Kauhale Pilot Program within DHHL.

Hui Kako'o believes that this measure provides the State of Hawai'i Administration through the Hawaiian Homes Commission and DHHL with the authority or action in the *improper taking* of Trust assets. Such action is a breach of the Hawaiian Homes Commission Act. This breach was one of the catalyst for Act 14, Special Session 1995.

Hui Kako'o applauds Governor Green's efforts in dealing with Hawai'i's affordable housing and homelessness crisis through program like the Kauhale Program. Hui Kako'o acknowledges that finding affordable housing is a State-wide concern for Hawai'i residents. In addition, we agree that many in the homeless and houseless populations are of Hawaiian ancestry; however, we disagree that majority are Trust beneficiaries. Hui Kako'o's constituents (Hawaiian Home Lands Trust waitlist beneficiaries) are as diverse as the World's population and from all level socio-economic backgrounds. This measure seems to assert that the Hawaiian homeless population are all eligible Hawaiian home lands beneficiaries.

Hui Kako'o believes that the justification for the Kauhale Pilot Program through this legislative process is not based on data regarding the impact to the beneficiaries on the Hawaiian home lands waitlist. However, it may immediate impacts on the State-wide homelessness population. Hui Kako'o also note that a similar effort was implement with the same intent; however, after initially targeted for the Trust beneficiaries, its transitioned into a State-wide homelessness program. Noting that this property was literally taken out of the Trust inventory until the program was closed several years later. We can not or should not allow history to repeat itself. Again, Hui Kako'o applauds the intent; but do not *improperly take* Trust assets for this endeavor.

Hui Kako'o's urges Chairman-Designate Anderson to step out of the shadow and lead DHHL. This effort starts with Act 279. Act 279 and the November 2022 Strategy Plan, approved by the Hawaiian Homes Commission, must be the priority. It is the first true effort in providing Hawaiian Home Land Trust waitlist beneficiaries with an opportunity to obtain a Hawaiian homestead lease. If the proponents of the Kauhale Pilot Program believes that the program will be beneficial for DHHL, then they must direct this matter to the Hawaiian Homes Commission and request that it be included in the strategy plan.

Mahalo for the opportunity to provide written testimony on this measure.

SB-1040

Submitted on: 2/7/2023 11:02:57 AM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Marion K A Kapuniai	Individual	Oppose	Written Testimony Only

Comments:

So Sorry! See Sec. 206 of the Hawaiian Homes Commission Act, amended.

"Powers and duties of the Governor (even with suggestion of the State Legislation) and the

BLNR does not extend to lands having the satus of *Hawaiian Home Lands*. "

However, this good idea needs more discussion: DHHL could make the land available to an organization with the expertise to *establish the kauhale pilot program to provide housing and services* per specifics to be developed, to be funded with the appropriations by the legislature.

My concern and yours to solve - Waste Management.

Thank you, M Kapuniai

LATE

Aloha Senators. I am a DHHL beneficiary and a Hawaiian Homes Commissioner representing the island of Kauai. I strongly oppose SB 1040. This bill is in violation of the Hawaiian Homes Commission Act (HHCA). The Hawaiian Homes Commission was directed to develop a Strategic Plan for Act 279 using the 2020 Beneficiary Study Applicant Report. This report indicated 76% of the native Hawaiian respondents requested a single-family home or a vacant lot. The remaining 16% preferred a single family rent or rent-to-purchase home, duplex, apartments and townhouses. This bill is in violation of the HHCA and contrary to the intent and purpose of Act 279 to reduce the wait-list and follow the wishes of the applicants represented in the 2020 Beneficiary Applicant Report as directed by the Hawaii State Legislature. I ask that the Hawaii State Legislature insure compliance with the HHCA and Act 279 while assisting with the over-all housing crisis facing native Hawaiians.

Respectfully Submitted – Dennis L. Neves

LATE

SENATE COMMITTEE ON HAWAIIAN AFFAIRS JUDICIARY

Senator Maile Shimaburkuro, Chair

Senator Kurt Fevella, Vice Chair

TITLE OF BILL: SB1040 RELATING TO HOMELESSNESS

DATE: Wednesday, February 8, 2023

TIME: 1:05 PM

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

IN SUPPORT of S.B. No. 1040

Hello Chairpersons Maile Shimaburkuro and Kurt Fevella,

I am Matthew Smedley, a citizen of O'ahu representing myself. I am testifying in favor of SB 1040, a bill that would provide housing for the Native Hawaiian people experiencing homelessness on the Leeward Coast. This bill would allow the existing kauhale pilot program to begin serving community members on the Leeward coast.

We have already seen the positive impacts of Housing First through the kauhale pilot program in Kama'oku Kalaeloa. With a 94% success rate for chronically homeless individuals and families obtaining permanent housing we have seen that many of the people served are in need of a chance. A chance to get back on their feet. A chance for a place to call home. A chance to rest so that they may use their time and energy to locate a more long-term solution.

By serving and helping the Native Hawaiian homeless population on the Leeward coast you can help bolster the economy, reduce the number of chronically homeless, and even address the substance abuse epidemic. In 2021 alone Housing First served 299 people, including 26 families with children across Oahu, Hawai'i, Kauai, and Maui. Several of those provided with temporary housing were able to obtain employment or attend employment training. 28 participants voluntarily entered into substance abuse treatment programs. By providing a safe hub for the Native Hawaiians experiencing homelessness it also creates a stable place for them to obtain additional services and meet with providers. In the past it has been a barrier to services when people have had to routinely relocate, and service providers have had to squander resources in order to locate participants. In 2021, nineteen clients were able to increase their public benefits and 72 were able to increase their assistance income.

In summation, many of the people experiencing chronic homelessness are trying to improve their living situation while living with a sense of uncertainty and instability. The passing of SB1040 will serve as the first step in helping the homeless Native Hawaiian populations on the Leeward Coast obtain stable housing.

Thank you for your time and please take care,
Matthew Smedley

LATE

SB-1040

Submitted on: 2/8/2023 4:46:27 PM

Testimony for HWN on 2/8/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Lindsay Ann Pacheco	Individual	Support	Written Testimony Only

Comments:

My name is Lindsay Ann Pacheco and I am a member of the O'ahu Lived Experience Council (OLEC). Having spent nearly 9 years of being homeless here on O'ahu to now being housed for two years going on three years now, I can honestly tell you that it has not been easy to get this far.

Dealing with shelter systems that continue to fall short in helping folks get out of being chronically homeless is difficult, especially when there are no real permanent long-term housing solutions that are truly affordable to place people. Kauhale programs such as that which is being proposed here under SB1040 is definitely something that can and will work in helping to address our state's current homelessness issues.

I am in strong support of SB1040. Thank you for allowing me to testify.