



SB2289 SD2 HD2
RELATING TO KALAUPAPA
House Committee on Finance

April 2, 2024

4:00 p.m.

Conference Room 308

The Office of Hawaiian Affairs (OHA) offers **SUPPORT and comments on SB2289 SD2 HD2** which would require the Department of Health to include in its annual report regarding Kalaupapa Settlement details and updated information, as available, regarding the permanent transfer to other governmental or qualified non-governmental entities of the powers and duties of the Department over Kalaupapa Settlement and requires the Department of Health to report on its community engagement efforts with community stakeholders and the Molokai community. This measure is crucial for ensuring transparency and accountability in the management of Kalaupapa Settlement, particularly as the Department of Health considers the permanent transfer of powers and duties over the area to other governmental entities.

Part of the community engagement efforts must include the implementation of the Kalaupapa Memorial Act, which authorizes the nonprofit organization, Ka 'Ohana O Kalaupapa to establish a Memorial listing the names of those who were sent to the peninsula because of government policies regarding leprosy. The Act was signed into law by President Barack Obama on March 30, 2009. (123 STAT. 996; Public Law 111-1 - 3/30/2009). The Act authorized Ka 'Ohana O Kalaupapa to establish the Memorial within the boundaries of Kalaupapa National Historical Park. Moreover, Ka 'Ohana O Kalaupapa has provided and maintains crucial contacts with those who are most significantly impacted by any contemplated management of the settlement and must be part of the discussions and planning moving forward.

Established by our State's Constitution, OHA is the quasi-autonomous State Agency within the State of Hawaii, mandated for the betterment of the conditions of Native Hawaiians. This mandate is pursuant to the unique Trust relationship established in the compact between Native Hawaiians, the United States and the State of Hawaii, also known as the Admissions Act.¹ Guided by a board of nine publicly elected trustees, all of whom are Native Hawaiian, OHA fulfills its mandate through advocacy, research, community engagement, land management and funding of community programs. Hawaii state law recognizes OHA as the principal public agency in the State responsible for the performance, development, and

¹ Pub. L. 86-3, 73 Stat. 4, enacted March 18, 1959.



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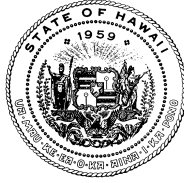
coordination of programs and activities relating to Native Hawaiians. Furthermore, State law directs OHA to advocate on behalf of Native Hawaiians; to advise and inform Federal Officials about Native Hawaiian programs; and to coordinate Federal Activities relating to Native Hawaiians. Accordingly, The Office of Hawaiian Affairs has a vested interest in the outcome of the transition of authority for Kalaupapa. We stand ready to support transition efforts as appropriate.

Additionally, OHA would like to emphasize the importance of the memorial for the patients who have passed away at Kalaupapa. Of the estimated 8,000 Hawai'i citizens sent to Kalaupapa, 90% were Native Hawaiian. Only 1,000 of the 8,000 buried at Kalaupapa have a marked grave. The Memorial will have all 8,000 names inscribed for future generations to see and reconnect with their Kalaupapa 'ohana. The creation of this memorial received significant support from the State Legislature during the 2022 Hawai'i State Legislative Session, with a \$5 million award allocated for its development. As plans for the future of Kalaupapa Settlement are considered, it is essential that the memorial project is integrated into these discussions and that its progress is accurately reflected in the Department of Health's annual reports.

Furthermore, as the Department of Health commences plans for the transition, **it is imperative that there is greater community engagement to adequately plan for the future.** This includes meaningful engagement with community stakeholders and the Moloka'i community, especially the inclusion of Ka 'Ohana O Kalaupapa. **We appreciate the inclusion of Ka 'Ohana O Kalaupapa in the current draft of the bill. Their inclusion in the decision-making process ensures that the voices of those most directly impacted are heard and valued.**

In conclusion, the Office of Hawaiian Affairs urges the Legislature to **PASS SB2289 SD2 HD2** and promote greater community transparency and coordination and ensure accurate and detailed reporting of activities at Kalaupapa Settlement. By doing so, we honor the historical significance of the land, respect the rights and perspectives of the Native Hawaiian community, and ensure that the future of Kalaupapa Settlement is guided by inclusivity, transparency, and respect for the memory of its patients.

Mahalo for the opportunity to testify on this important issue.



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Testimony COMMENTING on SB2289 SD2 HD2
RELATING TO KALAUPAPA

REPRESENTATIVE KYLE T. YAMASHITA, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing: Tuesday, April 2, 2024; 2:30 PM; Conference Room 308

1 **Fiscal Implications:** None

2 **Department Position:** The Department of Health (“Department”) provides the following
3 comments on this measure.

4 **Department Testimony:** The Communicable Disease and Public Health Nursing Division
5 (CDPHND) provides the following testimony for SB2289-SD2-HD2 on behalf of the Department.

6 The Department has provided an annual report to the Legislature regarding specific activities at
7 Kalaupapa, as specified in HRS 326-25.5, since 2005.

8 The Department supports the intent of the proposed changes to HRS 326-25.5 which would
9 require that the following items be included in the annual report to the Legislature regarding
10 Kalaupapa Settlement:

- 11 • Details regarding the permanent transfer of the Department’s powers and duties over
12 Kalaupapa Settlement
- 13 • Details regarding the Department’s efforts of engagement with interested stakeholders
14 from the community

15 The Department and partner governmental agencies are committed to extensive and equitable
16 community engagement and agree that it is critical for the perspectives of a variety of

1 stakeholders - including current patients, descendants and family of current and former
2 residents, DHHL beneficiaries, Ka Ohana O Kalaupapa, members of the greater Moloka'i
3 community and other Hawai'i residents – to be heard and considered as we continue working
4 to assure the successful future management of Kalaupapa and the area presently defined as
5 Kalawao County (HRS §4-1(2)(F) and HRS §326-34).

6 Considering this need for inclusion of many perspectives and the desire for community input to
7 be equitable, the Department is concerned that this measure specifies the required
8 participation of a named non-profit organization and a vaguely worded description of another
9 organization (“non-governmental organization from the non-peninsular area of Moloka'i”) on
10 “the transition team.” The Department respectfully requests the deletion of these references to
11 specific organizations and offers the Legislature the assurance that the Department continues
12 to work with our partner government agencies that have responsibility at Kalaupapa
13 Settlement and will faithfully work to engage a diverse range of individuals and organizations
14 from the Moloka'i community regarding the future management of Kalaupapa Settlement and
15 the area presently defined as Kalawao County.

16 The term “transition team” has no definition in statute or administrative rules, but is being used
17 to describe a group of representative staff members from federal, state and county agencies
18 that have statutory or administrative responsibility for land, facilities, rules and laws at
19 Kalaupapa Settlement and Kalawao County and has been meeting regularly at the invitation of
20 the Department since 2015. This “team” addresses required administrative and day-to day
21 operational issues for which they are responsible at Kalaupapa Settlement and Kalawao County.
22 The Department respectfully requests the deletion of references to specific community groups
23 since neither would have administrative or day-to day operational responsibilities at Kalaupapa
24 Settlement and their participation in this team would be unfair to other members of the
25 community with an interest in Kalaupapa.

1 An additional concern involves the added language “qualified non-governmental entities” when
2 describing who will be taking over eventual operations, duties and jurisdiction of Kalawao
3 County from the Department. The department is unaware of any “qualified non-governmental
4 entities” to whom “the powers and duties of the department... over Kalaupapa Settlement” (as
5 defined in HRS 326 and HAR 11-168 and 11-169) can be permanently transferred.

6 The Department does not have authority to transfer the powers and duties that any other state
7 agency – e.g., Department of Hawaiian Home Lands, Department of Land & Natural Resources –
8 holds over Kalaupapa Settlement.

9 When the Department’s role in patient care at Kalaupapa expires, appropriate sections of HRS
10 and HAR that specifically relate to the Department’s jurisdiction and control over the county of
11 Kalawao will be repealed. The fee ownership and control of land parcels at Kalaupapa by other
12 state agencies – DHHL and DLNR – will continue beyond DOH involvement.

13 The Department will continue to provide the Legislature with updates and details related to
14 these matters in the annual report to the Legislature.

15 **Offered Amendments:** The Department has concerns regarding the proposed language
16 included in this measure and suggests the following modifications (~~striketrough font~~):

17 AMENDMENT 1 - Page 2, Lines 10-14

18 “(10) Details and updated information, as available, regarding the permanent transfer to other
19 governmental or qualified non-governmental entities of the powers and duties of the
20 department and any other state agency over Kalaupapa Settlement; and”

21 AMENDMENT 2 - Page 2, Lines 15-20 and Page 3, Lines 1-2.

22 “(11) Details, including efforts of engagement by the department with Molokai community
23 groups, including the immediate addition to the transition team of Ka Ohana O Kalaupapa and a
24 non-governmental organization from the non-peninsular area of Molokai as soon as it is

1 ~~selected by the department in consultation with the non peninsular area of the Molokai~~
2 ~~community.”~~

3 AMENDMENT 3 - Page 3, Lines 3-9

4 “SECTION 2. After all of the powers and duties of the department of health over Kalaupapa
5 Settlement have been permanently transferred to other governmental agencies ~~or qualified~~
6 ~~non-governmental organizations~~, the governor shall issue a proclamation to affirm the date of
7 completion of the transfer. The governor shall also immediately deliver a copy of the
8 proclamation to the revisor of statutes.”

9

10 Thank you for the opportunity to testify on this measure.



April 1, 2024

SB2289, SD2-HD2 -- Relating to Kalaupapa
State House Committee on Finance
Tuesday, April 2, 2024, 2:30 p.m., Room 308

I write in SUPPORT of SB2289-SD2-HD2 (including amendments), regarding the future of Kalaupapa

Dear Chair Yamashita and Members of the House Finance Committee,

Thank you for giving attention to the testimony of Ka 'Ohana O Kalaupapa, a nonprofit organization created by Kalaupapa residents (patients) in 2003 to bring together family members and friends to support them and carry on their wishes into the future. We know the Finance Committee has many bills to review and we appreciate the opportunity to be included.

I am Valerie Monson, Executive Director of Ka 'Ohana O Kalaupapa. I have had the opportunity of interviewing and writing about the people of Kalaupapa since 1989 and have gotten to know many descendants of Kalaupapa.

The State Department of Health and other government agencies have been meeting for at least eight years about the transfer of Kalaupapa to another entity when there are no longer residents who were isolated under the old leprosy laws. However, this "transition team" has **never** included non-governmental voices such as Ka 'Ohana O Kalaupapa and the upper Molokai community. As far as I know, there have never been any community meetings about what plans are being discussed.

This is not right.

Since hearings began on this bill in the Legislature two months ago, we have spoken with various government officials who sit on this transition team, who tell us where they are in the process of discussing the future of Kalaupapa -- and everyone seems to have a different point of

view. One official says that in the eight years of meeting, the transition team is still only talking about “operational” details such as “who has the key to what” and have not discussed future jurisdiction of the settlement.

Another official testified that the team wants to bring in the public, but they must first find funding to bring on board an “Engagement Coordinator” to develop an “Engagement Plan.” That scenario could take years before the public is involved. During discussions with another official, we were told that the Department of Hawaiian Homelands has been consulting with its beneficiaries about the future of Kalaupapa -- but the beneficiaries we know say this has not happened.

Someone else told us the future of Kalaupapa has already been sent up to the “Executive level, but we don’t know what that means. That’s the comment that has scared me the most.

Has the future of Kalaupapa already been decided by Honolulu officials without involving the public? Is this a done deal?

The future of Kalaupapa is an important and complex subject that requires serious discussions which are open to the public. **A key reason why Kalaupapa residents (patients) wanted to organize Ka ‘Ohana O Kalaupapa in 2003 and bring in family members and friends to support them and make sure their wishes would guide the future of Kalaupapa. They feared that outsiders or those with little experience at Kalaupapa would be making those decisions without seeking the input of those long involved with the community.**

That appears to be happening again.

Nearly all of the state agency Directors involved at Kalaupapa and the NPS Superintendent have been newly appointed or are recent hires. There will always be new administrations and new department heads at different times -- in the case of the National Park Service, the Superintendent of Kalaupapa National Historical Park could be an individual from the continent who is new to Hawai`i as well as new to Kalaupapa, a huge learning curve.

These new officials and this transition team would benefit greatly from the wisdom and knowledge of Ka ‘Ohana O Kalaupapa and the upper Molokai community.

Kalaupapa is part of Molokai -- the voices of the Molokai community must be heard. Molokai residents do not necessarily follow the path of those on other islands and future plans for Kalaupapa must dovetail with the future of Molokai.

For the past 20 years, Ka ‘Ohana O Kalaupapa has been diligently and actively creating and implementing programs and projects for Kalaupapa residents and the greater community that had not previously been done. We have helped more than 900 descendants learn more about their Kalaupapa ancestors -- and arranged for a number of them to visit Kalaupapa so they can walk in the footsteps of their kupuna. A number of these descendants are beneficiaires.

Ka 'Ohana was given a Congressional mandate to establish the Kalaupapa Memorial and will be a longtime presence on the peninsula. In preparing testimony for the NPS's General Management Plan when the first draft was issued in 2009, Ka 'Ohana developed a 28-page Position Paper on the future of Kalaupapa. Ka 'Ohana continued to participate in every GMP meeting and offering extensive written comments following each draft of the plan in the years-long process.

One of the most important issues regarding the future of Kalaupapa centers around homesteading. The ahupua`a of Kalaupapa -- approximately 1,300 acres -- is owned by the Department of Hawaiian Homelands which has a 50-year lease with NPS that expires in 2041.

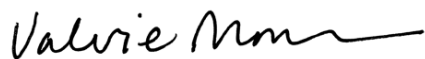
Before Kalaupapa was designated as a leprosy settlement in 1865, a thriving Hawaiian community had lived for generations on the Kalaupapa peninsula and in nearby Waikolu Valley.

Our Position Paper took a strong stand that the public needs to be included in these discussions about homesteading. We do not believe that has yet to take place. If there is homesteading, would the National Park Service continue at Kalaupapa? We don't know. If there is no homesteading and the Park Service has full control at Kalaupapa, how will NPS be held accountable? We don't know.

I respectfully ask this committee to support SB2289-SD2-HD2 -- or add even stronger language which directs that Ka 'Ohana O Kalaupapa and a non-governmental organization from the Molokai community be included immediately on the executive transition team and that qualified non-government agencies be considered along with other government agencies regarding jurisdictional issues of Kalaupapa when DOH is no longer involved.

Thank you for this opportunity to address this important issue.

With aloha,



Valerie Monson, Executive Director
Ka 'Ohana O Kalaupapa

SB-2289-HD-2

Submitted on: 4/1/2024 10:49:30 AM

Testimony for FIN on 4/2/2024 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Wally Inglis	Individual	Support	Written Testimony Only

Comments:

Rep.Kyle Yamashita, Chair; Rep. Lisa Kitagawa, Vice-Chair and

Members of the House Finance Committee:

I strongly urge you to vote favorably on SB 2289 SD2 HD2, which has critical implications for the future of Kalaupapa, its land and its people.

It is essential to retain the latest amendments to this bill, which has been strengthened as it has progressed through various committees in Senate and House. The transition of Kalaupapa within several governmental agencies will be a purely bureaucratic maneuver without the participation of Kalaupapa residents and the wider Molokai community. The language of the HD2 version demands that this will happen: "... including the immediate addition of Ka Ohana o Kalaupapa and a nongovernmental organization for the non-peninsular area of Molokai to the executive transition team."

Forty years ago Hansens disease patients at Hale Mohalu in Pearl City staged highly visible and effective protests to show their unwillingness to be excluded from decisions affecting their lives. The Department of Health and other state departments should learn from this history how important it is to listen to those who have most at stake.

I appreciate your attention to this vital issue.

Wally Inglis

Palolo Valley

*DeGray Vanderbilt
175 Kealaloa Avenue
Makawao, Hawaii 96768*

**Representative Kyle Yamashita, Chair and Representative Lisa
Kitagawa, Vice Chair
House Committee on Finance
Hearing: Tuesday, April 2, 2024, House Conference Room 308 at 2:30 pm**

IN SUPPORT of SB2289 HD2

Aloha Chair Yamashita, Vice Chair and Members of the House Committee on Finance.

My name is DeGray Vanderbilt. I am a member of the Board of Ka ‘Ohana O Kalaupapa, but am providing comments on SB2289-HD2 as an individual.

Ka ‘Ohana O Kalaupapa is a formally organized non-profit and is a Native Hawaiian organization. The organization recently observed its 20th anniversary. During this time, Ka ‘Ohana has accomplished much, including receiving seven (7) Historic Preservation awards from the Hawaii Historic Foundation for the organizations work at Kalaupapa.

Kalaupapa residents conceived of and fostered Ka ‘Ohana O Kalaupapa so that as their numbers grew smaller, their voices would continue to be heard and the legacy they dreamed of for Kalaupapa’s future would be realized and sustained in perpetuity. As noted by Congress, which approved the Kalaupapa Memorial Act that was signed into law March 30, 2009 by President Barack Obama, the organization consists of patient residents at Kalaupapa and their family members and friends. The Act has no sunset date.

Ninety percent (90%) of the approximate 8,000 exiled to Kalaupapa are Native Hawaiian and by today’s standards would qualify as homestead beneficiaries.

I am extremely appreciative of the support and understanding of the legislators have provided for Ka ‘Ohana O Kalaupapa and the topside Molokai community in the Senate before two Committees, Health and Human Services and the Ways and Means Committee and also on the House side before the Water and Land Committee and the Committee on Judiciary and Hawaiian Affairs.

Based on the uncertainties and sometimes conflicting statements voiced by government agencies at the aforementioned hearings, I am humbly requesting Chair Yamashita and

members of the Finance Committee to consider a small amendment in order to provide clarity regarding “the immediate addition” of community-based organizations joining the executive transition team:

PROPOSED AMENDMENT (underline and bold type):

SECTION 1 Paragraph (11)

Details, including efforts of engagement by the department with Molokai community groups, including the immediate addition to the executive transition team of Ka Ohana O Kalaupapa **at the transition team’s next meeting** and a non-governmental organization from the non-peninsular area of Molokai as soon as it is selected by the department in consultation with the non-peninsular area of the Molokai community.”

At the March 12 hearing before the Water and Land Committee, a Department of Health representative was asked by Chair Ichiyama about the timeline for the community to be included in the transition team process. As noted in the verbatim transcript of the meeting, the Department of Health representative responded, “*We don’t know yet..*”

Later in the meeting Vice Chair Mahina Poepoe shared with the Department of Health and other government members of the executive transition team who were attending the meeting the following advice “*I think as much as possible involving community upfront makes for a much smoother process than later. I don't know if the reason for choosing to not include community at this point has to do with personal health information because it has to do with patients. But from what I'm hearing, I think it's rather a choice than something that the community has to be excluded from for legal reasons. I feel like the community could be included at this point. It's just a choice not to.*”

I sincerely believe that it is appropriate at this time for both Ka ‘Ohana O Kalaupapa and a topside Molokai community organization to be added to the executive transition team to a) provide needed transparency and institutional knowledge considering all of the directors and deputy director on the current executive team are new to their positions since 2023, b) for the topside Molokai community to be in on the upfront discussions of several of the aforementioned issues raised by DOH that topside Molokai are directly involved with (i.e access to Kalaupapa from topside, electrical utility the energy source which some from topside Molokai, fishing regulations, etc.) and c) in consideration of the fact that at all four transition meetings held during 2023, Ka ‘Ohana was on the transition

team agendas for discussion, yet Ka 'Ohana was not invited to participate in those four meetings.

I truly believe that Ka 'Ohana and a topside Molokai community organization will bring many benefits to those new government agency directors and deputy directors currently trying to wrestle with the ins and outs of the transition process. I am hopeful the Finance Committee will look favorably on the proposed small amendment intended to add needed clarity.

Mahalo for scheduling SB2289 for consideration and for allowing me this opportunity to share my thoughts with all of you,

Respectfully submitted

DeGray Vanderbilt

DeGray Vanderbilt

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