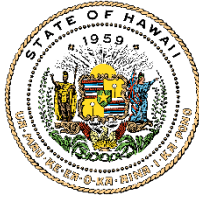


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

DIVISION OF STATE PARKS
P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N.S. CHANG
Chairperson

Before the House Committees on
TOURISM
and
WATER & LAND

Thursday, March 20, 2025
9:00 AM
State Capitol, Conference Room 423

In consideration of
SENATE BILL 439, SENATE DRAFT 1
RELATING TO FEES

Senate Bill 439, Senate Draft 1 (SB439, SD1) proposes to require the Board of Land and Natural Resources (Board) to adopt rules to impose user fees that apply solely to nonresidents visiting state parks and trails, as selected by the Board. **The Department of Land and Natural Resources' (Department) provides the following comments:**

The Department, through the Division of State Parks (State Parks), is consulting with the Hawaii Tourism Authority (HTA) on obtaining data to implement seasonal surge pricing comparable to the airline and hotel industry. One park unit per island is under consideration for implementing a dynamic pricing model. State Parks is anticipating bringing this to the Board pursuant to Act194, SLH2021 for approval in June with a modest increase in fees.

In regard to the provisions of SB439, SD1, State Parks has accomplished virtually all of the provisions of SB439, SD1.

(1) The board shall conduct studies to determine those state parks and trails to which the user fees should be applied: State Parks has applied the following evaluation criteria to assessing which park units are eligible and would succeed in the collection of parking and entrance fees:

- The number of out-of-state visitors is significant enough to attract and sustain third party parking and entry managers.
- The park unit has infrastructure and staffing to support and justify fee collection.

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

- The park has paved parking and roadways, comfort stations, and sufficient maintenance staff to ensure the quality of the conditions of the park unit.
- There is a single-entry point or ability to staff and control and manage multiple vehicle points of entry.
- The turnover rate of the patronage during the day is sufficient to generate sufficient revenue to cover management staffing costs for fee collection.
- There is an ability for a third party to install and maintain pay stations with sufficient connectivity for automated payments.
- If the park has been dominated by over tourism: reservation-based access is a tool to reduce daily patronage at overcrowded park units and ensure a quality experience - in addition to collecting revenue.
- For reservation-based fee collection, there is a means to measure and establish a daily temporal capacity and turnover rate of the parking area in order to preset reservation time periods and the ability to still ensure adequate parking and access for residents.
- For park units with reservation-based access, the contracts for the third party provide shift from a concession lease to a service contract – the fees prepaid and collected online, and the vendor is now only managing visitor compliance and traffic instead of collecting the fee.

(2) The board may designate the state parks and trails to which the user fees shall apply: This action has been codified in Chapter 13-146 HAR (see attached chapter section of 13-146 HAR).

(3) Any user fee established pursuant to this section shall be adjusted over time for inflation, based on the Consumer Price Index in the Honolulu area as reported by the United States Bureau of Labor Statistics: This is the one provision of the bill that has not been executed, and State Parks is consulting with the National Association of State Park Directors on if this or a similar calculus has been applied to other State parks for fee increases.

(4) The board may reduce, increase, or repeal any user fee by adopting, amending, or repealing rules pursuant to chapter 91: Act194, SLH2021, has provided that the Board of Land and Natural Resources can adjust state park fees through Board action.

(5) The proceeds of any user fees collected pursuant to this section shall be deposited into the state parks special fund established pursuant to section 184-3.4: This is currently in effect and the spending ceiling of the State Parks Special Fund is \$30 million per Fiscal Year.

(6) This section shall not be construed to impose a minimum amount for any user fee or establish a minimum number of state parks or trails to which user fees shall apply. Chapter 13-146 HAR designates fees not by number of parks but by park category: State Parks, State Monuments, State Recreational Areas, State Historic Parks, State Wilderness Parks, State Scenic Shorelines, State Recreational Piers, and State Wayside Parks.

There are currently 10 state parks with parking and entry fees, and 4 of these park units have advance reservations systems in place for regulated access and collecting fees:

- Kauai: Kokee, Waimea Canyon, and Ha'ena State Parks (requires reservations)
- Oahu: Diamond Head State Monument (requires reservations) and Nu'unau Pali State Wayside
- Maui: Makena State Park, Iao Valley State Monument and Wai'anapanapa State Park (both require reservations)
- Hawaii: Hapuna State Recreation Area, Akaka Falls State Park

Per Hawaii Administrative Rules, Chapter 13-146, parking and entry fees at state parks are only levied upon out of state visitors, Hawaii residents are gratis and do not require advance reservations to enter the respective park units.

An important legal element this process is transition from fee collection on site with pay stations to off-site reservation-based fee collection and visitor capacity management. Existing or new contracts with the private sector partner must be revised from a concession to a service contract per Hawaii Revised Statutes. This requires Board action.

Based on the evaluation criteria, State Parks has currently identified 5 additional park units that qualify and are being evaluated for parking and entry fees and reservation-based access. Board action is required to obtain approve for an either and invitation for bid or a request for proposals for these park units:

1. Hawaii; Kekaha Kai – Kua Bay: reservation-based parking and entry.
2. Hawaii; Wailoa River SP- Rainbow Falls: after the design and construction of a parking area.
3. Hawaii; Kealakekua Bay SHP will require reservation-based parking and entry upon completion of the parking area.
4. Kauai; Wailua River SP - reservation-based parking and entry.
5. Oahu; Pu'u Ulaka'a State Wayside – afternoon reservation-based parking and entry.

Mahalo for the opportunity to provide testimony on this measure.

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendment and Compilation of Chapter 13-146
Hawaii Administrative Rules

August 14, 2020

SUMMARY

1. §13-146-6 is amended.
2. Chapter 13-146 is compiled.

**Exhibit 2. Hawaii State Park System Camping and Cabin
Rental Fee Schedule. (February 4, 2020)**

	Resident Fee	Nonresident Fee
Camping Fees:		
State Park Camping Fees (except Na Pali Coast SWP)	\$20.00 night/campsite	\$30.00 night/campsite
Na Pali Coast State Wilderness Park Camping Fees	\$25.00 per person/night	\$35.00 per person/night
Cabin Rental Fees:		
Hapuna Beach SRA	\$40.00 per night/A-Frame	\$70.00 per night/ A-Frame
Kalopa SRA, Polipoli Springs SRA, Wai'anapanapa State Park	\$70.00 per night/cabin	\$100.00 per night/cabin
Camping or Cabin Rental Change Fee	\$3.00	\$3.00
Cancellation Fee	\$5.00	\$5.00
Day Use Pavilion Rental Fees:		
Large pavilions (Capacity of 150 or more persons)		\$250.00 flat day use fee
Medium pavilions (Capacity of 61-150 persons)		\$15.00/hour
Small pavilions (Capacity of 60 or fewer persons)		\$10.00/hour

**Exhibit 3. Hawaii Park System Entrance and Parking
Fee Schedule. (February 4, 2020)**

Entrance Fees	
State Parks	Residents: No charge Nonresidents: \$5.00 per person
State Monuments	Residents: No charge Nonresidents: \$5.00 per person
State Recreational Areas	Residents: No charge Nonresidents: \$5.00 per person
State Historic Parks	Residents: No charge Nonresidents: \$5.00 per person
State Wilderness Parks	Residents: No charge Nonresidents: \$5.00 per person
State Scenic Shorelines	No charge
State Recreational Piers	No charge
State Wayside Parks	No charge

Exhibit 3 (cont'd).

Parking Fees	
State Parks	
Per noncommercial vehicle	Residents: No charge Nonresidents: \$10.00 per vehicle
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$25.00
8 to 25 passengers per vehicle	\$50.00
26+ passengers per vehicle	\$90.00
State Monuments	
Per noncommercial vehicle	Residents: No charge Nonresidents: \$10.00 per vehicle
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$25.00
8 to 25 passengers per vehicle	\$50.00
26+ passengers per vehicle	\$90.00

Exhibit 3 (cont'd).

Parking Fees (cont'd)	
State Recreational Areas	
Per noncommercial vehicle	Residents: No charge Nonresidents: \$10.00 per vehicle
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$25.00
8 to 25 passengers per vehicle	\$50.00
26+ passengers per vehicle	\$90.00
State Historic Parks	
Per noncommercial vehicle	Residents: No charge Nonresidents: \$10.00 per vehicle
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$25.00
8 to 25 passengers per vehicle	\$50.00
26+ passengers per vehicle	\$90.00

Exhibit 3 (cont'd).

Parking Fees (cont'd)	
State Wilderness Parks	
Per noncommercial vehicle	Residents: No charge Nonresidents: \$10.00 per vehicle
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$25.00
8 to 25 passengers per vehicle	\$50.00
26+ passengers per vehicle	\$90.00
State Scenic Shorelines	
Per noncommercial vehicle	No charge
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$15.00
8 to 25 passengers per vehicle	\$30.00
26+ passengers per vehicle	\$50.00

Exhibit 3 (cont'd).

Parking Fees (cont'd)	
State Recreational Piers	
Per noncommercial vehicle	No charge
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$15.00
8 to 25 passengers per vehicle	\$30.00
26+ passengers per vehicle	\$50.00
State Wayside Parks	
Per noncommercial vehicle	Residents: No charge Nonresidents: \$7.00 per vehicle
Per commercial PUC vehicle	
1 to 7 passengers per vehicle	\$15.00
8 to 25 passengers per vehicle	\$30.00
26+ passengers per vehicle	\$50.00
All State Park Facilities	Overnight Parking Fee
Noncommercial vehicle	\$20.00
Commercial vehicle	Prohibited



Testimony Before The
House Committee on Tourism (TOU)
House Committee on Water & Land (WAL)
IN SUPPORT OF SB439 SD1

March 20, 2025, 9:00 a.m., Room 423 & Videoconference

We are Olan Leimomi Fisher and Kevin Chang, Kua'āina Advocate and Executive Director, respectively, testifying on behalf of [Kua'āina Ulu 'Auamo \(or KUA\)](#). "Kua'āina Ulu 'Auamo" stands for "grassroots growing through shared responsibility," and our acronym "KUA" means "backbone." **Our mission is to connect and empower communities to improve their quality of life through the collective care for their biocultural (natural and cultural) heritage, serving as a "backbone organization" that supports creative, community-driven solutions to problems stemming from environmental degradation.** Hawai'i's biocultural resources continue to be negatively impacted by political, economic, and social changes, and the increasing dangers of climate change make fostering and empowering resilient communities acutely critical.

Currently KUA supports three major networks of: (1) over 40 mālama 'āina (caring for our 'āina or "that which feeds") community groups collectively referred to as E Alu Pū (moving forward together); (2) over 60 loko i'a (fishpond aquaculture systems unique to Hawai'i) and wai 'ōpae (anchialine pool systems) sites in varying stages of restoration and development, with numerous caretakers, stakeholders, and volunteers known as the Hui Mālama Loko I'a ("caretakers of fishponds"); and (3) the Limu Hui made up of over 50 loea (master experts) and practitioners in all things "limu" or locally-grown "seaweed." **Our shared vision is to once again experience what our kūpuna (ancestors) referred to as 'ĀINA MOMONA – abundant and healthy ecological systems that sustain our community resilience and well-being.**

KUA supports SB439 SD1 as an incremental step towards 'āina momona.

This bill would require the Board of Land and Natural Resources to adopt rules to impose user fees for nonresident visitors to state parks and trails. The funds collected through this bill could help to offset some of the environmental and community wellbeing degradations caused by our historically overly-extractive tourism industry by infusing the state's Department of Land and Natural Resources (DLNR) with much-needed funds dedicated to the protection, management, and restoration of Hawai'i's natural resources.

Our state constitution requires the protection and enforcement of Native Hawaiian rights, including traditional and customary practices that are intrinsically dependent on our threatened natural resources. Hawai'i's biocultural resources are also a part of the public trust, and must be managed and protected for the benefit of current *and future* generations. It is no secret that the historical and existing models of tourism continue to negatively affect our home, causing overcrowding and strain on our water, food, and special places – making life much less enjoyable for residents, and at the ultimate expense of our fragile ecosystems with native plants and animals being the most vulnerable. With many other governments taking proactive steps to correct the underinvestment in their natural resources (Italy, Spain, New

Zealand, Galapagos, Palau, etc.), it is time that Hawai'i – widely-known as one of the most exploited tourist destinations in the world – follows suit, to best protect our fragile environment which Native Hawaiians and kama'āina hope to continue stewarding for generations to come.

A recent survey on public support for the care of our biocultural resources found that 95% of Hawai'i voters believe that it is our kuleana to care for the ocean for future generations, and 82% support giving local communities a clear role in managing marine areas. Furthermore, 89% of those surveyed agree that we must increase our investment in our precious land, water, and animals, including our biocultural resources. We believe SB439 SD1 is a critical step to ensuring visitors are paying their fair share for the places they use, and the experiences and resources they enjoy during their time in our home.

This bill also uplifts and highlights the significant contributions of Hawai'i residents, especially those in rural and Native Hawaiian communities, beyond paying taxes for environmental care. Native Hawaiian cultural values and stewardship practices already hold many of the solutions to prevent and mitigate the climate crisis. Engaging our local communities in direct environmental management and governance, often in collaboration with our underfunded DLNR, is key to overcoming the many challenges of climate change. As such, **if this measure is passed, we strongly urge that a dedicated portion of funding specifically support and empower community-based individuals and groups as essential partners with governmental agencies in restoring, protecting, and caring for our shared biocultural resources.**

A primary function of KUA includes support for the development of an 'auwai, or a system of resources, tools, bridges, relationships, and networks that cultivate and elevate our communities' efforts to greater levels of collective impact in the care of our biocultural resources. A core catalyst for the flow in this 'auwai includes increasing the percentage of our economy, both public and private, which helps manage and regenerate the condition of the 'āina that sustains us. **Our young people today are calling for a rebalanced approach to living on our isolated and fragile island ecosystems that have for decades been subjected to an overly extractive economic approach to life – largely through tourism.** They want our government to rebalance this overuse and exploitation with better, thoughtful care for our 'āina that feeds us. They want an island culture that no longer takes for granted the environmental subsidies that allow us to thrive. Indeed, island communities that draw tourists from around the world are the canaries in the coal mine for being overrun with travelers and impacts by global climate change. Hawai'i must join this effort and be on the right side of history.

The communities we work with are committed to ensuring the long-term health of our biocultural resources. They have depended on them for generations. **Our environment, the foundation of our very existence, is about long-term investment and a vision of 'āina momona.** To get there requires taking the steps necessary for greater self-sufficiency, including development of innovative and sustainable career pathways, mindsets, relationships, and resource flows for mālama 'āina. Passing this bill out of your committee will open an essential 'auwai system toward reaching this vision.

Mahalo nui for considering our testimony in strong support. Please **PASS** SB439 SD1.

Aloha 'Āina Momona no nā kau ā kau.



**JOINT COMMITTEE ON TOURISM &
WATER AND LAND**

DATE: Thursday, March 20, 2025

TIME: 9:00 AM

Strongly Oppose SB439 SD1

Aloha Chairs Tam/Hasham, Vice Chairs Templo/Lamosao and committee members,

My name is Antoinette Davis. It has been my honor to represent the Activities and Attractions Association of Hawaii (A3H), a not-for-profit 501c6 trade organization, as its executive director since 1997 (28 years).

A3H strongly opposes SB1396 due to the most recent parking fees, which have helped reduce impact greatly with the reservation requirement, while pulling in millions for DLNR. It's imperative to see a report on these funds and how they are being spent before creating additional funds.

How will they collected?

What are they earmarked for?

How will this impact our visitor's since of Hawaii welcoming them?

We were a proponent of the \$1 per passenger Ocean stewardship fee – the association is noted on their brochure along a quote from me. These dollars are earmarked for specific tasks that come full circle to protect the nature resource while establishing accountability. There was a thorough plan for how these funds are to spent.

While it is commendable & prudent to plan for the continued care of our parks. Allowing DLNR tax and collect more money, when they have no public reporting and accountability for the monies they receive now.

Mahalo, thank you for your time, consideration, and opportunity to testify.



HOUSE COMMITTEES ON TOURISM and WATER AND LAND

MARCH 20, 2025

SB 439, SD1, RELATING TO FEES

POSITION: SUPPORT

Coalition Earth **supports** SB 439, SD1, relating to fees, which requires the Board of Land and Natural Resources to adopt rules to impose user fees that solely apply to nonresidents visiting state parks and trails, as selected by the Board.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding. Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life.

Just two years ago, we witnessed the impact of the climate emergency on our shores. On August 8, 2023, wildfires swept across Maui and killed at least 100 people, making it one of the nation's deadliest natural disasters. The spread of the fires has been attributed to climate change conditions, such as unusually dry landscapes and the confluence of a strong high-pressure system to the north and Hurricane Dora to the south. The wildfires destroyed over 2,200 structures, including numerous residential buildings, historic landmarks, and school facilities. In September

2023, a report from the United States Department of Commerce estimated the total economic damage of the wildfires to be roughly \$5.5 billion. Investing in renewable energy generation could not be more urgent, given the growing threat of climate catastrophes to our island home.

Therefore, **our state should take steps to accelerate our transition to a clean energy economy and continue our fight against climate change, including by implementing “green fees” that ensure our state’s visitors pay their fair share to sustain our ‘āina.** In 2019, Conservation International published a report on our need to boost funding to defend our islands’ natural resources. Entitled “Green Passport: Innovation Financing Solutions for Conservation In Hawai’i,” the report concluded that the state has an annual spending gap of \$358 million to sufficiently manage its natural environment. **A 2024 update to this figure for the Care for ‘Āina Now Coalition found that the gap has ballooned to \$580 million,** while our natural and cultural resources provide over \$6 billion in value to our economy each year.

New Zealand, the Maldives, Cancun, and Venice, and numerous other countries have green fee programs for visitors, which vary from \$1 per night to a \$100 entrance fee for the purpose of environmental conservation. **Palau’s per-tourist investment in its natural environment is \$92, New Zealand’s is \$188, and the Galapagos Islands’ is \$373. Hawai’i’s is just \$9 per tourist,** according to the Green Passport report. We need to catch up.

We are facing a similar gap when it comes to generating sustainable revenue to combat the worst effects of the climate emergency. In June of last year, the state reached a settlement agreement in the landmark case of *Navahine v. Hawai’i Department of Transportation*, in which Gov. Josh Green acknowledged the constitutional rights of Hawai’i’s youth to a life-sustaining climate and confirmed the commitment by HDOT to plan and implement transformative changes to Hawai’i’s transportation system to achieve the state’s goal of net-negative emissions by 2045. The agreement included numerous provisions for climate action, such as:

- Establishing a Greenhouse Gas Reduction Plan within one year of the agreement, laying the foundation and roadmap to decarbonize Hawai’i’s transportation system within the next 20 years;
- Creating a lead unit and responsible positions within HDOT to coordinate the mission of GHG reduction throughout the agency; oversee climate change mitigation and adaptation for the highways program; and ensure implementation of the Complete Streets policy of building and upgrading public highways for all users, ages, and abilities;
- Establishing a volunteer youth council to advise on HDOT mitigation and adaptation commitments in the years to come;
- Improving the state transportation infrastructure budgeting process to prioritize reduction of GHG and vehicles miles traveled (VMT) and transparently analyze and disclose the GHG and VMT impacts of each project and the overall program; and
- Making immediate investments in clean transportation infrastructure, including completing the pedestrian, bicycle, and transit networks in five years, and dedicating a minimum of \$40 million to expanding the electric vehicle charging network by 2030.

On January 28th, Gov. Green issued an executive order to promote and expedite the development of renewable energy in our state. Amidst uncertainty regarding renewable energy policy created by the Trump administration and concerns over grid stability across the state, the order accelerates renewable development for neighbor island communities to hit 100 percent renewable portfolio standards from 2045 to 2035, sets a statewide goal of 50,000 distributed renewable energy installations (such as rooftop solar and battery systems) by 2030, and directs state departments to streamline the permitting of renewable developments to reduce energy costs and project development timelines.

These ambitious actions are essential to the preservation of our state's and our keiki's future. We must ensure that funding is available to meet our obligation to safeguard our planet from the climate catastrophe for generations to come.

Coalition Earth is a nongovernmental organization that works to preserve the well-being of people and our planet. We champion policies that advance climate resilience, clean energy, public health, and economic fairness for working families. Contact us at info@coalitionearth.org.



Care for 'Āina Now Coalition

March 20, 2025

House Committee on Tourism
Rep. Adrian Tam, Chair
Members of the Committee

House Committee on Water & Land
Rep. Mark Hashem, Chair
Members of the Committee

Re: The Imperative of Adequate Funding to Protect Natural Resources
Support SB439 SD1, Relating to Fees

Aloha kākou,

On behalf of our coalition's leadership committee, we are writing in support of SB 439 which is an important opportunity to generate funding for natural resource protection and restoration. The Care for 'Āina Now Coalition is on a mission to enhance visitor stewardship, conserve our cultural and natural resources, and invest in our 'āina to keep our community safe.

The health of Hawai'i's environment is inextricably linked to the health of our people, communities, and future generations. Our natural and cultural resources provide over \$6 billion in value to our economy each year yet have been chronically neglected and stewardship of these resources have been underfunded for decades. It's been estimated that we currently face a conservation funding gap of \$560 million per year. Today, this underinvestment continues to be a liability and risk to public safety. The more time that passes without healing our environment, the more lives, places, and communities are at risk of being harmed.

Our primary focus is adequate, permanent funding for the Department of Land and Natural Resources and community organizations to support stewardship and restoration of our natural resources. There are simple ways our State can safeguard our 'āina and people this year, including passing legislation that ensures visitor taxes go back to our environment through the TAT, and allocating funds for wildfire prevention and ecosystem resilience. These will help Hawai'i chart a new course that can sustain us. Site-based fees are one element of a much more comprehensive approach necessary to achieve the state's environmental goals.

This coalition, which works on the frontlines of natural and cultural resource management across the State, applauds the legislature for continuing to consider these solutions. We urge you to consider the crucial need for sustainable, broad-based investment to meet the immense challenges our environment faces, offset the impact left by nearly 10 million annual visitors, and invest in the long-term health of our communities. Hawai'i's natural resources are invaluable to the livelihoods of our local residents and integral drivers of our statewide economy as well as our visitor industry.

Please support SB 439.

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS; New “User Fee” for Nonresidents Visiting State Parks and Trails

BILL NUMBER: SB 439 SD 1

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Requires the Board of Land and Natural Resources to adopt rules to impose user fees that solely apply to nonresidents visiting state parks and trails, as selected by the Board.

SYNOPSIS: Adds a new section to chapter 184, HRS, directing the Board of Land and Natural Resources to adopt rules to impose user fees only for nonresidents visiting state parks and trails.

- (1) The board shall conduct studies regarding which state parks and trails the users fees shall apply;
- (2) The board may designate the state parks and trails at which the use fees shall apply;
- (3) Any user fee established pursuant to this section shall adjusted over time for inflation, based on the Consumer Price Index in the Honolulu area as reported by the United States Bureau of Labor Statistics;
- (4) The board may reduce, increase, or repeal any user fee by adopting, amending, or repealing rules pursuant to chapter 91;
- (5) The proceeds of any user fees collected pursuant to this section shall be deposited into the state parks special fund established pursuant to section 184-3.4; and
- (6) This section shall not be construed to impose a minimum amount for any user fee, or establish a minimum number of state parks or trails at which user fees shall apply.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This fee may be subject to challenge as unconstitutional. The Privileges and Immunities Clause of the U.S. Constitution requires that “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.” Although it has been held that a state may treat out-of-state residents differently in some situations, such as in granting licenses for recreational hunting, *Baldwin v. Fish & Game Commission of Montana*, 436 U.S. 371 (1978), the Court indicated that the result may be different when the nonresident is not given access to any part of the State to which they may seek to travel. *Id.* at 388. This is because the Court has recognized that the Constitution protects the right of citizens of the United States to travel freely throughout the land.

“We are all citizens of the United States,” the Court stated in *Crandall v. Nevada*, 75 U.S. 35 (1867), “and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own states. And a tax imposed by a state for entering its territories or harbors is inconsistent with the rights which belong to citizens of other states as members of the Union and with the objects which that Union was intended to attain. Such a power in the states could produce nothing but discord and mutual irritation, and they very clearly do not possess it.”

Other recent cases in the federal system have sustained the power of government to charge a user fee whose proceeds are dedicated to protect and preserve the natural attraction for which the user fee was charged (Hanauma Bay, for example). And the Hawaii Supreme Court in *State v. Medeiros*, 89 Haw. 361, 973 P.2d 736 (1999), held that the following test would be applied to distinguish between a user fee and a tax: “whether the charge (1) applies to the direct beneficiary of a particular service, (2) is allocated directly to defraying the costs of providing the service, and (3) is reasonably proportionate to the benefit received.” 89 Haw. at 367, 973 P.2d at 742.

We note that the state parks special fund, into which the proceeds are deposited, can be spent for parks generally, including (1) Permanent and temporary staff positions; (2) Planning and development of state parks programs, including the aina hoomalu state parks program; (3) Construction, repairs, replacement, additions, and extensions of state parks facilities; (4) Operation and maintenance costs of state parks and state parks programs; and (5) Administrative costs of the division of state parks. The exception is the Diamond Head State Monument subaccount, which receives fees for Diamond Head admission and can be spent only on Diamond Head.

Applying this test, the proposed user fee looks more like a tax. Although the fee is collected in a special fund, it can be spent on any park or trail, not only the park or trail that the payor of the fee paid to enter or use. Indeed, the uses to which the money in the fund can be put are broad and varied, and are not limited to the care and upkeep of natural attractions visited by tourists.

For these reasons we are concerned that the State is without power to limit access of visitors to places where residents are allowed.

Digested: 3/18/2025



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEES ON TOURISM and WATER & LAND
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 423
Thursday, March 20, 2025 AT 9:00 A.M.**

To The Honorable Adrian K. Tam, Chair
The Honorable Shirley Ann Templo, Vice Chair
Members of the Committee on Tourism

To The Honorable Mark J. Hashem, Chair
The Honorable Rachele F. Lamosao, Vice Chair
Members of the Committee on Water & Land

COMMENTS ON SB439 SD1 RELATING TO FEES

The Maui Chamber of Commerce would like to provide comments on **SB439 SD1** that requires the Board of Land and Natural Resources to adopt rules to impose user fees that apply solely to nonresidents visiting state parks and trails as selected by the Board.

We understand the intent of this bill to streamline the process of imposing fees for nonresidents at state parks and trails. However, we feel BLNR should take up each park/trail on a case-by-case basis to ensure the community has ample opportunities to ring in on the process, rules, and any economic impacts from the potential fees.

Mahalo for the opportunity to provide comments on SB439 SD1.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

SB-439-SD-1

Submitted on: 3/17/2025 4:41:24 PM

Testimony for TOU on 3/20/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

As our state parks and trails are underfunded, I support SB439.

SB-439-SD-1

Submitted on: 3/17/2025 6:11:43 PM

Testimony for TOU on 3/20/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

Continued high usage of our public spaces necessitates greater investment in their maintenance. I believe this proposal is a reasonable solution to that problem.

I urge the Committee to SUPPORT this bill!

SB-439-SD-1

Submitted on: 3/18/2025 10:48:22 AM

Testimony for TOU on 3/20/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jocelyn Demirbag	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs Tam & Hashem, Vice Chairs Templo & Lamosao, and esteemed committee members,

I am writing in support of SB439 SD1. Hawaii's land and resources are not only sacred, but limited. We have seen so much damage happen to our islands even in just the past 25 years, and even much more so when we go back to my childhood. Our flora and fauna have been severely impacted. Places like Twin Falls that had no one there when you visited now have hundreds of people daily. The erosion and decimation breaks my heart. Hawaii is a very special place. To visit it and enjoy it you must help to support it.

Mahalo for the opportunity to testify, and mahalo for your consideration of this bill.