



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 448, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

BEFORE THE:

SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ON HOUSING

DATE: Tuesday, February 7, 2023 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Joshua J. Michaels, Deputy Attorney General

Chairs Shimabukuro and Chang, and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to exempt any housing development for the Department of Hawaiian Home Lands from general excise taxes and school impact fee requirements. See page 1, line 11, through page 5, line 9, and page 6, lines 4-18. The bill also extends the issuance of county affordable housing credits to the Department of Hawaiian Home Lands. See page 7, lines 10-18. Additionally, the bill amends Act 279, Session Laws of Hawaii (SLH) 2022 (Act 279), to amend the date upon which a \$600,000,000 appropriation to the Department of Hawaiian Home Lands will lapse to the general fund from June 30, 2025, to June 30 of an unspecified year. See page 7, line 6. The bill would be effective upon approval.

As currently drafted, the amendment to the lapse date of the Act 279 appropriation may be subject to constitutional challenge because of the unspecified appropriations lapse date. Article VII, section 11, of the Hawaii State Constitution restricts appropriations from being made for a period exceeding three years, except for certain circumstances. Article VII, section 11, also requires that “[a]ll appropriations for which the source is . . . general funds shall be for specified periods.”

As such, we suggest that the unspecified lapse date on page 7, line 6, be amended to include a date that is within three years of the appropriation. If the Legislature wishes to increase the funding available to the Department of Hawaiian

Home Lands, issuing a new appropriation may be more appropriate than extending a previous one.

There are potential issues with section 4 of the bill (page 6, lines 4-18), as the statutory text being amended (section 302A-1603(b), Hawaii Revised Statutes (HRS)) does not correctly reflect the changes already made to that section by Act 197, SLH 2021 (Act 197). Act 197 was enacted on July 6, 2021, and amended section 302A-1603(b)(5) to exempt "[a]ny form of housing developed by the department of Hawaiian home lands[.]" To incorporate the revisions intended by the bill, the Department recommends the following changes to the wording at page 6, lines 6-18, as follows:

- "(b) The following shall be exempt from this section:
- (1) Any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of restrictions recorded on the property;
 - (2) Any form of housing that is or will be paying the transient accommodations tax under chapter 237D;
 - (3) All nonresidential development;
 - (4) Any development with an executed education contribution agreement or other like document with the authority or the department for the contribution of school sites or payment of fees for school land or school construction; and
 - (5) Any ~~[form of]~~ housing ~~[developed by]~~ development for the department of Hawaiian home lands ~~[for use by beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended.]~~ certified pursuant to section 237- ."

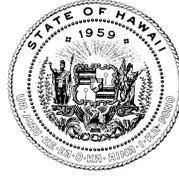
Additionally, Act 197 will sunset the amendments made to section 302A-1603(b) on July 1, 2024, and the section will be reenacted in the form in which it read on the day prior to the effective date of Act 197, which was July 5, 2021. If the intent of the Legislature is to make this new school impact fees exemption permanent, we suggest amending section 6 of Act 197 to read as follows:

~~"SECTION 6. This Act shall take effect upon its approval[; provided that on July 1, 2024, section 1 of this Act shall be repealed and section 302A-1603(b), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act]."~~

Thank you for the opportunity to comment on this bill.

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 COMMITTEE ON HAWAIIAN AFFAIRS AND
THE SENATE COMMITTEE ON HOUSING
HEARING ON FEBRUARY 7, 2023 AT 1:00PM IN CR 224

SB 448, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

February 7, 2023

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

The Department of Hawaiian Home Lands (DHHL) strongly supports this measure that exempts housing development for DHHL from general excise tax and school impact fee requirements and extends the issuance of county affordable housing credits to DHHL. Similar measures were approved by the Hawaiian Homes Commission and included in the Governor's administrative package by request of our department.

In Part I of the bill, DHHL would prefer the language in House Bill 1055, which exempts any development of homestead lots or housing for DHHL from the general excise and use taxes. Limiting the exemption to just housing development would result in the projects listed in this testimony that is for any other development besides residential such as agricultural or pastoral lots not being afforded the exemption for residential lots.

DHHL currently has four (4) large-scale development projects underway for consideration by HHFDC for GET exemptions as follows:

Projects Pending GET Exemption	Est. Dev. Costs	Est. GET Savings
HHL Rent with Option to Purchase (La'i'ōpua) (163 Units)	\$ 5,000,000 (x 4.25%) =	\$212,500
Pu'unani Subdivision	\$ 23,350,013 (x 4.0%) =	\$934,000

(160 Lots)		
(136 turnkey/24 vacant Lots)		
Former Voice of America Site (253 Units)	\$ 50,000,000 (x 4.5%) =	\$2,250,000
820 Isenberg Street (Bowl-O-Drome site) (277 Units)	\$ 137,000,000 (x 4.5) =	\$6,165,000
		TOTAL: \$9,561,500

The GET cost savings from these development projects could be used to develop more homestead lots. DHHL defines homestead lots as residential, agricultural and pastoral 99-year homestead leases. DHHL includes all acquisition, planning, design, post design, and construction of offsite and onsite development costs in its quantification of eligible costs for GET exemption purposes.

Other homestead projects in the pipeline include:

Projects in the Pipeline for Development	Est. Dev. Costs	Est. GET Savings
Ka'uluokaha'i IIC (130 residential lots)	\$20,000,000 (x 4.5%)	\$900,000
Keokea Waiohuli 2B (76 residential lots)	\$18,000,000 (x 4.0%)	\$720,000
Pulehunui offsite infrastructure (100 agricultural lots)	\$50,000,000 (x 4.0%)	\$2,000,000
Villages of Leiali'i 1B (250 residential lots)	\$130,000,000 (x 4.0%)	\$5,200,000
Honokowai Potable Water Development (1,200 mixed homestead lots)	\$30,000,000 (x 4.0%)	\$1,200,000
Kahikinui Access Improvements (75 pastoral lots)	\$ 5,000,000 (x 4.0%)	\$200,000
Nā'iwa Agricultural Subdivision (58 agricultural lots)	\$30,000,000 (x 4.0%)	\$1,200,000
Hanapēpē Residential Lots Phase 2 (75 lots)	\$20,000,000 (x 4.5%)	\$900,000
Villages of La'i'ōpua 4 Hema (130 residential lots)	\$14,000,000 (x 4.25%)	\$595,000
		Total potential DHHL savings from GET exemption: \$12,915,000

In Part II of the bill, DHHL would prefer the language in House Bill 1060, which makes permanent Act 197, Session Laws of Hawaii 2021, which excludes housing developed by DHHL from school impact fees. The Department of Hawaiian Home Lands currently leases educational facilities for public schools, public charter schools, early learning facilities, and other similar facilities at minimal to no cost as reflected in the table below. The exemption of housing developed by the Department of Hawaiian Home Lands from school impact fees allows for more homes to be developed for beneficiaries.

Type	Island	Location	Use	Name	Term	Dates	Acre	Annual Lease Rent
GL	Hawaii	Waimea	Education	Kamehameha Schools	65 yrs	12/28/2000 – 6/30/2065	2	\$0.00
GL	Maui	Paukukalo	Education	Kamehameha Schools	63.5 yrs	1/1/2002 – 6/30/2065	2	\$0.00
GL	Oahu	Waimanalo	Education	Kamehameha Schools	65 yrs	1/7/2000 – 12/31/2064	1.683	\$0.00
GL	Oahu	Mali	Education	Kamehameha Schools	65 yrs	7/1/2014 – 6/30/2079	40.00	\$73,720
GL	Oahu	Nanakuli	Education	Kamehameha Schools	65 yrs	12/1/2018 – 11/30/2083	2.651	\$41,600
LI	Hawaii	Waimea	Education	Aha Punana Leo	20 yrs	6/1/2001 – 5/31/2021	0.42	\$10,800
LI	Hawaii	Puu Pulehu	Education	Kanu O Ka Aina	10 yrs	12/1/2001 – 11/30/2011	4.62	\$600.00
LI	Hawaii	Keaukaha	Education	Kamehameha Schools	5 yrs + 5	7/1/2011 – 6/30/2021	0.16	\$30,000
LI	Hawaii	Keaukaha	Education	Ke Ana La'ahana PCS	5 yrs	4/1/2018 – 3/31/2023	0.024	\$1,200
LI	Kauai	Anahola	Education	Kanuikapono Charter Sch	30 yrs	4/23/2002 – 4/22/2037	3.0	\$1,560
LI	Kauai	Anahola	Education	Anahola Ancient Culture Exch	25 yrs	2/1/2003 – 1/31/2028	9.222	\$500
LI	Molokai	Kamiloloa	Education	Ka Honua Momona Intl	35 yrs	6/30/2010 – 6/29/2045	56.99	\$0.00
LI	Molokai	Hoolehua	Education	Aha Punana Leo	10 yrs	3/1/2012 – 2/28/2022	0.071	\$10,560
LI	Oahu	Nanakuli	Education	Kamehameha Schools	65 yrs	5/25/1995 – 5/24/2060	1.217	\$0.00
LI	Oahu	Kalaeloa	Education	State of Hawaii DOE	5 yrs	4/1/2004 – 3/31/2009	1.00	\$600
LI	Oahu	Nanakuli	Education	Ka Waihona O Ka Naauao	35 yrs	9/1/2004 – 8/31/2039	0.342	\$0.00
LI	Oahu	Nanakuli	Education	Kamehameha Schools	35 yrs	10/1/2004 – 9/30/2039	0.586	\$27,552

LI	Oahu	Haiku Valley	Education	Kai Loa, Inc.	52 yrs	6/1/2009 – 8/31/2060	20.00	\$0.00
LI	Oahu	Nanakuli	Education	Aha Punana Leo	5 yrs	9/1/2014 – 8/31/2019	0.05	\$4,200
LI	Oahu	Nanakuli	Education	HCAP	5 yrs	9/1/2014 – 8/31/2019		\$3,960

In Part III of the bill, DHHL would prefer the language in House Bill 1507, which ensures that the \$600 million appropriated to DHHL in Act 279, Session Laws of Hawaii 2022, is available for expenditure until June 30, 2025. The Legislature intended that funds appropriated in Act 279, Session Laws of Hawaii 2022, be available for expenditure until June 30, 2025. DHHL wishes to confirm this legislative intent which will allow the Department of Hawaiian Home Lands to expend funds by June 30, 2025 as intended by the Legislature, instead of the year prior or June 30, 2024.

In Part IV of the bill, DHHL would prefer the language in House Bill 1059, which makes permanent Act 141, Session Laws of Hawaii 2009, which requires that the counties issue affordable housing credits to DHHL upon the department's request and makes permanent Act 98, Session Laws of Hawaii 2012, which requires that the counties issue affordable housing credits for each residential unit developed by DHHL. Since Act 141 was enacted in 2009, DHHL has worked with each county to request and acquire affordable housing credits for completed units in homestead communities. This program has resulted in successful private-public partnerships through the exchange of credits creating resources for DHHL to further develop homestead lots. Making permanent the affordable housing credit program on Hawaiian home lands will allow the Department of Hawaiian Home Lands to continue to provide incentive to private sector developers to build affordable homes on Hawaiian home lands. This will also help to ensure that DHHL will have resources for programs for native Hawaiian lessees and applicants, including the development of homestead lots, loans, and other rehabilitation programs.

Thank you for your consideration of our testimony.



STATE OF HAWAII
SCHOOL FACILITIES AUTHORITY
75 AUPUNI STREET, STE. BASEMENT
HILO, HAWAII 96720

February 7, 2023

Testimony providing COMMENTS on SB448
RELATING TO THE DEPARTMENT OF HAWAIIAN HOMELANDS

SENATOR MAILE SHIMABUKURO, CHAIR
SENATE COMMITTEE ON HAWAIIAN AFFAIRS
SENATOR STANLEY CHANG, CHAIR
SENATE COMMITTEE ON HOUSING

Hearing Date: 02/07/2023

Room Number 224

The School Facilities Authority (SFA) **offers comments** on S.B. 448, RELATING TO THE DEPARTMENT OF HAWAIIAN HOMELANDS.

School impact fees were created to assist with the needs of school capacity as residential growth occurs. The Board of Education has established four school impact districts encompassing the following areas:

1. Kalihi-Ala Moana
2. Leeward Oahu
3. West Maui
4. Central Maui

The SFA appreciates the difficult determination the Legislature must make in determining how to prioritize the limited funding it has. It is unclear how many developments that DHHL has planned for the four designated areas, but the SFA notes that capacity concerns exist within the schools encompassed in those districts and additional residential development is likely to spur additional funding requests to the Legislature for school capacity projects.

Thank you for the opportunity to provide testimony.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 448, Relating to the Department of Hawaiian Home Lands

BEFORE THE:

Senate Committee on Hawaiian Affairs / Committee on Housing

DATE: Tuesday, February 7, 2023

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 224

Chairs Shimabukuro and Chang, Vice-Chairs Fevella and Kanuha, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding S.B. 448 for your consideration.

S.B. 448 creates a new section to Chapter 237, Hawaii Revised Statutes, exempting from general excise tax (GET) all gross income received by any "qualified person or firm," for the planning, design, financing, or construction of certain housing developments for the Department of Hawaiian Home Lands (DHHL). The bill requires all claims for exemption to be filed with and certified by DHHL and forwarded to the Department. The bill is effective upon approval.

The Department notes that the certification requirements help to minimize invalid or fraudulent claims, and therefore requests that the certification requirement is maintained.

Further, because this bill will require tax form and system changes, the Department requests that the effective date of the bill be amended to no earlier than January 1, 2024. The Department notes, however, that due to the number of bills with

Department of Taxation Testimony

SB 448

February 7, 2023

Page 2 of 2

tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session by January 1, 2024. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide testimony on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, MISCELLANEOUS, GET Exemption and School Impact Fee Exemption for DHHL Housing

BILL NUMBER: HB 567, SB 448

INTRODUCED BY: HB by HOLT, AMATO, GANADEN, GATES, HASHIMOTO, MARTEN, MORIKAWA, QUINLAN, TARNAS, TODD, WARD; SB by KEOHOKALOLE

EXECUTIVE SUMMARY: Exempts housing development for the Department of Hawaiian Home Lands from general excise tax and school impact fee requirements. Extends the issuance of county affordable housing credits to the Department of Hawaiian Home Lands.

SYNOPSIS:

Part I: GET Exemption for Affordable Housing

Adds a new section to chapter 237, HRS, providing an exemption from the general excise tax all gross income received by any qualified person or firm for the planning, design, financing, or construction of any housing development for the department of Hawaiian home lands (DHHL).

Allows DHHL to approve and certify for exemption a qualified person or firm involved with a newly constructed, or a moderately or substantially rehabilitated, project that is (1) developed under a government assistance program approved by DHHL; (2) developed under the sponsorship of a private nonprofit organization providing home rehabilitation or new homes for beneficiaries in need of decent, safe and sanitary, low-cost housing; (3) developed by a qualified person or firm to provide affordable rental housing where at least fifty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by the United States Department of Housing and Urban Development; or (4) developed by contract or project developer agreement to provide affordable housing through new construction or substantial rehabilitation. For any of the above project categories, (A) the allowable general excise tax and use tax costs shall apply to contracting only and shall not exceed \$30,000,000 per year in the aggregate for all projects approved and certified by DHHL; and (B) at least 20% of the available units are for households with incomes at or below 80% of the area median family income as determined by the United States Department of Housing and Urban Development.

The exemption operates similarly to the affordable housing exemption in section 237-29, HRS, with the certification process done here by DHHL rather than HHFDC or county housing agencies.

Allows DHHL to collect a reasonable service fee, the proceeds of which are to be deposited in the Hawaiian home administration account described in section 10-13, HRS.

Part II: DOE Impact Fee Exemption

Amends section 302A-1603, HRS, to add an exemption from the department of education's impact fee for any housing development for DHHL that was certified under part I of the bill.

Part III: Extension of Deadline on \$600M 2022 Appropriation

Amends section 6 of Act 279, SLH 2022, to provide that any moneys out of the \$600 million not encumbered for specific purposes lapse to the general fund on June 30, 20__.

Part IV: Extension of County Affordable Housing Credits

Amends the sunset date of Act 141, SLH 2009, as amended, from June 30, 2024, to June 30, 20__.

EFFECTIVE DATE: Upon Approval.

STAFF COMMENTS:

Part I: GET Exemption for Affordable Housing

Section 237-29(a), HRS, states that all gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease in the State of a housing project that has been certified or approved under section 201H-36 shall be exempt from general excise taxes.

Section 201H-36, HRS, states that the Hawaii housing finance and development corporation ("HHFDC") may approve and certify for exemption from general excise taxes any qualified person or firm involved with an affordable housing project.

Section 46-16.7, HRS, states that any county shall have the same powers as those granted the HHFDC pursuant to chapter 201H, HRS, provided, among other things, that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the HHFDC pursuant to section 201H-36.

It seems that the proposed exemption has many similarities to the affordable housing exemption now in sections 46-15.1 and 201H-36, HRS. The proposed exemption appears to be looser, however:

- The existing low-income housing exemption requires a regulatory agreement of at least five years for moderate rehabilitation projects, ten years for substantial rehabilitation projects, and thirty years for new projects. No regulatory agreement is required by this bill.

Because the housing development is on Hawaiian homestead land, the beneficiaries to reside in the developed homes would be receiving several benefits unique to Hawaiian homesteads, as detailed in <https://dhhl.hawaii.gov/applications/applying-for-hawaiian-home-lands/>:

- Annual lease rent of \$1.00 per year;
- 99-year lease;

- Lease term which can be extended for an additional 100 years, allowing passage of the homestead from generation to generation;
- Seven-year exemption from real property tax;
- Complete exemption of tax on land;
- Minimal real property tax after the first seven years (applies only to County of Kauai and City and County of Honolulu, Oahu);
- And other benefits.

These benefits should be taken into consideration to determine whether affordable housing development on Hawaiian home lands merits extension of the GET exemption to development on those lands as well. It is certainly arguable that the extension is warranted given that Hawaiian beneficiaries often have been waiting years or decades on the wait list for Hawaiian home lands.

Part II: DOE Impact Fee Exemption

STAFF COMMENTS: The Hawaii Revised Statutes contains twelve sections relating to “school impact fees,” starting with section 302A-1601. The law states, in part, “New residential developments within identified school impact districts create additional demand for public school facilities. As such, once school impact districts are identified, new residential developments shall be required to contribute toward the construction of new or expansion of existing public school facilities.”

Builders of large projects within school impact districts are required to provide land for school facilities depending on the numbers of students expected in their projects and the amount of available classroom space in existing area schools. Smaller developers and individual home owner-builders are required to pay a fee instead of land, when their project is too small to entertain a school site. All home builders or buyers must pay a construction cost fee.

Once an impact fee district is established, the DOE is authorized to collect 10% of estimated school construction costs and 100% of estimated land acquisition costs from each residential development planned within the district.

The Board of Education (BOE) used this authority to establish impact fee districts in Central Maui and West Maui in 2010, and in Leeward Oahu in 2012. It approved another district in West Hawaii in 2009, but apparently the Big Island county government didn’t want to cooperate and that district remains an open issue.

The theory behind this law is that high growth will mean more children, and more schools are required to educate them. The formulas in sections 302A-1606 and -1607 for calculating the fee come up with a land value and dollar value for each new single-family unit and each multi-family unit. It makes sense to exempt construction where no new unit is being created, for it would be rational to presume that no additional living unit means that there would not be additional children to educate. By the same token, exempting additional living units even though

they can house families and children does not seem to be in line with the philosophy of the tax and will, at a minimum, cause others to pay for the schools needed for the additional children in those units.

Part III: Extension of Deadline on \$600M 2022 Appropriation

Act 279, SLH 2022, provided an appropriation to DHHL of \$600 million but specified that the moneys would lapse on June 30, 2025, if not spent or encumbered by then.

We note that the June 30, 2025, date was inserted in Conference Committee without the opportunity for public input and debate. This bill apparently is an opportunity to open discussion on the issue.

Part IV: Extension of County Affordable Housing Credits

Act 141, SLH 2009, required each county to issue affordable housing credits to DHHL with respect to existing and future projects on Hawaiian home lands. This law originally was to sunset on June 30, 3015, but was extended to June 30, 2024.

The Foundation declines to comment on this part.

Digested: 1/30/2023

LATE

SB-448

Submitted on: 2/7/2023 10:30:54 AM

Testimony for HWN on 2/7/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan L.K. Lee Loy	Testifying for Hawai'i County Council - District 3	Comments	Written Testimony Only

Comments:

TESTIMONY FOR COMMENT ON SENATE BILL 448
A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME
LANDS

COMMITTEE ON HAWAIIAN AFFAIRS

Chair, Sen. Maile S.L. Shimabukuro

Vice Chair, Sen. Kurt Fevella

COMMITTEE ON HOUSING

Chair, Sen. Stanley Chang

Vice-Chair, Sen. Dru Kanuha

Hearing Date: Tuesday, February 7, 2023, at 1 :00 p.m.

Time/Place of Hearing: Via Video Conference/ Conference Room 224

Aloha Honorable Chairs Shimabukuro and Chang, Honorable Vice Chairs Fevella and Kanuha,
and Members of the Committee on Hawaiian Affairs and the Committee on Housing

I have the privilege of representing two (2) homestead communities, Keaukaha and Panaewa on
the beautiful island of Hawai`i and while I provide comment in my official capacity, I would also
share for members of this Committee that my family resides on Department of Hawaiian Home
Lands (DHHL) in Panaewa.

On February 1, 2023, the County of Hawai`i Office of the County Auditor released Report No.
2023-01, related to affordable housing credits. Contained within that report were several findings
and recommendations. One finding of note for this committee is contained on page 8 of Report
No. 2023-01, ***“DHHL credits create obstacles for OHCD because issuance is beyond the
department’s control, and there is no mechanism to recognize credits continually. DHHL***

credits don't have the same radius restrictions that county-originated projects have. This contributes to turning localized credit availability imbalances into a countywide problem as credits could be used to fulfill obligations anywhere on the island of Hawai'i."

In coordination with the County of Hawai'i Office of Housing and Community Development (OHCD) we offer the following comment on Senate Bill 448 that exempts housing development for the DHHL from general excise tax and school impact fee requirements and extends the issuance of county affordable housing credits to the DHHL.

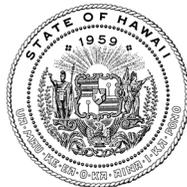
The comments we are providing relate to the issuance of **housing credits**. HRS § 46-15.1 provides language enabling the DHHL to enter into specific MOAs with Kauai County and C&C Honolulu but not Hawai'i County.

§ 46-15.1(b)... Notwithstanding any provisions herein to the contrary, the department may enter into a memorandum of agreement with the county of Kauai to establish, modify, or clarify the conditions for the issuance, transfer, and redemption of the affordable housing credits in accordance with county affordable housing ordinances or rules. Notwithstanding any provisions herein to the contrary, the department may enter into a memorandum of agreement with the city and county of Honolulu to establish, modify, or clarify the conditions for the issuance, transfer, and redemption of the affordable housing credits in accordance with county affordable housing ordinances or rules...

Hawaii County, OHCD would like to see similar language inserted for Hawai'i County. *Notwithstanding any provisions herein to the contrary, the department may enter into a memorandum of agreement with the county of Hawai'i to establish, modify, or clarify the conditions for the issuance, transfer, and redemption of the affordable housing credits in accordance with county affordable housing ordinances or rules.*

We appreciate any consideration this Committee would give these suggestions to better serve the beneficiaries and Hawaii County.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND HOUSING
ON
SENATE BILL NO. 448

February 7, 2023
1:00 p.m.
Room 224 and Videoconference

RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

The Department of Budget and Finance (B&F) offers comments on Parts I and III of Senate Bill No. 448.

Part I exempts gross income from Department of Hawaiian Home Lands (DHHL) housing developments from general excise taxes and authorizes the DHHL to certify for exemption projects meeting specified criteria subject to a regulatory agreement. This would in large part duplicate the general excise tax exemption program operated by the Hawai'i Housing Finance and Development Corporation pursuant to Section 237-29, HRS.

B&F notes that any general excise tax exemption requires a commensurate use tax exemption in Section 238-3, HRS. Rulemaking authority for the joint promulgation of administrative rules by DHHL and the Department of Taxation to implement the exemption should also be added to this bill.

With respect to Part III, which amends Section 6 of Act 279, SLH 2022, to cure the unconstitutional lapse date of the appropriation of \$600,000,000, B&F respectfully suggests the insertion of a lapse date of June 30, 2024.

Thank you for your consideration of our comments.

SB-448

Submitted on: 2/1/2023 2:56:44 PM

Testimony for HWN on 2/7/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kenneth R. Conklin, Ph.D.	Testifying for Center for Hawaiian Sovereignty Studies	Oppose	Written Testimony Only

Comments:

Wouldn't it be a wonderful idea to exempt all housing development from general excise tax? That would provide a real incentive to help solve the housing shortage blamed for homelessness and high prices. But this bill singles out one racial group to enjoy such an exemption, while everyone else must pay the tax. That is an example of what is known as "systemic racism" -- setting up an entire system in a way that benefits or harms people because of their race. Whatever happened to diversity, equity, and inclusiveness?

What about exempting DHHL development from school impact fees? Do ethnic Hawaiians not make babies and have children? If DHHL builds its own schools to educate children who live in their own ghettos, then of course they should not have to pay school impact fees to the general public schools that serve non-ethnic-Hawaiians. Read my book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State."

<http://tinyurl.com/2a9fqa>

The attitude projected in this sort of legislation exemplifies what I wrote about.

LATE

SB-448

Submitted on: 2/6/2023 7:36:03 PM

Testimony for HWN on 2/7/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nani Medeiros	Testifying for Chief Housing Officer, Office of the Governor, State of Hawaii	Comments	Written Testimony Only

Comments:

Mahalo for the opportunity to offer comments on SB 448. We support the intent of the measure as it relates to incentivizing development of homes for the Department of Hawaiian Homelands' beneficiaries. We defer to the Department of Taxation and Budget and Finance for the technical aspects and fiscal impact.



February 2, 2023

Chairs Shimabukuro and Chang
Vice Chairs Fevella and Kanuha
Members of the Senate Committee on Hawaiian Affairs

Subject: TESTIMONY IN SUPPORT OF SB448
February 7, 2023 at 1:00 pm
Via Video Conference/Conference Room 224

Aloha Chairs Shimabukuro and Chang, Vice Chairs Fevella and Kanuha, and members of the Committee:

As a longtime supporter of the Department of Hawaiian Home Lands' efforts to provide homesteads for its beneficiaries, I am testifying in strong support of SB448. The proposals in SB448 will lower the cost of developing both the required infrastructure and homes for the Department's beneficiaries. I urge you to pass out SB448.

Thank you for the opportunity to provide testimony in support of SB448.

Sincerely,

Everett R. Dowling
President