



**LATE TESTIMONY**

**House Bill No. 1841  
RELATING TO THE PUBLIC LANDS TRUST**

**House Committee on Hawaiian Affairs**

February 4, 2009  
Room 329

9:00 a.m.

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Aloha Chair Carroll, Vice Chair Shimabukuro, and Members. To the extent that House Bill No. 1841 Relating to Lands Controlled by the State can be made consistent with the establishment of a moratorium on the sale or exchange of ceded lands using the approach proposed in HB 1805 and HB 902, OHA supports the intent of HB 1841. However, HB 1841 differs in certain respects from the approach of those other bills, raising concerns from OHA's perspective.

HB 1841 would enact public policy regarding the transfer of ceded lands. The decision by OHA's Trustees to seek a moratorium on the sale or exchange of ceded lands emerged following the state administration's appeal to the U.S. Supreme Court of a unanimous ruling by the Hawai'i Supreme Court that the State possesses a fiduciary duty to preserve the corpus of the public land trust, specifically the ceded lands, until such time as the "unrelinquished claims" of Native Hawaiians to these lands are resolved.

We are concerned about HB 1841's bill's requirement of a public land trust inventory, because while an inventory could certainly be valuable, the bill would not allow general funds appropriated for the inventory to be spent unless OHA matches the funds on a dollar-for-dollar basis. The State is the steward of the lands in the public land trust and the State, not OHA, should be responsible for the cost of conducting any inventory.

Additionally, OHA is concerned about the reference, on page 10, lines 16-18 of the bill, to lands that have been transferred by OHA to limited liability corporations. We are not certain what the intent of this provision is, and its wording makes its impact unclear.

We seek to continue to work constructively with your Committee to help frame appropriate legislation on a moratorium. Mahalo for the opportunity to testify.



## KAMEHAMEHA SCHOOLS

**LATE TESTIMONY**

Tuesday, February 03, 2009

### WRITTEN TESTIMONY TO THE HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

BY

Nainoa Thompson, Chair  
Diane J. Plotts, Vice Chair  
Corbett A.K. Kalama Secretary/Treasurer  
J. Douglas Keauhou Ing  
Robert K.U. Kihune  
Dee Jay A. Mailer, Chief Executive Officer

Re: HB 1667 – Relating to Ceded Land  
HB 1805 – Relating to Lands Controlled by the State.  
HB 1841 – Relating to the Public Lands Trust.

TO: Representative Mele Carroll, Chair  
Representative Maile S.L. Shimabukuro, Vice Chair  
Members of the Committee

Mahalo nui for the opportunity to testify regarding an issue of great importance to all of the people of Hawai`i and to our Native Hawaiian people in particular.

Kamehameha Schools supports this measure, which places a moratorium on the sale or transfer of ceded lands until the issues and claims surrounding these lands between Native Hawaiians and the state are resolved. Ceded lands tie directly to Native Hawaiian well being and identity, as former Crown and Government lands that were taken from the Kingdom of Hawaii after the overthrow of Queen Lili`uokalani in 1893 and later placed in trust to be used for five public purposes, including the benefit of Native Hawaiians, the indigenous people of these islands.

The Native Hawaiian people carry claims to those lands which have not yet been reconciled, and this is an obligation that must be resolved here at home. We stand with many others in our community in support of legislation that will keep intact Hawai`i's ceded lands trust until the claims can be resolved. As an Ali`i Trust founded to improve the capability and well-being of Native Hawaiians, we urge the state of Hawai`i to continue its long-standing support for Hawaiian rights and its commitment to the Hawaiian community by working with OHA, the Native Hawaiian people and the state Legislature to resolve the dispute over ceded lands without involvement by the U.S. Supreme Court.

# LATE TESTIMONY



**Mālama Kaua'i**  
M A L A M A K A U A I . O R G

RE: HB 1660 RELATING TO HAWAIIANS  
HB 1667 RELATING TO CEDED LANDS  
HB 1805 RELATING TO LANDS CONTROLLED BY THE STATE  
HB 1841 RELATING TO THE PUBLIC LANDS TRUST

To: Committee On Hawaiian Affairs: Rep. Mele Carroll, Chair, and Rep. Maile S.L. Shimabukuro, Vice Chair, Committee Members

From: Mālama Kaua'i

DATE: February 4, 2009

TIME: 9:00 a.m.

PLACE: Conference Room 329  
State Capitol, 415 South Beretania Street

## **Testimony to support HB1660, HB1667, HB1805, HB1841**

Dear Honorable Representatives,

The 1.8 million acres comprised of the Crown, Government and Public Lands, should continue to be held in trust and that the State of Hawai'i can not sell Hawaii's ceded lands until the unrelinquished rights of Native Hawaiians are resolved. Details of the rights of the Kanaka Maoli can be found in part or in whole in the 1898 Newlands Resolution, 1900 Organic Act, 1921 Hawaiian Homelands Act, 1959 Admissions Act and 1993 Apology Resolution.

Malama Kaua'i would like to state our support for House Bills 1660, 1667, 1805 and 1841. Each of these bills addresses an aspect of the Ceded Lands issue and we support the intent of each in order; HB1660, which recognizes Hawaiians as the indigenous people of Hawaii, HB 1667, which prohibits the board of land and natural resources from selling, exchanging, or otherwise alienating ceded lands in the public land trust, HB 1805, which prohibits the disposition in fee simple of ceded lands, HB 1841 prohibits the sale, exchange or other permanent transfer of lands in the public lands trust to a private entity; requires the Department of Land and Natural Resources to make an inventory of lands in the public lands trust; appropriates funds for the inventory, to be matched by the Office of Hawaiian Affairs.

We thank you for your support of these bills.

Mahalo nui loa,

Andrea Brower  
Project Manager

Keone Kealoha  
Executive Director

**LATE TESTIMONY**

February 4, 2009

To: Representative Mele Carroll, Chair  
Representative Maile Shimabukuro, Vice Chair  
House Hawaiian Affairs Committee

From: Maile Kaku Barnett

Re: **Testimony in support of HB 1841 Relating to the Public Lands Trust**

Dear Chair Carroll, Vice Chair Shimabukuro and Members of the House Hawaiian Affairs Committee:

I write you to ask for your support of HB 1841 Relating to the Public Lands Trust. This bill prohibits the sale, exchange or other permanent transfer of lands in the public lands trust to a private entity; requires the Department of Land and Natural Resources to make an inventory of lands in the public lands trust; appropriates funds for the inventory, to be matched by the Office of Hawaiian Affairs.

I thank you in advance for your consideration. I urge you to please vote in support of HB 1841.

Sincerely,



241 Kapiolani St.  
Honolulu, HI 96813  
524-3078

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:45 PM  
**To:** HAWtestimony  
**Cc:** keoneakapu@hotmail.com  
**Subject:** Testimony for HB1841 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1841

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: JR Keoneakapu Williams  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [keoneakapu@hotmail.com](mailto:keoneakapu@hotmail.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

Comments:  
PLEASE SUPPORT HB 1841

**From:** Alan Murakami [almurak67@gmail.com]  
**Sent:** Tuesday, February 03, 2009 4:48 PM  
**To:** HAWtestimony  
**Cc:** Mahealani Wendt  
**Subject:** HB 1677, 1805, 1841

**LATE TESTIMONY**

HOUSE OF REPRESENTATIVES  
REGULAR SESSION OF 2009

COMMITTEE ON HAWAIIAN AFFAIRS  
Room 329

February 4, 2009  
9:00 AM

RE: Testimony of Alan T. Murakami Related to HB 1677, 1805 1841

I testify in support of some form of interim moratorium on the dispositions of ceded lands pending the outcome of any resolution of Hawaiian land claims related to the illegal overthrow of the Hawaiian Kingdom in 1893.

If not an unqualified ban on the sale or exchange of ceded lands, the Legislature should impose strict limits on any disposition of this public trust resource to preserve the corpus of what was the most valuable asset base of the Kingdom. Besides imposing specific criteria for whatever limited form of sale or exchange is allowed, the law should require a reasonable period of consultation with the Office of Hawaiian Affairs and an opportunity for Hawaiian beneficiary input before any disposition. Finally, the Legislature should subject any such disposition to a 2/3 majority approval of both chambers of the Legislature.

The State government has yet to demonstrate why any such restriction would hobble the sovereign functioning of state government. As for providing affordable housing, I note that the state has for 50 years provided such housing to beneficiaries of the Hawaiian home lands trust program. I would be astonished if the State can justify the need for fee simple sales of affordable housing to members of the general public, when it never pleaded that case for Hawai'i's first citizens.

As a first step toward reconciling the land claims acknowledged by the Hawai'i Supreme Court in *OHA v HHFDC*, this branch of government should preserve the integrity of the ceded lands trust corpus. It is the prudent and pono thing to do, especially in light of the cultural value attached to land by Hawaiian culture. No prudent trustee, operating under like circumstances would do otherwise. Indeed, the Legislature has repeatedly been on record supporting the sovereignty of its indigenous people on several occasions during that 1993 Legislative Session. Act 340; Act 354; Act 359; 1993 Haw. H.R. Con. Res. No. 179 (1993 Haw. Sess. Laws). A measure to preserve the corpus of the land claims would be a natural extension of this record of support.

Thank you for this opportunity to testify.

Alan T. Murakami, Litigation Director  
Native Hawaiian Legal Corporation  
1164 Bishop Street, Suite 1205  
Ph: (808)-521-2302  
Email: [almurak@nhlchi.org](mailto:almurak@nhlchi.org)

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:43 PM  
**To:** HAWtestimony  
**Cc:** haakeamakaiwiroy@hotmail.com  
**Subject:** Testimony for HB1841 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1841

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: Charles Haakea Roy  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [haakeamakaiwiroy@hotmail.com](mailto:haakeamakaiwiroy@hotmail.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

Comments:  
PLEASE SUPPORT HB 1841

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:43 PM  
**To:** HAWtestimony  
**Cc:** haakeamakaiwiroy@hotmail.com  
**Subject:** Testimony for HB1841 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1841

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: Taresa Mapuana Roy  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [haakeamakaiwiroy@hotmail.com](mailto:haakeamakaiwiroy@hotmail.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

Comments:  
PLEASE SUPPORT HB 1841

# KO`OLAU FOUNDATION **LATE TESTIMONY**

February 4, 2009

To: Rep. Mele Carroll, Chair  
And Members  
House Committee on Hawaiian Affairs

From: Leialoha "Rocky" Kaluhiwa

Subject: **Support for H.B. 1841, Relating to the Public Lands Trust**

Aloha kakahiaka kakou!

My name is Leialoha "Rocky" Kaluhiwa, and I am a life-long resident and kupa`aina of the ahupua`a of He`eia, moku Ko`olaupoko, O`ahu. I wish to offer this testimony on behalf of myself, my family, and the Ko`olau Foundation.

This bill would prohibit the sale, exchange or transfer of public trust lands to a private entity, and would call for an inventory of properties in the public lands trust. It's amazing to me that a complete and accurate inventory of these trust lands has never been fully accomplished after all these years. Even since the 1980s, when OHA was formed, there has been a call for such an inventory, and still we don't have a complete one. Is it because some of those trust lands have already been shifted into private hands?

It's about time we find some answers to these questions.

We strongly support passage of this bill, and urge all members of the Legislature to pass it into law. We call upon Governor Lingle to sign it into law.

Mahalo for this opportunity to testify.

P. O. Box 4749  
Kane`ohe, HI 96744  
Ph. 286-7955  
Email: rockyfromheeia@aol.com



# KO'OLAUPOKO HAWAIIAN CIVIC CLUB

**LATE TESTIMONY**

February 4, 2009

TO: REP. MELE CARROLL, Chair  
& Members  
Committee on Hawaiian Affairs

FROM: MAHEALANI CYPHER, President  
Ko'olaupoko Hawaiian Civic Club

SUBJECT: TESTIMONY IN SUPPORT OF H.B. 1841,  
RELATING TO THE PUBLIC LANDS TRUST

Aloha mai kakou. The Ko'olaupoko Hawaiian Civic Club works with the people of nine ahupua'a surrounding Kane'ohē bay.

We believe this bill addresses an important matter that has been neglected for the past 100 years: an accurate accounting of all of the lands that were entrusted to the United States government by our last Hawaiian queen.

Such an inventory will give us a clear idea as to how much and where these lands are, how much has already been lost, sold, transferred or given away, and will help us decide what should be done to ensure remaining lands are protected.

We support this bill and ask that you report it out of committee.

E mahalo nui loa for this opportunity to share our mana'o.

P. O. Box 664  
Kaneohe, HI 96744  
Ph. (808) 235-8111  
koolaupokohcc.org

# **Kako`o O`iwi**

**P. O. Box 4870**

**Kane`ohe, HI 96744**

**Ph. 754-4862**

**Email: [unclejerry77@aol.com](mailto:unclejerry77@aol.com)**

**LATE TESTIMONY**

## Testimony on H.B. 1841 – Relating to the Public Lands Trust

To Chair Mele Carroll and the members of the House Hawaiian Affairs Committee,  
Aloha from Kako`o O`iwi and the kupa`aina of Ko`olaupoko.

Kako`o O`iwi supports the passage of House Bill 1841, which would help protect Hawaiian ceded lands from being sold or transferred by the State DLNR, and fund a full and accurate inventory of these trust lands.

It's not right that they give away land that is supposed to be held "in trust". We have been waiting for over 100 years to have this matter resolved, and it would be a grave injustice for the U.S. Supreme Court to rule in favor of the state administration.

This is an important bill, and should be signed into law by Governor Lingle.

Mahalo for this bill, and for allowing me to offer my testimony.

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 6:26 PM  
**To:** HAWtestimony  
**Cc:** ailaw001@hawaii.rr.com  
**Subject:** Testimony for HB1841 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1841

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: William J. Aila Jr. & Melva Aila  
Organization: Individual  
Address:  
Phone:  
E-mail: [ailaw001@hawaii.rr.com](mailto:ailaw001@hawaii.rr.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

**Comments:**

We support passage of this bill because it would prevent the sale of ceded lands until reconciliation occurs between Native Hawaiians and the State of Hawaii. This bill will also set a process to identify these ceded lands and create a method of funding.

**LATE TESTIMONY**

February 4, 2009

To: Representative Mele Carroll, Chair  
Representative Maile Shimabukuro, Vice Chair  
House Hawaiian Affairs Committee

From: Patrick J. O'Toole

Re: **Testimony in support of HB 1841, Relating to the Public Lands Trust**

Dear Chair Carroll, Vice Chair Shimabukuro and Members of the House Hawaiian Affairs Committee:

I write you to ask for your support of HB 1841 Relating to the Public Lands Trust. This bill prohibits the sale, exchange or other permanent transfer of lands in the public lands trust to a private entity; requires the Department of Land and Natural Resources to make an inventory of lands in the public lands trust; appropriates funds for the inventory, to be matched by the Office of Hawaiian Affairs.

I thank you in advance for your consideration. I urge you to please vote in support of HB 1841.

Sincerely,

*Patrick J. O'Toole*