



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

Friday, April 1, 2011, 11:25 AM  
State Capitol Room 325

Testimony of  
Honorable Neil Abercrombie  
Governor, State of Hawaii

To the Committee on Hawaiian Affairs  
Rep. Faye Hanohano, Chair  
Rep. Chris Lee, Vice Chair

To the Committee on Water, Land & Ocean Resources  
Rep. Jerry Chang, Chair  
Rep. Sharon Har, Vice Chair

To The Committee on Judiciary  
Rep. Gilbert S.C. Keith-Agaran, Chair  
Rep. Karl Rhoads, Vice Chair

HCR 294

Chair Hanohano, Vice Chair Lee, Chair Chang, Vice Chair Har, Chair Keith-Agaran, Vice-Chair Rhoads and members of the Committees:

HCR 294 would encourage the Office of Hawaiian Affairs and the Executive Branch to engage in discussions to propose recommendations to the State Legislature to resolve outstanding differences regarding claims to income and proceeds from the public land trust between November 7, 1978 and July 1, 2008.

I support this resolution with three modifications to the language:

- (1) page three, line 19, after "Affairs," add "and the Governor"
- (2) page three, line 30, after "land" add "totaling \$200,000,000"
- (3) page three, line 43, before "and" insert "between November 7, 1978 and July 1, 2008"

These three changes would clarify the terms of the settlement agreement by identifying the Governor as the other party to the agreement, specifying the agreement amount and inserting the relevant dates.

Thank you for the opportunity to testify.



**HCR294**  
**ENCOURAGING DISCUSSIONS TO PROPOSE RECOMMENDATIONS TO**  
**THE LEGISLATURE TO RESOLVE OUTSTANDING DIFFERENCES REGARDING**  
**CLAIMS OF THE OFFICE OF HAWAIIAN AFFAIRS TO**  
**INCOME AND PROCEEDS FROM THE PUBLIC LAND TRUST BETWEEN**  
**NOVEMBER 7, 1978, AND JULY 1, 2008**

House Committee on Hawaiian Affairs  
House Committee on Water, Land, & Ocean Resources  
House Committee on Judiciary

April 1, 2011

11:25 a.m.

Room 325

The Office of Hawaiian Affairs strongly **SUPPORTS** HCR294. This concurrent resolution would help move the State forward to do what is right and long overdue and resolve its debt to OHA resulting from public land trust revenues unpaid from 1978 to 2008.

This issue has remained unresolved for more than three decades and the Hawai'i Supreme Court has ruled that the issue is primarily the responsibility of the Legislature. If adopted, this concurrent resolution would encourage OHA and the Executive Branch to formulate and submit a recommendation to the Legislature for resolving the past-due issue.

The following information may be useful as background information during your committee's consideration:

- Following many years of relatively small transfers to OHA, Act 304, Session Laws of Hawaii 1990, sought to establish how the State would carry out its state constitutional and statutory mandate to dedicate 20 percent of public land trust revenues to OHA's activities.
- Act 35, Session Laws of Hawaii 1993, appropriated \$136.5 million in general obligation bond funds to OHA as a settlement of undisputed claims to that point in time.
- Act 329, Session Laws of Hawaii 1997, established OHA's pro rata share to be \$15.1 million for each of the fiscal years 1997-1998 and 1998-1999.

- In 2001, the Hawai'i Supreme Court ruled that Act 304 was invalid due to a conflict between one of its technical provisions and federal law.
- Act 34, Session Laws of Hawaii 2003, required the transfer of several million dollars to OHA to help continue the revenue stream following the court ruling against Act 304.
- Executive Order No. 03-03 set forth Governor Lingle's procedure for continuing the revenue stream.
- Act 178, Session Laws of Hawaii 2006, included an interim provision setting OHA's annual amount of land trust revenues at \$15.1 million and providing a lump sum payment of \$17.5 million for certain amounts that the Legislature determined were underpaid between July 1, 2001 through June 30, 2005.

Since 2006, OHA has vigorously pursued several legislative bills, each designed to resolve the past-due revenues issue. None have passed, including a bill that would have finalized a 2008 settlement agreement signed by OHA and the Executive Branch after several years of intensive negotiations.

We thank you for considering this concurrent resolution. The issue is complex, but when 30 years of struggle to address this issue are examined, one key truth remains: it is ultimately the Legislature's task to resolve the issue. We look forward to working tirelessly with the Legislature and the Executive Branch, as we have done over the years, to find a fair and just solution.

We urge your committees to PASS HCR294.

Mahalo for the opportunity to testify on this important measure.

**clee2 - Matt**

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**From:** Hardy Spoehr [HSpoehr@papaolalokahi.org]  
**Sent:** Thursday, March 31, 2011 6:34 AM  
**To:** HAWtestimony  
**Subject:** Testimony: HCR 294

Testimony: HCR 294, Encouraging discussions to propose recommendations to the legislature to resolve outstanding differences regarding claims of the Office of Hawaiian Affairs to Income and proceeds from the Public land Trust between November 7, 1978, and July 1, 2008.

Friday, April 1, 2011  
11:25 am  
Conference Room 325  
State Capitol

Papa Ola Lokahi strongly supports this legislation. This issue should have been resolved many years ago in favor of OHA. We ask the state of Hawai'i to move forward with resolution. Thank you for the opportunity to provide supportive testimony for this measure.

Hardy Spoehr, Executive Director  
Papa Ola Lokahi (Native Hawaiian Health Board)  
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*ASSOCIATION OF HAWAIIAN CIVIC CLUBS*  
**TESTIMONY IN SUPPORT OF HCR 294**  
ENCOURAGING DISCUSSIONS TO PROPOSE RECOMMENDATIONS  
TO THE LEGISLATURE TO RESOLVE OUTSTANDING  
DIFFERENCES REGARDING CLAIMS OF THE OFFICE OF  
HAWAIIAN AFFAIRS TO INCOME AND PROCEEDS FROM THE  
PUBLIC LAND TRUST BETWEEN NOV. 7, 1978 & JULY 1, 2008.

Before the House Joint Committees on Hawaiian Affairs,  
Water, Land & Ocean Resources and  
The Committee on Judiciary  
Friday; April 01, 2011; 11:25a.; Rm. 325

Aloha Madam Chair Hanohano of the Hawaiian Affairs Committee, Chairman Jerry Chang of the Water, Land and Ocean Resources Committee and Chairman Keith-Agaran of the Judiciary Committee. This testimony on behalf of the Association of Hawaiian Civic clubs is in support of House Concurrent Resolution calling for discussions to propose recommendations meant to resolve an old problem.

The problem, of course, is the claim by OHA to income and proceeds from the public land trust for the period of time between November 7, 1978 and July 1, 2008. The Hawaiian Civic Clubs have long supported past attempts to reach a resolution of these claims.

The legislature was directed by the Hawaii Supreme Court in *OHA v. State of Hawaii*, 96 Haw. 388 P.3d 901(2001), "...to specify the apportionment to be managed and administered by the Office of Hawaiian Affairs." Further, the Supreme Court articulated that, "The State's obligation to native Hawaiian is firmly established in our constitution. How the State satisfies that constitutional obligation requires policy decision that are primarily within the authority and expertise of the legislative branch."

The settlement of this issue with the Office of Hawaiian Affairs and its beneficiaries is past due and we are hopeful that HCR294 will be a step toward final resolution. We urge the passage of this measure.

**clee2 - Matt**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 31, 2011 3:18 PM  
**To:** HAWtestimony  
**Cc:** info@schha.org  
**Subject:** Testimony for HCR294 on 4/1/2011 11:25:00 AM

Testimony for HAW/WLO/JUD 4/1/2011 11:25:00 AM HCR294

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Michael Kahikina  
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E-mail: [info@schha.org](mailto:info@schha.org)  
Submitted on: 3/31/2011

**Comments:**

If there are any questions or comments, please contact Annie Au Hoon, SCHHA Executive Assistant, at 529-1627.