

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
CARTY S. CHANG  
Interim Chairperson**

**Before the House Committee on  
WATER & LAND**

**Monday, February 9, 2015  
10:00AM  
State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 1469  
RELATING TO DISPOSITION OF TAX REVENUES**

House Bill 1469 proposes, by amending Section 247-7, Hawaii Revised Statutes (HRS), to establish maximum dollar amounts that shall be distributed among certain non-general funds from the conveyance tax and retains the provision that the general fund receive the remainder after distribution. **The Department of Land and Natural Resources (Department) opposes this measure and provides the following comments and concerns:**

The Department has two (2) special funds that receive revenues from the conveyance tax, pursuant to Section 247-7, HRS:

- (1) The Land Conservation Fund (LCF), established pursuant to Section 173A-5, HRS, which receives ten percent. The measure proposes to cap the LCF at 10% or \$7,600,000, whichever is less.

The LCF serves as a source of grant funding for the protection of rare or important natural, cultural, agricultural, and recreational resources through acquisition of fee and conservation easement interests in land. This is accomplished by providing grants to nonprofit land conservation organizations, State agencies, and counties for the acquisition of interests or rights in land having value as a resource to the State, in either fee title or through the establishment of permanent conservation easements. Currently the Legacy Land Conservation Program (LLCP), which administers the LCF, leverages about 66% matching funds and a majority of these matching funds are from federal programs that require dedicated local funds. Since its inception in 2006, the LLCP has awarded 43 grants, providing protection for over 20,000 acres of lands that have important agricultural, natural, cultural, and recreational resource value. These are the resources that support

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

the economic and public health of the State (local food availability, watershed protection, unique cultural and natural resources, and safe and maintained parks and recreation areas). The use of funding partnerships and an open and transparent grant-making process have been key factors in the success of this program.

- (2) The Natural Area Reserve Fund (NARF), established by Section 195-9, HRS, which receives twenty five percent (25%). The measure proposes to cap the NARF at 25% or \$19,000,000, whichever is less.

The NARF supports a comprehensive suite of conservation programs including the Natural Area Partnership Program, the Natural Area Reserves, the Watershed Partnerships Program, and the Youth Conservation Corps. These programs protect Hawaii's invaluable ecosystems and forested watersheds.

The Legislature has wisely provided NARF funding for watershed protection and other natural resource preservation programs since 1991 as the development, sale, and improvement of real estate in Hawaii adds additional pressure on natural areas, coastal access, agricultural production, and Hawaii's water resources and watershed recharge areas.

The Legislature has oversight of the NARF by: setting a spending cap for the fund and; pursuant to Section 195-6.6, HRS, requiring the Department to annually report to the Legislature the financial condition of the fund, including: receipts and expenditures for the fund for the previous fiscal year; and plans and management objectives for the next fiscal year.

Special funds are created to provide dedicated revenue streams for particular initiatives. For over 20 years the NARF has consistently and effectively provided funding for these vital conservation programs, hence meeting the stated intended purpose to protect and preserve Hawaii's unique natural resources.

The suite of conservation programs listed above is vital to the economic and public health of the State (local food availability, watershed protection, unique cultural and natural resources, public safety, and nature education and recreation).

To succeed in the long term, most conservation projects require the dedicated funding provided by special funds. Based on that, the Legislature requires the departments to create a 5- year plan for each special fund. The Department's existing plans and flexibility would be compromised if the cap is enacted.

A benefit of the dedicated funding afforded by special funding is the Department can, knowing they have matching State funds, leverage those funds to seek other long term funding from private, federal, and county sources.

From July 1, 2009 to June 30, 2012 the allocation to the NARF was reduced to 20% to support the General Fund during the economic downturn. Coupled with the greatly reduced revenues due to

lethargic real estate market, the Department tightened its belt and made do with less. However for the multiple conservation needs outlined above, the Department feels now is the time to push forward with conservation activities to protect the State from the pending impacts of climate change.

Testimony of The Nature Conservancy of Hawai'i  
Opposing H.B. 1469 Relating to Disposition of Tax Revenues  
House Committee on Water and Land  
Monday, February 9, 2015, 10:00AM, Room 325

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.*

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The Nature Conservancy opposes H.B. 1469. We don't think this bill is unnecessary because the Legislature has just as much oversight and control over non-general fund appropriations as it does with general fund appropriations, if it chooses to exercise that authority.

The conveyance tax revenue allocated the DLNR's land conservation fund and natural area reserve fund is not "automatically" available for distribution by the department. Each and every year, the Legislature requires the DLNR to provide detailed annual reports and justifications on non-general fund expenditures and the programs they support. With that information, the Legislature sets a spending ceiling for the following year in the budget. The Legislature often gives directive in the budget to the department on how it expects non-general funds within that ceiling to be spent, and even provides specific directives for expenditures of revenues above the spending ceiling to address additional priorities of its choosing.

HRS §247-7 authorizes a portion of conveyance tax revenue to be appropriately used for land preservation and forested watershed conservation. The development and sale of real estate helps drive Hawaii's economy, but it also puts pressure on our natural resources like fresh water. Fresh water is clearly a limiting factor here in the middle of the Pacific. Several locations in the state have experienced ongoing drought, water management areas being declared, climate change is likely to produce more severe storms but overall less rainfall, and the UH's 2011 Rainfall Atlas catalogues a century of declining rainfall that is worse in recent decades. Fresh water is not a limitless resource that can forever be tapped to support our developed real estate. It makes sense to spend a portion of conveyance tax revenue on protecting forest which are the source of all our fresh water.

**The Legislature recognized this clear nexus in Act 156 (HB 1308 CD1, 2005), stating:**

The legislature has also determined that there is a clear nexus between the source of the conveyance tax and providing funding for watershed protection and other natural resource preservation programs. The development, sale, and improvement of real estate in Hawaii adds additional pressure on natural areas, coastal access, agricultural production, and Hawaii's water resources and watershed recharge areas.

Thank you for the opportunity to testify on this measure.

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# TAXBILLSERVICE

SUBJECT: CONVEYANCE, Disposition of revenue dollar limitations

BILL NUMBER: HB 1469

INTRODUCED BY: Luke

EXECUTIVE SUMMARY: This bill would establish maximum dollar amounts of conveyance tax revenues to be deposited into each of the designated funds. If the legislature deems these program areas a priority, then a direct appropriation for these programs would increase transparency and accountability.

BRIEF SUMMARY: Amends HRS section 247-7 to provide that conveyance tax revenue shall be distributed in each fiscal year as follows: (1) ten percent or **\$7.6 million**, whichever is less, shall be paid into the land conservation fund; (2) fifty percent or **\$38 million**, whichever is less, shall be paid into the rental housing trust fund; and (3) twenty-five percent or **\$19 million** whichever is less, shall be paid into the natural area reserve fund.

EFFECTIVE DATE: July 1, 2015

STAFF COMMENTS: This measure would establish maximum dollar amounts of conveyance tax revenues to be distributed to the various special funds now being fed. It would, however, perpetuate the earmarking of conveyance tax revenues. As with any earmarking of revenues, the legislature will be giving their stamp of approval for the “automatic funding” mechanism for each of the programs into which the conveyance tax revenues are funneled. Through this system, monies are diverted into these funds without any legislative intervention, expenses from the funds largely avoid legislative scrutiny, and it will be difficult to ascertain the effectiveness of the programs funded. It would also be difficult to ascertain whether or not the fund has too little or too much revenue.

The conveyance tax is one of the least dependable sources upon which to rely for funding with collections rising and falling with the fortunes of the real estate market. Any amount collected under this tax will depend on activity in the real estate market. As the housing market slows down, revenues may not be sufficient to meet the expectations of the fund. If the conveyance tax revenues are not sufficient or another “important” program needs funding, will the conveyance tax rates need to be “adjusted” to generate even more revenue?

If the legislature deems the programs and purposes funded by conveyance tax revenues to be a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials from setting priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each particular program.



Testimony of the O'ahu Invasive Species Committee  
Opposing H.B. 1469 Relating to the Disposition of Tax Revenues  
House Committee on Water and Land  
Monday, February 9, 2015, 10:00 AM, Room 325

The O'ahu Invasive Species Committee (OISC) opposes H.B. 1469 that sets caps for money deposited into the Land Conservation, Natural Area Reserve and Rental Housing Trust funds. While we agree that the use of the money should be transparent, we do not agree that setting caps on the funds would accomplish this goal.

The O'ahu Invasive Species Committee works island-wide to remove incipient invasive species from O'ahu before they become so abundant that they begin to damage ecosystems. OISC employs 17 people and has been a beneficiary of the Natural Area Reserve Fund. OISC has always been required to compete for our funds and to show that the funds are having an impact. The money used for these funds are also highly leveraged with county, federal and sometimes private funds.

DLNR is the agency tasked with protecting the unique flora and fauna of Hawai'i and with managing many of the sites that are important to the state's tourism-based economy. Yet it historically receives less than one percent of the state's budget. Hawai'i's natural resources will be coming under more and more strain in the future due to climate change and the introduction of new invasive species. Placing monetary caps on the funds that support DLNR will only put further strain on an already underfunded agency.

Thank you for your support.

Sincerely,  
The O'ahu Invasive Species Committee

cullen2-Dawn Marie

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From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, February 07, 2015 1:59 PM  
To: waltestimony  
Cc: mikagawa@hawaii.rr.com  
Subject: \*Submitted testimony for HB1469 on Feb 9, 2015 10:00AM\*

**HB1469**

Submitted on: 2/7/2015

Testimony for WAL on Feb 9, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Ikagawa	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**Conservation Council  
for Hawai'i**

*Hawai'i's voice for wildlife*

*Kō Hawai'i leo no nā holoholona lōhiu*

**LATE**

Testimony Submitted to the  
House Committee on Water and Land

Hearing: Monday, February 9, 2015 10 am, Room 325

In Opposition to HB 1469 Relating to Disposition of Tax Revenues

Aloha, Chair Yamane, Vice Chair Cullen, and Members of the Committee. The Conservation Council for Hawai'i opposes HB 1469, which establishes maximum dollar amounts that shall be distributed among certain non-general funds from the conveyance tax, and retains a provision that the general fund receive the remainder after distribution.

HB 1469 is unnecessary. The legislature already has the authority and flexibility to revise the percentage of the conveyance tax that goes into each dedicated fund up or down in any given year. We urge your to allocate 25-50% for the Natural Area Reserve Fund, which helps protect our essential watersheds, native species habitats, forests, and recreation areas. The legislature does not give the Department of Land and Natural Resources enough money as it is to protect forest, native species habitats, and watersheds (including controlling invasive species) on ceded land. Please resist reducing this amount even further.

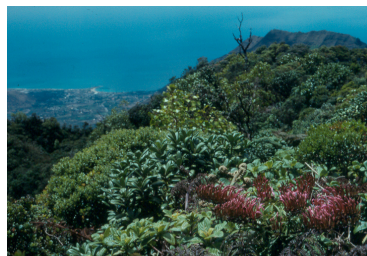
Here are photos of three Natural Area Reserves and key watersheds on ceded land – the best of the best – and all supported by the Natural Area Reserve Fund. Please kokua.

Mahalo for the opportunity to testify.

Sincerely,

*Marjorie Ziegler*

Marjorie Ziegler



*Conservation Council for Hawai'i is a nonprofit, environmental membership organization dedicated to protecting native Hawaiian plants, animals, and ecosystems for future generations.*

*Established in 1950 and based in Honolulu, CCH is one of the largest and most effective wildlife organizations in Hawai'i with more than 5,000 members and supporters, including concerned citizens, educators, scientists, government agencies, and elected officials.*

*Through research, education, service, organizing, and legal advocacy, CCH works to stop the destruction of native wildlife and wild places in Hawai'i.*

*Since 1973, CCH has served as the Hawai'i state affiliate of the National Wildlife Federation.*

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