DAVID Y. IGE GOVERNOR OF HAWAII





SUZANNE D. CASE CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT

> ROBERT K. MASUDA FIRST DEPUTY

M. KALEO MANUEL 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

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES POST OFFICE BOX 621 HONOLULU, HAWAII 96809

Testimony of SUZANNE D. CASE Chairperson

Before the Senate Committee on WATER AND LAND

Wednesday, February 9, 2022 1:00 PM State Capitol, Conference Room 229, Via Videoconference

In consideration of SENATE BILL 3328 RELATING TO KANEOHE BAY

Senate Bill 3328 proposes to prohibit commercial ocean use activity at Kāne'ohe Bay or within 1,000 feet of the Bay without a permit from the Department of Land and Natural Resources (Department); expand the types of commercial ocean use activities requiring a permit; and include delivering or pre-positioning of ocean recreation equipment for hire in the definition of "commercial ocean use activity." **The Department offers the following comments.**

The Kāne'ohe Bay Master Plan was created in the 1990s and recommended prohibiting new commercial activity in the Bay over what was already permitted until such time that new Hawaii Administrative Rules (HAR) could be implemented. The Department's Division of Boating of Ocean and Recreation then implemented HAR restrictions, including defining "commercial activity" to address illegal operations, such as guided kayak tours and other types of commercial tours, in the He'eia Kea Small Boat Harbor and Kāne'ohe Bay, to be enforced by the Department's Division of Conservation and Resources Enforcement. The Department believes there are sufficient HAR restrictions to address illegal commercial activity occurring in the Bay, but there is insufficient enforcement of these restrictions due to staffing and funding shortages.

The Department has concerns that this measure will likely impact the Department's Division of State Parks nonprofit lessee at He'eia State Park. The lessee's permitted kayak rentals have enabled the lessee to cover the cost of critical functions, such as maintenance, utilities, security, on-site staff for programs, and daily presence. The public benefits from safe and managed access to Kāne'ohe Bay because the lessee is able to precisely track and monitor the number of kayaks launching and returning. The Department bears no cost for upkeep and staffing due to this successful public-private partnership. However, due to COVID-19 and resulting group size restrictions, gatherings on the park grounds and in the banquet hall for important community events, such as family reunions, weddings, and baby luaus, have been suspended.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE GOVERNOR OF HAWAII





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Thank you for the opportunity to testify on this measure.

DAVID Y. IGE GOVERNOR OF HAWAII





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> ROBERT K. MASUDA FIRST DEPUTY

M. KALEO MANUEL 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

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Thank you for the opportunity to testify on this measure.





Department of Land and Natural Resources Hawaii State Aha Moku State of Hawaii Post Office Box 621 Honolulu, Hawaii 96809

> Testimony of Hawaii State Aha Moku

Before the Senate Committee on Water and Land

Wednesday, February 9, 2022, 1:00 P.M. State Capitol, Conference Room 229 & Videoconference

> In SUPPORT of Senate Bill 3328 Relating to Kaneohe Bay

Senate Bill 3328 prohibits commercial ocean use activity at Kaneohe Bay or within 1,000 feet of the bay without a permit from the Department of Land and Natural Resources. It expands the commercial ocean use activities requiring a permit to include those involving kayaks, canoes, surfboards, sailboard, dive tours, and fishing tours.

The Hawaii State Aha Moku (Aha Moku) strongly supports this measure.

On behalf of the Hawaii State Aha Moku, Kakuhihewa (Island of Oahu), Moku O Ko'olaupoko, we represent native Hawaiians and members of the Public Trust who are part of the Aha Moku process, particularly in the Ahupua'a of Kualoa, Hakipuu, Waikane, Waiahole, Ka'alea, Waihe'e, Kahalu'u, He'eia, and Kaneohe – the nine Ahupua'a encompassing Kaneohe Bay. There are eleven Ahupua'a that comprise the Ko'olaupoko Moku. The other two ahupua'a are Kailua and Waimanalo. Many of the people of these ahupua'a are those with generational knowledge of the natural and cultural resources of the entire windward coast of O'ahu, but particularly Kaneohe Bay. They are the people who have strived over the years to perpetuate and sustain the precious marine resources that so many of their families depended upon for subsistence and cultural traditional use. We work with state and county to protect Kaneohe Bay from overuse and commercial exploitation. We are the people that depend upon the government and the Kaneohe Bay Regional Council to work with and help us in this perpetual mission.

The Kaneohe Bay Master Plan was developed pursuant to Act 208, SLH 1990 and is used as the guideline in the adoption and implementation of rules regarding the regulation of all activities in Kaneohe Bay. However, due to increased and new technology as listed in the Bill for an Act, SB 3328, the intended limits on commercial activities have not been followed to the dismay and anger of the residents and families of the nine ahupua'a encompassing Kaneohe Bay.

We support SB 3328 and believe this bill, if adopted, will ensure the preservation and protection of the bay's natural and cultural resources for the continuing sustainability of this special place. We urge its adoption!

Respectfully,

Kawaikapuokalani Hewett, Ka Mea Ho'okumu Hawaii State Aha Moku 808-382-6043 <u>kahalelehua@outlook.com</u> Leimana DaMate, Luna Alaka'i/Executive Director Hawaii State Aha Moku 808-640-1214 leimana.k.damate@hawaii.gov

Rocky Kaluhiwa, Kahu O Ko'olaupoko, Hawaii State Aha Moku, 808-286-7955, rockykaluhiwa1122@gmail.com



Testimony of Randy Miyashiro, Vice President & Dana Vela, President/CEO

Before the Senate Committee on WATER AND LAND

Wednesday, February 9, 2022 1:00 PM State Capitol, Via Videoconference, Conference Room 229

In consideration of SENATE BILL 3328 RELATING TO KANEOHE BAY

Senate Bill 3328 proposes to prohibit commercial ocean use activity at Kāne'ohe Bay or within 1,000 feet of the Bay without a permit from the Department of Land and Natural Resources (Department); expand the types of commercial ocean use activities requiring a permit; and include delivering or pre-positioning of ocean recreation equipment for hire in the definition of "commercial ocean use activity." Kama`aina Kids offers the following comments.

Kama`aina Kids opposes the proposed bill because it would run counter to the Kāne'ohe Bay Master plan's vision of "*preservation and protection of the bay's natural resources for the continuing enjoyment of all.*" The enactment of this bill would prevent us from providing a safe, recreational ocean use activity that grants everyone, including local residents, the opportunity to explore parts of Kāne'ohe Bay, using "people-powered" watercraft with minimal environmental impact.

Furthermore, the rental of kayaks and associated safety equipment is permissible through our lease with the Department of Land & Natural Resources – Division of State Parks. It is part of the outdoor recreational opportunities that Kama'aina Kids proposed to deliver as the occupant of He'eia State Park, which was acquired with the assistance of Land and Water Conservation Fund (LWCF) funding in 1972. It is our belief that kayaking, and other people-powered watercraft activities, achieves the balance between conservation and recreation sought by the LWCF. It is an outdoor, physical activity that connects people with Kāne'ohe Bay, in a manner that is considerate and respectful of the environment.

Lastly, the revenue generated by kayak rentals is integral to Kama'aina Kids' stewardship and level of care for the park and its facilities. We often hear that the park looks nicer than ever from residents who are familiar with He'eia State Park. Such efforts would not be sustainable without the revenue generated from the rental of our kayaks. It even allowed us to keep He'eia State Park open to the public during the extended COVID restrictions that essentially shutdown the Banquet Hall rentals—our other source of revenue to cover operational costs.

Thank you for the opportunity to testify on Senate Bill 3328.

<u>SB-3328</u> Submitted on: 2/8/2022 10:28:21 AM Testimony for WTL on 2/9/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kawika Winter	Testifying for Heeia NERR	Support	No

Comments:

Koʻolay Foundation



P. O. Box 4749 Kane`ohe, HI 96744

February 8, 2022

- To: Sen. Lorraine Inouye, Chair And Members Committee on Water & Land
- From: Mahealani Cypher Ko`olau Foundation

Re: <u>S.B. 3328 – Relating to Kane`ohe Bay</u>

Aloha Chair Inouye and Members of this Committee:

The Ko`olau Foundation offers its strong support for Senate Bill 3328, which would require permits from the Department of Land and Natural Resources (DLNR) for any commercial activity in Kane`ohe Bay. The bill define commercial activity and spells out the process.

We should note that there is a community-driven master plan, developed decades ago by the people of Windward O`ahu, which also limits commercial activity on Kane`ohe Bay. Some elements of this master plan have been incorporated into rules that were promulgated by DLNR as pertains to commercial activity.

It is our hope that this legislation will reinforce the community's efforts to protect the natural and cultural resources of this important marine environment.

We urge your support for its passage.

Mahalo for considering our testimony.



KO`OLAUPOKO HAWAIIAN CIVIC CLUB

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



- To: Senate Water and Land Committee Lorraine Inouye, Chair; Gilbert Keith-Agaran, Vice-Chair Members of Committee
- For: Hearing, Wednesday, February 9, 2022 1:00 p.m., Conference Room 229

Related to Kaneohe Bay

Testimony in support of SB3328, which would prohibit commercial ocean use activity at Kaneohe Bay or within 1,000 feet of the bay without a permit from the Department of Land and Natural Resources and would expand commercial ocean use activities requiring a permit to include those involving kayaks, canoes, surfboards, sailboards, dive tours, and fishing tours.

Many members of our club have lived on the bay for generations and have been concerned with the health and sustainability of the bay since the creation of the Kaneohe Bay Master Plan in 1990. However there has been a proliferation of commercial activities far exceeding the cap on such activities that would be permitted under the plan, and some of these activities have been operating without a valid permit to do so and flying under the radar.

This bill would remedy that problem by expanding the commercial activities covered by the plan and requiring a permit. All rules would be drafted in consultation with the Kaneohe Bay Regional Council.

Mahalo for considering this testimony.

Submitted by Nancy Davlantes, Government Relations Chair, Ko`olaupoko Hawaiian Civic Club

The Ko`olaupoko Hawaiian Civic Club was established in 1937 and is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians. One of the largest of the Hawaiian Civic Clubs, its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart"

<u>SB-3328</u> Submitted on: 2/5/2022 3:29:40 PM Testimony for WTL on 2/9/2022 1:00:00 PM

Sub	mitted By	Organization	Testifier Position	Remote Testimony Requested
And	rew Carre	Individual	Oppose	No

Comments:

It sounds like the purpose of this bill is specifically to eliminate the ability to rent kayaks at He'eia State Park. I oppose this bill because I believe the state park offering this kind of activity to the community and the general public is a good thing. He'eia State Park should provide access to the water, as well as educational and recreational activities that allow the public to enjoy the bay. If you don't own your own boat of some sort, there is really no other way to get out on Kane'ohe Bay except for the large, commercial tour operators. The state park offering low-impact, eco-friendly kayak rentals provides an opportunity for the community to experience and enjoy the bay without being part of a large, commercial tour operation.

The proposed bill states that its purpose is to update the statute regarding Kane'ohe Bay ocean use activities to better reflect the intent and execution of the Kane'ohe Bay Master Plan. While I am fully in favor of regulation that seeks to protect and preserve the bay, I see no language or intent in the master plan that would prohibit the state park from renting kayaks to patrons for them to take out on the bay. In fact there is a great deal of language in the master plan in support of more for organized activities, educational/recreational programs that provide access to the community, and specific call for the eventual shift to lower impact operations. I believe the master plan should consider that allowing the state park to offer low-impact kayak rentals to the community as a means of enabling people to experience and enjoy the bay is actually a very good thing, and the type of activity that should be allowed and encouraged.

If offered in a responsible manner that promotes ocean safety and awareness, education, and awareness of the local eco-system, culture, and community, I believe kayaking (or similar small, non-motorized craft) is the best way for people to experience the bay. I believe that is exactly what is happening at He'eia State Park. And using kayak rentals at He'eia State Park as the specific example in the introduction of this bill makes it seem pretty clear that prohibiting that is the main target of the bill. But if passed, it will not eliminate rental kayaks from entering the bay, it will only prohibit the state park from renting them to people. Anybody could still rent a kayak or whatever they want anywhere else on Oahu that rents them, and they could still bring them to the park and launch into the bay using the park's access to the water. He'eia State Park is intended to provide the public with a means to access Kane'ohe Bay. Anybody can bring their own kayak, canoe, board, or whatever, or rent one elsewhere, and use the state park's water access to launch into the bay, so why prohibit the park itself from offering this service to people? Especially when the operation at the state park is providing edcuation and additional resources that others do not provide that help ensure people's safety and minimization of negative impact on the bay.

In summary, I do not believe it is appropriate or in line with the intent of the master plan to make it so kayaks cannot be rented at He'eia State Park. I think the master plan and general regulation of recreational ocean use (commercial or non) are very good and necessary things, but I also think that allowing the state park to offer kayak rentals to the community is a responsible, sustainable, low-impact way for people to be able to experience the bay. And while I realize and understand that not everybody likes it, I believe there is far more support of this in the local community than there is opposition. I believe offering these activities at He'eia State Park benefits the park itself and the community. Thank you for your consideration and please feel free to contact me for more information. Aloha.

<u>SB-3328</u> Submitted on: 2/5/2022 4:04:15 PM Testimony for WTL on 2/9/2022 1:00:00 PM

Subn	nitted By	Organization	Testifier Position	Remote Testimony Requested
Bronse	on Azama	Individual	Support	No

Comments:

There has been way too much illegal commercial activity that has increased tensions in our community. I support this effort to bring justice to our community.

<u>SB-3328</u> Submitted on: 2/5/2022 7:45:40 PM Testimony for WTL on 2/9/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Steve Haumschild	Individual	Oppose	No

Comments:

This bill is designed simply to target a SINGLE outfitter for renting kayaks. This does not put an industry wide consistency on equipment, it handcuffs a named business at Heeia State Park.

This bill is clearly a bill designed by competetors or others that dislike the business.

Renting equipment supports safe use for locals wanting to experience our islands. Professional outfitters provide guidance, safety and support the environment of the area as stewards.

As a resident and business owner of the windward side, I am simply stunned a bill would be introduce to limit a single business with legilsative action.

<u>SB-3328</u>

Submitted on: 2/5/2022 11:07:22 PM Testimony for WTL on 2/9/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Maki Hosono	Individual	Oppose	No

Comments:

Commercial and recreational use of the bay should be regulated, but if this bill woud prohibit He'eia State Park from being able to rent kayaks, then i am opposed to that. My daughter and i enjoy kayaking in Kane'ohe Bay, but we don't own our own kayak, and we don't have a truck or a vehicle that can really transport a kayak. We appreciate that we can go to He'eia State Park and they have kayaks there that we can use. I feel like prohibiting that from happening would take away the way that my daughter and i can get out on the bay. And i think a lot of other families would be in the same boat. Like i said, i do believe you shoud do things to protect the bay, but i don't think there is anything wrong with kayaking. In fact i think it is way less harmful to the bay than a lot of the other boats out there. And i don't see why we shoudn't be able to rent a kayak from the state park that is right on the water. Also, aren't they nonprofit? Why shut this down?

<u>SB-3328</u> Submitted on: 2/6/2022 7:14:30 PM Testimony for WTL on 2/9/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kim-Thanh Luong	Individual	Oppose	No

Comments:

On behalf of the citizens and constituents of Hawai'i,

I appreciate this opportunity to share my experiences with the State legislation. Please do not pass SB3328.

I am a resident of O'ahu. In my leisure time, I enjoy kayaking and boating in Kāne'ohe Bay by myself and with others. During the pandemic, Kāne'ohe Bay is the source of my mental wellbeing and physical health as well as for others as we were able to enjoy activities in the fresh air.

Kāne'ohe Bay is an asset to O'ahu and the Hawai'ian islands, as the unique geographical features of the sandbar offer a home to nature's numerous underwater species (reef, fish, and turtles) as well as picturesque beauty that is iconic in Hawai'i. We are grateful to have access to the bay to observe the reef, fish, and turtles that are not always available on the shore in Kāne'ohe.

The rising cost of living in the United States AND especially in Hawai'i is a concern. This widens the gap between those who have and those who do not. Not everyone on our island has access to water equipment. Please consider that these factors are at play:

1- Lack of storage for the equipment, because our homes don't have space to store them.

2- The ability to own the equipment to enjoy the bay: boats and boat storage are available to a certain population of a higher income bracket and not the general public.

3- The ability to maintain boats and water equipment further widens the gap between those who can afford to play and those who cannot.

4- O'ahu provides a public bus transportation system based on needs of the population. This group of people is excluded from having access to transport water equipment although they can rent the equipment to enjoy time with their friends and family.

5- Those who own cars do not always own vehicles that can transport water equipment. I own a 4 door sedan, and not a truck or minivan, which often comes with a higher gas cost and purchase price with limited availability.

I am concerned about the lack of access for our local residents, who at this moment, might not have the ability to own equipment needed to experience Kāne'ohe Bay. Please be aware of discrimination in all its forms.

I see SB3328 as a threat to the health of our islands' people and the sociological impact. If this bill passes, it will further the divide between the elite on the islands and the poor.

If the businesses who rent water equipment are no longer able to operate, please consider the employees who work for them. Most of them are low-earning citizens who are customers who buy from our local restaurants, rent homes from our community, and live on O'ahu.

In being representatives of the people, please consider your people. Please do not pass SB3328 if you believe in serving ALL constituents regardless of income. Please do not pass SB3328 if you believe in equal access for ALL to enjoy nature's gifts. Please do not pass SB3328 if you believe in the importance of quality time with family, friends, co-workers, neighbors, and the preservation of health for Hawai'i's people.

Thank you for your time and consideration of my point of view, which represents a large population that remains silent or is unheard. Thank you for being mindful of your hard-working neighbors who do their best with their given circumstances. Aloha.

February 7, 2022

Chair Senator Inouye and Committee Members, Water and Land Committee

I strongly SUPPORT SB 3328 relating to Kaneohe Bay.

I have been an active member of the Kahalu'u community for close to thirty years. In the early 1990's I participated in the community conversations that led to the Kaneohe Bay Master Plan (KBMP). As stated in the May 1992 plan the purpose of the Plan is to:

- *"Preserve and protect the unique natural resources of Kaneohe Bay for the continued enjoyment of the general public;*
- Resolve conflicting uses problems between recreational users of the Bay, the general public and commercial ocean recreation operations; and
- Assess the environmental and ecological impacts of activities on the Bay"

A key component of the KBMP was to manage commercial recreation through limits on the number, size, and capacity of operations. We reached a community compromise after hours of hard conversations and diverse viewpoints. I am so grateful that we were able to reach a compromise that has endured for the past thirty years, a compromise that allows limited commercial recreation while preserving and protecting this valuable natural resource. Without this agreement, and with 10 million visitors annually, Kāne'ohe Bay would certainly suffer from overuse.

In recent years, additional commercial recreation operations have been noticed taking place in and around the Bay that have potential for significant impact on the resources. Kayak rentals taking place from He'eia State Park and kayaks being delivered to and leaving from He'eia Small Boat Harbor are just two examples and, collectively, these activities add thousands of people using the Bay. This is undermining the intent of the KBMP and puts the natural resource of Kāne'ohe Bay, Class AA waters, at increased risk.

SB 3328 is designed to clarify that the commercial recreation compromise agreements that were reached to protect the Bay includes rental of kayaks, canoes, standup paddleboards and other related watercraft. The KBMP specifically limits commercial recreation operations and therefore these activities would only be allowed under those provisions. These are critical clarifications that are needed to continue to preserve and protect Kāne'ohe Bay.

While I have long served on the Kahalu'u Neighborhood Board, I am speaking as an individual today because the Kahalu'u Neighborhood Board #29 has not yet had an opportunity to discuss this bill, but will on Wednesday February 9th. However, I can affirm that the Kahalu'u Neighborhood Board has long-standing positions supporting the Kāne'ohe Bay Master Plan and has raised concerns in the past about kayak rentals occurring on the Bay.

I urge you to support this bill to protect Kāne'ohe Bay.

Mahalo for the opportunity to testify and for your consideration of this important Bill.

Amy Luersen, FAICP

<u>SB-3328</u> Submitted on: 2/8/2022 12:14:29 AM Testimony for WTL on 2/9/2022 1:00:00 PM

_	Submitted By	Organization	Testifier Position	Remote Testimony Requested
	Paulette Tam	Individual	Support	No

Comments:

SB3328 - Related to Kaneohe Bay

Public Hearing:

Date: Feb. 09, 2022, Wednesday at 1 Pm In Room 229. Videoconference.

Written Testimony to be submitted 24 hours prior to the Public Hearing.

Aloha and Peace be with you All. My name is Paulette-A Tam. a Former Kaneohe Neighborhood Board No. 30 member and Sub District Representative; Committee Chairman of the Public Health, Safety, Education, Publicity, and Treasurer; Co-Chair Committee with Co-Chair Bill Russell of the Windward Military/Civilian Advisory; and Neighborhood Board Assistant Secretary. Today, I will represent myself. I support SB3328 related to Kaneohe Bay in its intent and in its entirety because, when I moved to Kaneohe, in the early1980's, I learned from my husband that Kaneohe Bay had lots of fun thing to do with his family and friends, such as digging for clams; looking at the reef fish; and discovery of the many edible limu and creatures of Kaneohe Bay. It is my hope that Kaneohe Bay is managed without commercial ocean use activities listed in the description of SB3328 in perpetuity. Please pass SB3328 related to Kaneohe Bay -

Description: Prohibits commercial ocean use activity at Kaneohe Bay or within 1,000 feet of the bay without a permit from the Department of Land and Natural Resources. Expands commercial ocean use activities requiring a permit to include those involving kayak, canoes, surfboards, sailboats, dive tours, and fishing tours.

Thank you for your time. Peace and Aloha.

Additional information reference resource-use: Timeline:

1992 Kaneohe Bay Master Plan / Kaneohe Bay Regional Council. Governor John D. Waihee III

12/1/1996 - 12/05/1994

Plan Review Report Long Range Planning Committees 1999 Review of the Kaneohe Bay Master Plan. Governor Ben Cayetano12/05/1994 - 12/02/2002 (term limited)

2009 Archives of the Hawaii State Legislature HB586 HD1 SD1 CD1 - Relating to the Kaneohe Bay Regional Council - Act 068, on 5/22/2009 - Description: Sunsets the Kaneohe Bay Regional Council.

Governor Linda Lingle 12/02/2002 - 12/06/2010

(02/22/2010) SB2340 SD1 HD1 Relating to Kaneohe Bay Regional Council; ACT 019, on 04/13/2010

Governor Ben Cayetano 12/05/1994 -12/02/2002 (Limited Term)

Division of Aquatic Resources (DAR) - Kaneohe Bay Regional Council First Meeting Agenda scheduled :

July 09, 2015 and continues to Present

Governor David Ige 12/01/2014 - Present (12/?/2022 end of term)