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SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committees on
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
and
AGRICULTURE AND ENVIRONMENT**

**Wednesday, February 15, 2023
1:00 PM**

State Capitol, Conference Room 224, Via Videoconference

**In consideration of
SENATE BILL 636
RELATING TO THE ENVIRONMENT**

Senate Bill 636 proposes to: 1) require Department of Land and Natural Resources (Department) to establish a visitor green fee program to collect fees from nonresidents via a license to use state natural resources, to be used for the protection, restoration, and care of Hawai'i's natural, cultural, and outdoor recreational resources and build the resilience of these resources to the impacts of climate change and local threats; 2) establish the Hawaii environmental legacy commission to guide the disbursement of visitor green fee program funds; and 3) establish the Hawai'i environmental legacy special fund. **The Department appreciates all proposed green fee program measures, and supports this measure with amendments.**

Hawai'i's natural and cultural resources provide our drinking water and sustain all life on our islands, are huge economic assets and prime attractions of our tourism industry, and support the well-being, health, and identity of our communities. A University of Hawai'i study examined the various services provided by O'ahu's Ko'olau forests - including drinking water recharge, flood prevention, water quality, carbon storage, biodiversity, cultural, aesthetic, recreational, and commercial values. These services were calculated to have a net present value of between \$7.4 and \$14 billion. In the Pearl Harbor aquifer, full forest protection (~20,000 acres) saves the water utility \$26 to \$39 million per year (after 50 years) in replacement costs. Coral reefs - the first line of defense to large ocean swells - annually protect \$836 million in averted damages to property and economic activity in Hawai'i. Despite the value of our forests, coastlines, cultural sites, and oceans, Hawai'i invests less than 1% of the total state budget into maintaining these assets.

The establishment of green fees in several other tourism-focused economies has allowed places like the Republic of Palau, Galapagos Islands, New Zealand, and the Maldives to allow greater investment in their natural resources - reducing the overall impact of tourism on their environments, improving the quality of visitor experiences, and supporting community stewardship of these special places. Visitors and many residents do not mind paying a green fee because they know it goes back to caring for the beautiful places and resources they have come to enjoy. For example, the Department's Division of State Parks executed a parking and entry fee increase for out of state visitors during the pandemic in 2020. This action, coupled with the return of the visitor industry, contributed to a substantial increase in special fund revenue to address decades of deferred repair and maintenance at State Parks across the State. The fee increase was modest and the out of state visitor is accustomed to paying fees at other municipal, State and National Parks. Additionally, when the visitor learns the parking and entry revenue is specifically reinvested in State Park management, they are supportive.

In 2001, the Department conducted a study to determine Hawai'i's willingness to support increased funding for watershed protection. Respondents were presented with various means by which the increased funds could be raised (general funds, taxes, or fees). A majority supported the use of environment-related taxes (7.4 out of 10), or a visitor-related tax (8.0 out of 10). Palau adds a green fee to all airline passengers leaving the island state and adds the funds to an environmental management fund. Palau, New Zealand, and Maldives have not experienced a decline in visitors due to their green fees.

The establishment of a green fee is an important piece to closing the large gap between existing and needed funding for the management of Hawai'i's natural and cultural resources. Any green fee along with innovative financing mechanisms such as carbon offsets for reforestation, and improved forest, cultural sites, and marine management would move Hawai'i forward in addressing climate change and mitigating the impacts of Hawai'i's tourism economy. A green fee program would bolster the State's existing investments in natural and cultural resource management, protect public trust resources, and help fill Hawai'i's conservation funding gap.

The Department thanks all introducers of the various green fee measures this session, and welcomes the opportunity to work with the legislature to incorporate helpful language from all measures. Standing up and effectively implementing such a program will require increased capacity and initial and ongoing funding. In the final language of the chosen green fee bill, the Department respectfully requests that the Department be able to access appropriated funds for dedicated staff and program costs, or that funds for new staff and costs, outside of the Department's current Executive Budget request, will be provided to the Department and sustained annually. Expected needed staff are two (2) FTE Program Specialists, one (1) Office Assistant, one Clerk V, and one (1) Accountant.

The Department also proposes the following changes:

- 1) Amend the proposed language of Hawaii Revised Statutes Section 171-C(d) to clarify that the commission shall rank project applications and make recommendations to the Board of Land and Natural Resources, and that the Board of Land and Natural Resources shall approve allocation of funding. This is a proven model that this new program can follow. The State Legacy Land Conservation Program's model where the Legacy Land Conservation Commission vets and ranks projects and makes recommendations to the Board of Land and Natural Resources, and the Board approves, has proven to be open, transparent, and successful in protecting lands of significant importance. We don't have to recreate the wheel here and can benefit from following what has been shown to work.

- 2) Include cultural resources throughout wherever natural resources are mentioned, or use the term “biocultural resources” to include both natural and cultural resources. Hawaiian culture is a land and water-based culture where, in the words of the late Dr. Noa Emmett Aluli, the health of the land is the health of the people, and is the health of the lāhui. Hawai‘i’s cultural landscapes, sites and resources are in great need of assistance as well, and from a Hawai‘i perspective, our natural resources are our cultural resources and vice versa.
- 3) Consider whether aligning with the Aloha+ Challenge 2030 goals are far-reaching enough as the intent of the green fee program is to provide consistent funds to mitigate harm from visitors to natural and cultural resources annually beyond 2030.

Mahalo for the opportunity to testify in support of this measure with amendments.



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Josh Green, M.D.
Governor

John De Fries
President and Chief Executive Officer

Statement of
JOHN DE FRIES
Hawai'i Tourism Authority
before the
**COMMITTEES ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
AND AGRICULTURE AND ENVIRONMENT**

Wednesday, February 15, 2023
1:00 p.m.
State Capitol Conference Room 224 & Videoconference

In consideration of
SENATE BILL NO. 636
RELATING TO THE ENVIRONMENT

Aloha Chairs DeCoite and Gabbard, Vice Chairs Wakai and Richards, and members of the Committees on Energy, Economic Development, and Tourism and Agriculture and Environment.

The Hawai'i Tourism Authority (HTA) appreciates the opportunity to offer comments in support of the intent of SB636, to collect fees to fund the protection, restoration, enhancement, care, and increased resilience of Hawai'i's natural and outdoor recreational resources.

The ethic of mālama – care and stewardship – is the core of our visitor education efforts. HTA's work is framed by four interacting strategic pillars: Natural Resources, Hawaiian Culture, Community, and Branding – the last of which is dependent upon the strength of the first three. Hawai'i's environment is a treasure, and it is our collective kuleana to protect it for the generations to come. Fulfilling that responsibility takes funding. We agree with the intent of this legislation as it is in alignment with our Strategic Plan priorities in the Natural Resources pillar, as well as action items in our community-generated Destination Management Action Plans.

We have consistently been supportive of site-specific user fees as our preferred model, but whichever model this Legislature decides upon to facilitate visitor contributions to the care of our natural resources, we advocate the reinvestment of those collections into improving the experience for kama'āina and visitors alike at public parks and trails.

We support the intent of SB636, stand ready to assist in educating visitor industry stakeholders and visitors, will gladly participate in the Environmental Legacy Commission, and defer to our colleagues at the Department of Land and Natural Resources on matters related to the implementation of this measure.

Mahalo for the opportunity to provide these comments.



Coalition Letter in Support of Hawai'i Green Fee
Committee on Water and Land | Committee on Energy, Economic Development, and Tourism
Support of SB636
 February 12, 2023

Aloha Chairs, Vice Chairs, and Members of the Committees

As an island region, Hawai'i is in immediate need of additional resources to conserve and protect our ecosystems, native species, coastlines, and the community livelihoods that depend on these resources. The impact of tourists on our natural and cultural resources is significant enough that **over two-thirds of Hawai'i voters support implementing a visitor green fee to fund the protection of natural and cultural resources.**

By investing in our environment today, we can ensure that residents and visitors are able to enjoy our incomparable natural environment and island lifestyle for decades to come. SB636 would generate the needed funding to meet our conservation, sustainability, and climate needs as a region, and provide a sustained funding source to enable our community groups, such as nonprofit organizations and DLNR, to implement solutions and scale work to preserve Hawai'i.

The organizations listed below are writing in support of legislation to create a visitor impact fee program with the following key elements: (1) Charge visitors a \$50 environmental license for the use of state-owned natural and cultural resources, (2) includes a significant allocation toward nonprofit and local government implementing partners, and (3) is overseen by a public-private commission made up of cultural, sustainability, and conservation experts, industry leaders, and agency representatives. These three elements will support a robust and effective program that fosters community and cross-sector support.

There is a critical need for additional and scaled revenue to protect, restore, and enhance Hawai'i's irreplaceable natural resources, including our oceans, reefs, beaches, forests, and streams. **Hawai'i's total conservation funding gap has been estimated at \$360 million annually.** While our visitor industry plays a substantial role in our State economy, the 10 million visitors to our islands each year exact a heavy toll on our natural resources. For example, a recent study confirmed that Hawai'i coral reefs attract visitors which then exacerbate their degradation. These resources are invaluable to the livelihoods of our local residents and integral drivers of our statewide economy as well as our visitor industry.



The following green fee priorities will help our State offset visitor impact: scaling a green workforce to provide additional capacity toward conservation, protecting and restoring our marine and terrestrial resources, implementing nature-based solutions to adapt and mitigate against the increasing impact of the climate emergency, and increasing the health and resilience of places trafficked by residents and visitors.

A visitor impact fee program presents an opportunity to finance the protection and restoration of these irreplaceable natural and cultural resources, create hundreds of jobs for local residents, meet the local needs of our home, and secure a healthy environment for future generations. **With an estimated 10 million visitors annually, a \$50 per visitor green fee could generate \$500 million in conservation revenue each year.**

These organizations and businesses support taking care of our environment through a visitor green fee so it can continue to nourish and care for us and future generations:

1. Conservation International
2. Kanu Hawai'i
3. Kua'āina Ulu 'Auamo (KUA)
4. Kupu
5. Surfrider Foundation Hawai'i
6. The Nature Conservancy
7. Hawai'i Alliance for Community-Based Economic Development (HACBED)
8. Sustainable Coastlines Hawai'i
9. Blue Planet Foundation
10. Hawai'i Reef and Ocean Coalition
11. Hawai'i Forest & Trail
12. Trust for Public Land
13. Hawai'i Alliance for Progressive Action (HAPA)
14. Hawai'i Youth Climate Coalition
15. Wastewater Alternatives & Innovations (WAI)
16. National Tropical Botanical Garden
17. Young Progressives Demanding Action
18. The Conservationist Collective
19. Pono Hawai'i Initiative
20. Wild Kids
21. Parley for the Oceans



22. Resources Legacy Fund
23. Malama Pupuokea-Waimea
24. Hawai'i Land Trust
25. Mālama Learning Center
26. Papahānaumokuākea Marine Debris Project
27. Kuleana Coral Restoration
28. Zero Waste Hawai'i Island
29. Travel2Change
30. Mālama Maunaloa
31. Kailua Beach Adventures
32. Good Food Movement
33. Care About Climate
34. Protea Zero Waste Store
35. Kailua Beach Adventures
36. Agripelago
37. Native Ecosystem Services
38. Delphi Cinema
39. Keep it Simple Honolulu
40. North Shore Community Land Trust
41. Hawai'i Wildlife Fund
42. Kingdom Pathways
43. Kokonut Koalition

Mahalo for your commitment to protecting Hawai'i's priceless natural assets, and please reach out with any questions at aloha@hawaiigreenfee.org.

SB-636

Submitted on: 2/13/2023 10:35:03 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Testifying for Climate Protectors Hawaii	Support	Written Testimony Only

Comments:

The Climate Protectors Hawaii **strongly support** this bill to charge visitors for the use of Hawaii's natural resources.



SB 636, RELATING TO THE ENVIRONMENT

FEBRUARY 15, 2023 · SENATE ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM AND AGRICULTURE AND ENVIRONMENT COMMITTEES · CHAIRS SEN. LYNN DECOITE AND SEN. MIKE GABBARD

POSITION: Support.

RATIONALE: Imua Alliance supports SB 636, relating to the environment, which requires Department of Land and Natural Resources to establish a visitor green fee program to collect fees from nonresidents via a license to use state natural resources, to be used for the protection, restoration, and care of Hawai'i's natural, cultural, and outdoor recreational resources and build the resilience of these resources to the impacts of climate change and local threats; establishes the Hawai'i environmental legacy commission to guide the disbursement of visitor green fee program funds; and establishes the Hawai'i environmental legacy special fund.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding.

Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring, like seawalls.

Furthermore, according to research conducted by Michael B. Gerrard from Columbia Law School, modern-day slavery tends to increase after natural disasters or conflicts where large numbers of people are displaced from their homes. In the decades to come, says Gerrard, **climate change will very likely lead to a significant increase in the number of people who are displaced and, thus vulnerable, to human trafficking.** While the Paris Climate Agreement of 2015 established objectives to limit global temperature increases and several international agreements are aimed at combating modern-day slavery, it is highly uncertain whether they will be adequate to cope with the scale of the problem that is likely to occur as a result of climate change.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life.

Therefore, we should take steps to accelerate Hawai'i's efforts to address climate change and develop a clean economy, including by implementing "green fees" that ensure our state's visitors pay their fair share to sustain our 'āina. New Zealand, the Maldives, Cancun, and Venice, and numerous other countries have green fee programs for visitors, which vary from \$1 per night to a \$100 entrance fee for the purpose of environmental conservation. **Palau's per-tourist investment in its natural environment is \$92. New Zealand's is \$188, and the Galapagos Islands' is \$373. Hawai'i's is just \$9 per tourist,** according to a report from Conservation International's Green Passport initiative. We need to catch up. For the sake of our keiki, we cannot afford to wait to solidify strategies to preserve our island home for generations to come.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



February 15, 2023

Senator Mike Gabbard
Chair, Committee on Agriculture and
the Environment

Senator Senator Herbert M. "Tim" Richards, III
Vice-Chair, Committee on Agriculture and
the Environment

Senator Lynn DeCoite
Chair, Committee on Energy, Economic
Development and Tourism

Senator Glenn Wakai
Vice-Chair, Committee on Energy,
Economic Development and Tourism

RE: Testimony in Support of SB 636, Relating to the Environment

Aloha Chair Gabbard, Chair DeCoite, Vice Chair Richards, Vice Chair Wakai and members of the committees,

On behalf of Resources Legacy Fund (RLF), we are writing in support SB 636 which requires the Department of Land and Natural Resources to establish a visitor green fee program to collect fees from nonresidents via a license to use state natural resources, to be used for the protection, restoration, and care of Hawai'i's natural, cultural, and outdoor recreational resources and build the resilience of these resources to the impacts of climate change and local threats. It establishes the Hawai'i environmental legacy commission to guide the disbursement of visitor green fee program funds.

Hawai'i residents overwhelmingly prioritize our collective responsibility to invest in Hawai'i's natural and cultural resources. The state has created programs, but to date failed to invest sufficient resources in collective priorities, such as protecting and restoring reefs, beaches, and forests, removing invasive species, and upgrading cesspools. Until now, the state has not identified adequate funding to protect against the real and increasing impacts of climate change, including increasing flooding, coastal erosion, and sea-level rise. A visitor impact fee offers a net-positive investment solution not only for the environment, but for the economy, as well.

We see an imperative to generate sustained and dedicated funding -- at least \$300 million annually -- sufficient to meet the needs of our state's natural and cultural resources. Most importantly, we support funding the right mix of natural and cultural resource projects, community stewardship, and effective implementation of priority programs.

This bill will enable the State of Hawai'i to meet these ongoing and increasing needs and provide a durable funding source that will enable the state to invest hundreds of millions of dollars to protect and restore our natural resources for the present and future generations, while creating jobs for Hawai'i residents.

SB 636 provides a transformative opportunity to protect Hawai'i's magnificent natural resources for present and future generations. We respectfully urge you to approve this important legislation. We note that we are aligned with many organizations and individuals who have come together to support SB 304, which we also support.

Sincerely,
Jocelyn Garovoy Herbert
Senior Program Officer, Resources Legacy Fund

SB-636

Submitted on: 2/11/2023 12:54:33 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Bishop	Testifying for Friends of Hanauma Bay	Support	Written Testimony Only

Comments:

Aloha Committee Chairs, Vice Chairs, and members,

Mahalo for the opportunity to testify in strong support of this bill that would provide for long-term natural resource management, conservation and restoration of our natural resources so greatly impacted by visitors.

With Aloha,

Lisa Bishop

President

Friends of Hanauma Bay

SB-636

Submitted on: 2/14/2023 5:34:30 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mufi Hannemann	Testifying for Hawaii Lodging & Tourism Association	Support	Written Testimony Only

Comments:

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Senate Committee on Agriculture & Environment
Senate Committee on Energy, Economic Development, & Tourism
Senate Bill 636

February 15, 2023

Chair Gabbard, Chair DeCoite, and members of the Committees, mahalo for the opportunity to provide testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's oldest and largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—have been proponents for the establishment of impact fees at high-traffic sites that are especially impacted by visitors. Our position remains unchanged; we support impact fees that are collected at specific sites so long as the monies generated are used to maintain and improve the site at which they were collected.

We support the intent of Senate Bill 636 and are grateful for the inclusion of a tourism industry representative to the Commission. We also offer the following possible amendments for the Committees' consideration.

Though we appreciate the allocation of funds enumerated in §171-D, we would prefer to see clear language that prohibits these funds from relegation to any general fund. Moreover, where funds are being allocated to local government, nonprofit, community-based organizations, and state agencies, we would further ask that these monies be used to fund projects with clear nexuses to the sites that they are being collected for.

HLTA supports the intent of Senate Bill 636.

Mahalo for the opportunity to offer this testimony.

**Testimony of The Nature Conservancy
Supporting SB 636, Relating to the Environment.**

**Committee on Agriculture and Environment
Committee on Energy, Economic Development, and Tourism
February 15, 2023, 1:00 pm
Conference Room 224 and via Videoconference**

LATE

Aloha Chair Gabbard, Chair DeCoite, Vice Chair Richards, Vice Chair Wakai, and Members of the Committees:

The Nature Conservancy (TNC) supports SB 636, Relating to the Environment, which requires the Department of Land and Natural Resources (DLNR) to establish a visitor green fee program to collect fees from nonresidents via a license to use state natural resources, to be used for the protection, restoration, and care of Hawai'i's natural, cultural, and outdoor recreational resources and build the resilience of these resources to the impacts of climate change and local threats. It also establishes the Hawai'i environmental legacy special fund and Hawai'i environmental legacy commission to guide the disbursement of visitor green fee program funds.

SB 636 would establish an innovative funding stream to support the critical conservation efforts needed to maintain Hawai'i as a healthy, sustainable home for future generations, as well as a world-class visitor destination. Our natural resources sustain our way of life, feed our families, and drive our local economy. Although Hawai'i's natural beauty is a top tourist attraction, conservation efforts receive less than 1% of the State's annual budget. A visitor green fee could help close Hawai'i's conservation funding gap, which has been estimated at \$360 million annually.

Hawai'i's people and natural resources are being directly affected by climate change. We are experiencing increased flooding, coastal erosion, sea level rise, coral bleaching, loss of native forest, rising temperatures, increased threats of extinction for endangered species, and other impacts from the changing climate. DLNR and organizations like TNC are working to protect and restore our islands' critical natural resources. Additional funding is needed to maintain and increase the pace and scale of these conservation efforts to offset the growing impacts from climate change. The visitor green fee and special fund established in SB 636 would allow for more sustained funding to scale efforts and address our conservation needs while supporting the development of green jobs to conserve and manage our natural resources without increasing fees or taxes on residents.

We also support the Environmental Legacy Commission established under the bill. It will provide important input from a wide variety of stakeholders in the visitor impact fee and fund, and transparency and accountability in how the funding is spent.

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A transformational investment in Hawai'i's natural resources through a visitor impact fee program and special fund is necessary to build environmental and economic resilience for our local communities and our visitor industry. By investing in our environment today and into the future, we can ensure that residents and visitors are able to enjoy our incomparable natural environment and island lifestyle for generations to come.

Mahalo for the opportunity to support SB 636.

The Nature Conservancy of Hawai'i and Palmyra is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Visitor Green Fee Program

BILL NUMBER: SB 636

INTRODUCED BY: GABBARD, RHOADS, Fukunaga, Kidani, Moriwaki

EXECUTIVE SUMMARY: Requires Department of Land and Natural Resources to establish a visitor green fee program to collect fees from nonresidents via a license to use state natural resources, to be used for the protection, restoration, and care of Hawai'i's natural, cultural, and outdoor recreational resources and build the resilience of these resources to the impacts of climate change and local threats. Establishes the Hawai'i environmental legacy commission to guide the disbursement of visitor green fee program funds. Establishes the Hawai'i environmental legacy special fund.

SYNOPSIS: Adds a new part to chapter 171, HRS, to define the program.

Under the program, visitors shall pay a visitor green fee to obtain a license to use a state park, beach, state-owned forest, hiking trail on state-owned land, or other state-owned natural area. Visitor green fees collected shall be deposited in the newly established visitor green fee special fund. Revenues collected under the program shall be deposited into the Hawaii environmental legacy special fund, which is established by the bill.

Prohibits any nonresident who is fifteen years of age or older (except for active duty military) to visit a state park, beach, state-owned forest, hiking trail on state-owned land, or other state-owned natural area without first obtaining a green fee license. DLNR is tasked with establishing convenient opportunities for visitors to pay the visitor green fee and be issued a license, including through a mobile application and an internet website. DLNR may also establish a separate retail license program to enable retail establishments and nonprofit organizations to sell licenses.

The initial visitor green fee shall be \$50 per person and the license purchased shall be good for one year. DLNR may, once every five years, adjust the fee to account for inflation.

The bill also establishes an Environmental Legacy Commission to guide and approve DLNR's disbursement of green fee revenues out of the special fund. The fund may be used for one or more of the following purposes:

(1) Protection, restoration, or enhancement of terrestrial or marine natural resources, or a combination thereof; provided that up to ten per cent of each grant awarded may be allocated for resource management to ensure the long-term sustainability of state natural resources;

- (2) Enhancement of interpretive and educational facilities and programs related to the State's natural and cultural resources and the protection of those resources;
- (3) Increase of resilience and adaptation of the State's natural resources with environmentally beneficial strategies to reduce the adverse impacts of climate change, including coastal erosion, sea level rise, ocean acidification, coral bleaching, destruction of reefs, and other impacts; and
- (4) Removal and control of invasive species and propagation and planting of native species.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This fee may be subject to challenge as unconstitutional. The Privileges and Immunities Clause of the U.S. Constitution requires that “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.” Although it has been held that a state may treat out-of-state residents differently in some situations, such as in granting licenses for recreational hunting, *Baldwin v. Fish & Game Commission of Montana*, 436 U.S. 371 (1978), the Court indicated that the result may be different when the nonresident is not given access to any part of the State to which they may seek to travel. *Id.* at 388. This is because the Court has recognized that the Constitution protects the right of citizens of the United States to travel freely throughout the land.

“We are all citizens of the United States,” the Court stated in *Crandall v. Nevada*, 75 U.S. 35 (1867), “and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own states. And a tax imposed by a state for entering its territories or harbors is inconsistent with the rights which belong to citizens of other states as members of the Union and with the objects which that Union was intended to attain. Such a power in the states could produce nothing but discord and mutual irritation, and they very clearly do not possess it.”

Other recent cases in the federal system have sustained the power of government to charge a user fee whose proceeds are dedicated to protect and preserve the natural attraction for which the user fee was charged (Hanauma Bay, for example). And the Hawaii Supreme Court in *State v. Medeiros*, 89 Haw. 361, 973 P.2d 736 (1999), held that the following test would be applied to distinguish between a user fee and a tax: “whether the charge (1) applies to the direct beneficiary of a particular service, (2) is allocated directly to defraying the costs of providing the service, and (3) is reasonably proportionate to the benefit received.” 89 Haw. at 367, 973 P.2d at 742.

Applying this test, the proposed visitor green fee looks more like a tax. Although the green fee is collected in a special fund, it is collected from visitors regardless of how many natural attractions the visitor visits. The uses to which the money in the fund can be put are broad and varied, and are not limited to the care and upkeep of natural attractions visited by tourists.

For these reasons we are concerned that the State is without power to limit access of visitors to places where residents are allowed.

Re: SB 636
Page 3

We also note some incongruities in the definition of “resident” offered in the bill. The bill calls a person a resident if that person filed a Hawaii tax return; nonresidents file Hawaii tax returns too. The bill also allows a person to be classified as a resident if they have a utility bill or similar document showing a Hawaii address; the Hawaii address could be that of a second or third home.

Digested: 2/12/2023



February 13, 2023

Senator Lynn DeCoite, Chair
Senator Glenn Wakai, Vice Chair
Committee on Energy Economic Development and Tourism
Senator Mike Gabbard, Chair
Senator Tim Richards, Vice Chair
Committee on Agriculture
Hawaii State Legislature

Comments on SB636

Dear Chair DeCoite, Vice Chair Wakai, and Members of the Senate Committee on Energy, Economic Development and Tourism, and Chair Gabbard, Vice Chair Richards, and Members of the Senate Committee on Agriculture,

Thank you for the opportunity to comment on SB636.

Overall, the Kohala Coast Resort Association is in support of the state collecting visitor impact fees for the use of our state's natural resources, including state parks, beaches, trails, natural areas and other facilities, **but only if those fees are directly reinvested in those natural areas for maintenance, upkeep and preservation.**

Fees of \$10 per car and \$5 per person have been collected at a number of Hawaii Island state parks for years. But unfortunately, those parks have not directly benefited from those fees. For example, Hapuna Beach State Park has been plagued by issues with its water lines, and there is currently no potable water for residents nor visitors, nor working restroom facilities. The "temporary" luas that have been put in place bake in the sun and are an unsightly and odorous distraction from what should be one of Hawaii Island's crown jewels.

One of the first tasks of the Environmental Legacy Commission that this bill would create should be to take a deeper look into the revenues and expenditures from **previously established visitor fee programs**. A dashboard on how all of the fees are being used should also be readily available and accessible to the public, so they can be apprised of the status of key projects, as it is often difficult to receive timely updates from impacted state departments and divisions.

In addition, the Kohala Coast Resort Association would like to see the Legislature provide a firm accounting on how revenues collected from visitors through other taxes are allocated across state services. We believe the \$40 million that our members paid into state and county TAT in 2022 should be appropriated to address visitor impacts, versus going into the state's general fund.

The Kohala Coast Resort Association's members employ 5,000 people, supporting 20,000 residents, at their hotels, timeshares, restaurants, retail shops, golf courses and spas along Hawaii Island's Kohala Coast. In 2022 alone, KCRA members paid \$40 million in state and county TAT, and \$40 million in state and county GET.

Thank you for the opportunity to provide comments on SB636.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho, Administrative Director



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association

Senate Committee on Agriculture and Environment
Senate Committee on Energy, Economic Development and Tourism

Senate Bill 636: Relating To The Environment

February 15, 2023, 1:00 pm
Conference Room 224

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry for Maui County. We represent over 180 property and allied business members and 22,000 employees. **MHLA would like to offer comments for Senate Bill 636**, which requires Department of Land and Natural Resources to establish a visitor green fee program to collect fees from nonresidents via a license to use state natural resources, to be used for the protection, restoration, and care of Hawaii's natural, cultural, and outdoor recreational resources and build the resilience of these resources to the impacts of climate change and local threats. Establishes the Hawaii environmental legacy commission to guide the disbursement of visitor green fee program funds. Establishes the Hawaii environmental legacy special fund.

MHLA favors the use of impact fees in Senate Bill 636. We also want to encourage a greater nexus to the fees being charged and ensure that any impact fee remains separate from any general governmental fund and that these funds must be used to protect, rehabilitate, and improve the resource at which it was collected. This will guarantee that our natural resources will retain their beauty and health.

While the proposed measure does establish the Visitor Green Fee Special Fund and the Environmental Legacy Commission to allocate these funds, we feel that clearer language is needed. In future drafts, MHLA would like to see language that guarantees funds will be protected from deposit into the State's General Fund and a framework to allocate the monies to the State parks most in need.

MHLA respectfully submits these comments for your consideration for Senate Bill 636.

Thank you for the opportunity to provide this testimony.

SB-636

Submitted on: 2/12/2023 10:48:23 AM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Doorae Shin	Individual	Support	In Person

Comments:

Aloha,

My name is Doorae Shin and I am the community organizer for the Hawai'i Green Fee coalition. I am testifying in **support of SB636**.

After working with this coalition of organizations and community members for the last couple of years, it has become clear that now is the time for the Hawai'i Green Fee. We have the backing of the Governor, who campaigned on creating a visitor impact fee, and we have worked with dozens of community organizations, spoken to dozens of legislators, and polled the community about their support for this concept. The support is widespread and the need to act is urgent.

We are now facing impacts of the climate crisis, where Hawai'i's ecosystems, economy, and communities face severe vulnerabilities. From natural disasters to coastal erosion and loss of biodiversity, Hawai'i needs to be prepared and work hard to restore, maintain, and preserve our natural and cultural resources. As one of the leading visitor destinations in the world, our special places, including our trails, beaches, parks, and more, need financial resources to ensure they are being taken care of and preserved for this and future generations.

I am happy to take questions about our efforts to pass the Hawai'i Green Fee, and we thank you for considering this bill.

Mahalo,
Doorae Shin

SB-636

Submitted on: 2/10/2023 7:51:06 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colehour Bondera	Testifying for Kanalani Ohana Farm	Support	Written Testimony Only

Comments:

Mahalo!

SB-636

Submitted on: 2/10/2023 7:00:24 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

I support the establishment of a "green fee."

SB-636

Submitted on: 2/11/2023 5:25:25 AM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Robin Kaye	Individual	Support	Written Testimony Only

Comments:

There are several bills introduced this session that relate to a "Green Fee." The intent of these appears to be quite similar: visitors to Hawaii should be financially supportive of our natural resources, just as residents do through their taxes.

As tourist numbers increase, as climate change and human interactions combine to negatively impact those resources, we should not simply groan and complain.

A green fee -- or license as in this bill -- will provide funding for the protection of our beautiful, precious and threatened environments.

The Environmental Legacy Commission concept is a good one, and its proposed membership categories are well thought out and importantly representative.

Thank you for the opportunity to submit this testimony.

SB-636

Submitted on: 2/11/2023 7:12:01 AM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Noel Morin	Individual	Support	Written Testimony Only

Comments:

Dear Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and Committee Members,

I support this measure. It will allow us to contribute to a **more sustainable visitor industry, enable a better appreciation of our natural environment, and help ensure that our natural environment will be preserved for future generations.**

Thank you for the opportunity to testify.

Noel Morin - Hilo

SB-636

Submitted on: 2/12/2023 7:42:55 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

I support of SB636, which would help offset visitor impacts through a visitor green fee program, and distribute funds to implement solutions for state and community programs working to restore our natural and cultural resources. This measure is a critical step to ensuring visitors are paying their fair share for the places they use, visit, and experience during their time here.

As an island region, Hawai'i is in immediate need of additional resources to conserve and protect our ecosystems, native species, coastlines, and the community livelihoods that depend on these resources. The impacts of tourists on our natural and cultural resources is undeniable. A recent local study confirmed that Hawai'i coral reefs attract visitors which then exacerbate their degradation. This is true for our other resources as well.

As the endangered species capital of the world, as an island with disappearing coastlines to sea level rise, and as a coastal community who relies on healthy oceans and forests to survive, it is imperative we implement a visitor green fee program this year to protect these resources before it's too late.

This measure would generate the needed funding to meet our conservation, sustainability, and climate needs as a region, and provide a sustained funding source to enable our community groups, such as nonprofit organizations and DLNR, to implement solutions and scale work already being done to preserve Hawai'i.

The success of this program must include buy-in from tourists, residents, the tourism industry, and conservation experts, and is contingent upon effective outreach and transparency of the program. We must have a diverse set of stakeholders from relevant sectors contributing to the decision-making process for this level of funding. For this reason, I would like this measure to keep the Environmental Legacy Commission, made up of members from diverse areas of expertise.

I urge the committee to pass a visitor green fee program this session, in order to begin the needed restoration for our home as soon as possible.

SB-636

Submitted on: 2/13/2023 6:20:30 AM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dwamato	Individual	Support	Written Testimony Only

Comments:

I support SB636.

SB-636

Submitted on: 2/13/2023 1:00:25 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support

LATE

Statement of **Jessa Tadeo**
before the
**Senate Committee on Energy, Economic Development, and Tourism/Agriculture and
Environment**

February 2, 2023
10:00 AM
Conference Room 423

Senate Bill No. 636
Relating to the Environment

Chair DeCoite, and other members of the Committee(s), thank you for the opportunity for me to provide this testimony in regards to Senate Bill 636, and for your hard work during this period of time. My name is Jessa Tadeo, a third-year college student at the University of Hawai'i at Manoa; working towards my degree in Social Work. I am testifying in favor of Senate Bill 636, which will require Department of Land and Natural Resources to establish a visitor green fee program to collect fees from nonresidents via license to use state natural resources, to be used for protection, restoration, and care of Hawai'i's natural, cultural, and outdoor recreational resources and build resilience of resources to the impacts of climate change and local threats.

I was born and raised in Hawai'i, and have witnessed a few environmental concerns throughout my lifetime. I am now 20 years old and have lived through more than one oil leak, coral bleaching, ocean pollution, Native Hawaiian sacrificial lands being taken for granted, and an increasing climate crisis.

The Navy's Red Hill Bulk Fuel Storage Facility was built in 1940, holding almost 47.32 million liters. The jet fuel spilled into the water and entered the drinking water. An estimated 19,000 gallons of fuel was leaked. There have been two major bleaching episodes within my lifetime: the first in 2014 through 2015 then again in 2019. Although it has been a while since then, it is estimated that there will be more frequent and hotter heat events in the future. Kamilo Beach is covered in plastic, which harms marine wildlife and may affect other bodies of water. On top of that, tourists are coming in and out of our islands every single day, and are contributing to these environmental issues *every single day*.

Natives and locals have done as much as they can, then multiplied that limit and established that there can be no limit when it comes to protecting Hawai'i lands. But at the end of the day, the fight for our aina has to be evident across state governments in order for our voices to be heard loud and clearly. By passing Senate Bill 636, Hawai'i state legislature will be able to recognize these voices, act as a megaphone to increase the severity of caring for the land, and work hand in hand with locals to advocate, love, and care for Hawai'i. By requiring a visitor green fee, this

will make sure that nonresidents are hearing us, and will be able to respect the culture, environment, and the land that we all call home. Thank you for your time.

SB-636

Submitted on: 2/10/2023 7:46:33 PM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I oppose this Bill.

SB-636

Submitted on: 2/13/2023 10:01:20 AM

Testimony for EET on 2/15/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Catherine Orlans	Individual	Oppose	Written Testimony Only

Comments:

Oppose bill as is. If bill is amended to protect Native Hawaiian rights, I would support. Under Hawai'i law, the State and its agencies are obligated to preserve and protect the exercise of traditional and customary Native Hawaiian rights. Hawai'i courts have made clear that traditional and customary practices for subsistence, cultural, and religious purposes "must be protected to the extent feasible" under the Hawai'i Constitution. This would include protecting all native Hawaiian's rights to free access to state owned natural resources. Native Hawaiians deserve an exemption to this green fee, resident or visitor status.