



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.C.R. NO. 128 AND S.R. NO. 107, REQUESTING THE ATTORNEY GENERAL TO PRODUCE AND PROVIDE A LIST OF STATE LANDS CURRENTLY LEASED TO THE UNITED STATES OF AMERICA OR ANY FEDERAL AGENCY.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, March 20, 2025

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Miranda C. Steed, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) opposes these resolutions as currently drafted.

The purpose of these resolutions is to request the Attorney General to produce and provide a list of all state lands currently leased to the United States, including lands leased to the military or any federal agency. These resolutions further request that the Attorney General make recommendations as to whether future hypothetical renewal of those leases would or would not be in the public interest and consistent with state law.

The decision to issue or renew leases of state land to the military or federal agencies is a matter of discretion. Thus, making recommendations on mixed questions of fact and law relevant to the question of whether to issue or renew a lease—before the matter is presented before the agency—is premature and could create due-process concerns: the agency vested with that authority will render its discretionary decision if and when the lease comes before the agency based upon the administrative record before it. *See Mauna Kea Anaina Hou v. Bd. of Land & Natural Res.*, 136 Hawai'i 376, 363 P.3d 224 (2015) (due process of law generally “prohibits decisionmakers from prejudging matters and the appearance of having prejudged matters”).

When legal questions arise surrounding the issuance or renewal of a lease, the Department provides legal advice to the agency considering the lease. The Department

is not the decisionmaker. A resolution placing the Department in the position of a quasi-decisionmaker on the merits is inconsistent with the Department's legal functions and could create the appearance of a conflict of interest should this matter arise in the future before an agency that the Department represents.

The Department recommends that the resolution be amended to request information about existing leases directly from the issuing agencies, for example, the Department of Land and Natural Resources, the Department of Education, and the Department of Transportation, but should not place any agency in a position of appearing to prejudge the merits of issues that may come before it. The Department is available to these departments to provide any assistance they require in assembling the documents.

Thank you for the opportunity to testify.



Environmental Caucus of The Democratic Party of Hawai'i

March 15, 2025

To: Chair Karl Rhoads, Vice Chair Mike Gabbard, and Members of the Committee on Judiciary

From: Environmental Caucus of the Democratic Party of Hawaii

Date: Thursday, March 20, 2025 **Time:** 10:00 a.m.

Place: Conference Room 016 & Videoconference

Subject: Testimony in Strong Support of SCR128/SR107 - List of state lands currently leased to the United States of America

Aloha e Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

The Environmental Caucus of the Democratic Party of Hawaii strongly supports SCR128/SR107, which requests the Attorney General to produce and provide a list of state lands currently leased to the United States of America or any federal agency.

Key Points in Support:

1. Transparency and Accountability

- By providing a comprehensive list of state lands leased to federal entities, the resolution ensures transparency in the management of Hawaii's resources, fostering trust and accountability.

2. Data-Driven Decision-Making

- A clear inventory of these leased lands will enable informed decision-making regarding land use, conservation efforts, and public benefit.

3. Alignment with State Goals

- Understanding the scope of federal land use in Hawaii supports the State's broader objectives of sustainable development, resource management, and community empowerment.

4. Enhanced State Oversight

- This measure promotes effective oversight by empowering the State to assess current arrangements and determine whether they align with Hawaii's long-term interests.

5. Strengthening State-Federal Relations

- Open communication about land leases can enhance collaboration between the State and federal agencies, ensuring mutual benefit and shared responsibility for land stewardship.

This resolution represents an essential step toward greater clarity and efficiency in land management practices. We commend the Legislature for prioritizing this initiative and urge the committee to pass SCR128/SR107.

Thank you for the opportunity to testify in strong support of this measure.

Respectfully submitted,

Melodie Aduja and Alan Burdick

Co-Chairs Environmental Caucus of the Democratic Party of Hawaii