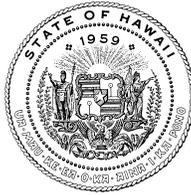


JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

677 QUEEN STREET, SUITE 300

HONOLULU, HAWAII 96813

FAX: (808) 587-0600

Statement of

DEAN MINAKAMI

Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE

February 27, 2026 at 2:00 p.m.

State Capitol, Room 308

In consideration of

HOUSE BILL 1713 HOUSE DRAFT 1 RELATING TO SCHOOL IMPACT FEES.

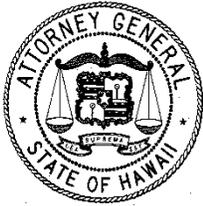
Chair Todd, Vice Chair Takenouchi, and members of the Committee.

HHFDC **supports** House Bill 1713 House Draft 1, which repeals school impact fees and reconfigures associated accounts to streamline housing development and reduce costs.

Hawaii faces a severe housing shortage, and reducing regulatory barriers and development costs is essential to increasing housing supply. Impact fees can add substantial costs to housing development, and any cost that unnecessarily increases the price of construction directly worsens the housing shortage.

This bill will help to lower the cost of producing housing, which will translate to lower rental rates and lower sales prices.

Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 1713, H.D. 1, RELATING TO SCHOOL IMPACT FEES.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, February 27, 2026 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Anne T. Horiuchi, Deputy Attorney General, or
Randall M. Wat, Deputy Attorney General

Chair Todd and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill: (1) repeals school impact fees and (2) abolishes and transfers unencumbered balances of the school impact fee subaccounts and certain fair share contribution accounts to the School Facilities Special Fund.

Section 3 of the bill repeals chapter 302A, part VI, subpart B, Hawaii Revised Statutes (HRS), thereby eliminating the statutory authority for school impact fees (page 3, lines 14-15). Section 5 abolishes the school impact fee subaccounts within the School Facilities Special Fund under section 302A-1706, HRS, and provides that any unencumbered balance remaining shall lapse to the School Facilities Special Fund; provided that the funds "shall be . . . [u]sed within the school impact district for which it was collected" (page 4, lines 9-11) or refunded to the developer after twenty years (page 4, lines 12-14).

School impact fees are subject to constitutional limitations under the Takings Clause of the United States Constitution. See U.S. Const. amend. V; U.S. Const. amend. XIV. Under *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 837 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994), a land use exaction must bear an "essential nexus" and "rough proportionality" to the development's impacts. These standards apply to monetary impact fees, as clarified in *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 612 (2013), and were recently affirmed to apply to

legislatively enacted exactions in *Sheetz v. County of El Dorado, California*, 601 U.S. 267, 279 (2024).

In Hawai'i, this constitutional nexus requirement is reflected in section 302A-1601, HRS, the findings section of the school impact fee statute, which acknowledges that "new residential developments within identified school impact districts create additional demand for public school facilities." Developers must contribute to the construction of new public school facilities or expansion of existing public school facilities through land dedication or in-lieu fees, based on their proportionate share of the need for additional sites. Fees must reflect the impacts of new developments and not exceed the level of service provided to existing developments. See section 302A-1601, HRS.

Repeal of the school impact fee statute in section 3 does not extinguish constitutional limitations applicable to previously collected fees. Funds collected from each school impact district remain subject to the requirement that they be used to provide new or expanded facilities attributable to students generated by the developments that gave rise to the fees. As currently drafted, the bill requires only that the funds be used within the school impact district in which they were collected. It does not expressly require that expenditures serve the student population or facility impacts attributable to the developments that generated the fees.

To address this issue, the Department recommends amending section 5 as follows:

SECTION 5. The school impact fees subaccounts within the school facilities special fund under section 302A-1706, Hawaii Revised Statutes, are abolished, and any unencumbered balance remaining shall lapse to the school facilities special fund; provided that the funds shall be:

- (1) Used within the school impact district for which ~~[it was]~~ **the funds were collected[;] to provide new or expanded school facilities serving students residing within that school impact district;** or
- (2) Refunded to the developer if collected as a fee in lieu or a construction cost component impact fee ~~[after]~~ **and remain unexpended** twenty years ~~[of]~~ **after** the date of collection.

The school facilities authority shall administer these funds in accordance with applicable law and ensure that expenditures remain reasonably proportionate to the impacts generated within the district.

(Suggested changes Ramseyered against the existing text of the bill and in bold.)

The proposed amendments also correct the grammatical inconsistency in the phrase "funds shall be . . . used . . . for which it was collected."

Thank you for the opportunity to provide comments on this bill.

JOSH GREEN, M.D.
GOVERNOR



RIKI FUJITANI
EXECUTIVE DIRECTOR



Hawai'i School Facilities Authority

2759 S. KING STREET, ROOM H201
HONOLULU, HAWAII 96826

House Committee on Finance

Friday, February 27, 2026
2:00 PM
Hawai'i State Capitol, Room 308

House Bill 1713, House Draft 1, Relating to School Impact Fees

Dear Chair Todd, Vice Chair Takenouchi, and Members of the Committee:

The Hawai'i School Facilities Authority (SFA) offers **comments** on House Bill 1713, House Draft 1, which would repeal school impact fees.

Since the SFA began functionally administering and managing the school impact fee program in 2024, we have recognized areas in need of improvement and have witnessed instances in which school impact fees have impeded the creation of much needed housing.

The existing framework contains administrative complexity and cost with limited revenue generated relative to statewide facilities needs. An early version of this measure would have clarified and expanded exemptions from school impact fees for new residential developments of fewer than one hundred dwelling units, which the SFA supported and believed would lead to more efficient allocation of resources and administration of the program.

The SFA recognizes two important considerations in determining the policy direction of this program: (1) the importance of minimizing cost impacts that may affect housing production and (2) a fair and predictable process for exacting land and other contributions from housing developments to offset the impacts to school capacity needs.

The SFA is agnostic as to whether the school impact fee program should be completely repealed or kept but improved. Because a repeal changes the statutory structure governing education-related development contributions, we note several potential implications:

- Loss of statutory exemptions mechanism. A repeal would eliminate statutory provisions governing exemptions, including those applicable to affordable housing and certain public-purpose projects. Education-related exactions on such developments, if addressed through other regulatory processes such as the Land Use Commission's district boundary amendment process, may therefore occur on a case-by-case basis.
- Development and financing predictability. The school impact fee statute provides a defined methodology for calculating land and cash contributions. Removal of this framework may reintroduce uncertainty regarding potential education-related exactions arising through other regulatory processes. A 2007 report from the School Impact Fee Working Group cited unpredictability and uneven applicability of the previous "fair share" process, which led to the creation of the school impact fee program.¹
- Clarification of agency roles. A repeal may create ambiguity regarding responsibility for evaluating or requesting education-related exactions in proceedings such as those before the Land Use Commission. Clarification of agency roles, particularly those of the Department of Education (DOE) and SFA, would improve clarity and consistency in the event of a repeal of school impact fees and a return to other regulatory processes for education-related exactions.

Should the committee decide to repeal the school impact fee program, we request a provision to ensure that the existing written agreements executed under the school impact fee law remain in effect even after the repeal of the law. The provision could state something to the following effect: "Notwithstanding any law to the contrary, any existing educational contribution agreements or written agreements executed with the department of education or the school facilities authority pursuant to chapter 302A, part VI, subpart B, Hawaii Revised Statutes, prior to its repeal by this Act shall remain in effect unless the parties to such an agreement mutually agree to terminate the

¹ According to the 2007 report, "fair share" contributions were determined strictly on a case-by-case basis through negotiated exactions or fees-in-lieu, which frustrated both the DOE and the development community due to a lack of predictability. Even after the DOE developed an initial formula, developers and the DOE still had to negotiate whether the contribution would be in the form of land dedication or a cash fee. Because the process relied heavily on State Land Use Commission approvals, it was not applied uniformly. Projects and developments that did not require a change in state land use designation often escaped the requirement to contribute altogether. Meanwhile, those that were required to contribute ended up making varying levels of contributions depending on the negotiations, creating an uneven and seemingly unfair playing field.

agreement.” This will ensure any land already set to be dedicated by planned development projects will convey without issue.

Mahalo for this opportunity to testify.

Sincerely,

Riki Fujitani
Executive Director

February 27, 2026

TO: Chair Todd and Members of the House Finance Committee
RE: HB 1713 HD1, Relating to the School Impact Fees

Dear Chair Todd and Committee Members,

Housing Hawai'i's Future is a nonprofit dedicated to creating opportunities for Hawai'i's next generation by ending the workforce housing shortage.

We support House Bill 1713 HD1. This bill will exempt new residential developments of fewer than one hundred dwelling units from school impact fee requirements.

The current application of school impact fees can impose significant costs to the construction of housing, passed down in the form of higher rents and mortgages. In the Kalihi-Ala Moana area, for example, projects were charged nearly \$4,000 per housing unit for these fees.

We recognize that school impact fees play an important role in supporting educational infrastructure as our population grows. However, given the acuity of Hawaii's housing shortage, carefully tailored exemptions are necessary to stimulate housing production without significantly undermining long-term school funding. The temporary nature of this exemption, with a clear sunset date, provides an opportunity to evaluate its effects on both housing supply and school resources.

By exempting projects under 100 dwelling units, HB1713 drives down costs and encourages the construction of housing while balancing funding for schools.

Please advance HB1713 HD1.

Thank you,



Lee Wang
Executive Director
Housing Hawai'i's Future
lee@hawaiisfuture.org



Perry Arrasmith
Director of Policy
Housing Hawai'i's Future
perry@hawaiisfuture.org

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Exempt Certain Housing Projects From School Impact Fees

BILL NUMBER: HB 1713 HD1

INTRODUCED BY: HSG

EXECUTIVE SUMMARY: Repeals school impact fees. Abolishes and transfers unencumbered balances of the school impact fee subaccounts and certain fair share contribution accounts to School Facilities Special Fund.

SYNOPSIS:

Repeals part VI-B of Chapter 302A, HRS, that provides for the imposition of school impact fees.

Makes conforming amendments to section 302A-1706, HRS, and repeals section 46-142.5, HRS.

Abolishes the subaccount into which impact fees used to be deposited. Lapses the school impact fees collected to the school facilities special fund, provided that the funds shall be:

- (1) Used within the school impact district for which it was collected; or
- (2) Refunded to the developer if collected as a fee in lieu or a construction cost component impact fee after twenty years of the date of collection.

Repeals section 46-142.5, HRS, which required counties to withhold building permits until the school impact fee requirements have been satisfied.

Makes additional conforming amendments to section 302A-1706, HRS.

Abolishes fair share contribution accounts and lapses any unencumbered balances to the school facilities special fund, provided that the lapsed contributions shall only be used within the same complex in which the contributions were originally collected.

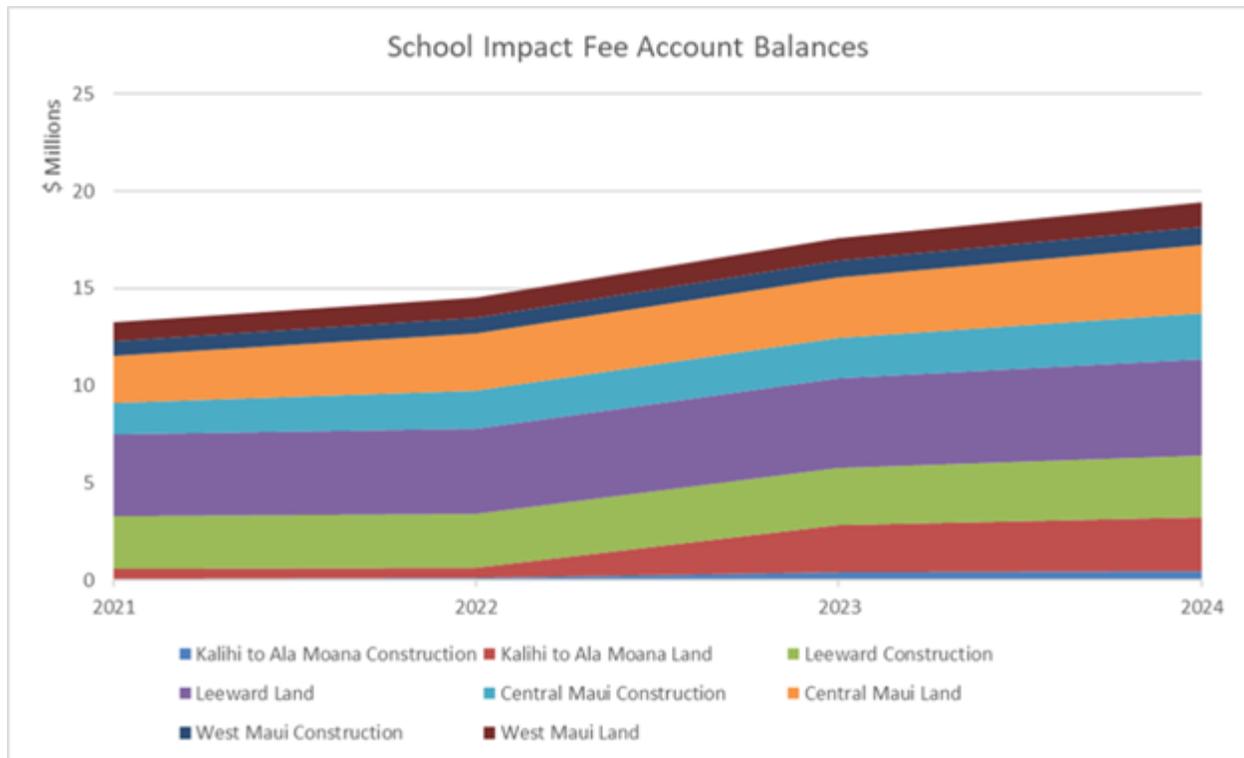
Terminates the temporary partial repeal of school impact fees by Act 268, SLH 2025, replacing it with a permanent repeal.

EFFECTIVE DATE: July 1, 3000

STAFF COMMENTS: The measure recognizes that school impact fees no longer achieve their original intent of providing benefits for school facility planning, but instead increase the development costs of new housing development.

In a recent publication, we complained that school impact fees and fair share contributions were collected but were not being used.

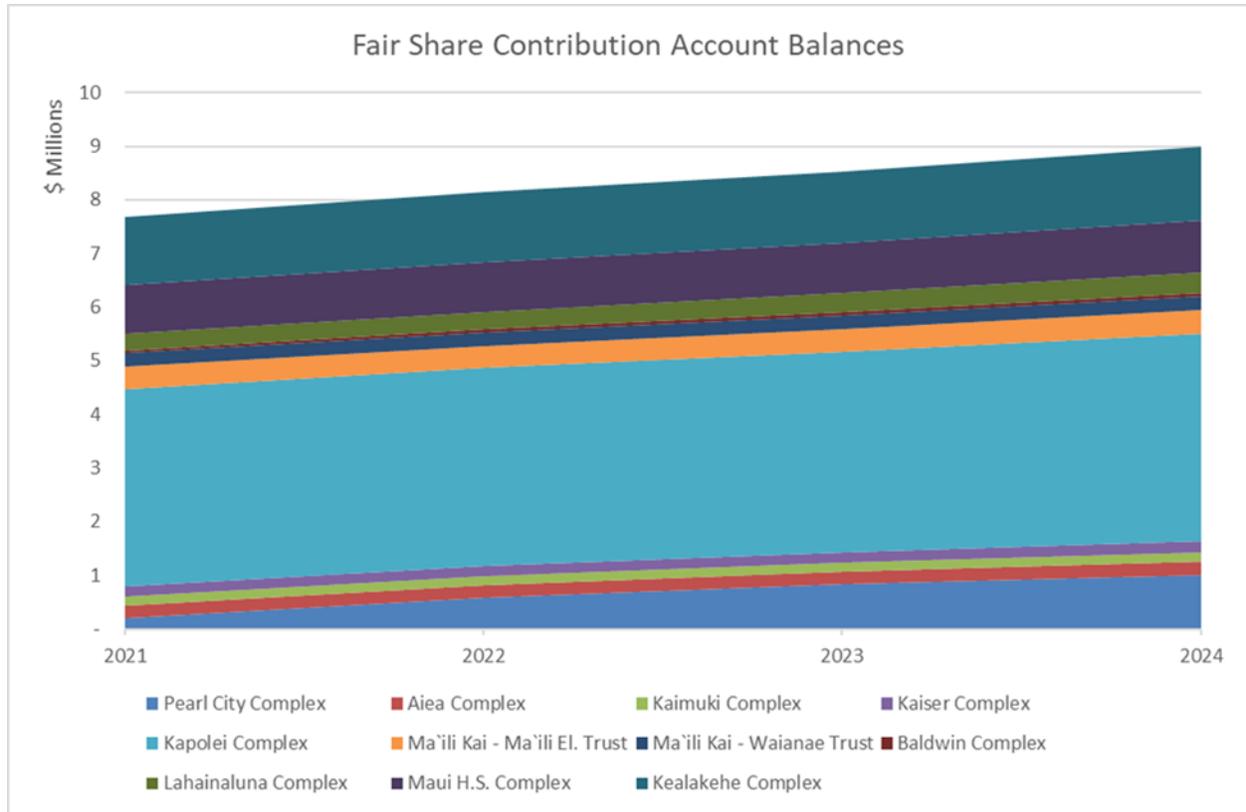
We tracked the balance of the DOE accounts holding these fees, and we complained that the fees were being taken but not used. The balances in the accounts just keep going up, as shown in this chart (updated with figures from the entire fiscal year 2024):



Source: Department of Education

As the chart shows, we now have a cumulative balance of a little less than \$20 million in the impact fee accounts.

Before the 2007 law created school impact fees, the DOE was able to shake down developers for fair share contributions, which were intended to serve much the same purpose as impact fees do today. It turns out that these accounts also have positive balances that have been steadily increasing over the past few years:



Source: Department of Education

The total of all these fair share accounts is close to \$9 million. This money, also, has been sitting around doing nothing. And most of it has been sitting around for *at least 19 years* because, as we mentioned, the fair share program was replaced by the impact fee program in 2007.

Apparently, there are technical problems with using the money, which is why it never has been spent. But the DOE tells us every single year that the schools desperately need money. We would prefer that the school system use this money up before they ask taxpayers to dig even deeper into their wallets.

This bill appears to be a step in the right direction.

Digested: 2/25/2026

Feb. 27, 2026, 2 p.m.
Hawaii State Capitol
Conference Room 308 and Videoconference

To: House Committee on Finance
Rep. Chris Todd, Chair
Rep. Jenna Takenouchi, Vice Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF HB1713 HD1 — RELATING TO SCHOOL IMPACT FEES

Aloha chair, vice chair and other committee members,

The Grassroot Institute of Hawaii **supports** [HB1713 HD1](#), which would repeal school impact fees and lapse monies collected from school impact fees into the school facilities special fund.

This bill serves as an important follow-up to Act 268 (2025), which repealed the construction cost component of school impact fees and exempted Department of Hawaiian Home Lands projects, certain affordable housing projects and single-room dwellings from school impact fees.

Grassroot's 2025 brief "[Getting schooled: The case against school impact fees in Hawaii](#)" outlined why school impact fees no longer make sense for Hawaii.

For starters, school impact fees increase housing costs because homebuilders are naturally going to incorporate the cost of various fees into their sales prices.

Therefore, it is no surprise that Gov. Josh Green suspended them via emergency order for the rebuilding of Lahaina and for certain housing projects covered under his affordable housing proclamations. It is also no coincidence that the first action taken by the Beyond Barriers Working Group established by the governor's housing proclamations was to waive the school impact fee for a 52-unit rental project in downtown Honolulu.

The school impact fee for projects in the downtown area is \$3,864 per unit, which would have added \$200,928 to the project’s overall construction costs.¹

A couple of years before that, in 2022, Howard Hughes Holdings had to pay the DOE \$3,864 per unit in school impact fees to build its 565-unit Ward Village condo on Oahu — for a total of \$2.18 million. To recoup its costs, the company passed the fees along to its buyers in the form of closing costs.²

In addition to driving up the cost of housing, Hawaii’s school impact fee system is likely unconstitutional, the money generated by the fees has never been spent, and student enrollment in areas subject to such impact fees has been declining.

Regarding constitutional concerns, the Hawaii Office of the Auditor warned in a 2019 report that the DOE’s school impact fees might violate the constitutional requirement that there be a “nexus” between proposed new units and the need for more classroom capacity.³

Meanwhile, the negative effect of school impact fees on housing growth has not been offset by a commensurate benefit to local schools. The state auditor’s 2019 report noted that the state Department of Education collected \$5.34 million in impact fees⁴ between 2007 — when the fees were established — and 2018, yet it had not spent any of it.

Eliminating school impact fees, especially for small-scale projects, is a common-sense way to help reduce housing costs in Hawaii.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

¹ Andrew Gomes, “[Housing panel makes first development decision](#),” Honolulu Star-Advertiser, Jan. 3, 2024.

² Andrew Gomes, “[Ward Village Builder Charges Buyers Separate Fee to Cover School Impact Assessment](#),” Honolulu Star-Advertiser, Oct. 2, 2022.

³ “[Audit of the Department of Education’s Administration of School Impact Fees: A Report to the Governor and the Legislature of the State of Hawai’i](#),” Office of the Auditor, State of Hawaii, September 2019, p. 11.

⁴ “[Audit of the Department of Education’s Administration of School Impact Fees](#),” p. 6.



February 26, 2026

Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair
Committee on Finance

RE: **HB 1713 HD1 – RELATING TO SCHOOL IMPACT FEES**
Hearing date – February 27, 2026 at 2:00 P.M.

Aloha Chair Todd, Vice Chair Takenouchi and members of the committee,

Thank you for allowing NAIOP Hawaii to submit testimony with **COMMENTS ON HB 1713 HD1 – RELATING TO SCHOOL IMPACT FEES**. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders, and other professionals.

HB 1713 HD1 repeals school impact fees and abolishes and transfers unencumbered balances of the school impact fee subaccounts and certain fair share contribution accounts to School Facilities Special Fund.

NAIOP Hawaii appreciates amendments made to HB 1713 HD1 and are supportive of the revised version which will help decrease the cost of affordable housing. While we understand the need for school impact fees, however, it is evident that Hawaii residents are in desperate need of housing, and eliminating school impact fees will play a vital role in continuing the development of much-needed housing units. Based on a report by the State auditor, the legislature has determined that the collection of school impact fees have not been utilized for the construction of new schools and there is a substantial amount of collected fees that remain unused in a special fund. By freeing housing developments from the obligation to pay the school impact fee, Hawaii can create more housing opportunities for our essential workforce.

The costs of school impacts can become costly and increase the construction of housing projects. Repealing the school impact fees for housing projects will further streamline construction of units and ensure that all funding for a project is focused towards building housing for local families. Accordingly, NAIOP Hawaii supports all tools which get homes built for our residents. Thank you for the opportunity to testify on this measure.

Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair
Committee on Finance
Page 2

Mahalo for your consideration,

Ken Hayashida, President
NAIOP Hawaii