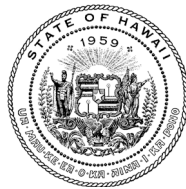


**JOSH GREEN M.D.**  
GOVERNOR

**SYLVIA LUKE**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

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**GARY S. SUGANUMA**  
DIRECTOR

**KRISTEN M.R. SAKAMOTO**  
DEPUTY DIRECTOR

**TESTIMONY OF**  
**GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No. 2438, Relating to the Hawaii Cultural Trust

**BEFORE THE:**

House Committee on Culture & Arts

**DATE:** Wednesday, February 4, 2026

**TIME:** 9:45 a.m.

**LOCATION:** State Capitol, Room 309

Chair Kapela, Vice-Chair Kong, and Members of the Committee:

The Department of Taxation (DOTAX) offers the following comments regarding H.B. 2438 for your consideration.

Section 2 of H.B. 2438 adds a new section to chapter 201 of the Hawaii Revised Statutes (HRS), to create a Hawaii Cultural Trust and Hawaii Cultural Trust Account. The purpose of the funds within the trust account is to support cultural preservation, heritage education, and arts across the State. Section 2 also creates a Hawaii Cultural Trust Coordinator position and advisory committee, under the Department of Business, Economic Development and Tourism, to administer and oversee the trust account.

Section 3 of H.B. 2438 creates a nonrefundable income tax credit, with no carry forward, for donations made during the taxable year to the Hawaii Cultural Trust Account. The ability to claim the tax credit and the amount of the credit is limited to the dollar value of a required matching donation to a qualified Hawaii cultural organization. A qualified Hawaii cultural organization is defined as an organization that:

- is organized and operating in the State under 501(c)(3) of the Internal Revenue Code;
- is registered and in good standing with the department of the attorney general under Chapter 467B, HRS;

- has the primary purpose of providing cultural programs, services, or education that advances 1) arts and arts education, 2) Native Hawaiian culture language, 'ike kupuna, cultural practice, and cultural perpetuation, 3) history, heritage, and preservation, or 4) humanities and cultural literacy; and
- is not primarily organized for religious worship, political campaign activity, or lobbying, not primarily a private foundation under section 509(a) of the Internal Revenue Code, and is an organization in good standing under State law.

Section 3 of the bill further instructs the state foundation on culture and the arts to work with the Office of Hawaiian Affairs to maintain a list of qualified Hawai'i cultural organizations for purposes of administering the credit.

The amount of the credit is capped at \$2,500 for a corporation, \$1,000 for taxpayers filing a joint return, and \$500 for all other taxpayers. DOTAX shall prepare forms to claim the credit, may adopt administrative rules to implement the credit, and may require proof that the taxpayer qualifies for the credit.

The bill takes effect upon its approval, provided that section 3 shall apply to taxable years beginning after December 31, 2025.

DOTAX recommends that section 3 be amended to include the following language:

All claims for a tax credit under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

DOTAX also recommends that the effective date for Section 3 be amended to apply to taxable years beginning after December 31, 2026, to allow for form and instruction changes, system updates, and notice to taxpayers.

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



No. 1 Capitol District Building  
250 South Hotel Street  
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Governor  
Josh Green, M.D.

Comptroller  
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**Testimony of KAREN EWALD, Executive Director  
State Foundation on Culture and the Arts**

**Before the  
HOUSE COMMITTEE ON CULTURE & ARTS  
WEDNESDAY, FEBRUARY 4, 2026 Conference Room 309 at 9:45AM**

**HOUSE BILL 2438  
RELATING TO THE HAWAII CULTURAL TRUST**

Dear Chair Kapela and members of the Committee,

The State Foundation on Culture and the Arts (SFCA), is dedicated to the promotion, perpetuation, and preservation of culture and the arts in Hawai'i.

SFCA **SUPPORTS** H.B. 2438 which establishes the Hawaii Cultural Trust within the Department of Business, Economic Development, and Tourism.

Cultural trusts play a critical role in creating stable, independent, and sustainable funding for the arts. Their primary benefit is long-term financial security. By holding dedicated funds or endowments, cultural trusts reduce reliance on annual budget cycles and protect arts funding from political and economic volatility. This stability allows arts organizations to plan responsibly and invest in long-term initiatives.

Cultural Trust funding for arts and culture strengthen the arts ecosystem. They support innovation, emerging artists, and experimental work that may not attract commercial funding. They also invest in capacity building, education, and community outreach, expanding public access and cultural equity.

Additionally, cultural trusts leverage other funding sources. Their stability and credibility attract private philanthropy, enable match funding, and support effective public-private partnerships.

When established mindfully, cultural trusts are a proven tool for safeguarding public cultural assets, ensuring independent decision-making, and sustaining the arts for future generations. When designed with inclusive governance and clear public accountability, they deliver lasting public value.

The State Foundation supports the assembly of a Taskforce to research best practices in developing a Cultural Trust for the State. SFCA also supports collaboration with the Office of Hawaiian Affairs regarding the Cultural Trust.

Thank you for the opportunity to provide testimony on this measure.

Cindy Freitas  
makainanqi@gmail.com

**OPPOSE UNLESS AMENDED – H.B. 2438**  
**RELATING TO THE HAWAI‘I CULTURAL TRUST**

He Mele komo a he mele aloha no na kupuna o ke au i hala Aloha mai kakou.

Aloha,

My name is Cindy Freitas and I’m a Native Hawaiian descended of the native inhabitants of Hawai‘i prior to 1778 and born and raised in Hawai‘i.  
I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

I respectfully submit testimony **OPPOSING H.B. 2438 UNLESS AMENDED.**

H.B. 2438 establishes the Hawai‘i Cultural Trust, authorizes a **100% income tax credit** for contributions, and creates special license plates to generate revenue for cultural activities. While the goal of supporting culture is important, the bill **creates a permanent funding structure without essential governance, equity, fiscal, and cultural-integrity safeguards.**

**WHAT IS MISSING FROM H.B. 2438**

- **Clear cultural priorities and boundaries.** The bill broadly defines “culture” without prioritizing Native Hawaiian cultural perpetuation or providing guidance when funding demands exceed available resources.
- **Equitable geographic distribution standards.** The bill does not require fair distribution of funds across islands, counties, or underserved rural communities.
- **Limits on administrative costs.** There are no caps on staffing or administrative expenses to ensure funds primarily support cultural programs rather than overhead.
- **Conflict-of-interest protections.** Advisory committee members may represent organizations eligible for funding, yet the bill lacks explicit disclosure, recusal, and ethics safeguards.
- **Transparent grant-making standards.** The bill does not establish clear selection criteria, scoring methods, public disclosure of awards, or an appeal process for denied applicants.
- **Protections for cultural practitioners and ‘ike kūpuna.** There are no safeguards against cultural exploitation, misrepresentation, or misuse of intellectual and cultural property, nor requirements for consent or protocol.
- **Defined cultural outcome metrics.** Reporting requirements do not specify how cultural vitality, continuity, or community benefit will be measured beyond general impact statements.

- **Fiscal impact analysis of the tax credit.** The bill creates a 100% nonrefundable tax credit without projecting revenue losses, identifying beneficiaries, or preventing disproportionate benefit to higher-income taxpayers.
- **Sunset or legislative review.** The trust, tax credit, and license plate program are permanent, with no requirement for future evaluation or reauthorization.
- **Coordination with existing cultural funding.** The bill does not clarify how the trust supplements rather than replaces existing funding through SFCA, OHA, or other programs.
- **Community and county consultation.** There are no requirements to consult county cultural commissions or community-based cultural organizations when setting funding priorities.

## **REQUIRED AMENDMENTS (OPPOSE UNLESS ADOPTED)**

H.B. 2438 should not advance unless amended to:

1. Define **clear cultural priorities**, with protections for Native Hawaiian cultural perpetuation;
2. Require **equitable distribution standards** across islands and communities;
3. Cap **administrative and staffing costs**;
4. Add **conflict-of-interest disclosure and recusal rules**;
5. Establish **transparent grant criteria, scoring, and appeal processes**;
6. Protect **cultural practitioners, ‘ike kūpuna, and intellectual property**;
7. Define **measurable cultural outcome metrics**;
8. Include a **fiscal impact analysis** of the tax credit;
9. Add a **sunset or mandatory legislative review**;
10. Require **coordination with existing cultural funding and community input**.

## **CONCLUSION**

Supporting culture requires **accountability, equity, and respect for cultural integrity**. Without the safeguards above, H.B. 2438 risks inequitable distribution, conflicts of interest, and misuse of public resources.

For these reasons, I **OPPOSE H.B. 2438 UNLESS AMENDED**.

Mahalo

Cindy Freitas

# TAX FOUNDATION OF HAWAII

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735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

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SUBJECT: INCOME, MOTOR VEHICLE, Hawai'i Cultural Trust; Income Tax Credit for Contribution; Special License Plate

BILL NUMBER: HB 2438

INTRODUCED BY: KAPELA, AMATO, KILA, LOWEN, MARTEN, POEPOE, REYES  
ODA, SHIMIZU, TAKAYAMA

EXECUTIVE SUMMARY: Establishes the Hawai'i Cultural Trust within the Department of Business, Economic Development, and Tourism.

SYNOPSIS: Adds a new part to Chapter 201, HRS, to establish the Hawaii cultural trust. Also establishes a trust account to support cultural preservation, heritage education, and arts across the State. Funds in the trust account are to be split 50-50 between the State Foundation on Culture and the Arts and the Office of Hawaiian Affairs.

Adds a new section to chapter 235, HRS, to allow a nonrefundable income tax credit of 100% of the amount a taxpayer contributes to the Hawaii Cultural Trust, but only if the taxpayer also contributes at least an equal amount to a qualified Hawaii cultural organization.

Defines "qualified Hawaii cultural organization" as:

(1) An organization that:

(A) Is organized and operated in the State as a nonprofit organization exempt under section 501(c)(3) of the Internal Revenue Code;

(B) Is registered and in good standing with the department of the attorney general pursuant to chapter 467B;

(C) Has a primary purpose of providing cultural programs, services, or education that advances one or more of the following:

(i) Arts and arts education, including visual arts, performing arts, music, dance, theater, literary arts, media arts, and arts learning;

(ii) Native Hawaiian culture, language, 'ike kupuna, cultural practice, and cultural perpetuation;

(iii) History, heritage, and preservation, including museums, archives, historic sites, and cultural heritage programs; and

(iv) Humanities and cultural literacy, including storytelling, community-based cultural education, and cultural research and interpretation; and

(D) Meets any additional criteria established by the department and adopted by rule pursuant to chapter 91; and

(2) Shall not include:

(A) Any organization that is primarily organized for religious worship, political campaign activity, or lobbying;

(B) Any organization that is primarily a private foundation, as defined under section 509(a) of the Internal Revenue Code; or

(C) Any organization that is not in good standing under state law.

Adds a new section to chapter 249, HRS, to authorize a special number plate supporting the Hawaii cultural trust. There will be a fundraising fee charged upon issuance or renewal of such a plate, which will go to the Hawaii cultural trust. The amount of the fees shall be determined by the Department of Budget and Finance in consultation with DBEDT.

EFFECTIVE DATE: Upon approval, except that the tax credit applies to taxable years beginning after December 31, 2025.

STAFF COMMENTS: This bill creates a new trust account, administered by the newly established Hawaii cultural trust, to feed the State Foundation on Culture and the Arts and the Office of Hawaiian Affairs.

At the outset, this account does not appear to meet the criteria for a trust fund. Section 37-62, HRS, defines a trust fund as a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes. No one appears to own this fund or any interest in it, and there is certainly no gift, grant, or similar restrictive transfer that imposes conditions upon the fund. And if it is argued that SFCA and OHA own the fund, then we think it is more transparent to appropriate the money to them directly.

Instead, the bill comes up with a very inventive scheme to coax money out of taxpayers and reward them with what is in effect a credit for up to half of their contributions.

But lawmakers need to keep a few thoughts in mind when granting credits.

First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when we need money to support victims of natural disasters like the Maui wildfires, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation may be a far less costly method to accomplish the same thing.

Digested: 2/2/2026



**HB-2438**

Submitted on: 2/3/2026 6:04:33 AM

Testimony for CAA on 2/4/2026 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Erica Yamauchi	Individual	Support	Written Testimony Only

## Comments:

Aloha, Chair, Vice Chair, and members of the committee:

My name is Erica Yamauchi, and I am writing today to express my strong support for Senate Bill 2438.

Constitutional and statutory rights mean nothing if they cannot be effectively enforced. When individuals — whether public officials or private citizens — use threats, intimidation, or coercion to interfere with those rights, there must be meaningful recourse for those who experience harm.

SB 2438 establishes the Hawai‘i Civil Rights Protection Act, which authorizes civil actions against any person who interferes or attempts to interfere with constitutional or statutory rights through threats, intimidation, or coercion. This applies regardless of whether the person is acting under color of law, an important distinction that ensures accountability extends to both public officials and private individuals.

The bill is carefully constructed to protect against abuse. It includes robust speech protections, ensuring that speech alone does not constitute a violation unless it rises to the level of a true threat of imminent violence against a specific person or group. Any restrictions on speech must be narrowly tailored, and no broader than reasonably necessary.

In a time when intimidation and coercion are increasingly used to silence people and undermine their rights, Hawai‘i has an opportunity to lead.

I urge you to support SB 2438. Our constitutional and statutory rights deserve to be more than words on a page.

Mahalo for your consideration and service to our state, and the opportunity to testify.

Erica Yamauchi, Kaimukī



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**  
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI  
A HO'OMĀKA'IKAI

**JOSH GREEN, M.D.**  
GOVERNOR

**SYLVIA LUKE**  
LT. GOVERNOR

**JAMES KUNANE TOKIOKA**  
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Statement of  
**JAMES KUNANE TOKIOKA**  
**Director**  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON CULTURE & ARTS**

Wednesday, February 4, 2026  
9:45 AM  
State Capitol, Conference Room 309

In consideration of  
**HB2438**  
**RELATING TO THE HAWAII CULTURAL TRUST**

Chair Kapela, Vice Chair Kong, and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) offers comments on HB2438 which establishes the Hawaii Cultural Trust Advisory Committee within DBEDT and a trust fund account to be administered by DBEDT through a proposed Hawaii Cultural Trust Coordinator, establishes a tax credit, and authorizes special license plates.

DBEDT recognizes the important role that arts, culture, and heritage organizations play in strengthening community identity, education, and the broader creative economy. The framework proposed in this measure reflects an intent to create a more stable and diversified funding model that blends public resources with private philanthropic participation.

HB2438 establishes an ongoing programmatic responsibility within DBEDT, including:

- Administration of the Hawaii Cultural Trust account

- Appointment and oversight of a Hawaii Cultural Trust Coordinator
- Support of a newly established advisory committee
- Rulemaking pursuant to Chapter 91
- Annual legislative reporting, including financial tracking and impact metrics

To effectively implement these responsibilities, DBEDT would require dedicated program resources, including at minimum:

- One (1) full-time Cultural Trust Coordinator (program lead)
- One (1) fiscal/grants management staff position to manage fund accounting, tracking, reporting, and compliance
- Administrative and policy support associated with rulemaking, advisory committee coordination, and reporting

Without dedicated staffing and associated operational support, implementation would require reallocation of existing DBEDT resources, which may impact other statutory responsibilities.

The measure also establishes roles for several other entities:

- The Department of Taxation would be responsible for administration of the proposed income tax credit, including form development, verification procedures, and rulemaking related to credit implementation and compliance. DBEDT defers to the Department of Taxation regarding fiscal impact, tax administration workload, and compliance considerations associated with the credit.
- County finance departments would administer the specialty license plate program and associated fundraising fee collection.
- The State Foundation on Culture and the Arts and the Office of Hawaiian Affairs are designated beneficiaries of trust allocations and would play roles related to eligible organization coordination and program interface.

Implementation would therefore require cross-agency coordination to ensure consistent financial tracking, eligibility verification, and reporting.

The bill requires DBEDT to adopt rules under Chapter 91 and submit annual reports to the Legislature addressing:

- Funds collected and disbursed
- Recipients and purposes of awards
- Measured cultural and economic impacts
- Program recommendations

These provisions will require development of evaluation metrics and reporting systems aligned with both cultural outcomes and economic development indicators.

DBEDT appreciates the Legislature's intent to strengthen long-term support mechanisms for Hawaii's cultural sector. Should the measure advance, the Department would respectfully request consideration of appropriate implementation resources to support the new program responsibilities established in the bill.

Mahalo for the opportunity to provide comments on this measure.