Aloha e Chair Inouye, Vice Chair Senator Keith-Agaran, and Members of the Committee,

The Native Hawaiian Legal Corporation strongly **OPPOSES SB2502**, which would allow the Hawai‘i Community Development Authority to lease lands under its control—including “ceded” lands—for 99 years at a time, effectively transferring these lands out of the public trust.

The federal government, Hawai‘i’s courts, and our legislature have all recognized that Native Hawaiians have unrelinquished claims to ceded lands as a result of the overthrow of the Kingdom of Hawai‘i. See *Office of Hawaiian Affairs v. Hous. & Cmty. Dev. Corp*, 117 Hawai‘i 174, 177 P.3d 884 (2008). As a condition of the Admission Act, the State is required to hold these lands in trust and in part for the benefit of Native Hawaiians. Despite these clear pronouncements, this bill seeks to improperly facilitate the long-term disposition of state ceded and trust lands in a way that is antithetical to the State’s responsibility to manage and these lands.

The long-term leasing or dedication of trust lands are as harmful to the public trust as sales. Long term use, such as the 99-year leases encouraged by this measure, effectively transfers land out of the public trust for generations. Once such leases are made, the capital invested and infrastructure developed almost always make it impossible for the State to recover those lands due to political and legal pressure. They also do not represent best management practices: once trust lands are conveyed out under a long-term lease, the use and terms of that lease are set in stone, which then precludes the State from taking into account the changing context of the area, the necessity for updated lease terms, and the evolving needs of its beneficiaries and the public.

Long term leasing of ceded lands also reduces the State’s ability to ultimately reconcile Native Hawaiian claims to those lands. If these lands are leased out piecemeal (one strip mall here, one industrial project there), then eventually, there will be a drastic reduction in the number and type of properties available for native Hawaiian reconciliation. Previously, the legislature took all of this into account and chose to settle a pending lawsuit brought to prohibit the sale of ceded lands by prohibiting the sale of ceded lands without a 2/3 majority vote of the legislature. See *id.;* HRS § 171-64.7. This bill undermines that settlement and sends a message to Native Hawaiians that their rights, interests, and claims do not matter. Such a message is incredibly harmful considering the context of Native Hawaiian relationship to land:

> The [n]ative Hawaiian [p]eople continue to be a unique and distinct people with their own language, social system, ancestral and national lands, customs, practices and institutions. "The health and well-being of the [n]ative [H]awaiian people is intrinsically tied to their deep feelings..."
and attachment to the land." Aina, or land, is of crucial importance to the [n]ative Hawaiian [p]eople -- to their culture, their religion, their economic self-sufficiency and their sense of personal and community wellbeing. **Aina is a living and vital part of the [n]ative Hawaiian cosmology, and is irreplaceable.** The natural elements -- land, air, water, ocean -- are interconnected and interdependent. **To [n]ative Hawaiians, land is not a commodity; it is the foundation of their cultural and spiritual identity as Hawaiians.** The aina is part of their ohana, and they care for it as they do for other members of their families. For them, the land and the natural environment is alive, respected, treasured, praised, and even worshiped.

*OHA v. HCDC*, 117 Hawai‘i at 214, 177 P.3d at 924.

Mahalo for the opportunity to testify.

[Signature]

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