

Honolulu, Hawaii

February 16, 2018

RE: H.B. No. 1747
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Ocean, Marine Resources, & Hawaiian Affairs, to which was referred H.B. No. 1747 entitled:

"A BILL FOR AN ACT RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish \$35,000,000 as the Office of Hawaiian Affairs' (OHA) annual pro rata share of the public land trust revenues and a procedure for the quarterly transfer of funds beginning with fiscal year 2018-2019;
- (2) Transfer \$119,000,000 less certain funds to OHA for underpayment of the public land trust revenues for July 1, 2012 to June 30, 2018;
- (3) Require the Department of Land and Natural Resources to provide an annual accounting of receipts from public land trust lands described in section 5(f) of the Admissions Act, subject to consultation by the Office of Hawaiian Affairs; and
- (4) Establish a Public Land Trust Revenues Committee within the Department of Land and Natural Resources to meet



every six years to recommend the amount of income and proceeds from the public land trust that OHA shall receive annually.

The Office of Hawaiian Affairs, a Maui County Councilmember, a Hawaii County Councilmember, Hanalei Watershed Hui, Ho'omanapono Political Action Committee, Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii, Ka Lahui Hawai'i Political Action Committee, We Are One, Inc., Hawaiian Community Assets, Villages of Laiopua Homesteaders Association, Hawaiian Civic Club of Honolulu, Kanoa Transportation, LLC, Molokai Habitat for Humanity, Hawaiian Affairs Caucus of the Democratic Party of Hawaii, Kuakini Hawaiian Civic Club, Association of Hawaiian Civic Clubs, and numerous individuals testified in support of this measure. The Office of the Governor, Department of Transportation, Department of the Attorney General, Department of Land and Natural Resources, Common Cause Hawaii, and Center for Hawaiian Sovereignty Studies testified in opposition to this measure. The University of Hawaii, Department of Budget and Finance, and League of Women Voters submitted comments on this measure.

Your Committee notes that there have been discussions regarding the possibility of transferring certain state lands to OHA in lieu of increasing OHA's operating budget.

Your Committee further notes that OHA's annual \$15,100,000 set amount was first instituted in 1997 pursuant to Act 329, Session Laws of Hawaii 1997. It was also used in 2001 and again most recently in 2006 in Act 178, Session Laws of Hawaii 2006. Your Committee finds that the Legislature specifically stated that it was an "interim" amount. Your Committee further finds that more than 20 years have passed since the \$15,100,000 annual amount was first determined and it is now time to recalculate OHA's pro rata share of public land trust revenues. The idea of periodically revisiting the pro rata share was supported by testimony from OHA and the Department of the Attorney General. A negotiating committee was established by the Legislature in 2016 to revisit the interim share for native Hawaiians, but was only convened once by the Governor. Your Committee encourages further review by the Governor's negotiating committee.

Your Committee further finds that the 1997 Federal Airport Forgiveness Act states that its restriction on airport fund



transfers does not affect the State's obligation to Native Hawaiians. Furthermore, the Legislature has, in the past, transferred to OHA analogous type receipts for revenue generated at the airports. Accordingly, your Committee notes that the new interim amount to OHA, \$35,000,000, is calculated using revenue generated from the use of public land trust lands at the airports.

Your Committee has amended this measure by:

- (1) Changing its effective date to December 24, 2088; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency and style.

As affirmed by the record of votes of the members of your Committee on Ocean, Marine Resources, & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1747, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Ocean, Marine
Resources, & Hawaiian Affairs,

Kaniela Ing

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KANIELA ING, Chair



