

MAR 03 2020

SENATE CONCURRENT RESOLUTION

URGING THE STATE OF HAWAI'I TO PROVIDE NATIVE HAWAIIANS WITH
THEIR FAIR SHARE OF THE PUBLIC LAND TRUST REVENUE.

1 WHEREAS, native Hawaiians are the indigenous people of the
2 Hawaiian archipelago and have never given up their inherent
3 right of self-determination nor their claims and rights to their
4 land; and

5
6 WHEREAS, after the illegal overthrow of Queen
7 Lili'uokalani's government and the establishment of the Republic
8 of Hawai'i in 1894, the republic claimed the crown lands and
9 merged the government and crown lands into the "public lands"
10 through the 1895 Land Act; and

11
12 WHEREAS, in 1898, the Republic of Hawai'i transferred over
13 1.8 million acres of government and crown lands to the United
14 States under the Newslands Joint Resolution; and

15
16 WHEREAS, when Hawai'i became a state in 1959, most
17 government and crown lands, including those lands included as
18 part of the Hawaiian Homes Commission Act, were transferred to
19 the State of Hawai'i, however the United States retained use and
20 control of over 375,000 acres of land; and

21
22 WHEREAS, as part of the incorporation of Hawai'i as a State
23 of the Union, in section 5(f) of the Admissions Act the State of
24 Hawai'i's public trust responsibilities to native Hawaiians is
25 clarified whereby "[t]he lands granted to the State of
26 Hawaii...shall be held by said State as a public trust for the
27 support of...native Hawaiians"; and

28
29 WHEREAS, in 1978, the people of Hawai'i overwhelmingly
30 ratified amendments to the Hawaii State Constitution including
31 article XII, section 4, that confirmed the State's public trust
32 responsibilities, section 5 that established the Office of
33 Hawaiian Affairs (OHA), and section 6 which requires the OHA



S.C.R. NO. 57

1 Trustees to manage and administer income and proceeds from a
2 variety of sources, including a "pro rata portion" of the public
3 land trust; and
4

5 WHEREAS, the Hawaii State Constitution does not define what
6 percentage of the public land trust income and proceeds OHA
7 should receive on behalf of native Hawaiians because that
8 determination was left to the Legislature; and
9

10 WHEREAS, the Legislature determined that native Hawaiians
11 should get at least twenty percent of the public land trust
12 revenue (section 10-13.5, Hawaii Revised Statutes); and
13

14 WHEREAS, in a joint resolution adopted by the 103rd
15 Congress of the United States ("Congress"), signed into law as
16 Public Law 103-150, November 23, 1993, Congress apologized to
17 native Hawaiians on behalf of the United States for the
18 overthrow of the Kingdom of Hawai'i; and
19

20 WHEREAS, Act 178, Session Laws of Hawaii 2006, temporarily
21 established OHA's pro rata share of the income and proceeds of
22 the public land trust for the betterment of the conditions of
23 native Hawaiians at \$15,100,000 annually, and required state
24 agencies to report public land trust revenues to the Legislature
25 each year; and
26

27 WHEREAS, based on the annual accounting of the amounts
28 derived from the public trust and additional research
29 commissioned by OHA of receipts from the public land trust in
30 fiscal year 2015-2016, OHA has determined the minimum amount of
31 applicable total gross public land trust receipts to be at least
32 \$174,816,220 in fiscal year 2015-2016, for undisputed revenues
33 and twenty percent of that income is \$34,963,244; and
34

35 WHEREAS, the Hawaii Supreme Court has repeatedly held that
36 the Legislature has a constitutional obligation to clarify the
37 pro rata portion of revenues derived from the public land trust
38 to which OHA is entitled to for the benefit of native Hawaiians
39 under article XII, sections 4 and 6 of the Hawaii State
40 Constitution; and
41



S.C.R. NO. 57

1 WHEREAS, the pro rata share owed to native Hawaiians from
 2 the public land trust revenue is not a handout, a race base
 3 benefit, nor a privilege, but is their fair share of the trust
 4 lands that they collectively hold claim over and rights as
 5 recognized by the state and federal governments; and

6
 7 WHEREAS, the pro rata share owed is indisputably at least
 8 twenty percent of the total revenues of the public land trust
 9 which is estimated to be at least \$34,963,244 as of fiscal year
 10 2015-2016; now, therefore,

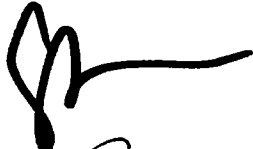
11 BE IT RESOLVED by the Senate of the Thirtieth Legislature
 12 of the State of Hawaii, Regular Session of 2020, the House of
 13 Representatives concurring, that the State is urged to provide
 14 native Hawaiians with their fair share of the public land trust
 15 revenue; and
 16

17
 18 BE IT FURTHER RESOLVED that certified copies of this
 19 Concurrent Resolution be transmitted to the Governor,
 20 Chairperson of the Board of Trustees of the Office of Hawaiian
 21 Affairs, and Mayors of all counties.
 22
 23
 24

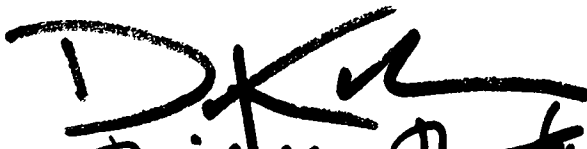
OFFERED BY: _____



Clarence A. Nishikawa



Russell E. Peltola



Michelle R. Sudani

Araine A. Inouye

Kurt Ferrell

