

STAND. COM. REP. NO. **1339**-22

Honolulu, Hawaii

MAR 24, 2022

RE: S.B. No. 2021
S.D. 1
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred S.B. No. 2021, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish twenty percent of the net receipts from the public land trust, or \$15,100,000, whichever is greater, as the Office of Hawaiian Affairs' annual share of the income and proceeds of the public land trust beginning in fiscal year 2022-2023;
- (2) Require departments, agencies, or entities that collect receipts from public land trust lands, including the University of Hawaii, to determine and transfer to the Office of Hawaiian Affairs that portion of their receipts from the use, sale, lease, or other disposition of lands within the public land trust to ensure that a total of \$3,775,000 of receipts generated by the public land trust is transferred to the Office of Hawaiian



Affairs within thirty days of the close of each fiscal quarter, beginning in fiscal year 2022-2023;

- (3) Require departments to transfer an unspecified amount from their receipts from the use, sale, or exchange of lands within the public land trust collected during fiscal year 2022-2023 to the Office of Hawaiian Affairs;
- (4) Require the Director of Finance or the Director's designee to:
 - (A) Determine the total amount of receipts transferred by any department or agency that collects receipts from the lands within the public land trust to the Office of Hawaiian Affairs during the immediately prior fiscal quarter; and
 - (B) If the total amount of receipts transferred to the Office of Hawaiian Affairs is less than \$3,775,000 in the immediately prior fiscal quarter, to make up the difference between \$3,775,000 and the amount of receipts transferred in the immediately prior fiscal quarter by establishing the additional amount of receipts that each agency must transfer to the Office of Hawaiian Affairs; and
- (5) Transfer to the Office of Hawaiian Affairs the balance of funds contained in the Carry-Forward Trust Holding Account established by the Director of Finance, pursuant to Governor's Executive Order No. 06-06, for income and proceeds due from the use of the public land trust lands between July 1, 2012, and June 30, 2022, that was misallocated, underreported, or underpaid to the Office of Hawaiian Affairs.

Your Committee received testimony in support of this measure from the Hawaiian Affairs Caucus of the Democratic Party of Hawai'i and one individual. Your Committee received testimony in opposition to this measure from the Department of Land and Natural Resources, Center for Hawaiian Sovereignty Studies, and one individual. Your Committee received comments on this measure from the Office of Hawaiian Affairs, Department of the Attorney General, Department of Agriculture, Department of Budget and



Finance, University of Hawai'i, and Hawaii Health Systems Corporation.

Your Committee finds that it is incumbent upon the Legislature to uphold its trust responsibilities and duty of care to native Hawaiians pursuant to the Hawaii State Constitution. This measure will ensure that the State fulfills its constitutional obligations by establishing and providing for the Office of Hawaiian Affairs' annual share of the income and proceeds of the public land trust.

Your Committee has amended this measure by:

- (1) Clarifying that the Office of Hawaiian Affairs' annual share of the net receipts from the public land trust does not include monies precluded by federal law;
- (2) Clarifying the type of receipts and amount of monies that departments, agencies, or entities that collect receipts from public land trust lands are required to transfer to the Office of Hawaiian Affairs;
- (3) Changing the appropriation out of the Carry-Forward Trust Holding Account to an unspecified amount to pay the Office of Hawaiian Affairs amounts received from the public land trust between July 1, 2012, through June 30, 2022; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2021, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2021, S.D. 1, H.D. 1, and be referred to your Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



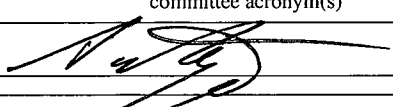
MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Thirty-first Legislature

H SR 1339-22

Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: SB2021, SD1	Committee Referral: JHA, FIN	Date: 3-22-22		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.				✓
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.	✓			
10. TOKIOKA, James Kunane	✓			
11. WARD, Gene	✓			
TOTAL (11)	10	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: 				
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