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GOVERNOR OF
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**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER & LAND**

**Thursday, February 17, 2022
8:30 A.M.**

State Capitol, Conference Room 430 & Videoconference

**In consideration of
HOUSE BILL 2059
RELATING TO FLOOD MITIGATION**

House Bill 2059 proposes to authorize the appropriation of general obligation bonds to the Department of Land and Natural Resources (Department) for the purpose of implementing various flood mitigation capital improvement projects referenced in the “Makaha Valley Flood Mitigation Study Final Report” dated December 2014. **The Department respectfully opposes being designated as the implementing and expending agency.**

In accordance with Act 283, Session Laws of Hawaii 2012, the Makaha Valley Flood Mitigation Study was conducted to 1) Identify specific recommendations for the control of storm drainage throughout the study area to reduce recurring flooding to residences and businesses; 2) Provide an evaluation of the recommendations; and 3) Address other issues deemed necessary. In addition to providing a list of recommended flood mitigation projects, the study also identified several challenges for the proposed projects, including:

1. Many of the flood mitigation projects are located on private property.
2. Cost for these flood mitigation projects are significant and will range from \$83,000,000-\$118,000,000, based on 2014 estimates. Taking into account inflation, current cost estimates will be significantly higher.
3. On-going maintenance of these completed projects will be significant and will be difficult to manage on private property.
4. Major landowners / developers in the Valley may be able to implement projects and requirements should be stipulated for flood improvements of the overall drainage system for Makaha for future development.

The majority of lands in the Makaha Valley are privately owned, including the locations for the most of the proposed flood improvement projects. The Honolulu Board of Water Supply owns land in the upper watershed and the City and County of Honolulu (County) has jurisdiction of some of the roadways in the valley. The State of Hawaii Department of Transportation has jurisdiction of Farrington Highway.

According to §46.1.5 (5) (C), Hawaii Revised Statutes (HRS)

(5) Each county shall have the power to:

- (A) Maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters;*
- (B) Remove from the channels, and from the shores and beaches, any debris that is likely to create an unsanitary condition or become a public nuisance; provided that, to the extent any of the foregoing work is a private responsibility, the responsibility may be enforced by the county in lieu of the work being done at public expense;*
- (C) Construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded;*

§46.1.5, HRS, authorizes the County to implement and maintain flood mitigation projects or when applicable, enforce the maintenance on a private party. Therefore, the Department believes the County is the more “appropriate” agency to take the lead in implementing flood mitigation projects. The County also has the authority to regulate development in the floodplain and require large developers to implement flood mitigation projects into their development plans.

Many of the streams and drainage features located on private property are not maintained by the property owner. Improved maintenance by the private property owners of these areas would greatly reduce the flood risks.

While the Department acknowledges the intent of this measure, if funding for the flood mitigation projects is approved, the Department recommends that the County be designated as the expending agency.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON WATER & LAND
ON
HOUSE BILL NO. 2059

February 17, 2022
8:30 a.m.
Room 430 and Videoconference

RELATING TO FLOOD MITIGATION

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2059 authorizes the Director of Finance to issue an unspecified amount of general obligation (G.O.) bonds for Makaha Valley flood mitigation projects for FY 23 and appropriates an unspecified amount of G.O. bonds for this purpose; and appropriates an unspecified amount of general funds for FY 23 to be expended by the Department of Land and Natural Resources for nonstructural and short-term flood mitigation measures at Makaha Valley and Lualualei on O'ahu.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

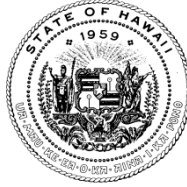
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE
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TESTIMONY BY:

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February 17, 2022
8:30 A.M.
State Capitol, Teleconference

H.B. 2059
RELATING TO FLOOD MITIGATION

House Committee on Water & Land

The Department of Transportation (DOT) provides **comments** on this measure that seeks to appropriate funds for flood mitigation measures at Makaha Valley and Lualualei, based on structural and nonstructural measures recommended in studies previously conducted.

The DOT is concerned that some of the proposed improvements will have unintended consequences that may negatively impact the Farrington Highway infrastructure, both roads and bridges. The Breach Repair in Makaha Stream Berm, Makaha Stream Levee, and the Makaha Surfing Beach Pond improvements should be designed to minimize and/or mitigate any impacts to the Farrington Highway Corridor and Makaha Bridges.

Regarding the new Eku Stream Bridge (Makaha 2A Bridge), the DOT supports the intent of replacing Eku Stream Bridge with a wider structure accommodating the 100-year flow if non-highway funding is made available for this purpose, as Eku Stream Bridge is currently priority number 190 on DOT's National Bridge Inventory Bridge Condition list.

Thank you for the opportunity to provide testimony.