

STAND. COM. REP. NO.

2492

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 2136
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committees on Hawaiian Affairs, Water and Land, and
Judiciary, to which was referred S.B. No. 2136 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish \$35,000,000 as the Office of Hawaiian Affairs' pro rata share of the public land trust;
- (2) Appropriate funds for the underpayment of the pro rata share to the Office of Hawaiian Affairs for the period from July 1, 2012 to June 30, 2018;
- (3) Require the Department of Land and Natural Resources to provide an annual accounting of receipts from lands within the public trust pursuant to section 5(f) of the Admissions Act; and
- (4) Establish a public land trust revenues committee to periodically study and make recommendations regarding the Office of Hawaiian Affairs' annual pro rata share of income and proceeds from lands in the public land trust.



Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs; Stacy Helm Crivello, Councilmember of the County of Maui; Susan L. K. Lee Loy, Councilmember of the County of Hawai'i; Hawaiian Civic Club of Honolulu; KAHEA: The Hawaiian Environment Alliance; Hawaiian Affairs Caucus of the Democratic Party of Hawaii; Kalihi-Palama Hawaiian Civic Club; Ho'omanapono Political Action Committee; Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii; Society for Hawaiian Archaeology; We Are One, Inc.; United Public Workers; and twenty-four individuals. Your Committees received testimony in opposition to this measure from the Department of Transportation, Common Cause Hawaii, and Center for Hawaiian Sovereignty Studies. Your Committees received comments on this measure from the Office of the Governor, Department of the Attorney General, Department of Budget and Finance, University of Hawai'i, Department of Land and Natural Resources, and League of Women Voters.

Your Committees find that Act 178, Session Laws of Hawaii 2006 (Act 178), established the Office of Hawaiian Affairs' annual pro rata share of income and proceeds from lands in the public land trust as \$15,100,000. This amount was based in part on certain ancillary receipts from state airports and was supported by testimony of the Department of the Attorney General. Act 178 was intended as an interim measure to ensure that the Office of Hawaiian Affairs received its pro rata portion of the public land trust until the Legislature took further action and until more data on receipts generated by the public land trust became available. The amount determined in Act 178 was used in 2001 and most recently in 2006, but enough time has elapsed that the amount should be considered for adjustment. Your Committees find that it is time to establish a new amount. The idea of periodically revisiting the Office of Hawaiian Affairs' interim amount was supported by testimony of the Office of Hawaiian Affairs, Department of the Attorney General, and Department of Budget and Finance.

Consistent with the 1997 Federal Airport Forgiveness Act that states its restriction on airport fund transfers does not affect the State's obligation to Native Hawaiians, and past actions by the Legislature to transfer to the Office of Hawaiian Affairs analogous receipts for revenue generated at the airport, your Committees note that this measure uses revenue generated from the



use of lands in the public land trust at the airport to calculate the Office of Hawaiian Affairs' new interim amount.

Further, your Committees note that section 5(f) of the Admissions Act states that certain ceded lands, "together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians . . ." Your Committees emphasize that funding for Hawaiian immersion schools and payments to the Office of Hawaiian Affairs are consistent with the purposes set forth in the Admissions Act.

Your Committees understand the frustration felt by the Office of Hawaiian Affairs regarding the receipt of its pro rata share from other state agencies. While the amount remains debatable amongst the state agencies, your Committees believe that a solution is necessary. Your Committees suggest that the Office of Hawaiian Affairs consider the possibility of accepting land in lieu of any cash payments due to the Office upon passage of this measure, to better address the needs of the Office of Hawaiian Affairs.

Your Committees have amended this measure by:

- (1) Blanking out the pro rata amount and appropriation amount;
- (2) Replacing the Department of Land and Natural Resources with the Department of Budget and Finance as the agency responsible for providing an accounting for all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year;
- (3) Inserting language that the airport revenue, as well as any shortfall in the payments due to the Office of Hawaiian Affairs, shall be equitably shared by each agency;
- (4) Allowing the Governor, President of the Senate, Speaker of the House of Representatives, Chairperson of the Board of Trustees of the Office of Hawaiian Affairs, and



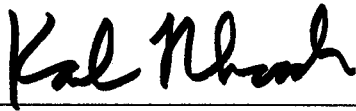
other named members to authorize designees to the Public Lands Revenue Committee; and

- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committees note that although the monetary amounts are blank, the Office of Hawaiian Affairs' testimony requests that the pro rata share be \$35,000,000 per year, and the back payment be a one-time transfer of \$119,000,000.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs, Water and Land, and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2136, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2136, S.D. 1, and be referred to your Committee on Ways and Means.

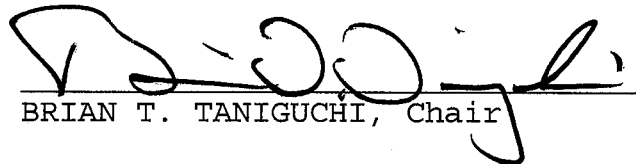
Respectfully submitted on
behalf of the members of the
Committees on Hawaiian Affairs,
Water and Land, and Judiciary,



KARL RHOADS, Chair



MAILE S.L. SHIMABUKURO, Chair



BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:* <i>SB 2136</i>	Committee Referral: <i>HWN/WTR/JDC, HAM</i>	Date: <i>2/06/2018</i>
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The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended Pass, with amendments Hold Recommit
2312 2311 2310 2313

Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
ENGLISH, J. Kalani	✓			
GREEN, Josh				✓
RIVIERE, Gil	✓			
TOTAL	<i>4</i>			<i>1</i>

Recommendation: Adopted Not Adopted


Chair's or Designee's Signature: _____
[Handwritten Signature]

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File with Committee Report Clerk's Office Drafting Agency Committee File Copy

*Only one measure per Record of Votes

The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2136	HWN/WTL/JDC, WAM	2/6/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
INOUYE, Lorraine R.				✓
RIVIERE, Gil	✓			
THIELEN, Laura H.				✓
TOTAL	3	—	—	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 2136	Committee Referral: HWN/WTL/JDC, WAM	Date: 2/6/18		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado				✓
THIELEN, Laura H.				✓
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Ral Rhoads</i>				
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