

STAND. COM. REP. NO. 1252

Honolulu, Hawaii  
MAR 25 2021

RE: H.B. No. 469  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committees on Water and Land and Agriculture and Environment, to which was referred H.B. No. 469, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS,"

beg leave to report as follows:

The purpose and intent of this measure is to establish a mechanism for the transfer of certain non-agricultural park lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA) pursuant to chapter 166E, Hawaii Revised Statutes.

Your Committees received testimony in support of this measure from Ulupono Initiative; Hawaii Cattlemen's Council, Inc.; Hawai'i Farm Bureau; Local Food Coalition; Land Use Research Foundation of Hawaii; Kualoa Ranch; Larry Jeffs Farms, LLC; Hawaii Aquaculture & Aquaponics Association; Kealia Ranch; Ponoholo Ranch Limited; Hawaii Meats, LLC; Rocker G Livestock; and fifteen individuals. Your Committees received testimony in opposition to this measure from Animal Rights Hawai'i, Sierra Club of Hawai'i, and eleven individuals. Your Committees received comments on this measure from the Department of Land and Natural Resources, Department of Agriculture, and Kapapala Ranch.



Your Committees find that Act 90, Session Laws of Hawaii 2003 (Act 90), now codified as chapter 166E, Hawaii Revised Statutes, was enacted for the purpose of ensuring the long-term productive use of public agricultural lands by allowing certain non-agricultural park lands to be transferred from DLNR to DOA. Your Committees further find since 2003, that DLNR has transferred more than nineteen thousand acres of agricultural land to DOA and additional transfers are in process, mainly consisting of agricultural crop land. The leases and revocable permits managed by DLNR cover approximately one hundred three thousand acres statewide.

Your Committees note that Act 90 also required each transfer to be individually reviewed and approved by the Board of Land and Natural Resources (BLNR) and the Board of Agriculture. While this requirement has been followed, the DLNR has generally excluded large-acre pasture leases from these transfers because of the high natural resource value of certain pasture lands, including native forests that contain native and endangered plants and wildlife and are important in providing access to other public lands for management, traditional gathering, and public recreation. DLNR has also stated that positive advancement in carbon sequestration challenges, wildlife management, wildfire protection, forestry development, and forest health concerns can be best managed by DLNR because of their mutually beneficial practices with ranching, wildlife protection, and native restoration; responsibility; institutional memory; and expertise to balance the important public trust resources on these lands.

Your Committees further note that concerns have been raised by the lessees of many large acreages of lands, primarily farmers and ranchers, who were notified that the lands they lease would be transferred to the DOA pursuant to Act 90. Because ranchers are only able to obtain revocable leases, ranchers have been hindered in their ability to engage in long-term planning and increasing contributions to local food production. Therefore, your Committees believe that the importance of supporting local farmers and ranchers and strengthening the State's agricultural industry must be balanced with the need to protect Hawaii's environment and safeguard other public-land priorities.

According to testimony received by your Committees, DOA has greater flexibility to amend, extend, and issue new pasture leases



by negotiation than DLNR. Your Committees further believe that DNLR should have the same flexibility to negotiate its pasture leases and industrial leases to better manage the State's natural resource lands.

Accordingly, your Committees have amended this measure by:

- (1) Deleting language that would have:
  - (A) Required DOA to transmit a list of disputed lands to DLNR by January 1, 2022, for review by DLNR;
  - (B) Required BLNR to establish a third-party advisory committee to make certain determinations prior to any disposition or transfer of the disputed lands if there is disagreement between DOA and DLNR;
  - (C) Required the disputed lands to remain under the jurisdiction and management of DLNR until a mutual agreement was reached regarding their disposition;
  - (D) Required lands for which DOA and DLNR do reach a mutual agreement regarding their disposition to be transferred to the DOA; and
  - (E) Required that beginning with the 2026-2027 fiscal year, and no less than every fifth fiscal year thereafter, DOA and DLNR undertake the same process regarding disputed lands;
- (2) Inserting language to:
  - (A) Clarify that prior to offering a lease, DOA shall inquire with DLNR regarding any easements required by DLNR to access landlocked forest reserves or other assets of DLNR on the lands subject to the lease;
  - (B) Require DOA and DLNR to meet within one year of the effective date of this measure and identify by mutual agreement the non-agricultural parks lands under DLNR's jurisdiction that are not in use for the public purpose for which it has been leased and



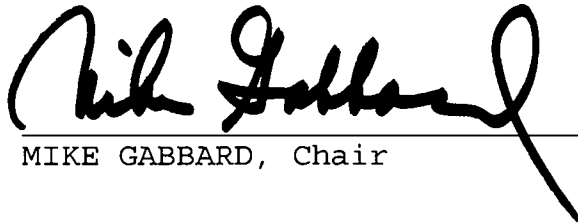
should be rezoned as conservation district land under DLNR;


- (C) Transfer all other non-agricultural park lands currently leased and being utilized for the agricultural purpose for which it has been leased to the DOA;
  - (D) Transfer all other non-agricultural lands not identified in the disputed lands process to DOA by December 31, 2023; and
  - (E) Require, beginning in the 2021-2022 fiscal year, and no less than every fifth fiscal year thereafter, that DOA and DLNR meet and determine additional lands that may be appropriate for transfer from DLNR to DOA;
- (3) Requiring DLNR to submit a report on its meetings and progress with DOA to the Legislature no later than twenty days prior to the convening of the Regular Session of 2022;
  - (4) Requiring DLNR to submit a report on the transfer of lands to DOA to the Legislature no later than twenty days prior to the convening of the Regular Session of 2023 and every year thereafter;
  - (5) Inserting language to authorize BLNR to amend and extend existing pasture or industrial leases and to issue new pasture or industrial leases by negotiation in furtherance of public purposes that are the responsibility of DLNR and DOA to promote, such as food production and natural resource conservation and stewardship;
  - (6) Updating and adding legislative findings in accordance with its amended purposes; and
  - (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 469, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 469, H.D. 1, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committees on Water and Land  
and Agriculture and  
Environment,

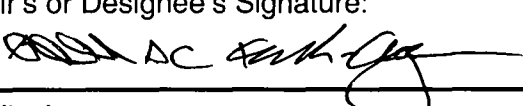
  
MIKE GABBARD, Chair

  
LORRAINE R. INOUE, Chair



The Senate  
 Thirty-First Legislature  
 State of Hawai'i

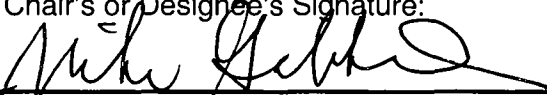
**Record of Votes**  
**Committee on Water and Land**  
**WTL**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 469, HD 1	WTL/AEN, WAM/JDC	3-24-2021		
<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
INOUE, Lorraine R. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
MISALUCHA, Bennette E.	X			
RIVIERE, Gil	X			
FEVELLA, Kurt	X			
<b>TOTAL</b>	5			
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	

\*Only one measure per Record of Votes

The Senate  
 Thirty-First Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Agriculture and Environment**  
**AEN**

Bill / Resolution No.:* <b>HB 469, HD1</b>	Committee Referral: <b>WTL/AEN,</b> <small>WAM/JDC</small>	Date: <b>03/24/2021</b>		
<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
GABBARD, Mike (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
ACASIO, Laura			✓	
RHOADS, Karl	✓			
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<b>4</b>		<b>1</b>	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

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