

STAND. COM. REP. NO. 1721

Honolulu, Hawaii

APR 13 2021

RE: H.C.R. No. 76
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 Hawaiian Affairs and Water and Land, to which was referred H.C.R. No. 76 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONVENE A WORKING GROUP TO ASSESS THE STATUS OF ACT 14, SPECIAL SESSION LAWS OF HAWAII 1995,"

beg leave to report as follows:

The purpose and intent of this measure is to request the Department of Land and Natural Resources to convene a working group to assess the status of Act 14, Special Session Laws of Hawaii 1995.

Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs, Sovereign Council of Hawaiian Homestead Associations, and one individual. Your Committees received comments on this measure from the Department of Land and Natural Resources, and Office of Planning.

Your Committees find that the Legislature passed Act 14, Special Session Laws of Hawaii 1995 (Act 14), to provide for a full settlement of all land claims made on behalf of the Hawaiian Home Lands Trust against the State between August 1, 1959, and July 1, 1988, established the Hawaiian Homes Lands Trust Fund, and required the State to make twenty annual deposits of \$30,000,000 or their discounted equivalent into the Fund for purposes of



furthering the Hawaiian Homes Commission Act of 1920, as amended. Over twenty-five years have passed since the enactment of Act 14; yet, the need for affordable housing for beneficiaries of the Hawaiian Homes Commission Act of 1920 remains great. Further, the existing status of Act 14 and whether its mandates to provide for a settlement of all state land claims is unknown. Therefore, a working group is requested to convene to examine the requirements of Act 14 and evaluate whether the outstanding claims have been completed.

Your Committees heard concerns from the Department of Hawaiian Home Lands that they are listed as a party to a suit alleging that the State has violated the Hawaiian Homes Commission Act by using the Mauna Kea Access Road without compensation. Despite these concerns, the initiation of a land exchange to remedy uncompensated use of Hawaiian home lands for state roads and highways is among one of the many purposes outlined under Act 14. Even if the Department of Hawaiian Home Lands is prohibited from disclosing any information to the working group related to the litigation due to attorney-client privilege, the Department of Hawaiian Home Lands may still participate as a member of the working group to evaluate the outstanding claims under Act 14.

Your Committees have amended this measure by:

- (1) Inserting additional background on the history of Act 14 and past breaches of trust of the Hawaiian Homes Commission Act;
- (2) Including findings of the authorization of the transfer of 16,518 acres of state land to the Department of Hawaiian Home Lands to restore the corpus to its original estimated acreage;
- (3) Clarifying the three parties to the Hawaiian Homes Commission Act as reflected in 43 Code of Federal Regulations Parts 47 and 48;
- (4) Acknowledging that the Legislature continues to have concerns regarding outstanding issues related to Act 14; claims made pursuant to chapter 673, Hawaii Revised Statutes, which arose after July 1, 1988; and the outstanding status of certain elements of claims, such



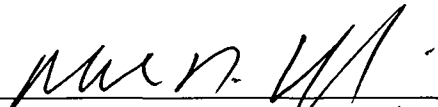
as the land exchange to remedy uncompensated use of Hawaiian home lands for state roads and highways; and

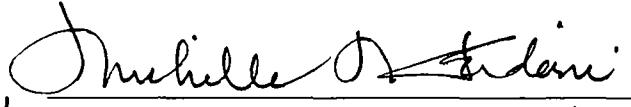
- (5) Amending the working group membership to include a representative from the United States Department of the Interior, or their designee; the Attorney General, or their designee; chairperson of the Hawaiian Homes Commission or their designee; chairperson of the Board of Land and Natural Resources, or their designee; and a representative from a federally defined regional homestead association deemed necessary by the Department of Hawaiian Home Lands;
- (6) Requesting that the chairperson of the Hawaiian Homes Commission and the chairperson of the Board of Land and Natural Resources serve as the co-chairs or the working group;
- (7) Amending one of the elements of the scope of the working group to identify the steps necessary to finalize outstanding claims related to Act 14;
- (8) Including claims pursuant to chapter 673, Hawaii Revised Statutes, which arose after July 1, 1988 as an element for the working group to consider in its scope of business;
- (9) Providing that the working group be dissolved on June 30, 2022;
- (10) Amending the title in accordance with its amended purpose; and
- (11) 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 Hawaiian Affairs and Water and Land that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 76, as amended herein, and recommend that it be referred to your Committee on Judiciary, in the form attached hereto as H.C.R. No. 76, S.D. 1.



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


LORRAINE R. INOUYE, Chair


for MAILE S.L. SHIMABUKURO, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

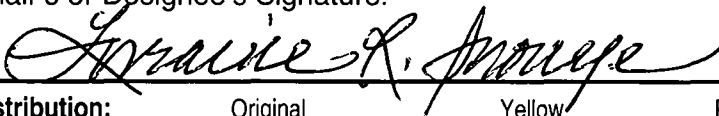
Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:* HR 76	Committee Referral: HWN/WTL, JDC	Date: 4/8/2021		
<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
SHIMABUKURO, Maile S.L. (C)	X			
KEOHOKALOLE, Jarrett (VC)	X			
ACASIO, Laura	X			
IHARA, Jr., Les	X			
FEVELLA, Kurt				X
TOTAL	4			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; margin-top:10px;"> </div>				
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 Water and Land
WTL

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<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
INOUYE, Lorraine R. (C)	✓			
KEITH-AGARAN, Gilbert S.C. (VC)				✓
MISALUCHA, Bennette E.	✓			
RIVIERE, Gil	✓			
FEVELLA, Kurt				✓
TOTAL	3	-	-	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

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