

Honolulu, Hawaii

APRIL 27, 2006

RE: S.B. No. 2948
S.D. 1
H.D. 2
C.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2948, S.D. 1, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE PUBLIC LAND TRUST,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to establish the amount of interim revenue to be transferred to the Office of Hawaiian Affairs from the public land trust, each fiscal year beginning with fiscal year 2005-2006, at \$15,100,000.

In addition, this measure also appropriates \$17,500,000 as the amount of revenues owed to the Office of Hawaiian Affairs for the underpayment of the Office of Hawaiian Affairs' pro rata share of the public land trust revenues between July 1, 2001 and June 30, 2005.



Section 2 of this measure specifies that beginning in fiscal year 2005-2006, and until further legislative action is taken, the income and proceeds from the pro rata portion of the public land trust for expenditure by OHA pursuant to Article XII, Section 6 of the Hawaii Constitution shall be \$15,100,000 per fiscal year. This amount shall be transferred from various state departments and agencies to OHA in four equal quarterly installments via voucher payments. According to the Attorney General,

The annual \$15.1 million share . . . for annual transfer to OHA is based on the sums actually transferred during these four fiscal years, the sums of analogous receipts that could have been transferred from the health and housing corporations and the University, the upward trend of these receipts over the last four years, and negotiation and fairness considerations.

The \$15,100,000 also includes certain ancillary receipts from the state airports.

Also, according to the Attorney General, the approximate amount of funding actually transferred to OHA pursuant to Executive Order No. 03-03 and Act 34, Session Laws of Hawaii 2003, was as follows:

FYs	<u>2002-2003</u>	<u>2004</u>	<u>2005</u>
DAGS State Parking Revolving Fund	\$ 43,676	\$22,896	\$ 23,730
DOA Agricultural Park Special Fund General Fund	\$110,038	\$66,659	\$106,558
DBED&T Foreign Trade Zone Special Fund			
HCDA Revolving Fund			
NELHA Special Fund	\$474,684	\$291,906	\$352,531
DOE Use of School Facilities Special Fund	\$ 81,493	\$ 48,400	\$ 45,098
DLNR Boating Special Fund			
Special Land & Development Fund			
State Parks Special Fund			
Beach Restoration Special Fund			
General Fund	\$3,054,738	\$2,827,717	\$3,404,405



DOT Harbors Special Fund	\$11,737,324	\$6,480,000	\$6,866,384
Act 34, SLH 2002	<u>\$ 2,041,852</u>	_____	_____
General Fund			
Annual Totals	\$17,543,805	\$9,737,578	\$10,789,706

The approximate amounts of "analogous" ceded land receipts were as follows:

FYs	<u>2002-2003</u>	<u>2004</u>	<u>2005</u>
Hawaii Health Systems Corporation Hilo Medical, Kula Hospital, Samuel Mahelona Non-Patient Food Sales Catering Revenue Parking Revenue Data processing Services Revenue Medical Records Abstract Sales Non-Patient Room Rentals Telephone & Telegraph Revenue Restricted and Non-Restricted Contributions Employee Housing Rent Revenue Clinical Rent Revenue Other Space Rental	\$ 665,687	\$471,650	Unverified
University of Hawaii Manoa and Hilo Campuses Parking Faculty Housing Non-Student Housing Rentals, including food and vending machine, telephone commissions/collections Hilo Bookstore - logo products, sundries but not books or school supplies Other Revenue	\$1,293,852	\$1,182,121	Unverified
HCDCH Housing Public School Faculty Housing Rentals Public Rental Housing Laundromat/Vending Machine Receipts Public Rental Housing Antennae Rental Receipts	\$80,626	\$40,091	\$32,625
Annual Totals	<u>\$2,040,165</u>	<u>\$1,693,862</u>	<u>Unverified</u>



According to the Attorney General, the approximate amounts of ancillary receipts from the state airports were as follows:

FYs	2002-2003	2004	2005
HIA Terminal Rental Revenue	\$2,598,460	\$1,290,018	\$1,068,268
HIA Terminal Concession Revenue	\$ 857,152	\$ 503,754	\$ 525,671
Non-HIA Aeronautical Revenue	\$1,158,094	\$ 671,564	\$ 712,015
Non-HIA Concession/Other	\$18,241,417	\$9,655,042	\$10,159,033
Terminal Revenue			
Annual Total Receipts	\$22,855,123	\$12,120,378	\$12,464,987
20% Share	\$4,571,025	\$2,424,076	\$2,492,997

Section 4 of this measure appropriates the sum of \$17,500,000 to OHA in fiscal year 2005-2006. According to the Attorney General, this one-time appropriation raises the amount of ceded land receipts actually transferred to OHA during the fiscal years 2002 through 2005. The one-time appropriation of general funds is roughly equivalent to analogous rent-type receipts for the use of ceded lands collected by the Hawaii Health Systems Corporation, the Housing and Community Development Corporation of Hawaii, and the University of Hawaii, etc. during the relevant period which were not paid for legal reasons, interest, and negotiation and fairness considerations. In other words, this appropriation represents a "catch-up" of amounts that were underpaid during the specified time period.

Section 5 requires the DLNR to provide an annual accounting of revenues derived from the public land trust. At the present time, no single state department or agency is responsible for compiling such data. A single accounting will provide the Legislature, OHA, the general public, and even the state administration with a clearer financial picture of the public land trust.

Your Committee on Conferences notes that the agreement embodied in this measure does not extinguish past and future claims that the Office of Hawaiian Affairs may have regarding revenue payments from ceded lands. The agreed \$17,500,000 should be considered a credit for payment owed the Office of Hawaiian Affairs for the period of July 1, 2001 through June 30, 2005. The payment of \$17,500,000 should be construed as coming from ceded land revenues.

Your Committee on Conference has amended this measure to insert H.B. 2204, S.D. 1, which requires that the Department of Land and Natural Resources provide an accounting of revenues from the public land trust and appropriates funds to the Department to conduct the accounting. The Senate draft of H.B. 2204 also provides that the



Office of Hawaiian Affairs is to provide additional funds for the accounting. Your Committee on Conference has amended this measure to:

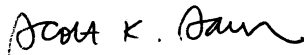
- (1) Change the date of the appropriation to the Department from fiscal year 2005-2006 to fiscal year 2006-2007;
- (2) Include language to further clarify that the Office of Hawaiian Affairs' funds are to be expended only after those general revenue funds appropriated to the Department are expended;
- (3) Change the effective date to upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2948, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2948, S.D. 1, H.D. 2, C.D. 1.

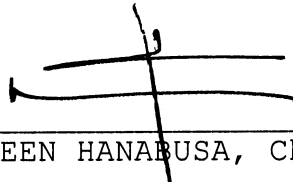
Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

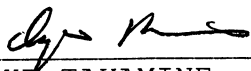
ON THE PART OF THE SENATE



SCOTT K. SAIKI, Co-Chair



COLLEEN HANABUSA, Chair



DWIGHT TAKAMINE, Co-Chair



