

STAND. COM. REP. NO. 1724

Honolulu, Hawaii

April 3, 2007

RE: H.C.R. No. 285
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Judiciary, to which was referred H.C.R. No. 285 entitled:

"HOUSE CONCURRENT RESOLUTION ENCOURAGING THE OFFICE OF HAWAIIAN AFFAIRS AND THE EXECUTIVE BRANCH TO NEGOTIATE A SETTLEMENT REGARDING THE INCOME AND PROCEEDS FROM THE PUBLIC LAND TRUST,"

beg leave to report as follows:

The purpose of this concurrent resolution is to encourage the Office of Hawaiian Affairs and the Administration to negotiate a settlement regarding the outstanding differences regarding claims of the Office of Hawaiian Affairs to income and proceeds from the public land trust and jointly prepare a report outlining the proposed settlement.

The Department of the Attorney General and the Office of Hawaiian Affairs testified in support of this concurrent resolution.

Your Committees note that the use of the terms "settlement" and "claims" in the context of current discussions between the Office of Hawaiian Affairs and the Administration mischaracterize the current positions of the agencies as adversarial, when, as instructed by the Hawaii Supreme Court in *Trustees of the Office of Hawaiian Affairs v. Yamasaki*, 69 Haw. 154 (1987), *Office of Hawaiian Affairs v. State of Hawaii*, 96 Haw. 388 (2001), and

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Office of Hawaiian Affairs v. State of Hawaii, 110 Haw. 338 (2006), the constitutional obligations to native Hawaiians is the obligation of the State as a whole. Your Committees believe the agencies should instead cooperate with the Legislature in advising it on how best the State can fulfill its constitutional obligations.

Accordingly, your Committees have amended this measure by:

- (1) Changing the title of this concurrent resolution to "REQUESTING THE OFFICE OF HAWAIIAN AFFAIRS AND THE EXECUTIVE BRANCH TO DISCUSS PROPOSALS AND SUBMIT A JOINT REPORT WITH SUGGESTIONS AND RECOMMENDATIONS REGARDING THE INCOME AND PROCEEDS FROM THE PUBLIC LAND TRUST TO AID THE LEGISLATURE IN DETERMINING HOW BEST TO FACILITATE THE STATE'S CONSTITUTIONAL OBLIGATIONS TO NATIVE HAWAIIANS";
- (2) Reframing the task to be accomplished by the Office of Hawaiian Affairs and the Administration to work cooperatively to advise the Legislature on how best the State can fulfill its constitutional obligations to native Hawaiians; and
- (3) Replacing adversarial terms, like "settlement" and "claims" with language that more accurately defines the purpose of the ongoing discussions between the Administration and the Office of Hawaiian Affairs.

As affirmed by the records of votes of the members of your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Judiciary that are attached to this report, your Committees concur with the intent and purpose of H.C.R. No. 285, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 285, H.D. 1.



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

Tommy Waters
for TOMMY WATERS, Chair

Ken Ito
for: KEN ITO, Chair



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State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HCR 285	Date: 3/29/07
Committee Referral: WLH/JUD	<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Pass, with amendments, for recommittal for further consideration	

JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	/			
2. OSHIRO, Blake K. (VC)	/			
3. CALDWELL, Kirk	/			
4. EVANS, Cindy	/			
5. GREEN, Josh, M.D.	/			
6. ITO, Ken	/			
7. LUKE, Sylvia				/
8. McKELVEY, Angus L.K.				/
9. MORITA, Hermina M.	/			
10. SONSON, Alex M.	/			
11. SOUKI, Joseph M.	/			
12. TSUJI, Clift	/			
13. YAMANE, Ryan I.	/			
14. YAMASHITA, Kyle T.	/			
15. MARUMOTO, Barbara C.	/			
16. PINE, Kymerly Marcos	/			
17. THIELEN, Cynthia				/
TOTAL	14			3

The recommendation is: Adopted
 Not Adopted

If joint referral, _____ did not support recommendation.
 committee acronym(s)

Vice Chair's or designee's signature:


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