

Honolulu, Hawaii

MAR 30 2007

RE: S.C.R. No. 152

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.C.R. No. 152 entitled:

"SENATE 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,"

begs leave to report as follows:

The purpose of this measure is to encourage the Office of Hawaiian Affairs and the Executive Branch to negotiate a settlement of all outstanding claims regarding income and proceeds from the public land trust.

Specifically, this measure:

- (1) Encourages the Office of Hawaiian Affairs and the Executive Branch to continue their negotiations to develop a settlement of all outstanding claims regarding income and proceeds from the public land trust; and
- (2) Requests that upon reaching a settlement, the Office of Hawaiian Affairs and the Executive Branch include in the settlement report:
 - (A) The legal foundation for the State's obligation to allocate a pro rata portion of the income and proceeds from the public land trust to the Office of Hawaiian Affairs;



(B) A narrative history and summarized chronology of the efforts to implement and satisfy this obligation; and

(C) The proposed key elements of the settlement; and

submit the report to the Legislature prior to the 2008 Regular Session.

Testimony in support of this measure was submitted by the Department of the Attorney General and the Office of Hawaiian Affairs.

Under article XII, section 6 of the State Constitution, the Board of Trustees of the Office of Hawaiian Affairs is required to manage and administer the income and proceeds from a pro rata portion of the public land trust, which contains certain ceded lands returned to Hawaii pursuant to the Admissions Act. For many years, determining the pro rata share of the income and proceeds has been the subject of debate, controversy, legislation, and litigation.

Act 178, Session Laws of Hawaii 2006, was a significant step forward in resolving the Office of Hawaiian Affairs' claims to the income and proceeds of the public land trust. Act 178 established a pro rata portion of the public land trust to the Office of Hawaiian Affairs at \$15,100,000 annually beginning with fiscal year 2005-2006, until further action is taken by the Legislature, and appropriated the sum of \$17,500,000 to the Office of Hawaiian Affairs for amounts received from the use of public trust lands that the Legislature determined were underpaid between July 1, 2001, and June 30, 2005.

The members of the Executive Branch and the Office of Hawaiian Affairs have regularly continued negotiations for the purposes of developing a permanent solution for implementing the requirements of article XII, section 6 of the State Constitution, and settling all claims to income and proceeds from the public land trust. This measure encourages the continuance of further discussion on these matters so that a settlement can finally be reached after years of controversy and litigation.

The Office of Hawaiian Affairs and the Department of the Attorney General indicated to your Committee that they are confident that a settlement will be reached in the near future.



Although your Committee recognizes the confidential nature of the ongoing negotiations, it encourages the Office of Hawaiian Affairs to brief the Senate President and the Speaker of the House of Representatives if any potential settlements are reached so that appropriate plans can be made for state budgetary purposes for the next fiscal year.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 152 and recommends that it be referred to the Committee on Ways and Means.

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


RUSSELL S. KOKUBUN, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WAH

Bill / Resolution No.:* <i>SCR 152</i>	Committee Referral: <i>WAH, WAM</i>	Date: <i>3/28/07</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 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol				X
HEE, Clayton	X			
SLOM, Sam	X			
TOTAL	<i>4</i>	<i>0</i>	<i>0</i>	<i>1</i>

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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*Only one measure per Record of Votes