

CONFERENCE COMMITTEE REPORT NO. 116

Honolulu, Hawaii

April 25, 1997

RE: H.B. No. 2207
H.D. 2
S.D. 1
C.D. 1

PERMANENT FILE

Honorable Joseph M. Souki
Speaker, House of Representatives
Nineteenth State Legislature
Regular Session of 1997
State of Hawaii

Honorable Norman Mizuguchi
President of the Senate
Nineteenth State Legislature
Regular Session of 1997
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2207, H.D. 2, S.D. 1, 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 overall purpose of this bill is to continue past executive and legislative efforts, undertaken in conjunction with the people of Hawaii, toward a comprehensive, just, and lasting resolution of outstanding issues relating to Native Hawaiians. This bill focuses on a particularly difficult set of issues which affect some 1.2 million acres of state land currently subject to the public trust established under section 5(f) of the Admission Act.

These lands are commonly referred to, and are referred to in this report, as the "ceded lands". The specific purposes of this bill are to:

- (1) Confirm the doctrine of separation of powers and the reservation to the legislature of matters relating to the ceded land trust;
- (2) Reiterate legislative intent in the enactment of state statutes addressing the ceded land trust including Act 304, Session Laws of Hawaii (1990);
- (3) Establish a process involving the executive and legislative branches and the Office of Hawaiian Affairs (OHA) to address outstanding issues relating to the ceded land trust and make recommendations to the legislature for global resolution;
- (4) Complete the inventory and mapping of the ceded lands as part of that process;
- (5) Assure OHA an adequate and predictable level of funding from ceded land trust revenues pending completion of that process; and
- (6) Take other actions to effectuate those purposes.

The history of the ceded land trust and a full elucidation of the legislature's intent in its statutory enactments governing the trust and related matters is set forth in H.S.C.R. No. 602 (1997), H.S.C.R. No. 1090 (1997), and S.S.C.R. No. 1118 (1997), reporting earlier drafts of this measure to the House of Representatives and the Senate, as well as in the drafts themselves. Your Committee specifically adopts and incorporates the statements in those reports and drafts into this conference committee report.

As more fully elucidated in the above referenced legislative history, it is vital that the judicial branch honor the separation of powers and implement legislative intent. It is vital that the legislature establish a mechanism within the control of the executive and legislative branches to fully address and make recommendations to the legislature, within a time certain, for the complete resolution of issues relating to the ceded land trust. And, it is vital that, during the period in which the evaluative process is underway, OHA be assured an adequate and predictable level of funding in order to continue its mission.

Section 1 of the bill provides specific legislative findings on the various matters addressed in the legislative history. Section 2 makes \$15.1 million available for OHA to expend for bettering the conditions of native Hawaiians for each year of the

upcoming fiscal biennium as the pro rata portion of ceded land trust revenues due OHA for the period. This amount exceeds average annual revenues to OHA over recent years and is almost double receipts by OHA over the current fiscal year. More important, this section removes the need to apply the current definition of "revenue" to day-to-day government operations, and eliminates further disputes over this issue while the concurrent broader resolution process is underway.

Section 3 establishes the resolution mechanism: a joint committee consisting of appointees of the executive and legislative branches and OHA operating with a specified mandate. The joint committee is charged with providing a progress report to the 1998 legislative session and a final report to the 1999 session, envisioning legislative deliberation and possible implementation during the 1999 session. Operating funding for the committee is provided under section 5.

Sections 4 through 6 provide for an integral part of the resolution mechanism: a comprehensive inventory and mapping of the ceded lands to be conducted and completed on a parallel track and in close coordination with the joint committee. Your committee notes that base information on the ceded lands already exists with the Department of Land and Natural Resources (DLNR) and, separately, with OHA, and expects all of this information to be utilized in completing the inventory and mapping so as to avoid duplication. One million dollars is also appropriated to DLNR to complete this assignment, to be matched by OHA, with some pro rata contributions from the Department of Hawaiian Home Lands if and to the extent that department controls any ceded lands.

Section 7 provides appropriation language to effectuate section 2. Section 8 emphasizes that this bill inclusive of its legislative history are to govern any interpretation of Act 304. Section 10 provides for the bill's effective date.

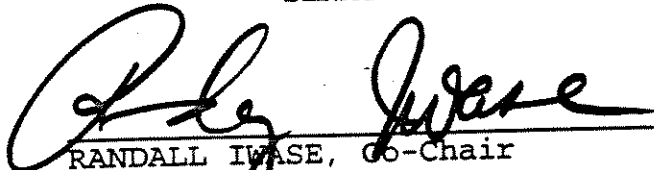
Your Committee firmly believes that this bill is essential to provide interim stabilization and direction with respect to the ceded land trust and to move toward a lasting solution. In this belief, your Committee embraces the historical context of this effort and fully endorses the legislative findings set forth in the first two paragraphs of this bill, in particular the bill's paramount objective of continuing with mutual resolve toward a "comprehensive, just and lasting resolution."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2207, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2207, H.D. 2, S.D. 1, C.D. 1.

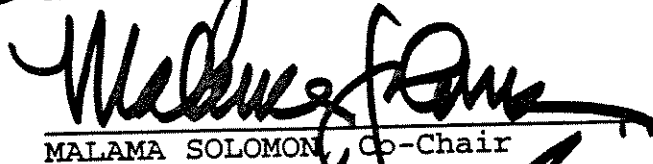
Respectfully submitted,

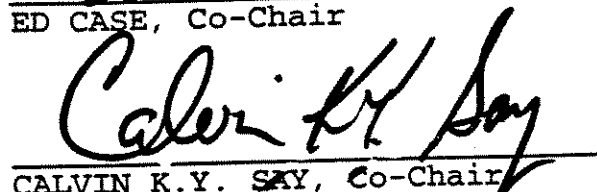
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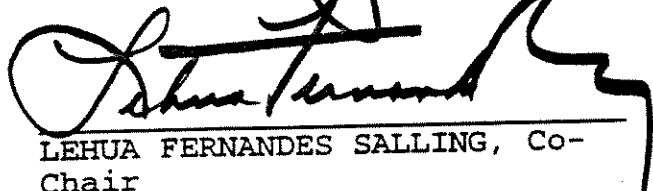
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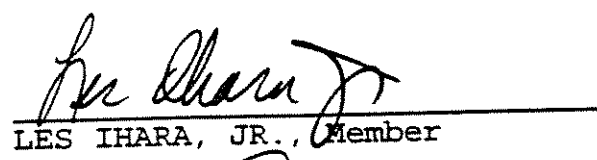

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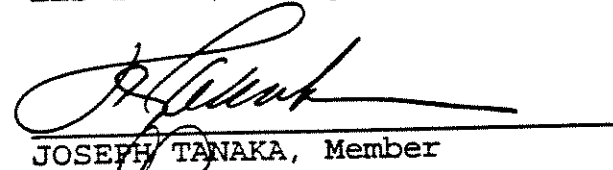

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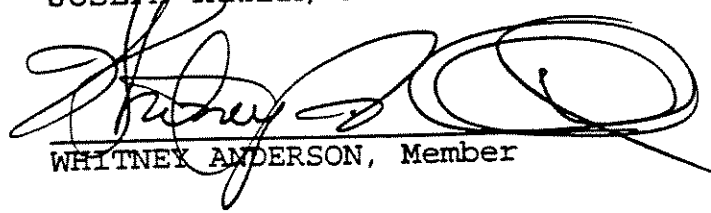

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