



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

Testimony SB 2783
Relating to the Public Trust Lands

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Jerry L. Chang, Chair

Rep. Sharon E. Har, Vice Chair

And

HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair

Rep. Chris Lee, Vice Chair

March 12, 2012
10:30 am, Room 325

Chair Chang, Chair Hanohano, Vice Chair Har, Vice Chair Lee, and members of the committees, thank you for hearing Senate Bill 2783 Relating to the Public Trust Lands. I respectfully request your support of this important measure.

Last year, my administration and the Office of Hawaiian Affairs (OHA) began discussions regarding claims to income and proceeds from the public trust lands dating back to 1978. These discussions resulted in an agreement that is embodied in Senate Bill 2783.

In accordance with the Legislature's authority to determine OHA's appropriate portion of income and proceeds from ceded lands, we are presenting this agreement in principal for your consideration and approval.

In summary, the agreement would convey approximately \$200 million worth of land in Kaka'ako Makai to OHA. No cash would be paid. In exchange for the land, any and all claims regarding OHA's share of ceded land receipts from November 7, 1978 through July 1, 2012, would be resolved.

I believe this agreement is pono and benefits both Native Hawaiians and the entire State of Hawaii. As you consider this agreement, I and my administration will work with you through the vetting process and I look forward to these discussions.

Again, mahalo for your consideration of this agreement.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2783, RELATING TO THE PUBLIC TRUST LANDS.

BEFORE THE:

HOUSE COMMITTEES ON WATER, LAND, AND OCEAN RESOURCES AND ON
HAWAIIAN AFFAIRS

DATE: Monday, March 12, 2012

TIME: 10:30 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Charleen M. Aina, Deputy Attorney General

Chairs Chang and Hanohano, and Members of the Committees:

The Attorney General urges passage of this bill.

The fundamental objective of this bill is to finally and completely resolve all of the longstanding differences between the State and the Office of Hawaiian Affairs (OHA) about OHA's portion of the income and proceeds from the use of ceded lands. Article XII, section 6 of the State Constitution specifies OHA is to receive a portion of the income and proceeds from the ceded lands with which to better the conditions of native Hawaiians, as provided by law. While most of OHA's claims to income and proceeds from the ceded lands have been resolved, at least three disputes relating to whether OHA should have received a portion of the State's receipts from its hospitals situated on ceded lands, and its rental housing and affordable housing development programs, and a larger portion of the airports' duty free concession leases, are still outstanding. OHA, the Governor, and the Attorney General agree that these and any and all other disputes relating to OHA's portion of ceded land receipts from the period November 7, 1978 through June 30, 2012, need to be resolved.

This bill was drafted jointly by the Attorney General and OHA, and introduced in the Legislature at the request of the Governor. It presents the Governor's and OHA's mutually agreed to proposal for resolving these three claims, and any and all other claims OHA has, had, or may have to the income and proceeds from the public land trust lands under article XII, sections 4 and 6 of the State Constitution, for the period November 7, 1978 through June 30, 2012.

The proposal is presented in the form of this bill because under article XII, section 6 of the State Constitution and the Hawaii Supreme Court's decisions in Trustees of the Office of Hawaiian Affairs v. Yamasaki, 69 Haw. 154, 737 P.2d 446 (1987) (Yamasaki), Office of Hawaiian Affairs v. State, 96 Hawai'i 388, 31 P.3d 901 (2001) (OHA I), and Office of Hawaiian Affairs v. State, 110 Hawai'i 338, 133 P.3d 767 (2006) (OHA I), only the Legislature can specify what OHA's portion of the income and proceeds from the public land trust lands is, and resolving all of OHA's remaining claims for that period is contingent upon the Legislature specifying what the State's obligation under the State Constitution is for that period.

It is important to understand that the bill does not address and thus cannot effect claims relating to, arising out of, or founded upon self-governance, sovereignty, the overthrow of the Kingdom of Hawaii, annexation by the United States, the Hawaiian Homes Commission Act, or what OHA's portion of the income and proceeds from the public land trust lands is today, or prospectively. As to what OHA's portion is today, Act 178, Session Laws of Hawaii 2006, specifies that OHA must receive \$15.1 million of the total income and proceeds collected from all of the public land trust lands annually, and only this or a future legislature can change what that portion is, or how it is to be quantified in the future.

We are pleased that OHA's trustees are willing to compromise and resolve all differences about its portion of ceded land receipts, in exchange for the nine parcels of land at Kaka'ako Makai preliminarily valued at \$200 million that will be conveyed to OHA if this bill passes without objection. All of the parcels of land are already zoned commercial, are contiguous to each other, and thus are suited for master planning. They are also located in the midst of an area of Honolulu that is already experiencing significant and long-range redevelopment.

Conveying the lands should not adversely affect the State's interests. OHA has agreed and the bill provides that the lands conveyed are to remain under the jurisdiction and subject to the authority of the Hawaii Community Development Authority (HCDA) with respect to zoning, land use, and all other matters over which HCDA is authorized to act. Similarly, OHA has agreed and the bill specifies that the conveyances do not include the State's interest in minerals and metallic mines, including rights to geothermal energy, submerged lands, surface or ground water, or the State's regulatory and ownership rights, if any, over, or to historic properties, aviation artifacts, burial sites, and prehistoric remains under chapter 6E, Hawaii Revised Statutes.

OHA has also agreed to continue all rights and encumbrances, including leases, easements, and rights of entry, applicable to all of the parcels conveyed, and allow reasonable access rights and easements to state agencies for the benefit and use of their adjoining properties.

S.B. No. 2783 is the product of OHA's and our combined efforts to resolve disputes that have strained the relations between OHA and the State for almost as long as article XII, sections 4 and 6 of the State Constitution have provided that the Legislature shall earmark a portion of the ceded land receipts for OHA to use to better the conditions of native Hawaiians. We believe the bill's provisions are fair and just, and that OHA agrees that they are fair and just. Since 2006, Act 178 has told us how much OHA is to receive as its portion of the income and proceeds from the public land trust lands. Resolving all disputes as to what OHA's portion was before then is long overdue.

The Attorney General respectfully requests that the Committees pass this measure so that all disputes regarding OHA's portion of the income and proceeds from the public land trust lands can be resolved and satisfied by the Legislature.

NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII



ALBERT "ALAPAKI" NAHALE-A
CHAIRMAN
HAWAIIAN HOMES COMMISSION
MICHELLE K. KAUHANE
DEPUTY TO THE CHAIRMAN
M. WAIALEALE SARSONA
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF ALAPAKI NAHALE-A, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEES ON WATER, LAND & OCEAN RESOURCES AND
HAWAIIAN AFFAIRS
IN SUPPORT OF

SB 2783, RELATING TO THE PUBLIC LAND TRUST

March 12, 2012

Aloha Chair Chang, Chair Hanohano, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) strongly supports SB 2783 as it proposes a settlement of the Office of Hawaiian Affairs (OHA) claims against the State for its share of public land trust revenues from 1978 to 2012. The department commends both Governor Abercrombie and the Office of Hawaiian Affairs for committing to resolve this long-standing issue.

Self-determination is the best path forward for Native Hawaiians and this settlement is a foundation for that. The settlement transfers resources owed to Native Hawaiians, and with these resources OHA can create a better future for our Hawaiian community. DHHL and OHA are partners in serving the native Hawaiian community through our respective fiduciary responsibilities, and this partnership was solidified last September through the joint quarterly meetings with the Hawaiian Homes Commission and the OHA Board of Trustees.

Department of Hawaiian Home Lands

March 12, 2012

SB 2783

Page 2 of 2

We strongly support the Office of Hawaiians in their efforts to resolve its claims, and we look forward to further collaborating with OHA for the betterment of Hawaiians.

Mahalo for the opportunity to testify on this important measure. We respectfully request your committees' approval of this settlement legislation.



SB NO. 2783
RELATING TO THE PUBLIC TRUST LANDS
House Committee on Water, Land, & Ocean Resources
House Committee on Hawaiian Affairs

March 12, 2012

10:30 a.m.

Room 325

The Board of Trustees of the Office of Hawaiian Affairs (OHA) strongly **SUPPORTS** SB2783. This bill will finally right a decades-old wrong by resolving the State's outstanding constitutional obligation to OHA that accrued as a result of the State's failure to pay OHA its proper share of public land trust revenues between 1978 and 2012.

If enacted, SB2783 will resolve the State's outstanding past due revenues debt by transferring approximately \$200 million worth of land in Kaka'ako Makai to OHA. The \$200 million amount represents a compromise between the State and OHA regarding the value of the disputed claims.

SB2783 provides the Legislature an opportunity to finally put to rest an issue that has plagued the State government and OHA for more than three decades, and that the Hawai'i Supreme Court has ruled is primarily the Legislature's responsibility to address. Appropriate legislative action will help fulfill the State's solemn obligation to OHA and will have a positive impact on OHA's beneficiaries and the State government.

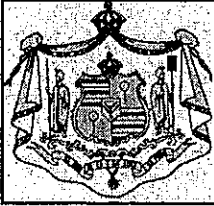
The following background information may be useful during your Committees' consideration:

- Following many years of relatively small transfers to OHA, Act 304, Session Laws of Hawaii of 1990, sought to establish how the State would carry out its constitutional and statutory mandate to dedicate 20 percent of public land trust revenues to OHA's activities.
- Act 35, Session Laws of Hawaii 1993, appropriated \$136.5 million in general obligation bond funds to OHA as a settlement of undisputed claims to that point in time.
- Act 329, Session Laws of Hawai'i 1997, established OHA's pro rata share to be \$15.1 million for each of the fiscal years 1997-1998 and 1998-1999.

- In 2001, the Hawai'i Supreme Court ruled that Act 304 was invalid due to a conflict between federal law and one of the Act's technical provisions.
- Act 34, Session Laws of Hawai'i 2003, required the transfer of several million dollars to OHA to help continue the revenue stream following the invalidation of Act 304.
- Executive Order No. 03-03 set forth Governor Lingle's procedure for continuing the revenue stream.
- Act 178, Session Laws of Hawai'i 2006, included an interim provision setting OHA's annual amount of public land trust revenues at \$15.1 million and providing a lump sum payment of \$17.5 million for certain amounts that the Legislature determined were underpaid between July 1, 2001 and June 30, 2005.

We thank you for considering this bill. The issue is complex, but when 30 years of struggle to address this issue are examined, one key truth remains: it is ultimately the Legislature's kuleana to resolve this important issue. We look forward to working with the Legislature, as we have done over the years, toward a fair and just resolution of this matter.

We respectfully urge your Committees to PASS SB2783. Mahalo for the opportunity to testify on this important measure.



Association of Hawaiian Civic Clubs

P. O. Box 1135

Honolulu, Hawai`i 96807

TESTIMONY OF PRESIDENT SOULEE STROUD

SENATE BILL 2783(SSCR 2710) RELATING TO THE PUBLIC TRUST LANDS

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

COMMITTEE ON HAWAIIAN AFFAIRS

Monday, March 12, 2012; 10:30 a.m.; Room 325

Aloha Chairman Chang of the Committee on Water, Land and Ocean Resources, Madam Chair Hanohano of the Committee on Hawaiian Affairs and to the members of both committees. I am Soulee Stroud, president of the Association of Hawaiian Civic Clubs, here to testify in support of this bill that conveys land to the Office of Hawaiian Affairs to resolve all disputes, controversies, claims, suits and actions related to the portion of income and proceeds from the public trust fund lands for the period of November 7, 1978 through June 30, 2012.

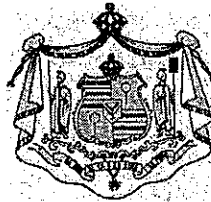
The critical words here are “November 7, 1987 to June 30, 2012,” the period of time that this land transfer is meant to resolve. Nothing more-nothing less. In the past, attempts have been made to apply a global settlement to resolve past debts due to Native Hawaiians, and we have watched this legislation closely to be able to assure our members that the present measure is only for a time certain.

At times, the Office of Hawaiian Affairs has had to go to extraordinary lengths to settle these claims, seeking what is fair and equitable for the Hawaiian people, turning to both the courts and the legislature for decisions. Our Association Board of Directors has recently been briefed by the Office of Hawaiian Affairs and supports the resolution of claims for this issue today, just as we have in the past.

While SB2783 will specifically better the condition of Native Hawaiians, we note that by doing so, it also improves the condition of all citizens of Hawaii.

We urge your support of this bill just as it is. Mahalo.

Contact: jalna.keala2@hawaiiantel.net



**O'ahu Council
Association of Hawaiian Civic Clubs**

P.O. Box 37874
Honolulu, Hawaii 96837-1122

March 10, 2012

**TESTIMONY IN SUPPORT OF SB2783
RELATING TO THE PUBLIC TRUST LANDS**

Hearing, Monday, March 12, 2012, 10:30 a.m., Conference Room 325, State Capitol

Representative Jerry L. Chang, Chair
Representative Sharon E. Har, Vice Chair
Members, Committee on Water, Land, and Ocean Resources

Representative Faye P. Hanohano, Chair
Representative Chris Lee, Vice Chair
Members, Committee on Hawaiian Affairs

Aloha mai, kākou

The Board of Directors of the O'ahu Council of the Association of Hawaiian Civic Clubs testifies in support of SB 2783, Relating to the Public Trust Lands. The bill, when enacted, will convey Kakaako Makai lands to the Office of Hawaiian Affairs and will resolve all disputes and controversies, and extinguishes, discharges and bars all claims, suits, and actions relating to OHA's portion of income and proceeds from the public trust lands for the period November 7, 1978 through June 30, 2012.

We further understand that the proposed settlement agreement does not address, is not intended to address, and shall have no effect upon claims, disputes and controversies which may exist, relating to Hawaiian sovereignty, the overthrow of the Hawaiian Kingdom including any alleged claims to crown or government lands, the Hawaiian Homes Commission Act, or claims against the United States.

We applaud the Governor's initiative to settle this long-standing issue and note that this is the third attempt in resolving OHA's claim for its share of revenue from the Public Land Trust for the period November 7, 1978 to June 30, 2012. Settling this issue as is proposed by SB 2783 is in the best interest of all. We urge your passage of SB 2783.

We wish also to applaud the Office of Hawaiian Affairs for its sincere effort to outreach to the community to inform all about the provisions of the settlement.

Mahalo for the opportunity to provide this testimony in support of SB 2783.

Me kealoha pumehana

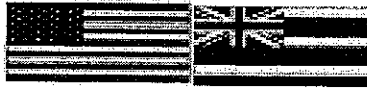
A handwritten signature in black ink that reads "Mahealani Cypher". The signature is written in a cursive style with a prominent flourish at the end of the name.

MAHEALANI CYPHER
President

About the O'ahu Council, Association of Hawaiian Civic Clubs (AHCC)

The O'ahu Council is one of five councils that comprise the AHCC. It advocates actions that enhance the civic, economic, educational, health and social welfare of our communities and elevates the social and intellectual status of all Hawaiians. Twenty-five clubs located throughout the island of O'ahu comprise the council.

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205 Kane'ohe, HI 96744
Tel/Fax (808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com



Unity, Equality, Aloha for All

Testimony by Kenneth R. Conklin, Ph.D. in opposition to SB2783
for hearing Monday March 12, 2012 before House committees WLO and HAW
on behalf of himself and the Center for Hawaiian Sovereignty Studies

One small step for OHA, one giant leap toward racial apartheid in Hawaii. This bill threatens to slice off another piece of the multiracial State of Hawaii, handing it over to a racially exclusionary entity. This process is slowly killing our state through the death of 1,000 cuts.

That's the big picture regarding the Kakaako Makai lands agreement between Governor Abercrombie and OHA which this bill seeks to enact into law.

Let me move from the general to the specific. First I'll describe that big picture. Then I'll point out that any "settlement" reached by OHA will be disavowed by the Akaka tribe or Act 195 tribe, because they will say that OHA was a state agency which had no right to speak on behalf of the Native Hawaiian people or the tribe. Finally I'll discuss the ownership of ceded lands and allocation of revenues from them.

The HAW committee seems to think it's appropriate to put at the top of every hearing notice its inflammatory slogan "He la hou, e ho'oulu lahui -- A new day, building a nation." Thus the members of that committee abandon their oath to support and defend the Constitution of the United States. They choose to pledge their allegiance to the new nation they are building, rather than to the wonderful nation we already have; i.e., the United States of America. By their slogan they assert their goal of ripping off as much land and money and jurisdictional authority as possible from the State of Hawaii and handing it over to the new nation they so eagerly commit themselves to build. Accordingly, I direct my remarks and testimony to the Committee on Water, Land, and Ocean Resources in hopes that the members of that committee might still be loyal to the state and nation they have been

elected to serve in our legislature, and in hopes they will protect and defend us against the rapacious demands of the racial separatists.

THE BIG PICTURE

I recently published a book you all should read. It's not in bookstores but is available in the library or from the publisher through <http://tinyurl.com/2a9fqa> .

The title says it all: "Hawaiian Apartheid -- Racial Separatism and Ethnic Nationalism in the Aloha State."

Since 1978 the government of Hawaii has been facilitating the development an Evil Empire of racially separate governmental and private institutions exclusively for ethnic Hawaiians. The Office of Hawaiian Affairs (OHA) was founded on three pillars of racial separatism: Only ethnic Hawaiians could vote for OHA trustees; only ethnic Hawaiians could run for OHA trustee; and only ethnic Hawaiians could receive benefits from OHA. The first pillar was knocked down by the U.S. Supreme Court in *Rice v. Cayetano*. The second pillar was knocked down by the U.S. District Court in Honolulu and the 9th Circuit Court of Appeals in *Arakaki v. State of Hawaii*. But the third pillar remains standing despite substantively correct lawsuits dismissed on technicalities.

In response to those lawsuits, the Akaka bill has been continuously re-introduced in Congress for nearly 12 years, with zealous support from our Governor, Attorney General, and nearly every member of our Legislature. The Akaka bill seeks to authorize creation of a racially exclusionary government for all persons worldwide who have a drop of Hawaiian native blood -- that is the primary requirement for membership. The bill would authorize transfer of land, money, and jurisdictional authority to the phony Akaka tribe.

The whole concept of a racially exclusionary government is evil. And unlike any of the real Indian tribes which include a small number of people in a restricted and usually remote area of land, this one would legally segregate 20% of the entire population of a State, and perhaps 50% of the State's lands; thus deserving the label "apartheid."

Hawaii's Evil Empire of racially exclusionary institutions has grown so powerful that hardly any public officials will dare to stand up against it. The

multiracial, multicultural society of Hawaii has hardly any voice in government to advocate for unity and equality; because the wealthy, powerful institutions of the Evil Empire have silenced their voice through the expenditure of untold millions of dollars in lobbying, advertising, school curriculum, and outright intimidation. Remember those expensive, racist Kau Inoa commercials beamed into our living rooms at least 200 times, or newspaper ads "explaining" the Akaka bill?

In case the Akaka bill does not get enacted, OHA created "Plan B" to expand the Evil Empire almost as effectively anyway by passing Act 195 last year. The idea is to get our compliant Governor and Legislature, plus the Counties and private groups, to transfer land, money, and jurisdictional authority directly to a clone of OHA -- a plan already being implemented.

On O'ahu the County of Honolulu used tax dollars plus money from several environmental groups to purchase the entire Waimea Valley. OHA made only a small contribution, but was given the deed to the entire valley. In Waiokele O Puna on Hawaii Island, OHA again contributed only a small portion of the purchase price but ended up with the deed to the entire parcel of 40 square miles.

Bills are now pending in the Legislature that would create racially stacked commissions to manage Ha'iku Valley and Makua Valley, with OHA having seats on those boards, and including a provision for outright transfer of the entire valley to the Akaka tribe or Act 195 tribe. OHA keeps asking for money to build its new headquarters, which would become the national capitol of the new Akaka tribal nation (until 'Iolani Palace which taxpayers renovated is handed over). Now comes the State of Hawaii ready to give away \$200 Million of public land to OHA through this current bill.

If the Akaka bill passes, or the Act 195 tribe actually builds a membership roll and tribal council, then the leadership of the new tribe will negotiate with the State of Hawaii for enormous amounts of land, money, and jurisdictional authority -- and who will stand up to protect the rights of the general public? Not our legislators!

Why should the State of Hawaii give away anything at this time, in the face of future negotiations where more will be demanded? Would a business owner give away part of something even before he enters negotiations where his opponent is demanding all of it?

The time is now to begin protecting all Hawaii's people against wealthy, powerful, greedy race-based institutions seeking to grab as much as they can at the expense of everyone else. Hawaii is experiencing the death of 1,000 cuts. Waimea Valley and Waokele O Puna were two of those cuts. This bill would take another cut out of the State of Hawaii, continuing the erosion of our tax base. To stop death by 1,000 cuts there must come a time when the knife is brushed aside before it can cut again.

OHA IS A STATE AGENCY WHICH LACKS THE AUTHORITY TO SPEAK ON BEHALF OF THE FUTURE TRIBE.

On the mainland, Indian tribes often enter into contracts with state or county governments, or with private companies. But when disputes arise, the tribes assert their sovereign rights and refuse to submit themselves to the jurisdiction of non-tribal courts. Vendors go unpaid, while workers or visitors on tribal lands who get injured are unable to sue for damages.

We already hear Hawaiian sovereignty activists saying that under international law, any agreements with state or federal governments, or decisions by state or federal courts, will have no force or effect on the future Nation of Hawaii, because the Nation of Hawaii was under belligerent occupation and its actions were taken under duress.

OHA is a State agency. Any future tribal government or Nation of Hawaii is likely to disavow any negotiated settlement reached between OHA and the State of Hawaii. OHA trustees are elected by all Hawaii voters, regardless of race. Therefore OHA trustees cannot claim to speak on behalf of Native Hawaiians in disputes between the State and Native Hawaiians.

The State of Hawaii will feel bound to abide by whatever agreements it makes with OHA. But Native Hawaiians will never feel bound to abide by agreements made by OHA allegedly on their behalf.

Since this legislature seems to be rushing headlong to support creation of the Act 195 tribe, you should not make any so-called "settlement" with the soon-to-be-defunct entity OHA. Wait for the tribe to build its membership roll and elect its officers, who will then have the authority to make an agreement with the State. So-called "past due" monies are part of the eventual package to be negotiated.

CEDED LANDS AND REVENUES

It is historically, legally, and morally wrong to allocate government land, or revenues from land, for exclusive use by a racial group. Neither Kingdom law, nor the Organic Act for annexation, nor the Statehood Admissions Act, contemplated or required the creation of OHA. The Constitutional amendment that created OHA in 1978 was passed by the smallest number of yes votes among all the amendments coming out of the Constitutional Convention; and the amendment creating OHA would have been defeated except that blank votes were counted as yes votes at that time, contrary to the way we count blank votes today.

The decision to set aside 20% of ceded land revenue for OHA in 1978 was an arbitrary and capricious enactment of an ordinary law. It is NOT part of our Constitution -- the Legislature can AND SHOULD repeal the 20% law at any time.

The public lands of Hawaii, including the ceded lands, belong to all the people of Hawaii without racial distinction. During the Kingdom, following the Mahele, the government lands were held by the government on behalf of all the people, just as now. The Crown lands also became government property by act of the Kingdom Legislature, gladly signed by the King, to issue government bonds to pay a mortgage lien on the Crown Lands the King had incurred to pay the King's personal (gambling) debts. Thereafter the government owned the Crown Lands, while income from the Crown Lands was set aside to maintain the office of head of government in his official capacity but not as his private property. Thus, when the monarchy ended, the Crown lands and government lands were indistinguishable, all held by government as public lands to benefit all the people without regard to race -- both then and now.

The Statehood Act of 1959 does not require setting aside any ceded land income specifically for any racial group. It identified 5 purposes for the use of ceded land revenues, and explicitly said that part or all of the revenue could be used for any one or more of those 5 purposes.

When 100% of ceded land revenues was sent to the public schools from 1959 to 1979, the result was that 26% of ceded land revenues were thereby used

for the betterment of Native Hawaiians, without need for racial separatist designation, simply because 26% of the children were of that racial group. Wasn't that a wonderful idea? Why not do that again?

It must also be noted that the section 5(f) language identifying "betterment of native Hawaiians" as one purpose for spending ceded land revenues explicitly defined "native Hawaiians" as that term was used in the Hawaiian Homes Commission Act of 1920, which required 50% native blood quantum. Therefore neither OHA, nor the anticipated Akaka tribe, is a proper receptacle for ceded land revenue, since OHA beneficiaries and Akaka tribe members are defined as needing only to have a single drop of the magic blood.

On January 20, 2008 in the Honolulu Star-Bulletin, Jon Van Dyke wrote: "the revenue generated from these lands to be used for five named purposes ..." No Jon, not really. There was no requirement to spend one dime on any particular one of those purposes. Van Dyke laments "During the next two decades, however, the state failed to allocate any of the revenue specifically for this purpose [betterment of native Hawaiians], devoting almost all of it to public education. To address this failure ..." No Jon, not really. As I explained above, Native Hawaiians received 26% of the ceded land revenues without any need for racist set-asides. Furthermore, it was not a failure to send the money to the public schools, who now get zero money from the ceded lands because 20% of gross revenue sent to OHA exceeds 100% of net income after allowing for capital improvements and operating expenses for which we all pay.

TELL OHA TO SPEND ITS HOARDED CASH AND STOP GIVING THEM MORE

OHA already has about \$400 Million. Most of that money has been sucked out of Hawaii's economy and sent to New York for stock market investments. OHA occasionally makes small grants to its "beneficiaries" but very little money reaches the maka'ainana (the 99%; the commoners). It's time to stop feeding the beast. Repeal the law sending 20% of ceded land revenues to OHA. You can repeal that law tomorrow by a simple majority vote.

In the past OHA has sued the State of Hawaii (can a hand sue its arm?) for past-due "rent" "owed" for the 20% share of revenue. Does anybody think that won't happen again? Stop this craziness. Repeal the 20% law.



COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

1050 Queen Street, Suite 200, Honolulu, Hawai'i 96814

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www.hawaiiancouncil.org

Date: March 12, 2012

To: Representative Jerry L. Chang, Chair, Committee on Water, Land and Ocean Resources
Representative Faye P. Hanohano, Chair, Committee on Hawaiian Affairs
Committee Members

From: Robin Danner, CNHA President and CEO

Re: SB 2783(SSCR2710) Relating to the Public Trust Lands - Support

Aloha Honorable Chairs and Committee Members:

CNHA, founded in 2001, works to advance the well-being of Hawaii through the cultural, economic and community development of Native Hawaiians. We promote our mission through the administration of the Native Hawaiian Policy Center (Policy Center) to advance sound public policy, the deployment of capital in all counties under our certified Community Loan Fund and Tax Credit Program, operation of the Hawaiian Way Fund to support cultural and community practitioners, and the delivery of affordable housing and economic development projects owned and operated by community based nonprofits.

The Council opposed the Lingle/OHA Ceded Lands Settlement of 2008. We are in support of the Abercrombie/OHA settlement for three primary reasons and significant changes from the 2008 experience:

1. Transparency and Consultation - Governor Abercrombie and OHA Chair Machado have engaged transparently with the beneficiaries of the OHA public trust. Since November, the dialogue and dissemination of information has been open and honest.
2. Waivers - Governor Abercrombie and OHA Chair Machado have agreed that the terms of the settlement and the resolution of claims are framed between 1978 - 2012.
3. DHHL/OHA partnerships - The two public trusts have made commitments to improve working relationships and partnerships. We are highly supportive of maximizing efficiencies and to see these state agencies collaborate to advance the well-being of all Hawaiians.

We agree with the settlement total of \$200,000 million for the period in question. We further support the Attorney General, the Office of Hawaiian Affairs and the Hawaii State Legislature in completing a settlement agreement in the 2012 legislative session.

Mahalo for the opportunity to comment on this public policy issue.

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Email: info@gcahawaii.org
Website: www.gcahawaii.org



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March 12, 2012

TO: HONORABLE REPRESENTATIVES JERRY CHANG, CHAIR, SHARON HAR,
VICE CHAIR AND HOUSE COMMITTEE ON WATER LAND & HOUSING

HONORABLE REPRESENTATIVES FAY HANOHANO, CHAIR, CHRIS LEE, VICE
CHAIR AND HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

SUBJECT: **SUPPORT OF S.B. 682, SD1, RELATING TO KAKAAKO.**
Allows two lots in the makai area of the Kakaako community development district to be developed as residential properties that are exempt from public facilities fees; provided that at least twenty per cent of the units are designated for residents in low- or moderate- income ranges. Effective upon conveyance of the two lots to the office of Hawaiian affairs. (SD1)

SUPPORT OF S.B. 2783, RELATING TO PUBLIC TRUST LANDS. Conveys Kakaako Makai lands to Office of Hawaiian Affairs, and resolves all disputes and controversies, and extinguishes, discharges and bars all claims, suits, and actions relating to OHA's portion of income and proceeds from the public trust lands for the period November 7, 1978 through June 30, 2012.

HEARING

DATE: Monday, March 12, 2012
TIME: 10:30 AM
PLACE: Conference Room 325

Dear Chairs Chang and Hanohano, Vice Chairs Har and C. Lee and Members of the Committees:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii whose mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest. GCA is submitting testimony in **support of both S.B. 682, SD1, Relating to Kakaako and S.B. 2783, Relating to Public Trust Lands.**

S.B. 2783 conveys Kakaako Makai lands to the Office of Hawaiian Affairs and resolves all disputes and controversies regarding a portion of the income for claims between 1978 to 2012; While in concert with the previous bill, S.B. 682, SD1 will provide the Office of Hawaiian Affairs with the option to develop the subject two parcels as residential properties and produce a steady revenue stream to fund the Office of Hawaiian Affairs' services to its beneficiaries, while creating much needed rental housing and jobs in the near future.

S.B. 682, SD1 and S.B. 2783 work hand in hand and offer a resolution to the longstanding dispute regarding the settlement to the Office of Hawaiian Affairs' longstanding claims to income and proceeds from the ceded lands for claims between 1978 to 2012. This settlement offer was negotiated with the best interest of OHA beneficiaries in mind between Governor Abercrombie and the Chair of OHA.

The Hawaii State Senate describes this as “a resolution of the decades-long dispute that has plagued state government and the Office of Hawaiian Affairs will have a positive impact on the Office of Hawaiian Affairs' beneficiaries and state government.”

GCA understands the necessity of S.B. 2783, as a start to addressing part of the dispute between OHA and the ceded land claims. GCA also understands the importance and long-term benefits that S.B. 682, SD1 would have, not only for OHA beneficiaries, but for the future of workforce housing and those qualified to live in the affordable units that OHA may develop. Affordable housing in Hawaii is a rare commodity and increasing the inventory of such would benefit many.

For these reasons, GCA supports these measures and respectfully requests that these Committees pass both measures.

Thank you for the opportunity to testify on these measures.



Ko'olau Foundation

P. O. Box 4749, Kane'ohe, HI 96744

Ph. (808) 218-4915

March 10, 2012

To: Rep. Jerry Chang, Chair / & Members
House Committee on Water, Land & Ocean Resources

Rep. Faye Hanohano, Chair/ & Members
House Committee on Hawaiian Affairs

From: Leialoha "Rocky" Kaluhiwa
Member, Board of Directors
Ko'olau Foundation

Re: S. B. 2783, Relating to the Public Trust Lands

Aloha, Chairs Chang and Hanohano, and Committee members:

My name is Rocky Kaluhiwa and I am speaking in favor of S.B. 2783. It would provide compensation to the Office of Hawaiian Affairs that is way overdue. Our State is actually lucky to be paying such a fee as that because, in my opinion, this does not even come close to what is owed to our Native Hawaiian people.

Please pass this bill.

Mahalo.



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

March 10, 2012

Representative Jerry L. Chang, Chair
Representative Sharon E. Har, Vice Chair
Members, Committee on Water, Land, and Ocean Resources

Representative Faye P. Hanohano, Chair
Representative Chris Lee, Vice Chair
Members, Committee on Hawaiian Affairs

Subject: SB2783, Relating to the Public Trust Lands – Testimony in Support

Aloha mai kakou,

My name is Alice Hewett, president of the Ko'olaupoko Hawaiian Civic Club. Our club was established in 1937 and includes members from Kualoa to Kane'ohe, in the nine ahupua'a around Kane'ohe bay.

We are here to testify in support of S.B. 2783, which would provide a settlement of past-due obligations of the State of Hawai'i to the Office of Hawaiian Affairs.

This settlement is long overdue. We testified in support of another measure two years ago which we felt was much better but, unfortunately, it did not pass the Senate.

We hope this bill has more success as it moves through both houses of the Legislature. We urge all of you to support this bill.

Mahalo for allowing me to testify.

Me kealoha pumehana,

ALICE P. HEWETT
President

**TESTIMONY IN SUPPORT OF SB2783
A BILL FOR AN ACT
RELATING TO THE PUBLIC TRUST LANDS**

**House of Representatives
Committee on Water, Land & Ocean Resources
Committee on Hawaiian Affairs**

Joint Public Hearing - Monday, March 12, 2012
10:30 a.m. State Capitol - Conference Room 325

By
Colleen Weir, Graduate Student of the
Myron B. Thompson School of Social Work
University of Hawai'i, Mānoa

Aloha Chair Chang, Chair Hanohano, Vice-Chair Har, Vice-Chair Lee and respective Committee Members.

Mahalo for the opportunity to present testimony in support of SB2783 which conveys nine parcels of land at Kaka'ako Makai, preliminarily valued at \$200,000,000 to the Office of Hawaiian Affairs (OHA).

Because the bill was drafted by the Attorney General and OHA, and was introduced into the Legislature by the Governor, it demonstrates a joint effort and cooperation to peacefully resolve a long-standing dispute relating to OHA's claim to a share of revenue from the Public Trust Lands for the period November 7, 1978 through June 30, 2012.

Resolution of this decades-long dispute will allow OHA the opportunity to develop the land holdings into revenue generating, useful property. This will not only benefit the Native Hawaiian population who will someday reside in the proposed low income housing, but will also provide OHA with an income stream that can assist in supporting its beneficiaries and enhancing its programs to the Native Hawaiian community.

As a non-Native Hawaiian private citizen of the State of Hawai'i, I work for a Native Hawaiian organization (Lunalilo Home) that has directly benefitted from the benevolence of the Office of Hawaiian Affairs. Because of OHA and other organizations' support, the Native Hawaiian kupuna at Lunalilo Home are provided a life of quality caregiving that would often be beyond what the kupuna themselves would be able to afford.

My statement on this measure is personal and does not represent my work or an institution position of the University of Hawai'i.

Mahalo for the opportunity to provide this testimony in support of SB2783.