

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 10:28 AM  
**To:** omhtestimony  
**Cc:** auliig@gmail.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Aulii Dudoit	Individual	Support	No

Comments: I live in Kalihi Valley on Oahu, I am Hawaiian, and I vote. I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has greatly impacted my community through their grants program. I urge the committee to PASS this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 10:21 AM  
**To:** omhtestimony  
**Cc:** kaliko08@gmail.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Donna K Santos	Individual	Support	No

Comments: My name is Donna Kaliko Santos and I am a Native Hawaiian from the island of Kauai. I SUPPORT HB1655. This bill is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has impacted my community through their grants program and I urge the committee to PASS this bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:50 AM  
**To:** omhtestimony  
**Cc:** launahele@yahoo.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton	Individual	Comments Only	No

Comments: I live in Palolo Valley, Island of O'ahu. I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has greatly impacted my community through their grants program. I urge the committee to PASS this bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:46 AM  
**To:** omhtestimony  
**Cc:** kamaile.maldonado@gmail.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kamaile Maldonado	Individual	Support	No

Comments: As a Native Hawaiian beneficiary of the Office of Hawaiian Affairs trust, I testify in STRONG SUPPORT of this measure to more fairly and accurately fulfill the state's trust obligation to Native Hawaiians. The drafters of our state constitution, as well as the governors, courts, and legislatures since the foundation of our state have reaffirmed time and again the rightful pro rata portion of public trust land revenue owed to the Native Hawaiian people. But in recent years it has become increasingly apparent that the "interim" agreement setting \$15.1 million as OHA's annual Public Land Trust share falls far short of the 20% that Hawaiians are owed. While it is debatable that 20% is even adequate compensation for land taken from Hawaiians and currently held in trust by the state, continuing to shortchange the share agreed upon the state would be all the more grossly unjust. Allowing OHA to access and expend the \$8 million in Public Land Trust "overages" it has returned to a state holding account will result in no immediate cost to the state, but will immediately benefit the Hawaiian community, as well as the programs and operations that serve them. Revisiting the issue of pro rata portion of the public land trust owed to the Hawaiian people is long overdue. Thus, I SUPPORT revisiting the fair assessment of the pro rata portion of the public land trust owed to the Hawaiian people; this discussion is long overdue. Mahalo.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:24 AM  
**To:** omhtestimony  
**Cc:** keao@me.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Agnes Marti Kini	KAFarmers Hui	Support	No

Comments: live in Anahola, Kauai. I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has greatly impacted my community through their grants program. I urge the committee to PASS this bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:20 AM  
**To:** omhtestimony  
**Cc:** mkhan@hawaiiantel.net  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leimomi Khan	Kalihi Palama Hawaiian Civic Club	Support	No

Comments: Aloha, The Kalihi Palama Hawaiian Civic Club supports HB1655, Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust. In 2006, OHA and the state agreed on Act 178 as an interim resolution and established OHA's temporary annual share at \$15.1 million dollars, but in the past three year's the state's Public Trust Land revenues have averaged \$158,077,656 20% of which is \$31,615,531, more than twice the \$15.1 million. Thus, it is appropriate to revisit the pro rata share of the Public Land Trust. The bill offers a way to do this, i.e., by establishing a public land trust revenues negotiating committee to make recommendations to the legislature. While the bill calls for the removal of the annual and quarterly maximum amounts that Act 178 imposed, i.e., the \$15.1 million dollars, we would be concerned with any reduction of this amount while the negotiating committee meets and the legislature adopts their recommendations. Further, in view of the fact that if the 20% were applied to the revenues generated over the last three years, we believe it is appropriate to return to OHA the moneys paid as described in the bill, item (2). Lastly, this is not a frivolous "ask" since costs for delivery of services and programs have escalated due to inflation and these programs and services are needed to improve the welfare of Native Hawaiians in education, in health, in housing, in employment. Respectfully submitted, Leimomi Khan, President, Kalihi Palama HCC

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:19 AM  
**To:** omhtestimony  
**Cc:** keao@me.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Agnes Marti Kini	Individual	Support	No

Comments:

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## **Association of Hawaiian Civic Clubs**

P. O. Box 1135  
Honolulu, Hawai`i 96807

### **COMMITTEES ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS; WATER & LAND**

#### **HB 1655 Re: TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS PRO RATA SHARE OF THE PUBLIC LAND TRUST**

**Wednesday; 2/10/16/; 10:30am; Rm 325**

Aloha Chairman Ing and vice chair Lowen of the OMH Committee, and Chairman Yamane and vice chair Cullen and members of the House joint committees.

I am Annelle Amaral, president of the Association of Hawaiian Civic Clubs, an organization formed in 1918 as an advocacy group on behalf of the Native Hawaiian people. I am unable to attend this hearing as I am a delegate to the `Aha currently in session.

The first Hawaiian Civic Club was founded by Prince Jonah Kuhio Kalaniana'ole as a Delegate to the US Congress trying to establish the legislation that is the cornerstone for the Department of Hawaiian Home Lands. He gathered a group of prominent Hawaiian men and formed the Hawaiian Civic Club of Honolulu to help promote the Hawaiian homesteading legislation before the Congress.

In 1959 existing civic clubs on all islands were incorporated into an Association currently numbering sixty seven clubs throughout Hawaii and the continent. Members join understanding that civic clubs serve as advocates for the betterment of conditions of the indigenous people of Hawaii.

The Board of Directors of the Association of Hawaiian Civic Clubs held a quarterly meeting on January 15, 2016 which included the



presidents and board members of the councils in each county of Hawaii as well as the council representing sixteen states on the continent. Representatives from the Office of Hawaiian Affairs appeared before the AHCC Board to discuss the OHA legislative measures to be introduced in the 2016 legislative session.

After some discussion the AHCC board agreed to support legislation that would provide OHA with a fair share of the Public Trust Land revenues. OHA's share of the PTL revenues go toward a wide range of support programs, services and initiatives that include but are not limited to health, education, housing, culture and general community wellness.

This legislation will establish a public land trust revenues negotiating committee to sort out what has become a complicated issue of payment, overpayment, shortfalls and repayments. We sincerely hope that the committee suggested in HB1655 to consist of: the Senate president (or designee), Speaker of the House (or designee), Governor of Hawaii (or designee) and the Chairperson of the Office of Hawaiian Affairs (or designee) will be able to fairly resolve the matter of PLT annual income and proceeds to OHA.

**We would like to offer an amendment to the bill that would require transparency when the negotiating committee meets and a pre-meeting agenda be published just as with any other board or commission.**

Thank you for the opportunity to testify on this bill that is of extreme importance to the continued betterment of conditions of the indigenous people of Hawaii.

Contact: [Jalna.keala2@hawaiiantel.net](mailto:Jalna.keala2@hawaiiantel.net)



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P. O. Box 1135  
Honolulu, Hawai`i 96807

### **COMMITTEES ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS; WATER & LAND**

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Contact: [Jalna.keala2@hawaiiantel.net](mailto:Jalna.keala2@hawaiiantel.net)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 9:15 PM  
**To:** omhtestimony  
**Cc:** blawaiianlvr@icloud.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/5/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: We **CONDITIONALLY OPPOSE** this bill & its companion bill SB2125, as a Kanaka Maoli run company, because OHA has proven to be highly mismanaged & inept at handling beneficiary monies. The fiascos Behring KAU Inoa, Kana`iolowalu & Na`i Aupuni clearly demonstrate that OHA cannot be entrusted to effectuate manage beneficiary monies. Furthermore, OHA has NOT ran its business with the informed consent of the very people it was created to represent: native Hawaiians as is defined by the Hawaiian Homes Commission Act. The State of Hawaii entered into a contract with the United States Government, BEFORE becoming a State of the United States, and as a prerequisite for even becoming a State, and that is to assume the fiduciary duties of the Hawaiian Homes Commission Act of 1920. After the Constitutional Convention of 1978, the State created OHA specifically to be that arm of Government that carries out the contractual agreement between the State of Hawaii & the Federal Government. To date, OHA has proven itself to be tone-deaf to the needs & wishes of the native Hawaiians, as is defined by the Hawaiian Homes Commission Act of 1920. OHA is nothing more than a puppet arm of the State of Hawaii, looking out for the States interest ( Mauna Kea was a classic example ), & operates as a little fiefdom unto itself, without the informed consent of the native Hawaiians as is defined by the Hawaiian Homes Commission Act of 1920. Until OHA demonstrates the proficient ability to manage the trust of its beneficiaries & decide to return to its original purpose of being a native Hawaiian Trust organization, no more beneficiary monies should be given to OHA! Mahalo, De MONT R. D. Conner, Manager

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Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN  
AFFAIRS, and  
HOUSE COMMITTEE ON WATER & LAND

For hearing Wednesday, February 10, 2016

Re: HB1655 RELATING TO INCREASING THE PAYMENT AMOUNT FOR  
THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC  
LAND TRUST.

Requires agencies that collect receipts for any disposition of the public land trust shall each fiscal quarter transfer to the office of Hawaiian affairs twenty per cent of each receipt from the disposition. Returns to the office of Hawaiian affairs certain moneys previously claimed as public land trust overpayments to the office. Establishes a public land trust revenues negotiating committee.

TESTIMONY IN OPPOSITION

## Summary of main points:

(1) The legislature always has the power to amend or rescind any statute law. Act 273 (1980) requiring payment of 20% of ceded land revenue to OHA has created 35 years of bitter controversy and litigation, and should be rescinded. OHA should be funded the same way as other departments of the State government, through ordinary budget appropriations. Put an end to OHA's incessant lawsuits over the 20% rule.

(2) If the legislature chooses to maintain the 20% rule, the base for calculating 20% should be net income after expenses, not gross revenue. Taxpayers pay for all capital investments and operating expenses whereby the ceded lands are enabled to produce revenue, so it is illegal and immoral for OHA to siphon off gross revenue while the other 80% of the land trust beneficiaries, lacking a drop of Hawaiian blood, pay all the costs and receive none of the revenue.

(3) In 2008, Georgina K. Kawamura, Director of Finance of the State of Hawaii, and Arthur J. Buto, State Land Information Systems Manager, stated in a formal court declaration that the Ceded Lands Trust costs the State many times more annually than the 1.2 million acres bring in. They also acknowledged that this disparity between trust expenses and trust receipts has occurred in every year since statehood. Thus there is no net income from the ceded lands to be distributed to OHA or any of the other ceded land trust beneficiaries named in Section 5(f) of the Statehood Admissions Act -- the ceded lands money distributed to OHA is actually tax dollars in disguise.

(4) SB2124 would require an absurd quarterly payout of OHA's share of ceded land gross revenues from each department of government without regard to ceded land deficits (capital investment or operating expenses) incurred by that department in other quarters or deficits incurred by other departments of the State government. Any corporation that irretrievably paid its taxes quarterly for profitable business lines and was never able to offset profits with losses would

quickly go bankrupt. The accounting should be done annually, and for all the ceded lands jointly across all departments. As noted in item (3) there would then be zero net income, and 20% of zero would be zero dollars for OHA. Indeed, if ceded land net income is negative, then OHA should be required to send 20% of the negative amount to the State general fund as its share of the loss. Shouldn't OHA help to paddle our collective canoe?

(5) As a condition for receiving budget appropriations or ceded land revenues, OHA should be required to fulfill whatever obligation the State may have to fund the operation of the Department of Hawaiian Homelands -- especially the \$28 Million of alleged arrears which a court recently ordered the legislature to pay. OHA has at least a moral obligation to help DHHL; and if OHA won't do what's pono on its own initiative then the legislature should force them to do it instead of further burdening the taxpayers. From July 1, 1990 to June 30, 2002 OHA and DHHL together cost the State treasury more than a Billion dollars, and in 2002 the estimated cost for the 10 years from July 1, 2004 through June 2014 was an additional two Billion dollars, for a total of three Billion dollars. Enough already! No wonder the State is having budget problems!

## The details

(1) There is a long history of contentious negotiation and litigation over the amount of money owed to OHA under the rule specifying 20% of ceded land revenue. Section 1 of SB2124, pp. 1-10, recounts some of the elements of that history. The requirement to pay OHA 20% of ceded land revenue is statutory law enacted as Act 273, Session laws of 1980. Therefore, this law can be amended by the legislature at any time to reduce the percentage, or the law can be rescinded entirely. The law should be rescinded. OHA should be funded in the same manner as any other branch of the State government; i.e., by an appropriation included in the annual or biennial State budget, including a line-item listing of the purposes for which the money is to be spent. Then there would be no further conflict or litigation over how to calculate the 20%.

SB2124 proposes another in a long history of complicated formulas for calculating the number of dollars required by the 20% rule -- over the years these recalculations have come to resemble a Rube Goldberg device where a long series of tracks, levers, springs, bells, and whistles eventually propel a ball to its final destination. Let's get rid of that nonsense. Repeal the 20% rule and fund OHA by ordinary budget appropriations in the same way as any other department of the State government.

(2) If the legislature unwisely chooses to keep the requirement of a specific percentage of ceded land revenue to be paid to OHA, then the legislature should write into law that the percentage must be calculated on the base of NET INCOME AFTER EXPENSES rather than gross revenue. It costs a lot of money to construct roads and buildings, supply water and electricity, and pay salaries of staff who operate or maintain the facilities that generate revenue from the ceded lands. Those capital expenditures and operating expenses should be deducted from gross revenue to determine the net income to be used when applying the percentage to calculate how much money to pay to OHA. In many if not most cases, government lands and infrastructure operate at a loss because their purpose is to provide services rather than to make a profit. That's why government imposes taxes in order to provide funding for its operations. Taxpayers pay for all capital investments and operating expenses whereby the ceded lands are enabled to produce revenue, so it is illegal and immoral for OHA to siphon off gross revenue while other land trust beneficiaries pay all the costs and receive none of the revenue.

(3) In 2008, Georgina K. Kawamura, Director of Finance of the State of Hawaii, and Arthur J. Buto, State Land Information Systems Manager, stated in a formal court declaration that the Ceded Lands Trust costs the State many times more annually than the 1.2 million acres bring in. They also acknowledged that this disparity between trust expenses and trust receipts has occurred in every year since statehood. Thus there is no net income from the ceded lands to be distributed to OHA or any of the other ceded land trust beneficiaries named in Section 5(f) of the Statehood Admissions Act -- the ceded lands money already



distributed to OHA is actually tax dollars in disguise. As attorney H. William Burgess said, "This can be fairly characterized as a confession of guilt to systematic and massive misappropriation of trust funds over the last three decades." For further details and citations of the Kawamura/Buto declaration see pages 16-17 and 42-45 at <http://aloha4all.org/wordpress/wp-content/uploads/2010/01/81119KuroiwaPsAplntsOpBrf.pdf>

(4) SB2124, section 2, page 11 says "All departments and agencies that collect receipts for the use, sale, lease, or other disposition of the public land trust shall each fiscal quarter transfer to the office of Hawaiian affairs twenty per cent of each receipt derived from the use, sale, lease, or other disposition of the public land trust ..." This piecemeal attack on each individual department and agency would impose a heavy burden of staff time and accounting. More importantly, it would cause the disappearance of net losses from the overall accounting regarding departments and agencies whose capital expenditures and operating expenses for the ceded lands under their control exceed the revenue generated by those ceded lands. Let's say that more clearly. If a department has a profit for a calendar quarter, it must immediately pay 20% to OHA; but if it has a loss in another calendar quarter, that loss cannot be used to offset the profit in any previous or subsequent quarter; and also, if a department has a loss, that loss cannot be used by any other department or agency to offset its profit. Profits have 20% skimmed off immediately and sent to OHA, whereas losses get swept under the rug. The correct way to do the accounting should be annually not quarterly, and should be done overall for the totality of ceded land revenue from all departments rather than individually for each department separately. A corporation does not send the government irretrievable taxes quarterly for each profitable line of its business while "eating" and ignoring that business line's losses in other quarters and ignoring the losses of other business lines. Any corporation that did its accounting in such a manner would soon go bankrupt (just like the State of Hawaii is on track to do!). As noted in item (3), annual accounting for all departments jointly would then discover that net income is zero or negative, and 20% of zero would

be zero dollars for OHA. Indeed, if net ceded land income is negative then OHA should be required pay 20% of that to the State general fund as its rightful share of the loss. Shouldn't OHA help to paddle our collective canoe?

(5) As a condition for receiving budget appropriations or ceded land revenues, OHA should be required to fulfill whatever obligation the State may have to fund the operation of the Department of Hawaiian Homelands. Page 3 of SB2124 quotes Act 273 (1980) as saying "twenty per cent of all funds derived from the public land trust ... shall be expended by the office of Hawaiian affairs ... for the purposes of this chapter." Act 272 does not say the funds may be invested in an investment portfolio, it says the funds SHALL BE EXPENDED to provide services. Yet OHA seems to think it can grab tens of millions of dollars every year which it then invests or uses for political purposes such as lobbying for the Akaka bill or building a racial registry for "nationbuilding", but OHA fails to provide more than sporadic and inadequate funding for purposes which OHA should be supporting. For example, OHA should pay the approximately \$28 Million which a court recently ruled the State owes to DHHL. Let the Office of HAWAIIAN affairs support the Department of HAWAIIAN homelands -- that's the real reason why Section 5(f) of the 1959 Admissions Act specified that one purpose for which ceded land revenues can be spent is "for the betterment of native Hawaiians AS DEFINED IN THE HAWAIIAN HOMES COMMISSION ACT OF 1920."

It's doubtful the ceded lands produce any net income after the amortized annual capital investment and operating expenses are deducted. Therefore, the so-called ceded land revenues sent to OHA are actually tax dollars in disguise.

From July 1, 1990 to June 30, 2002 OHA and DHHL together cost the State treasury more than a Billion dollars, and in 2002 the estimated cost for the following 10 years from July 1, 2004 through June 2014 was an additional two Billion dollars, for a total of three Billion dollars.

See documentation of these figures, including spreadsheets filed in  
Arakaki v. Lingle, at  
[http://www.angelfire.com/hi5/bigfiles/  
ohadhhlburdenstatetreasury.html](http://www.angelfire.com/hi5/bigfiles/ohadhhlburdenstatetreasury.html)

Enough already! No wonder the State is having budget problems!



## HB1655

### RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

House Committee on Ocean, Marine Resources, & Hawaiian Affairs

House Committee on Water & Land

February 10, 2016

10:30 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** HB1655, which is a bill in OHA's 2016 Legislative Package. HB1655 is the first major step taken in the last ten years to ensure that Native Hawaiians receive a fair annual share of the Public Land Trust. This bill would lift the "interim" \$15.1 million cap placed on the state's annual transfers of Public Land Trust revenues to OHA, allow OHA to expend approximately \$8 million in "overages" it has returned to a state holding account, and establish a negotiating committee to begin the long overdue discussion as to what amount would more appropriately reflect Native Hawaiians' fair annual share of the Public Land Trust. **Lifting the cap on the state's annual \$15.1 million transfers to OHA and allowing OHA to expend the funds it has returned over the last three fiscal years would demonstrate the state's support for Native Hawaiians' right to a fair share of the Public Land Trust. This measure will not require any general fund appropriations, nor would it require state agencies to set aside more funds than they already do; it would merely ensure that the full 20% of Public Land Trust revenues that agencies already set aside can be used to benefit Native Hawaiians.**

The Public Land Trust comprises over one million acres of former Hawaiian Kingdom government and crown lands, currently held by the state, that were seized "without the consent of or compensation to the Native Hawaiian people of Hawai'i or their sovereign government."<sup>1</sup> Hawai'i's constitution provides that a share of Public Land Trust income be used for the "betterment of the conditions of native Hawaiians." Accordingly, state law requires that OHA expend 20% of all funds derived from the Trust.

Unfortunately, for decades, OHA and the state disagreed on how OHA's 20% share should be calculated. In 2006, OHA and the state finally agreed on an interim resolution, by the passage of Act 178, which temporarily set OHA's annual share as \$15.1 million, "until further action is taken by the legislature." Importantly, Act 178 also required individual state agencies to report on their proceeds and revenues from the Public Land Trust; these reports can now be used to better estimate OHA's 20% share.

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<sup>1</sup> House Concurrent Resolution No. 6 (Reg. Sess. Haw. 2013) (*citing* Apology Resolution, Pub. L. 103-150).

**Clearly, the temporary, \$15.1 million cap established ten years ago no longer fairly reflects Native Hawaiians' 20% share of the Public Land Trust, and should at the very least be lifted until the issue can be revisited and discussed by the Governor, the Legislature, and OHA.** According to the state's own reports, which omit certain revenue streams, the state generated an average of \$158,077,656 annually in Public Land Trust revenues over the last three fiscal years. 20% of this amount is \$31,615,531, more than twice the \$15.1 million received annually by OHA under Act 178. Moreover, the state's actual transfers to OHA have exceeded the \$15.1 million cap for the last three years—\$1.03 million in FY13, \$2.78 million in FY14, and \$3.71 million in FY15. These transfers, made by individual state agencies every quarter, are calculated using historically undisputed revenue streams, and reflect only a portion of the revenue reported by the agencies from the Public Land Trust. Since these transfers collectively exceeded the \$15.1 million annual cap, OHA has had to return approximately \$8 million it has received over the last three years. This money could be helping Native Hawaiians and the community right now. Instead, it has been kept by the state, unused, in a trust holding account.

Providing OHA with a fairer share of the Public Land Trust would benefit the Native Hawaiian community as well as the social, economic, environmental, and cultural welfare of our islands. Just this past year alone, OHA provided nearly \$11 million in grants for programs addressing our state's most critical issues, including housing and homelessness, education, environmental stewardship, food security, and healthcare. OHA also provided over \$1 million in loans for beneficiary needs ranging from home and auto repairs to legal fees and educational opportunities. Furthermore, OHA manages over 27,000 acres of legacy, conservation, and agricultural lands, in furtherance of the state's environmental, cultural, and food self-sufficiency interests. By taking steps to establish a more fair share of the Public Land Trust revenues due to Native Hawaiians, this bill will allow OHA to improve its support for Native Hawaiians and, by extension, all those who live in and love Hawai'i nei.

Under this bill, OHA will be entitled to reclaim the \$8 million it returned to the state over the last three years. This amount was initially transferred to OHA as 20% of historically undisputed Public Land Trust revenue streams to which OHA should be otherwise entitled, and was only returned due to the Act 178 cap. Notably, allowing OHA to reclaim the \$8 million in "overages" now set aside in a state trust holding account would not impact the state's treasury in any way, and will enable these monies to be immediately used to benefit the Native Hawaiian community.

Moreover, by removing the Act 178 cap, OHA will be able to keep any such overages going forward, and based on past overages, may result in approximately \$3 million a year being made available for programs, operations, and services that benefit the Native Hawaiian community. Notably, removing the \$15.1 million cap would not require state agencies to set aside more funds than they already do under Act 178 and Governor's Executive Order 06-06 - it would merely ensure that the full 20% of revenues that are being reported and transferred by agencies can actually be used for the benefit of Native Hawaiians via OHA, rather than be returned and sit unused in a state holding account.

Accordingly, enabling OHA to expend the money the state already agrees it is entitled to will only serve the social, environmental, economic, and cultural interests of both Native Hawaiians and the state, without impacting the state general fund or agency budgets.

Finally, the negotiating committee established by this measure, which would include representation by the House of Representatives, the Senate, the Governor, and OHA, will allow for a long-overdue discussion regarding what amount would more fairly reflect Native Hawaiians' and OHA's 20% share of the Public Land Trust, which the state's own reports indicate should be substantially higher than the "interim" \$15.1 million annual amount established ten years ago. Such a discussion is necessary for Hawai'i to meaningfully uphold its constitutional, statutory, and moral responsibilities to the Native Hawaiian community.

In light of the above, OHA strongly urges the Committees to **PASS** HB1655.

Mahalo nui loa for the opportunity to testify.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 4:17 PM  
**To:** omhtestimony  
**Cc:** ikaauwai@hotmail.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Isaiah	Individual	Support	No

Comments: I live in Kapa`a, Kaua`i. I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has greatly impacted my community through their grants program. I urge the committee to PASS this bill.

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February 10th, 2016  
10:30 AM  
Conference Room #325

To: House Committee on Ocean, Marine Resources, & Hawaiian Affairs and to House Committee on Water & Land.

From: Christian Naea

Re: HB 1655 RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

In Support

Chairs & Committee Members:

My name is Christian Hauoli Keiki O Keakua Naea. I am a lifelong resident of the island of Kauai. For the past eight years I have been working in the non-profit sector and I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. I have seen first-hand how OHA has greatly impacted my community through their grants program, specifically in improving the health of Native Hawaiian youth. The youth who I witnessed participating in these programs over the course of a two year period demonstrated improved physical health and gained the knowledge necessary to adhere to a healthy and active lifestyle. Native Hawaiians are an ethnic group that consistently struggling with health issues such as early onset diabetes. If this bill is passed OHA will be better equipped to serve the Native Hawaiian population in helping in regards to health. I urge the committee to PASS this bill.

Thank you for the opportunity to submit testimony.

Christian Naea



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 11:52 AM  
**To:** omhtestimony  
**Cc:** kaiulani@kalo.org  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ka'iulani Pahi'o	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 10:46 AM  
**To:** omhtestimony  
**Cc:** rkailianu57@gmail.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 10:45 AM  
**To:** omhtestimony  
**Cc:** rkailianu57@gmail.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Ho`omana Pono, LLC	Oppose	Yes

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 10:43 AM  
**To:** omhtestimony  
**Cc:** noalanio@ymail.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Noalani Nakasone	Individual	Support	No

Comments:

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*KŪKULU KE EA A KANALOA*  
**KAHO`OLAWE ISLAND RESERVE COMMISSION**

811 Kolu Street, Suite 201, Wailuku, HI 96793  
Telephone (808) 243-5020 Fax (808) 243-5885  
Website: <http://kahoolawe.hawaii.gov>

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CARMEN HULU LINDSEY

Michael K. Nāho`opi`i  
*Executive Director*

**Testimony of**  
**MICHAEL K. NAHO`OPTI**  
**Executive Director**

**Before the House Committee on**

**OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**  
**and**  
**WATER & LAND**

**Wednesday, February 10, 2016**  
**10:30 AM**  
**State Capitol, Conference Room 325**

**In consideration of**  
**HOUSE BILL 1655**  
**INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN**  
**AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST**

House Bill 1655 requires agencies that collect receipts for any disposition of the public land trust shall each fiscal quarter transfer to the office of Hawaiian affairs twenty per cent of each receipt from the disposition. Returns to the office of Hawaiian affairs certain moneys previously claimed as public land trust overpayments to the office. Establishes a public land trust revenues negotiating committee. The Kaho`olawe Island Reserve Commission (KIRC) supports this measure and seeks to work with the Office of Hawaiian Affairs to develop a sustainable funding source for the continuing restoration and management of the Kaho`olawe Island Reserve.

## HB1655 Testimony

RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

Requires agencies that collect receipts for any disposition of the public land trust shall each fiscal quarter transfer to the office of Hawaiian affairs twenty per cent of each receipt from the disposition. Returns to the office of Hawaiian affairs certain moneys previously claimed as public land trust overpayments to the office. Establishes a public land trust revenues negotiating committee

**February 10, 2016**

**10:30 am**

**Room 325**

Aloha Kākou, my name is Lehua Itokazu and I am a beneficiary.

I strongly support this bill for the following reasons:

1. This bill would lift the "**interim**" \$15.1 million cap placed on the state's annual transfers of Public Land Trust revenues to OHA, allow OHA to expend approximately \$8 million in "overages" it has returned to the state holding account, and establish a negotiating committee to begin the long over-due discussion as to what amount would more appropriately reflect Native Hawaiians' fair annual share of the Public Land Trust.
2. In 2006, OHA and the state finally agreed on an **interim resolution**, by the passage of Act 178, which temporarily set OHA's annual share as \$15.1 million, "until further action is taken by the legislature." Now is the time to revisit.
3. Providing OHA with a fairer share of the Public Land Trust would benefit the Native Hawaiian community as well as the social, economic, environmental, and cultural welfare of our islands. Just this past year alone, OHA provided nearly \$11 million in grants for programs addressing our state's most critical issues, including housing and homelessness, education, environmental stewardship, food security, and healthcare. OHA also provided over \$1 million in loans for beneficiary needs ranging from home and auto repairs to legal fees and educational opportunities.

This bill will allow the Office of Hawaiian Affairs to continue to help our lāhui and better the lives of many in so many ways. This is long overdue and I hope that you will consider passing this bill.

Mahalo nui for your time,

Lehua Itokazu

1821 Ke'eaumoku St. Apt 104

Honolulu, HI 96822

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 9:38 AM  
**To:** omhtestimony  
**Cc:** meahilahila@kamakau.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ivy Kelling	KAI LOA, INC	Support	No

Comments: I live in He'eia, O'ahu. I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has greatly impacted my community through their grants program. I urge the committee to PASS this bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 7:39 AM  
**To:** omhtestimony  
**Cc:** wilsonwi@hawaii.edu  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. William H. Wilson	Individual	Support	No

Comments: I strongly support this bill. It removes a cap that prevents providing OHA its legal share of state income, including income from Hawai'i Island where I reside. In order for OHA to carry out its constitutional mandate it needs to receive its legal share of state income.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 12:37 AM  
**To:** omhtestimony  
**Cc:** kamakane73@yahoo.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bob Lindsey	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 12:36 AM  
**To:** omhtestimony  
**Cc:** kamakane73@gmail.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kama Hopkins	Individual	Support	No

Comments:

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# KO`OLAUPOKO HAWAIIAN CIVIC CLUB

February 8, 2016

To: Rep. Kaniela Ing, Chair  
& Members  
Committee on Ocean, Marine Resources, & Hawaiian Affairs

Rep. Ryan I. Yamane, Chair  
& Members  
Committee on Water & Land

From: Alice P. Hewett, President  
Ko'olaupoko Hawaiian Civic Club

Re: H.B. 1655 – Relating to Increasing the Payment Amount – OHA Prorata Share

## SUPPORT

Aloha, Chairs Ing and Yamane, and Members of the Committees:

The Ko'olaupoko Hawaiian Civic Club strongly supports House Bill 1655, which would provide a just and fair program to channel a pro-rata share of revenues from state agencies to the Office of Hawaiian Affairs, return to OHA other monies owed, and establish a public land trust revenues negotiating committee.

As a Native Hawaiian community organization, the Ko'olaupoko Hawaiian Civic Club is deeply concerned that these matters have taken so long to resolve. The State of Hawaii has an obligation to fulfill the mandate established when statehood was granted over a half-century ago to provide 20% of the revenues from the public land trust acquired by the U.S. and transferred to the State of Hawai'i.

In our view, this bill offers an opportunity for you to rectify the wrongs done, restore the honor and integrity of the State of Hawai'i with regard to its obligations to the Hawaiian people, and mitigate potential increased indebtedness of the State should it fail to fulfill its obligations concerning revenues from public trust lands.

We urge you to pass this bill – and we know you will feel good once you do so – because it is the just and honorable thing to do.

Mahalo for this opportunity to offer our mana`o.

*The Ko'olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko'olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart".*

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:21 PM  
**To:** omhtestimony  
**Cc:** elamafarms@gmail.com  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM

**HB1655**

Submitted on: 2/8/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick L. Kahawaiolaa	Keaukaha Community Association	Oppose	No

Comments: Aloha Chairs Ing and Yamane, I am Patrick L. Kahawaiolaa a native Hawaiian as defined and the president of the Keaukaha Community Association and our objection to this measure is OHA is requesting and/or the legislature is contemplating increasing the proceeds and income from ceded lands to the OHA and the reasoning behind that action is Act 178, Art. 12, sec 6 whereby the beneficiary class is to better the conditions of the native Hawaiians as defined. "as defined" clearly speaks to the native Hawaiians as defined in the HHCA sec 201(7) having 1/2 the blood of the races inhabiting these islands prior to 1778. Opposition and comment would be better if that proceeds and income were transferred to the DHHL whose SOLE PURPOSE IS TO WORK FOR THE BETTERMENT OF THE native Hawaiians as defined. So if the bill cannot be amended then we would stand in opposition to another state entity trying to better the conditions of the native Hawaiians as defined. Mahalo for allowing us to submit our mana'o. 'Owau Patrick L. Kahawaiolaa, president KCA

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# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committees on Ocean, Marine Resources & Hawaiian Affairs  
and

Water & Land

Wednesday, February 10, 2016 at 10:30 a.m.

By

Kalbert K. Young

Vice President for Budget and Finance/Chief Financial Officer  
University of Hawai'i System

### HB 1655 – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Chairs Ing, Yamane, Vice Chairs Lowen and Cullen, and members of the committees:

Thank you for the opportunity to testify. The educational mission of the University of Hawai'i (UH), as set forth in Board of Regents Policy, includes embracing, as the only provider of public higher education in Hawai'i, its unique responsibilities to the indigenous people of Hawai'i and to Hawai'i's indigenous language and culture. To fulfill this responsibility, UH ensures active support for the participation of Native Hawaiians at the university and support vigorous programs of study and support for the Hawaiian language, history, and culture. That said, the UH has serious concerns with HB 1665 in its current form, on the basis that this measure promotes foreseeable increased fiscal impacts to the university and its students and programs in particular, as well as taxpayers more generally.

This bill replaces the annual fixed amount of \$15.1 million currently paid to the Office of Hawaiian Affairs on an interim basis as its pro rata share of income and proceeds from the public land trust, with an unlimited obligation on state agencies to pay OHA twenty percent of all "receipts for the use, sale, lease, or other disposition of the public land trust" on a quarterly basis. UH is concerned that the term "receipts" is not clearly defined or appropriately limited by HB 1655 as currently drafted, and may be construed to include UH funds such as student tuition and fees that are currently, and properly, excluded from the computation of amounts due from UH toward OHA's pro rata share of the public land trust.

UH, as a public institution of higher education, serves one of the express purposes, and in fact the first-mentioned purpose of the Public Land Trust established by the Admission Act. Under current law, as interpreted and applied by the Office of the Attorney General, receipts from the University's educational programs and ancillary services are not subject to apportionment to OHA. Such receipts include student tuition and fees, services of educational departments, and student housing. The University also receives federal and other research grants and contracts, federal reimbursements

of UH research overhead expenses, philanthropic gifts, and other funding streams, in addition to the support provided by the Legislature.

Currently, in accordance with past discussions with the Office of the Attorney General, OHA has been determined to be entitled to a pro rata share of specific types of University revenues as described in Conference Committee Report No. 101 to S.B. No. 2948, which became Act 178, SLH 2006. Those revenue sources are: UH Mānoa and UH Hilo parking, faculty housing, non-student housing rentals, including food and vending machines, telephone commissions/collections, and UH Hilo Bookstore logo products, sundries but not books or school supply items. UH acknowledges and accepts its obligation to pay over OHA's allocated share of those items. However, given recent positions taken by OHA, the University is deeply concerned that the use of the undefined term "receipts" in HB 1665 could lead to claims that other types of University funds are also subject to OHA's pro rata share, leading to potentially complex and costly disputes and unforeseeable and unmanageable financial impacts to the university, students, and taxpayers relating to all State services.

Thank you for your time and consideration.

HOUSE OF REPRESENTATIVES  
THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

**LATE**

House Committees  
Ocean, Marine Resources & Hawaiian Affairs  
Water & Land

Wednesday, February 10, 10:30 a.m., Room 325

HB 1655 Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs  
Pro Rata Share of the Public Land Trust

Representative Kaniela Ing  
Chair, House, Ocean, Marine Resources and Hawaiian Affairs

Representative Ryan Yamane  
Chair, House, Water and Land Committee

Members of the House Committees

Aloha mai kākou,

Mahalo for the opportunity to testify in **strong support** of HB1655. It is clear that many people, including yourselves and those who have submitted testimony on this matter, recognize the enormous kūleana of the Office of Hawaiian Affairs (OHA) to administer and manage trust requirements to its beneficiaries. Your support of Native Hawaiians is greatly appreciated. I understand that the Legislature has many competing needs and that State revenues are not unlimited. I would hope that the Legislature recognizes that by lifting the \$15.1 million cap on the state's annual transfers to OHA of public land trust revenue, doesn't only benefit Native Hawaiians, but all of Hawai'i.

I have not directly benefitted from OHA's programs or services, however, indirectly we have all benefitted from OHA's work over the years. For those who may be critics of OHA, I understand that not everyone's expectations have been met. But I ask that we all think about where Hawai'i and its people would be if not for the foresight of those who worked so diligently on the 1978 Constitutional Amendments. Where would we be today without the benefits and programs afforded to Native Hawaiians through OHA's programs and services? For some it's not enough, for others they liked to see efforts in different areas. That is all well and good, but really, where would we (the entire State) be if not for the strong sense of social responsibility of those who crafted the Constitutional Amendments that were progressive in enabling the creation of OHA.

I know some may speak of what is owed to us as the Native peoples of Hawai'i, that too is well as good; I say that you and we have shared kūleana for Hawaii's people. OHA and the people it serves need this body to embrace its commitment and broader social responsibility for the betterment of Hawaii nei. This can be achieved through the



continued and increased support and commitment to Native Hawaiians. Therefore, the prudent and responsible action to address this is to lift the \$15.1 million cap on the state's annual transfers to OHA of public land trust revenue, and ensure OHA is positioned well to deliver on the visionary promise of the 1978 Constitutional Amendments. We ask that you aide OHA in delivering on that promise.

Mahalo nui loa for your love of Hawai'i and your Aloha for its people.

Warmest Regards,

Keali'i S. López  
Nānākuli Resident

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 11:36 PM  
**To:** omhtestimony  
**Cc:** kealii8@hotmail.com  
**Subject:** \*Submitted testimony for HB1655 on Feb 10, 2016 10:30AM\*

**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kealii Makekau	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**LATE**

## KAMEHAMEHA SCHOOLS

House Committees on  
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS, and  
WATER & LAND

Time: 10:30 a.m.

Date: February 10, 2016

Where: State Capitol Room 325

### TESTIMONY

By Ka'ano'i Walk  
Kamehameha Schools

To: Chairs Ing and Yamane, Vice Chairs Lowen and Cullen and Members of the Committees

RE: **HB 1655** RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

E ka Luna Ho'omalua Ing, ka Luna Ho'omalua Yamane, ka Hope Luna Ho'omalua Lowen, ka Hope Luna Ho'omalua Cullen a me nā Lālā o nā Kōmike, aloha! My name is Ka'ano'i Walk and I serve as the Senior Policy Analyst of the Community Education Division of Kamehameha Schools.

House Bill 1655 relating to increasing the payment amount for the Office of Hawaiian Affairs' pro rata share of the public land trust requires agencies that collect receipts for any disposition of the public land trust shall each fiscal quarter transfer to the office of Hawaiian affairs twenty per cent of each receipt from the disposition. This measure returns to the Office of Hawaiian Affairs certain moneys previously claimed as public land trust overpayments to the office and establishes a public land trust revenues negotiating committee. We are writing in support of HB 1655.

We believe that this measure is an important step in the right direction in increasing the ability of the Office of Hawaiian Affairs to serve the intergenerational needs of the Native Hawaiian population. We strongly believe that the Office of Hawaiian Affairs should receive full and fair funding from the public land trust. Consistent with our strategic plan for 2015-2020, we view the Office of Hawaiian Affairs as a valuable partner in serving Native Hawaiians and all of our community.

Founded in 1887, Kamehameha Schools is a statewide educational system supported by a trust endowed by Princess Bernice Pauahi Bishop, whose mission is to improve the capability and well-being of Native Hawaiian learners. We believe that by continuing to engage in dialog around public land trust policies and proposals, we can contribute in a positive and meaningful way. Please advance this measure. Mahalo nui.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 10:51 PM  
**To:** omhtestimony  
**Cc:** keiki@hawaii.edu  
**Subject:** Submitted testimony for HB1655 on Feb 10, 2016 10:30AM



**HB1655**

Submitted on: 2/9/2016

Testimony for OMH/WAL on Feb 10, 2016 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Keiki Kawaiaaea	Individual	Support	No

Comments: I live in Keaukaha, Hawai'i. I strongly SUPPORT HB1655 which is the first major step taken in the last 10 years to ensure that Hawaiians receive a fair annual share of Public Land Trust revenues. The bill lifts the temporary \$15.1 million cap on the state's annual transfers to OHA and reclaims approximately \$8 million in overages that OHA has returned to the state. Public Land Trust revenue provides OHA with funding to support programs and services, including Hawaiian charter schools, health, housing, and cultural based initiatives. OHA has greatly impacted my community through their grants program. I urge the committee to PASS this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**LATE**

BEFORE THE HOUSE COMMITTEES ON OCEAN,  
MARINE RESOURCES & HAWAIIAN AFFAIRS AND WATER & LAND

February 10, 2016

House Bill No. 1655  
Relating to Increasing Payment for OHA Share of the Public Land Trust

Aloha Chairs Ing and Yamane, Vice Chairs Lowen and Cullen, and Committee Members:

The Ka Lāhui Hawai'i Political Action Committee (KPAC) affirms and defends our Hawaiian peoples' right to over 1.8 million acres of our national lands.

The KPAC submits the following comments on this bill. KPAC supports the removal of the annual and quarterly maximum amounts that Act 178, Session Laws of Hawaii 2006 imposed on payments of income and proceeds from the public land trust, but wants to ensure that those funds are being used in line with its purpose, thus OHA should be required to provide reporting on how these monies are used as explained below.

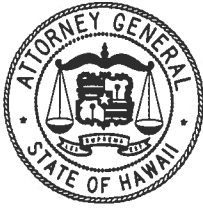
Professor Williamson Chang of the UH Law School has detailed his analysis that the Joint Resolution was incapable of acquiring Hawaii at [http://blog.hawaii.edu/aplpj/files/2015/09/APLPJ\\_16\\_2\\_Chang.pdf](http://blog.hawaii.edu/aplpj/files/2015/09/APLPJ_16_2_Chang.pdf). Despite this analysis, the former Crown and government lands of the Kingdom of Hawaii were illegally transferred to the US and as a condition of Statehood was transferred to the State of Hawaii to be held as a public trust for 5 purposes including the betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920. The Admissions Act further states that any other object besides the 5 purposes shall constitute a breach of trust for which suit may be brought by the United States.

The Article XII Constitutional provisions cited in this bill only further establish that the lands are held as a public trust for native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920 and should be used solely for that purpose. OHA should be required to provide reporting on how these monies are used and how many native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920 are serviced with these funds. An audit should be required of all public trust revenues including the monies transferred to OHA since 2006.

KPAC opposes Section 4 of the bill that would establish a public land trust revenues negotiating committee. Any public land trust revenues discussion must start first with the beneficiaries who are intended to be served by these resources, namely native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920. The proposed committee is only comprised of representatives of the State of Hawaii with the House and Senate, Governor, and OHA as a state agency. There is no representation of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920.

Respectfully Submitted,

Healani Sonoda-Pale  
KPAC Chair



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2016**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1655, RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

**BEFORE THE:**

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS  
AND ON WATER AND LAND

**DATE:** Wednesday, February 10, 2016 **TIME:** 10:30 a.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Charleen M. Aina, Deputy Attorney General

**LATE**

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Chair Ing and Members of the Committee:

This bill proposes to: (1) increase the Office of Hawaiian Affairs (OHA)'s share of the receipts from the use of public land trust lands; (2) replace the fixed sum approach for establishing OHA's annual share of the income and proceeds from the public land trust lands with quarterly payments of 20 per cent of each receipt state agencies collect for the use of those lands, until the Legislature takes further action; and (3) establish a negotiating committee consisting of the President of the Senate, the Speaker of the House, the Governor, and the Chairperson of OHA's Board of Trustees, or their designees. The committee would prepare and submit to the Legislature findings and recommendations, including proposed legislation, if appropriate, about what OHA's share of the receipts from the public land trust lands ought to be after Fiscal Year 2018.

We agree the Legislature may exercise its authority to reconsider the \$15.1 million share of income and proceeds from the use of the lands of the public land trust OHA presently receives.

OHA's share of those receipts has been fixed by Act 178, SLH 2006, at \$15.1 million for the past ten fiscal years. A copy of Act 178 is attached as Attachment "A." The provisions of Act 178, including the sums included in Conference Committee Report No. 101 from which the \$15.1 million annual share was derived, were developed jointly by OHA and the Governor. Conference Committee Report No. 101 on S.B. 2948 is attached as Attachment "B." During that same ten year period, the receipts set aside by state agencies pursuant to the procedures in

Executive Order No. 06-06 varied from a deficit of more than \$4.5 million (made up by general funds) in Fiscal Year 2009-2010, to surpluses of more than \$2.2 million in Fiscal Year 2013-2014, and \$3.7 million in Fiscal Year 2014-2015. Copies of Executive Order Nos. 06-06 and 03-03 to which the former refers, and the Department of Budget and Finance's B&F Summary of Payments to OHA Pursuant to Act 178, SLH 2006 and Executive Order No. 06-06 are attached as Attachments "C," "D," and "E," respectively. Except for the first two quarters of Fiscal Year 2013, the trend in the last three fiscal years has been that the 20 per cent of the total receipts collected by state agencies for the use of public land trust lands has exceeded Act 178's \$15.1 million fixed-sum share.

It is the Legislature's prerogative to reexamine Act 178's \$15.1 million annual share, if for noother reason than passage of time.

We first observe, however, that abandoning the fixed-sum approach and relying on the provisions included in paragraph (1) of Section 2 of the bill at page 11, lines 1-6, to quantify OHA's share of the income and proceeds from the use of public land trust lands, could ultimately result in the same sort of litigation the initial statutes the Legislature enacted to implement Article XII, Section 6 of the State Constitution spawned in 1983 (OHA v. Yamasaki, 69 Haw. 154 (1987)), and 1993 (OHA v. State (OHA I), 96 Hawaii 388 (2001)).

Efforts should be made to avoid an additional 30+ years of litigation about whether a portion of Department of Transportation, Harbors division, gross receipts generated by tariff rates designed to raise funds to repay the principle and pay debt service charges for bonds proceeds used to develop or improve public land trust lands is or is not subject to transfer to OHA. We understand that the Harbor tariff rates for wharfage and for pipeline use were raised substantially in 2010, to generate money to repay principal and pay debt service for bond proceeds used to improve Harbors facilities. We further understand that the total amount needed for that purpose in 2016 is nearly equal to half the gross receipts Harbors collected in 2015. A copy of Attachment 1, (B&F) OHA Payments, FY 2015 OHA Payments, and Attachment 2, Summary of Receipts from DLNR's Annual Act 178 Report to the Legislature for FY 2015 are attached as Attachments "F" and "G." In this regard, if the Legislature were to conclude that all of the rates Harbors charges and collects are to be treated as "receipts derived from the use, sale, lease, or other disposition of the public land trust," S.B. No. 2124 should plainly say so.

Similarly, if the Legislature abandons the fixed sum approach, efforts should be made to make clear that receipts akin to rent or proceeds from the sale of an interest in public land trust lands are “receipts derived from the use, sale, lease, or other disposition of the public land trust,” but, the state’s position has consistently been, receipts collected for services state agencies render on ceded lands, including patient services at state hospitals, and educational services at the University of Hawai‘i, its community colleges, or the public schools, are not. If the Legislature disagrees with what the State’s position has been, the provisions of this bill need to identify and except the latter kinds of receipts from the requirement to transfer 20 per cent of what is collected to OHA in plain language.

Second, because federal law precludes the payment Airport revenues to OHA, OHA I, 96 Hawaii at 396, an express exception in Section 2, paragraph (1) for “receipts derived from the use, sale, lease, or other disposition of the public land trust” that constitute “airport revenues” under the Department of Transportation and Related Agencies Appropriations Act, 1998, Pub. L. 105-66, the Airport and Airway Improvement Act of 1982, Pub. L. 97-248, as amended, or the Federal Aviation Administration Authorization Act of 1994, Pub. L. 103-305.

Third, paragraph (2) of Section 2 of the bill should be deleted. A receipt could be assessed for whether it was subject to the transfer requirement in paragraph (1) of Section 2, and B&F could be required to transfer 20 per cent of that receipt to OHA even after the close of the fiscal quarter in which the receipt was collected. However, there is no way of “discovering that the total amount of receipts transferred to OHA for any fiscal quarter fell short of the amount required by this Act” without knowing what the required amount specifying what “the amount required by this Act” is. We recommend that this paragraph as written should be deleted.

Finally, we recommend that the Legislature clarify that **gross** “receipts” derived from the use, sale, lease, or other disposition of the public land trust” should not serve as the base for calculating OHA’s share of income and proceeds from the public land trust lands, especially if a single receipt includes reimbursements for utilities, maintenance or membership fees or other expenses.

Thank you for the opportunity to testify.



ACT 178

ACT 178

S.B. NO. 2948

A Bill for an Act Relating to the Public Land Trust.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In *Trustees of the Office of Hawaiian Affairs v. Yamasaki*, 69 Haw. 154, 737 P.2d 446 (1987), the Hawaii supreme court concluded that the issue of what constitutes the office of Hawaiian affairs' pro rata portion of all the revenues derived from the public land trust pursuant to article XII, section 6 of the Hawaii Constitution, is a political question for the legislature to determine. In *Yamasaki*, the office of Hawaiian affairs sought a pro rata portion of revenues arising out of the illegal mining of sand on Molokai and sales, leases, and other disposition of lands surrounding state harbors, and lands on Sand Island, the Honolulu International Airport, and the Aloha Tower complex. The supreme court declined to rule upon the substance of the case because it presented issues "of a peculiarly political nature and therefore not meet for judicial determination." *Id.*, at 175, 737 P.2d at 459.

In response to the *Yamasaki* decision, the legislature enacted Act 304, Session Laws of Hawaii 1990 (Act 304), to clarify the extent and scope of the State's constitutional obligation to provide a portion of the revenues derived from the public land trust to the office of Hawaiian affairs.

On September 12, 2001, the Hawaii supreme court ruled in *Office of Hawaiian Affairs v. State of Hawai'i*, 96 Haw. 388, 31 P.3d 901 (2001), that Act 304 was effectively repealed by its own terms, so that once again, it was necessary for the legislature to specify what portion of which receipts, from which lands the office of Hawaiian affairs was to receive a portion of the revenues under the state constitution. In its decision, the supreme court affirmed *Yamasaki*, observing:

[T]he State's obligation to native Hawaiians is firmly established in our constitution. How the State satisfies that constitutional obligation requires policy decisions that are primarily within the authority and expertise of the legislative branch. As such, it is incumbent upon the legislature to enact legislation that gives effect to the right of native Hawaiians to benefit from the ceded lands trust. *See* Haw. Const. art. XVI, §7. Although this court cannot and will not judicially legislate a means to give effect to the constitutional rights of native Hawaiians, we will not hesitate to declare unconstitutional those enactments that do not comport with the mandates of the constitution. At this juncture, we believe it fitting to quote then-state Senator Neil Abercrombie's prophetic statement to the legislature at the time HRS §10-13.5 was first enacted:

I fear that for those who are interested in seeing [OHA] move forward that they have won a Pyrrhic victory, that this is merely a skirmish in a very large battle.

[A]lthough I would be delighted to say otherwise, I regret to say that I expect that the moment this passes into statute, there will be a suit and that the business of the Office of Hawaiian Affairs is, as a result, going to be tied up in court for God-knows how many years.

Now, more than twenty years later, as we continue to struggle with giving effect to that enactment, we trust that the legislature will re-examine the State's constitutional obligation to native Hawaiians and the purpose of HRS §10-13.5 and enact legislation that most effectively and responsibly meets those obligations. (*Office of Hawaiian Affairs v. State of Hawai'i*, 96 Haw. at 401, 31 P.3d at 914 (citations omitted; emphasis in original)).

The legislature acknowledges that the State's obligation to native Hawaiians is firmly established in the state constitution. (See Haw. Const. art. XII.) While many

complex issues require the legislature's further attention and consideration in the wake of the repeal of Act 304, the legislature finds, in furtherance of the decision in *Yamasaki*, that immediate action should be taken to clearly designate the pro rata share of revenues derived from the public land trust that the office of Hawaiian affairs is to receive annually.

The legislature also finds that information pertaining to revenue generated by the public land trust should be consolidated within a single state department or agency. In prior years, it has been difficult to account for revenues generated by the public land trust because basic revenue-generating data was and is dispersed among multiple state agencies. A single state department should be responsible for compiling and providing an accounting of such information.

Accordingly, the specific purposes of this Act are to:

- (1) Provide interim measures to ensure that an adequate amount of income and proceeds is made available to the office of Hawaiian affairs from the pro rata portion of the public land trust, for the betterment of the conditions of native Hawaiians; and
- (2) Identify revenue-generating public trust lands and the amounts derived from those lands by requiring that the department of land and natural resources provide an annual accounting to the legislature.

**SECTION 2.** Notwithstanding the provisions of chapter 10, Hawaii Revised Statutes, including section 10-13.5, Hawaii Revised Statutes, and until further action is taken by the legislature for this purpose, the income and proceeds from the pro rata portion of the public land trust under article XII, section 6, of the state constitution for expenditure by the office of Hawaiian affairs for the betterment of the conditions of native Hawaiians for each fiscal year beginning with fiscal year 2005-2006 shall be \$15,100,000.

**SECTION 3.** Notwithstanding the provisions of chapter 10, Hawaii Revised Statutes, or the requirements of Executive Order No. 03-03, beginning in fiscal year 2005-2006, the departments of agriculture, accounting and general services, business, economic development, and tourism, education, land and natural resources, and transportation (for its harbors division), and any other department or agency that collects receipts from the lands within the public land trust, shall determine and transfer to the office of Hawaiian affairs that portion of their receipts from the use of lands within the public land trust collected during each fiscal quarter, necessary to ensure that a total of \$3,775,000 of revenues generated by the public land trust is transferred to the office of Hawaiian affairs, within thirty days of the close of each fiscal quarter; provided that for fiscal year 2005-2006, the departments shall have until thirty days after the close of the fiscal year to transfer a total of \$15,100,000 from their receipts from the use of lands within the public land trust collected during fiscal year 2005-2006, to the office of Hawaiian affairs whether by the procedures set out in Executive Order No. 03-03 or this Act.

The governor is expressly authorized to fix the amounts each agency shall transfer to the office of Hawaiian affairs in each quarter by executive order to implement the provisions of this section.

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$17,500,000 or so much thereof as may be necessary for fiscal year 2005-2006 to pay to the office of Hawaiian affairs amounts received from the use of lands in the public land trust that the legislature has determined were underpaid between July 1, 2001, through June 30, 2005. The sum appropriated shall be expended by the department of budget and finance.

ACT 179

SECTION 5. Not later than January 1 of each year, the department of land and natural resources, with the cooperation of the department of budget and finance and any other state department or agency that uses or manages public lands, shall provide an accounting of all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year. With respect to each receipt, the department of land and natural resources shall identify:

- (1) The total gross amount;
- (2) The amount transferred to the office of Hawaiian affairs;
- (3) The amount retained by the State;
- (4) The account or fund in which the amount specified in paragraph (3) was transferred or deposited;
- (5) The parcel of land subject to section 5(f) of the Admission Act that generated the receipt, whether by tax map key number, department of land and natural resources inventory number, or other recognizable description; and
- (6) The state department or agency that received the total gross amount identified in paragraph (1).

The accounting shall also indicate whether any parcel of land described in section 5(f) of the Admission Act was sold or exchanged in the prior fiscal year and, if so, the amount of consideration that the State received for the respective parcels.

The office of Hawaiian affairs shall be consulted by the department of land and natural resources in determining the method in which the accounting shall be conducted.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2006-2007 to carry out the purpose of section 5.

The sum appropriated shall be expended by the department of land and natural resources. Should any additional funds be necessary to carry out the purpose of section 5 after the department of land and natural resources has expended the \$250,000 appropriated out of the general revenues of the State of Hawaii, the office of Hawaiian affairs shall provide the additional funds up to \$250,000.

SECTION 7. Nothing in this Act shall resolve or settle, or be deemed to acknowledge the existence of, the claims of native Hawaiians to the income and proceeds of a pro rata portion of the public land trust under article XII, section 6, of the state constitution.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 7, 2006.)

ACT 179

S.B. NO. 2958

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. Act 196, Session Laws of Hawaii 2005 (Act 196), was passed by the legislature to address Hawaii's affordable housing and homeless crisis. Act 196 provided a number of mechanisms and incentives to increase the supply of low-

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Senators Kanno, Taniguchi, Espero.  
Managers on the part of the Senate.  
Ayes, 2. Noes, none. Excused, 1 (Espero).

Representatives Caldwell, Nakasone, Meyer.  
Managers on the part of the House.  
Ayes, 3. Noes, none. Excused, none.

## Conf. Com. Rep. No. 101 on S.B. No. 2948

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	\$ 665,687	\$471,650	Unverified

Non-Patient Room Rentals			
Telephone & Telegraph Revenue			
Restricted and Non-Restricted Contributions			
Employee Housing Rent Revenue			
Clinical Rent Revenue			
Other Space Rental			
University of Hawaii	\$1,293,852	\$1,182,121	Unverified
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			
HCDCH Housing	\$80,626	\$40,091	\$32,625
Public School Faculty Housing Rentals			
Public Rental Housing Laundromat/Vending Machine Receipts			
Public Rental Housing Antennae Rental Receipts			
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	<u>2002-2003</u>	<u>2004</u>	<u>2005</u>
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 Terminal Revenue	<u>\$18,241,417</u>	<u>\$9,655,042</u>	<u>\$10,159,033</u>
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; and
- (3) Change the effective date to upon approval.

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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.

Signed by the Chairs on behalf of the Committee.

Senators Hanabusa, Taniguchi, Whalen.  
Managers on the part of the Senate.  
Ayes, 2. Noes, none. Excused, 1 (Taniguchi)

Representatives Saiiki, Takamine, Carroll, Chong, Finnegan.  
Managers on the part of the House.  
Ayes, 4. Noes, none. Excused, 1 (Carroll).

Conf. Com. Rep. No. 102 on S.B. No. 3119

The purpose of this measure is to allow the Hawaiian Homes Commission to deposit moneys in depositories other than the state treasury.

This measure provides the Hawaiian Homes Commission with the necessary flexibility and authority to manage, invest, and reinvest funds to earn a higher return in the Hawaiian home lands trust fund. This measure is consistent with the intent of Act 302, Session Laws of Hawaii 2001, and is also a step in moving towards greater autonomy for the Hawaiian Homes Commission.

Your Committee on Conference has amended this measure to reinsert language specifying that the moneys from the trust that are deposited into depositories other than the state treasury are exempt from the requirements of chapters 36 and 38. Your Committee on Conference also amended this measure to make it effective 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. 3119, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3119, S.D. 2, H.D. 1, C.D. 1.

Signed by the Chairs on behalf of the Committee.

Senators Hanabusa, Taniguchi, Whalen.  
Managers on the part of the Senate.  
Ayes, 2. Noes, none. Excused, 1 (Taniguchi).

Representatives Saiiki, Kahikina, Carroll, Finnegan.  
Managers on the part of the House.  
Ayes, 4. Noes, none. Excused, none.

Conf. Com. Rep. No. 103 on S.B. No. 895

The purpose of this measure is to preserve and sustain the limu supply by:

- (1) Establishing a limu management area for the shoreline in Ewa Beach, Oahu; and
- (2) Creating an advisory group to assist the Department of Land and Natural Resources in determining best practices for conservation and restoration of the limu management area.

Your Committee on Conference finds that limu grown in its natural habitat serves as the foundation for healthy Hawaiian reef systems, and in recent years, the Ewa Beach community has seen its natural supply of limu rapidly diminishing. This measure will allow a portion of the Ewa Beach coastline to preserve and sustain its limu supply.

Your Conference on Conference has amended this measure by:

- (1) Providing that limu picking will not be allowed starting on the effective date of this measure and no sooner than January 1, 2007;
- (2) Delaying the start of limu picking from July 1, 2007 to no sooner than January 1, 2010;
- (3) Providing that the hand-picking of limu in the limu management area will be allowed during the months of July, November, and December rather than December, January, and June;
- (4) Deleting the provision that establishes an advisory group to assist the department of land and natural resources;
- (5) Requiring the Department of Land and Natural Resources to adopt rules necessary for the purposes of the new provisions;
- (6) Providing an exception to the new provisions for any person exercising native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the Department of Land and Natural Resources pursuant to Article XII, Section 7 of the Hawaii State Constitution;

HLT

ATTACHMENT "C"

EXECUTIVE ORDER NO. 06 - 06

WHEREAS, Section 3 of Act 178, 2006 Session Laws of Hawaii, requires each agency of the State that "collects receipts from the lands within the public land trust" to determine and transfer a portion of those receipts as necessary to ensure that a total of \$3,775,000 is transferred to the Office of Hawaiian Affairs ("OHA") thirty days after the close of each fiscal quarter;

WHEREAS, Section 3 of Act 178 expressly authorizes the Governor to fix the exact amount each agency is to transfer to OHA on a quarterly basis, without regard for the provisions of chapter 10, Hawaii Revised Statutes, or the requirements of Executive Order No. 03-03;

WHEREAS, pending the Legislature's policy determinations regarding how best to give long-term "effect to the right of native Hawaiians to benefit from the ceded lands trust," OHA v. State, 96 Haw. 388, 401 (2001), it continues to be appropriate to rely upon the rationale and the procedures set out in Executive Order No. 03-03, for determining which receipts from the use of public land trust lands are to be transferred to the OHA on a quarterly basis, to satisfy the requirements of Section 3 of Act 178;

WHEREAS, because receipts for the use of lands are received in different amounts at varying intervals and frequency over the

course of a fiscal quarter or a fiscal year, the procedures set out in Executive Order No. 03-03 for segregating and transferring receipts for the use of public land trust lands to OHA need to be modified if the requirements of Section 3 of Act 178 are to be satisfied; and

WHEREAS, for purposes of this executive order, "public land trust land" is land assigned "Trust Land Status," or "5(b)," "5(e)" or "Pub. L. 88-233" status on the Department of Land and Natural Resources' State Land Inventory Listing, or described in the agency's records as land acquired by the State through Section 5(b) or 5(e) of the Admission Act or Pub. L. 88-233, or in exchange for such a parcel;

NOW, THEREFORE, I, Linda Lingle, Governor of Hawaii, pursuant to the authority conferred upon me by Section 3 of Act 178, 2006 Session Laws of Hawaii, direct that the following accounts be established, and the following determinations and procedures made and implemented, so that the requirements of Section 3 of Act 178 may be satisfied at the close of each fiscal quarter.

1. All departments and agencies that collect receipts for the use of ceded or public land trust land shall:

a. Establish trust holding accounts to accumulate OHA's portion of each receipt that would otherwise be deposited into the general fund or a special fund, and to accumulate the



remainder of each receipt that would otherwise be deposited into the general fund for the rest of the fiscal year ("GFRTHA");

b. Determine if:

- (1) Any federal or state law precludes any portion of the receipt from being used to better the conditions of native Hawaiians; or
- (2) The transfer of any portion of the receipt will cause the department or agency to renege on any pre-existing pledge, rate covenant, or other pre-existing obligation to holders of revenue bonds or other indebtedness of the State, department, or agency;

c. If use of a receipt is not limited by the provisions of paragraph 1.b.(1) or 1.b.(2) above,

- (1) Determine OHA's share of the receipt by calculating the ceded/non-ceded fraction for the parcel that generated the receipt by area (square feet or acres), multiplying the receipt by the ceded/non-ceded fraction, and multiplying that result by 20% or any alternative percentage the Governor specifies,
- (2) Deposit the resulting amount into the appropriate trust holding account established pursuant to paragraph 1.a above to accumulate OHA's portion, and
- (3) Deposit the remaining portion of the receipt into the GFRTHA if it would otherwise be deposited into the

general fund; otherwise, deposit the remaining portion of the receipt into the appropriate special fund, using separate Treasury Deposit Receipt slips (State Accounting Form B-13) for each trust holding account into which receipts are deposited.

d. If use of a receipt is limited by paragraph 1.b.(1) or 1.b.(2) above, report the receipt as a gross receipt on the electronic spreadsheet developed by the Department of Land and Natural Resources' to effect the reporting requirements of Act 178, and deposit the entire amount to the credit of the general fund or special fund as appropriate.

e. Within ten calendar days of the close of each fiscal quarter,

- (1) Complete, and email and deliver a copy of the "Transmittal Re: Quarterly Transfer of Public Land Trust Receipts to OHA," attached here as Attachment "A," to the Department of Budget and Finance, Attn: Administrator, Budget, Program Planning and Management Division, to inform the same of the receipts collected, deposited in each of its trust holding accounts, and transferred to OHA; and
- (2) Unless the Governor directs otherwise, transfer all receipts deposited in its general and special fund trust holding accounts, other than its GFRTHAs, to OHA

by journal voucher using the accounting information and processes described in paragraph 4 below, and transmit a copy of each journal voucher used to transfer the receipts, to OHA, and to the Department of Budget and Finance with the Transmittal prepared pursuant to paragraph 1.e.(1) above.

2. No later than 12 calendar days after the close of each fiscal quarter, the Director of Finance or the Director's designee, shall

a. Compute the total amount of receipts from the use of ceded lands or lands in the public land trust deposited into the trust holding accounts during the immediately prior fiscal quarter, the total amount of receipts transferred to OHA for the immediately prior fiscal quarter, the total amount on deposit in the GFRTHA of all agencies, and the difference, if any, between the total amount of receipts transferred to OHA and \$3,775,000;

b. If the total amount of receipts transferred to OHA exceeds the \$3,775,000, notify OHA and request that OHA deposit the overpayment by journal voucher into the carry-forward trust holding account the Director establishes for that purpose, using the accounting information and processes described in paragraph 4 below;

c. If the total amount of receipts transferred to OHA is less than \$3,775,000, and unless the Governor fixes different amounts for some or all agencies, make up

(1) The shortfall by transferring up to the entire amount on deposit in the carry-forward trust holding account to OHA, by journal voucher using the accounting information and processes described in paragraph 4 below; and

(2) Any remaining difference by establishing the additional amount of receipts each agency must transfer to OHA from its GFRTHAs and special funds, to satisfy the requirements of Section 3 of Act 178 for the immediately prior fiscal quarter, and

notify each agency by email what amounts of receipts specified by the Governor or established by the Director, if any, it must transfer to OHA, from its trust holding accounts, its GFRTHA, or its special funds, to satisfy the requirements of Section 3 of Act 178.

3. No later than 15 calendar days after the close of each fiscal quarter, each department or agency shall,

(a) If notified by the Director of Finance that additional receipts must be transferred to OHA from its special funds, reverse earlier deposits of receipts into its special funds in

the amounts specified by the Director, and deposit the same into the appropriate special fund trust holding account, and

(b) Transfer all amounts specified for transfer from its GFRTHAS and its trust holding accounts, to OHA, by journal voucher using the accounting information and processes described in paragraph 4 below.

4. Accounting Information and Process.

a. Use Account No. T-YY-901-Z1; transaction codes 805 for OHA and 804 for the department or agency;

b. Include the following note under the "Explanation" section of the journal voucher: "to record transfer of funds derived from the public land trust to OHA, pursuant to Executive Order 06-06, and Act 178, 2006 Session Laws of Hawaii."

5. Immediately after all transfers to OHA for the fourth fiscal quarter are made, each department or agency shall deposit any balance remaining in any trust holding account to the credit of the general fund or the special fund into which the receipt would have been deposited if it had not been deposited into the trust holding account. The Director of Finance or the Director's designee shall transfer any balance remaining in the carry-forward trust holding account to each department or agency that transferred additional receipts to OHA in the prior fiscal year pursuant to paragraphs 2.c.(3), in amounts proportionate to

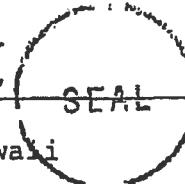
each department's or agency's total contributions to avoid any shortfall in the prior fiscal year.

Each department or agency shall also maintain a separate file for each fiscal year, of all Treasury Deposit Receipts (State Accounting Form B-13) and all journal vouchers it used to deposit receipts for the use of public land trust land to the separate trust holding accounts established under paragraph 1, and to transfer OHA's portion of the same to OHA.

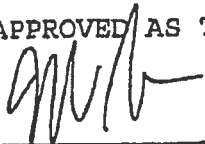
DONE at the State Capitol, Honolulu,  
State of Hawaii, this 20th  
day of September, 2006.



LINDA LINGLE  
Governor of Hawaii



APPROVED AS TO FORM:



Mark J. Bennett  
Attorney General

TRANSMITTAL TO MAKE QUARTERLY TRANSFER OF PUBLIC LAND TRUST RECEIPTS TO OHA

Date: \_\_\_\_\_  
(By Email and Messenger)

TO: Mr. Neal Miyahira  
Administrator, Budget, Program Planning and Management Division  
Department of Budget and Finance

FROM: \_\_\_\_\_

Department/Agency Name \_\_\_\_\_

SUBJECT: Ceded Land/Public Land Trust Receipts for Quarterly Transfer to Office of Hawaiian  
Fiscal Year \_\_\_\_\_, Fiscal Quarter's \_\_\_\_\_ Total Amounts  
80%GFTHA/20% Holding Account Ceded/Public Land Trust Total Holding Account Deposits Transferred to OHA  
Name/NO. \_\_\_\_\_

_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

If there are questions, please call or email \_\_\_\_\_  
at. Ext. \_\_\_\_\_; Email \_\_\_\_\_.

NOTE: Due no later than 10<sup>th</sup> Calendar Day after the end of each fiscal quarter.  
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EXECUTIVE ORDER NO. 03-03

WHEREAS, even though the Hawaii Supreme Court declared that "[i]n the absence of the substantive definition of 'revenue' provided in the now invalid Act 304, [it] is again left with no judicially manageable standards by which to discern what specific funds OHA is entitled to received under chapter 10," and that "cannot and will not judicially legislate a means to give effect to the constitutional rights of native Hawaiians," OHA v. State of Hawaii, 96 Haw. 388, 401 (2001), Article XII, Section 4 of the State Constitution still provides that

The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public;

Article XII, Section 6 of the State Constitution still specifies that

The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians;

Haw. Rev. Stat. § 10-13.5 continues to direct that

Twenty per cent of all funds derived from the public land trust, described in section 10-3, shall be

expended by [OHA], as defined in section 10-2, for the purposes of this chapter;

and, nothing in OHA v. State presently requires or precludes agencies from determining on a case-by-case basis whether a particular receipt for the use of land was "derived from the public land trust," and transferring twenty per cent of such receipts to the Office of Hawaiian Affairs ("OHA") to use to better the conditions of native Hawaiians;

WHEREAS, even prior to the enactment of Act 304, Haw. Sess. Laws 947 (1990), the Department of Land and Natural Resources regularly determined under Haw. Rev. Stat. § 10-13.5 as enacted by Act 273, Session Laws of Hawaii (1980), whether receipts from its leases, licenses and permits for the use of improved and unimproved lands were "derived from the public land trust" and transferred twenty per cent of such receipts to OHA;

WHEREAS, the Legislature recognized this practice in enacting Act 304 and required that "any moneys . . . received by the office from the department of land and natural resources, or any other agency, pursuant to sections 10-2 and 10-13.5 during the period of June 16, 1980 through June 30, 1991," be set off against any amount owed for the 1980-1991 period by that act, see, Section 8 of Act 304, Haw. Sess. Laws 951 (1990);

WHEREAS, pursuant to Article V, Section 5 of the State Constitution, the "governor shall be responsible for the

faithful execution of the laws," and pursuant to Article V, Section 6 of the State Constitution, "[e]ach principal department [of the state government] shall be under the supervision of the governor;"

WHEREAS, the Supreme Court expressly declared that "we would do a disservice to all parties involved if we did not acknowledge that the State's obligation to native Hawaiians is firmly established in our constitution," OHA v. State, 96 Haw. at 401;

WHEREAS, pending the Legislature's policy determinations regarding how best to give long-term "effect to the right of native Hawaiians to benefit from the ceded lands trust," id., there is no good reason not to resume the practice the Department of Land and Natural Resources followed prior to the enactment of Act 304 of providing twenty per cent of receipts derived from the public land trust from its general leases, revocable permits, sale of wood, etc., licenses for use of land, sale of land, docking and parking fees, park concessions, and other rentals, to OHA; and

WHEREAS, there is likewise no good reason for other state agencies not to also resume the practice of the Department of Land and Natural Resources and again provide twenty per cent of funds derived from public land trust land to OHA;

NOW, THEREFORE, I, Linda Lingle, Governor of Hawaii, pursuant to the provisions of the State Constitution that confer me the power and responsibility to execute the State's laws, do hereby direct that all departments establish the following accounts and procedures, make the following determinations, and accumulate and transfer on a quarterly basis, twenty per cent of all receipts they derive from the public land trust, to OHA.

Effective as of the fiscal quarter ending December 31, 2002, all departments shall

1. Establish a ceded lands proceeds trust holding account for the general fund, and for all of the special funds into which receipts from the department's programs are deposited, to accumulate OHA's share of the department's public land trust receipts on a quarterly basis.

2. Determine whether a particular receipt is for the use of an improved or unimproved parcel of ceded land or land that consists in whole or in part of public land trust land.. For purposes of this paragraph, "public land trust land" is land assigned "Trust Land Status" "5(b)," "5(e)" or "Pub. L. 88-233" on the Department of Land and Natural Resources' State Land Inventory Listing, or described in the agency's records as land acquired by the State through Section 5(b) or 5(e) of the Admission Act or Pub. L. 88-233, or in exchange for such a parcel.

3. If a receipt is for the use of a parcel of ceded land, determine whether any federal or state law precludes any portion of the receipt from being used to better the conditions of native Hawaiians. If no such limitation applies, establish the ceded/non-ceded fraction for the parcel by area (square feet or acres).

4. Calculate OHA's portion of the receipt by multiplying the actual receipt by the ceded/non-ceded fraction, and multiplying the result by 20%.

5. Determine whether transfer of OHA's portion of the receipt to OHA will cause the department to renege on any pre-existing pledge, rate covenant, or other pre-existing obligation to holders of revenue bonds or other indebtedness of the State or department, and if no such breach or failure will occur, deposit OHA's portion of each receipt into the ceded lands proceeds trust holding account for the general fund, or the special fund into which the receipt would otherwise be deposited, using separate Treasury Deposit Receipt slips (State Accounting Form B-13) for each fund into which deposits are made.

6. Use the following procedures to transfer all moneys accumulated in each of the department's ceded lands proceeds trust holding accounts to OHA.

a. Within ten calendar days of the close of each fiscal quarter, transfer all moneys accumulated in each of the department's ceded lands proceeds trust holding accounts during the prior quarter to OHA by journal voucher using the following accounting information: Account No. T-03-901-Z1; transaction codes 802 for OHA and 801 for your department.

b. Under the "Explanation" section of the journal voucher, note that the transfer is "to record transfer of funds derived from the public land trust to OHA per Section 10-13.5 as enacted by Act 273, Session Laws of Hawaii 1980."

c. Send a copy of each journal voucher to OHA.

d. Complete and send the attached transmittal, Attachment "A," with a copy of each of the department's journal vouchers to the Department of Budget and Finance.

7. Maintain a separate file for each fiscal year, of all Treasury Deposit Receipts (State Accounting Form B-13) and all

journal vouchers used to deposit and transfer OHA's portions of each receipt from public land trust lands to OHA.

DONE at the State Capitol, Honolulu,

State of Hawaii, this 11th

Day of February, 2003.



LINDA LINGLE  
Governor of Hawaii

APPROVED AS TO FORM:



Mark J. Bennett  
Attorney General

ATTACHMENT A

TRANSMITTAL

DATE: \_\_\_\_\_

TO: Mr. Neal Miyahira, Administrator  
Budget, Program Planning and Management Division  
Department of Budget and Finance

FROM: \_\_\_\_\_

SUBJECT: Ceded Land Revenue Payments to Office of Hawaiian  
Affairs

- ( ) No Ceded Land revenues were received by this department during the quarter ended \_\_\_\_\_.
- ( ) A total of \_\_\_\_\_ journal vouchers are attached showing transfers of \$ \_\_\_\_\_ to Office of Hawaiian Affairs for the quarter ended \_\_\_\_\_.

If there are questions, please call \_\_\_\_\_  
at \_\_\_\_\_.



2007 Act 178, SLH 2006, Ceded Land Report To The Legislature  
 Prepared By Land Management Division, I

Agency	Type	Tax Map Key	Other ID	Trust Land Status	Account	Document No	Name	Amount Retained by the State
DAGS-Automotive Total								93,88
DBEDT-FTZ Total								59,78
DBEDT-HCDA Total								708,88
DBEDT-NELHA Total								3,076,01
DBEDT-HHFDC Total								4,833,97
DHS-HPHA (no report) Total								
DLNR-DOBOR Total								6,335,80
DLNR-DOFAW Total								140,29
DLNR-Land Total								7,672,23
DLNR-Parks Total								1,777,44
DOA Total								419,04
DOA-ADC Total								196,02
DOE Total								964,35
DOH-HHSC Total								1,169,50
DOT-Airports Total								41,845,01
DOT-Harbors Total								45,821,26
DOT-Highways Total								3,85
University of Hawaii Total								1,848,89
Grand Total								116,966,221

- Note 1 -- Includes all receipts, including utility and other reimbursemen
- Note 2 -- No OHA transfer -- receipts from affordable housing projects not
- Note 3 -- Transfers, reports not made, agency transition; should have, in pay phone rental receipts but not public housing rent receipts
- Note 4 -- DOBOR still checking on \$192,667 shortfall; some attributable to reimbursement/pass-through payments for advances by the State
- Note 5 -- DLNR-DOFAW, Land, and Parks Totals including payments for prior
- Note 6 -- Transfers from Non-Ag Park rents collected by DLNR not made before included in FY 2009 transfers
- Note 7 -- Unable to speak to DOE Contact Person
- Note 8 -- Shortfall (\$188,453) not transferred, HHSC had no money

- Note 9 -- Federal law prohibits transfer of airport revenue to OHA
- Note 10 - Gross Receipts overstated, includes all receipts collected :  
ratio used to ~~determine amount~~ transferred to OHA; may also  
advances by the State for utilities, and damage repair
- Note 11 - Unable to speak to DOT-Hwy Contact Person; rent collected ma:  
but unlikely (remittance may be only for "proceeds" if an EC
- Note 12 - University and AG conferring on amounts to be transferred fo

ATTACHMENT "E"

B&F's Summary of Payments to OHA Pursuant to Act 178, SLH 2006 and Executive Order No. 06-06

Fiscal Year	Period	Departments' Payments to OHA	Payments from General Funds	Payments from B&F's Over Payment Collections to OHA - Ceded Land Trust Fund	Returns to B&F's Over Payment Collections to OHA - Ceded Land Trust Fund	Total Payments to OHA	Annual Gross Receipts Reported to DLNR
2006	1st Quarter	2,598,165.98				2,598,165.98	
	2nd Quarter	2,082,675.91				2,082,675.91	
	3rd Quarter	3,039,729.09				3,039,729.09	
	4th Quarter	3,377,642.81				3,377,642.81	Not Available
2007	1st Quarter	2,742,133.62	1,032,866.38			3,775,000.00	
	2nd Quarter	2,686,802.25	1,088,197.75			3,775,000.00	
	3rd Quarter	2,680,921.07	1,094,078.93			3,775,000.00	
	4th Quarter	3,142,700.84	632,299.16			3,775,000.00	128,480,574.00
2008	1st Quarter	2,824,297.92	950,702.08			3,775,000.00	
	2nd Quarter	2,930,445.21	844,554.79			3,775,000.00	
	3rd Quarter	2,841,345.91	933,854.09			3,775,000.00	
	4th Quarter	3,023,178.00	751,822.00			3,775,000.00	110,096,290.00
2009	1st Quarter	3,775,000.00				3,775,000.00	
	2nd Quarter	3,575,727.22	199,272.78			3,775,000.00	
	3rd Quarter	2,851,437.61	923,562.39			3,775,000.00	
	4th Quarter	2,968,989.45	808,010.55			3,775,000.00	110,806,002.00
2010	1st Quarter	2,508,580.45	1,268,419.55			3,775,000.00	
	2nd Quarter	2,419,255.71	1,355,744.29			3,775,000.00	
	3rd Quarter	2,399,309.61	1,375,690.39			3,775,000.00	
	4th Quarter	3,272,367.67	502,632.33			3,775,000.00	114,473,348.00
2011	1st Quarter	2,362,970.38	1,412,029.62			3,775,000.00	
	2nd Quarter	3,273,014.42	501,985.58			3,775,000.00	
	3rd Quarter	3,415,387.98	359,612.02			3,775,000.00	
	4th Quarter	3,317,531.34	457,468.66			3,775,000.00	64,085,378.65
2012	1st Quarter	3,016,308.30	758,693.70			3,775,000.00	
	2nd Quarter	3,558,335.91	216,664.09			3,775,000.00	
	3rd Quarter	3,631,852.25	143,147.75			3,775,000.00	
	4th Quarter	4,321,944.19			546,944.19	3,775,000.00	150,939,203.32
2013	1st Quarter	3,842,253.50			67,253.50	3,775,000.00	
	2nd Quarter	3,564,577.66		210,422.34		3,775,000.00	
	3rd Quarter	3,759,860.24		15,139.76		3,775,000.00	
	4th Quarter	4,963,724.69			1,188,724.69	3,775,000.00	159,971,589.36
2014	1st Quarter	3,883,783.44			108,783.44	3,775,000.00	
	2nd Quarter	4,198,808.20			423,806.20	3,775,000.00	
	3rd Quarter	4,493,399.70			718,399.70	3,775,000.00	
	4th Quarter	4,732,375.62			957,375.62	3,775,000.00	163,322,176.78
2015	1st Quarter	4,672,113.08			897,113.08	3,775,000.00	
	2nd Quarter	4,473,743.86			698,743.86	3,775,000.00	
	3rd Quarter	4,653,598.71			878,598.71	3,775,000.00	
	4th Quarter	5,011,428.10			1,236,428.10	3,775,000.00	178,043,260.67
2016	1st Quarter	4,266,046.75			491,046.75	3,775,000.00	
	2nd Quarter						
	3rd Quarter						
	4th Quarter						
Totals		141,149,760.45	17,611,108.88	225,562.10	8,213,217.64	150,773,213.79	1,180,217,822.78

Source of data is DAGS Datamart System except for amounts in "Annual Gross Receipts Reported to DLNR" from DLNR's Annual Act 178 Report to Legislature. The "Annual Gross Receipts Reported to DLNR" column does not include an amount for FY 2006 as there was no DLNR report to the Legislature.

## ATTACHMENT "F"

## FY 2015 OHA Payments

<u>Department</u>	<u>1st Qtr</u>	<u>2nd Qtr</u>	<u>3rd Qtr</u>	<u>4th Qtr</u>	<u>Total</u>
<b>JV Transfers</b>					
Accounting & Gen Svcs	5,205.00	5,090.00	5,402.00	5,019.00	20,716.00
Agriculture					
Non-Ag Park Lands (S-305)	29,029.05	32,368.72	37,376.60	45,939.82	144,712.19
Non-Ag Park Lands (S-305) (DLNR)			1,623.00	1,339.40	2,962.40
Agr Dev Corp (S-307-A)		50,269.29	48,972.42	47,180.78	146,422.49
Ag Park Lands (S-317-A)	20,609.93	16,918.75	19,932.49	31,462.50	88,923.67
Bus, Econ, Dev. & Tourism					
FTZ (S-302-B)	2,737.32	2,737.32	1,839.88	1,493.00	8,807.52
NELHA (S-345-B)	79,094.75	81,007.28	84,693.39	98,184.68	342,980.10
HCDA (S-352-B)	4,339.40	123,299.45	60,000.00	1,790.40	189,429.25
HHFDC (Honokowai Hale/Lallani)	9,047.85	9,159.25	9,856.30	12,348.35	40,411.85
Defense	305.00	300.00	314.40	300.00	1,219.40
Education	30,208.00	23,590.00	30,547.00	28,578.00	112,921.00
HHSC					-
Land & Natural Resources					
DLNR (Other than Boating)	792,410.28	656,767.14	792,249.88	770,708.31	3,012,135.71
Boating	291,519.81	287,655.58	308,213.00	484,640.42	1,372,028.91
Transportation (Harbors)	3,240,772.23	3,026,802.73	3,082,851.93	3,333,496.69	12,883,923.58
<b>JV Total</b>	<b>4,505,278.82</b>	<b>4,315,963.51</b>	<b>4,483,872.39</b>	<b>4,862,479.35</b>	<b>18,167,594.07</b>
<b>Check Transfers</b>					
University of Hawaii	166,834.26	157,780.15	169,726.32	148,948.75	643,289.48
<b>Total Transfers</b>	<b>4,672,113.08</b>	<b>4,473,743.66</b>	<b>4,653,598.71</b>	<b>5,011,428.10</b>	<b>18,810,883.55</b>
Act 178, SLH 2006, requirement	3,775,000.00	3,775,000.00	3,775,000.00	3,775,000.00	15,100,000.00
Balance (Shortfall)	897,113.08	698,743.66	878,598.71	1,236,428.10	3,710,883.55
CFTHA supplement (Carry Forward Trust Holding Account)					-
GFRTHA supplement (General Fund Receipts Trust Holding Account)					-
Transfer to OHA from B&F's Overpayment Collections to OHA - Ceded Lands trust fund					-
Amount OHA to return to B&F's Overpayment Collections to OHA - Ceded Lands trust fund	(897,113.08)	(698,743.66)	(878,598.71)	(1,236,428.10)	(3,710,883.55)
<b>Total - Transferred to OHA</b>	<b>3,775,000.00</b>	<b>3,775,000.00</b>	<b>3,775,000.00</b>	<b>3,775,000.00</b>	<b>15,100,000.00</b>

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Summary of Receipts from Lands Described in Section 5(f) of the Admissions Act by Department  
 For Fiscal Year 2014-2015  
 Act 178, Session Laws of Hawaii 2006

Agency	Amount Retained by the State	Amount Transferred to OHA	Gross Receipt	Note	Reference
Accounting and General Services (DAGS)					
Automotive Management and Parking Control	\$103,577.00	\$20,716.00	\$124,293.00		Attachment 3
Agriculture (DOA)					
Agricultural Resources Management (ARIM)	\$946,393.03	\$236,598.26	\$1,182,991.29		Attachment 4
Agribusiness Development Corporation (ADC)	\$789,131.67	\$197,282.92	\$986,414.59		Attachment 5
Business, Economic Development, and Tourism (DBEDT)					
Foreign Trade Zone (FTZ)	\$35,230.08	\$8,807.52	\$44,037.60		Attachment 6
Hawaii Community Development Authority (HCDA)	\$757,716.99	\$189,429.25	\$947,146.24		Attachment 7
Hawaii Housing Finance and Development (HHFDC)	\$3,459,981.14	\$40,411.85	\$5,752,970.99		Attachment 8
Natural Energy Laboratory of Hawaii (NELHA)	\$1,371,920.82	\$342,980.10	\$1,714,901.13		Attachment 9
Defense (DOD)	\$4,877.60	\$1,219.40	\$6,097.00		Attachment 10
Education (DOE)	\$2,189,929.00	\$112,921.00	\$2,302,228.00	No Report	Attachment 11
Hawaiian Home Lands (DHHL)					
Health (DOH)					
Hawaii Health Systems Corporation (HHSC)	\$1,311,326.00	\$0.00	\$1,639,157.00		Attachment 12
Human Services (DHS)					
Hawaii Public Housing Authority (HPHA)	\$3,066,987.37	\$0.00	\$3,066,987.37	No Report	Attachment 13
Office of Youth Services (OYS)					
Land and Natural Resources (DLNR)					
Boating and Ocean Recreation (DOBOR)	\$5,845,318.64	\$1,372,028.91	\$7,217,347.55		Attachment 14
Forestry and Wildlife (DOFAW)	\$211,064.58	\$29,240.25	\$240,304.83		Attachment 15
Land Division (LD)	\$8,882,354.56	\$2,233,732.64	\$11,116,087.20		Attachment 15
State Parks (SP)	\$3,005,748.52	\$749,162.82	\$3,754,911.34		Attachment 15
Transportation (DOT)					
Airports Division (DOTA)	\$71,275,380.00	\$0.00	\$71,275,380.00		Attachment 18
Harbors Division	\$50,735,634.56	\$12,683,923.58	\$63,419,558.14		Attachment 19
Highways	\$36,000.00	\$0.00	\$36,000.00		Attachment 20
University of Hawaii (UH)	\$2,573,157.92	\$643,289.48	\$3,216,447.40		Attachment 21
<b>Totals</b>	<b>\$156,601,729.48</b>	<b>\$18,861,743.98</b>	<b>\$178,043,260.67</b>		