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STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 191, S.D. 1

February 19, 2019

9:30 a.m.

Room 211

RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Senate Bill No. 191, S.D. 1:

- Requires the Department of Budget and Finance (B&F) to use certain reporting and accountability procedures in implementing the public land trust reporting requirements under Act 178, SLH 2006;
- Requires B&F to consult with the Office of Hawaiian Affairs (OHA) to ensure accuracy of the accounting and reporting; and
- Establishes and appropriates general funds for a public land trust reporting and accountability officer position.

B&F has serious concerns with this bill. First, the reporting requirements in the bill specifies that all ceded land receipts, regardless of whether the receipts are subject to the pro rata share, are to be reported. Reporting in this fashion gives the appearance that a pro rata should be applied to total receipts rather than only receipts that are, in actuality, subject to a pro rata share. For example, under the bill the University of

Hawaii would report student tuition and fee revenues for some of its campuses, including Manoa. However, education is a sovereign governmental function and, as such, student tuition and fee revenues are not subject to a pro rata share.

Consequently, it would be confusing to include these receipts as if it should be subject to a pro rata calculation.

B&F highly recommends that if total receipts are to be reported, then receipts that may be subject to a pro rata share should also be reported separately. There would be total receipts, receipts not subject to a pro rata share, receipts that may be subject to a pro rata share, and amounts transferred to OHA. This type of reporting would provide a clearer representation of the status of ceded land receipts and payments to OHA.

Second, the reporting required under this bill presumes that the Executive and OHA agree on what receipts should be subject to a pro rata calculation and how the calculation is to be made. Determination of whether a particular receipt should be subject to the pro rata share and how to make the calculation is not clear cut. There are many policy and technical issues imbedded in making a determination as evidenced by the long and complicated history of trying to implement Article XII, Section 4 of the State Constitution. It is our understanding that the Waihee Administration, OHA, and the State Auditor spent considerable resources and effort during the late 1980's and early 1990's trying to develop a workable demarcation of what receipts should be subject to the pro rata calculation and how to make the calculation. In the end, after several lawsuits, the Legislature decided on the approach of providing a fixed amount as OHA's pro rata share in Act 178.

B&F notes that, in general, the amounts being reported currently reflect the Executive's understanding of the sovereign versus proprietary distinction and the

apportionment calculation methodology to allocate receipts between activities on ceded and non-ceded lands.

In conclusion, B&F strongly believes that clear and definitive criteria on what would be subject to a pro rata calculation is needed in order to make the reporting envisioned in S.B. No. 191 useful and meaningful. Without such criteria, the reporting will be subject to constant disputes.

Thank you for your consideration of our comments.



SB191 SD1
RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST
PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE
PUBLIC LAND TRUST

Senate Committee on Ways and Means

February 19, 2019

9:30 a.m.

Conference Room 211

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** SB191 SD1, which seeks to facilitate reliable and accurate reporting of state Public Land Trust (PLT) receipts. By codifying fundamental reporting mechanisms and requirements, this measure would help to resolve longstanding reporting discrepancies and improve PLT data gathering critical for decision-making and assessment of Native Hawaiians' fair share of the PLT.

In 2006, OHA and the state agreed to an "interim" annual amount of \$15.1 million to be transferred to OHA as a reflection of Native Hawaiians' constitutional pro-rata share of the income and proceeds from the PLT, "until further action is taken by the legislature." Pursuant to this agreement, embodied in Act 178 (2006), the state was to also compile annual reports on all receipts generated from PLT lands, so future legislative action could be informed by this annual reporting of PLT receipts.

Despite the explicitly temporary nature of the 2006 legislation, and despite numerous indicators that Native Hawaiians' 20% share of PLT receipts is actually far more than the \$15.1 million established under Act 178, this "interim" amount still has not been updated. **Moreover, incomplete and inaccurate PLT receipt reporting by most state agencies has hindered efforts to gather data about what is actually being generated from the PLT, undermining the process that the Legislature established to later update Native Hawaiians' constitutionally mandated pro rata share.**

SB191 SD1 seeks to improve PLT receipt reporting by enacting five modest but key statutory requirements. First, the measure codifies the existing PLT receipt annual reporting requirements established in Act 178. Second, SB191 SD1 explicitly affirms the applicability of Act 178's reporting requirements to all gross PLT receipts, regardless of whether a receipt category was previously transferred to, or claimed by, OHA. Third, this measure explicitly affirms the University of Hawai'i's reporting responsibilities, by specifically naming the University as an agency which must report all receipts generated from the use of its PLT lands. Fourth, SB191 SD1 requires an agency or department explanation for each PLT receipt from which 20% of its gross value was not transferred to OHA. Finally, this measure would require consultation between the Department of Budget & Finance and OHA to ensure the accuracy, inclusivity, and continued improvement of the annual PLT receipt reporting process.

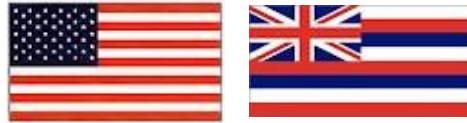
The provisions of SB191 SD1 will help to allay any controversy or confusion as to the accuracy of each state agency's annual PLT reporting, addressing longstanding deficiencies that have confounded a proper evaluation of the state's PLT receipts, including Native Hawaiians' pro rata share. Research and financial reviews by OHA and its contracted third-party accounting firms show that many state entities may conspicuously under-report or even fail to report their PLT receipts and revenue streams. Wide variations in reporting between agencies and between years also persist, either through inadvertent omissions or conscious disregard of the reporting requirements of Act 178. For example, the Department of Accounting and General Services reports parking receipts generated at several state-owned parking lots, but not from parking lots for the Department of Taxation and the Department of Labor and Industrial Relations (Hale 'Auhau and Ke'elikōlani Building), Department of Human Services (OR&L Building), and 'Iolani Palace, which are all located on PLT lands. As another example, the University of Hawai'i only reports PLT receipts from five limited receipt categories (parking; vending machines; faculty housing; bookstore receipts for food, sundries and souvenirs, and insignia clothing; and Maunakea tour fees), but omits all other PLT receipts, such as those generated at the Maunakea Visitor Center. Given the longstanding and growing nature of these reporting issues, legislative intervention as proposed by SB191 SD1 is now necessary to ensure that state agencies more properly account for trust receipts generated for the benefit of Native Hawaiians and the public.

SB191 SD1's reporting requirements is an important part of updating the provisional \$15.1 million amount set by Act 178. Again, Act 178's first stated purpose was to "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" (emphasis added). Accurate PLT receipt reporting, as envisioned under Act 178, is critical to updating Act 178's "interim" annual dollar amount, which would better reflect Native Hawaiians' pro rata share of the PLT. As such, SB191 SD1 is an important step to improve on the collection of data for the state, OHA, and general public to understand what updated amount would more fairly and adequately reflect Native Hawaiians' pro rata PLT share.

While the state approaches the thirteenth year since Act 178's passage, OHA, on behalf of Native Hawaiians, continues to press for a fair and just PLT pro rata share. For the reasons set forth above, OHA urges the Committee to **PASS** SB191 SD1, which will enable a more full and accurate assessment of the state's constitutional obligation to Native Hawaiians under the PLT. Accordingly, these amendments represent a good-faith step toward the accurate and responsible fulfillment of the state's constitutional obligations.

Mahalo ā nui for the opportunity to testify.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON WAYS AND MEANS

For hearing Tuesday, February 19, 2019

Re: SB 191

RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

Requires the Department of Budget and Finance to use certain reporting and accountability procedures in implementing the public land trust reporting requirements of Act 178, Session Laws of Hawaii 2006. Requires the Department of Budget and Finance to consult with the Office of Hawaiian Affairs to ensure that the accounting and reporting is accurate and inclusive. Establishes and requires the Department of Budget and Finance to request funding every fiscal year for a specific budget line item for a public land trust reporting and accountability officer position. Takes effect 12/31/2050. (SD1)

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 39 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 and annual demands to the legislature regarding 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. The Ceded Lands Trust costs the State many times more annually for operating expense than the 1.2 million acres bring in. A previous state Director of finance and a Land Information Systems Manager acknowledged in a formal court declaration 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. Section 5(f) of the statehood Admissions Act identifies 5 purposes for which ceded land revenues can be used. So what about the remaining 4 purposes in addition to "betterment of native Hawaiians"? If OHA gets a dedicated 20% of ceded land revenue to fulfill one of the 5 purposes, then the public school system should also be getting its own dedicated 20% portion; the development of low-income housing should be getting its 20% portion; the Department of Land and Natural

Resources (especially the Parks Department) should be getting its 20% portion; etc.

5. For the first 20 years of statehood, 100% of ceded land revenue was given to the public schools, where 26% of the children are Native Hawaiians. Thus 26% of ceded land revenues went for the betterment of Native Hawaiians, without any need for race-specific earmarking. Remove racial entitlements, which are both unconstitutional and immoral.

SOME DETAILS ABOUT THOSE POINTS

1. There is a long history of contentious negotiation, legislation, and litigation over the amount of money owed to OHA under the rule specifying 20% of ceded land revenue. The first half of this bill reviews 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.

Act 273, Session laws of 1980 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%. This bill proposes yet 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.

Act 273 (1980) says "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 273 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.

OHA currently has over \$662 Million in assets. No other agency of the state government is allowed to squirrel away huge amounts of wealth as a permanent cash stash. At its current level of expenditures OHA has enough money in its slush fund to meet all its budget needs for more than a decade. Stop feeding this beast.

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 in 2002, "This can be fairly characterized as a confession of guilt to systematic and massive misappropriation of trust funds over the last three decades." 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 projected to be 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>

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

4. Here is the relevant language from section 5(f) of the statehood Admissions Act identifying the 5 purposes for the use of ceded land revenues: "... for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use." So what about the remaining 4 purposes in addition to betterment of native Hawaiians? If OHA gets a dedicated 20% of ceded land revenue to fulfill one of the 5 purposes, then the public school system plus UH should also be getting its own dedicated 20% portion; the development of low-income housing should be getting its 20% portion; the Department of Land and Natural Resources (especially the Parks Department) and the Highway Department should be getting its 20% portion; etc. Furthermore, each of those departments should be getting its money

quarterly as the bill requires for OHA, and in the same dollar amount. Really?

5. For the first 20 years of statehood, 100% of ceded land revenue was given to the public schools, where 26% of the children are Native Hawaiians. Thus 26% of ceded land revenues went for the betterment of Native Hawaiians, without any need for race-specific earmarking. Remove racial entitlements, which are both unconstitutional and immoral.

A valuable webpage providing information about 856 government funded racial entitlement programs for the exclusive benefit of "Native Hawaiians" was disrupted but has now been partially restored. Several other webpages on the same topic are also available. All these programs, valued into the Billions of dollars, are paid for by tax dollars from the governments of the United States and the State of Hawaii. It is likely that these programs are unconstitutional. Some have been challenged in state and federal courts. Thus far the lawsuits to dismantle them have been dismissed on technical procedural issues including "standing" and the "political question" doctrine. However, those dismissals never reached the merits of these cases. Thus all

these programs remain available as targets for future civil rights lawsuits based on the 14th Amendment equal protection clause and other arguments. Keep in mind that this compilation pertains only to government programs funded by taxpayers, and does not include enormous privately funded programs such as Kamehameha Schools (Bishop Estate) which alone is worth \$10-15 Billion, Lili'uokalani Childrens Trust, and many others. More recently, the U.S. Department of Interior, Office of Native Hawaiian Relations, has published a 217-page list of federal programs and grants for ethnic Hawaiians.

See details on the webpage "For Hawaiians Only" at <http://tinyurl.com/zrfuy8k>

LATE

SB-191-SD-1

Submitted on: 2/18/2019 9:54:37 AM

Testimony for WAM on 2/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
February 19, 2019 at 9:30 a.m.

by
Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i System

SB 191 SD1 – RELATING TO STRENGTHENING THE FOUNDATION FOR
ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF
HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Chair Dela Cruz, Vice Chair Keith-Agaran and members of the committee:

The University of Hawai'i (University) stands firmly committed to the betterment of Native Hawaiians and has deep respect for the constitutional role of the Office of Hawaiian Affairs (OHA). However, this bill, along with previous legislative approaches to the funding of OHA, errs in pitting one important purpose of the public land trust against others. Both the Admissions Act and the Constitution of the State of Hawai'i make it perfectly clear that the University also has its own direct relationship to the public land trust. The University therefore strongly opposes SB 191. We strongly urge that the University be explicitly and fully excluded from the reporting and payment provisions of this bill and any similar measures based on Act 178, SLH 2006, and its predecessors. Given the University's own clear and formal role and responsibilities under the public land trust, there should be no required ceded land payments from the University to OHA or any of the other sister agencies that also have responsibilities associated with the public land trust.

The Admissions Act § 5(f), which created the State of Hawai'i public trust lands commonly referred to as ceded lands, identifies multiple purposes for these lands. The first of these purposes enumerated in the Act is the "support of the public schools and other public educational institutions" and the second of these purposes is the "betterment of the conditions of Native Hawaiians." As the University of Hawai'i is the sole provider of public higher education in the State, it is clearly identified as a primary intended beneficiary of the public land trust and should not be required to reduce the benefits it provides to the people of Hawai'i in order to transfer funds to OHA, another beneficiary of the public land trust.

The University and OHA were both established by the Hawai'i State Constitution, the University in 1959 and OHA in 1978. The Hawai'i State Constitution further and expressly directs that University lands be used solely for its purposes. Article X, Section 5, states that the University "shall have title to all the real and personal property now or

hereafter set aside or conveyed to it, which shall be held in public trust for its purposes[.]” See Hawai‘i State Constitution, Art. X, Section 5.

Moreover, independent from Act 178, SLH 2006, the University is committed to the betterment of Native Hawaiians. As of 2009, the University’s Regent Policy 4.201.III.C.3 states in part: “As the only provider of public higher education in Hawai‘i, the university embraces its unique responsibilities to the indigenous people of Hawai‘i and to Hawaii’s indigenous language and culture. To fulfill this responsibility, the university 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.”

As of Fall 2018, the University enrolled 12,061 Native Hawaiian students, 23.6% of total enrollment, all of whom benefit from the public investment and resources of the University of Hawai‘i including its use of the public land trust. The University’s direct financial investment in the betterment of Native Hawaiians is also substantial. The University provides over \$7,000,000 per year in direct tuition benefits from current resources to advance Native Hawaiian students through public higher education. The University created and funds the Hawai‘inuiākea School of Hawaiian Knowledge at the University of Hawai‘i at Mānoa and the Ka Haka ‘Ula O Ke‘elikōlani College of Hawaiian Language at the University of Hawai‘i at Hilo, which are each completely distinctive in higher education in the United States and both of which sit on ceded lands. These units advance Native Hawaiian culture and language through offering relevant and dynamic courses and programs, while also providing academic assistance and support to Native Hawaiian students. Other University campuses also operate support centers for Native Hawaiian students and offer academic programs that advance Hawaiian language and culture and inspire Native Hawaiian students.

The University also directs internal resources to better the broader Native Hawaiian community. As one example, The Department of Native Hawaiian Health in the John A. Burns School of Medicine helps to develop a comprehensive program that addresses the healthcare status of Native Hawaiians and studies health disparities that disproportionately affect Native Hawaiians and other ethnicities. Numerous other colleges and schools have specific programs to benefit Native Hawaiians.

The University fully supports the intent of the Admissions Act, the Hawai‘i State Constitution and previous legislation to advance the betterment of Native Hawaiians. It has embraced its mission, as formalized in 2009 to become a model indigenous-serving university and greatly appreciates its many partnerships with OHA (along with the Ali‘i Trusts and other organizations) to advance Native Hawaiian people, language, and culture. The University believes this can best be done by directing its own available resources for the betterment of Native Hawaiians through its programs and without transferring funds from public higher education to OHA or any other agency responsible for another purpose of the public land trust.

Should the legislature believe it appropriate to continue the approach of ceded land payments between parts of government, an approach that has proven problematic and contentious since first introduced, the University respectfully and strongly urges that it be expressly excluded from any reporting requirements or financial obligations to OHA associated with the University's use of public land trust. The University strives to maximize the impact of all its resources as it works to provide public higher education across the islands to ensure that all of Hawai'i's students, including Native Hawaiians, have the knowledge, skills, capacity and tenacity to meet the challenges and opportunities facing Hawai'i's families and communities in today's dynamic environment.

Thank you for your time and consideration.



KE ONE O KĀKŪHIHEWA

O'ahu Council of the
Association of Hawaiian Civic Clubs

BENTON KEALII PANG, PH.D.,-HAWAIIAN CIVIC CLUB OF
HONOLULU
PELEKIKENA

JACOB KA'ŌMAKAOKALĀ AKI-KING KAMEHAMEHA HCC
HOPE PELEKIKENA

KALANI L. KA'ANĀ'ANĀ-KAILUA HCC
HOPE PELEKIKENA 'ELUA

ALBERTA LOW-PEARL HARBOR HCC
PU'UKŪ

ROTH PUAHALA -KING KAMEHAMEHA HCC
PELEKIKENA IHO NEI

TERI LOO-KO'OLAUPOKO HCC
KĀKAU 'ŌLELO

CHRISTINE "CHRISSY" ANJO-PEARL HARBOR HCC
HOLE KĀKAU 'ŌLELO

'AHAHUI SIWILA HAWAI'I O KAPOLEI
LANCE HOLDEN

ALI'I PAUAHI HCC
KEHAULANI LUM

'EWA-PU'ULO'A HCC
MARLEEN KAU'I SERRAO

HCC OF HONOLULU
MANU BOYD

KAILUA HCC
MAPUANA DE SILVA

KALIHI-PĀLAMA HCC
KAIMO MUHLESTEIN

KING KAMEHAMEHA HCC
LETANI PELTIER

KO'OLAULO'A HCC
RANAE "TESSIE" FONOMOANA

KO'OLAUPOKO HCC
ALICE P. HEWETT

LUALUALEI HCC
SHIRLINE HO

MĀKĀHA HCC
LUANN LANKFORD-FABORITO

MĀLAMA MELE O HAWAI'I
JANET ABRIGO

MAUNALUA HCC
ROSE KITTY SIMONDS

NA LANI 'EHA HCC
R. KELANI RAMOS

NĀNĀIKAPONO HCC
JAYCINE HICKS

PAPAKŌLE'A HCC
KEALII LUM

PEARL HARBOR HCC
KU'UMEALOHA GOMES

PRINCE KŪHIŌ HCC
A. MAKANA PARIS

PRINCESS KAI'ULANI HCC
LEIMANA DAMATE

QUEEN EMMA HCC
RAWLETTE P. KRAUT

HCC OF WĀHIAWA
MARIE "MĀLIA" DOO

HCC OF WAIALUA
MAKALAPUA CASSON-FISHER

WAI'ANAE HCC
CYNTHIA ENRIQUEZ

WAIKĪKI HCC
L. PI'IKEA TOMCZYK

HCC OF WAIMĀNALO
FAITH KA'IAMA

SEN. DONAVAN DELA CRUZ (CHAIR), SEN. GILBERT KEITH-
AGARAN, AND THE COMMITTEE ON WAYS AND MEANS

SUPPORT FOR SB191 SDI RELATING TO STRENGTHENING THE
FOUNDATION FOR ENSURING FAIR AND JUST PAYMENT
AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA
SHARE OF THE PUBLIC LAND TRUST
FEBRUARY 16, 2019

Aloha SEN. DONAVAN DELA CRUZ (chair), SEN. GILBERT KEITH-
AGARAN, and the Committee on Ways and Means,

As Pelekikena (President) of Ke One O Kākūhihewa (O'ahu Council-Association of Hawaiian Civic Clubs) and its 25 Hawaiian Civic Clubs, we support SB191 SDI. This bill requires the Department of Budget and Finance to use certain reporting and accountability procedures in implementing the public land trust reporting requirements of Act 178, Session Laws of Hawaii 2006. It further requires the Department of Budget and Finance to consult with the Office of Hawaiian Affairs to ensure that the accounting and reporting is accurate and inclusive and establishes and requires the Department of Budget and Finance to request funding every fiscal year for a specific budget line item for a public land trust reporting and accountability officer position. At its 58th annual convention, our Association of Hawaiian Civic Clubs (Association), for which we are a member, adopted resolution 2017-35 that urged the Department of Land and Natural Resources to report on the Public Land Trust Information System and to clarify the Public Land Trust (PLT) revenue. At its 57th annual convention, the Association adopted resolution 2016-1 that calls for a more equitable annual allocation of PLT revenue to OHA for its pro rata share and for the State to provide funds to address the years of underpayment. The appropriate annual allocation of PLT revenue can be more fairly determined through better accounting and reporting on PLT revenues across the state. As such, we support emphasizing that the University of Hawai'i is subject to the requirements; that all PLT receipts must be accounted for, including those receipts that a department or agency believes may not be subject to the Office of Hawaiian Affairs' pro rata share; and requiring all entities of the State that hold PLT lands, including the Department of Land and Natural Resources, to consult with OHA to ensure that the accounting is accurate and inclusive and requiring certain explanations and determinations regarding the amount of receipts transferred to OHA.





The Native Hawaiian community has been denied access to its fair share of trust resources for decades. The OHA pro rata share of PLT revenue is the primary source of funding for programs, grants and services that benefit the Native Hawaiian community, and has a positive impact on all of Hawai'i. Having more accurate reporting on PLT revenues, will allow the legislature to adjust the annual OHA appropriation to a just and fair amount. These resources will support a wider range of strategic and innovative programs--including in the areas of housing, health care, education, business opportunities, and job opportunities--that will improve the well-being and conditions of Native Hawaiians and, indeed, all of Hawai'i.

Thus, our council urges this committee PASS SB191 SD1.

Ke One O Kakūhihewa is a native Hawaiian council made up of 25 civic clubs on the island of O'ahu. Our oldest member, Hawaiian Civic Club of Honolulu was established by Prince Jonah Kūhiō Kalaniana'ole on December 7, 1918.

Sincerely,

Benton Kealii Pang, Ph.D.



SB-191-SD-1

Submitted on: 2/18/2019 8:23:26 AM

Testimony for WAM on 2/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Makana Paris	Individual	Support	No

Comments:



Luna O Na Papa Alakai

Committee on Ways and Means

Pelekikena
A. Makana Paris

Tuesday, February 19, 2019
9:30 am Conference Room 211

Hope Pekekikena
Ekahi
Randi Fernandez

State Capitol
415 South Beretania Street

Hope Pelekikena
Elua
Matthew Gumapac

Re: SB191 SD1 - RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Puuku
Denise Kekuna

The Prince Kūhiō Hawaiian Civic Club **SUPPORTS** the passage of SB191 SD1. The bill requires the Department of Budget and Finance to use certain reporting and accountability procedures in implementing the public land trust reporting requirements of Act 178, Session Laws of Hawaii 2006. Further, it requires the Department of Budget and Finance to consult with the Office of Hawaiian Affairs to ensure that the accounting and reporting is accurate and inclusive and establishes and requires the Department of Budget and Finance to request funding every fiscal year for a specific budget line item for a public land trust reporting and accountability officer position.

Kakauolelo Hoopaa
Sai Furukawa

Kakauolelo Hooholo
Palapala
Kamuela Werner

Native Hawaiians enjoy a trust relationship with the State. OHA is the entity in which Native Hawaiians as trust beneficiaries can access their trust resources in the form of grants, services, programs, scholarships, and loans. This bill provides for a more accurate means of accounting for Public Land Trust revenue. By providing better accounting, a fairer Public Land Trust revenue stream can be determined. By passing this bill, the state will take a significant step towards fulfilling its trust responsibilities to Native Hawaiians.

Pelekikena Hala
Koke
Yvonne 'PeeWee'
Ryan

Founded in 1964, PKHCC was organized to promote the education and social welfare of people of Hawaiian ancestry and objectives include supporting high ethical standards in business, industry and the professional fields of enterprise.

Luna Alakai
Kuni Agard
Puamana Crabbe
Kanani Pali
Marlene Sai
Jennifer Smythe
Bruce Wong

PKHCC urges the committee to **PASS** SB191 SD1.

Mailing Address:
P.O. Box 4728
Honolulu ~ Hawaii
96812

Me ke aloha,

A. Makana Paris
Pelekikena
president@pkhcc.org

www.pkhcc.org

Founded in 1964
by Liliuokalani
Kawananakoa Morris



THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS

Senate Committee on Ways and Means

Pō‘alua, Pepeluali 19, 2019
Lumi ‘Aha Kūkā 211
Ke Kapikala Moku ‘āina
415 South Beretānia Street

Re: SB191 SD1 - RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Aloha Luna Ho‘omalu Donovan M. Dela Cruz, *Hope Luna Ho‘omalu* Gilbert Keith-Agaran:

The Association of Hawaiian Civic Clubs **SUPPORTS** SB191 SD1. This bill requires the Department of Budget and Finance to use certain reporting and accountability procedures in implementing the public land trust reporting requirements of Act 178, Session Laws of Hawaii 2006. It further requires the Department of Budget and Finance to consult with the Office of Hawaiian Affairs to ensure that the accounting and reporting is accurate and inclusive and establishes and requires the Department of Budget and Finance to request funding every fiscal year for a specific budget line item for a public land trust reporting and accountability officer position. At its 57th annual convention, the Association adopted resolution 2016-1 which calls for a more equitable annual allocation of Public Land Trust (PLT) revenue to OHA for its pro rata share and for the State to provide funds to address the years of underpayment. The appropriate annual allocation of PLT revenue can be more fairly determined through better accounting and reporting on PLT revenues across the state. As such, we support emphasizing that the University of Hawai‘i is subject to the requirements; that all PLT receipts must be accounted for, including those receipts that a department or agency believes may not be subject to the Office of Hawaiian Affairs' pro rata share; and requiring all entities of the State that hold PLT lands, including the Department of Land and Natural Resources, to consult with OHA to ensure that the accounting is accurate and inclusive and requiring certain explanations and determinations regarding the amount of receipts transferred to OHA.

The Native Hawaiian community has been denied access to its fair share of trust resources for decades. The OHA pro rata share of PLT revenue is the primary source of funding for programs,

grants and services that benefit the Native Hawaiian community, and has a positive impact on all of Hawai'i. Having more accurate reporting on PLT revenues, will allow the legislature to adjust the annual OHA appropriation to a just and fair amount. These resources will support a wider range of strategic and innovative programs--including in the areas of housing, health care, education, business opportunities, and job opportunities--that will improve the well-being and conditions of Native Hawaiians and, indeed, all of Hawai'i.

Thus, the Association respectfully urges the committees to **PASS** SB191 SD1.

The civic club movement was founded in 1918 by Congressional Delegate Prince Jonah Kūhiō Kalaniana'ole with the creation of the Hawaiian Civic Club; the Association was formally organized in 1959 and has grown to a confederation of over sixty (60) Hawaiian Civic Clubs located throughout the State of Hawai'i and the United States. The Association is the oldest Hawaiian community-based grassroots organization. The Association is governed by a 16-member Board of Directors; advocates for improved welfare of Native Hawaiians in culture, health, economic development, education, social welfare, and nationhood; and perpetuates and preserves language, history, music, dance and other Native Hawaiian cultural traditions.

Mahalo for allowing us to share our *mana 'o*.

Me ka 'oia 'i 'o,

Hailama Farden
Pelekikena

SB-191-SD-1

Submitted on: 2/16/2019 7:45:05 PM

Testimony for WAM on 2/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamuela Werner	Individual	Support	No

Comments:

Aloha:

I strongly SUPPORT SB191 SD1.

Sincerely,

Kamuela Werner

LATE

SB-191-SD-1

Submitted on: 2/18/2019 11:52:31 PM

Testimony for WAM on 2/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra C. Castell	Individual	Support	No

Comments:

I, Sandra Coffey Castell, am an Office of Hawaiian Affairs beneficiary and State resident, and I strong support SB191 SD1, which seeks to facilitate reliable and accurate reporting of state Public Land Trust (PLT) receipts. By codifying fundamental reporting mechanisms and requirements, this measure would help to resolve longstanding reporting discrepancies and improve PLT data gathering critical for decision-making and assessment of Native Hawaiians' fair share of the PLT.

LATE

SB-191-SD-1

Submitted on: 2/19/2019 6:44:35 AM

Testimony for WAM on 2/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Michaels	Individual	Support	No

Comments:

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate committee on Ways & Means:

We are writing to express our strong support for SB191. This bill will strengthen the financial mechanisms necessary to help the State better fulfill its trust responsibilities to the Native Hawaiian community by providing the Office of Hawaiian Affairs (OHA) with its constitutional and statutory right to a pro rata share of the Public Land Trust (PLT) revenue.

The Hawai'i Admission Act and the Hawai'i State Constitution established the Public Land Trust for the betterment of the conditions of native Hawaiians and for the general public. The Public Land Trust comprises over one million acres of former Hawaiian Kingdom government and crown lands taken during the Kingdom's unlawful overthrow, for which Native Hawaiians have never been fairly compensated and to which they maintain unresolved claims. The Constitution recognizes the native Hawaiian people's right to a fair, pro rata share of Public Land Trust revenue and HRS § 10-13.5 specifies this pro rata share as 20% of all funds derived from the trust, which are to be expended by OHA for the betterment of the conditions of Hawaiians.

The state has known for years that \$15.1 million is not 20% of Public Land Trust receipts. The state's data, annual transfers to OHA since FY 2012-2013 (which are calculated using historically undisputed revenue streams), and OHA research and analysis show that the temporary \$15.1 million annual amount set in Act 178 falls far short of 20%. After over a decade of state inaction, fairness and justice demands that this \$15.1 million be updated, to better reflect what 20% of Public Land Trust receipts actually amounts to. Raising the annual payment to \$35 million will support a wider range of strategic and innovative OHA-run and OHA-funded programs and activities specifically designed to improve the conditions of Hawaiians and Hawai'i in such vital areas as education, health, economic self-sufficiency, culture, land, governance, and access to justice.

We are not Hawaiian and will not directly benefit from this measure. However, we

know that Hawaii's future well-being is inextricably bound up with the well-being of the Native Hawaiian community. Increasing justice, fairness, and opportunity for Native Hawaiians will help heal past wounds and build a better society for all of us who call these islands home. We respectfully urge the committee to PASS SB191, and help return to the Native Hawaiians what is rightfully theirs.

Aloha,

Joshua Michaels and Antoinette Lilley

LATE

Committee on Ways and Means

Tuesday, February 19, 2019 9:30 am Conference Room 211 State Capitol 415 South Beretania Street

Re: SB191 SD1 - RELATING TO STRENGTHENING THE FOUNDATION FOR ENSURING A FAIR AND JUST PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

I, Matthew K. Gumapac SUPPORTS the passage of SB191 SD1. The bill requires the Department of Budget and Finance to use certain reporting and accountability procedures in implementing the public land trust reporting requirements of Act 178, Session Laws of Hawaii 2006. Further, it requires the Department of Budget and Finance to consult with the Office of Hawaiian Affairs to ensure that the accounting and reporting is accurate and inclusive and establishes and requires the Department of Budget and Finance to request funding every fiscal year for a specific budget line item for a public land trust reporting and accountability officer position.

Native Hawaiians enjoy a trust relationship with the State. OHA is the entity in which Native Hawaiians as trust beneficiaries can access their trust resources in the form of grants, services, programs, scholarships, and loans. This bill provides for a more accurate means of accounting for Public Land Trust revenue. By providing better accounting, a fairer Public Land Trust revenue stream can be determined. By passing this bill, the state will take a significant step towards fulfilling its trust responsibilities to Native Hawaiians.

I urge the committee to PASS SB191 SD1.

Me ke aloha

Matthew K. Gumapac