

DAVID Y. IGE  
Governor

JOSH GREEN  
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER  
Chairperson, Board of Agriculture

GLENN K. MURANAKA  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON HAWAIIAN AFFAIRS  
AND HIGHER EDUCATION**

**MARCH 19, 2019  
2:45 P.M.  
CONFERENCE ROOM 229**

**HOUSE BILL NO. 402 HD1  
RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS PRO RATA  
SHARE OF PUBLIC LAND TRUST**

Chairpersons Shimabukuro and Kim and Members of the Committees:

Thank you for the opportunity to testify on HB 402 HD1. This bill establishes an unspecified amount as the Office of Hawaiian Affairs' (OHA) pro rata share of the public land trust and transfers and appropriates funds to OHA for underpayment of the public land trust funds for 7/1/12 to 6/30/19. The bill requires the Department of Land and Natural Resources (DLNR) to provide an annual accounting of receipts from lands described in section 5(f) of the Admissions Act and appropriates funds. The Department of Agriculture offers comments with concerns on portions of this bill.

HB 402 HD1 seeks to increase OHA's statutory amount representing its 20% pro rata share of all ceded lands revenues generated by State departments to an unspecified amount annually commencing fiscal year 2019. OHA's entitlement to its share of the ceded lands revenue is derived from the fact that the mandated benefits to native Hawaiians and Hawaiians is one of five public trust purposes protected by the Hawai'i State Constitution and Hawai'i Revised Statutes. As such, a 20% share of the ceded lands revenues is appropriate and in accord with the mandate.

Pursuant to the 2001 and 2006 Hawai'i Supreme Court decisions regarding OHA's pro rata share, revenues generated from other protected public trust purposes



such as affordable housing and health services were excluded from the calculation of the ceded lands revenue for purposes of determining OHA's pro rata share.

As one of the five protected public trust purposes, agriculture and revenues derived from agriculture should also benefit from current application of the Hawai'i Supreme Court decisions. Continuing the burden on the Department for compensating OHA without considering the ongoing and historical fact that the Department is performing a public trust purpose while operating with one of the smallest operational budgets at barely breakeven levels, undermines its constitutional mandate to support and promote agriculture in Hawai'i. The Department's agricultural park and non-agricultural park programs operate by special funds that are primarily derived from low agricultural lease rents and fees. Unlike other uses of public lands, those under the Department's jurisdiction are limited to agricultural use and the corresponding lower rental values are reflected in that distinction. The perennial lack of resources and revenues while operating expenses continue to increase with rising costs and frequency of emergency response to unpredictable calamities resulting from climate change and other natural disasters will inevitably result in growing operational deficits on an annual basis that cannot be sustained by the Department.

If this Committee intends to move this measure forward, the Department recommends that in determining the total annual income and proceeds of the public land trust as specified in lines 9 through 17 on page 11 of the measure, lease rental payments, water service fees, and other fees generated from agricultural use of public lands be added to the list of exclusions.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2019**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 402, H.D. 1, RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS.

**BEFORE THE:**

SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ON  
HIGHER EDUCATION

**DATE:** Tuesday, March 19, 2019 **TIME:** 2:45 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Ryan K. P. Kanaka'ole, Deputy Attorney General

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Chairs Shimabukuro and Kim and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

This bill amends the share of annual receipts from the use of lands of the public land trust transferred to the Office of Hawaiian Affairs (OHA) to an unspecified amount; transfers an unspecified amount to OHA for the purported underpayment of funds derived from the public land trust for the period of July 1, 2012, to June 30, 2019; and requires an annual audit of all funds derived from receipts from the use of lands of the public land trust.

First, it is unclear if the obligation to establish OHA's annual share of the income and proceeds of the public land trust created by this bill is in addition to, or supersedes, the obligation in Act 178, Session Laws of Hawaii 2006.

Second, we note that the total gross receipts amounts described on page 10, lines 14-16, of the bill may be overstated by including, among other things, funds that are collected for pass-through expenses, the costs of goods purchased and sold at agency-owned facilities, and funds used to pay debt service for general obligation and revenue bonds sold for capital improvements. In determining OHA's share of annual receipts, we recommend these factors be considered.

Thank you for the opportunity to provide these comments.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committees on  
HAWAIIAN AFFAIRS  
and  
HIGHER EDUCATION**

**Tuesday, March 19, 2019  
2:45 PM  
State Capitol, Conference Room 229**

**In consideration of  
HOUSE BILL 402, HOUSE DRAFT 1  
RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA  
SHARE OF PUBLIC LAND TRUST FUNDS**

House Bill 402, House Draft 1 proposes to: 1) establish the Office of Hawaiian Affairs' (OHA) pro rata share of the public land trust, 2) transfer funds to OHA for underpayment of the public land trust funds from July 1, 2012 to June 30, 2019, and 3) require the Department of Land and Natural Resources (Department) to provide an annual accounting of receipts from public land trust lands. **The Department offers the following comments and expresses significant concerns with the bill because of the potential severe financial impact on the Department.**

As a result of the settlement with OHA, OHA no longer receives a percentage of actual ceded land revenues received by the State, but instead has received an annual amount fixed at \$15.1 million. In recent years, agency payments of 20 % ceded land revenues to OHA have exceeded the fixed amount of \$15.1 million. In these instances, OHA is required to return the excess funds which are then held in a trust holding account. Annual payments in fiscal year 2018 totaled \$17,391,958.38. Historically when there has been a revenue shortage in arriving at the \$15.1 million yearly amount, it has been made up solely by funds of the Department's Land Division.

If this measure were to become law, the Department and other agencies working to generate revenues for the State (in lieu of tax revenues from the general fund) from ceded lands would be obligated to transfer an unidentified but potentially significant amount of additional revenues to OHA annually. For reference, in fiscal year 2018, the Land Division collected approximately \$12.4 million in ceded land revenue. While the Department understands that it will not be solely responsible to cover the payment of the additional revenues, the bill does not specifically allocate payment obligations among the respective agencies. Therefore, a severe increase in annual

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

payments to OHA could impose a devastating financial burden upon the Department and its natural, recreational and historical resource protection programs.

The revenues collected by the Land Division cover the entire annual operating budget for the Land Division, the Office of Conservation and Coastal Lands, the Dam Safety Program, and the Mineral Resources Program. The revenues also fund other positions within the Department such as six (6) positions within the Commission on Water Resource Management, and provide funding support to the Division of State Parks and various resource protection programs administered by the Division of Forestry and Wildlife such as the protection of threatened and endangered species, removal of invasive species, wildland firefighting and lifeguard services. Revenues collected by other divisions have supported watershed protection, preservation of cultural and historical sites and public recreational resources. In addition, the Department has provided lands to other agencies in support of a variety of agricultural, educational, transportation and affordable housing projects, often at the expense of generating revenue to support its own programs. These collective efforts have contributed significantly to the betterment of native Hawaiians as well as the general public, in excess of the revenues paid to OHA.

In regards to SECTION 6 of the bill, each year the Department collects the ceded land revenue information from the executive agencies pursuant to Act 178, Session Laws of Hawaii 2006, and submits a report to the Legislature. Act 178 provides that the executive agencies are to cooperate with the Department in this endeavor, but does not make the Department an auditor or “bill collector” of other agencies’ revenues. Rather, with respect to information reported by other agencies, the Department relies on the accounting such agencies provide and conducts no independent verification of their revenue figures. The Department opposes this provision to the extent that it imposes additional requirements upon the reporting process.

Requiring the Department to serve as a forensic accountant of all public land trust revenues would unreasonably burden the Department from fulfilling its core mission: the preservation and stewardship of the State’s natural resources. The Department is in no position to provide an accounting of public trust land receipts generated by other departments or agencies, other than for itself. The accessibility to and accuracy of the information contained in the report is determined largely by the accounting practices of other agencies and departments involved with managing public land trust revenues, of which the Department has no control or oversight

The Department does not have the necessary staff resources and expertise to audit or otherwise confirm the accuracy of information provided by other agencies.<sup>1</sup> To require the Department to do so would force the Department to expend its limited resources in capitulation of its public trust obligations to all of the State’s residents. If OHA believes that the current reporting is deficient and incomplete, then OHA should assume responsibility for the accounting and reporting of

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<sup>1</sup> There is no legitimate reason for the Department to be tasked with compiling the financial records from the various agencies into what is known as the annual Act 178 report. And there ought not to be a question of whether the land is ceded or not, because almost all State lands are ceded (97%-98%) and each agency managing those lands is aware whether their land is ceded or not (or a combination thereof). As such, the Department offers no special expertise in compiling the accounting records of the various agencies into a report.

ceded land revenues. OHA would then have the autonomy to determine and implement an accounting methodology they deem fit to satisfy the obligations to their beneficiaries.

In addition, the Department believes paragraphs (2) and (3) under the purpose section of the bill on pages 11-12, and SECTION 5 of the bill on page 15, should be deleted in their entirety, as the amount due to OHA is set by law at \$15.1 million per year, which has been paid annually, so there is no amount that has been underpaid, nor is there any necessity for an audit as the amount due is a flat amount paid annually.

Thank you for the opportunity to comment on this measure.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON HAWAIIAN AFFAIRS  
For hearing Tuesday, March 19, 2019

Re: HB 402, HD1

RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS. Establishes the OHA's pro rata share of the public land trust. Transfers funds to OHA for underpayment of the public land trust funds for 7/1/2012 to 6/30/2019. Requires the DLNR to provide an annual accounting of receipts from public land trust lands. Appropriates funds. (HB402 HD1)

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 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. 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.

6. 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 huge amount of alleged arrears which a court decision ordered the legislature to pay.

7. The dollar amount for future annual payments as specified in this bill is unsupportable by facts. The dollar amount for makeup of alleged arrears is both unsupportable by facts and would violate previous agreements negotiated in good faith.

#### 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>

6. 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 huge amount of alleged arrears which a court decision ordered the legislature to pay. 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 the conditions of native Hawaiians AS DEFINED IN THE HAWAIIAN HOMES COMMISSION ACT, 1920."

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. Enough already! Stop feeding this beast. No wonder the State is having budget problems!

7. The dollar amount for future annual payments to be specified in this bill is unsupportable by facts. The dollar amount for makeup of alleged arrears is both unsupportable by facts and would violate previous agreements negotiated in good faith.

The first draft of this bill would establish \$35,000,000 as the Office of Hawaiian Affairs' annual share of the income and proceeds of the public land trust beginning in the next fiscal year. Furthermore this bill would transfer to the office of Hawaiian affairs a sum of \$139,000,000 to pay the office of Hawaiian affairs amounts received from the use of the public land trust that were allegedly underpaid between July 1, 2012 and June 30, 2019.

But those dollar amounts are unsupported by facts. There is no inventory of the ceded lands, which is why the state Supreme Court several years ago dismissed OHA's lawsuit as non-justiciable -- there was no way for the court to calculate dollar amounts of ceded land revenues produced from lands for which there was no inventory list.

OHA previously reached a settlement with the State, enacted into law by the legislature, regarding annual payments in lieu of indeterminable ceded land revenues. State land in Kaka'ako valued by mutual agreement at \$200,000,000 was transferred to OHA. Comes now OHA crying that the agreed-upon dollar amount was too low. Boo-hoo! How much is enough? Political pressure to pass this bill, along with propaganda film broadcast repeatedly on TV, are evidence that no amount would ever be enough to satisfy the monster that is devouring Hawaii. Enough already! Stop feeding this beast.



## KAMEHAMEHA SCHOOLS®

Senate Committees on Hawaiian Affairs and Higher Education

Time: 2:45 p.m.

Date: Malaki 19, 2019

Where: Capitol Room 229

### TESTIMONY

By: Kau‘i Burgess

Director of Community and Government Relations

**RE: HB402 HD1, Relating to Increasing the Office of Hawaiian Affairs’ pro rata share of the Public Land Trust Funds**

E ka Luna Ho‘omaluku Shimabukuro, ka Luna Ho‘omaluku Kim, ka Hope Luna Ho‘omaluku Kahele, ka Hope Luna Ho‘omaluku Kidani, a me nā Kenekoa ‘ē a‘e o kēia mau Kōmike, aloha!

Kamehameha Schools **SUPPORTS** HB402 HD1. 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 believe that the Office of Hawaiian Affairs should receive full and fair funding from the public land trust, as required under the State Constitution.

Consistent with our strategic plan for 2015-2020 and vision for a thriving Lāhui by the year 2040, we view the Office of Hawaiian Affairs as a valuable partner in serving Native Hawaiians and all of our community.

In the last six fiscal years (2011-2018), OHA awarded over \$110 million in programmatic funding, grants, and sponsorships, that address our state’s most critical issues, including environmental stewardship, food security, housing and homelessness, education, and health care. Of this amount, OHA awarded over \$30 million for educational purposes, including over \$2.5 million in FY17-18 alone.

As a result of this funding, OHA’s strategic and innovative programs and services have the capacity to help people secure housing, develop local small businesses, send students to college, engage communities in sustainable resource management in partnership with government agencies and landowners, and much more. PLT revenue is the primary source of funding for such programs, grants, and services that benefit both the Hawaiian and larger community.

Founded in 1887, Kamehameha Schools is an educational organization striving to restore our people through education and advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.

With this testimony, Kamehameha Schools request this committee to **PASS** HB402 HD1.

‘A‘ohe hana nui ke alu ‘ia. No task is too large when we all work together! Mahalo nui.



The Waimea Hawaiian Civic Club, chartered by the Association of Hawaiian Civic Clubs in 1949, hereby submits this testimony in strong support of HB402 HD1 which establishes the OHA's pro rata share of the Public Land Trust (PLT) and transfers funds to OHA for underpayment of the PLT funds for July 2, 2012 to June 30, 2019; and requires the DLNR to provide an annual accounting of receipts from public land trust lands. The State of Hawaii has a constitutional obligation to pay its pro rata share of revenue derived from public trust lands. In 2006, the Office of Hawaiian Affairs and the State agreed to an interim annual amount of \$15,000,000. Six years later, in 2012, in acknowledgement of its commitment, the State conveyed certain lands in Kaka`ako Makai to OHA valued at approximately \$200,000,000 in relation to the period of Nov 7, 2078 to June 30, 2012. There have been no additional payments since that time and the State is in arrears on its obligation to the Hawaiian people.

Conditions amongst Hawaiians with regard to health, education, Native Hawaiians incarcerated here and on the continent, and other important factors demonstrate clearly that the need for assistance is staggering. At the same time, the current figure of \$15,000,000 per year needs to be updated and increased to meet the actual pro rata share of the Public Land Trust. Further, studies have shown that the actual 20% pro rata share far exceeds the \$15,000,000. The Office of Hawaiian Affairs has done its best to work with the State over time. The PLT is the primary source of funding for programs, grants and services that go directly to benefit the Native Hawaiian and larger communities. It is a fact that Hawaiians have the greatest number of health problems. We also make up the largest percentage of people incarcerated. We Hawaiians make up the lowest echelons of society in health, education and welfare. The level of need goes far beyond the annual interim amount of \$15,000,000. Further delay in rectifying this inequity will mean continued denial of access to a fair share of trust resources for Native Hawaiians. Increasing the annual appropriation to \$35 million will support a broader range of services, programs and grants that will beneficially impact the Native Hawaiian community.

Therefore, it is appropriate that a transfer of \$139 million be made forthwith to OHA to help pay off some of the underpayment of PLT revenues from July 1, 2012 to June 20, 2019. In addition, we support the establishment of \$35 million as the new interim pro rata share allocation to OHA. We further support the annual accounting of all receipts from lands described in section 5(f) of the Admissions Act and the establishment of a committee to recommend the annual amount of the income and proceeds from the public land trust that OHA will receive.

The Waimea Hawaiian Civic Club, one of 58 clubs that make up the Association of Hawaiian Civic Clubs, is grateful to Chair Luke for hearing this bill and to the House Committee on Water, Land and Hawaiian Affairs for passing out of their committee HB402 HD1 and to the 26 House members who introduced this bill. It is a clear message that these legislators acknowledge the State's constitutional obligation to comply with the terms of the Public Land Trust and will work to resolve this long-standing problem. We respectfully ask that you pass HB 402 HD1.

Edith Kawai, Pelekikena  
Waimea Hawaiian Civic Club  
P O Box 6305  
Kamuela, HI 96743



**HAWAIIAN AFFAIRS CAUCUS  
March 13, 2019**

**TESTIMONY IN SUPPORT OF  
HB402 HD1, Relating to Increasing the Office of Hawaiian Affairs (OHA) Pro Rata Share  
of Public Land Trust Funds (PLT)  
Hearing: March 19, 2019, 2:45 p.m., Conf Rm 229**

Aloha, Senator Shimabukuro, Chair; Senator Kahele, Vice Chair; and members of the Committee on Hawaiian Affairs; and Senator Kim, Chair; Senator Kahele, Vice Chair; and members of the Committee on Higher Education

The Hawaiian Affairs Caucus continues to support HB402 HD1 that establishes the OHA's pro rata share of the Public Land Trust and transfers funds to OHA for underpayment of the PLT funds for July 1, 2012 to June 30, 2019; and requires the DLNR to provide an annual accounting of receipts from public land trust lands.

In 2006, the Office of Hawaiian Affairs and the State agreed to an interim annual amount of \$15,100,000 pending further action by the legislature to meet its constitutional obligation. In 2012, the state again acknowledged the obligation and conveyed certain lands in Kaka'ako Makai, valued at approximately \$200,000,000, to OHA for the period between Nov 7, 1978 up to and including June 30, 2012. However, since 2012, no further payments have been made to satisfy the pro rata share of the public land trust. We believe that everyone agrees that the interim annual amount of \$15,100,000 needs to be updated, especially in view of studies done on this issue that reflect that the 20% of Public Land Trust receipts far exceeds the \$15.1 million set aside annually.

We have been at this issue for several years now and we believe OHA has shown good faith in trying to work with the State on this issue. In 2016, the legislature established a Public Land Trust negotiating committee to discuss updating Native Hawaiians' interim Public Land Trust share; however, the committee was only convened once by the Governor and failed to make any meaningful progress in its work.

We appreciate and respect the concerns expressed by several State Depts, but we would suggest, that having settled on a new "interim" annual amount, the Governor and the legislature establish a working group to address these concerns. We believe this was the intent in 2012 when Act 178

was adopted, but it appears that little progress has been made to address such concerns. Still, the Native Hawaiian population should not be held hostage as the state works to resolve such concerns. A new interim amount would allow the state to provide a more just pro rata share of the PLT, while at the same time allowing for related issues to be identified and for solutions to be determined.

The Public Land Trust revenue is the primary source of funding for programs, grants and services that benefit both the Native Hawaiian and larger communities. Statistical data on the status of Native Hawaiians in health, in education, in housing, etc, reflect significant needs that could be addressed with updated PLT funds. Delaying such increases delays progress in addressing these needs.

We appreciate your committee hearing this bill. It is very clear that you have an understanding of the State's constitutional obligation to provide an adequate amount of income and proceeds as the pro rata portion of the public land trust for the betterment of the conditions of Native Hawaiians. Thus, like us, we believe you wish to get this issue resolved.

Please pass HB402 HD1.

Mahalo

LEIMOMI KHAN

Chair



# 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 PAUHI HCC  
KEHAULANI LUM

'EWA-PU'ULOA HCC  
MARLEEN KAU'I SERRAO

HCC OF HONOLULU  
MANU BOYD

KAILUA HCC  
MAPUANA DE SILVA

KALIHĪ-PĀLAMA HCC  
KAIMO MUHLESTEIN

KING KAMEHAMEHA HCC  
LETANI PELTIER

KO'OLAULOA HCC  
RANAE "TESSIE" FONOIOMOANA

KO'OLAUPOKO HCC  
ALICE P. HEWETT

LUALUALEI HCC  
SHIRLINE HO

MĀKAHA HCC  
LUANN LANKFORD-FAVORITO

MĀLAMA MELE O HAWAI'I  
JANET ABRIGO

MAUNALUA HCC  
ROSE KITTY SIMONDS

NA LANI 'EHA HCC  
R. KELANI RAMOS

NĀNĀKAPONO HCC  
JAYCINE HICKS

PAPAKŌLE'A HCC  
KEALI'I 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 WĀHIWA  
MARIE "MĀLIA" DOO

HCC OF WAIALUA  
MAKALAPUA CASSON-FISHER

WAI'ANAE HCC  
CYNTHIA ENRIQUEZ

WAIKĪ'I HCC  
L. PI'KEA TOMCZYK

HCC OF WAIMĀNALO  
FAITH KA'IAMA

SENATOR MAILE SHIMABUKURO (CHAIR), SENATOR KAIALI'I  
KAHELE (VICE CHAIR), AND THE SENATE COMMITTEE ON  
HAWAIIAN AFFAIRS,

SENATOR DONNA MERCADO KIM (CHAIR) AND SENATOR  
MICHELLE KIDANI (VICE CHAIR) AND THE COMMITTEE ON HIGH  
EDUCATION

**SUPPORT** FOR HB402 RELATING TO INCREASING THE OFFICE  
OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND  
TRUST FUNDS  
FEBRUARY 13, 2019

Aloha Senator Maile Shimabukuro (chair), Senator Kaiali'i Kahele (Vice  
Chair), and the Senate Committee on Hawaiian Affairs,

Senator Donna Mercado Kim (Chair) and Senator Michelle Kidani (Vice  
Chair) and the Committee on High Education,

As Pelekikena (President) of Ke One O Kākūhihewa (O'ahu Council-  
Association of Hawaiian Civic Clubs) and its 25 Hawaiian Civic Clubs, we  
support HB402 HD1 RELATING TO INCREASING THE OFFICE OF  
HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST  
FUNDS. This bill establishes the OHA's pro rata share of the public land  
trust, transfers funds to OHA for underpayment of the public land trust  
funds for 7/1/2012 to 6/30/2019, and requires the DLNR to provide an  
annual accounting of receipts from public land trust lands. 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 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 number 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 HB402 HD1.

*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.





**HB-402-HD-1**

Submitted on: 3/14/2019 1:00:19 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daryl Fujiwara	Testifying for Lahaina Hawaiian Civic Club	Support	No

Comments:

The Lahaina Hawaiian Civic Club **STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state’s constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai’i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state’s constitutional and moral obligations to Native Hawaiians.**

**We respectfully requests**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further requests that the measure’s proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians’ PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians’ annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai’i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

**HB-402-HD-1**

Submitted on: 3/14/2019 10:34:38 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sylvia Hussey	Testifying for Pueo Consulting, LLC	Support	No

Comments:

My name is Sylvia Hussey, I am the Owner of Pueo Consulting, LLC and i STRONGLY SUPPORT this measure--an increase in the amount of the Public Land Trust (PLT) revenue appropriated to Native Hawaiians through their Constitutionally designated trustee, the Office of Hawaiian Affairs (OHA).

*The State Legislature currently appropriates \$15.1 million annually to OHA as the pro rata share due to Native Hawaiians, as established in the State Constitution, from the income and proceeds of the PLT. However, according to currently available data on PLT revenues, which I believe to still be an incomplete accounting, the amount due to Native Hawaiians is at least \$35 million a year.*

In 2018 alone, OHA provided grants and funding for 131 organizations serving Native Hawaiian communities.\* Raising the payment amount will drastically increase the amount of funding available for these and other organizations that provide direct services to the Native Hawaiian community.

A constituent of the Kaneohe District, I know first hand of OHA's reach and impact in our statewide, island communities and reiterate my STRONG SUPPORT of this measure.





# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Hawaiian Affairs  
and

Senate Committee on Higher Education  
March 19, 2019 at 2:45 p.m.

by

Kalbert K. Young

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

### HB 402 HD1 – RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS

Chairs Shimabukuro and Kim, Vice Chairs Kahele and Kidani, and members of the committees:

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 HB 402 HD1. 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 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 Hawai‘i’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 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.



*Native Hawaiian Chamber of Commerce*

P.O. Box 597, Honolulu, Hawai'i 96809  
nativehawaiianchamberofcommerce.com • nhccoahu@gmail.com

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Shannon Edie, 1st Vice President  
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COMMITTEE ON HAWAIIAN AFFAIRS  
Senator Maile S.L. Shimabukuro, Chair  
Senator Kaiali'i Kahele, Vice Chair

COMMITTEE ON HIGHER EDUCATION  
Senator Donna Mercado Kim, Chair  
Senator Michelle N. Kidani, Vice Chair

March 19, 2019  
2:45pm, Conference Room 229, State Capitol

**HB402 HD1 Relating to Increasing the Office of Hawaiian Affairs' Pro Rata Share of Public Land Trust Funds**

Aloha Chair Maile Shimabukuro, Chair Donna Mercado Kim, Vice Chair Kaiali'i Kahele, Vice Chair Michelle Kidani, and members of the Hawaiian Affairs and Higher Education committees,

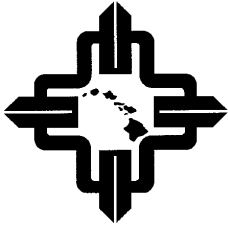
The Native Hawaiian Chamber of Commerce, with more than 300 members, strongly **SUPPORTS** HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community, especially through providing OHA with a higher percentage of its constitutional and statutory pro rata share of the Public Land Trust (PLT) revenue.

This bill transfers \$139 million to OHA to make up for some of the underpayment of PLT revenues from July 1, 2012 to June 30, 2019, and establishes \$35 million as the new interim pro rata share allocation to OHA. It also requires the continued annual accounting of all receipts from lands described in section 5(f) of the Admission Act and establishes a committee to recommend the annual amount of the income and proceeds from the public land trust that OHA will receive annually.

Native Hawaiians have been denied access to their 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. Raising the annual appropriation to \$35 million will support a wider range of strategic and innovative programs in the areas of housing, health care, education, jobs and economic development that will improve the well-being of Native Hawaiians and all of Hawai'i.

NHCC respectfully urges the committee to PASS HB402 HD1. Mahalo you for the opportunity to submit this testimony.

*NHCC is a business chamber representing the Hawaiian business voice of 300 members. Our mission is to connect and strengthen Native Hawaiian businesses and professions by building on a foundation of relationships, resources and Hawaiian values.*



## **HAWAII HEALTH SYSTEMS**

C O R P O R A T I O N

*Quality Healthcare For All*

**Senate Committee on Hawaiian Affairs**  
**Senator Maile S.L. Shimabukuro, Chair**  
**Senator Kaiali'i Kahele, Vice Chair**

**Senate Committee on Higher Education**  
**Senator Donna Mercado Kim, Chair**  
**Senator Michelle N. Kidani, Vice Chair**

March 19, 2019  
Conference Room 308  
2:45 p.m.  
Hawaii State Capitol

**Testimony Providing Comments House Bill 402, H.D.1  
Relating to Increasing the Office of Hawaiian Affairs' Pro Rata Share  
of Public Land Trust Funds.**

**Establishes the OHA's pro rata share of the public land trust. Transfers funds to OHA for underpayment of the public land trust funds for 7/1/2012 to 6/30/2019. Requires the DLNR to provide an annual accounting of receipts from public land trust lands. Appropriates funds.**

Linda Rosen, M.D., M.P.H.  
Chief Executive Officer  
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony **providing comments on H.B. 402, H.D.1** that establishes the OHA's pro rata share of the public land trust, transfers funds to OHA for underpayment of the public land trust funds for 7/1/2012 to 6/30/2019 and requires the DLNR to provide an annual accounting of receipts from public land trust lands.

HHSC supports the exclusion of patient service revenues from the ceded lands rental computation. The services provided by HHSC's facilities are of benefit to all of the communities we serve, which includes the Native Hawaiian population in those areas. As a result, it makes sense that those patient service revenues be excluded from the rental computation as OHA's constituents are already receiving a huge community benefit from having healthcare services provided by HHSC.

3675 KILAUEA AVENUE • HONOLULU, HAWAII 96816 • PHONE: (808) 733-4020 • FAX: (808) 733-4028

Further, the practice of continuing to have HHSC continue to pay rental income on its non-patient service revenues has a significant operating impact on a health care system that is already cash-strapped. HHSC's non-patient service revenues consist of items such as cafeteria income, medical record abstract fees, and rental income. In reality, HHSC cannot separate its non-patient service revenues from its patient service revenues and justify paying rent on those non-patient service revenues, as they are all related to the provision of healthcare services to the community. Therefore, HHSC believes that none of its revenues should be subject to the OHA rental computation, as OHA's constituents benefit equally from the non-patient service revenues that HHSC earns as well as the patient service revenues derived from direct patient care.

Thank you for the opportunity to testify before this committee **providing comments** on this measure.

**HB-402-HD-1**

Submitted on: 3/15/2019 11:47:40 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	Testifying for We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai'i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**I respectfully requests**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further requests that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

[www.WeAreOne.cc](http://www.WeAreOne.cc)



March 16, 2019

**SENATE COMMITTEE ON HAWAIIAN AFFAIRS and  
SENATE COMMITTEE ON HIGHER EDUCATION**

Hearing Date: March 19, 2019

Time: 2:45 p.m.

Location: Conference Room 229, Hawaii State Capitol

**Re: HB 402, HD1, Relating to Increasing the Office of Hawaiian Affairs Pro Rata Share of Public Land Trust Funds.**

To the Honorable Members of the Senate Committee on Hawaiian Affairs and the Senate Committee on Higher Education:

**The Council for Native Hawaiian Advancement (CNHA) testifies in Strong Support of Passage of HB 402, HD 1, with the following comments and suggested amendments.**

The Public Land Trust is comprised of over one million acres of former government and crown lands of the Kingdom of Hawaii unlawfully seized as part of the Kingdom of Hawaii's overthrow. By State constitutional provisions, by enacted State statutes, and by Hawaii State Supreme Court opinions, OHA is entitled to 20% of the value generated from the lands in the Public Lands Trust to accomplish its mission of "bettering the conditions of Native Hawaiians."

HB 402, as introduced, was intended to update the interim Public Land Trust payment amounts that the state and OHA agreed to in 2006 as \$15.1 million annually to an audit-supported amount going forward of \$35 million (termed "front payments" hereinafter), was intended to transfer to OHA the difference between the interim amount of \$15.1 million and the actual audit-supported amount of Public Land Trust funds that should have been tendered to OHA but-for the pre-set interim amount which has been audited and calculated to be \$139 million (called "back payments" hereinafter), was intended to resolve longstanding issues as to the process by which the state would report, account for, segregate and set aside the amounts due and owing to OHA from the revenues generated from Public Trust Lands by requiring continued reporting under the former Public Land Trust interim agreement established under Act 178 in 2006, and was intended to convene a Public Land Trust Revenue Committee every six years to make recommendations on the actual amounts of Public Land Trust revenue due and owing OHA by the state to fulfill its trust obligations to Native Hawaiians.

By way of background, the crux of the problem and the need for this legislation is that the State appears to be having great difficulty in determining the value of 100% of the earnings and revenue generated from the Public Land Trust. Given that fact, it stands to reason that reporting, accounting for, segregating, setting aside the revenues and earnings derived from the Public Land Trust, and thereby fulfilling its constitutional and statutory obligation to Hawaiians with respect to the 20% portion of those revenues and earnings owed to OHA on behalf of Native Hawaiians, has been equally difficult and challenging for the State.

In 2006 through Act 178, the Hawaii State Legislature and the Administration enacted legislation to establish an interim payment schedule based upon its then best-estimate as to how much earnings would be generated by the Public Land Trust in toto, of which OHA would be entitled to 20%. An accounting and reporting system was established within DLNR designed to eliminate the lack of certainty as to value of the Public Land Trust with the full expectation that the corpus of the Public Land Trust and the revenues and earnings derived from it would be readily definable to a high degree of certainty. It was further expected that with these reporting and accounting systems in place that an accurate understanding of how much revenue was actually being generated by the Public Land Trust could be revisited in the future so that any shortages in the funds OHA received in comparison to the interim payments being made to OHA could be adjusted as this presumed-accurate Public Land Trust data would warrant.

Unfortunately, the DLNR's reporting, accounting for, segregating, and characterization of revenues and earnings which are part of the Public Land Trust - - and to which OHA's 20 % share is owed - - has remained vague, ambiguous, and lacking in certainty, a situation which caused OHA to commission audits by a reputable national accounting firm (KLH) of these amounts being reported and accounted for by each State agency of the Public Land Trust activities within its control and discretion.

The picture that has emerged of the state of the State's Public Land Trust accounting and reporting system is one that is lacking in certainty and rigor, making a mockery of the State's solemn obligation to "better the conditions of Native Hawaiians" by tendering 20 % of these State Public Land Trust revenues and earnings in trust to OHA for the betterment of its beneficiaries. Rather than certainty and rigor, the State appears by default to have adopted an honor system of Public Land Trust reporting and accounting, one where each State agency appears to have wide discretion to characterize lands and activities as within or without the Public Land Trust, making it difficult for the State to be able to accurately account to its Native Hawaiian beneficiaries as to whether it has tendered to OHA and its beneficiaries what OHA and its Native Hawaiian beneficiaries are actually owed.

HB 402 was intended to address these issues by establishing a back-payment amount of Public Land Trust revenues that are due and owing OHA on behalf of its Native Hawaiian beneficiaries (\$139 million), by establishing a front-payment interim amount (\$ 35 million), by setting up a process to assure better and more accurate Public Land Trust revenue and earnings data, and by establishing a Public Land Trust Revenues Committee to revisit the accuracy of the front-payment interim amount in the future.

There is additional issue which this joint Senate committee hearing on HB 402 should address, as was set forth in testimony submitted to the Finance Committee of the House of Representatives by the University of Hawaii: "the University respectfully and strongly urges that it be expressly excluded from any reporting requirements or financial obligations to OHA." The University of Hawaii provides scant support for its bald assertion other than the fact that its student body includes a percentage of Native Hawaiians who are charged and pay the same fees, costs, and tuition all other students pay. How does the mere fact that Hawaiians are being educated through the University of Hawaii justify the University's failure to account for, report, and tender a portion of the resources they generate to "better the conditions" of Hawaiians? CNHA implores your committee to see this argument for what it is, an attempt by the University to justify their unwillingness to accurately account for, categorize, and report the numerous revenue streams that now exist from the University's activities on ceded lands (

e.g. Rental of telescope time in the millions of dollars annually by the Institute for Astronomy on Mauna Kea), and the reasonableness of the costs being assessed against those revenues being generated in determining the net profit against which OHA's 20 % must be calculated. CNHA is extremely skeptical of the University's argument, and urges similar skepticism be exercised by the Hawaiian Affairs and Higher Education Senate Committees in assessing the relevance and validity of the University's PLT position.

The House of Representatives made a number of amendments to HB 402 which it has proffered and reported out as HB 402 HD 1. CNHA respectfully requests that your Hawaiian Affairs and Higher Education Committees amend HB 402 HD 1 by returning it to SB 402 as originally introduced.

This Public Land Trust issue has languished long enough. It is time for our elected officials to address it in a fair and equitable manner for once and for all.

We respectfully ask that HB 402 HD 1 be passed out of the Senate Hawaiian Affairs and Senate Higher Education Committees as it was originally introduced in the House of Representatives.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Kuhio Lewis', with a stylized flourish at the end.

J. Kuhio Lewis  
Chief Executive Officer



## THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS

Committee on Hawaiian Affairs  
Committee on Higher Education

*Pō‘alua, Malaki 19, 2019*  
*Lumi ‘Aha Kūkā 229*  
*Ke Kapikala Moku ‘āina*  
415 South Beretānia Street

Re: HB420 HD1 - RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS'  
PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS

*Aloha Luna Ho‘omalu Maile Shimabukuro, Hope Luna Ho‘omalu Kaialii Kahele, Luna Ho‘omalu Donna Kim, Hope Luna Ho‘omalu Michelle Kidani and members of the Senate committees on Hawaiian Affairs and Higher Education:*

The Association of Hawaiian Civic Clubs **SUPPORTS** HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community, especially through providing OHA with a higher percentage of its constitutional and statutory pro rata share of the Public Land Trust revenue. At the 57th annual convention of the Association, resolution 2016-1 was passed where it called for a more equitable annual allocation of Public Land Trust revenue to OHA for its pro rata share and for the State to provide funds to address the years of underpayment.

The original bill transfers \$139 million to OHA to make up for some of the underpayment of public land trust revenues from July 1, 2012 to June 30, 2019; establishes \$35 million as the new interim pro rata share allocation to OHA; requires the continued annual accounting of all receipts from lands described in section 5(f) of the Admission Act; and establishes a committee to recommend the annual amount of the income and proceeds from the public land trust that OHA shall receive annually.

The Native Hawaiian community has been denied access to their 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 positive effect on all of Hawai‘i. Raising the annual appropriation to \$35 million will support a wider range of strategic

and innovative programs—including housing, health care, education, business opportunities, and job opportunities—that will improve the well-being and conditions of Native Hawaiians and all of Hawai‘i.

Thus, the Association respectfully urges the committees to **PASS** HB402 HD1.

The civic club movement was founded in 1918 by Congressional Delegate Prince Jonah Kūhiō Kalaniana‘ole with the creation of the Hawaiian Civic Club in Honolulu, O‘ahu; 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*

***ASSOCIATION OF HAWAIIAN  
CIVIC CLUBS***

***A RESOLUTION***

16 - 1

**URGING THE GOVERNOR OF THE STATE OF HAWAI'I TO CONVENE THE  
PUBLIC LAND TRUST REVENUES NEGOTIATING COMMITTEE**

WHEREAS, the House of Representatives of the Twenty-eighth Legislature of the State of Hawai'i, Regular Session of 2016, the Senate concurring, adopted a concurrent H.C.R. No. 188 H.D. 1 S.D. 1, requesting the Governor convene a Public Land Trust Revenues Negotiating Committee (Committee); and

WHEREAS, the Committee is to discuss the income and proceeds from the public land trust that the Office of Hawaiian Affairs (OHA) should receive annually pursuant to the State Constitution and other State laws; and

WHEREAS, the Committee is to be comprised of the Governor or designee, the President of the Senate or designee, the Speaker of the House of Representatives or designee, the Chairperson of the OHA or designee; and

WHEREAS, the State of Hawai'i has fiduciary responsibilities as the trustee of the public land trust established by section 5(f) of the Admission Act of 1959; and

WHEREAS, in 1978 the people of Hawai'i overwhelmingly ratified amendments to the constitution, including Article XII, section 6, which established OHA; and

WHEREAS, OHA has a right to receive a pro rata portion of the public land trust for one of the five express purposes of the public land trust – the betterment of the conditions of Native Hawaiians; and

WHEREAS, pursuant to its fiduciary obligations, the state of Hawai'i enacted Act 273, S.L.H. 1980, codified as Hawaii Revised Statute (HRS) section 10-13.5, which defined OHA's pro rata share as "twenty percent of all funds derived from the public land trust"; and

WHEREAS, OHA and the State litigated over the scope of revenue subject to OHA's pro rata share starting in the 1980s, which ultimately led to a dismissal by the court because HRS section 10-13.5 did not provide the court sufficient "judicially discoverable and manageable standards" and therefore could not be decided without initial policy determinations by the legislature; and

WHEREAS, for decades OHA and the State have disagreed on how to calculate OHA's pro rata share of the public land trust as well as whether certain revenue streams should be subject to OHA's minimum twenty percent share; and

WHEREAS, Act 178, SLH 2006, temporarily established OHA's pro rata share of the income and proceeds of the public land trust for the betterment of the conditions of Native Hawaiians at \$15,100,000 annually and required State agencies to report public land trust revenues to the legislature each year; and

WHEREAS, the State's annual payments to OHA for its portion of the public land trust, which are calculated using historically-undisputed revenue streams, have resulted in overages over the temporary \$15,100,000 allotment requiring OHA to return millions of dollars to the State starting in fiscal year 2013; and

WHEREAS, a decade has passed since the enactment of Act 178, SLH 2006, it is now appropriate for the State and the OHA to re-examine the annual figure of \$15,100,000 in light of information, data, and facts provided to the Legislature by State agencies over the last three fiscal years concerning revenues of the public land trust; and

WHEREAS, the Hawai'i Supreme Court has repeatedly held that the Legislature has a constitutional obligation to clarify the pro rata portion of revenues derived from the public land trust to which OHA is entitled for the benefit of Native Hawaiians under Article XII, sections 4 and 6 of the Hawai'i State Constitution; and

WHEREAS, OHA relies substantially on revenues derived from the public land trust to manage over 27,000 acres of conservation and agricultural lands, advocate for policies that better the conditions of Native Hawaiians, monitor government actions to ensure their compliance with environmental laws and the public trust, and provide community grants and scholarships; and

WHEREAS, the convening of the Committee would be a positive step towards improving the civic, economic, social welfare, and health of Native Hawaiians and the larger State community.

NOW, THEREFORE, BE IT RESOLVED, by the Association of Hawaiian Civic Clubs at its 57<sup>th</sup> annual convention at Las Vegas, Nevada this 19<sup>th</sup> day of November 2016, that it urges the Governor of the State of Hawai'i to convene the Public Land Trust Revenues Negotiating Committee; and

BE IT FURTHER RESOLVED, that as part of the negotiated settlement the State shall provide at least twenty percent of all public land trust revenue to OHA moving forward; and

BE IT FURTHER RESOLVED, that the State shall provide all back funds based on the minimum twenty-percent pro rata share that has not been transferred to OHA since its Constitutional creation; and

BE IT FURTHER RESOLVED, that OHA and the State introduce legislation to formalize such agreement by the 2018 legislative session; and

BE IT FURTHER RESOLVED, that the Legislature determine the policy for judicially discoverable and manageable standards; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to the Governor of the State of Hawai'i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate Committee on Hawaiian Affairs, Chair of the State House Committee on Ocean, Marine Resources, & Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted on the 19<sup>th</sup> day of November 2016, at the 57th Annual Convention of the Association of Hawaiian Civic Clubs in Las Vegas, Nevada.

*Annelle C. Amaral*

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Annelle C. Amaral, President



**HB-402-HD-1**

Submitted on: 3/17/2019 9:41:33 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Craig "Bo" Kahui	Testifying for Laiopua 2020, Villages of Laiopua Homestead Association	Support	No

Comments:

I STRONGLY SUPPORT HB402, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; (2) Transferring \$139 million to OHA for underpaid PLT revenues between July 1, 2012 and June 30, 2019; (3) Requiring continued annual accounting of revenues from PLT lands; and (4) Convening a Public Land Trust Revenues Committee every six years, to review and make recommendations regarding OHA's portion of PLT revenues. We believe that it is time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the wellbeing and conditions of Native Hawaiians and Hawai'i. At that point OHA could fund more of the Native Hawaiian beneficiaries projects on Hawaiian Homelands vs us forced to go to the Legislature to get funds for our projects that impact not only our people but of the broader community at large. Therefore, I respectfully urge the Committee to PASS HB 402.



### **Board Members**

*President*  
Jason Okuhama  
Managing Partner,  
Commercial & Business Lending

*Secretary*  
Marcus Kawatachi  
Deputy Director,  
Hawai'i Civil Rights Commission

Trina Orimoto  
Clinical & Research Psychologist

Kaipo Kukahiko  
Executive Director,  
KEY Project

Miwa Tamanaha  
Deputy Director,  
Kua'āina Ulu 'Auamo

### **HACBED Staff**

Brent N. Kakesako  
*Executive Director*

Keoki Noji  
*Chief Operating Officer*

Athena T. Esene  
*Bookkeeper & Office Manager*

Foley Pfalzgraf  
*Program Specialist*

Chelsie Onaga  
*AmeriCorps VISTA*

Eden Jablon  
*AmeriCorps VISTA*

Date: March 17, 2019

To: Senator Maile S.L. Shimabukuro, Chair, Senator Kaiali'i Kahele, Vice-Chair, and members of the Committee on Hawaiian Affairs  
Senator Donna Mercado Kim, Chair, Senator Michelle N. Kidani, Vice-Chair, and members of the Committee on Higher Education

From: Brent Kakesako, Hawai'i Alliance for Community-Based Economic Development (HACBED)

Re: Support for HB402 HD1

Aloha Chairs Shimabukuro and Kim, Vice-Chairs Kahele, and Kidani and Committee Members,

The Hawai'i Alliance for Community-Based Economic Development (HACBED) supports HB402 HD1, increases the Office of Hawaiian Affairs' (OHA) pro rata share of public land trust (PLT) fund, transfers funds to OHA for underpayment from July 1, 2012 to June 30, 2019, requires the Department of Land and Natural Resources to provide an annual accounting of receipts, and appropriates funds. I respectfully request Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount. I also respectfully request that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into sections 1 and 5 of this measure.

HACBED was established in 1992 as a nonprofit statewide intermediary to address social, economic, and environmental justice concerns through community-based economic development. It advances its mission with core competencies in the areas of community and organizational capacity building, community and economic development planning, and asset policy development and advocacy. HACBED has been fortunate to be of support to Native Hawaiian communities and entities across the state, that have benefited from OHA support. For example, HACBED collaborated with Nā Kūpuna A Me Nā Kako'o O Hālawā on an OHA grant to support their stewardship efforts of Hālawā Valley on the island of O'ahu. The nonprofit entity was founded out of group members' efforts to protest the construction of the H-3 highway. Rather than continuing to fight the state after the H-3's construction, the group coordinated monthly community workdays to steward the area, including numerous wahi pana, and share the story of the Valley with whoever spends their time and effort in the Valley. With the needed support from OHA, the group, now consisting largely of family members, was able to have tough internal conversations that allowed them to bring their nonprofit entity forward by refreshing their board, mapping out their organizational structure and capacity, tightening up their financials, and creating a sustainability plan for ongoing and future operations – all while maintaining and strengthening their familial ties. This allowed them to better document the stories of the Valley and its wahi pana to preserve and better share them for the community as a whole.

This effort is just one examples that demonstrates the important support that OHA

provides to Native Hawaiian communities. HB402 HD1 is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligation to Native Hawaiians. The share of PLT funds is a primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community in the basic areas of education, housing, and natural resource management. We strongly urge the passage of HB402 HD1 to increase the range and number of strategic and innovative programs and activities that preserve and protect this place – Hawai'i.

Mahalo for this opportunity to testify,

Brent N. Kakesako  
Executive Director

**HB-402-HD-1**

Submitted on: 3/17/2019 5:19:47 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pride Work HI	Testifying for Pride at Work Hawaii	Support	No

Comments:

Aloha Senators,

The Pride at Work Hawaii, an affiliate of Hawaii State AFL-CIO, supports the passage of HB 402 HD 1.

Mahalo for your consideration and for the opportunity to testify STRONG support of HB 402 HD 1.

Mahalo,

Pride at Work - Hawaii

**HB-402-HD-1**

Submitted on: 3/17/2019 6:58:20 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Lum	Testifying for Ali`i Pauahi Hawaiian Civic Club	Support	No

Comments:

Aloha Chairs Shimabukuro and Kim, Vice Chairs Kidani and Kahele, and members of the Committees on Hawaiian Affairs and Higher Education. Mahalo nui loa for this opportunity to express our **strong support** for HB 402 HD1.

My name is Kehaulani Lum, and I am the Pelekikena of the Ali`i Pauahi Hawaiian Civic Club, which has been a chartered member of the Association of Hawaiian Civic Clubs since 1973. our members span three generations and reside in communities across the island of O`ahu and beyond. We are hard working members of the community, who hold positions in the fields of education, medicine, banking, aviation, civil service, law, the arts, Native Hawaiian traditional practice and much much more.

We deeply value the work of the Office of Hawaiian Affairs, in fulfilling its, and the State's, duty to the Native Hawaiian people and have seen firsthand many profound and positive outcomes and impacts upon our community. We know that there is much more that needs to be done, however, the resources necessary to move forward are seriously limited.

Ali`i Pauahi **STRONGLY SUPPORTS HB402 HD1**, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai'i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**We respectfully request that:**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, we further request that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019; and that
- The measure restores continued annual accounting of revenues of PLT revenue

As the cost of living rises rapidly in Hawai'i Nei, the years of unjustified delay are taking their toll. It is time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and all of Hawai'i. Therefore, we respectfully urge the Committee to **PASS HB402 HD1.**

Mahalo nui loa for your continued Aloha for our people and our islands of Hawai'i.

Me ke aloha pumehana,

Kehaulani Lum, Pelekikena

**HB-402-HD-1**

Submitted on: 3/18/2019 9:44:17 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Devin Kamealoha Forrest	Testifying for Hanalei Hawaiian Civic Club	Support	No

Comments:

E NÄ• KÄ• naka i Koho 'Ia o ka 'Aha 'ÄElelo, Aloha nui kÄ• kou.

The Hanalei Hawaiian Civic Club asks humbly that you support HB402 : RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS. While our club has not been fiscally supported by OHA, we have seen the positive impacts this organization has had in our community with its support of the many programs and initiatives here on Kaua'i. Many youth and extracurricular programming are largely supported by OHA, giving opportunities to kamali'i and 'Ä• pio that their families would otherwise not be able to access and afford. This increase in funding will help OHA to serve more communities and make it possible for them to support more programs, instead of forcing them to scale back and cut programs in smaller rural areas like Kaua'i. Therefore we again ask humbly for your support, not just of funding for OHA, but for the many communities and people they serve.

Na'u nÄ• me ka ha'aha'a

na Devin Kamealoha Forrest

Hope Pelekikena, Hanalei Hawaiian Civic Club

**HB-402-HD-1**

Submitted on: 3/17/2019 5:14:01 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii strongly supports the passage of HB 402 HD1.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii





Luna O Na Papa Alakai

Senate Committee on Hawaiian Affairs  
Senate Committee on Higher Education

Pelekikena  
A. Makana Paris

Tuesday, March 19, 2019  
2:45 pm House Conference Room 229  
State Capitol  
415 South Beretania Street

Hope Pekekikena  
Ekahi  
Randi Fernandez

Hope Pelekikena  
Elua  
Matthew Gumapaz

RE: HB402 HD1 - RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS

Puuku  
Denise Kekuna

Aloha Chair Maile Shimabukuro, Vice-Chair Kahele, Chair Kim, Vice-Chair Kidani and honorable members:

Kakauolelo Hoopaa  
Sai Furukawa

Kakauolelo Hooholo  
Palapala  
Kamuela Werner

The Prince Kūhiō Hawaiian Civic Club **SUPPORTS** HB402 HD1. The bill will allow the State to more fully act upon its trust *kuleana* (responsibility) to Native Hawaiians by allocating to the Office of Hawaiian Affairs (OHA) a more just pro rata share of the Public Land Trust revenue.

Pelekikena Hala  
Koke  
Yvonne 'PeeWee'  
Ryan

The bill in its original form transfers \$139 million to OHA for back funds owed from July 1, 2012 to June 30, 2019; establishes \$35 million as the new interim pro rata share allocation to OHA; requires the better accounting of revenue generation on 5(f) lands; and creates a public land trust revenue committee to make recommendations on the appropriate pro rata share that OHA shall receive annually every six years.

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

Native Hawaiians enjoy a trust relationship with the State. OHA is the entity in which Native Hawaiians as trust beneficiaries are able to access their trust resources in the form of grants, services, programs, scholarships, and loans. By raising the annual appropriation to \$35 million, and by granting the back underpayments of approximately \$139 million, the Native Hawaiians community will be able to access more of their trust resources and will be able improve their well-being and better the conditions for all of Hawai'i.

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

Thus, the Prince Kūhiō Hawaiian Civic Club respectfully urges the Committee to **PASS** HB402 HD1.

www.pkhcc.org

*Mahalo nui loa.*

*Me ke aloha,*

Founded in 1964  
by Liliuokalani  
Kawananakoa Morris

A. Makana Paris  
Pelekikena  
president@pkhcc.org



*Native Hawaiian Chamber of Commerce*

P.O. Box 597, Honolulu, Hawai'i 96809  
nativehawaiianchamberofcommerce.com • nhccoahu@gmail.com

2017-2018 Directors  
Joseph Lapilio, President  
Shannon Edie, 1st Vice President  
Sydney Keli'ipuleole, 2nd Vice President  
Richard Fernandez, Past President  
Kanoë Tjorvatjoglou-Cup Choy, Secretary  
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Robert Piper  
Andrew Rosen  
Sean Spencer  
Timmy Wailehua  
Leilani Williams-Solomon

COMMITTEE ON HAWAIIAN AFFAIRS  
Senator Maile S.L. Shimabukuro, Chair  
Senator Kaiali'i Kahele, Vice Chair

COMMITTEE ON HIGHER EDUCATION  
Senator Donna Mercado Kim, Chair  
Senator Michelle N. Kidani, Vice Chair

March 19, 2019  
2:45pm, Conference Room 229, State Capitol

**HB402 HD1 Relating to Increasing the Office of Hawaiian Affairs' Pro Rata Share of Public Land Trust Funds**

Aloha e Luna Ho'omalua Maile Shimabukuro, Luna Ho'omalua Donna Mercado Kim, Hope Luna Ho'omalua Kaiali'i Kahele, Hope Luna Ho'omalua Michelle Kidani, and members of the Hawaiian Affairs and Higher Education Committees.

The Native Hawaiian Chamber of Commerce SUPPORTS HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community, especially through providing OHA with a higher percentage of its constitutional and statutory pro rata share of the Public Land Trust (PLT) revenue.

This bill transfers \$139 million to OHA to make up for some of the underpayment of PLT revenues from July 1, 2012 to June 30, 2019, and establishes \$35 million as the new interim pro rata share allocation to OHA. It also requires the continued annual accounting of all receipts from lands described in section 5(f) of the Admission Act and establishes a committee to recommend the annual amount of the income and proceeds from the public land trust that OHA will receive annually.

Native Hawaiians have been denied access to their 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. Raising the annual appropriation to \$35 million will support a wider range of strategic and innovative programs in the areas of housing, health care, education, jobs and economic development that will improve the well-being of Native Hawaiians and all of Hawai'i.

NHCC respectfully urges the committee to PASS HB402 HD1 and we mahalo you for the opportunity to submit this testimony.

*NHCC is a business chamber representing the Hawaiian business voice of 300 members. Our mission is to connect and strengthen Native Hawaiian businesses and professions by building on a foundation of relationships, resources and Hawaiian values.*

**Testimony of Denver Saxton Coon on behalf of Trilogy Corporation, in strong support of HB402, relating to increasing the Office of Hawaiian Affairs' pro rata share of Public Land Trust funds.**

Ke Kōmike Kuleana Hawai'i  
COMMITTEE ON HAWAIIAN AFFAIRS

Kenekoa/Senator Maile S.L. Shimabukuro, Luna Ho'omalu/Chair  
Kenekoa/Senator Kaiali'i Kahele, Hope Luna Ho'omalu/Vice Chair

COMMITTEE ON HIGHER EDUCATION

Kenekoa/Senator Donna Mercado Kim, Luna Ho'omalu/Chair  
Kenekoa/Senator Michelle N. Kidani, Hope Luna Ho'omalu/Vice Chair

'Ōlelo Ho'olaha No Ka 'Aha Ho'olohe  
NOTICE OF HEARING

Lā / DATE:	Pō'aluā, Malaki 19, 2019 /Tuesday, March 19, 2019
Hola / TIME:	2:45PM
Wahi / PLACE:	Lumi 'Aha Kūkā 229 / Conference Room 229 Ke Kapikala Moku'āina / State Capitol 415 South Beretania Street

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Aloha. My name is Denver Saxton Coon. I am general counsel for Trilogy Corporation dba Trilogy Excursions. Trilogy Excursions has been operating on the island of Maui and Lanai for over 45 years. Trilogy Excursions is dedicated to educating its guests about the Hawaiian culture and giving back to our island community.

HB402 HD1 will help 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, a portion of which is derived from ocean tourism companies like Trilogy Excursions.

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 effect on all of Hawai'i. Raising the interim annual appropriation to \$35 million and providing the \$139 million in back payments will support programs that positively impact trust beneficiary housing, health care, education, business opportunities, and job opportunities for Native Hawaiians. An increased share of the PLT revenue will help to ensure the protection and perpetuity of both the Native Hawaiian community and the Hawaiian culture.

Trilogy Excursions humbly requests that the committee pass HB402 HD1.

*Mahalo,*

Denver Saxton Coon  
Trilogy Corporation  
General Counsel



16-120 'Ōpūkaha'ia St  
Kea'au, HI 96749  
(808) 982-4260  
(808) 966-7821  
www.nawahi.org

### Ka Papa Alaka'i

Dr. Kēhaulani  
'Aipia-Peters,  
Pelekikena

Kēhaulani Shintani,  
Hope Pelekikena

Kaleo Hayashida,  
Kākau 'Ōlelo

Leilani Ka'apuni,  
Pu'ukū

Kamalei Hayes

Dr. Kauanoē  
Kamanā

Nāmaka Rawlins

Dr. Pila Wilson

Pelehonuamea  
Harman

Hi'ilei Vuta

Kayla Ahsing

No 'Ane'i Ko  
Kākou Ola!

Senator Maile S. L. Shimabukuro, Chair  
Senator Kaiali'i Kahele, Vice Chair  
Senate Committee on Hawaiian Affairs

Senator Donna Mercado Kim, Chair  
Senator Michelle N. Kidani, Vice Chair  
Senate Committee on Higher Education

Date of Hearing: 3-19-2019  
Time: 2:45pm  
Location: Conference Room 225

*Testimony of Dr. Kēhaulani 'Aipia-Peters, Governing Board Chair  
Ke Kula 'O Nāwahīokalani'ōpu'u Iki LPCS*

### HB402, HD1 RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS: **STRONG SUPPORT**

Aloha Chair Senator Maile Shimabukuro and members of the Senate Committee  
on Hawaiian Affairs:

My name is Dr. Kēhaulani 'Aipia-Peters. I am the chair of the Governing Board of  
Ke Kula 'O Nāwahīokalani'ōpu'u Iki Laboratory Public Charter School.

Please list my support on behalf of our charter school for the passage of **HB402,  
HD1. This legislation is designed to appropriately fund the Office of Hawaiian  
Affairs (OHA).**

OHA has played an important role in moving the work of charter schools forward,  
and Nāwahīokalani'ōpu'u Iki especially forward. Receipt of its Constitutionally  
required share of the public lands trust income will allow OHA to further its  
mission including support for students in Hawaiian Language and Culture-based  
Charter Schools.

Mahalo nui for the opportunity to provide testimony for your consideration

Mahalo,

Dr. Kēhaulani 'Aipia-Peters  
Chair, Governing Board  
Ke Kula 'O Nāwahīokalani'ōpu'u Iki LPCS



KAMEHAMEHA SCHOOLS®



Senate Committees on Hawaiian Affairs and Higher Education

Time: 2:45 PM

Date: Malaki 19, 2019

Location: Conference Room 229

Testimony submitted by the listed organizations

**RE: HB402 HD1, Relating to Increasing the Office of Hawaiian Affairs' pro rata share of the Public Land Trust Funds**

E ka Luna Ho'omaluku Shimabukuro, ka Luna Ho'omaluku Kim, ka Hope Luna Ho'omaluku Kahele, ka Hope Luna Ho'omaluku Kidani, a me nā Kenekoa 'ē a'e o kēia mau Kōmike, aloha!

We, the listed organizations, submit this joint testimony in strong **SUPPORT** of HB402 HD1, which seeks to ensure that the State's constitutional and statutory Public Land Trust obligations to Native Hawaiians are more properly fulfilled. After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of Public Land Trust revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i.

With this testimony, our organizations collectively ask the Committees to **PASS** HB402 HD1. Mahalo nui for the opportunity to provide this testimony.

**HB-402-HD-1**

Submitted on: 3/12/2019 1:11:26 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

I STRONGLY SUPPORT HB402, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; (2) Transferring \$139 million to OHA for underpaid PLT revenues between July 1, 2012 and June 30, 2019; (3) Requiring continued annual accounting of revenues from PLT lands; and (4) Convening a Public Land Trust Revenues Committee every six years, to review and make recommendations regarding OHA's portion of PLT revenues. After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to PASS HB 402.

**HB-402-HD-1**

Submitted on: 3/12/2019 6:52:21 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Aloha Chairs Shimabukuro and Kim, and Vice Chairs Kahele and Kidani:

We are writing to express our strong support for HB402. 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 HB402, and help return to the Native Hawaiians what is rightfully theirs.

Respectfully,

Joshua Michaels and Antoinette Lilley



## Hālau I Ka Wēkiu

394 'Auwaiolimu St.  
Honolulu, HI 96813

COMMITTEE ON HAWAIIAN AFFAIRS  
Senator Maile S.L. Shimabukuro, Chair  
Senator Kaiali'i Kahele, Vice Chair

COMMITTEE ON HIGHER EDUCATION  
Senator Donna Mercado Kim, Chair  
Senator Michelle N. Kidani, Vice Chair

March 19, 2019  
2:45pm, Conference Room 229, State Capitol

### **HB402 HD1 Relating to Increasing the Office of Hawaiian Affairs' Pro Rata Share of Public Land Trust Funds**

Aloha Chair Maile Shimabukuro, Chair Donna Mercado Kim, Vice Chair Kaiali'i Kahele, Vice Chair Michelle Kidani, and members of the Hawaiian Affairs and Higher Education committees,

I am a businessman and Kumu Hula of Hālau I Ka Wēkiu with more than 150 students, and I strongly **SUPPORT** HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community, especially through providing OHA with a higher percentage of its constitutional and statutory pro rata share of the Public Land Trust (PLT) revenue.

This bill transfers \$139 million to OHA to make up for some of the underpayment of PLT revenues from July 1, 2012 to June 30, 2019, and establishes \$35 million as the new interim pro rata share allocation to OHA. It also requires the continued annual accounting of all receipts from lands described in section 5(f) of the Admission Act and establishes a committee to recommend the annual amount of the income and proceeds from the public land trust that OHA will receive annually.

Native Hawaiians have been denied access to their 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. Raising the annual appropriation to \$35 million will support a wider range of strategic and innovative programs in the areas of housing, health care, education, jobs and economic development that will improve the well-being of Native Hawaiians and all of Hawai'i.

I urge the committee to PASS HB402 HD1 and mahalo you for the opportunity to submit this testimony.

Me ka ha'a ha'a,

Karl Veto Baker

**HB-402-HD-1**

Submitted on: 3/14/2019 9:29:05 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leatrice Maluhia Kauahi	Individual	Support	No

Comments:

The Public Land Trust law is very clear and I am unable to understand why it is difficult for lawmakers cannot be pono and do the pono thing and give OHA what is due to the organization that helps our Hawaiian communities and is the LAW. Please remember as lawmakers it is your kuleana to represent the residents of Hawaii which does include Native Hawaiians. The Law need to be followed, please.

Mahalo.

March 17, 2019

SUBMITTING TESTIMONY FOR HB402 HD1 GOING TO THE SENATE

I STRONGLY SUPPORT HB402 HD1, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai'i. Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.

I respectfully request

- Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.
- Similarly, I further requests that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue  
After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to PASS HB402 HD1.

Anita Mae Kuulei Naone  
605 Alihi Place  
Kailua, Oahu 96734

**HB-402-HD-1**

Submitted on: 3/14/2019 1:20:46 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tadia Rice	Individual	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state’s constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai’i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state’s constitutional and moral obligations to Native Hawaiians.**

**I respectfully requests**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further requests that the measure’s proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians’ PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians’ annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai’i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

Mahalo,

Tadia Rice

**HB-402-HD-1**

Submitted on: 3/14/2019 2:07:04 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
JACK MORGAN	Individual	Support	No

Comments:

**STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state’s constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai’i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state’s constitutional and moral obligations to Native Hawaiians.**

**I respectfully requests**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further requests that the measure’s proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians’ PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians’ annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai’i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

**HB-402-HD-1**

Submitted on: 3/14/2019 3:04:55 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lucas Morgan	Individual	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state’s constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai’i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state’s constitutional and moral obligations to Native Hawaiians.**

**I respectfully request**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further request that the measure’s proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians’ PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians’ annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai’i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

**Aloha,**



**Lucas Morgan, PhD**

**HB-402-HD-1**

Submitted on: 3/14/2019 3:55:38 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Walter Ritte	Individual	Support	Yes

Comments:

I strongly support HB402 HD1

Hawaiians today are dealing with revelations of an illegal overthrow of 1893 and the false annexation of 1898, and thus the international illegality of this State of Hawaii.

This state now has failed to follow it's own Admissions Act of 1900 and it's Constitutional Acts regarding payments to OHA, and DHHL, recognizing Hawaiians Constitutional Rights of Access upon private property, Hawaiians spiritual oppositions to buildings on their most sacred mountain, lack of respect for the burial grounds of thier kupuna, their water rights etc.

The point is, Hawaiians will not stand for much more abuse! It will take just a spark to unstabilize this economy. Do what is right and according to law, stop changing the laws to the detriment of Hawaiians, give us what is rightfully ours, begining with our 20% of ceded land revenues.

**HB-402-HD-1**

Submitted on: 3/14/2019 4:31:31 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

**STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai'i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**HB-402-HD-1**

Submitted on: 3/14/2019 6:44:31 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Shintani	Individual	Support	Yes

Comments:

**KÄ€KOŽ»O PIHA au i ka HB402 HD1,** e hÄ“Ž»oia ana i ke kÄ«kÄ• nÄ• wai me ke kÄ« i ke KumukÄ• nÄ• wai o HawaiŽ»i e hÄ“Ž»oia ana i ka hoŽ»okÄ“ Ž»ana o ka Moku Ž»Aina o HawaiŽ»i i ka IÄ• kou kuleana kÄ« kumukÄ• nÄ• wai.

E hoŽ»okaŽ»awale i ke kÄ• IÄ• ma ka 20% o ka makahiki e uku i ke koena e koe nei no ka makahiki 2012 a i kÄ“ia manawa.

E kÄ• koŽ»o!

**HB-402-HD-1**

Submitted on: 3/14/2019 6:57:48 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gwen Kort Rodrigues	Individual	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state’s constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai’i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state’s constitutional and moral obligations to Native Hawaiians.**

**I respectfully requests**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further requests that the measure’s proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues [between July 1, 2012 and June 30, 2019](#), and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians’ PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians’ annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai’i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

Gwen Kort Rodrigues



**HB-402-HD-1**

Submitted on: 3/14/2019 7:32:56 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Senate Committee on Hawaiian Affairs

Chair Maile Shimabukuro

Vice-Chair Kaialii Kahele

Senate Committee on Higher Education

Chair Donna Mercado Kim

Vice Chair Michelle Kidani

March 19, 2019

2:45 pm Conference Room 229

State Capitol

415 South Beretania Street

**HB402 HD1 - RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS**

Aloha Chair Luke, Vice-Chair Cullen and members of the House committee on Finance:

I offer my testimony in **SUPPORT** of HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community through providing OHA with its constitutional and statutory right to a pro rata share of the Public Land Trust (PLT) revenue.

The Native Hawaiian community has been denied access to their trust resources for far too long. 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 positive effect on all of Hawai'i. Raising the interim annual appropriation to \$35 million and providing the \$139 million in back payments will support programs that positively impact trust beneficiary housing, health care, education, business opportunities, and job opportunities. This will ultimately improve the well-being and conditions of Native Hawaiians and all of Hawai'i.

I urge the committee to **PASS** HB402 HD1.

Alan Akao, Esq.

Kailua, Hawaii 96734



**HB-402-HD-1**

Submitted on: 3/14/2019 7:39:00 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Aloha,

I support HB402. Please give Native Hawaiians what is rightfully theirs

Me ke Aloha,

Phyllis Zerbe

Makiki, Oahu

Senate Committee on Hawaiian Affairs  
Chair Maile Shimabukuro  
Vice-Chair Kaialii Kahele  
Senate Committee on Higher Education  
Chair Donna Mercado Kim  
Vice Chair Michelle Kidani

March 19, 2019  
2:45 pm Conference Room 229  
State Capitol  
415 South Beretania Street

**HB402 HD1 - RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS**

Aloha Chair Shimabukuro, Chair Kim, Vice-Chair Kahele, Vice-Chair Kidani and members of the Senate Committee on Hawaiian Affairs and Senate Committee on Higher Education:

I SUPPORT HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community through providing OHA with its constitutional and statutory right to a pro rata share of the Public Land Trust (PLT) revenue.

The Native Hawaiian community has been denied access to their trust resources for far too long. 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 positive effect on all of Hawai'i. Raising the interim annual appropriation to \$35 million and providing the \$139 million in back payments will support programs that positively impact trust beneficiary housing, health care, education, business opportunities, and job opportunities. This will ultimately improve the well-being and conditions of Native Hawaiians and all of Hawai'i.

I urge the committee to PASS HB402 HD1, and return to the Native Hawaiians what is theirs.

Sincerely,  
C. K. Pali

Senate Committee on Hawaiian Affairs  
Chair Maile Shimabukuro  
Vice-Chair Kaialii Kahele  
Senate Committee on Higher Education  
Chair Donna Mercado Kim  
Vice Chair Michelle Kidani

March 19, 2019  
2:45 pm Conference Room 229  
State Capitol  
415 South Beretania Street

HB402 HD1 - RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS

Aloha Chairs Shimabukuro and Kim and Vice-Chairs Kahele and Kidani,

As a Native Hawaiian, and voting support HB402 HD1. HB402 HD1 will help the State better fulfill its trust responsibilities to the Native Hawaiian community by providing OHA with its constitutional and statutory right to a pro rata share of the Public Land Trust (PLT) revenue.

The Native Hawaiian community has been denied access to their trust resources for far too long. 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 positive effect on all of Hawai'i. Raising the interim annual appropriation to \$35 million and providing the \$139 million in back payments will support programs that positively impact trust beneficiary housing, health care, education, business opportunities, and job opportunities. This will ultimately improve the well-being and conditions of Native Hawaiians and all of Hawai'i.

I urge the committee to PASS HB402 HD1, and return to Native Hawaiians what is theirs.

Me ka ha'aha'a,

Ian-James Keali'iolani Custino

**HB-402-HD-1**

Submitted on: 3/14/2019 7:59:52 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kawehi Onekea	Individual	Support	Yes

Comments:

Senate Committee on Hawaiian Affairs

Chair Maile Shimabukuro

Vice-Chair Kaialii Kahele

Senate Committee on Higher Education

Chair Donna Mercado Kim

Vice Chair Michelle Kidani

March 19, 2019

2:45 pm Conference Room 229

State Capitol

415 South Beretania Street

HB402 HD1 - RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS

Aloha Chair Luke, Vice-Chair Cullen and members of the House committee on Finance:

I, Kawehi Onekea, **SUPPORT** HB402 HD1. This bill will help the State better fulfill its trust responsibilities to the Native Hawaiian community through providing OHA with its constitutional and statutory right to a pro rata share of the Public Land Trust (PLT) revenue.

The Native Hawaiian community has been denied access to their trust resources for far too long. 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 positive effect on all of Hawai'i. Raising the interim annual appropriation to \$35 million and providing the \$139 million in back payments will support programs that positively impact trust beneficiary housing, health care, education, business opportunities, and job opportunities. This will ultimately improve the well-being and conditions of Native Hawaiians and all of Hawai'i.

I vote at every election and this issue is very important to me. As Hawaii residents, I'm sure you are well aware of the historical facts surrounding these lands and, making the budget balance aside, you would agree that the only *right* action is to give Hawaiians what has already been promised to them.

I urge the committee members to vote with your conscience to **PASS** HB402 HD1, and return to the Native Hawaiians what is theirs.

Kawehi Onekea, Wilhemina, Oahu

**HB-402-HD-1**

Submitted on: 3/14/2019 9:59:17 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

**HB-402-HD-1**

Submitted on: 3/15/2019 8:04:33 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

**HB-402-HD-1**

Submitted on: 3/15/2019 10:12:11 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Aloha all,

I am testifying in favor of HB 402 because I believe increased funding for OHA will allow greater opportunities and assistance for OHA's beneficiaries. I thank those involved in crafting and advancing this measure and urge it's passage into law.

Mahalo nui,

Tim Bowden



**HB-402-HD-1**

Submitted on: 3/15/2019 11:18:23 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benjamin Guerrero	Individual	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state’s constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: (1) Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to OHA for the benefit of Native Hawaiians; This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai’i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state’s constitutional and moral obligations to Native Hawaiians.**

**I respectfully requests**

- **Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**
- **Similarly, I further requests that the measure’s proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and
- Restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians’ PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians’ annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai’i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

**HB-402-HD-1**

Submitted on: 3/15/2019 2:55:50 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Kapela Davis	Individual	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled, by: Establishing \$35 million as an interim reflection of the 20% of PLT revenues that should be transferred annually to the Office of Hawaiian Affairs (OHA) for the benefit of Native Hawaiians. This \$35 million amount would not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land or from residential unit rents and charges from state public housing on Public Land Trust land, nor does it consider unknown receipts that were withheld by certain state agencies, namely the University of Hawai'i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**I respectfully request that:**

**Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**

**Similarly, I further request that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and

Restore continued annual accounting of revenues of PLT revenue.

After years of unjustified delay, it is finally time to revisit Native Hawaiians' PLT fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**



**HB-402-HD-1**

Submitted on: 3/15/2019 3:12:59 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1**.

**HB-402-HD-1**

Submitted on: 3/15/2019 4:13:12 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patti Moana Huff	Individual	Support	No

Comments:

The state of Hawaii has been utilizing monies that should rightfully be given back to the Native Hawaiian people for programs and help that would benefit the people of Hawaiian ancestry. It's a crime to take monies that are owed and use it to benefit whatever the state of Hawaii has sold itself for. You have neglected the Native people of these Hawaiian islands. Time to make restitution and give back what is rightfully ours and not Governments to do as they will.

Mahalo,

Patricia Moana Kapuni-Huff

**HB-402-HD-1**

Submitted on: 3/16/2019 3:21:28 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

I strongly support HB402. This bill seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled. After years of delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Please pass HB402.

Thank you for letting me share my views.

Mike Golojuch, Sr., Member of Hawaiian Affairs Caucus, Democratic Party of Hawaii

**HB-402-HD-1**

Submitted on: 3/16/2019 9:28:46 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lise Vaughan Sekona	Individual	Support	No

Comments:

**I STRONGLY SUPPORT HB402 HD1** with the following amendments:.

**Amend Sections 1, 2, 3, and 4 of this measure to restore the \$35 million annual amount.**

**Amend the measure to re-insert the proposed lump-sum back-payment of \$139 million from state general funds into Sections 1 and 5 of this measure** for underpaid PLT revenues [between July 1, 2012 and June 30, 2019](#), and restore continued annual accounting of revenues of PLT revenue

Native Hawaiians' fair share of PLT revenues is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Therefore, I respectfully urge the Committee to **include the above-mentioned amendments and PASS HB402 HD1.**

**HB-402-HD-1**

Submitted on: 3/16/2019 10:10:23 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Mahalo for the opportunity to provide testimony in **STRONG SUPPORT** of **HB402 HD1**, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled. **OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**I respectfully request Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**

**Similarly, I respectfully request that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues between July 1, 2012 and June 30, 2019, and restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to **revisit Native Hawaiians' fair share of PLT revenues**. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1**.

**Mahalo for the opportunity to provide testimony!**

**Rhonda Roldan**



**HB-402-HD-1**

Submitted on: 3/16/2019 11:01:54 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anthony Makana Paris	Individual	Support	No

Comments:

Aloha Senators:

I support HB402 HD1 and providing a just share of Public Land Trust revenue to Native Hawaiians through their trustee the Office Of Hawaiian Affairs. Mahalo for your time and consideration of this matter.

Me ke aloha,

Makana Paris

Papakolea, Oahu

**HB-402-HD-1**

Submitted on: 3/16/2019 2:30:19 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

**HB-402-HD-1**

Submitted on: 3/17/2019 4:47:26 PM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Melody Kapilialoha MacKenzie, Esq.  
melodykmackenzie@gmail.com

**Testimony in Support of H.B. 402, H.D. 1  
Relating to Increasing the Office of Hawaiian Affairs'  
Pro Rata Share of Public Land Trust Funds**

**Committee on Hawaiian Affairs**

Senator Maile S.L. Shimabukuro, Chair  
Senator Kaiali'i Kahele, Vice Chair

**Committee on Higher Education**

Senator Donna Mercado Kim, Chair  
Senator Michelle N. Kidani, Vice Chair

Hearing on Tuesday, March 19, 2019, at 2:45 p.m.  
Conference Room 229

Mahalo for this opportunity to submit testimony in **strong support** of H.B. 402, H.D. 1, Relating to Increasing the Office of Hawaiian Affairs' Pro Rata Share of Public Land Trust Funds. I am a professor at the William S. Richardson School of Law and the founding director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. I submit this testimony, however, in my personal capacity as a private citizen and an attorney who has worked, litigated, and written extensively on Native Hawaiian legal controversies, and particularly on the Public Land Trust. Indeed, I was a member of the legal team that represented the Office of Hawaiian Affairs (OHA) in a major dispute with the State over the sale and alienation of trust lands.

Our Supreme Court, in reviewing the Public Land Trust revenue issue, has acknowledged that the State's obligation to Native Hawaiians is firmly established in the State Constitution. The Court has concluded that, "it is incumbent upon the legislature to enact legislation that gives effect to the rights of native Hawaiians to benefit from the ceded lands trust."<sup>1</sup>

I wish to emphasize that the lands in the Public Land Trust are the Crown and Government Lands of the Hawaiian Kingdom. Kamehameha III set aside the Government Lands in the 1848 Māhele for the benefit of the chiefs and people. The Crown Lands, reserved to the King, provided a source of income and support for the Crown and, in turn, were a resource for the Hawaiian people. Although the fee-simple ownership system instituted by the Māhele and the laws that followed drastically changed Hawaiian land tenure, the Government and Crown Lands were held for the benefit of the Hawaiian people. They marked a continuation of the trust concept that the sovereign held and managed the 'āina for the benefit of the people.

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<sup>1</sup> Office of Hawaiian Affairs v. State, 96 Hawai'i 388, 41, 31 P.3d 901, 914 (2001).

These lands were taken in the illegal overthrow of the Hawaiian Kingdom. In the 1993 Apology Resolution, the United States recognized the illegality of the 1893 overthrow of the Kingdom and acknowledged that: (1) the Crown, Government, and Public Lands of the Kingdom of Hawaii were ceded to the United States without the consent of or compensation to the Native Hawaiian people or their sovereign government; and, (2) the Native Hawaiian people never directly relinquished their claims to their inherent sovereignty or over their national lands. Thus, the pro rata share of revenue designated for OHA is a way of bringing some equity and fairness to the Native Hawaiian community and recognizing our rights in the lands of our ancestors.

I would also point to the 2007 U.N. Declaration on the Rights of Indigenous Peoples that recognizes the right of Indigenous Peoples to “the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired”<sup>2</sup> and the right to compensation for the loss of those lands. Hawai‘i can be proud of its recognition and support for Native Hawaiian rights as expressed in the Constitution and our laws. As one concrete example, Art. XII, § 4, of our Constitution recognizes that the lands in the Public Land Trust are held in trust for “native Hawaiians and the general public.” While the revenue from the Public Land Trust is not “compensation” for the loss of the Crown and Government lands, that revenue does provide a measure of restorative justice for the Native Hawaiian community.

After years of effort, including litigation and legislative initiatives, I am encouraged to see the progress that has been made in reaching a true and accurate determination of the pro rata share that should go to OHA. Since 2006, when the Legislature set OHA’s annual share at \$15.1 million as an interim measure, the relevant State departments have been required to and, for the most part, have complied in reporting their revenue from the Public Land Trust. As the bill notes, there are still unresolved and disputed issues, but the progress has been significant.

Based on the information compiled over these years as well as independent studies undertaken by OHA, the true pro rata share due to OHA can be calculated more accurately and with greater certainty. Although the bill has been amended to leave open the actual amounts to be transferred to OHA and other details, I still believe that the approach in this bill is reasonable and seeks to provide fairness and justice to the Native Hawaiian community and allows the State to honor its commitments – commitments made in both the State Constitution and in the 1980 legislation setting OHA’s pro rata share at twenty per cent. Resolving this issue is one of the most impactful and important actions this Legislature could take. I am hopeful that if these Committees pass H.B. 402, H.D. 1, there will be further fruitful discussion that will ultimately result in a truly just resolution.

Your action now would help set us on the path to justice – ke ala pono. Mahalo for the opportunity to present this testimony in **strong support** of H.B. 402, H.D. 1.

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<sup>2</sup> G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (Sept. 13, 2007), art. 26 and art. 28.

**HB-402-HD-1**

Submitted on: 3/18/2019 8:28:58 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Constance Keoahunui Uale Warrington	Individual	Support	No

Comments:

Aloha,

I **STRONGLY SUPPORT HB402 HD1**, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402 HD1, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**I respectfully request Sections 1, 2, 3, and 4 of this measure be amended to restore the \$35 million annual amount.**

**Similarly, I respectfully request that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure** for underpaid PLT revenues [between July 1, 2012 and June 30, 2019](#), and restore continued annual accounting of revenues of PLT revenue

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1.**

Constance Keoahunui Uale Warrington

Council Chair  
Kelly T. King

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Riki Hokama  
Alice L. Lee  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Maria E. Zielinski

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

March 18, 2019

TO: Honorable Senator Maile S.L. Shimabukuro, Chair  
Senate Committee on Hawaii Affairs

Honorable Donna Mercado Kim, Chair  
Senate Committee on Higher Education

FROM: Tasha Kama  
Presiding Officer Pro Tempore

DATE: March 18, 2019

SUBJECT: **Hearing of March 19, 2019; Testimony in SUPPORT of HB 402 HD1,  
Relating to Increasing The Office Of Hawaiian Affairs' Pro Rata Share  
of Public Land Trust Funds**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to address the long-standing shortfall in allocation of funds generated by Public Land Trust (PLT) lands.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. It would begin to address the State's obligation to Native Hawaiians that is enshrined in our State Constitution.
2. The funding from PLT lands is the primary revenue stream for the Office of Hawaiian Affairs which provides direct and tangible benefits to the Native Hawaiian beneficiaries.

I respectfully request that HB 402 HD1 be amended to reflect the bill in its original form, namely:

1. Sections 1, 2, 3 and 4 of this measure be amended to restore the \$35 million

Honorable Senator Shimabukuro  
Honorable Senator Donna Mercado Kim  
March 18, 2019  
Page 2

- annual amount;
2. The measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure, and;
  3. The provision for the continued annual accounting of PLT revenue be restored to the measure.

I respectfully urge the Committee to PASS HB 402 HD1 with the amendments as proposed.



TESTIMONY OF ESTHER KIA'AINA IN SUPPORT OF HB 402, HD1  
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS AND  
SENATE COMMITTEE ON HIGHER EDUCATION

March 19, 2019, 2:45 p.m., Conference Room 229

Chairs Shimabukuro and Kim, and Committee Members:

My name is Esther Kia'aina of Nanakuli, Oahu. I am testifying in strong support of HB 402, HD1 relating to increasing the Office of Hawaiian Affairs' pro rata share of public land trust funds from its current \$15.1 million, which was an interim annual amount determined "until further action is taken by the legislature."

From previous testimony on this measure, I am deeply concerned that state agencies like the Departments of Land and Natural Resources and Agriculture, as well as the University of Hawai'i, seem to be taking positions on whether or not OHA is due its 20% pro rata share of public land trust revenue from the State of Hawai'i or interpreting what they believe their institutional or agency obligations are to OHA, including seeking exemptions. To me, this "free for all" approach demonstrates a lack of coordinated effort on behalf of the State of Hawai'i that needs legislative oversight and guidance.

There should be no question by any state agency on whether or not there is an obligation on behalf of the State of Hawai'i to provide an updated 20% pro rata share of public land trust revenue to OHA. That requirement is enshrined in our State Constitution and statutorily authorized. In lieu of a coordinated strategy by the State of Hawai'i on this matter, it is even more important that the Hawai'i State Legislature resolve this issue by moving this legislation forward. Not only is it the prerogative of the State Legislature to determine policy for important matters like our public lands trust, it is clear that its leadership would be greatly appreciated.

I respectfully urge the committee members to support the passage of HB 402, HD1 out of your committees with the recommended \$35 million OHA recommended in HB 402 as originally introduced for its annual 20% pro rata share of the public land trust.

Respectfully,

Esther Kia'aina

**HB-402-HD-1**

Submitted on: 3/18/2019 10:49:19 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Aloha Chair Shimabukuro, Vice Hair Kahele, and Committee Members,

My name is Jen Mather and I live in Lahaina. I am in **SUPPORT** of HB402 as a kanaka who may one day need to seek assistance from OHA and as a kanaka maoli that recognizes that the monies that are being sought through this bill are in arrears. Our Public Trust Lands are being held by the State and the profits made off of those lands should be made available to the indigenous people to ensure our livelihoods going forward. At this time the Office of Hawaiian Affairs is the agency that acts as the trust to assist us and the lahui.

I have read the testimony in opposition - that this would take money away from other departments that use PLT profits to finance their needs, however, this is a constitutional and moral obligation to the indigenous people that has been unfulfilled. Administrative departments must look to the Legislature to find funding that does not encroach on the rights of those of us who still remain here, living in our ancestral home.

Mahalo,

Jen Mather

**HB-402-HD-1**

Submitted on: 3/18/2019 11:34:00 AM

Testimony for HWN on 3/19/2019 2:45:00 PM

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

Comments:

Aloha Committees on Hawaiian Affairs and Higher Education,

I ask you to please consider PASSing this very important bill.

For the very reasons that the funds owed and made to

OHA are used for programs in education, housing, culture, land

Economic self-sufficiency, Emergency Disasters, Maui Ola

and many more that directly impact Native Hawaiians across

The Pae'aina. This will also hold the Public Land Trust

Accountable to what is owed including the increase and

Will expose transparency of the Public Land Trust office.

Mahalo for your consideration in PASSING this bill.

Mahalo form Kauai!



**HB402 HD1**  
**RELATING TO INCREASING THE OFFICE OF HAWAIIAN**  
**AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS**

Senate Committee on Hawaiian Affairs  
Senate Committee on Higher Education

March 19, 2019

2:45 p.m.

Room 229

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB402 HD1, but respectfully offers certain amendments that would address concerns raised by the attorney general and restore language found in the original version of this measure. OHA supports HB402 HD1 as a means of updating the amount set aside annually for Native Hawaiians as their constitutional and fair share of the income and proceeds from the Public Land Trust.

As background, 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 government and crown land of the Kingdom of Hawai'i, seized as part of the Kingdom's unlawful overthrow without compensation to or consent by the Hawaiian people. The Hawai'i State Constitution entrusts OHA with the responsibility to manage and administer Public Land Trust funds set aside for Native Hawaiians, which state law reaffirms as a 20% pro rata share of all funds from the Trust.

**OHA's Pro Rata Share**

After decades of disagreement as to how to determine this 20% pro rata share, 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' Public Land Trust share, "until further action is taken by the legislature." As part of this agreement, the state was to compile annual reports on all receipts generated from the Public Land Trust, for the purpose of revisiting the interim annual amount with better data. This agreement was embodied in Act 178 of the 2006 Regular Session of the State Legislature.

**With years of state data now available, OHA strongly agrees that it is time to revisit and update Native Hawaiians' fair share of the Public Land Trust.** Despite the expressly temporary nature of the agreement in Act 178, and despite years of state reporting showing that 20% of Public Land Trust receipts far exceeds the \$15.1 million set aside annually for Native Hawaiians, Native Hawaiians' "interim" share has not been updated since 2006. OHA's research shows that a \$35 million annual share, as proposed in the original draft of this measure, is consistent with 20% of reported receipts from most, but not all, historically undisputed Public Land Trust revenue streams, including:

- Revenue sources that state agencies currently transfer to OHA;
- Revenue sources not currently transferred to OHA, but which fall within historically agreed upon categories of revenues that have been transferred to OHA as well as smaller amounts due to accounting errors or inconsistent transfers.

OHA notes that the applicability of OHA's pro rata share to airport receipts and the transfer of analogous receipts is not only appropriate, but is also consistent with longstanding state practice and policy. The state began transferring revenue to OHA for the use of Public Land Trust lands at Hawai'i's airports starting in fiscal year 1992. The state continued to honor OHA's right to receive its pro rata share of airport Public Land Trust revenues by making annual payments for several years, and by appropriating lump sums from general funds as equivalent payments for past due amounts when yearly payments were not made.

Even after Congress passed the "Forgiveness Act,"<sup>1</sup> which acknowledged and explicitly "forgave" previous diversions from airport Public Land Trust revenues for the betterment of Native Hawaiians, but barred future, *direct* diversions, the state continued to use airport revenue amounts to calculate OHA's Public Land Trust payments.<sup>2</sup> This practice was consistent with and affirmed the comments of the late Senator Daniel Inouye, who, in commenting on the passage of the Forgiveness Act, explicitly noted that the Act did not obviate the state's obligation to OHA, but only stated that the funds to satisfy OHA's and Native Hawaiians' pro rata share of Public Land Trust revenues could not come directly from the airports.

OHA further notes that the \$35 million figure does not include revenue streams from hospital patient fees generated from state hospitals on Public Land Trust land, or from residential rental payments and fees generated from state housing facilities on Public Land Trust land – revenues that courts have found should be considered subject to OHA's and Native Hawaiians' pro rata share. The \$35 million figure also does not consider unknown Public Land Trust receipts that were withheld by certain state agencies, namely the University of Hawai'i. **Accordingly, OHA believes that an updated interim annual amount of \$35 million, as proposed in the original version of HB402, and which already excludes significant revenue streams, is a prudent, fair, and long-awaited step towards better fulfilling the state's constitutional and moral obligations to Native Hawaiians.**

**Therefore, OHA respectfully requests that Sections 1, 2, 3, and 4 of this measure be amended to restore the originally proposed \$35 million annual amount.**

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<sup>1</sup> Department of Transportation and Related Agencies Appropriations Act, Pub. L. No. 105-66, section 340, 111 Stat 1425, 1448 (1998).

<sup>2</sup> Examples of such instances include Act 329 of the 1997 Regular Session of the Hawai'i State Legislature; Act 178 of the 2006 regular Session; Act 15 of the 2012 Regular Session; and *Office of Hawaiian Affairs v. State of Hawai'i*, 96 Haw. 388, 31 P.3d 901 (2001) ("OHA I").

**Similarly, OHA further requests that the measure's proposed lump sum back payment of \$139 million from state general funds be re-inserted into Sections 1 and 5 of this measure.** A \$139 million amount would reflect the difference between the proposed \$35 million annual share and the \$15.1 million OHA receives, then multiplying the difference by seven, to represent the last seven fiscal years in which Native Hawaiians' Public Land Trust interim share has not been updated. OHA agrees that this would represent a fair and commendable acknowledgement of the state's constitutional and moral obligations to Native Hawaiians under the Public Land Trust.

Additionally, in response to testimony provided by the Attorney General, OHA recommends that Section 2 be amended to clarify that upon passage of HB402, the interim amount set in Act 178 would no longer be applicable, by amending the language found on page 12, lines 11-19, to read as follows:

Notwithstanding the provisions of Act 178 (SLH 2006), setting the interim amount to be paid to OHA, and 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 2019-2020 shall be \$35,000,000.

### **Reporting Requirements**

The legislature in Act 178 clearly required reporting of **all** receipts from the use of Public Land Trust lands; this requirement is in the best interest of the State, OHA, and the Public Land Trust beneficiaries, and would provide all interested parties with consistent information necessary to evaluate the fairness of the annual amount transferred to OHA, as Native Hawaiians' pro rata share.

Section 5 of Act 178 (2006) requires that all state departments and agencies provide an annual accounting of all receipts from Public Land Trust lands that they use or manage. This annual accounting of all public land trust receipts was intended by the Legislature to better understand what receipts have been actually generated from the Public Land Trust, so that the State and OHA may reassess the "interim" \$15.1 million that OHA receives each year as Native Hawaiians' constitutional pro rata share.

However, individual state agencies continue to inconsistently report their Public Land Trust revenues and continue to inconsistently transfer Public Land Trust receipts to OHA. OHA's independent auditors found that state agencies interpretations are also inconsistent both internally and between agencies, with regards to the type of receipts that

should be subject to OHAs' and Native Hawaiians' pro rata share. For example, the same agency may report parking lot receipts from one parking lot on Public Land Trust land and not from a different parking lot on Public Land Trust land, and yet another agency may not report receipts from any parking lots on its own Public Land Trust land.

Accordingly, as reflected in Section 6 of this measure, OHA believes that codifying Act 178's required reporting of all receipts will better ensure that interpretation differences do not stand in the way of providing the Legislature, as well as OHA, its beneficiaries, and the general public, with accurate and timely information to evaluate and, if necessary, update any annual amount transferred to OHA as Native Hawaiians' pro rata share of Public Land Trust revenues.

### **OHA & the State Should Build Upon Past Agreements, Not Nullify Them**

Suggestions made by the Department of Transportation, the University of Hawai'i, the Hawai'i Health Systems Corporation, and the Department of Agriculture, fly in the face of decades of agreement between OHA and the State, regarding what revenue streams should be subject to OHA's pro rata share. While there certainly continues to be remaining disagreements between OHA and the State over specific revenue streams, none of the revenue streams that OHA and the State disagree on would appear to be included in the calculation of the annual \$35 million proposed by the original version of this measure.

As supported by statements in a consolidated letter drafted by the Department of the Attorney General to the Chairs of the Senate Committees on Water and Land and Ways and Means dated December 21, 2018, the Department of Budget and Finance and other state agencies generally follow a longstanding distinction between "sovereign" and "proprietary" Public Land Trust revenues. These distinctions as well as the inclusion of airport revenues were the basis of the agreements reached between the State and OHA that eventually became Act 304 of the 1990 Legislature, a historic law that has informed the State's and OHA's actions related to the Public Land Trust for nearly thirty years. Significantly, the agreements underlying Act 304 also formed the basis of the calculations used in prior settlements of the past due amounts owed to OHA. Accordingly, the applicability of OHA's pro rata share to proprietary revenues is the longstanding policy of the State, including that of the executive branch. **It now appears that the aforementioned individual state agencies are seeking to arbitrarily adopt only part of Act 304's sovereign definition, which allows them to exclude substantial revenue streams, while ignoring the part of the definition that requires them to include other revenue streams.** That result ignores the substantial give and take made by both OHA and the state in its agreements embodied in Act 304 nearly three decades ago.

The fact that an agency utilizes Public Land Trust receipts for other purposes of the 5(f) trust does not excuse it from its obligations to account for OHA's constitutional and statutory pro rata share. It is important to remember that the 5(f) lands subject to the Public Land Trust were taken from the Hawaiian Kingdom without consent and without

compensation. Prior to the 1978 state constitutional amendments, all 5(f) revenues had been going only to the state Department of Education; the delegates to the 1978 Constitutional Convention directly addressed this fundamental unfairness and injustice and changed Hawai'i's Constitution so that Native Hawaiians would directly benefit from Public Land Trust revenues through OHA. The 1978 constitutional amendments were adopted and approved by a majority of the Hawai'i electorate. Arguments that agencies should be excused from their constitutional obligations accordingly ignore the longstanding history underlying Native Hawaiians' and OHA's pro rata share of the Public Land Trust as now embodied in the highest law of the state.

OHA appreciates the efforts of other state agencies to assist Native Hawaiians and others in our community. OHA expends a substantial portion of its trust fund revenues on activities that fall within the trust purposes of Section 5(f) and that are also for the benefit of Native Hawaiians, such as education, health, agriculture, home ownership and other areas. OHA also contributes funding to assist other state agencies in their efforts. The position of another state agency that it should not have to transfer 20% of Public Land Trust receipts to OHA runs afoul of the State's fiduciary duties to Native Hawaiians and its constitutional and statutory obligations to OHA. It would be a miscarriage of justice to reduce the 20% obligation that has been law in Hawai'i for almost 40 years. The statistics are clear that Native Hawaiians are in need, and OHA plays a vital role in helping the community.

OHA strongly opposes the changes proposed by the state Department of Transportation (HDOT), which would would defy its clear and well-established constitutional and statutory obligations, and suggest that its transfers to OHA as required by law are somehow NOT necessary, insofar as they would fall outside of its "mission for the State." As a state agency, HDOT is duty-bound to uphold the constitution and laws of Hawai'i, which make clear its constitutional and statutory duties and trust responsibilities to transfer a pro rata share of Public Land Trust revenues, derived from "ceded" and unlawfully acquired Hawaiian Kingdom lands, to OHA. **HDOT's argument that it need not comply with these constitutional and statutory responsibilities as not within its own narrowly-interpreted "mission" is a poor attempt to selectively excuse itself from laws it finds inconvenient;** under this logic, HDOT would also need not comply with any number of other constitutional and statutory mandates that fall outside of its arbitrarily defined "mission."

Indeed, as previously discussed, excluding revenues from agencies that are "generated to fulfill [their] mission for the State" would set back decades of agreement and progress regarding Native Hawaiians' pro rata share of the Public Land Trust, and render meaningless the state's constitutional commitment to acknowledge the injustice and ongoing harms inflicted upon the Hawaiian people, rooted in large part through the forceful overthrow of the Hawaiian Kingdom without which the State as it stands today would not even exist. Such an interpretation would essentially mean that no revenues from the Public Land Trust would be subject to Native Hawaiians' pro rata share, an absurd and patently unjust result that flies in the face of even the most basic legal—and logical—interpretation of the law.



### Additional Requested Amendments

OHA respectfully requests that HB402 HD1 be amended to restore other key elements of the original bill.

The original bill at the end of its Section 6 required the Department of Land and Natural Resources (DLNR) to consult with OHA in determining the method in which the annual accounting of Public Land Trust receipts shall be conducted and in ensuring that the accounting is accurate and inclusive of all receipts generated by the Public Land Trust. This vital accuracy requirement does not exist in the HD1 and OHA requests it be restored.

OHA also believes that the measure should provide for quarterly, not annual, payments of Public Land Trust revenues to OHA, as it originally required. This procedure would reflect the current timing by which Public Land Trust receipts are transferred to OHA. Quarterly payments provide OHA with a more evenly distributed revenue stream that can be used for operational expenses throughout the year. Not using quarterly payments would require a change in the way OHA operates and could potentially create issues if its contractual obligations cannot be met.

Accordingly, OHA respectfully requests that the language on page 12, line 20, through page 15, line 11, be amended to read as follows (language in HB402 HD1 to be added is underlined; language to be deleted is bracketed and stricken):

"SECTION 3. Notwithstanding the provisions of chapter 10, Hawaii Revised Statutes, gincluding section 10-13.5, Hawaii Revised Statutes, beginning in fiscal year 2019-2020, the departments of agriculture; accounting and general services; business, economic development, and tourism; defense; education; health; land and natural resources; and transportation (for its harbors and highways divisions), and any other department or agency that collects receipts from the lands within the public land trust, including but not limited to the University of Hawaii, shall determine and transfer to the office of Hawaiian affairs that portion of their receipts from the use, sale, lease, or other disposition of lands within the public land trust collected during each fiscal [~~year~~] quarter, necessary to ensure that a total of \$8,750,000 of receipts generated by the public land trust is transferred to the office of Hawaiian affairs, within thirty days of the close of each fiscal [~~year~~] quarter; provided that for fiscal year 2019-2020, the departments shall have until thirty days after the close of the fiscal year to

transfer a total of \$35,000,000 from their receipts from the use, sale, lease, or other disposition of lands within the public land trust collected during fiscal year 2019-2020, to the office of Hawaiian affairs by the procedures set forth in this Act.

SECTION 4. [~~Beginning on July 1, 2020,~~] No later than twelve days after the close of each fiscal quarter, the director of finance or the director's designee shall determine the total amount of receipts transferred by any department or agency that collects receipts from the lands within the public land trust to the office of Hawaiian affairs during the immediately prior fiscal [~~year-~~] quarter.

If the total amount of receipts transferred to the office of Hawaiian affairs is less than \$8,750,000 in the immediately prior fiscal [~~year,~~] quarter, the director of finance or the director's designee shall:

- (1) Make up the difference between \$8,750,000 and the amount of receipts transferred in the immediately prior fiscal [~~year~~] quarter by transferring up to the entire amount on deposit in the carry-forward trust holding account established by the director of finance pursuant to executive order 06-06; or
- (2) Make up the difference between \$8,750,000 and the amount of receipts transferred in the immediately prior fiscal [~~year~~] quarter by establishing the additional amount of receipts that each agency must transfer to the office of Hawaiian affairs pursuant to section 3 of this Act.

If the total amount of receipts transferred to the office of Hawaiian affairs is more than \$8,750,000 in the immediately prior fiscal [~~year~~] quarter, the director of finance shall notify the office of Hawaiian affairs and request that the office of Hawaiian affairs transfer the amount in excess of \$8,750,000 into the carry-forward trust holding account established by the director of finance pursuant to executive order 06-06. This subsection shall not apply to a transfer of receipts at the close of fiscal year 2019-2020."

Public Land Trust revenue is the primary source of funding for programs, grants, and services that benefit both the Native Hawaiian and larger communities. OHA has a proven track record of investing in strategic, innovative, and award-winning programs and services, that seek and explore solutions to systemic issues and challenges faced by Native Hawaiians and other Hawai'i residents. Raising Native Hawaiians' annual Public Land

Trust share 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 Native Hawaiians and Hawai'i in such vital areas as education, health, economic self-sufficiency, culture, land, governance, and access to justice.

Accordingly, OHA respectfully urges the Committees to **PASS** HB402 HD1, with the recommended amendments described above. Mahalo nui loa for the opportunity to testify on this measure.



Board of Directors:

**Senate Committee on Hawaiian Affairs &  
Senate Committee on Higher Education**

Gary L. Hooser  
*President*

**Hawai'i Alliance for Progressive Action supports HB 402**

Andrea N. Brower  
Ikaika M. Hussey  
*Co-Vice Presidents*

Wednesday, March 19, 2019, 2:45p.m. Conference Room 229

Kim Coco Iwamoto  
*Treasurer*

Aloha Chair Shimabukuro, Chair Mercado Kim, and Members of the Committee,

Bart E. Dame  
*Secretary*

On behalf of the Hawaii Alliance for Progressive Action I urge you to SUPPORT HB 402, which seeks to ensure that the state's constitutional and statutory Public Land Trust (PLT) obligations to Native Hawaiians are more properly fulfilled.

Paul Achitoff

**- The Hawai'i State Constitution recognizes the Native Hawaiian people's right to a portion of income and proceeds from "ceded" Hawaiian Kingdom lands currently held by the state as the Public Land Trust.**

Laura Harrelson

Kaleikoa Ka'eo

The Hawai'i Admission Act and Hawai'i State Constitution establish the Public Land Trust (PLT) as a subset of state lands to be held in trust **for the betterment of the conditions of native Hawaiians**, and the general public. PLT lands are comprised of **over one million acres of "ceded" lands, stolen from the Hawaiian people without their consent or compensation.**

Michael Miranda

Walter Ritte Jr.

Pua Rossi-Fukino

Karen Shishido

**- Current PLT Payments (\$15.1 million/year) are less than half of what they should be (\$35 million/year). Past due and unexpended reserves that the State is holding now total \$139 million.**

Leslie Malulani Shizue Miki

Native Hawaiians' PLT share is understood to include **20% of revenues** derived from PLT lands. An amount of \$15.1 million was set as the interim in 2006. This figure was based on outdated formulas set in place in the early 1990's.

In 2019, the 20% pro rata share of the PLT revenue due to Native Hawaiians has been calculated to be **\$35 million, over double what is currently being paid.**

Additionally, past due amounts and overpayments collected by the State, but not expended to Native Hawaiians, total **\$139 million**.

**HB 402**, introduced by the legislative Hawaiian Caucus, lead by Rep. Daniel Holt and Sen. Jarrett Keohokalole would increase current annual payments to \$35 million and pay past due amounts totaling \$139 million.

The Office of Hawaiian Affairs (“OHA”) is the trust entity identified in statute to receive and expend these funds for the betterment of Native Hawaiians. To date, OHA has invested PLT trust funds heavily in the areas of education, cultural and natural resource management, health, and an array of programs servicing our lāhui.

**- Here are some areas that OHA has invested PLT revenues in recent years.**

**Education:** \$30 million in Hawaiian education programs ranging from pre-school to collegiate levels.

**Housing:** \$40 million in capacity building and services related to at-risk families. Resulting in over 1,200 Native Hawaiians keeping a roof over their heads.

**Natural Resource Management:** \$25 million on land and culture related grants and contracts, which include substantial funding in support of the Native Hawaiian traditional and cultural practices that rely heavily on balanced use of our streams.

Overall, between 2011-2018, ***\$110 million has been expended in programmatic funding, grants, and sponsorships***, that address our state’s most critical issues, including environmental stewardship, food security, housing and houselessness, education, and health care.

**- Current investments are not enough, more is needed to build on established success and tackle our most daunting challenges. Below are some areas of need.**

Hawaiian focused Charter Schools are seeking equitable funding in areas of facilities funding, transportation and meals from the Department Of Education.

We are facing a housing crisis across our state. We need to invest in affordable housing projects centered on collaboration, and we need to redouble advocacy efforts to affect policies that are at the root of the housing crisis.

Hawaiian led social enterprises are sprouting up in communities throughout the State to provide leadership, economic opportunity and to tackle some of our most daunting challenges such as food security and climate change.

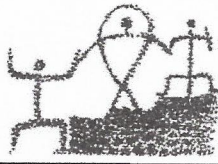
More Hawaiians than ever are entering the UH system seeking degrees at every level from Bachelor’s to Phd’s. But our State and large institutions are not keeping up in creating competitive jobs to keep this growing talent pool at home in Hawai’i.

After years of unjustified delay, it is finally time to revisit Native Hawaiians' fair share of PLT revenues. Importantly, Native Hawaiians' PLT share is the primary source of funding for programs, grants, and services that benefit both Native Hawaiians and the larger community. Raising Native Hawaiians' annual share to \$35 million will support a wider range of strategic and innovative programs and activities designed to improve the well-being and conditions of Native Hawaiians and Hawai'i. Therefore, I respectfully urge the Committee to **PASS HB402 HD1. What's good for Hawaiians is good for Hawai'i.**

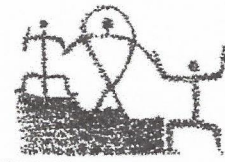
Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Anne Frederick", with a stylized, cursive script.

Anne Frederick  
Executive Director



# KA LEI PĀPAHI 'O KĀKUHIHEWA



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P.O. Box 283342 Honolulu, HI 96828 | Phone: (808) 386-1363 | [www.kaleipapahi.com](http://www.kaleipapahi.com)

Committee on Hawaiian Affairs  
Senator Maile Shimabukuro, Chair  
Senator Kaiali'i Kahele, Vice Chair

Committee on Higher Education  
Senator Donna Mercado Kim, Chair  
Senator Michelle Kidani, Vice Chair

Date: Tuesday, March 19, 2019  
Time: 2:45 p.m.  
Place: Conference Room 229

REGARDING: Testimony in **Strong Support for HB 402 HD1**,  
Relating to Increasing the Office of Hawaiian Affairs' Pro Rate Share of  
Public Land Trust Funds

Aloha Chairs Shimabukuro and Mercado Kim and Committee Members:

My name is Keali'i Gora, president of Ka Lei Pāpahi 'o Kākuhihewa, an O'ahu-based Native Hawaiian education and cultural organization. Our organization submits testimony in strong support for HB 402 HD1 and humbly requests that \$55 million should be the updated annual amount owed to OHA. Furthermore, this amount reflects years of various agencies not providing any report or accountability to ensure that the amount is accurate.

How does any agency get away with not reporting and providing a spreadsheet of revenues in order that OHA receives their fair and proper share of the state's constitutional and statutory Public Land Trust? Agencies, who do not provide any report or accounting, should be audited in order that OHA receives their fair share of the PLT revenues.

I would also respectfully request the following:

- That Sections 1, 2, 3, and 4 of HB 402 HD1 be amended to \$55 million annual amount.
- That \$280 million from the state general funds be re-inserted into Sections 1 and 5 as part of the proposed lump sum back payment.
- Restore annual accounting of revenues of the Public Land Trust revenues

In closing, Ka Lei Pāpahi 'o Kākuhihewa strongly supports HB 402 HD1 and urges your Committees to do the same.

Mahalo for the opportunity to testify.





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March 18, 2019

Senate Committees on Hawaiian Affairs and Higher Education  
Tuesday, March 19, 2019, 2:45pm  
Conference Room 229

### **HB402, HD1 – SUPPORT**

Aloha Committee Chairs, Vice Chairs, and and Committee Members:

I am submitting testimony on behalf of Hawaiian Community Assets (HCA), Hawaii’s largest Department of Housing and Urban Development counseling agency and community development financial institution, to **STRONGLY SUPPORT HB402, HD1**.

HB402 would seek to ensure that Office of Hawaiian Affairs’ (OHA) constitutional and statutory right to a pro rata share is more adequately reflected and that the state’s Public Land Trust (PLT) obligations to Native Hawaiians are fulfilled, by: (1) increasing the pro rata share of the annual receipts from the use of the lands of the public land trust transferred to the OHA from \$15,100,000 to an unspecified amount; (2) transfer an unspecified amount for underpayment of the public land trust funds for the period from July 1, 2012 to June 30, 2019 to OHA; and (3) require an annual detailed audit of all funds derived from receipts from lands described in Section 5(f) of 10 of the Admission Act.

#### **OHA’s Investment in Housing Services Makes Impact**

As a nonprofit organization that serves thousands of Native Hawaiian families annually to assist them in obtaining rentals, purchasing homes, and preventing homelessness, **we urge the Committee to pass HB402, HD1**. This bill will ensure OHA is able to invest in housing services that are critical to Native Hawaiians in your district and across the state.

OHA has been the primary grant funding source for our organization’s housing services work since 2011. From 2011 to through 2019, OHA has awarded our organization more than \$1.5 million in funding to increase the capacity of low- and moderate-income Native Hawaiians to rent or own homes through the delivery of financial literacy education, housing counseling, individual development accounts, and micro-loans. This funding has led to extraordinary outcomes for our Native Hawaiian community:

- OHA’s investment has helped establish the State’s first-and-only HUD-approved Renter Education and Counseling Program targeting Native Hawaiians experiencing or at-risk of homelessness.

- It has brought free, culturally-relevant financial education and housing counseling to 2,216 low- and moderate-income Native Hawaiians across the state.
- It has incentivized 342 Native Hawaiians to save more than \$600,000 to receive \$485,000 in matching funds for first month's rent/deposit, down payment/closing costs, and mortgage debt reduction.
- It has capitalized HCA's Department of Treasury certified community development financial institution, Hawaii Community Lending, which now offers consumer loans for credit building, credit repair, and housing emergencies to Native Hawaiians who are unable to qualify for financing at a bank or credit union.
- **In just 8 years, OHA's investment in HCA has resulted in 1,414 low- and moderate-income Native Hawaiian children and adults successfully renting or owning homes.**
- Showing the power of leveraging Native Hawaiian trust dollars, OHA funding has been the catalyst for HCA to attract \$3.75 million in additional funding from Federal, State, County, and private sources.
- Finally, OHA's investment has made it possible for HCA to show the nation that Native Hawaiians are leaders in finance and asset building. In October 2017, Brandeis University completed a case study of Hawaiian Community Assets and the findings spoke for themselves: Brandeis identified HCA's approach is a national best practice in culturally-relevant financial education and asset building for native communities and communities of color across the nation.

**All of this would never have been possible without the commitment, support, and investment of OHA. While HCA is able to report extraordinary outcomes for our Native Hawaiian participants, it is important to know we are just one of hundreds of organizations OHA has funded over the last several years.**

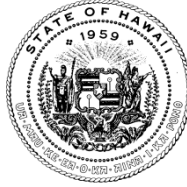
Our State needs to provide OHA its constitutional and statutory pro rata share of the state's Public Land Trust obligations. These funds will ensure organizations like HCA and other Native Hawaiian serving entities and programs are not only able to meet the economic, social, cultural, and environmental needs of Native Hawaiians as residents of the State of Hawaii, but also attract additional public and private capital for greater collective impact. **PASS HB402, HD1.**

Mahalo for your time, leadership and consideration. Please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need additional information.

Sincerely,



Jeff Gilbreath  
Executive Director



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

Tuesday, March 19, 2019  
2:45 P.M.  
State Capitol, Room 229

**H.B. 402, H.D. 1**  
**RELATING TO RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS'**  
**PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS.**

Senate Committee(s) on Hawaiian Affairs and Higher Education

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The Department of Transportation submits **comments** to this bill. Similar to other State departments, the State of Hawaii, Department of Transportation (DOT) has a deep respect for the Office of Hawaiian Affairs (OHA), which supports efforts to improve the well-being of Native Hawaiians, and DOT recognizes the importance of the betterment of the Native Hawaiian community. DOT also recognizes that remittances to OHA are required by the state constitution and by Hawaii Revised Statutes. Nevertheless, we have strong and deep concerns with H.B. 402, H.D. 1, which proposes to: (1) establish the Office of Hawaiian Affairs (OHA) pro rata share of the public land trust that differs from the \$15.1 Million established in Hawaii Revised Statutes, HRS §10-13.3, (2) transfer funds to OHA for underpayment of the public land trust funds from July 1, 2012 to June 30, 2019, and (3) require DLNR to provide an annual accounting of receipts from public land trust lands.

Respectfully this bill, proposes to establish another interim measure to address the pro rata share of the public land trust revenues to be remitted to the Office of Hawaiian Affairs (OHA). This legislation is yet another temporary measure that defers establishing a permanent resolution; it does not clarify the language in the Constitution of the State of Hawaii nor that of the Hawaii Revised Statutes to address the long-standing political question of how to appropriately calculate the pro rata share. This temporary measure is of significant concern because of the inherent uncertainty of the pro rata share that the DOT's Harbors Division, ("DOT-HAR"), will be required to annually remit from its cash revenues received from third-party users of ceded lands.

State of Hawaii accounting and budgeting policies and practices established by Act 178 SLH 2006 and Executive Order 2006-06 governing these remittances to OHA, require the recording of these remittances as a reduction of an agency's revenues, i.e. "a pass-through of an agency's revenue", while the financial reporting requirements of Generally Accepted Accounting Principles or GAAP,

require DOT-HAR, an Enterprise Fund of the State of Hawaii, to report its remittances to OHA as Harbors Operating Expenses.

Hawaii Harbor System Revenue Bonds, (“Harbors Bonds”), annually undergo bond ratings surveillance conducted by bond ratings entities S&P Global Ratings, Fitch Ratings and Moody’s Investors Services. These rating entities compute the DOT-HAR’s liquidity metrics utilizing the GAAP Harbors Operating Expenses which include the amounts remitted to OHA. The result of this computation reflects DOT-HAR’s liquidity metrics at lower levels, which from year to year, can jeopardize the annual bond ratings and the related ratings outlook issued by these bond rating entities for the Harbors Bonds.

The better the bond ratings and ratings outlook are for Harbors Bonds, the better the possibility of issuing bonds at lower interest rates for the amounts required by DOT-HAR, while the opposite will occur if DOT-HAR’s bond ratings are detrimentally impacted by the results of this bill and the uncertainty that this bill brings.

The DOT offers amended text to Section 8, this text is provided below as the underscored text, such that this bill, and if passed, the subsequent law clearly indicates that these remittances to OHA are a reduction to an agency’s revenue, i.e., “a pass-through of an agency’s revenue” because the agency serves as the collection agent for the 20% of revenues generated from the use of ceded lands by third-parties. HRS §10-13.5 indicates that there is no requirement for an annual legislative appropriation to authorize State agencies to remit funds collected from the third-party users of ceded lands to the Office of Hawaiian Affairs, the current amount set at \$15.1 Million – as such, upon passage of this bill, such remittances to OHA from an agency’s receipts must be recorded and accounted for as “a pass-through of an agency’s revenue”, they must not be accounted for as an expenditure for rental expense/operating expenses nor as an outlay of that agency’s funds, because there is no legislative appropriation of funds authorizing these remittances, thus they are not expenditures as defined by the state constitution.

SECTION 8. Any funds transferred shall be deemed income and proceeds from the public land trust, just as if the funds had been paid out of the income and proceeds from the public land trust pursuant to article XII, section 6, of the state constitution and shall be audited annually. Any amounts derived from the public land trust pursuant to Section HRS 10-13.5, from the ceded land revenues/receipts collected by a transferring agency for revenues generated to fulfill its mission for the State, are not an agency’s expenditure, rather these remittances/transfers are “a pass-through of an agency’s revenue”. The State Comptroller shall adopt as the State’s Accounting Policy for remittances/transfers to the Office of Hawaiian Affairs that they are a “pass-through of an agency’s revenues” and must be reported as reductions of agency revenues in compliance with Section 3 of Act 178 SLH 2006, and not be reported as part of an agency’s operating expenses.

Thank you for the opportunity to provide testimony.



# SIERRA CLUB OF HAWAII

## MĀLAMA I KA HONUA. *Cherish the Earth.*

SENATE COMMITTEE ON HAWAIIAN AFFAIRS

SENATE COMMITTEE ON HIGHER EDUCATION

March 19, 2019      2:45 PM      Room 229

In **SUPPORT** of **HB402** Relating to OHA pro rata share of public land trust funds

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Aloha Chair Shimabukuro and Chair Kim, and members of the Senate HWN/HRE Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **strongly supports** increasing the Office of Hawaiian Affairs' pro rata share of public land trust funds. OHA provides considerable support for programs that enhance Hawai'i's natural resources and strengthen people's relationship to our unique environment. Increasing financial support for OHA's mission improves the quality of life for all of Hawai'i's residents and visitors.

Article XII, section five of the state constitution establishes that 20% of all revenues from the PLT be earmarked to OHA. In 2006, an arrangement between lawmakers, Governor Lingle, and OHA ensured \$15.1 million annually to OHA as the pro rata share due to Native Hawaiians from the income and proceeds of the Public Lands Trust ("PLT"). In the 13 years since the 2006 arrangement, PLT resources have significantly increased in value, such that \$15 million no longer represents 20% of all revenues from the PLT.

It is time to update the funding arrangement. According to available data on PLT revenues, we agree that the amount due to Native Hawaiians is at least \$35 million a year. Doubling the annual appropriation to OHA will improve programs and services to Native Hawaiians and expand environmental restoration efforts.

OHA provides critical public services to those most in need in our community. From managing 27,000 acres of land, to loaning \$34 million to start-up businesses, to gifting thousands of educational scholarships, and providing operations funding 131 organizations, OHA is serving the needs of its beneficiaries and improving our island home for everyone's benefit. Raising the PLT payment amount will drastically increase the amount of funding available for these critical, yet underserved, areas of need.

The increased share will allow OHA to expand its reach at a time when Native Hawaiians are disproportionately represented in almost every negative socio-economic statistic in our state.

Thank you very much for this opportunity to provide testimony in **support of HB402**.