



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Finance  
April 4, 2022 at 2:30 p.m.

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

### SB 2021 SD1 HD1 – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Chair Luke, Vice Chair Yamashita, and members of the committee:

The University of Hawai'i (University) supports SB 2021 SD1 HD1, but recommends revisions to the extent that it recognizes the University's and Department of Education's constitutionally established educational mission and unique relationship to the public land trust as beneficiaries under Section 5(f) of the Admissions Act. The University continues to be firmly committed to the betterment of Native Hawaiians, which make up its Section 5(f) beneficiaries, and the University has a deep respect for the constitutional role of the Office of Hawaiian Affairs (OHA).

As previously noted in our testimony on SD1, the proposed changes to Section 2 of SD1 HD1 are concerning. First, the general statement that "net receipts" should exclude "any income, proceeds, fees, charges, or other moneys derived through the exercise of sovereign functions and powers" was removed from the original version of SB 2021. It should be reinserted. Second, specific monies for carrying out the University's responsibilities to its Section 5(f) beneficiaries were removed, including the following:

- "Moneys received by any public educational institution, including the University of Hawaii, and the community college system, from its educational programs and ancillary services, such as tuition, registration fees, meals, books, grants, or scholarships,"
- "Grants, carry-overs, and pass-throughs," and
- "Federal moneys, including federal-aid, grants, subsidies, and contracts."

The above exceptions that were removed in SD1 should be reinserted. Third, as stated in our testimony to the original version of SB 2021, "ancillary services" should be more broadly defined. The University, as with other departments, have operations that rely on funding from many auxiliary services, including among others, revenues from university housing, research awards, bookstores, and student parking.

The University also provides its university-generated revenue towards Native Hawaiian students and programs above what it currently provides to OHA as shared revenues. If this bill seeks to fairly and equitably account for pro rata contributions, then the bill should credit and recognize the University for this contribution.

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, Article X, Section 5.

The United States Congress through Section 5(f) of the Admissions Act designated five categories to benefit from the public land trust. Public educational institutions are the first of the five categories to benefit from the trust. The Admissions Act states:

(f) ***The lands granted to the State of Hawai'i by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust [1] for the support of the public schools and other public educational institutions, [2] for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, [3] for the development of farm and [4] home ownership on as widespread a basis as possible for the making of public improvements, and [5] for the provision of lands for public use... The schools and other educational institutions supported, in whole or in part out of such public trust shall forever remain under the exclusive control of said State[.]***

The Admission Act, §5(f) (1959); emphasis, ellipsis, brackets, and numbering added.

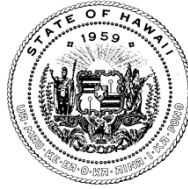
The University strives to maximize the impact of all its resources as it works to provide public higher education across the islands to ensure that all of Hawai'i's students, including Native Hawaiians, have the knowledge, skills, capacity and tenacity to meet the challenges and opportunities facing Hawai'i's families and communities in today's dynamic environment.

Independent from payments made pursuant to Act 178, SLH 2006, the University currently provides millions of dollars per year in direct tuition benefits from its own

resources to Native Hawaiian students. In each academic year from 2014-2015 through and including 2020-2021, the University has provided in excess of \$7,000,000 to Native Hawaiian students in tuition waivers and non-resident tuition differentials.

As we have articulated in years past and as SB 2021 SD1 HD1 confirms, given that the University is a beneficiary of the public land trust, the University should be able to use proceeds from its lands for its educational mission, and should not be required to provide receipts from the public land trust to another beneficiary entity. Accordingly, the University supports SB 2021 SD1 HD1 to the extent that it ends the University's obligation to provide receipts from the University's lands to OHA.

Thank you for your time and consideration.



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDUARDO P. MANGLALLAN  
PATRICK H. MCCAIN  
EDWIN H. SNIFFEN

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

Monday, April 4, 2022  
2:30 PM  
State Capitol, Teleconference

**S.B.2021, S.D.1, H.D.1**  
**RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF**  
**HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST**

House Committee on Finance

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The Department of Transportation (DOT) **supports the intent** of S.B.2021, S.D.1, H.D.1.

S.B.2021, S.D.1, H.D.1 proposes to (1) Establish twenty per cent of the net receipts from the public land trust, or \$15,100,000, whichever is greater, as the office of Hawaiian Affairs' annual share of the income and proceeds of the public land trust beginning in fiscal year 2022-2023; and (2) Appropriate funds from the carry-forward trust holding account established by the director of finance, pursuant to executive order 06-06, to the office of Hawaiian Affairs.

The DOT appreciates the amendments being made to section 10-13.5, Hawaii Revised Statutes (HRS), defining twenty per cent of net receipts. However, DOT expresses concern for the blank "\$" transfer of funds from the public land trust, to be transferred thirty days after the close of fiscal year 2022-2023, and would like to highlight that any additional funds being diverted from DOT Harbors Division (DOTH) would essentially harm the State. Because the DOTH is a self-sufficient proprietary fund and is required by §266-17, HRS, to be self-supporting, the only way to cover any additional funds leaving DOTH would be to increase harbor related fees, which would result in unintentional consequences, such as fees and costs being passed on to the consumers and the community.

Thank you for the opportunity to provide testimony.



DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

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

TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
SENATE BILL NO. 2021, S.D. 1, H.D. 1

**April 4, 2022**  
**2:30 p.m.**  
**Room 308 and Videoconference**

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

The Department of Budget and Finance (B&F) offers comments on Senate Bill  
(S.B.) No. 2021, S.D. 1, H.D. 1.

S.B. No. 2021, S.D. 1, H.D. 1, proposes the following:

- Amends Section 10-13.5, HRS, *Use of Public Land Trust Proceeds*, to:
  - a) Specify that 20% of the net receipts (rather than all funds derived), or \$15,100,000, whichever is greater, from the Public Land Trust is the Office of Hawaiian Affairs' (OHA) annual pro rata share beginning in FY 23; and
  - b) Defines "net receipts" as the proceeds, fees, charges, rents, or other income, or any portion thereof, derived from any sale, lease, license, permit, or other disposition, permitted use, or activity, that is situated upon and results from the actual use of lands comprising the Public Land Trust, unless precluded by federal law; provided that all costs incurred by the State or its agencies in developing, managing, maintaining, or operating the lands from which the receipts are derived, and any other costs required to generate the receipts, shall be excluded,

including: 1) debt service payments for bonds; 2) operation and maintenance costs for public housing projects; and 3) costs for supplies, materials, equipment, or personnel.

- Supersedes the provisions of Act 178, SLH 2006 (that established the \$15,100,000 annual payment to OHA with quarterly payments of \$3,775,000), with the exception of Section 5 of Act 178 that is modified to specify quarterly payments of 20% of net receipts or \$3,775,000, whichever is greater, within 30 days of the close of each quarter, provided that for FY 23, departments have 30 days after the close of the fiscal year to transfer a total of an unspecified amount pursuant to procedures set forth in this Act; and expressly authorizes the Governor to fix amounts each agency is to transfer to OHA each quarter by Executive Order (E.O.).
- Requires that no later than 12 days after the close of each fiscal quarter, the Director of Finance (DOF) or the director's designee is to determine the total amount of receipts transferred to OHA by departments during the quarter and if the total amount of receipts is less than \$3,775,000, the DOF or the director's designee is to make up the difference by establishing the additional amount of receipts that each department must transfer to OHA to ensure that the total quarterly amount is equal to \$3,775,000.
- Appropriates out of the carry-forward trust holding account established pursuant to E.O. No. 06-06, an unspecified amount for FY 23 to pay to OHA for amounts received from the Public Land Trust between July 1, 2012, through June 30, 2022.
- Specifies that any amounts 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 Hawai'i State Constitution.

- Specifies that nothing in the Act shall resolve or settle, or be deemed to acknowledge the existence of, the claims of native Hawaiians to the income and proceeds of a pro rata portion of the Public Land Trust under Article XII, Section 6, of the Hawai'i State Constitution.

As the department currently responsible for coordinating and overseeing the ceded land payment process to OHA, B&F has serious concerns with H.D. 1 for the following reasons:

- The new “net receipts” definition is a major departure from how proceeds have been defined and computed up to now, and more time for discussion is needed on the State side and with OHA on how to implement the new definition. At this time, the impact of the new definition on the amounts of payments to OHA is unknown. B&F will need to work extensively with departments and OHA to develop a standard methodology to compute net receipts.
- There are long standing unresolved differences in the State's and OHA's positions on various ceded land payment issues that the new “net receipts” definition does not fully address. For example, the N&K CPAs, Inc., Report to [OHA] on the Accuracy and Completeness of a Report by the [DLNR] to the Hawaii State Legislature on Public Land Trust Receipts For the Fiscal Year Ended June 30, 2016 commissioned by OHA highlights numerous areas of differences between the various State agencies and OHA in terms of:
  - What State activities are subject to the ceded land assessment?

- What are considered ceded land receipts?
- What State activities are on ceded lands?
- How the assessment is to be calculated?
- The process set forth in H.D. 1 to make payments to OHA is confusing and appears to contain inconsistencies that would make it difficult to implement. On one hand, the draft specifies that departments are to transfer quarterly 20% of “net receipts,” but if the total quarterly receipts are less than \$3,775,000, B&F is to calculate additional departmental assessment amounts to make up the difference (page 10, lines 8-17). However, the draft (page 9, lines 8-12) also states that for FY 23, transfers to OHA shall total an unspecified amount. Further, the draft authorizes (page 9, lines 15-18) the Governor to fix amounts each department is to transfer to OHA each quarter by E.O.

Instead, B&F strongly recommends reinstating establishment of the Public Land Trust Revenues Negotiating Committee (PLTRNC) that was in the original draft of this bill. There are many long-standing issues that need to be addressed, as well as the proposed change to the “net receipts” concept, and the PLTRNC would be an appropriate body to work through the issues and make informed recommendations to the Legislature so that it can enact a fair and lasting means of providing OHA with its share of the income and proceeds from the Public Land Trust.

B&F further recommends that the Legislature consider amending Act 178 by updating the fixed amount of ceded land payments from \$15,100,000 annually and \$3,775,000 quarterly to an annual and quarterly amount that it deems appropriate. B&F would note that the Act 178 framework provides: 1) a clearly stated amount due to OHA

each quarter and annually; 2) a process that can be administered reliably and on a timely basis; and 3) an amount that would not be subject to future disputes and litigation.

The following information is provided to assist the Committee in its deliberations:

- Attachment 1 is a copy of E.O. No. 06-06.
- Attachment 2 is a summary of the payments made by affected State agencies for the use of Public Land Trust lands for the period FY 07 through the first quarter of FY 22. During the period FY 07 through FY 12, general fund revenues were used to make up shortfalls in meeting the State's quarterly obligation of \$3,775,000. During the period FY 12 through FY 21, the State used funds held in the B&F Overpayment Collections to OHA Trust Account to ensure that the State's quarterly payment obligation was met. However, these payments were made only to cover shortfalls due to timing issues with transfers to OHA. For the period FY 12 through FY 20, the State was able to meet the obligations of Act 178, primarily due to increases in payments from the Department of Transportation – Harbors Division, which coincided with increases in wharfage rates tied to capital improvement project debt service costs for the Harbors Modernization Program.
- Attachment 3 is a summary of amounts in the B&F Overpayment Collections to OHA Trust Account for the period FY 07 through the first quarter of FY 22.
- Attachment 4 is the N&K CPAs, Inc., report to OHA noted above.

Thank you for your consideration of our comments.

Attachments

EXECUTIVE ORDER NO. 06 - 06

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

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

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

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

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

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

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

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

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

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

b. Determine if:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Accounting Information and Process.

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

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

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

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

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

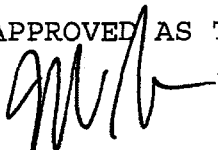
DONE at the State Capitol, Honolulu,  
State of Hawaii, this 20th  
day of September, 2006.



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LINDA LINGLE  
Governor of Hawaii

APPROVED AS TO FORM:



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Mark J. Bennett  
Attorney General

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

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

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

FROM: \_\_\_\_\_  
Department/Agency Name \_\_\_\_\_

SUBJECT: Ceded Land/Public Land Trust Receipts for Quarterly Transfer to Office of Hawaiian  
Fiscal Year \_\_\_\_, \_\_\_\_ Fiscal Quarter's

80%GFTHA/20% Holding Account Name/No.	Ceded/Public Land Trust Land Total Receipts	Total Holding Account Deposits	Total Amounts Transferred to OHA
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

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

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

Payments to OHA for the Use of Public Land Trust Lands

Department	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022*
Accounting & Gen Svcs	23,475.00	23,870.00	23,241.00	23,142.00	21,786.00	20,846.00	20,654.00	21,041.00	20,716.00	20,748.00	20,774.00	19,709.00	37,775.00	36,922.00	26,131.00	8,811.00
Agriculture	148,723.27															
Non-Ag Park Lands (S-305)	-	115,176.63	152,693.85	108,364.92	37,026.29	180,158.64	87,778.41	203,682.87	144,712.19	189,910.91	182,676.07	235,480.29	245,735.10	225,124.88	286,312.48	64,013.80
Non-Ag Park Lands (S-305) (DLNR)	-	-	-	-	-	-	5,458.54	10,152.85	2,962.40	5,709.40	-	-	-	-	-	-
Agr Dev Corp (S-307-A)	-	64,921.53	62,407.20	68,049.65	92,204.75	121,264.79	139,155.42	156,219.70	146,422.49	208,767.82	-	-	148,958.28	43,287.45	-	-
Ag Park Lands (S-317-A)	-	80,528.96	79,062.25	65,705.86	79,284.97	80,955.71	70,322.78	121,292.02	88,923.67	84,782.24	91,865.48	95,879.33	83,315.36	90,458.23	92,154.89	20,703.41
Bus, Econ. Dev. & Tourism	108,533.26															
FTZ (S-302-B)	11,567.94	19,246.26	20,260.86	21,276.73	17,346.12	17,333.71	18,293.45	14,722.50	8,807.52	5,529.76	7,303.12	5,989.38	7,778.49	6,576.66	7,616.54	1,375.50
NELHA (S-345-B)	125,989.00	220,959.95	292,553.75	320,210.32	333,492.86	359,774.34	357,061.80	361,521.90	342,980.10	383,459.23	369,713.03	330,096.63	361,638.05	405,399.97	423,369.61	88,533.82
HCDA (S-352-B)	177,206.49	57,750.92	64,549.16	93,580.68	80,272.57	271,392.58	17,511.00	7,944.18	189,429.25	60,000.00	127,969.64	77,547.12	108,290.53	104,987.37	91,652.74	2,086.65
HHFDC (Honokowai Hale/Lailani) (T-906-B)	-	-	-	-	-	-	-	30,041.73	40,411.85	49,397.39	75,889.09	59,489.18	69,427.35	38,223.82	94,501.41	14,713.62
Defense	-	628.00	-	120.00	85.00	445.00	1,150.00	2,036.00	1,219.40	1,308.80	2,969.40	2,896.70	1,543.60	4,006.00	2,445.00	530.00
Education	45,727.00	49,566.00	77,399.00	75,618.00	76,632.00	100,200.00	110,563.00	116,225.00	112,921.00	113,592.00	121,247.00	113,470.00	123,789.12	90,907.00	19,768.00	3,264.00
HHSC	56,807.53	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
HMS - HPHA																
Land & Natural Resources	2,437,571.10	2,634,802.28	2,675,701.40	2,405,748.75	2,531,096.42	3,572,211.26	3,241,798.42	3,277,959.70	3,012,135.71	3,006,181.43	3,404,560.40	3,414,448.79	2,958,832.55	2,900,174.93	2,718,566.69	1,209,236.30
DOFAW																
DLNR - Land																
DLNR -Parks																
Boating	1,343,116.39	1,257,124.16	1,050,668.54	958,354.73	1,038,731.12	1,143,463.65	1,327,559.90	1,374,999.30	1,372,028.91	1,366,137.93	1,621,860.45	2,200,586.66	2,086,263.75	3,100,546.54	3,405,136.74	1,249,706.99
Transportation (Airports)																
Transportation (Harbors)	6,773,840.80	7,094,692.35	6,315,577.96	6,036,585.53	7,613,994.72	9,029,187.76	10,559,139.79	11,509,316.85	12,683,923.58	12,000,921.49	13,539,172.70	10,000,000.00	10,000,000.00	10,000,000.00	9,999,999.99	2,499,758.29
Transportation (Highways)		-	-	-	-	-	-	-	-	-	170.18	40,693.20	40,423.20	10,279.00	-	-
University of Hawaii		-	2,355,039.28	420,756.27	446,951.30	452,150.56	932,912.57	592,776.80	643,289.48	650,480.96	620,302.18	795,672.10	876,818.56	852,405.87	556,787.18	254,955.23
<b>Total Transfers</b>	<b>11,252,557.78</b>	<b>11,619,267.04</b>	<b>13,169,154.25</b>	<b>10,597,513.44</b>	<b>12,368,904.12</b>	<b>15,349,384.00</b>	<b>16,889,359.08</b>	<b>17,799,932.40</b>	<b>18,810,883.55</b>	<b>18,146,927.36</b>	<b>20,186,472.74</b>	<b>17,391,958.38</b>	<b>17,150,588.94</b>	<b>17,909,299.72</b>	<b>17,724,442.27</b>	<b>5,417,688.61</b>
<b>Act 178, SLH 2006 Obligation</b>	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	15,100,000.00	3,775,000.00
<b>Difference</b>	(3,847,442.22)	(3,480,732.96)	(1,930,845.75)	(4,502,486.56)	(2,731,095.88)	249,384.00	1,789,359.08	2,699,932.40	3,710,883.55	3,046,927.36	5,086,472.74	2,291,958.38	2,050,588.94	2,809,299.72	2,624,442.27	1,642,688.61

**Note:**  
 \* Fiscal Year 2022 amounts reflect payments made for the period July 2021 through December 2021.

### Summary of the Overpayment Collections to OHA-Ceded Lands Trust Account

FY	Beginning Balance	Revenues	Expenditures	Ending Balance
2013	-	1,599,187.57		1,599,187.57
2014	1,599,187.57	4,098,157.50	690,081.57	5,007,263.50
2015	5,007,263.50	3,483,804.90	-	8,491,068.40
2016	8,491,068.40	1,821,965.97	6,467,088.95	3,845,945.42
2017	3,845,945.42	7,922,801.32	-	11,768,746.74
2018	11,768,746.74	2,205,986.60	-	13,974,733.34
2019	13,974,733.34	7,312,400.80	-	21,287,134.14
2020	21,287,134.14	2,483,304.63	-	23,770,438.77
2021	23,770,438.77	1,668,724.13	-	25,439,162.90
2022*	25,439,162.90	3,840,711.62	-	29,279,874.52
<b>Totals</b>		36,437,045.04	7,157,170.52	

**Notes:**

**FY2014** Expenditure amount of \$690,081,57 includes a transfer to DBEDT - HCDA of \$118,104, to correct an overpayment to OHA due to the transfer of Kakaako Makai properties. The remaining \$571,977.57 was a transfer to OHA to make up a shortage in the quarterly payment of \$3,775,000.

**FY2016** Expenditures in FY 16 reflect the return of Dept of Transportation's pro rata share of overpayments for FY 13, FY 14, and FY 15.

**FY2019** Revenues in FY 19 Include the repayment of funds returned in FY 16 to Dept of Transportation of pro rata share of overpayments for FY 13, FY 14, and FY 15.

\* Fiscal Year 2022 revenues and ending balance reflect amounts as of December 31, 2021.



**REPORT TO THE OFFICE OF HAWAIIAN AFFAIRS**  
**ON THE ACCURACY AND COMPLETENESS**  
**OF A REPORT BY THE**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**TO THE HAWAII STATE LEGISLATURE ON**  
**PUBLIC LAND TRUST RECEIPTS**

For the Fiscal Year Ended June 30, 2016



# OFFICE OF HAWAIIAN AFFAIRS

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## **EXECUTIVE SUMMARY**

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

This report presents the results of the procedures performed by N&K CPAs, Inc. (“N&K”) relating to the Public Land Trust receipts for the fiscal year ended June 30, 2016 that were reported to the Legislature by the State of Hawai‘i Department of Land and Natural Resources (“DLNR”) in November 2016.

**Background**

Pursuant to Section 10-13.5, Hawai‘i Revised Statutes, the Office of Hawaiian Affairs (“OHA”) is entitled to twenty percent (20%) of all funds from the sale or use of the public land trust (hereinafter referred to as “Public Land Trust” or “PLT”). Act 178, Session Laws of Hawai‘i 2006, temporarily provides that OHA receive the fixed annual amount of \$15,100,000 until the Legislature takes further action. Act 178 also requires each state agency to report to DLNR all receipts from the Public Land Trust land that the agency uses or manages. DLNR is responsible for collecting the information and providing an annual accounting of all receipts from the Public Land Trust to the Legislature (“DLNR Act 178 Report”).

OHA contracted with N&K to evaluate whether the receipts reported in the fiscal year 2016 DLNR Act 178 Report were complete and accurate. Using the DLNR Act 178 Report and its accompanying detailed attachments, N&K then conducted its procedures to determine whether receipts had been completely and accurately reported.

**Procedures Performed**

N&K applied a two-prong approach in its procedures to assess the accuracy and completeness of the reports submitted. The first approach was to determine whether the agencies had reported all of the Public Land Trust parcels that had generated receipts during the fiscal year ended June 30, 2016. For each agency, N&K describes the work performed for that agency to accomplish this under the heading of *Land Inventory*. The second approach was to determine whether the financial information reported by the agencies was complete and accurate. N&K describes the work performed for each agency to accomplish this under the heading of *Financial Reporting*.

OHA provided N&K with an inventory listing of Public Land Trust parcels (“OHA Inventory Report”) for each state agency, which was obtained primarily from OHA’s research of DLNR’s State Land Information Management System (“SLIMS”) and DLNR’s Public Land Trust Information System (“PLTIS”) and reflected the trust land status from SLIMS for each TMK, where applicable. N&K used the OHA Inventory Report as the official detailed listing of Public Land Trust parcels to evaluate the completeness and accuracy of the respective agency’s land information included in the DLNR Act 178 Report. N&K provided each agency’s staff an opportunity to review the OHA Inventory Report, meet, and provide comments on the Public Land Trust lands and receipts attributed to their respective agencies. N&K investigated any differences noted to determine whether or not receipts were generated and properly reported. Exhibit 4 is a schedule of non-receipt generating parcels in the fiscal year ended June 30, 2016.

N&K began its evaluation of Public Land Trust receipts reported and identified potential unreported receipts by obtaining audited financial statements as of and for the fiscal year ended June 30, 2016 for each state agency, which included all revenue. If audited financial statements

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**Fiscal Year Ended June 30, 2016**

were not available, a schedule of all receipts for the fiscal year ended June 30, 2016 was requested from agency personnel.

N&K also requested supporting revenue schedules that separately reported the various receipt types generated by each agency. Next, attachments to the DLNR Act 178 Report, which contain information submitted to DLNR by the relevant agency, were reconciled to the agency's financial statements or schedule of receipts and the supporting schedules. All potential reporting gaps noted are described in this report.

In performing the evaluation, N&K assumed that parcels designated as Public Land Trust land in the OHA Inventory Report were accurate. N&K also assumed a literal interpretation of the language contained in Act 178 that agencies should report all receipts from the Public Land Trust. Agency records supporting the reports submitted to DLNR pursuant to Act 178 were not uniformly prepared. Accordingly, N&K developed and applied varying procedures to evaluate the accuracy and completeness of the reports.

**Differences Noted**

The reasons for differences between the information provided in the DLNR Act 178 Report and what N&K found while performing its procedures varied widely. Presented below is a table that shows where differences were found by agency.

<b>Agency</b>	<b>Land Inventory</b>	<b>Financial Reporting</b>
A. DAGS	X	X
B. ARM	X	X
C. ADC	X	X
D. FTZ9	X	
E. HCDA	X	
F. HHFDC		X
G. NELHA		X
H. DOD		X
I. DOE	X	X
J. DOH	X	X
K. HPHA		X
L. DOBOR	X	X
M. DOFAW		X
N. Land Division		X
O. State Parks	X	X
P. Airports		
Q. Harbors		X
R. Highways		X
S. UH	X	X

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A summary of the work performed for each agency is presented in Exhibit 3, which also indicates the method of reporting by the departments and or agencies as either receipts (accounted for using the cash basis in which revenues are recognized when cash is actually received) or revenue (accounted for using the accrual basis in which revenues are recognized when earned). These definitions of receipts and revenue are also applied throughout this report.

**Summary**

The state agencies reported receipts from the Public Land Trust totaling \$177.6 million in their reports submitted to DLNR pursuant to Act 178 for the fiscal year ended June 30, 2016. Because of the nature of the various records, some of which were not available to us, it was not always possible to accurately determine the amounts that should have been reported. Applying various methods and assumptions, as further explained in the report, N&K estimated underreporting differences could amount to more than \$247.2 million.

The differences presented should not be used to presume or form the basis to compute a share due to OHA. In many cases, the differences presented are estimates based on the limited information available and are not represented to be absolute, but rather as starting points to continue the dialogue and further develop the proper accounting and reporting protocols of receipts in accordance with Act 178.

## **INTRODUCTION AND BACKGROUND**



**Office of Hawaiian Affairs**  
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**Fiscal Year Ended June 30, 2016**

**Background**

The Admission Act of 1959 section 5(f) established the public land trust (hereinafter referred to as the “Public Land Trust”) and mandated the State of Hawai‘i, as trustee, to hold the corpus of the trust for five specific purposes. Public Law 86-3, 73 Stat. 4 (March 18, 1959). Hawai‘i Constitution, article XII, Section 6, establishes the Office of Hawaiian Affairs’ (“OHA’s”) right to receive “all income and proceeds from that pro-rata portion” of the Public Land Trust to carry out one of those purposes – the betterment of the conditions of Native Hawaiians.

The Public Land Trust is comprised of the bulk of the former government and crown land that was ceded by the Republic of Hawai‘i to the United States in 1898 “without the consent of or compensation to the Native Hawaiian people of Hawai‘i or their sovereign government[.]” Public Law 103-150 (1993). Specifically, the “ceded land” that was transferred by the United States to the State of Hawai‘i (“state”) through the Admission Act Sections 5(b) and 5(e), and later through Public Law 88-233 (1963), comprise the Public Land Trust. Some “ceded land,” primarily that land transferred to the state through the Admission Act Section 5(a), is not considered part of the Public Land Trust. The Hawai‘i Supreme Court has interpreted the Public Land Trust broadly to include resources beyond land parcels, including mineral rights, submerged land, reclaimed land, and lava extensions. See, e.g., State ex rel. Kobayashi v. Zimring, 58 Haw. 106, 122 (1977); Napeahi v. Paty, 921 F.2d, 897 (9th Cir. 1990).

Identifying the pro-rata portion of income and proceeds of the Public Land Trust to which OHA is entitled has been the topic of a number of studies, reviews, and litigation since 1980. In 2006, through Act 178, Session Laws of Hawai‘i 2006, the Hawai‘i State Legislature specifically directed improved and centralized reporting of Public Land Trust receipts to address this issue.

Since 2000, the Department of Land and Natural Resources (“DLNR”) has maintained a State Land Inventory Management System (“SLIMS”) that identifies land held by DLNR or set-aside from DLNR’s land inventory to other state agencies and denotes whether or not the land is part of the Public Land Trust from which OHA is due a portion of revenue generated therefrom. While SLIMS is the most comprehensive state land inventory available, DLNR has publicly acknowledged that SLIMS is not wholly complete or accurate.

Act 54, Session Laws of Hawai‘i 2011, mandated the establishment of a comprehensive information system to inventory and maintain information about the lands of the Public Land Trust as described in section 5(f) of the Admission Act and article XII, section 4 of the Hawai‘i State Constitution. The result of Act 54 was DLNR’s Public Land Trust Information System (“PLTIS”), a geographic information systems-based inventory in which state agencies self-report the land parcels they use or manage and associated information about those parcels, including encumbrances and whether or not the land is part of the Public Land Trust.

During the 2006 Legislative Session, the Legislature directed state agencies to annually report on receipts from the Public Land Trust parcels they use or manage. The requirement is established in Section 5 of Act 178, Session Laws of Hawai‘i 2006, which requires DLNR, with the cooperation of the Department of Budget and Finance (“B&F”), and any other state department or agency that uses or manages public land, to provide an annual accounting of all receipts from the Public Land Trust for the prior fiscal year to the Legislature.

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Specifically, Act 178 Section 5 requires, with respect to each receipt, that DLNR report:

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

Act 178 also requires that the report indicate whether any Public Land Trust parcel was sold or exchanged in the prior fiscal year and, if so, the amount of consideration that the state received for the respective parcel(s).

### **2016 Act 178 Report**

DLNR identified nineteen (19) agencies and divisions of agencies (“agencies”) as having operations on, or collecting receipts from, the Public Land Trust. The fiscal year ended June 30, 2016 was the fifth year each of these nineteen agencies submitted reports pursuant to Act 178 to DLNR (“agency Act 178 reports”). DLNR compiled the reports and provided a summary report to the Legislature in November 2016 (See Exhibit 1 (“DLNR Act 178 Report”). Included in the summary report to the Legislature were attachments that provided varying degrees of supporting detail for the receipts reported by the 19 agencies. The agencies that reported and related attachments used to support the amounts included in the DLNR Act 178 Report were:

- A. Department of Accounting and General Services, Attachment 3;
- B. Agricultural Resource Management Division, Department of Agriculture, Attachment 4;
- C. Agribusiness Development Corporation, Department of Agriculture, Attachment 5;
- D. Foreign Trade Zone No. 9, Department of Business, Economic Development and Tourism, Attachment 6;
- E. Hawai'i Community Development Authority, Department of Business, Economic Development and Tourism, Attachment 7;
- F. Hawai'i Housing Finance and Development Corporation, Department of Business, Economic Development and Tourism, Attachment 8;
- G. Natural Energy Laboratory of Hawai'i, Department of Business, Economic Development and Tourism, Attachment 9;
- H. Department of Defense, Attachment 10;
- I. Department of Education, Attachment 11;
- J. Hawai'i Health Systems Corporation, Department of Health, Attachment 12;
- K. Hawai'i Public Housing Authority, Department of Human Services, Attachment 13;
- L. Division of Boating and Ocean Recreation, Department of Land and Natural Resources, Attachment 14;
- M. Division of Forestry and Wildlife, Department of Land and Natural Resources, Attachment 16;
- N. Land Division, Department of Land and Natural Resources, Attachments 15 and 16;
- O. State Parks, Department of Land and Natural Resources, Attachment 16;

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- P. Airports Division, Department of Transportation, Attachment 18;
- Q. Harbors Division, Department of Transportation, Attachment 19;
- R. Highways Division, Department of Transportation, Attachment 20; and the
- S. University of Hawai'i, Attachment 21

While DLNR is required to compile the agency Act 178 reports and submit a combined report to the Legislature, Act 178 does not require DLNR to confirm or verify the accuracy or completeness of the amounts reported. Accordingly, OHA contracted with the accounting and consulting firm of N&K to independently evaluate the completeness and accuracy of the Act 178 reports submitted by the agencies to DLNR for fiscal year ended June 30, 2016.

### **Approach**

As background for this evaluation, N&K reviewed prior reports prepared on the issue of Public Land Trust revenue and receipts (See Exhibit 2) to gain an understanding of the work previously performed and issues surrounding the identification and reporting of revenue and receipts relating to the Public Land Trust. N&K also reviewed the Report to the Twenty-Ninth Legislature, Regular Session of 2017, "Accounting Of All Receipts From Lands Described In Section 5(f) of the Admission Act for the Fiscal Year 2015-2016" prepared by DLNR, November 2016 (See Exhibit 1, "DLNR Act 178 Report") and accompanying attachments submitted to the Legislature. The attachments to the DLNR Act 178 Report are the detailed reports submitted by each agency, which DLNR compiled to generate the DLNR Act 178 Report. Due to their voluminous nature, the attachments are not included as part of Exhibit 1. The attachments are publicly available and are referred to throughout this report by the respective attachment number as enumerated in the DLNR Act 178 Report.

N&K applied a two-prong approach in its procedures to assess the accuracy and completeness of the reports submitted.

#### *Land Inventory*

The first approach was to determine whether the agencies had reported all of the Public Land Trust parcels that had generated receipts during the fiscal year ended June 30, 2016. N&K describes the specific work performed for each agency to accomplish this under the heading of *Land Inventory*. In general, to evaluate the propriety of parcels classified as Public Land Trust in SLIMS for each respective agency, N&K agreed the parcels for which receipts had been reported in the agencies' Act 178 reports to the OHA Inventory Report using the tax map key ("TMK") number and property description, if available. The OHA Inventory Report primarily was prepared from OHA's detailed research using the most recent data available in SLIMS, PLTIS, and other publicly available sources. The Public Land Trust status per SLIMS was provided for each TMK, where available (hereinafter called "trust land status"). N&K used the OHA Inventory Report as the official detailed listing of Public Land Trust parcels in its evaluation after providing each agency's staff an opportunity to review, comment, and meet on the OHA Inventory Report for their respective agency. The OHA Inventory Report included all TMKs associated with each agency, regardless of trust land status. In general, however, N&K's procedures only were applied to parcels with the following trust land status: 5(b), 5(e), PL-88-233, and multiple. Parcels with trust land status 5(a) were excluded. In some cases, parcels without TMKs or trust

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land status in SLIMS were included in the procedures because there was sufficient information that the parcels are part of the Public Land Trust (e.g., a parcel's new TMK was not in SLIMS, but the former TMK indicates the parcel is part of the Public Land Trust). Any differences between the OHA Inventory Report and the parcels listed in the agencies' Act 178 reports to DLNR were then investigated and classified as "Reporting Gaps" under the subheading "Land Inventory" in the respective agencies' individual analysis contained in Part II of this report.

*Financial Reporting*

The second approach was to determine whether the financial information reported by the agencies was complete and accurate. N&K describes the work performed for each agency to accomplish this under the heading of *Financial Reporting*. To evaluate the completeness and accuracy of the individual agency reports, N&K began by meeting with representatives of each of the reporting agencies to gain an understanding of each agency's method of identifying, calculating, and reporting the related Public Land Trust receipt.

To ensure that N&K accounted for all of the agencies' receipts, N&K began by obtaining the agency's June 30, 2016 audited financial statements and relevant supporting schedules of cash receipts provided by the agency. When audited financial information was available, N&K compared the audited revenue amount to the supporting schedule of cash receipts. If audited financial statements were not available, the agency was asked to provide N&K with a report of all of its unaudited annual receipts for the fiscal year ended June 30, 2016 from the Datamart system. The Datamart system contains a copy of the agencies' financial accounting records sourced from the state's Financial and Management Information System ("FAMIS"), which is the official accounting record of the state. N&K then compared the agency's reported annual receipts, per Datamart, with a schedule of cash receipts provided by the agency to determine if any receipts types relating to the Public Land Trust had not been reported. Any differences noted were classified as "Reporting Gaps" under the subheading "Financial Reporting" in the respective agencies' individual analysis contained in Part II of this report.

When necessary, additional procedures were performed at the various agencies to evaluate the completeness and accuracy of the information. The procedures varied and are explained in Part II for each agency as appropriate. The agency data included in this report was reviewed by each agency to confirm the accuracy and understanding of the data. Discussion and commentary relating to any differences of opinion as to whether the data should be included in this report and other issues considered relevant are also included in Part II.

During the review, N&K assumed that the trust land statuses in the OHA Inventory Report, which reflected the trust land status from SLIMS, were accurate. Additionally, N&K assumed a literal interpretation of the language contained in Section 5 of Act 178. That is, that agencies should report all receipts from the Public Land Trust, regardless of the nature and source of the receipts. N&K also assumed that reporting of all receipts is completely separate from the determination of the income and proceeds to which OHA may be entitled a portion and, therefore, the receipts reported should only be used as a starting point to determine amounts which may be due to OHA.

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After determining the reporting gaps related to land inventory and financial reporting, each of the 19 agencies were provided the opportunity to review and to provide comments on the drafts of Part I - Introduction and Background and of their respective section of Part II - Analysis by Agency and Department. Informal comments were received from ARM, ADC, HHFDC, DOD, HHSC, DOBOR, DOFAW, Land Division, State Parks, and Harbors. Based on the agency comments and discussion with OHA personnel, N&K made certain revisions to this report. FTZ9 was the only agency that provided a formal response to the draft report; the FTZ9 response is included in Part IV - Agency Response.

**PART II**  
**ANALYSIS BY AGENCY AND DEPARTMENT**

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**Fiscal Year Ended June 30, 2016**

**A. Department of Accounting and General Services**

**Background**

The Department of Accounting and General Services (“DAGS”) is responsible for managing and supervising a wide range of state programs and activities. DAGS’ primary purpose is to help state agencies better serve the public by providing superior public facilities, expert technology solutions and services, operational support, fiscal guidance, oversight of administrative services, and preservation and promotion of cultural heritage. DAGS is comprised of the following eight divisions: Accounting, Archives, Audit, Automotive Management, Central Services, Information & Communication Services, Land Survey, and Public Works. For Act 178 reporting purposes, DAGS only reports receipts from the Automotive Management Division (“AMD”). For the purposes of this report, we will separate AMD from the other seven divisions of DAGS, all of which will be referred to as the “Other Divisions of DAGS”.

AMD manages a motor pool, parking lots for state employees, and metered parking lots adjacent to certain state buildings. Public Land Trust receipts reported by AMD consist of parking receipts from three parking lots: Lots D and Q on O’ahu; and Lot Z-3 on Kaua’i. Lot D, known as the “Kekuanao’a Parking Lot”, is located on Punchbowl Street between King Street and Queen Street. Lot Q is situated next to the Department of Agriculture between King Street and Young Street. Lot Z-3 on Kaua’i is located by the Lihue Health Center.

AMD’s operating receipts consist of parking stall rentals, parking meter collections, and parking fines. AMD includes estimated cash receipts from parking stall rentals and parking meter collections when reporting gross receipts from the Public Land Trust.

For Act 178 reporting purposes, AMD uses two different methods to estimate and report gross Public Land Trust receipts based on parking stall type. The two types of parking stalls are public metered stalls and stalls rented on a monthly basis to state employees. Receipts from public metered stalls are comingled during collections and cannot be specifically attributed to a particular parking lot. Therefore receipts from the metered stalls are estimated and reported for Act 178 reporting purposes by multiplying the number of stalls in each lot by the hourly rate by 10 hours per day by 20 days per month (the average number of days state agency offices are open and meter collections enforced).

Receipts from rented parking stalls for each lot are estimated at 90 percent (90%) of the gross monthly parking stalls’ rent rates. AMD uses a factor of 90% to provide for lost revenue due to the estimated time it takes a vacated stall to be rented. AMD prepares and submits reports on these receipts on a quarterly basis by parking lot. AMD then determines OHA’s share by applying 20% to the calculated amounts.

AMD reported \$124,484 pursuant to Act 178 for the fiscal year ended June 30, 2016.

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**A. Department of Accounting and General Services (Continued)**

**Procedures Performed**

*Land Inventory*

AMD

We obtained *Attachment 3 to the DLNR Act 178 Report - Accounting and General Services (DAGS) Automotive Management and Parking Control* ("Attachment 3"). We reconciled the Public Land Trust parcels reported by AMD in Attachment 3 to the OHA Inventory Report for DAGS. We also reviewed OHA's listing of reporting gaps which identified revenues from Parking Lot F at 'Iolani Palace. We confirmed that AMD did not report receipts from Parking Lot F. We inquired of AMD personnel and obtained information from AMD's website to identify receipts generated from Parking Lot F. We noted also that DAGS has consistently excluded receipts from Parking Lot F from its Act 178 reports.

Other Divisions of DAGS

OHA's listing of revenue gaps identified several Public Land Trust properties that are controlled by the other divisions of DAGS. These Public Land Trust parcels include a portion of the Aloha Stadium, civic centers, cemeteries, courthouses, and office buildings. We inquired of DAGS personnel to identify revenue generated from these unreported Public Land Trust parcels.

*Financial Reporting*

AMD

AMD provided its audited financial statements for the fiscal year ended June 30, 2016, a trial balance for the fiscal year ended June 30, 2016, and a schedule of receipts for the Parking Revolving Fund, which lists all receipts by type. AMD also provided quarterly memos with support for the amounts reported in Attachment 3. The memos summarize both meter collections and monthly stall rentals. We agreed the amounts noted in the quarterly memos to Attachment 3 without exception. We then agreed the quarterly schedules to the trial balance and the trial balance to the audited financial statements without exception.

Other Divisions of DAGS

We inquired with DAGS personnel regarding receipts from civic centers, cemeteries, courthouses, and office buildings. We were informed that no receipts were generated from civic centers, cemeteries, courthouse, and office buildings. For receipts generated at Aloha Stadium, we obtained the Stadium Authority's audited financial statements for the fiscal year ended June 30, 2016. Refer to the Summary and Differences for Other Divisions of DAGS section below for the results of our procedures.



**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**A. Department of Accounting and General Services (Continued)**

**Summary and Differences for AMD**

*Land Inventory*

We identified five Public Land Trust parcels from the OHA Inventory Report that were not included in Attachment 3. These parcels include Parking Lots B, C, F, O and Z-2. Parking Lot B is next to the Ke'elikōlani Building on Halekauwila Street. Parking Lot C is next to Hale Auhau on Punchbowl Street. Parking Lot F is next to 'Iolani Palace. Parking Lot O is next to the Oahu Rail & Land Building on North King Street. Parking Lot Z-2 is next to the Kaua'i Judiciary Building.

We inquired with AMD personnel to identify the receipts generated from these parking lots. AMD personnel provided schedules that include the number of stalls by type, as well as hourly and monthly rates. From that information, we estimated parking fees collected at parking Lots B, C, F, and O using the same methods used by AMD to report receipts from assigned rented parking stall and parking meter receipts from Lots D, Q, and Z-3. Those estimated parking receipts are reported as Reporting Gaps. No information on the number of stalls by type, hourly and monthly rates was provided for Parking Lot Z-2.

*Financial Reporting*

We noted that the total revenue, including non-operating income, from the AMD audited financial statements as of June 30, 2016 was approximately \$3,823,083. We reviewed schedules supporting the audited financial statements and confirmed that the receipts attributable to the Public Land Trust, Lot D, Lot Q, and Lot Z-3, was \$103,736 for the fiscal year ended June 30, 2016. However, the amount reported in Attachment 3 of \$124,484 is overstated due to AMD double counting the "amount transferred to OHA" in their gross receipts. As such, this is included in the below Reporting Gaps as "parking receipts over reported."

From our review of the audited financial statements along with OHA's listing of potential reporting gaps, we noted AMD collects cash receipts from fines for vehicles parked in expired metered stalls but did not include any of these receipts in Attachment 3. Applying the same logic in attributing meter receipts to Public Land Trust lands, the receipts from fines for expired meters should be similarly prorated. Accordingly, we estimated the portion of cash receipts from parking fines attributable to metered stalls on Public Land Trust land based on the percentage of metered stalls on Public Land Trust land (metered stalls in Lots D, F, Q, and Z-3) to the total of all metered stalls (7%). These estimated parking fines are reported as Reporting Gaps.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**A. Department of Accounting and General Services (Continued)**

**Summary and Differences for Other Divisions of DAGS**

*Land Inventory*

The OHA Inventory Report listed 26 parcels controlled by Other Divisions of DAGS. Two parcels with potential to generate revenue are encompassed within the Aloha Stadium. Three parcels are included in the OHA Inventory Report for AMD. Three parcels are cemeteries that are maintained by the State of Hawai'i but generate no revenue. The remaining 18 parcels are occupied by governmental units from which no revenues are received. These non-revenue generating parcels are listed in Exhibit 4.

*Financial Reporting*

The SLIMS trust land status for Aloha Stadium is "multiple", indicating it is partially comprised of Public Land Trust land. SLIMS does not indicate, however, which portions are Public Land Trust land, nor the percentage of Aloha Stadium that comprises Public Land Trust land. Research by OHA in prior years indicated that the Public Land Trust portion of Aloha Stadium is approximately 1.25% of the total. We obtained the Stadium Authority's June 30, 2016 audited financial statements. We noted that total revenue for the fiscal year ended June 30, 2016 totaled \$6,778,142. The applied percentage of 1.25% resulted in a Reporting Gap of \$85,051.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
Fiscal Year Ended June 30, 2016**

**A. Department of Accounting and General Services (Continued)**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by DAGS** \$ 124,484

**Estimated Reporting Gaps**

Land Inventory

AMD

Parking Lot F

Metered stalls

38,918

Assigned stalls

20,880

Parking Lot B

3,780

Parking Lot C

840

Parking Lot O

16,680

Parking Lot Z-2\*

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Other Divisions of DAGS

Aloha Stadium (1.25% of audited revenues)

Rentals from attractions

56,242

Commissions from food and beverage concessionaire

12,253

Parking

11,550

Advertising

3,813

Other

869

Interest and investment income

324

166,149

Financial Reporting

AMD

Parking fines

15,052

Parking receipts over reported

(20,748)

(5,696)

**Total Estimated Reporting Gaps**

160,453

**Total Estimated Reportable Receipts**

\$ 284,937

\* Estimated Reporting Gap could not be determined as no information regarding the number of stalls, hourly rates, or monthly rates was provided.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**A. Department of Accounting and General Services (Continued)**

**Comparison to Fiscal Year 2012 Report**

DAGS has not changed its method of reporting for Act 178 purposes. As in the 2012 Report on Public Trust Land Receipts, DAGS continued to not report receipts generated on Lot F and parking fines. This report identified additional underreporting at Lots B, C, O and Z-2.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**B. Agricultural Resource Management Division**  
**Department of Agriculture**

**Background**

Agricultural Resource Management (“ARM”) is a division of the Department of Agriculture. ARM’s major objective is to assist people who are interested in leasing land for farming ventures by providing irrigation water and reasonably priced farmland with infrastructure and facilities to encourage competition within the industry.

ARM is composed of four separate sub-programs: Agricultural Parks, Non-Agricultural Parks, Irrigation Systems, and Agricultural Produce Processing and Marshaling Facilities. Receipts from the Agricultural Produce Processing and Marshaling Facilities program are recorded in the Non-Agricultural Parks program. There are ten agricultural parks - four on O’ahu; four on the island of Hawai’i; and one each on Kaua’i and Moloka’i. Land is made available to small farmers at reasonable cost with long-term tenure. There are five irrigation systems – two on O’ahu; two on the island of Hawai’i; and one on Moloka’i. There are nine agriculture related facilities – two on O’ahu; four on the island of Hawai’i; and three on Moloka’i. These facilities include vacuum cooling plants, slaughterhouses, experimental stations, and marshaling yards.

ARM’s receipts consists of property rentals, acreage assessments for irrigation infrastructure, delivery of irrigation water, late fees and interest earned on delinquent accounts, investment pool interest, reimbursements for copying and other costs, sales of services, and rental of irrigation system pipelines. Property rentals also include rents of agriculture related land and facilities (e.g., vacuum cooling plants and marshaling yards).

ARM’s method of reporting Public Land Trust receipts is to report all receipts from property rentals and leases and late fees and interest collected on delinquent accounts that are attributed to Public Land Trust parcels in ARM’s accounting system. When a property rental or lease account is established in the accounting system, it is identified by ARM as being for the Public Land Trust. ARM reports actual cash receipts for purposes of Act 178 in three categories as follows: Agricultural Park (receipts for Agricultural Park land collected by ARM); Non-Agricultural Park (receipts for Non-Agricultural Park land and Agricultural Produce Processing and Marshaling Facilities) and Non-Agricultural Park DLNR (receipts for Non-Agricultural Park land and facilities collected by DLNR on behalf of ARM). Excluded from the report are other receipts (described below in Summary and Differences for ARM section) which ARM’s accounting system does not specifically identify to Public Land Trust parcels or tenants. Unlike the land rental receipts which are identified to individual parcels, these other receipts are for services or charges related to the various tenants that are recorded in a separate account in the accounting system.

ARM’s Act 178 report included receipts collected by DLNR for ARM’s Non-Agricultural Park parcels that it manages on behalf of ARM. DLNR collects receipts for parcels under ARM’s jurisdiction that are not yet being actively used in ARM’s programs. DLNR’s Act 178 report properly excluded these cash receipts to prevent double counting of receipts.

ARM reported \$1,407,033 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**B. Agricultural Resource Management Division (Continued)**  
**Department of Agriculture**

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 4 to the DLNR Act 178 Report - Agricultural Resource Management (ARM)* ("Attachment 4"). We reconciled the Public Land Trust parcels reported by ARM in Attachment 4 to the OHA Inventory Report. To reconcile the land inventories, we agreed the TMK numbers, which identify the parcels from the OHA Inventory Report to Attachment 4. We inquired as to the reason for the differences identified and obtained supporting documents including Datamart revenue reports and cash receipt records in order to determine receipts attributable to parcels not included in Attachment 4, detailed further in the Summary and Differences for ARM section.

*Financial Reporting*

ARM provided supporting worksheets for the Public Land Trust receipts submitted to DLNR. We agreed supporting worksheets detailing the "Agricultural Park" and "Non-Ag Park" receipts to Attachment 4 without exception. We obtained a FAMIS report which included all cash receipts by program for the fiscal year ended June 30, 2016. We reconciled the cash receipts collected by ARM to Attachment 4.

To ensure cash receipts collected by DLNR on ARM property were not reported by both agencies, we reviewed DLNR's Act 178 Report and confirmed that the receipts attributable to ARM's property were properly excluded from the report filed by DLNR for its Land Division. We also reviewed OHA's listing of reporting gaps which highlighted potential gaps from irrigation systems and agricultural produce processing and marshaling facilities.

**Summary and Differences for ARM**

*Land Inventory*

The OHA Inventory Report listed 65 parcels that were not included in Attachment 4. Because Act 178 requires listing only those properties for which cash has been received, N&K reviewed the list of 65 parcels with ARM personnel to determine whether any of the unlisted parcels generated receipts during the year ended June 30, 2016.

Three parcels were identified as being under the management of DLNR Land Division. 41 parcels are either not in use or did not generate any receipts during the fiscal year ended June 30, 2016. We included these 41 parcels in Exhibit 4.

Based on our review, we noted that there were multiple parcels which were excluded from Attachment 4 that had cash receipts during the fiscal year ended June 30, 2016. We found 12 parcels, leased by businesses and private individuals, which generated lease rental receipts.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
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**B. Agricultural Resource Management Division (Continued)**  
**Department of Agriculture**

We discussed these 12 parcels with ARM personnel, noting that for eight of the 12 parcels, receipts were reported in Act 178 under different TMKs. The other four parcels were excluded from Attachment 4 because while the parcels were being leased, there were no receipts received during the fiscal year ended June 30, 2016. These four parcels were also included in Exhibit 4.

Three parcels are within the Waimea Irrigation Systems, four parcels are within the Waimānalo Irrigation System, and two parcels are within the Moloka'i Irrigation Tunnel System. OHA had identified receipts from irrigation systems and reservoirs as a potential reporting gap.

During our research on the irrigation systems, we determined that receipts from various irrigation systems are recorded in the Irrigation System Revolving Fund. Receipts recorded in this fund are not reported in Attachment 4. We obtained the Datamart revenue report for the Irrigation System Revolving Fund for the fiscal year ended June 30, 2016 from ARM personnel and determined the share of receipts for irrigation systems that are attributable to the Public Land Trust. Of the five irrigation systems that are reported under the Irrigation Systems Revolving Fund, we identified the Waimea Irrigation System and Water Utilization Project ("Waimea"), Waimānalo Irrigation System, and the Moloka'i Irrigation Tunnel System as being part of the Public Land Trust.

Within the Datamart report provided, receipts for each irrigation system are tracked separately using activity codes. Using the activity codes for each of the Public Land Trust irrigation systems, we determined the total receipts attributable to the three identified irrigation systems. These receipts are included in the below Reporting Gaps.

*Financial Reporting*

OHA had identified receipts from processing and marshaling facilities as a potential reporting gap. We determined that receipts from processing and marshaling facilities have been reported under the label of Non- Agricultural Park receipts.

When we reconciled the FAMIS report which included all cash receipts by program for the fiscal year ended June 30, 2016 to the cash receipts reported in Attachment 4, we noted that there were certain types of receipts that were unreported. These receipt types are included in the Reporting Gaps below.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
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**B. Agricultural Resource Management Division (Continued)  
Department of Agriculture**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by ARM** \$ 1,407,033

**Estimated Reporting Gaps**

Land Inventory

Receipts attributable to the Waimea Irrigation and Water  
Utilization Project, the Waimanalo Irrigation System,  
and the Moloka'i Irrigation Tunnel System

Delivery of water	607,323
Acreage assessments	242,334
Use of government land	113,747
Interest on delinquent accounts	8,852
Lease rent	1,500
	973,756

Financial Reporting

Sale of services	64,724
Reimbursements	31,500
Investment Pool interest	17,450
Documentation fees	1,451
	115,125

**Total Estimated Reporting Gaps** 1,088,881

**Total Estimated Reportable Receipts** \$ 2,495,914

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts (2012 Report), estimated reporting gaps were primarily related to cash receipt types not reported. These receipt types were from the Irrigation Systems Revolving Fund, which remain in the Fiscal Year 2016 Financial Reporting Gaps. The 2012 Report noted that the Public Land Trust receipts were approximately 78.4% of total receipts. However, we were able to determine the actual amount of receipts attributable to the three irrigation systems noted as being part of the Public Land Trust.



**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**C. Agribusiness Development Corporation**  
**Department of Agriculture**

**Background**

The Agribusiness Development Corporation (“ADC”) is a state agency administratively attached to the Department of Agriculture. Its mission is to acquire and manage in partnership with farmers, ranchers, and aquaculture groups selected high-value agricultural land, water systems, and infrastructure for commercial agricultural use and to direct research into areas that will lead to the development of new crops, markets, and lower production costs.

ADC’s revenue is generated from the use of government land for specific purposes (e.g. sale of soil), investment pool interest realized, fees and administrative overhead charged internally to programs for staff time spent on the programs, services provided to other organizations, late charges, and land rentals. Receipts reported from the Public Land Trust are from land rentals, sale of soil, and late charges. ADC’s method of reporting Public Land Trust receipts is to report the entire amount of receipts received from the land rentals, sale of soil, and late charges derived from use of the Public Land Trust on the cash basis (when the cash is received) for reporting purposes and for purposes of determining OHA’s pro-rata share. Investment pool interest, fees, and administrative overhead incurred by ADC on behalf of the Waiāhole Water System, and services provided to other organizations, which is related to an operations and maintenance contract for the Pacific Missile Range Facility, Barking Sands with the Navy, are excluded from ADC’s Act 178 reporting.

ADC reported \$1,043,839 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 5 to the DLNR Act 178 Report - (ADC) Agribusiness Development Corporation* (“Attachment 5”). We compared the list of Public Land Trust parcels in Attachment 5 to the OHA Inventory Report for ADC. We also reviewed OHA’s revenue gap listing to identify gaps from irrigation systems. We inquired as to the reason for the differences identified and determined receipts attributable in the Summary and Differences for ADC section.

*Financial Reporting*

We obtained ADC’s supporting schedules for receipts reported in Attachment 5, which summarize the cash receipts generated from the Public Land Trust by tenant or customer. We also obtained the Datamart revenue report for the Hawai’i Agricultural Development Revolving Fund containing revenue source codes and amounts for its operations (appropriation S-16-307) for the fiscal year ended June 30, 2016. We agreed the receipts from Attachment 5 to the ADC supporting worksheet and reconciled the receipts from the ADC supporting worksheet to the Datamart revenue report.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**C. Agribusiness Development Corporation (Continued)**  
**Department of Agriculture**

We reviewed the Datamart revenue report to determine if there were other sources of receipts to be considered as Public Land Trust receipts. We also reviewed the ADC supporting worksheet and inquired with ADC personnel to identify the methodology used to determine gross Public Land Trust receipts and OHA's pro-rata share of the receipts.

**Summary and Differences for ADC**

*Land Inventory*

On the OHA Inventory Report for ADC, we noted that there were three parcels classified as Public Land Trust lands that were not included in Attachment 5. We were informed by ADC personnel these parcels are part of the Kekaha Irrigation System. We obtained from ADC a memorandum agreement between Kekaha Agriculture Association ("KAA") and ADC, dated August 29, 2008, regarding the management of the irrigation systems. The agreement does not preclude KAA from receiving third-party revenues for the use and management of the irrigation systems and, additionally, ADC reserves the right to negotiate a percentage of third-party revenues received. We determined that any receipts from the use of the irrigation system, which is revenue derived from the Public Land Trust, should be included as a Reporting Gap. However, according to ADC, to date, no revenue has been received from KAA for the use of Kekaha Irrigation Systems. These parcels are included in Exhibit 4.

Based on discussion with ADC personnel, receipts from the Waiāhole Water System were not included in Attachment 5 because the Waiāhole Water System flows through many different properties, many of which are not Public Land Trust land. However, the water in the Waiāhole Water System is part of the Public Land Trust, as are the lands where the water originates.

The financial transactions of the Waiāhole Water System are recorded separately (in appropriation S-16-325) from the operations of the ADC. We requested receipts from the Waiāhole Water System and ADC provided another Datamart revenue report for the Waiāhole Water System Revolving Fund containing all receipts for Appropriation S-16-325 for the fiscal year ended June 30, 2016. Accordingly, the receipts from the Waiāhole Water System related to the delivery of water are included as Reporting Gaps below.

*Financial Reporting*

The Wahiawā Irrigation System, Ka'ū Water Sources, Waiāhole Water System, East Kaua'i Irrigation System, and Kekaha Irrigation Systems and Hydropower Plants were identified as potential sources of unreported revenue for ADC. We requested information on cash receipts from those sources and were informed that the Wahiawā Irrigation System, Ka'ū Water Sources, East Kaua'i Irrigation System are not under the jurisdiction of ADC. In addition, ADC personnel noted that the Kekaha Irrigation Systems and Hydropower Plants had no receipts during the fiscal year ended June 30, 2016.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**C. Agribusiness Development Corporation (Continued)**  
**Department of Agriculture**

We noted that total Public Land Trust receipts for ADC for the fiscal year ended June 30, 2016 were \$2,308,640 as compared to the \$1,043,839 reported in Attachment 5. The difference of \$1,264,801 is primarily attributable to unreported receipts for the Waiāhole Water System which is noted in the following Reporting Gaps. In addition, ADC did not report investment pool interest receipts, which amounted to \$8,018 for the fiscal year ended June 30, 2016.

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by ADC** \$ 1,043,839

**Estimated Reporting Gaps**

Land Inventory	
Waiāhole Water System	
Water delivery charges	1,242,635
Investment pool interest	11,940
Fees and administrative overhead charges	<u>2,208</u>
	<u>1,256,783</u>
Financial Reporting	
Investment pool interest	<u>8,018</u>

**Total Estimated Reporting Gaps** 1,264,801

**Total Estimated Reportable Receipts** \$ 2,308,640

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, the identified estimated reporting gaps related primarily to the Waiāhole Water System and investment pool interest. ADC has not changed its method of reporting for Act 178 purposes since the issuance of that report. Therefore, while the receipts attributable vary slightly from year to year, the reporting gaps have remained the same.

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**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**D. Foreign Trade Zone No. 9**  
**Department of Business, Economic Development and Tourism**

**Background**

Foreign Trade Zone No. 9 (“FTZ9”) comprises areas that receive the same treatment by United States Customs as if activities conducted on these sites took place outside of the United States. This eliminates the application of Customs duties and other added value taxes. FTZ9 is a division of the Department of Business, Economic Development and Tourism (“DBEDT”). Public Land Trust parcels controlled by FTZ9 are located at Pier 2 in Honolulu and adjacent to the Hilo International Airport in Hilo.

Receipts are made up of interest, refunds/reimbursements, bonded warehouse storage, bonded warehouse handling charges, office rentals, conference room rentals, warehouse space rentals, open area rentals, equipment rentals, parking fees, administration fees, labor costs, penalty and miscellaneous charges.

FTZ9’s method of reporting gross receipts from the Public Land Trust is to report all cash receipts for warehouse rental from its Hilo location, which is its only revenue from Hilo. FTZ9 does not recognize its operations at Pier 2 in Honolulu as being on Public Land Trust land.

FTZ9 reported \$27,649 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 6 to the DLNR Act 178 Report – Business, Economic Development, and Tourism (DBEDT) Foreign Trade Zone* (“Attachment 6”). We compared the Public Land Trust parcels reported by FTZ9 in Attachment 6 to the OHA Inventory Report. We noted that the FTZ9 receipts generated at Pier 2 in Honolulu were not reflected in Attachment 6. We reviewed OHA’s listing of reporting gaps and noted the failure to report receipts from the operations in Honolulu had been identified as a potential reporting gap.

*Financial Reporting*

Because a financial statement audit was not performed, we obtained the Datamart revenue report for the fiscal year ended June 30, 2016 from FTZ9 personnel. The Datamart report for FTZ9 included all receipts for the fiscal year ended June 30, 2016 by appropriation, source code, amount, treasury deposit receipt number, and fiscal year and month. FTZ9 provided the treasury deposit receipts and summary schedules, referred to as the “Collection of Ceded Land Revenues”, for the fiscal year ended June 30, 2016. We obtained Attachment 6 and agreed the balances to the “Collection of Ceded Land Revenues” schedules. We confirmed that receipts listed in the “Collection of Ceded Land Revenues” schedules were only for the Hilo location and were included in the Datamart report.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
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**D. Foreign Trade Zone No. 9 (Continued)**  
**Department of Business, Economic Development and Tourism**

We reviewed the Datamart report to determine if there were other sources of cash receipts to be considered as Public Land Trust receipts. Specifically, as the receipts reported in Attachment 6 were described as being only from the rental of warehouse space, we reviewed the Datamart report to identify other FTZ9 receipts. From the report we found other FTZ9 receipts which had not been reported. These receipts were from operations at Pier 2 in Honolulu and are discussed in Summary and Differences for FTZ9.

**Summary and Differences for FTZ9**

*Land Inventory*

On the OHA Inventory Report for FTZ9, we noted Pier 2 is classified as Public Land Trust land (as classified in SLIMS). FTZ9 personnel informed us that their understanding is that the Pier 2 property was derived from the property formerly known as Fort Armstrong which was designated as trust land status 5(a). Therefore, FTZ9 did not report the receipts from its operations at Pier 2 in Attachment 6. However, until the trust land status in SLIMS is formally changed to 5(a), this will be considered a Land Inventory Reporting Gap.

To determine the receipts from Pier 2, we obtained a Datamart report of all FTZ9 receipts for the fiscal year ended June 30, 2016. We noted the total receipts from the FTZ9 Datamart report was \$2,053,319. \$2,025,671 was revenue generated from Honolulu Harbor Pier 2; and \$27,649 was revenue generated from the Hilo FTZ9. The receipts from Pier 2 are included as Reporting Gaps.

*Financial Reporting*

No Financial Reporting Gaps were noted.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
Fiscal Year Ended June 30, 2016**

**D. Foreign Trade Zone No. 9 (Continued)  
Department of Business, Economic Development and Tourism**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by FTZ9** \$ 27,649

**Estimated Reporting Gaps**

Land Inventory - Pier 2	
Rental of FTZ9 offices at Pier 2	826,307
FTZ9 bonded warehouse storage	447,570
Rental of warehouse space	333,883
Parking fees	111,338
Labor charges	95,455
SubZone administration fees	90,000
Bonded warehouse handling charge	84,455
Rental of FTZ9 equipment	10,635
Penalty charges	9,348
Miscellaneous charges	8,118
Rental of open area, revocable permits	3,814
Conference room rental	2,460
Interest on invested cash	2,245
Refunds/reimbursements	42

**Total Estimated Reporting Gaps** 2,025,670

**Total Estimated Reportable Receipts** \$ 2,053,319

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, the estimated reporting gaps were attributable to receipts from Pier 2. FTZ9 has not changed its method of reporting for Act 178 purposes since the issuance of that report and the reporting gaps were the same. FTZ9 is working with DLNR to have the trust land status of Pier 2 changed in SLIMS.

**Agency Response**

FTZ9 provided a formal response which is included in Part IV of this report.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**E. Hawai'i Community Development Authority**  
**Department of Business, Economic Development and Tourism**

**Background**

The Hawai'i Community Development Authority ("HCDA") was established in 1976 by Hawai'i Revised Statutes Chapter 206E, to join the strengths of private enterprise, public development and regulation into a form capable of long-term planning and implementation of improved community development in urban areas in the state.

Receipts are generated from the leasing and management of property and from community redevelopment projects. HCDA's method of reporting Public Land Trust receipts is to report rental receipts from the lease of Kewalo Basin Harbor to Kewalo Harbor, LLC.

HCDA reported receipts of \$300,000 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 7 to the DLNR Act 178 Report – Business, Economic Development, and Tourism (DBEDT) Hawai'i Community Development Authority ("Attachment 7")*. We compared the OHA Inventory Report for HCDA to the Public Land Trust parcels listed by HCDA in Attachment 7. We inquired as to the reason for the differences identified and determined the associated revenue for inclusion in the Summary and Differences for HCDA section below.

*Financial Reporting*

We obtained HCDA's June 30, 2016 audited financial statements and the supporting Datamart revenue report. The Datamart revenue report includes detail of each receipt and supports the amounts reported on the audited financial statements. We agreed the amounts noted in Attachment 7 to the Datamart revenue report without exception.

**Summary and Differences for HCDA**

*Land Inventory*

We noted 13 parcels that were not included in Attachment 7. Per inquiry with HCDA personnel, 10 of these parcels were excluded because they were non-revenue generating. These 10 non-revenue generating parcels are listed in Exhibit 4. Per inquiry with HCDA personnel, one of three revenue-generating parcels was transferred from HCDA to the Department of Transportation, Harbors Division (Harbors). This parcel was not listed in PLTIS, nor was it included in the OHA Inventory Report for Harbors. However, the Honolulu real property tax assessment division website lists the owners of this parcel as both Harbors and HCDA.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
Fiscal Year Ended June 30, 2016**

**E. Hawai'i Community Development Authority (Continued)  
Department of Business, Economic Development and Tourism**

We were unable to determine whether receipts were generated from this parcel during the fiscal year ended June 30, 2016. Therefore, this parcel is not included as a Reporting Gap. The second parcel is under the management of Honolulu Marine Submerged Lands, which is leasing the parcel directly from OHA.

The last parcel is a parking lot, called "Lot C", which is leased to the University of Hawai'i (UH). This parking lot is used for the UH John A. Burns School of Medicine and the UH Cancer Research Center. We obtained the parking agreement between HCDA and UH which states that UH will rent a minimum of 326 parking stalls at a monthly rate of \$50 per stall provided that if UH increases its parking rate at the Mānoa Campus, UH will pay the same increased rate per parking stall. Per discussion with HCDA personnel, receipts from Lot C were not included in Attachment 7 due to clerical oversight. We obtained a schedule of parking receipts generated from Lot C for the period September 2015 through December 2016. Because the schedule does not match the fiscal year, we estimated receipts for the months July 2015 through August 2015 using the July 2016 through August 2016 actual receipts noted on the schedule. Based on the schedule, estimated receipts from Lot C totaled \$219,127 for the fiscal year ended June 30, 2016. These receipts are included in the following Reporting Gaps.

*Financial Reporting*

We noted that the total receipts from leasing and management per the HCDA June 30, 2016 audited financial statements was \$1,650,000. Of this amount, we determined that receipts attributable to the Public Land Trust was \$519,127 compared to the \$300,000 in receipts reported by HCDA in Attachment 7. The difference of \$219,127 is unreported receipts from HCDA operations at Lot C, as noted above.

**Reporting Gaps**

**Public Land Trust Receipts**

<b>As Reported by HCDA</b>	\$	300,000
<b>Estimated Reporting Gaps</b>		
Land Inventory		
Lot C receipts		219,127
<b>Total Estimated Reporting Gaps</b>		219,127
<b>Total Estimated Reportable Receipts</b>	\$	519,127



**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**E. Hawai'i Community Development Authority (Continued)**  
**Department of Business, Economic Development and Tourism**

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, Public Land Trust receipts reported by HCDA amounted to \$1,356,963. The decrease in Public Land Trust receipts is due primarily to the transfer of certain Public Land Trust parcels formerly under HCDA's jurisdiction to OHA in 2012.

The 2012 Report also indicated an estimated reporting gap, totaling \$1,457,533, related to the operations of Kewalo Basin Harbor. In September 2014, HCDA began leasing the Kewalo Basin Harbor to Kewalo Harbor, LLC. The terms of the lease include annual minimum rent of \$300,000, which was reported by HCDA in Attachment 7. The annual minimum rent is significantly less than the previous amounts paid by the former lessee Almar Management, Inc. because as part of the lease, Kewalo Harbor, LLC, has agreed to redevelop the Kewalo Basin Harbor.

In addition, the only reporting gap noted for the fiscal year ended June 30, 2016, was related to Parking Lot C used for the UH John A. Burns School of Medicine and the UH Cancer Research Center. Receipts from the lease of this parcel for storage were reported in fiscal year 2012.

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**F. Hawai'i Housing Finance & Development Corporation**  
**Department of Business, Economic Development and Tourism**

**Background**

The Hawai'i Housing Finance & Development Corporation ("HHFDC") is the state agency tasked with developing and financing low- and moderate-income housing projects and administering homeownership programs. Revenue is generated from mortgage loan fees, mortgage interest, unit rentals, sale of units, land lease rent, parking revenues, laundry concession receipts, late payment fees, and other miscellaneous receipts.

HHFDC's method of reporting gross receipts for Act 178 purposes is to report receipts from the sale of Public Land Trust parcels and receipts from unit rentals, mortgage loan fees, land lease rents, late payment fees, parking, and laundry concessions for the following projects: Hale Aupuni, Waiāhole Valley, Uluwehi, Honokowai Kauhale, Kaluaaha Estates, La'ilani, and Halekauwila Place. There were three units within the Hale Aupuni project that were sold during the fiscal year ended June 30, 2016. Proceeds from these sales were included in *Attachment 8 to the DLNR Act 178 Report - Business, Economic Development, and Tourism (DBEDT) Hawai'i Housing Finance and Development* ("Attachment 8").

HHFDC reported \$6,560,769 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We compared the Public Land Trust parcels in Attachment 8 to the OHA Inventory Report for HHFDC. We inquired as to the reason for the differences identified and determined revenue attributable in the Summary and Differences for HHFDC section.

*Financial Reporting*

We obtained HHFDC's June 30, 2016 audited financial statements and related trial balances. We reconciled total operating revenue for each of HHFDC's major proprietary funds to the trial balances without exception. HHFDC's major proprietary funds are as follows: Rental Housing Revolving Fund, Dwelling Unit Revolving Fund, Hawai'i Rental Housing System Revenue Bond Fund, Single Family Mortgage Purchase Revenue Bond Fund, Multifamily Housing Revenue Bond Fund, and Other Enterprise Funds.

We were informed by HHFDC personnel that revenue for each project is recorded in the trial balance using project codes. We reconciled the receipts reported in the DLNR Act 178 Report to the trial balances without exception. We also noted that there was one project that was listed in Attachment 8 for which no receipts were reported. This project and its unreported Public Land Trust receipts are included as a Financial Reporting Gap.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
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**F. Hawai'i Housing Finance & Development Corporation (Continued)  
Department of Business, Economic Development and Tourism**

**Summary and Differences for HHFDC**

*Land Inventory*

On the OHA Inventory Report for HHFDC, we noted six parcels classified as Public Land Trust land that were not included in Attachment 8. We inquired with HHFDC to determine the reasoning for exclusion of the parcels and to identify if there were any revenue-generating activities on these properties during the fiscal year ended June 30, 2016.

Through inquiry with HHFDC personnel and review of the trial balances, we found that the six parcels did not generate any receipts during the fiscal year ended June 30, 2016, and these six parcels are listed in Exhibit 4.

In addition, we were informed by personnel from the Hawai'i Public Housing Authority ("HPHA") of the Department of Human Services that eight parcels that are listed in OHA's Inventory Report for HPHA are actually managed by HHFDC. We inquired with HHFDC personnel regarding these eight parcels and found that seven out of the eight parcels are included in Attachment 8. The last parcel was not listed in Attachment 8 as it did not generate any revenue during the fiscal year ended June 30, 2016. We listed this parcel in Exhibit 4 for HHFDC.

*Financial Reporting*

From the procedures performed, we identified Public Land Trust receipts totaling \$6,603,285 for the fiscal year ended June 30, 2016. HHFDC reported \$6,560,769 in Attachment 8. The difference of \$42,516 is attributable to excluding certain receipts from two parcels of land in Attachment 8 listed below. We have included these differences by parcels as Reporting Gaps.

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by HHFDC** \$ 6,560,769

**Estimated Reporting Gaps**

Financial Reporting

Waimanalo Village subdivision

TMK (1) 4-1-012:100-0000 42,514

TMK (1) 4-1-012:101-0000 2

**Total Estimated Reporting Gaps** 42,516

**Total Estimated Reportable Receipts** \$ 6,603,285

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
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**F. Hawai'i Housing Finance & Development Corporation (Continued)**  
**Department of Business, Economic Development and Tourism**

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, it was noted that Public Land Trust receipts reported by HHFDC were \$3,596,723 and estimated reporting gaps amounted to \$30,936. Since 2012, HHFDC has not changed its method of reporting Public Land Trust receipts for Act 178 purposes. The increase in receipts reported by HHFDC is due to a general increase in receipts from 2012 to 2016. When comparing the receipts reported, the primary reason for the increase in receipts is attributable to the Uluwehi, Honokowai Kauhale, and La'ilani projects. Receipts from these projects increased from \$3,539,261 in 2012 to \$6,146,799 in 2016.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**G. National Energy Laboratory of Hawai'i Authority**  
**Department of Business, Economic Development and Tourism**

**Background**

The Natural Energy Laboratory of Hawai'i Authority ("NELHA") administers the Hawai'i Ocean Science and Technology ("HOST") Park, comprised of 870 acres at Keahole Point, Kailua-Kona on the Island of Hawai'i. NELHA's mission is to bring economic development and diversification to the state and specifically the western side of the Island of Hawai'i. HOST Park's focus is innovative green economic development and support for tenants who specialize in aquaculture, biofuel from algae, solar thermal energy, solar concentrating, and wind power. NELHA also administers a small site in Puna on the eastern side of the Island of Hawai'i for geothermal research.

Revenue consists of cash receipts from tenant rent agreements, including land use fees and percentage rent, royalty from use of a "Made in Hawai'i" logo copyrighted by NELHA for the sale of bottled water, reimbursements for utilities and other costs, fees for seawater used, interest, and miscellaneous other receipts. NELHA's method of reporting for Act 178 purposes is to report its receipts for land use fees and percentage rent and miscellaneous other receipts on a cash basis. NELHA explained that certain other receipt types, including royalties and fees for seawater use, were not reported because it considered those receipts as not being related to use of the land.

NELHA reported \$1,917,297 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 9 to the DLNR Act 178 Report - Business, Economic Development, and Tourism (DBEDT) Natural Energy Laboratory of Hawai'i (NELHA)* ("Attachment 9"). We reconciled the Public Land Trust parcels reported by NELHA in Attachment 9 to the OHA Inventory Report. To reconcile the land, we agreed the TMK numbers, which identify the location of the parcels. We inquired as to the reason for the differences identified and determined receipts attributable in the Summary and Differences for NELHA section.

*Financial Reporting*

We obtained NELHA's unaudited financial statements for the fiscal year ended June 30, 2016, which included revenue by type for the year. We reconciled the gross receipts reported in Attachment 9 to the receipts noted in the financial statements. We reviewed OHA's listing of revenue gaps which identified royalties from use of NELHA's trademark logo and seawater usage receipts from water bottling activities as potential reporting omissions. We identified receipts included in the financial statements that were not included in Attachment 9 and inquired of NELHA personnel to determine whether these receipt types were generated from the Public Land Trust. We also verified that receipts of reimbursements and interest were not included in Attachment 9.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**G. National Energy Laboratory of Hawai'i Authority (Continued)**  
**Department of Business, Economic Development and Tourism**

**Summary and Differences for NELHA**

*Land Inventory*

We identified five Public Land Trust parcels from the OHA Inventory Report that were not included in Attachment 9. Three parcels were identified as parcels that were already included within the lease agreement of current tenants, of which the rental income is reported in Attachment 9. One parcel is noted to be a roadway. NELHA stated that the remaining parcel is a vacant lot that did not generate any receipts during the fiscal year ended June 30, 2016. From inquiry and review of the parcel map, we found the parcel in question was vacant and not subject to rental agreements during this period and, therefore, generated no cash receipts for NELHA. We have listed this vacant parcel and the roadway in Exhibit 4.

*Financial Reporting*

We noted that total revenue from NELHA's unaudited financial statements was \$5,091,566. From the procedures performed, we identified \$4,486,175 of receipts attributable to the Public Land Trust for the fiscal year ended June 30, 2016. NELHA reported \$1,917,297 in Attachment 9. The amount reported was its receipts from land use fees, percentage rent, and miscellaneous other receipts, per its financial statements. NELHA excluded from the report receipts of \$2,568,878 from royalties, interest, and reimbursements (which include fees for seawater used) from activity relating to the Public Land Trust. Royalties for use of the "Made in Hawai'i" logo, fees for seawater provided by NELHA for tenants' use and reimbursements may be related to the use of the Public Land Trust. Additionally, interest received from invested cash balances that resulted from receipts relating to the Public Land Trust may be considered as stemming from the use of the Public Land Trust. We have included these amounts excluded from Attachment 9 as Reporting Gaps.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
Fiscal Year Ended June 30, 2016**

**G. National Energy Laboratory of Hawai'i Authority (Continued)  
Department of Business, Economic Development and Tourism**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by NELHA** \$ 1,917,297

**Estimated Reporting Gaps**

Financial Reporting	
Reimbursements	
Seawater Use	1,874,532
Electrical	460,184
Freshwater	145,376
Royalties	56,669
Interest	<u>32,117</u>

**Total Estimated Reporting Gaps** 2,568,878

**Total Estimated Reportable Receipts** \$ 4,486,175

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, the estimated reporting gaps were primarily attributable to reimbursements for seawater use, electrical, and freshwater along with royalties and interest. NELHA has not changed its method of reporting for Act 178 purposes since the issuance of that report.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**H. Department of Defense**

**Background**

The Department of Defense (“DOD”) is made up of the Hawai‘i Army National Guard, Hawai‘i Air National Guard, State Civil Defense, Office of Veterans Services, and Hawai‘i National Guard Youth Challenge Academy. The mission of the DOD (including the Hawai‘i National Guard and State Civil Defense) is to assist authorities in providing for the safety, welfare, and defense of the people of Hawai‘i. Public Land Trust land owned or controlled by the DOD is located on O‘ahu, Kaua‘i, Maui, and Hawai‘i.

The DOD receipts consist of federal funds, state appropriations, and other receipts. The other receipts generated from the use of the Public Land Trust are from facility rentals, gym rentals, parking revenue, and miscellaneous income around the Diamond Head area of O‘ahu. DOD’s method of determining gross receipts from Public Land Trust land is to report all cash receipts received from these sources. Receipts from federal funds and state appropriations are not reported for Act 178 purposes.

DOD reported \$60,611 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 10 to the DLNR Act 178 Report - Defense (DOD)* (“Attachment 10”). We reconciled the Public Land Trust land reported by DOD in Attachment 10 to the OHA Inventory Report. We verified that the parcels reported in Attachment 10 were included in the OHA Inventory Report. The OHA Inventory Report included another parcel of Public Land Trust land and we inquired whether there were any cash receipts associated with that parcel.

*Financial Reporting*

DOD provided a summary of all receipts for the fiscal year ended June 30, 2016. This summary was supported by cash receipts noted in FAMIS for appropriation T-16-901. This summary listed the receipts by date, customer name, revenue type, and Treasury Deposit Receipt number. We compared the amounts noted in this summary to the balances reported in Attachment 10.

**Summary and Differences for DOD**

*Land Inventory*

We identified one Public Land Trust parcel from the OHA Inventory Report that was not included in Attachment 10. We inquired with DOD to determine the reason for excluding the property and to identify if there are any revenue-generating activities on this parcel during the fiscal year ended June 30, 2016. Per our discussion with DOD personnel, we noted that this parcel was not



**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
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**H. Department of Defense (Continued)**

included in Attachment 10 because there were no revenue-generating activities during the fiscal year ended June 30, 2016. We additionally reviewed the parcel's Tax Map Key using the City and County of Honolulu Property Record Search and determined that the parcel is the Diamond Head Crater. We listed this parcel in Exhibit 4.

*Financial Reporting*

We noted that the DOD did not have audited financial statements for the fiscal year ended June 30, 2016. Per our review of the summary of receipts associated with uses of the Public Land Trust, we noted receipts totaling \$115,173 for the fiscal year ended June 30, 2016. DOD reported \$60,611 in Attachment 10. The difference of \$54,562 is attributable to the DOD reporting the incorrect fiscal year for Act 178 reporting purposes. Per inquiry with DOD personnel, the amounts reported represent amounts for the year ended June 30, 2015. We obtained DOD's schedule of receipts for the year ended June 30, 2016. The difference is noted below as a Reporting Gap.

**Reporting Gaps**

**Public Land Trust Receipts**

<b>As Reported by DOD</b>	\$	60,611
<b>Estimated Reporting Gap</b>		
Financial Reporting		
Gym and facilities rentals, parking fees, Regional Training Institute billeting, and other miscellaneous fees		54,562
<b>Total Estimated Reporting Gap</b>		54,562
<b>Total Estimated Reportable Receipts</b>	\$	115,173

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, it was noted that DOD reported only receipts from use permits for a parking lot located in the Diamond Head area of O'ahu. DOD has since changed its method of reporting receipts for Act 178 purposes, as it currently reports receipts from facility rentals, gym rentals, parking revenue, and miscellaneous income around the Diamond Head area of O'ahu. Because these additional types of receipts are reported by DOD, the Public Trust Land receipts have increased from \$1,975 in 2012 to \$115,173 in 2016.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
Fiscal Year Ended June 30, 2016**

**I. Department of Education  
Including State Libraries and Public Charter Schools**

**Background**

The Department of Education (“DOE”) administers the statewide system of public schools and public libraries, which is comprised of the Public School System (“Schools”), the State Library System (“Library”), and Public Charter Schools (“PCS”). The Schools are separated into seven geographic districts which are made up of 15 complex areas and approximately 256 schools. The Library consists of 50 branches and PCS consists of 35 charter schools. Although the fiscal and oversight authority for the Schools, Library, and PCS are managed independently, for financial reporting purposes, the three components are reported together.

The Schools’ receipts consist of state allotments, federal grants, school meal programs, After-School Plus (A+) Program, other programs, activities that generate income that is deposited in local school funds, and other revenue including receipts for the use of school facilities, sale of produce and livestock, and rental receipts for teacher housing. Only “other revenue,” including receipts for the use of school facilities, sale of produce and livestock, and rental receipts for teacher housing were considered for the purposes of this report. DOE only reports receipts from the use of school facilities for purposes of Act 178 and calculating OHA’s share. These receipts are from third parties for the use of classrooms, auditoriums, etc., for meetings, private classes, and functions (e.g., martial arts classes and church group meetings) and are accounted for on the cash basis (when the cash is received).

DOE calculates its Public Land Trust receipts by pro-rating the gross facilities use receipts from all schools within each of its seven school districts based on previously calculated percentages of Public Land Trust acreage to total DOE acreage in each school district. The DOE uses this method as a means of treating all schools within a school district equally. The calculated percentages, referred to by DOE as the “Ceded Land Portion”, is embedded within the DOE’s accounting system and have not been updated for several years. The percentages used by each school district are presented below.

District	Calculated Public Trust Land Portion
Honolulu	14.4%
Central	18.5%
Leeward	25.5%
Windward	27.7%
Hawai’i	52.8%
Maui	32.9%
Kaua’i	55.4%

DOE reported \$2,346,148 pursuant to Act 178 for the fiscal year ended June 30, 2016. This amount represents the gross receipts of the Schools, not the “Ceded Land Portion” on which the amount due OHA is calculated. The DOE did not report receipts for the Library and PCS for Act 178 purposes for the fiscal year ended June 30, 2016.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
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**I. Department of Education (Continued)**  
**Including State Libraries and Public Charter Schools**

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 11 to the DLNR Act 178 Report - Education (DOE)* (“Attachment 11”). We reconciled the Public Land Trust land reported by DOE in Attachment 11 to the OHA Inventory Report. This was accomplished by matching the school names from the OHA Inventory Report to the schools listed in Attachment 11.

*Financial Reporting*

We obtained DOE’s June 30, 2016 audited financial statements and related “Other Funds” trial balance. We agreed the revenue amounts for the other funds to the trial balance without exception. However, DOE’s audited financial statements do not provide revenue information which would enable a user to identify Public Land Trust receipts.

We obtained the “OHA Ceded Land - Revenue Audit” schedule from DOE personnel, which details total Public Land Trust receipts for the period July 1, 2015 through June 30, 2016 for each complex area. We agreed the total revenues reported in this schedule to the Other Funds trial balance without exception.

We also reviewed OHA’s listing of revenue gaps which highlighted potential issues of unreported receipts related libraries, charter schools, and other DOE properties, along with the sale of produce and livestock grown at Lahainaluna High School.

**Summary and Differences for DOE**

***Public School System***

*Land Inventory*

The DOE was not able to provide property maps or detailed parcel references to support the historical percentages of Public Land Trust parcels attributed to the various Schools districts. Accordingly, we were unable to determine if the percentages used are appropriate.

Furthermore, with the on-going construction of new schools, school closures, and transfers of facilities to PCS, numerous changes to the composition of real property attributed to the school districts have occurred. Since the determination of Public Land Trust percentages relating to the various school districts has not changed in an undefined number of years, it is highly likely that the “Ceded Land Portion” does not account for these changes over time, and as a result, is inaccurate.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**I. Department of Education (Continued)**  
**Including State Libraries and Public Charter Schools**

The OHA Inventory Report included 22 parcels that we could not specifically identify as being included in Attachment 11. We inquired with DOE personnel and noted four of these 22 parcels, identified as Alae School, Hakalau Elementary and Intermediate, Keanae Elementary, and Kekaha Elementary, were not included in Attachment 11 because the schools have either been closed or generated no receipts during the fiscal year ended June 30, 2016. We have included these four parcels in Exhibit 4. The remaining 18 parcels could not be identified in Attachment 11 due to the fact that DOE reported the receipts by school and not by specific parcels of land. However, DOE's methodology of reporting all facilities usage receipts ensures that receipts attributable to all parcels of land are included.

The Honokaa Teacher Cottage site, although included in the OHA Inventory Report as being under the jurisdiction of the Hawai'i Public Housing Authority ("HPHA") is actually managed by DOE. According to DOE, the Honokaa Teacher College site has three cottages with rent of \$700 per month, per cottage. We were not provided with more information, such as occupancy rates and total receipts for the year. For the purposes of this report, we will estimate the reporting gap based on a 12-month occupancy for all three cottages. The estimated, unreported receipts from the Honokaa Teacher Cottage site is \$25,200 for the fiscal year ended June 30, 2016. We have included this amount as a Reporting Gap.

The Lahainaluna High School on Maui ("Lahainaluna") is situated on Public Land Trust land. Lahainaluna is unique in that it raises and sells agricultural products. DOE does not report any of these receipts in Attachment 11. We inquired with DOE personnel and obtained the deposits made by Lahainaluna for the sale of agricultural products. The unreported amount for the fiscal year ended June 30, 2016 was \$1,664. We have included this amount as a Reporting Gap.

*Financial Reporting*

The Schools reported receiving \$2,346,148 for facilities use for the year ended June 30, 2016 in Attachment 11. The "OHA Ceded Land - Revenue Audit" schedule provided by the DOE indicated total facilities use receipts amounted to \$2,372,139, or \$25,991 more than was reported.

Of the \$2,346,148 reported, \$113,592 represents the amount transferred as OHA's 20% share of Public Land Trust receipts. Dividing the \$113,592 by 20% results in \$567,960 (or approximately 24% of total receipts) being equivalent to the usage of facilities on Public Land Trust land. Applying this approximate 24% factor to the additional unreported receipts of \$25,991, for purposes of determining the amount related to Public Land Trust land, results in an estimate of \$6,292.

As indicated above, because we were unable to assess the accuracy of the DOE's inventory of its Public Land Trust land, we are unable to verify the accuracy or completeness of the estimated Public Land Trust receipts of \$567,960 and the estimated unreported Public Land Trust receipts of \$6,292. However, for lack of any other information to the contrary, we will use these amounts for purposes of presentation and discussion and include these findings in the Reporting Gaps.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**I. Department of Education (Continued)**  
**Including State Libraries and Public Charter Schools**

It should also be noted that cash received for certain programs and activities that are conducted on school grounds are also not included in Attachment 11. These programs include after-school care programs like A+, school meal programs, and activities like yearbook sales and excursion fees that are deposited in local school funds.

***State Library System***

*Land Inventory*

The OHA Inventory Report includes Public Trust Land parcels on which libraries are situated. Attachment 11 did not include receipts from the State Library System, therefore receipts from libraries are included as Reporting Gaps.

*Financial Reporting*

No Library receipts were reported in Attachment 11. Libraries receive state allotments, federal grants, and fines and fees for enhanced services which include monies for fines, charges for lost or damaged materials, DVD rentals, book bag sales, issuing/replacing library cards, photocopy charges and printer fees, meeting room rentals, and other various sources. Only fines and fees for enhanced services were considered for the purposes of this report. To determine the receipts from the Library locations on Public Land Trust land we obtained from the Library the "Revenue Report for Fines & Lost Books Special Fund" and the "Special Fund - Library Fee for Enhanced Services" schedules for the fiscal year ended June 30, 2016. The reports detailed receipts for each library location. We verified that the receipts were reported as revenue in the June 30, 2016 DOE audited financial statements. Using the OHA Inventory Report, we determined that the libraries situated on Public Land Trust parcels generated receipts of \$196,356 during the fiscal year ended June 30, 2016. We have identified that amount as a Reporting Gap labeled Fines and Fees for Enhanced Services.

***Public Charter Schools***

*Land Inventory*

Because PCS was excluded from Attachment 11, we used the OHA Inventory Report to identify seven charter schools situated within the Public Land Trust, one of which is on land now set aside to OHA and is therefore excluded from inclusion in Attachment 11.

*Financial Reporting*

PCS receipts consist of state allotments and federal grants, private donations, fundraising activities and other income. Only "other income" was considered for the purposes of this report. We inquired with PCS to identify receipts from the schools within the Public Land Trust. We obtained from DOE personnel the "Charter School Adjustment" schedule that identifies, by public charter school, the supporting financial information that was included in the DOE's

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**I. Department of Education (Continued)**  
**Including State Libraries and Public Charter Schools**

June 30, 2016 audited financial statements. Using the schedule, we identified that the five charter schools on Public Land Trust land reported \$172,804 of Other Income. We obtained from PCS staff members a breakdown of the Other Income and noted that, for at least one PCS, the breakdown of revenues within Other Income included rental of facilities. Because we did not receive a breakdown of the other income from the remaining four PCS on Public Land Trust land, we cannot be certain that no rental income was received. Therefore, we have included this Other Income as a Reporting Gap.

**Reporting Gaps**

<b>Public Land Trust Receipts</b>	<b><u>Gross Receipts</u></b>	<b><u>Public Land Trust Receipts</u></b>
<b>As Reported by DOE</b>		
<b>(Public Land Trust estimated)</b>	\$ 2,346,148	\$ 567,960
<b>Estimated Reporting Gaps</b>		
Land Inventory		
Public School System		
Honokaa Teacher Cottage site		25,200
Lahainaluna		
Sale of Agricultural Products		1,664
Library System		
Fines and Fees for Enhanced Services		196,356
Public Charter Schools		
Other Income		<u>172,804</u>
		<u>396,024</u>
Financial Reporting		
Public School System		
Unreported facilities use receipts	25,991	<u>6,292</u>
<b>Total Estimated Reporting Gaps</b>		<u>402,316</u>
<b>Total Estimated Reportable Receipts</b>		<u>\$ 970,276</u>

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**I. Department of Education (Continued)**  
**Including State Libraries and Public Charter Schools**

**Comparison to 2012 Report**

In the 2012 Report on Public Trust Land Receipts, the estimated reporting gaps were primarily attributable to excluding receipts from the Library System and Public Charter Schools from reporting. DOE has not changed its method of reporting for Act 178 purposes since the issuance of that report.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**J. Department of Health**

**Background**

The Department of Health (“DOH”) administers and oversees statewide personal health services, health promotion and disease prevention, mental health programs, monitoring of the environment, and the enforcement of environmental health laws. Federal grants received to support the state’s health services and programs are administered by DOH. Other than certain Hawai’i Health Systems Corporation (“HHSC”) receipts, DOH does not report any receipts for Act 178 purposes.

Through 1996, DOH operated hospitals and health clinics throughout the state. Act 262, Session Laws of Hawai’i of 1996, established HHSC, which is administratively attached to DOH, to oversee the twelve state healthcare facilities. HHSC was also tasked to develop policies, procedures, and rules necessary to plan, operate, and manage the hospitals. HHSC operations occur on both Public Land Trust and non-Public Land Trust parcels. HHSC receipts consists of patient service fees, non-patient food sales, sales of medical record abstracts, laundry services, employee housing rentals, infectious waste disposal fees, clinical rent revenue, vendor rebates for returned goods, and other miscellaneous receipts. For the purposes of this report, we will separate HHSC from DOH.

HHSC accounts for its non-patient revenue on a cash basis. Patient service fees are accounted for on an accrual basis. HHSC’s method of reporting Public Land Trust receipts is to report 100% of its non-patient revenues received at Hilo Medical Center, Kula Hospital, and Samuel Mahelona Memorial Hospital. No patient service revenue was reported in its Act 178 report.

HHSC reported \$1,683,181 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

DOH

OHA’s listing of revenue gaps identified revenue for DOH Public Land Trust parcels not under HHSC jurisdiction. We obtained the OHA Inventory Report, which lists 21 Public Land Trust parcels. We inquired with DOH personnel regarding their reason for not reporting receipts pursuant to Act 178. In response, DOH provided a memo dated November 6, 2015 from DOH Director Virginia Pressler to Neal Miyahira, B&F Administrator for the Budget, Program Planning and Management Division, in “response to the questions regarding the audit completed by KMH LLP on the Public Land Trust Revenues.” This memo had not previously been provided to OHA or its contractors. The memo explained that DOH does not report receipts for Act 178 purposes for two reasons. The first is that many of the properties noted as being owned or managed by DOH are actually leased (as lessee) by DOH. The second is that DOH was unsure whether reimbursements from other state agencies for utilities paid by DOH should be reported as receipts.



**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**J. Department of Health (Continued)**

Using PLTIS we reviewed each of the Public Land Trust parcels included in OHA's Inventory Report to determine whether DOH was the "Fee Owner" of the parcel, and if not, whether DOH was listed as the lessee as indicated by DOH personnel. The results of these procedures are discussed further in the Summary and Differences section.

HHSC

We obtained *Attachment 12 to the DLNR Act 178 Report - Hawaii Health Systems Corporation* ("Attachment 12"). We compared the OHA Inventory Report for HHSC to the Public Land Trust parcels reported by HHSC in Attachment 12. We inquired as to the reason for the differences identified and determined receipts attributable in the Summary and Differences section.

*Financial Reporting*

DOH

We inquired with DOH personnel regarding any receipts attributable to the Public Land Trust. As noted in the Land Inventory section above, DOH provided the November 6, 2015 memo and no supporting financial information. We obtained the DOH audited financial statements for the fiscal year ended June 30, 2016 to determine whether DOH had any receipts related to the Public Land Trust. Per our review, no such receipts were noted.

HHSC

We obtained the HHSC audited financial statements for the fiscal year ended June 30, 2016 along with the trial balances for the Hilo Medical Center, Kula Hospital, and Samuel Mahelona Memorial Hospital. The trial balance for each location supports the amounts reported in the audited financial statements. HHSC also provided a "Summary of Ceded Land Payment Computation" which lists the non-patient receipts subject to Act 178 reporting for each of the three locations noted. We agreed the amounts noted in this summary to Attachment 12 without exception. We also reconciled the receipts noted in this schedule to the trial balances without exception. As noted in OHA's listing of revenue gaps, we were also requested to assess the impact of failure to report patient hospital revenue. Within HHSC's audited financial statements, we reviewed the Statement of Revenue, Expenses, and Changes in Net Position of Facilities for the fiscal year ended June 30, 2016. From this statement, we were able to determine the net patient revenue for each facility. Refer to the Summary and Differences section for the results of our procedures.

**Summary and Differences for DOH**

*Land Inventory*

DOH

When reviewing each of the 21 Public Land Trust parcels in the OHA Inventory Report, we noted that DOH was listed as fee owner for only two of the parcels. However, there were no encumbrances on these parcels, therefore, we conclude that no receipts were generated and these two parcels were included in Exhibit 4. PLTIS indicated that the fee owner for

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**J. Department of Health (Continued)**

the remaining 19 parcels was not DOH. In addition, DOH was listed as lessee within PLTIS for nine out of these 19 parcels. Per inquiry with DOH personnel, DOH does not sublease any of these properties. Therefore, no reporting gaps were noted for DOH.

HHSC

Based on our comparison of the OHA Inventory Report to Attachment 12, we noted that the Maluhia and Hale Ho'ola Hamakua facilities were unreported. As HHSC reports only non-patient revenue for Act 178 purposes, we included non-patient revenue for these facilities as a Land Inventory Reporting Gap below. However, Maluhia did not have non-patient revenue reported in HHSC's audited financial statements. Therefore, only Hale Ho'ola Hamakua is included as a Land Inventory Reporting Gap.

HHSC personnel provided the deeds to the Maluhia and Hale Ho'ola Hamakua facilities which indicate that portions of these parcels are either 5(a) or were purchased from DLNR, who acquired the parcels from private parties. However, for the purpose of this report, SLIMS is being used as the official database for public land trust status. As such, these two facilities are still considered reporting gaps.

In order to calculate the reporting gaps related to these facilities, we used the 5(b) acres noted in SLIMS over the total acreage and noted that the PLT portions for Maluhia and Hale Ho'ola Hamakua are 6.28% and 55.04%, respectively.

*Financial Reporting*

HHSC

As noted in OHA's listing of revenue gaps, we have included patient service revenue as a Reporting Gap for each of the five facilities noted as being attributable to the Public Land Trust. However, because HHSC's financial statements report patient service revenue on the accrual basis, we estimated these receipts by applying the percentage of "cash received from government, patients, and third-party payors" as noted in the Statement of Cash Flows to "net patient service revenue (net of provision for doubtful accounts)" as noted in the Statement of Revenue, Expenses, and Changes in Net Position. This resulted in estimated receipts of 99.43% of net patient service revenue.

We applied this percentage to the net patient service revenue, as reported in HHSC's audited financial statements, for each of the five facilities attributable to the Public Land Trust. As noted above in the Land Inventory section, the PLT percentage for Maluhia and Hale Ho'ola Hamakua are used in calculating net patient service revenue as well.

In addition, we also noted that interest and dividend income was not reported for Act 178 purposes. Therefore, we included as Financial Reporting Gaps the interest and dividend income for each of the five facilities noted as being attributable to the Public Land Trust.

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**J. Department of Health (Continued)**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by DOH (HHSC)** \$ 1,683,181

**Estimated Reporting Gaps**

Land Inventory

Hale Ho'ola Hamakua 125,669

Financial Reporting

Net patient service receipts (estimated at 99.43% of revenue)

Hilo Medical Center 164,433,475

Hale Ho'ola Hamakua (55.04% PLT) 8,059,463

Kula Hospital 20,885,044

Maluhia (6.28% PLT) 906,380

Samuel Mahelona Memorial Hospital 15,656,620

Interest and dividend income

Hilo Medical Center 88,306

Hale Ho'ola Hamakua (55.04% PLT) 7,556

Kula Hospital 30,842

Maluhia (6.28% PLT) 7,540

Samuel Mahelona Memorial Hospital 21,953

210,097,179

**Total Estimated Reporting Gaps** 210,222,848

**Total Estimated Reportable Receipts** \$ 211,906,029

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, similar estimated reporting gaps were identified as those noted above. However, interest and dividend income was not identified as a financial reporting gap in the 2012 Report. The overall increase in the net patient service receipts is due to an overall increase in net patient service revenue as reported by HHSC. For the five facilities noted as being attributable to the Public Land Trust, net patient service revenue increased by approximately 21% from 2012 to 2016.

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**K. Hawai'i Public Housing Authority**  
**Department of Human Services**

**Background**

The Hawai'i Public Housing Authority ("HPHA") of the Department of Human Services is the sole public housing agency for the state. It was established to provide safe, decent, and sanitary housing for low-income residents. The HPHA Federal and State Low Income Public Housing programs combine to serve over 6,100 families and have a portfolio of 85 properties consisting of 6,195 units.

Receipts consist of rental income, laundry concessions, vending machine collections, tenant repair and maintenance charges, pet charges, excess electricity usage charges, interest on temporarily invested cash, and other revenue (including cell phone antenna fees). HPHA's method of reporting for Act 178 purposes is to report its rental, laundry concession, vending machine revenue, interest on temporarily invested cash, and other revenue (including cell phone antenna fees) from the Public Land Trust on the accrual basis. It excludes from its Act 178 report its receipts from tenant repair and maintenance charges, excess electricity usage charges, and pet charges.

HPHA reported \$3,390,078 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 13 to the DLNR Act 178 Report - Human Services (DHS) HPHA* ("Attachment 13"). We reconciled the Public Land Trust parcels reported by HPHA in Attachment 13 to the OHA Inventory Report. To reconcile the land we agreed the TMK numbers, which identify the location of the parcels. We inquired as to the reason for the differences identified and determined revenue attributable in the Summary and Differences for HPHA section.

*Financial Reporting*

We obtained HPHA's June 30, 2016 audited financial statements and related trial balance. The trial balance includes the detail of each revenue account and agrees to the audited financial statements. We agreed the revenue recorded in the trial balance to the amounts reported in Attachment 13. We reviewed the trial balance for unreported revenue from projects on Public Land Trust land and reported any instances of additional Public Land Trust revenue in the Summary and Differences for HPHA section.

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**K. Hawai'i Public Housing Authority (Continued)  
Department of Human Services**

**Summary and Differences for HPHA**

*Land Inventory*

We identified 37 Public Land Trust parcels from the OHA Inventory Report that were not included in Attachment 13. We inquired with HPHA personnel to determine the reasoning for excluding these properties and to determine whether any revenue-generating activities occurred related to these properties during the fiscal year ended June 30, 2016. Per our inquiry with HPHA personnel we found the following: 27 of the excluded parcels were reported in Attachment 13 as part of revenues from Hauiki Homes, Puahala Homes, Waimanalo Homes, Wakiu Units A-E, Halia Hale, Lokahi, Kauhale O'hana, and Kalaheo projects. Because HPHA reports receipts by project, not by TMK, receipts from these projects, other than the exceptions noted below, were reported in Attachment 13. The remaining ten parcels are not owned by HPHA. Eight are managed by HHFDC and the remaining two parcels are owned by private individuals.

*Financial Reporting*

From the procedures performed, we identified \$3,430,973 of revenue attributable to Public Land Trust land for the fiscal year ended June 30, 2016. HPHA reported \$3,390,078 in Attachment 13. The difference of \$40,895 is attributable to excluding certain other tenant related receipt types identified below.

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by HPHA** \$ 3,390,078

**Estimated Reporting Gaps**

Financial Reporting	
Tenant repair and maintenance charges	35,830
Excess electricity charges	3,175
Pet charges	<u>1,890</u>

**Total Estimated Reporting Gaps** 40,895

**Total Estimated Reportable Receipts** \$ 3,430,973

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**K. Hawai'i Public Housing Authority (Continued)**  
**Department of Human Services**

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, it was noted that HPHA reported its receipts for Act 178 purposes prior to having its audit finalized. Adjustments made during the audit for the fiscal year ended June 30, 2012 resulted in estimated reporting gaps for tenant revenue and laundry income totaling \$213,149. However, for the fiscal year ended June 30, 2016, no reporting gaps were noted related to tenant revenue and laundry income. Since the issuance of the 2012 Report, HPHA also began reporting interest on temporarily invested cash and other revenue (including cell phone antenna fees) for Act 178 purposes.

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**L. Division of Boating and Ocean Recreation**  
**Department of Land and Natural Resources**

**Background**

The Division of Boating and Ocean Recreation (“DOBOR”) of DLNR is responsible for the management and administration of statewide ocean recreation and coastal area programs pertaining to the ocean waters and navigable streams of the state. It is responsible for 16 small boat harbors, 16 launching ramps, 12 offshore mooring areas, 10 designated ocean water areas, 10 designated ocean recreation management areas, and associated aids to navigation throughout the state, and beaches encumbered with easements in favor of the public.

DOBOR maintains a list of revenue generating locations, and the Land Division of DLNR determines if the locations are on Public Land Trust land and the percentage of the location on Public Land Trust land. The percentage of the location determined to be on Public Land Trust land is then used to determine the amount of receipts that are due to OHA, and that portion of the receipts are deposited into a separate account. The Land Division of DLNR has determined that all DOBOR locations reported for Act 178 purposes except two (Honokōhau and Kukuiula) are situated entirely on Public Land Trust parcels. Six percent (6%) of Honokōhau Small Boat Harbor is on Public Land Trust land and, as a result, DOBOR has determined that OHA’s pro-rata share of receipts is 1.2% (20% of 6%). Ninety-five percent (95%) of Kukuiula Small Boat Harbor is on Public Land Trust land and DOBOR has determined that OHA’s pro-rata share of receipts is 19% (20% of 95%). DOBOR applies 20% as OHA’s pro-rata share of all receipts from the other locations.

Cash receipts are generated from fees, permits, other charges related to the areas under its jurisdiction, parking meter collections, business transfer fees, offshore property management fees, and damages to property. When receipts from fees, permits, and other charges related to the areas under its jurisdiction are collected, the percentage attributable to OHA is deposited into a separate account for each location. The balance of the receipt is then placed in DOBOR’s operating account. On a quarterly basis, DOBOR reports total Public Land Trust receipts by dividing the total amount deposited into the separate account for each location by the percentage used to calculate OHA’s share of receipts for that location. For example, if at the end of the quarter, \$5,000 was deposited into the Ke’ehi Boat Ramp special account, DOBOR would divide the \$5,000 by the 20% due OHA to report total Public Land Trust receipts of \$25,000 for Ke’ehi Boat Ramp for the quarter.

DOBOR reported \$7,199,232 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 14 to the DLNR Act 178 Report – Land and Natural Resources (DLNR) Boating and Ocean Recreation* (“Attachment 14”). We reconciled the Public Land Trust

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**L. Division of Boating and Ocean Recreation (Continued)**  
**Department of Land and Natural Resources**

parcels reported by DOBOR in Attachment 14 to the OHA Inventory Report. To reconcile the land we agreed the TMK numbers, which identify the location of the parcels. We inquired as to the reason for the differences identified and determined the associated receipts for inclusion in the Summary and Differences for DOBOR section below.

*Financial Reporting*

We obtained DOBOR's schedule of Public Land Trust receipts by location, by quarter, for the fiscal year ended June 30, 2016. Because a financial statement audit was not performed for 2016, we obtained DOBOR's Revenue Detail Transaction by UAC report for fiscal year 2016. DOBOR also provided a listing of their cost centers and revenue source codes. DOBOR uses cost centers to track receipts by location. Source codes are used to track receipts by type.

We noted that DOBOR excluded certain receipt types from Act 178 reporting, including parking meter collections, business transfer fees, offshore property management fees, reimbursement of water service fees, and damages to property. These excluded receipts are included in the Reporting Gaps section below.

**Summary and Differences for DOBOR**

*Land Inventory*

We identified 23 Public Land Trust parcels from the OHA Inventory Report that were not included in Attachment 14. We inquired with DOBOR to determine the reasoning for excluding the properties and to identify if there are revenue-generating activities on these properties during the fiscal year ended June 30, 2016. We found that seven of the parcels excluded from Attachment 14 had receipts during the fiscal year 2016. Per discussion with DOBOR personnel, their understanding is that these seven parcels are not subject to reporting under Act 178. However, no documentation could be provided to support this claim. The unreported receipts from the seven revenue-generating parcels are recorded as a Land Inventory Reporting Gap.

We reviewed the Revenue Detail Transaction by UAC report and found that the remaining 16 parcels did not generate any revenues. These 16 parcels are listed in Exhibit 4.

*Financial Reporting*

From the procedures performed, we identified \$10,287,280 of Public Land Trust receipts for the fiscal year ended June 30, 2016. DOBOR reported cash receipts of \$7,199,232 in Attachment 14. The difference of \$3,088,048 is due to a combination of unreported Public Land Trust parcels as noted in the above Land Inventory section, types of receipts that are reported for Act 178 purposes but are under-reported, and DOBOR excluding certain types of receipts from Act 178 reporting. Under-reported receipts are primarily attributable to DOBOR reporting only certain receipts for the Honokōhau Small Boat Harbor.



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**L. Division of Boating and Ocean Recreation (Continued)  
Department of Land and Natural Resources**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by DOBOR** \$ 7,199,232

**Estimated Reporting Gaps**

Land Inventory

Waikiki	169,294
Wailoa Boat Harbor	49,886
Keauhou Boat Harbor*	326,464
Pohoiki Ramp	2,514
Port Allen Boat Ramp*	135,943
Hanalei Boat Harbor	154,442
Waikaea Canal Ramp	9,815
	<u>848,358</u>

Financial Reporting

Excluded receipts

Business transfer fees	346,864
Offshore property management fees	315,564
Parking meter collections	103,166
Reimbursement of water service fees	32,417
Damages to property	29,250
Under-reported receipts	1,444,846
	<u>2,272,107</u>

**Total Estimated Reporting Gaps** 3,120,465

**Total Estimated Reportable Receipts** \$ 10,319,697

\* These harbors are partially on Public Land Trust land. However, because the percentage attributable to the Public Land Trust is unknown, all receipts from these harbors are included as Reporting Gaps.

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**L. Division of Boating and Ocean Recreation (Continued)**  
**Department of Land and Natural Resources**

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, it was noted that DOBOR did not report any receipts for the period March 31, 2012 through June 30, 2012, which resulted in an estimated reporting gap of \$4,773,498. During 2016, DOBOR reported receipts for the entire fiscal year. However, as noted above, 2016 reporting gaps resulted from seven unreported parcels, excluded receipts types, and under-reported receipts.

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**M. Division of Forestry and Wildlife**  
**Department of Land and Natural Resources**

**Background**

The Division of Forestry and Wildlife (“DOFAW”) of DLNR is responsible for the management of state-owned forests, natural areas, public hunting areas, and plant and wildlife sanctuaries. Operations are administered by geographic districts, and its programs include watershed protection, native resources protection, including unique ecosystems and endangered species of plants and wildlife, outdoor recreation, and commercial forestry.

Receipts are generated from the sale of seedlings and forest products, camping permits, hunting permits, cabin rentals, investment pool interest, fees for non-conformance, and temporary permits. The receipts are recorded and accounted for separately within FAMIS. DOFAW’s method of reporting Public Land Trust receipts is to report all cash receipts related to the Public Land Trust, except for the sale of seedlings, interest earned, fees for nonconformance, and hunting-related revenues.

DOFAW reported \$247,633 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 16 to the DLNR Act 178 Report - DLNR Except Boating Percentages* (“Attachment 16”). We noted that DOFAW does not report Public Land Trust receipts by TMK. We obtained the land inventory maintained by DOFAW, which lists the TMK, description, date of acquisition, and type of acquisition of each of the parcels owned or managed by DOFAW. We compared this listing to the OHA Inventory Report. As detailed further in the Summary and Differences section, while there were two Public Land Trust parcels identified in the OHA Inventory Report that were not included in DOFAW’s land inventory, DOFAW personnel noted that no receipts from these parcels were generated during the fiscal year ended June 30, 2016, as further explained in the Land Inventory Summary and Differences section; these parcels were included in Exhibit 4.

*Financial Reporting*

Attachment 16 included DLNR’s Public Land Trust receipts for DOFAW, State Parks, and Land Division. DOFAW reports in Attachment 16 cash receipts from the Na Ala Hele Park Development Fund (“Na Ala Hele”) and the Forest Stewardship Fund (“Stewardship”). Per inquiry with DOFAW personnel, no other funds were noted as having receipts attributable to the Public Land Trust. We obtained the Revenue Detail Transaction by UAC report for these funds for the fiscal year ended June 30, 2016 and agreed the amounts reported to the DOFAW receipts reported in Attachment 16. We noted there were certain types of receipts that were unreported in Attachment 16. These unreported receipts are detailed further in the Summary and Differences section.

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**M. Division of Forestry and Wildlife (Continued)**  
**Department of Land and Natural Resources**

**Summary and Differences for DOFAW**

*Land Inventory*

We identified two Public Land Trust parcels from the OHA Inventory Report that were not included in the DOFAW land inventory. We inquired with DOFAW personnel regarding whether these parcels generated receipts during the fiscal year ended June 30, 2016. DOFAW personnel noted that the two parcels, located in Makawao, Maui, are leased to the Zoological Society of San Diego (“ZSSD”). Per review of the two cooperative lease agreements spanning the terms March 1, 1996 through March 1, 2016 and March 1, 2016 through February 29, 2036, the ZSSD is leasing the Olinda Endangered Species Facility. As part of the agreement, the ZSSD also provides management and operation of the endangered species rearing facility. The lease requires nominal consideration and therefore, is not considered a reporting gap.

*Financial Reporting*

When comparing the receipts reported in Attachment 16 to the Revenue Detail Transaction by UAC reports for the Na Ala Hele and Stewardship funds, we noted that certain types of receipts were unreported. These unreported receipts included sales of burnt debris to Green Energy Biomass, seedling sales, lease rent from Tradewinds Hawaiian Hardwood, and investment pool interest. Per inquiry with DOFAW personnel, only receipts generated from the use of Public Land Trust parcels are reported in Attachment 16. However, as all receipts related to the Public Land Trust should be reported, these unreported receipts are noted as Reporting Gaps below.

In addition, during our meeting with DOFAW, we were informed that one of the receipt types DOFAW receives is related to hunting fees. Per our review of the Revenue Detail Transaction by UAC reports, we determined that the Na Ala Hele and Stewardship funds do not account for hunting-related receipts. According to DOFAW personnel, hunting-related receipts are accounted for in the Wildlife Revolving Fund (“WRF”).

We obtained the “Report to the Twenty-Ninth Legislature State of Hawaii 2017 Regular Session Relating to the Wildlife Revolving Fund Fiscal Year 2016”. Included in this report was a summary of the revenue for the fiscal year ended June 30, 2016, amounting to \$580,042. However, hunting-related revenues are for the rights to hunt on both Public Land Trust lands and non-Public Land Trust lands. In order to estimate hunting-related receipts that should be reported in Attachment 16, we obtained a land inventory listing of all designated hunting lands in the state from DOFAW personnel. Because the listing included TMKs for each parcel of designated hunting land, we were able to identify the Public Land Trust parcels on this list by comparing the listing to the OHA Inventory report. We compared the acreage of Public Land Trust land to the total of all hunting and found that Public Land Trust land made up 48.51% of the total. We applied this percentage to the WRF’s reported revenue and included these receipts in our Reporting Gaps below.

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**M. Division of Forestry and Wildlife (Continued)  
Department of Land and Natural Resources**

DOFAW personnel noted that receipts reported by the Wildlife Revolving Fund have been considered exempt from inclusion in Attachment 16 because of the administrative requirements for Wildlife and Sport Fish Restoration (related to the Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts) which note, “states acting through their fish and wildlife agencies are eligible for benefits of the Acts only if they pass and maintain legislation that...requires that revenue from hunting and fishing licenses be: (1) controlled by the State fish and wildlife agency; and (2) used only for administration of the State fish and wildlife agency.” However, as noted in the Part I - Introduction and Background, reporting of all receipts is completely separate from the determination of the income and proceeds to which OHA may be entitled a portion. Therefore, receipts reported by the Wildlife Revolving Fund are included in the reporting gaps below.

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by DOFAW** \$ 247,633

**Estimated Reporting Gaps**

Financial Reporting

Excluded receipts

Sales to Green Energy Biomass	135,311
Seedling sales	48,789
Tradewinds Hawaiian Hardwood lease rent	34,000
Investment pool interest	12,723
Receipts reported by the Wildlife Revolving Fund*	<u>281,369</u>

**Total Estimated Reporting Gaps** 512,192

**Total Estimated Reportable Receipts** \$ 759,825

\* Estimated 48.51% of hunting-related receipts based on the percentage of hunting lands that are Public Land Trust parcels.

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, Public Land Trust receipts reported by DOFAW were \$941,897. The primary reason for the decrease in receipts reported in 2016 is due to the significant decrease in receipts from the sale of wood, rock, and sand. These receipts decreased from \$793,958 in 2012 to \$1,620 in 2016.

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**M. Division of Forestry and Wildlife (Continued)**  
**Department of Land and Natural Resources**

The 2012 Report identified estimated reporting gaps related to investment pool interest, sale of seedlings, and fees for non-conformance. Receipts related to sales of burnt debris and hunting-related receipts reported by the WRF were not identified as estimated reporting gaps. These receipts account for \$416,680, or approximately 81% of the total estimated reporting gaps for the fiscal year ended June 30, 2016.

While hunting-related receipts were not included as an estimated reporting gap in the 2012 Report, the “Report to the Twenty-Ninth Legislature State of Hawaii 2013 Regular Session Relating to the Wildlife Revolving Fund Fiscal Year 2012”, noted that the WRF reported revenue totaling \$187,268 for the fiscal year ended June 30, 2012. In comparison, fiscal year 2016 revenues for the WRF were more than three times greater than those reported for fiscal year 2012, amounting to \$580,042.

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**N. Land Division**  
**Department of Land and Natural Resources**

**Background**

The Land Division of DLNR (“Land Division”) is responsible for the management of state-owned lands in ways that will promote the well-being of Hawai‘i’s people and ensure that these lands are used in accordance with the goals, policies, and plans of the State of Hawai‘i. Land that is not set aside for use by other government agencies comes within the direct purview of the Land Division.

Land Division’s receipts from activities related to the Public Land Trust consist of lease rent; permit fees (including water permit fees); sales of wood, rock and sand; royalties; fines for non-conformance; reimbursements; investment pool interest; and land sales. The receipts are recorded and accounted for separately within FAMIS. The Land Division’s method of reporting Public Land Trust receipts is to report all cash receipts related to the Public Land Trust, except for water permit fees, fines for non-conformance and interest.

Land Division reported \$10,555,593 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 16 to the DLNR Act 178 Report - DLNR Except Boating (Percentages)* (“Attachment 16”). However, because the Land Division does not report receipts by TMK for Act 178 purposes, we instead compared Land Division’s Listing of Land, which identifies both TMK and trust land status, to the OHA Inventory Report.

*Financial Reporting*

We obtained the Land Division’s OHA Revenue Detail report which details all receipts that were transferred to OHA. Receipts noted in this schedule support those reported in Attachment 16. Land Division personnel provided a Revenue Detail Transaction Report by UAC which detailed the portion of Public Land Trust receipts that were not transferred to OHA as reported in Attachment 16. The Revenue Detail Transaction by UAC report contains the receipts for each DLNR fund by appropriation (program) and source code (receipt type).

DLNR also provided a separate Revenue Detail Transaction by UAC report for the Special Land Development Fund (“SLDF”) and the Water Resource Fund (“WRF”), which are the only funds used by Land Division to account for its Public Land Trust receipts. We compared the receipts noted in this report to the Revenue Detail Transaction Report by UAC used to support Attachment 16. We noted that the SLDF and WRF revenue report had receipts in excess of the receipts reported in Attachment 16 by approximately \$7.4M. Through further investigation, we noted that of the \$7.4M in excess receipts from the SLDF and WRF revenue report:

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**N. Land Division (Continued)**  
**Department of Land and Natural Resources**

Nearly \$5.2M in receipts are not reported for Act 178 purposes. Of this \$5.2M in receipts, approximately \$4.9M is noted as “Sand Island Revenue”, which is for lease rent of 5(a) trust land status land on Sand Island and was therefore not a reporting gap.

We then compared the total receipts by tenant in this report to the SLDF and WRF revenue report to identify all tenants that were not included in the Revenue Detail Transaction Report by UAC. We noted 54 tenants that were included in the SLDF and WRF revenue but not in the Revenue Detail Transaction Report by UAC. These 54 tenants had rental receipts amounting to approximately \$2.1M for the fiscal year ended June 30, 2016. Using PLTIS, we identified the parcels (by TMK) being leased by each tenant, and found the trust land status for each unreported tenant’s parcel in the OHA Inventory Report. We noted that all but one of these 54 unreported tenants were either leasing or renting properties that were not Public Land Trust land. The one unreported tenant that rented property on Public Land Trust land is detailed in the below Summary and Differences for Land Division section.

**Summary and Differences for Land Division**

*Land Inventory*

Comparing Land Division’s Listing of Land to the OHA Inventory Report, we noted 30 parcels that were not included in Land Division’s Listing of Land. We inquired with Land Division personnel regarding the reasons for exclusion. Land Division personnel noted ten of the properties do not generate any receipts. Four of the parcels are leased and managed by other state agencies and another is managed by the University of Hawai’i. We traced and agreed these parcels to proper inclusion within those agencies’ OHA Inventory Reports. Twelve parcels are owned and/or managed by the City and County of Honolulu. Per inquiry with Land Division personnel, DLNR did not generate any receipts from these parcels owned and/or managed by the City and County of Honolulu. Two parcels were remnant lands of an abandoned ditch that were sold to private owners in 2002. The ten properties that did not generate receipts along with the 12 parcels owned and/or managed by the City and County of Honolulu are listed in Exhibit 4.

The last parcel has an older TMK that has been changed, according to Land Division. The parcel is divided into two parcels, with two different TMKs. One of the parcels is owned by University of Hawai’i, while DLNR DOFAW is the lessor of the other parcel. We reviewed the OHA Inventory Report for DOFAW noting that this parcel is properly included in DOFAW’s inventory.



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**N. Land Division (Continued)  
Department of Land and Natural Resources**

*Financial Reporting*

In comparing the SLDF and WRF revenue report to the receipts reported in Attachment 16, we noted certain types of receipts that were excluded from Attachment 16. These receipts included investment pool interest, fines for non-conformance, and water permit fee revenue. In addition, we also noted that receipts related to rentals of unleased lands were underreported for Act 178 reporting purposes. These receipts are included as Reporting Gaps below.

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by Land** \$ 10,555,593

**Estimated Reporting Gaps**

Financial Reporting

Excluded receipts

Investment pool interest	89,793
Fines for non-conformance	40,880
Water permit fee revenue	3,975

Under-reported receipts

Rentals, unleased lands	9,000
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**Total Estimated Reporting Gaps** 143,648

**Total Estimated Reportable Receipts** \$ 10,699,241

**Comparison to Fiscal Year 2012 Report**

Land Division has not changed its method of reporting receipts for Act 178 purposes. While DLNR did not have audited financial statements for the year ended June 30, 2016, the Reporting Gaps identified above are similar in type and amount to those reported in the 2012 Report on Public Trust Land Receipts.

However, the procedures performed during our review were significantly different to those performed for the 2012 Report on Public Trust Land Receipts. Instead of selecting a sample of receipts to determine whether they were properly reported for Act 178 reporting purposes, we instead investigated receipts noted in the SLDF and WRF revenue report that were not reported for Act 178 reporting purposes.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
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**O. State Parks Division**  
**Department of Land and Natural Resources**

**Background**

The State Parks Division (“State Parks”) of DLNR manages and administers 51 state parks encompassing nearly 30,000 acres on the five major islands. These parks offer varied outdoor recreation and heritage opportunities. The park environments range from landscaped grounds with developed facilities to wild areas with trails and primitive facilities.

Receipts for State Parks are generated from camping permits, parking and entry fees to various parks, rental income from the use of cabins, land leases, concession income, landing fees, ramp permit fees, and other miscellaneous receipts. Each receipt is recorded and accounted for separately within FAMIS. State Parks’ method of reporting Public Land Trust receipts is to report all cash receipts related to the Public Land Trust, with the exception of investment pool interest earned, fees for water sharing with another entity, and quarterly water service fees.

State Parks reported \$4,311,178 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 16 to the DLNR Act 178 Report - DLNR Except Boating* (“Attachment 16”). However, because State Parks does not report receipts by TMK for Act 178 purposes, we instead compared State Parks’ “State Land Inventory” report, which identifies parcels by TMK, to the OHA Inventory Report. In addition, we also obtained State Parks’ listing of activity codes and allocation codes. Activity codes are used by State Parks to identify the specific area in which receipts are generated. Allocation codes, like source codes, identify the type of receipt.

We noted 37 parcels of land in the OHA Inventory Report that were not included in the State Land Inventory report. We inquired with State Parks personnel regarding the reasons for exclusion and noted that all 37 of the parcels did not generate receipts during the fiscal year ended June 30, 2016. Using State Parks’ Revenue Detail Transaction by UAC report for the fiscal year ended June 30, 2016, we determined that no receipts were recorded to the respective activity codes for each of the 37 parcels. We have listed these parcels in Exhibit 4.

*Financial Reporting*

In addition to the Revenue Detail Transaction by UAC report for the fiscal year ended June 30, 2016, we also obtained from State Parks personnel the State Parks Total Special Revenue (S-166-312) from SLIMS with two additional columns for “ceded” and “non-ceded” land revenues (“Special Revenue Report”) report which is used to identify the receipts to be reported for Act 178 purposes.

**Office of Hawaiian Affairs**  
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**O. State Parks Division (Continued)**  
**Department of Land and Natural Resources**

Using the activity codes for each of the state parks identified as generating Public Land Trust receipts, we agreed the receipts reported in Attachment 16 to the Special Revenue Report without exception.

**Summary and Differences for State Parks**

*Land Inventory*

State Parks is responsible for the land on which 'Iolani Palace is situated. State Parks leases 'Iolani Palace to the Friends of 'Iolani Palace. However, the lease agreement notes that rent is gratis per annum. The land on which the parking stalls adjacent to 'Iolani Palace are situated is the responsibility of DAGS AMD and is discussed in that section of this report.

*Financial Reporting*

In comparing the Revenue Detail Transaction by UAC report to the receipts reported pursuant to Act 178, we noted that investment pool interest and water service fees are excluded from Attachment 16. These receipts are noted below as Financial Reporting Gaps.

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by State Parks** \$ 4,311,178

**Estimated Reporting Gaps**

Financial Reporting

Investment pool interest 9,182

Water service fees 4,045

**Total Estimated Reporting Gaps** 13,227

**Total Estimated Reportable Receipts** \$ 4,324,405

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**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
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**O. State Parks Division (Continued)**  
**Department of Land and Natural Resources**

**Comparison to Fiscal Year 2012 Report**

The 2012 Report on Public Trust Land Receipts noted an unknown estimated reporting gap related to 'Iolani Palace ticket sales. The Amendment and Extension of General Lease No. S-5504 (Amended and Restated) dated July 31, 2000, noted that "in the event the Friends of 'Iolani Palace generates annual gross ticket and fee revenue in excess of \$1,000,000, the Lessor shall be entitled to fifty percent of the amounts in excess as additional rent." That lease has since been revised. The revised terms state that "those revenues shall be used in conjunction with state funds and other grants allocated for repairs and capital improvements." Accordingly, State Parks is no longer entitled to any portion 'Iolani Palace ticket sales.

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**P. Airports Division  
Department of Transportation**

**Background**

The mission of the Airports Division (“Airports”) of the Department of Transportation is to develop, manage, and maintain a safe and efficient global air transportation organization. Airports is organized into four geographic districts: O’ahu, Maui, Hawai’i, and Kaua’i, and has jurisdiction over 15 commercial airports: Honolulu International, Kalaeloa, Dillingham Airfield, Hana, Kalaupapa, Kahului, Kapalua, Lana’i, Moloka’i, Kona International, Hilo International, Waimea-Kohala, Upolu, Lihue, and Port Allen. Airports’ receipts are generated from concessions, landing fees, and rental revenue.

In the past, the receipts from Airports have been the focus of many discussions and even litigation, due to the type and nature of the receipts. As a result of the frequent inquiries and need to substantiate their position on the receipts reported, Airports has developed detailed land inventory identification and receipt reporting capabilities, supported by its accounting system and detailed property maps.

While Airports reports its revenues on the accrual basis for financial reporting purposes, receipts are reported on the cash basis for Act 178 purposes. Receipts include terminal concessions (including Duty-Free and other airport concession revenues), landing fees (also known as airfield or runway fees and including passenger and customer facility charges), airlines’ airport facility rental fees (including terminal rental and ground rental), interest, and other income. Airports reports its Public Land Trust receipts individually for each airport situated or partially-situated on Public Land Trust land. Receipts for Honolulu International Airport (“HNL”) are classified into four categories: terminal rental; terminal concession and other terminal concession; airfield/runway; and ground rental. Receipts for all other airports situated or partially situated on Public Land Trust land are classified into two categories: terminal and runway. Airports then calculates the Public Land Trust receipts for each category at each airport based on a ratio of Public Land Trust area to total land area used for each individual parcel generating receipts. Maps prepared by the Airports Engineering Division are used to calculate the ratios. The following table summarizes the methods used:

<b>Location and Receipt Category</b>	<b>Method of Reporting for Act 178</b>
HNL terminal rental	Actual rental receipts generated by location pro-rated based on the ratio of Public Land Trust land to total land for each rented location
HNL terminal concession and HNL other terminal concession	Greater of minimum rent or percentage of sales by location pro-rated based on the ratio of Public Land Trust land to total land for each concession location
HNL airfield/runway	Actual landing and use fees per runway pro-rated based on the ratio of Public Land Trust land to total land for each runway

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**P. Airports Division (Continued)  
Department of Transportation**

Location and Receipt Category	Method of Reporting for Act 178
HNL ground rental	Actual rental receipts generated by location pro-rated based on the ratio of Public Land Trust land to total land for each rented location
All other (non-HNL) airports terminals	Actual terminal receipts generated pro-rated based on the ratio of Public Land Trust land to total land for each terminal (see table below)
All other (non-HNL) airports runways	Actual landing and use fees per runway pro-rated based on the ratio of Public Land Trust land to total land for each runway (see table below)

The following table summarizes the Public Land Trust receipt percentages for the various airports and receipt category (terminal and runway) that have been developed and used by Airports.

<b>Percentage of Airport Receipts from Public Land Trust (Source: Airports Division)</b>		
Airport	Terminal	Runway
Honolulu	Various	Various
Kona International	100.0%	100.0%
Port Allen	100.0%	100.0%
Moloka'i	100.0%	100.0%
Kalaupapa	100.0%	100.0%
Hilo International	100.0%	93.2%
Hana	100.0%	91.9%
Upolu	100.0%	33.9%
Dillingham Airfield	100.0%	8.8%
Waimea-Kohala	0.0%	49.1%
All others	0.0%	0.0%

Airports reported \$73,102,965 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 18 to the DLNR Act 178 Report - Transportation (DOT) Airports Division* ("Attachment 18"). We did not prepare a reconciliation of Public Land Trust parcels because Airports does not record receipts by TMK. Instead, we reviewed maps and schedules prepared by the Airports Engineering Division, which are the basis for the pro-rations used. We recalculated the allocation percentages using the maps and square footages provided by Airports and agreed them to the percentages used to support Attachment 18.

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**P. Airports Division (Continued)**  
**Department of Transportation**

*Financial Reporting*

Attachment 18 and the supporting exhibits summarize the receipts reported by Airports and the allocation percentages used for each airport to pro-rate gross receipts attributable to the Public Land Trust. Airports provided a copy of its June 30, 2016 audited financial statements and a supporting schedule of gross receipts which detailed the revenue generated by type by airport. Using the supporting schedule, we agreed gross receipts for each airport by type to the exhibits which support Attachment 18. We also recalculated the receipts reported in Attachment 18 using Airports' pro-rations of Public Land Trust land to total land without exception.

**Summary and Differences for Airports**

*Land Inventory*

No differences were noted from our procedures performed.

*Financial Reporting*

No differences were noted from our procedures performed.

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, it was noted that Airports reported receipts pursuant to Act 178 on the accrual basis. Since then, Airports has changed their method of reporting for Act 178 to the cash basis. In addition, for the year ended June 30, 2012, Airports overstated receipts reported because estimated amounts for landing fees, passenger boarding estimates, and terminal concession were used. No such reporting gaps were noted for the fiscal year ended June 30, 2016, as actual cash receipts were used.

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**Q. Harbors Division**  
**Department of Transportation**

**Background**

The Harbors Division (“Harbors”) of the Department of Transportation is responsible for planning, designing, constructing, operating, and maintaining state facilities for all modes of water transportation. Harbors has jurisdiction over ten commercial harbors located at Honolulu, Kalaheo Barbers Point, Hilo, Kawaihae, Kahului, Hana, Kaunakakai, Kaunapali, Nawiliwili, and Port Allen. Of these, four that have commercial activity are situated on Public Land Trust land. They are: Honolulu; Hilo; Kawaihae; and Kaunakakai harbors. Hana Harbor has no commercial activity, and the remaining five harbors are not classified as being attributable to the Public Land Trust. Harbors’ receipts consist of wharfage, rentals, dockage, port entry fees, mooring charges, demurrage, cleaning, and other harbor fees and charges. Wharfage and rentals are the largest sources of receipts.

Harbors calculates its Public Land Trust receipts by pro-rating gross receipts from the various locations at each harbor situated on Public Land Trust land; however, as discussed below, Harbors excludes some receipts from its calculation of gross Public Land Trust receipts. The pro-rations are based on previously calculated percentages of Public Land Trust acreage to total acreage in relation to the total acreage for each operating area, i.e., areas that generate revenue, located at each harbor. According to Harbors personnel, these percentages were determined using the information contained in the Appendices of the 1986 Legislative Auditor’s report and have not been updated since. We reviewed the 1986 report and found that it did not identify the specific locations that are used for reporting purposes by Harbors. Harbors staff could not locate or provide supporting documentation for the basis of the percentages (i.e., maps or schedules to determine the Public Land Trust acreage and total acreage of each harbor). Additionally, the percentages are embedded in Harbors’ accounting system by location and are not separately documented. As a result, we could not confirm the accuracy of the percentages established for the various locations.

Harbors reported \$60,004,548 pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 19 to the DLNR Act 178 Report - Transportation (DOT) Harbors Division* (“Attachment 19”). Harbors utilizes location codes, not TMKs, to record receipts. As a result, we were unable to perform a reconciliation of Harbors’ land inventory to the OHA Inventory Report.

*Financial Reporting*

Harbors provided the “Schedule of All Revenues on a Cash Receipts Applied Basis for All Location Codes” for each quarter during the fiscal year ended June 30, 2016. This schedule lists



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**Q. Harbors Division (Continued)**  
**Department of Transportation**

the cash receipts by location, amount attributable to Public Land Trust areas, and the amount due to OHA. We reconciled the quarterly reports to cash receipts recorded in FAMIS without exception. We summarized the quarterly reports in an annual total and agreed the balances in Attachment 19 to this annual total.

We also obtained Harbor’s audited financial statements for the fiscal year ended June 30, 2016. However, due to the financial statements being reported on the accrual basis, we were unable to reconcile total receipts per the “Schedule of All Revenues on a Cash Receipts Applied Basis for All Location Codes” to the financial statements.

Because the Public Land Trust percentages embedded in Harbors’ accounting system are not known, to determine the Public Land Trust percentages, we used the receipts from the “Schedule of All Revenues on a Cash Receipts Applied Basis for All Location Codes” by quarter and divided the amounts attributed to the use of Public Land Trust land by total receipts. Based on our procedures performed, the percentages used by Harbors for each harbor is as follows:

<b>Harbor</b>	<b>PLT Percentage</b>
Barber’s Point Harbor	0.0%
Hilo Harbor	5.9% - 75.7%
Honolulu Harbor	0.0% - 100%
Kahului Harbor	0.0%
Kaumalapau Harbor	0.0%
Kaunakakai Harbor	99.3% - 100%
Kawaihae Harbor	94.1% - 100%
Kewalo Harbor*	51.5% - 88.6%
Nawiliwili Harbor	0.0%
Port Allen Harbor	0.0%

\* Kewalo Harbor is no longer under the jurisdiction of Harbors. However, during FY 2016, Harbors had receipts for Kewalo Harbor related to invoices dating back to 2007.

**Summary and Differences for Harbors**

*Land Inventory*

As previously stated, Harbors determines its Public Land Trust receipts from harbors using predetermined percentages, which vary by location, by harbor. The allocation percentages are embedded within Harbors’ accounting system, which automatically records the Public Land Trust portion of the receipts as the receipts are recorded in the accounting system. Neither N&K nor Harbors staff were able to determine if the percentages used are appropriate because Harbors no longer has the documentation originally used to calculate the percentages.

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**Q. Harbors Division (Continued)**  
**Department of Transportation**

*Financial Reporting*

Per review of the quarterly “Schedule of All Revenues on a Cash Receipts Applied Basis for All Location Codes” reports, we found that the Public Land Trust pro-rata share of receipts on various harbor locations varied from one quarter to another. From the detailed reports provided to us, we also determined that receipts recorded for “wharfage domestic in”, “wharfage domestic out,” and “passenger fees” revenues are consistently excluded from calculation of OHA’s pro-rata share for Hilo Harbor Piers 1 and 2. These receipt types were not excluded from Harbors’ Act 178 reporting for other harbors. Harbors personnel were unable to provide supporting documentation or explanation as to why pro-rata shares of receipts varied from one quarter to another or why selected receipts at the Hilo Harbor location are excluded from the calculation of OHA’s share.

Due to the volume of information to be extracted from the accounting records, we were unable to accurately determine the impact of the excluded receipts on the amounts reported. Instead, we used the percentage noted in the “DOT-Harbors Extended CIDS Application List of Operation Areas by Domain” column in the OHA Inventory Report for Hilo Harbor Piers 1 and 2 and applied that percentage (75.7%) to Harbors’ total receipts at these piers.

We noted that the total estimated pro-rata share of Harbors’ receipts was \$63,241,139 for the fiscal year ended June 30, 2016. \$3,236,591 represents the difference between the receipts reported for Hilo Harbor Piers 1 and 2 in Attachment 19 and our estimate of the amount that should be reported using the percentage noted in the OHA Inventory Report applied to total receipts from these piers.

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**Q. Harbors Division (Continued)  
Department of Transportation**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by Harbors** \$ 60,004,548

**Estimated Reporting Gaps\***

Financial Reporting

Application of highest calculated Public Land Trust  
pro-rated portion for Hilo Pier 1 and Pier 2

3,236,591

**Total Estimated Reporting Gaps** 3,236,591

**Total Estimated Reportable Receipts** \$ 63,241,139

\* This is only an estimate based on available information. Harbors should revisit its initial pro-  
ration methodology on a parcel-by-parcel basis to ensure it is still appropriate. Additionally,  
Harbors should review its initial determinations of receipts that it considers to be exempt from  
Act 178 reporting.

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, it was noted that Harbors reported Public  
Land Trust receipts of \$45,145,874 for the fiscal year ended June 30, 2012. Reported Public  
Land Trust receipts increased by approximately 33% to \$60,004,548 as a result of Harbor's total  
receipts increasing from approximately \$80,775,000 for the fiscal year ended June 30, 2012 to  
approximately \$129,855,000 for the fiscal year ended June 30, 2016. Harbors has not changed  
its method of reporting for Act 178 purposes since the issuance of the 2012 Report.

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**R. Highways Division**  
**Department of Transportation**

**Background**

The mission of the Highways Division (“Highways”) of the Department of Transportation is to facilitate the rapid, safe, and economical movement of people and goods within the state by providing, maintaining, and operating land transportation facilities and support services. The major goals of Highways are to plan, design, construct, and maintain highway facilities.

In addition to the receipt of funds from the state and federal governments, vehicle registration fees, other fees and permits, and penalties and fines, Highways has receipts from property rentals and property remnant sales. Only receipts from property rentals and remnant sales were considered for the purposes of this report. Highways’ method of reporting per Act 178 for the fiscal year ended June 30, 2016 was to report the cash received from its sale of remnant Public Land Trust parcels. It did not report any receipts from the rental of Public Land Trust parcels.

Highways reported Public Land Trust receipts of \$4,253<sup>1</sup> pursuant to Act 178 for the fiscal year ended June 30, 2016.

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 20 to the DLNR report to the Legislature - Transportation (DOT) Highways Division* (“Attachment 20”). Highways provided a listing of rental collections for the fiscal year ended June 30, 2016, which included both the TMK and trust land status of each of the respective properties that were rented. We compared Highways’ listing to the OHA Inventory Report to identify all receipts attributable to the Public Land Trust. While Highways did not report any receipts related to rental collections in Attachment 20, we noted that all of the Public Land Trust parcels included in the OHA Inventory Report were included in Highways listing of rental collections for the fiscal year ended June 30, 2016.

*Financial Reporting*

We obtained Highways audited financial statements for the fiscal year ended June 30, 2016. We also obtained Highways “Listing of Rental Collection for Fiscal Year 2016” (“Listing of Rental Collection”) which summarized rental income collected by tenant, TMK, trust land status, date, and amount, along with Highways Datamart revenue report. We reconciled the Listing of Rental Collection to the Datamart report without exception. We also reconciled the amounts noted in

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<sup>1</sup> It should be noted that *Attachment 2 Summary of Receipts from Lands Described in Section 5(f) of the Admissions Act by Department for Fiscal Year 2015-2016* lists gross receipts of \$83,252.50 for Highways. This amount is in error, due to the mistaken inclusion of the gross receipt from the conveyance of a non-Public Land Trust remnant parcel that was reported by Highways in Attachment 20 in the amount of \$79,000.00.

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**R. Highways Division (Continued)**  
**Department of Transportation**

the Listing of Rental Collection to the amount reported as program revenue attributable to rentals in the audited financial statements. Lastly, we reconciled the remnant sales reported in Attachment 20 to the Datamart report without exception.

**Summary and Differences for Highways**

*Land Inventory*

No differences were noted from our procedures performed.

*Financial Reporting*

We noted that total receipts from remnant sales and rental income from the audited financial statements as of June 30, 2016 was \$1,445,052. From our review of the Listing of Rental Collection, we determined rental receipts totaling \$222,044 were attributable to the Public Land Trust.

Highways reported Public Land Trust receipts of \$4,253 in Attachment 20. The difference of \$217,751 is unreported rental receipts from Public Land Trust parcels. These unreported receipts are detailed as Reporting Gaps below.

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**R. Highways Division (Continued)  
Department of Transportation**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by Highways** \$ 4,253

**Estimated Reporting Gaps**

Financial Reporting

Rental receipts

Cell Phone Towers - Hirano Tunnel (H3)	
Sprint Nextel, Inc.	16,500
Verizon Wireless	33,500
Cell Phone Towers - Pali Tunnel	
AT&T	18,000
Coral Wireless	1,548
Sprint Nextel, Inc.	16,500
T-Mobile	26,550
Verizon Wireless	33,000
Cell Phone Towers - Wilson Tunnel	
AT&T	15,000
Coral Wireless	387
Sprint Nextel, Inc.	16,500
T-Mobile	26,550
Oceanic Institute	9,000
Ken's House of Pancakes	4,716
	217,751

**Total Estimated Reporting Gaps** 217,751

**Total Estimated Reportable Receipts** \$ 222,004

**Comparison to Fiscal Year 2012 Report**

In the 2012 Report on Public Trust Land Receipts, the estimated reporting gaps were attributable to excluding rental receipts from Public Land Trust parcels. Highways has not changed its method of reporting for Act 178 purposes since the issuance of that report.

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**S. University of Hawai'i**

**Background**

The University of Hawai'i ("UH") is the state's system of higher education and is comprised of 10 campuses (three universities and seven community colleges) on O'ahu, Hawai'i, Maui, and Kaua'i. Through its three universities (Mānoa, Hilo, and West O'ahu) and seven community colleges (Hawai'i, Honolulu, Kapi'olani, Kaua'i, Leeward, Maui, and Windward), UH offers more than 377 degree programs and 257 certificate and associate degree programs to its approximately 56,000 students.

UH receipts consist of student tuition and fees, sales and services from educational departments, parking, student and faculty housing, athletics facilities, lease rent, royalties, and other auxiliary enterprises (i.e., services provided to students, faculty, and staff). UH's method of reporting per Act 178 is to report certain types of receipts as determined by UH in conjunction with the Attorney General's office in 2007 (2007 Agreement), including certain parking, student housing, and faculty housing receipts generated at UH Mānoa and UH Hilo; and certain bookstore receipts generated at UH Hilo. In fiscal year 2013, UH also began reporting commercial tour fee receipts collected by UH's Office of Mauna Kea Management (OMKM). Specifically, UH's method of reporting per Act 178 is to report 100% of its Mānoa Campus receipts for Wa'ahila faculty housing rentals and a portion of its Mānoa Campus receipts for parking (including permits, daily parking fees, and fines), and vending machine sales and commissions. UH also reports 100% of its Hilo Campus receipts for: parking (including permits, daily parking fees, and fines); the bookstore sales of food, sundries & souvenirs, and insignia clothing; and vending machine sales and commissions from the Hale Ikena residences and the student activities center. OMKM reports 100% of commercial tour fee receipts.

After consultation between UH and OHA, the scope of our procedures for this financial review was limited to the following five receipt types relevant to the 2007 Agreement: parking receipts; student housing vending machines; faculty housing rent, parking, and vending machines; bookstore receipts for food, sundries & souvenirs, and insignia clothing; and Mauna Kea tour fees. The review for each category of receipts was not limited by location, as long as the OHA Inventory Report classified the campus, or relevant part of the campus, as Public Land Trust. For example, although UH does not report any bookstore receipts for UH Mānoa per the 2007 Agreement, the bookstore is within the Public Land Trust, therefore the bookstore receipts for food, sundries & souvenirs, and insignia clothing generated at UH Mānoa bookstore are included as a reporting gap. UH personnel provided their schedule of "Fiscal Year 2016 Ceded Land Revenue" which detailed the five types of receipts that were attributable to the various campuses. However, due to the limited nature of our procedures, we were unable to determine whether other types of receipts reported for Act 178 purposes were complete and accurate.

UH reported \$3,252,405 pursuant to Act 178 for the fiscal year ended June 30, 2016.

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**S. University of Hawai'i (Continued)**

**Procedures Performed**

*Land Inventory*

We obtained *Attachment 21 to the DLNR Act 178 Report - University of Hawai'i (UH)* ("Attachment 21"). We reconciled the OHA Inventory Report to the parcels reported by UH in Attachment 21. We reconciled the Public Land Trust parcels reported by UH in Attachment 21 to the OHA Inventory Report. To reconcile the land we agreed the TMK numbers, which identify the location of the parcels. We inquired as to the reason for the differences identified and determined receipts attributable in the Summary and Differences for UH section.

*Financial Reporting*

We obtained UH's 2016 Annual Financial Report which included its Consolidated Statement of Revenues, Expenses, and Changes in Net Position for the fiscal year ended June 30, 2016. However, due to the limited scope of our procedures, we were unable to reconcile the schedule of "Fiscal Year 2016 Ceded Land Revenue" to the revenues reported in the audited financial statements. UH personnel provided general ledger reports that supported the amounts reported in their "Fiscal Year 2016 Ceded Land Revenue" schedule.

In addition, we reviewed OHA's listing of revenue gaps which addressed a number of potential reporting omissions. However, there were several potential gaps that were out of our scope. Therefore, the only potential gaps that we were able to investigate were vending receipts generated on UH Mānoa dormitories Hale Laulima and Hale Kahawai, and certain receipts generated at Honolulu and Kapi'olani Community College. Refer to the Summary and Differences for UH section below for the results of our investigation over these potential gaps.

**Summary and Differences for UH**

*Land Inventory*

To reconcile the land we used the TMKs and description of the locations to identify the parcels. We identified 41 Public Land Trust parcels from the OHA Inventory Report that were not included in Attachment 21. To identify the receipts generated from these properties, we provided the OHA Inventory Report to UH and inquired with UH to determine if there was revenue generating activity on these properties during the fiscal year ended June 30, 2016. Using its internal records of properties by TMK and description, UH confirmed that 33 of the parcels did not generate any receipts during the fiscal year ended June 30, 2016. We have listed these 33 parcels in Exhibit 4. For the remaining 8 parcels, UH informed us of unreported receipts which were included in its schedule of "Fiscal Year 2016 Ceded Land Revenue." These parcels were located within the campuses of Windward, Honolulu, and Hawai'i Community Colleges. The unreported receipts within the scope of our review for these campuses include parking permits, fees and fines, bookstore sales of food and beverages, insignia clothing, and sundries & souvenirs, and vending machine sales and commission. These receipts amounted to \$107,621 and are included as Reporting Gaps below.



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**S. University of Hawai'i (Continued)**

*Financial Reporting*

Due to our limited scope, our procedures were primarily based on reviewing the receipts reported in the schedule "Fiscal Year 2016 Ceded Land Revenue". From the procedures performed, we identified a total of \$4,877,171 of Public Land Trust receipts for the fiscal year ended June 30, 2016. UH reported \$3,252,405 in Attachment 21. The difference of \$1,624,766 is attributable in part to the above-mentioned Land Inventory Reporting Gaps. The remaining \$1,517,145 of unreported receipts are related to UH Mānoa bookstore sales and vending machine commissions. We have included these differences by type as Reporting Gaps.

**Office of Hawaiian Affairs  
REPORT ON PUBLIC LAND TRUST RECEIPTS  
Fiscal Year Ended June 30, 2016**

**S. University of Hawai'i (Continued)**

**Reporting Gaps**

**Public Land Trust Receipts**

**As Reported by UH** \$ 3,252,405

**Estimated Reporting Gaps\***

Land Inventory	
Windward Community College	
Bookstore sales	
Insignia clothing	7,004
Food sales	32,269
Sundries and souvenirs	804
Vending machine receipts and commission	30,099
Honolulu Community College	
Parking receipts	32,709
Vending machine receipts and commission	4,348
Hawaii Community College	
Vending machine receipts and commission	388
	<u>107,621</u>
Financial Reporting	
UH Manoa	
Book store sales	
Insignia clothing	1,209,727
Food sales	118,818
Sundries and souvenirs	83,464
Vending machine receipts and commission	105,136
	<u>1,517,145</u>
<b>Total Estimated Reporting Gaps</b>	<u><u>1,624,766</u></u>
<b>Total Estimated Reportable Receipts</b>	<b>\$ <u><u>4,877,171</u></u></b>

\* As noted in the Background section, the scope of our procedures was limited to the following five receipt types: parking receipts; student housing vending machines; faculty housing rent, parking, and vending machines; bookstore receipts for food, sundries & souvenirs, and insignia clothing; and Mauna Kea tour fees. Due to this limited scope, we were unable to perform a full analysis of Land Inventory and Financial Reporting Gaps.

**Office of Hawaiian Affairs**  
**REPORT ON PUBLIC LAND TRUST RECEIPTS**  
**Fiscal Year Ended June 30, 2016**

**S. University of Hawai'i (Continued)**

**Comparison to 2012 Report**

In the 2012 Report on Public Trust Land Receipts, estimated reporting gaps were primarily comprised of the receipts from the UH Hilo campus, including net student tuition and fees. Due to our limited scope, we did not perform procedures related to certain receipts types, including tuition and fees, sales and services of educational departments, and the UH Hilo athletic facility. UH has reported the receipts related to the five types of receipts within our scope for UH Hilo pursuant to Act 178 for the fiscal year ended June 30, 2016. Additionally, OMKM has reported tour fees since the fiscal year ended June 30, 2013.

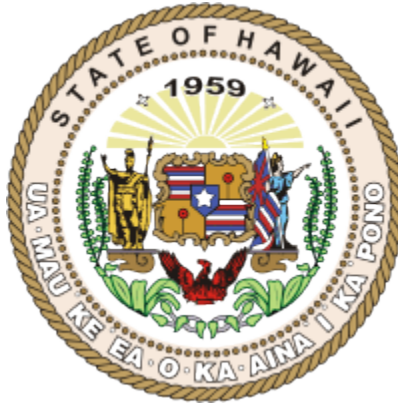
**PART III**  
**EXHIBITS**

**Exhibit 1**

Report to the Twenty-Ninth Legislature

2017 Regular Session

ACCOUNTING OF ALL RECEIPTS FROM LANDS DESCRIBED IN SECTION 5(f) OF THE ADMISSION ACT FOR  
FISCAL YEAR 2015-2016



Prepared by

THE STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

In response to Section 5 of Act 178, Session Laws of Hawaii 2006

Honolulu, Hawaii

November 2016

## Exhibit 1

### ACCOUNTING OF ALL RECEIPTS FROM LANDS DESCRIBED IN SECTION 5(f) OF THE ADMISSION ACT FOR FISCAL YEAR 2015-2016

#### EXECUTIVE SUMMARY

Pursuant to Section 5 of Act 178, Session Laws of Hawaii (SLH) 2006, this report provides an accounting of all receipts from lands described in Section 5(f) of the Admission Act ("ceded lands").

All nineteen (19) agencies that were expected to submit reports for Fiscal Year 2016 did so in a timely manner. All amounts reported as transferred to the Office of Hawaiian Affairs (OHA) by the participating agencies were reconciled against the amounts of transfers on file with the Department of Budget and Finance (B&F). Any discrepancies were explained in the respective agencies' reports.

According to B&F records, the total amount of agency transfers to OHA in the first and fourth quarters of FY 2016 exceeded the guaranteed quarterly payment of \$3.7775 million. However, there were quarterly shortfalls of \$6,997.72 and \$1,111,992.65 in the second and third quarters. The total shortfall of \$1,118,990.37 for these quarters was paid from the B&F's overpayment collections to OHA-Ceded Lands Trust Fund.

Pursuant to Governor's Executive Order 06-06, if the total amount of receipts transferred to OHA exceeds the guaranteed quarterly payment of \$3.775 million, B&F must notify OHA and request that OHA deposit the overpayment by journal voucher into the carry-forward trust holding account established by the Director of Finance, B&F. Details regarding agency transfers and deposits into the aforementioned carry-forward trust holding account can be found on the attached "FY 16 OHA Payments" report submitted by B&F.

## Exhibit 1

### BACKGROUND

This report is prepared pursuant to Section 5 of Act 178, SLH 2006, which calls for the Department of Land and Natural Resources (DLNR) to provide an accounting of all receipts from lands described in section 5(f) of the Admission Act, for the prior FY.

Section 5 of Act 178, SLH 2006, states:

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

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

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

## Exhibit 1

### METHODOLOGY

As in previous years, agencies submitted their data to DLNR in Excel spreadsheet format. Agency reports were checked for total gross amount, amount transferred to OHA, and amount retained by the State.

If a report did not contain this data, or if the total transfer amount on the spreadsheet did not agree with the transfer amount as reported by B&F, DLNR staff contacted the agency representative for clarification, correction or resubmission of the report. Explanations for any transfer discrepancies were noted by the agencies on the agencies' respective reports.

DLNR also compiled a table identifying parcels that were sold or exchanged during this reporting period. (These transactions are already included and identified in the agency revenue reports, but are separately reported for convenience.)

Data was compiled and summarized on the attached Attachment 1, "Summary of Receipts from Lands Described in Section 5(f) of the Admission Act by Department, for FY 2015-2016." Responsibility for the accuracy of the data rests with the agencies. Verifying the accuracy of individual transactions and confirming the trust land status for individual parcels are beyond the scope of the tasks prescribed in Act 178, SLH 2006.

The following agencies submitted revenue reports for FY 2016:

- Accounting and General Services (DAGS)
  - Automotive Management and Parking Control
- Agriculture (DOA)
  - Agribusiness Development Corporation (ADC)
  - Agricultural Resource Management (ARM)
- Business, Economic Development, and Tourism (DBEDT)
  - Foreign Trade Zone (FTZ)
  - Hawaii Community Development Authority (HCDA)
  - Hawaii Housing Finance and Development Corporation (HHFDC)
  - Natural Energy Laboratory of Hawaii Authority (NELHA)
- Defense (DOD)
- Education (DOE)
- Health (DOH)
  - Hawaii Health Systems Corporation (HHSC)
- Human Services (DHS)
  - Hawaii Public Housing Authority (HPHA)
- Land and Natural Resources (DLNR)
  - Boating and Ocean Recreation (DOBOR)
  - Forestry and Wildlife (DOFAW)
  - Land Division (LD)
  - State Parks (SP)



## Exhibit 1

- Transportation (DOT)
  - Airports Division (DOTA)
  - Harbors Division (HAR)
  - Highways Division (HWY)
- University of Hawaii (UH)

**Exhibit 2**  
**List of Prior Reports relating to Public Land Trust Receipts**

1. A Report to the Office of Hawaiian Affairs on the Accuracy and Completeness of a Report by the Department of Land and Natural Resources to the Hawaii State Legislature on Public Trust Land Receipts for the Fiscal Year Ended June 30, 2012  
KMH LLP, October 2014
2. Office of Hawaiian Affairs  
A Report on Ceded Lands, for Fiscal Year 2003 and 2004  
Deloitte & Touche LLP, February 26, 2005
3. Office of Hawaiian Affairs  
A Report on Ceded Lands, for Fiscal Year 1998 to 2002  
Deloitte & Touche LLP, October 24, 2003
4. Office of Hawaiian Affairs  
A Report on Ceded Lands, for the Period Year 1981 through 1991  
Deloitte & Touche LLP, December 15, 1992
5. Office of Hawaiian Affairs  
A Report on Ceded Lands, for the Period Year 1981 through 1989  
Deloitte & Touche LLP, January 24, 1992
6. A Report on the Ceded Land Revenues for 1981 through 1989  
Ernst & Young LLP, February 1991
7. Final Report on the Public Land Trust, A Report to the Legislature of the State of Hawai'i  
Office of the Legislature Auditor, December 1986

**Exhibit 3**  
**Summary of Work Performed and Issues Reported**

Agency	DAGS AMD	DAGS Other Divisions	DOA ARM	DOA ADC
<b>I. Land Identification</b>				
A. Was DLNR the source of the agency's Public Land Trust inventory?	Yes	N/A. Other Divisions of DAGS do not report receipts.	Yes	Yes
B. Did the agency provide a complete listing of its Public Land Trust inventory that generated receipts?	No, Parking Lots F, B, C, O, and Z-2 were not reported.	No information was provided related to PLT receipts.	No, three irrigation systems were not reported.	No, Waiāhole Water System receipts were not reported.
C. Was the tax map key used to identify the agency's Public Land Trust parcels in the agency's Act 178 report? If No, provide explanation.	Yes	N/A	Yes	Yes
<b>II. Reporting</b>				
A. Method of Reporting (Receipts or Revenue)	Receipts	N/A	Receipts	Receipts
B. Was the reporting period FYE June 30, 2016? If not, list	Yes	Yes	Yes	Yes
C. Source of Supporting Information for Reported Receipts				
1) Audited Financial Statements	Yes	Yes	No	No
2) Datamart Revenue Download	No	No	Yes	Yes
3) Supporting Schedule or Trial Balance	Yes	No	No	No
4) Act 178 Report Supporting Schedule	Yes	No	Yes	Yes
D. Were actual receipts reported by the agency? (i.e., not estimated amounts)	No, AMD estimates using the ratio of PLT stalls to total stalls.	No receipts were reported.	Yes	Yes
E. Were unreported receipts identified? If so, what was the cause?	Yes. Parking fines and certain other parking receipts were unreported. In addition, some parking receipts were underreported.	Yes. DAGS Other Divisions do not report. Therefore, all PLT receipts are unreported.	Yes. We identified unreported receipts from the Waimea Irrigation System and Water Utilization Project, Waimānalo Irrigation System, and the Moloka'i Irrigation Tunnel System.	Yes. We identified unreported receipts from the Waiāhole Water System and interest.
F. If unreported receipts were identified, was the actual amount determined?	No, the estimated reporting gaps are based on the ratio of PLT stalls to total stalls for the respective unreported parking lots and fines.	No, an estimate of approximately 1.25% of the Aloha Stadium land is PLT. This percentage was applied to the revenue reported in the audited financial statements of the Stadium Authority.	Yes	Yes
<b>III. Reporting Gaps</b>				
Land Inventory Related	81,098	85,051	973,756	1,256,783
Financial Reporting Related	(5,696)	--	115,125	8,018
Total	75,402	85,051	1,088,881	1,264,801

**Exhibit 3**  
**Summary of Work Performed and Issues Reported**

Agency	DBEDT FTZ9	DBEDT HCDA	DBEDT HHFDC	DBEDT NELHA
<b>I. Land Identification</b>				
A. Was DLNR the source of the agency's Public Land Trust inventory?	Yes	Yes	Yes	Yes
B. Did the agency provide a complete listing of its Public Land Trust inventory that generated receipts?	No, FTZ did not report receipts generated from Pier 2.	No, HCDA did not report receipts from parking Lot C.	Yes	Yes
C. Was the tax map key used to identify the agency's Public Trust Land in the agency's Act 178 report? If No, provide explanation.	Yes	Yes	Yes	Yes
<b>II. Reporting</b>				
A. Method of Reporting (Receipts or Revenue)	Receipts	Receipts	Revenue	Receipts
B. Was the reporting period FYE June 30, 2016? If not, list	Yes	Yes	Yes	Yes
<b>C. Source of Supporting Information for Reported Receipts</b>				
1) Audited Financial Statements	No	Yes	Yes	No
2) Datamart Revenue Download	Yes	Yes	No	No
3) Supporting Schedule or Trial Balance	No	Yes	Yes	Yes
4) Act 178 Report Supporting Schedule	Yes	No	No	Yes
D. Were actual receipts reported by the agency? (i.e., not estimated amounts)	Yes	Yes	Yes	Yes
E. Were unreported receipts identified? If so, what was the cause?	Yes. FTZ9 has the understanding that the trust land status of Pier 2 is 5(a). However, SLIMS still classifies Pier 2 as 5(b).	Yes. HCDA noted that receipts from parking Lot C were not reported for Act 178 due to clerical oversight.	Yes. While HHFDC listed all parcels of land subject to reporting under Act 178, unreported receipts were identified.	Yes. Unreported receipt types were as follows: Reimbursements, royalties, and interest.
F. If unreported receipts were found, was the actual amount determined?	Yes	No, July - Aug 2015 receipts estimated.	Yes	Yes
<b>III. Reporting Gaps</b>				
Land Inventory Related	2,025,670	219,127	--	--
Financial Reporting Related	--	--	42,516	2,568,878
Total	2,025,670	219,127	42,516	2,568,878

**Exhibit 3**  
**Summary of Work Performed and Issues Reported**

Agency	DOD	DOE	DOH	DOH HHSC
<b>I. Land Identification</b>				
A. Was DLNR the source of the agency's Public Land Trust inventory?	Yes	No. DOE uses a listing of schools and property.	N/A. DOH does not report receipts.	Yes
B. Did the agency provide a complete listing of its Public Land Trust inventory that generated receipts?	Yes	No. DOE reported only receipts from the Public School System (excluding receipts from the Honokaa Teacher Cottage site and Lahainaluna). The Library System and Public Charter Schools were not reported.	No. No information was provided related to PLT receipts.	No. HHSC did not include Hale Ho'ola Hamakua in its Act 178 Report.
C. Was the tax map key used to identify the agency's Public Trust Land in the agency's Act 178 report? If No, provide explanation.	Yes	No. DOE's listing of school and properties identifies schools by name and number.	N/A	Yes
<b>II. Reporting</b>				
A. Method of Reporting (Receipts or Revenue)	Receipts	Receipts	Receipts	Revenue
B. Was the reporting period FYE June 30, 2016? If not, list	No, June 30, 2015.	Yes	Yes	Yes
<b>C. Source of Supporting Information for Reported Receipts</b>				
1) Audited Financial Statements	No	Yes	Yes	Yes
2) Datamart Revenue Download	No	No	No	No
3) Supporting Schedule or Trial Balance	Yes	Yes	No	Yes
4) Act 178 Report Supporting Schedule	Yes	Yes	No	Yes
D. Were actual receipts reported by the agency? (i.e., not estimated amounts)	Yes	No. DOE uses previously determined PLT percentages for each school district to estimate receipts.	No receipts were reported.	No. Receipts are estimated at 99.43% of gross receipts.
E. Were unreported receipts identified? If so, what was the cause?	Yes. DOD mistakenly reported receipts for the fiscal year ended June 30, 2015.	Yes. In addition to not reporting receipts noted above related to Land Inventory, DOE also did not report certain receipts related to facilities use.	No information was provided related to PLT receipts.	Yes. In addition to not reporting receipts noted above related to Land Inventory, HHSC did not report patient service receipts and interest and dividend income for all locations.
F. If unreported receipts were found, was the actual amount determined?	Yes	No. The gross receipts were identified, however the amount noted as Public Land Trust receipts is based on the previously determined percentage used by DOE. In addition, receipts from the Honokaa Teacher Cottage site are also estimated.	N/A	No. PLT receipts are based on an estimate of 99.43% of gross receipts. In addition, receipts have been applied on a pro-rata basis of PLT land to total land for Hale Ho'ola Hamakua (55.04%) and Maluhia (6.28%).
<b>III. Reporting Gaps</b>				
Land Inventory Related	--	396,024	N/A, no information was provided.	125,669
Financial Reporting Related	54,562	6,292	N/A, no information was provided.	210,097,179
Total	54,562	402,316	N/A, no information was provided.	210,222,848

**Exhibit 3**  
**Summary of Work Performed and Issues Reported**

Agency	DHS HPHA	DLNR DOBOR	DLNR DOFAW	DLNR Land Division
<b>I. Land Identification</b>				
A. Was DLNR the source of the agency's Public Land Trust inventory?	Yes	Yes	Yes	Yes
B. Did the agency provide a complete listing of its Public Land Trust inventory that generated receipts?	Yes	No. DOBOR did not include Waikiki, Wailoa Boat Harbor, Keauhou Boat Harbor, Pohoiki Ramp, Port Allen Boat Ramp, Hanalei Boat Harbor, and Waikaea Canal Ramp.	Yes	Yes
C. Was the tax map key used to identify the agency's Public Trust Land in the agency's Act 178 report? If No, provide explanation.	Yes	Yes	No, Appropriation and Source Code	No, Appropriation and Source Code
<b>II. Reporting</b>				
A. Method of Reporting (Receipts or Revenue)	Receipts	Receipts	Receipts	Receipts
B. Was the reporting period FYE June 30, 2016? If not, list	Yes	Yes	Yes	Yes
<b>C. Source of Supporting Information for Reported Receipts</b>				
1) Audited Financial Statements	Yes	No	No	No
2) Datamart Revenue Download	No	No	No	No
3) Supporting Schedule or Trial Balance	Yes	Yes	Yes	Yes
4) Act 178 Report Supporting Schedule	No	Yes	Yes	Yes
D. Were actual receipts reported by the agency? (i.e., not estimated amounts)	Yes	Yes	Yes	Yes
E. Were unreported receipts identified? If so, what was the cause?	Yes, HPHA did not report receipts for tenant repair and maintenance charges, excess electricity charges, and pet charges.	Yes. In addition to not reporting Land Inventory parcels above, DOBOR did not report receipts related to business transfer fees, offshore property management fees, parking meter collections, water service fees, and damages to property. In addition, certain types of receipts reported were underreported.	Yes. DOFAW did not report the following receipts: Sales to Green Energy Biomass, seedling sales, Tradewinds Hawaiian Hardwood lease rent, investment pool interest, and Wildlife Revolving Fund (WRF) receipts.	Yes, Land Division excluded investment pool interest, fines for non-conformance, water permit fee revenue. In addition, certain rentals and sales were underreported.
F. If unreported receipts were found, was the actual amount determined?	Yes	No, all receipts from Keahou and Port Allen Harbors reported because PLT percentage is not known.	Partially. PLT receipts from the WRF are based on an estimated 48.51% based on the proportion of PLT land.	Yes
<b>III. Reporting Gaps</b>				
Land Inventory Related	--	848,358	--	--
Financial Reporting Related	40,895	2,272,107	512,192	143,648
Total	40,895	3,120,465	512,192	143,648

**Exhibit 3**  
**Summary of Work Performed and Issues Reported**

Agency	DLNR State Parks	DOT Airports	DOT Harbors	DOT Highways
<b>I. Land Identification</b>				
A. Was DLNR the source of the agency's Public Land Trust inventory?	Yes	No, maps were prepared by Airports Engineering Group.	No, percentages attributed to information from 1986 Legislative Auditor's report.	Yes
B. Did the agency provide a complete listing of its Public Land Trust inventory that generated receipts?	No, did not include Makena State Park.	Yes	Yes	No. We identified receipts from rentals that were unreported.
C. Was the tax map key used to identify the agency's Public Trust Land in the agency's Act 178 report? If No, provide explanation.	No, Appropriation and Source Code.	No, proration of PLT acreage by total acreage or location description.	No, based on Harbors' identification by location.	Yes
<b>II. Reporting</b>				
A. Method of Reporting (Receipts or Revenue)	Receipts	Receipts	Receipts	Receipts
B. Was the reporting period FYE June 30, 2016? If not, list	Yes	Yes	Yes	Yes
<b>C. Source of Supporting Information for Reported Receipts</b>				
1) Audited Financial Statements	No	Yes	Yes	Yes
2) Datamart Revenue Download	No	No	No	Yes
3) Supporting Schedule or Trial Balance	Yes	Yes	Yes	Yes
4) Act 178 Report Supporting Schedule	Yes	Yes	Yes	Yes
D. Were actual receipts reported by the agency? (i.e., not estimated amounts)	Yes	Yes	No. Public Land Trust receipts are estimated using previously determined percentages that have been embedded within Harbors' accounting system.	Yes
E. Were unreported receipts identified? If so, what was the cause?	Yes. In addition to not reporting Makena State Park, State Parks did not report receipts from investment pool interest and water service fees.	No	Yes. Cash receipts from "wharfage domestic in", "wharfage domestic out", and "passenger fees" were excluded for Hilo Pier 1 and Pier 2.	Yes. Highways reported all cash receipts from remnant sales. However, receipts from rentals were not reported.
F. If unreported receipts were found, was the actual amount determined?	Yes	N/A	No, unreported revenue was estimated based on the information provided.	Yes
<b>III. Reporting Gaps</b>				
Land Inventory Related	--	--	--	--
Financial Reporting Related	13,227	--	3,236,591	217,751
Total	13,227	--	3,236,591	217,751

**Exhibit 3**  
**Summary of Work Performed and Issues Reported**

Agency	UH
<b>I. Land Identification</b>	
A. Was DLNR the source of the agency's Public Land Trust inventory?	Yes
B. Did the agency provide a complete listing of its Public Land Trust inventory that generated receipts?	No. Unreported receipts from Windward Community College, Honolulu Community College, and Hawaii Community College were identified. PLT inventory limited by agreement.
C. Was the tax map key used to identify the agency's Public Trust Land in the agency's Act 178 report? If No, provide explanation.	Yes
<b>II. Reporting</b>	
A. Method of Reporting (Receipts or Revenue)	Receipts
B. Was the reporting period FYE June 30, 2016? If not, list	Yes
C. Source of Supporting Information for Reported Receipts	
1) Audited Financial Statements	Yes
2) Datamart Revenue Download	No
3) Supporting Schedule or Trial Balance	Yes
4) Act 178 Report Supporting Schedule	Yes
D. Were actual receipts reported by the agency? (i.e., not estimated amounts)	Yes
E. Were unreported receipts identified? If so, what was the cause?	Yes. In addition to not reporting receipts noted above related to Land Inventory, receipts from the UH Manoa bookstore from insignia clothing, food sales, and sundries and souvenirs were excluded. In addition, UH Manoa vending machine receipts and commissions were excluded.
F. If unreported receipts were found, was the actual amount determined?	No. Actual amount of all gaps was not determined due to the limited scope of our procedures; however, the actual amount was determined for revenue sources within the scope of our procedures.
<b>III. Reporting Gaps</b>	
Land Inventory Related	107,621
Financial Reporting Related	1,517,145
Total	1,624,766



**Exhibit 4**  
**Schedule of Non-Receipt Generating Public Land Trust Land by Agency**

**Background**

This section lists the unreported parcels from the respective agencies which were identified in the OHA Inventory Report but did not generate receipts in the fiscal year ended June 30, 2016. This section is provided as additional information. Act 178 does not require reporting of Public Land Trust land for which no receipts are recorded.

Note 1: Trust Land Status is the property attribute that indicates whether a parcel is classified as Public Land Trust land - 5(b), 5(e), PL-88-233, or Multiple.

Note 2: Parcels with receipts that were subsequently identified (as noted in the Estimated Reporting Gaps) are not included in this listing.

<u>Tax Map Key</u>	<u>Trust Land Status</u>	<u>Other Identifier</u>
<b>Department of Accounting and General Services (DAGS)</b>		
1 (1) 1-1-064:025-0000	5(e)	Central Services - furniture storage building, administration office, maintenance storage building, grounds maintenance building, federal surplus warehouse, records/archive storage
2 (1) 1-6-009:007-0000	5(b)	Hawaii State Senior Center
3 (1) 1-6-015:069-0000	5(b)	Puea (Kapalama) Cemetery
4 (1) 2-1-002:012-0000	5(b)	Kam V Building - Post Office
5 (1) 2-4-031:001-0000	5(b)	Makiki Cemetery
6 (1) 7-6-001:007-0000	5(e)	Wahiawa Community Center
7 (1) 8-5-028:040-0000	5(e)	Waianae Multi-Service Center
8 (1) 8-5-028:041-0000	5(e)	Waianae Civic Center
9 (1) 9-7-022:001-0000	5(b)	Multi-Agency
10 (1) 9-9-012:006-0000	5(b)	Aiea Cemetery
11 (2) 4-5-021:016-0000	5(b)	Lahaina Civic Center - Lahaina District Court
12 (2) 5-3-005:012-0000	5(b)	Kaunakakai Civic Center
13 (3) 2-1-012:009-0000	5(b)	Dags Waiakea / Hilo Baseyard
14 (3) 2-3-005:004-0000	5(b)	Kulana Naauao (State Tax Office Building)
(3) 4-5-006:003-0000	5(b)	Hamakua Civic Center Aka Honokaa Civic Center: Honokaa State Office Building, Department Of Health Building, Honokaa Health Lab Office, Hamakua (Honokaa) District Court, Hamakua (Honokaa) State Office Building #2
15		
16 (3) 4-5-021:001-0000	5(b)	Honokaa Maintenance Facility
17 (3) 5-5-011:007-0000	5(b)	Kohala Office/Workshop
18 (3) 6-7-002:025	5(b)	
19 (3) 9-5-021:010-0000	5(b)	Naalehu State Building
20 (4) 3-6-002:005-0000	5(b)	(Old) Lihue Police Station
21 (4) 3-8-005:025-0000	5(b)	DOH Vector Control Bldg. & Plant Industry

**Exhibit 4**  
**Schedule of Non-Receipt Generating Public Land Trust Land by Agency**

<u>Tax Map Key</u>	<u>Trust Land Status</u>	<u>Other Identifier</u>
<b>Agricultural Resources Management (ARM)</b>		
1	(1) 4-1-010:001-0000	5(b) Maunawili Reservoir
2	(1) 4-1-010:002-0000	5(b) Maunawili Reservoir
3	(1) 4-1-010:027-0000	5(b) Maunawili Reservoir
4	(1) 4-1-010:046-0000	5(b) Agriculture Purposes
5	(1) 4-1-010:092-0000	5(b) Maunawili Reservoir
6	(1) 4-1-025:022-0000	5(b) Agriculture Purposes
7	(1) 4-1-025:023-0000	5(b) Agriculture Purposes
8	(1) 4-1-026:018-0000	5(b) Agriculture Purposes
9	(1) 4-1-027:002-0000	5(b) Agriculture Purposes
10	(1) 8-5-006:004-0000	5(b) Waianae Agricultural Park
11	(1) 8-5-034:001-0000	5(b) Waianae Agricultural Park
12	(1) 8-5-034:002-0000	5(b) Waianae Agricultural Park
13	(1) 8-5-034:006-0000	5(b) Waianae Agricultural Park
14	(1) 8-5-034:013-0000	5(b) Waianae Agricultural Park
15	(1) 8-5-034:016-0000	5(b) Waianae Agricultural Park
16	(2) 1-3-004:020-0000	5(b) Agriculture Purposes
17	(2) 5-2-001:007-0000	5(b) Agriculture Purposes
18	(3) 1-2-006:015-0000	5(b) Agriculture Purposes
19	(3) 1-2-006:016-0000	5(b) Agriculture Purposes
20	(3) 1-5-116:001-0000	5(b) Pahoia Agricultural Park, Phases I and II
21	(3) 1-5-116:003-0000	5(b) Pahoia Agricultural Park, Phases I and II
22	(3) 1-5-116:012-0000	5(b) Pahoia Agricultural Park, Phases I and II
23	(3) 1-5-116:013-0000	5(b) Pahoia Agricultural Park, Phases I and II
24	(3) 1-5-116:015-0000	5(b) Pahoia Agricultural Park, Phases I and II
25	(3) 1-5-116:018-0000	5(b) Pahoia Agricultural Park, Phases I and II
26	(3) 1-5-116:019-B	5(b) Pahoia Agricultural Park, Phases I and II
27	(3) 1-5-116:031-0000	5(b) Pahoia Agricultural Park, Phases I and II
28	(3) 1-5-116:049-0000	5(b) Pahoia Agricultural Park, Phases I and II
29	(3) 1-5-116:050-0000	5(b) Pahoia Agricultural Park, Phases I and II
30	(3) 1-5-116:052-0000	5(b) Pahoia Agricultural Park, Phases I and II
31	(3) 1-5-116:055-0000	5(b) Pahoia Agricultural Park, Phases I and II
32	(3) 2-4-049:024-0000	5(b) Agriculture Purposes
33	(3) 2-4-049:027-0000	5(b) Agriculture Purposes
34	(3) 2-4-049:028-0000	5(b) Agriculture Purposes
35	(3) 4-7-004:009-0000	5(b) Agriculture Purposes
36	(3) 5-5-007:005-0000	5(b) Agriculture Purposes
37	(4) 1-2-016:003-0000	5(b) Kekaha Agricultural Park
38	(4) 1-2-016:020-0000	5(b) Kekaha Agricultural Park
39	(4) 1-9-002:001-0000	5(b) Agriculture Purposes
40	(4) 1-9-002:013-0000	5(b) Agriculture Purposes
41	(4) 1-9-002:020-0000	5(b) Agriculture Purposes
42	(4) 1-9-002:045-0000	5(b) Agriculture Purposes
43	(4) 4-3-004:009-0000	5(b) Agriculture Purposes
44	(4) 4-3-004:014-0000	5(b) Agriculture Purposes
45	(4) 4-3-004:017-0000	5(b) Agriculture Purposes

**Exhibit 4**  
**Schedule of Non-Receipt Generating Public Land Trust Land by Agency**

<u>Tax Map Key</u>	<u>Trust Land Status</u>	<u>Other Identifier</u>
<b>Agribusiness Development Corporation (ADC)</b>		
1 (4) 1-4-001:002-0000	5(b)	Puu Lua Reservoir
2 (4) 1-4-001:various	5(b)	Kekaha/Kokee Ditch
3 (4) 1-5-001:various	5(b)	Kekaha/Kokee Ditch
<b>Hawaii Community Development Authority (HCDA)</b>		
1 (1) 2-1-058:001	5(b)	Kewalo Basin Park
2 (1) 2-1-058:043-0000	5(b)	Charter Boat Building
3 (1) 2-1-058:062	5(b)	Kewalo Basin Park Comfort Station
4 (1) 2-1-058:064	5(b)	Kewalo Basin Former NOAA Lot
5 (1) 2-1-058:070	5(b)	Kewalo Basin Park Comfort Station
6 (1) 2-1-058:075	5(b)	Kewalo Basin Park Comfort Station
7 (1) 2-1-058:076	5(b)	Kewalo Basin Park Comfort Station
8 (1) 2-1-058:087	5(b)	Kewalo Basin Park Comfort Station
9 (1) 2-1-058:098	5(b)	Kewalo Basin Park Comfort Station
10 (1) 2-1-058:104	5(b)	Kewalo Basin Ice House
<b>Hawaii Housing Finance and Development (HHFDC)</b>		
1 (1) 3-8-011:003-0000	5(b)	Kuliouou Remnant Lot
2 (1) 4-1-008:086-0000	5(b)	
3 (1) 4-1-008:087-0000	5(b)	
4 (1) 4-1-008:088-0000	5(b)	
5 (1) 4-1-008:089-0000	5(b)	
6 (1) 4-1-009:048-0000	5(b)	
7 (1) 4-1-032:126	5(b)	
<b>Natural Energy Laboratory of Hawaii (NELHA)</b>		
1 (3) 7-3-043:085-0000	5(b)	
2 (3) 7-3-043:091-0000	5(b)	
<b>Department of Defense (DOD)</b>		
1 (1) 3-1-042:006-0000	5(b)	Diamond Head (Ft. Ruger)
<b>Department of Education (DOE)</b>		
1 (3) 8-7-005:009-0000	5(b)	Alae School
2 (3) 2-9-002:005-0000	5(b)	Hakalau Elementary & Intermediate
3 (2) 1-1-008:020-0000	5(b)	Kearnae Elementary
4 (4) 1-3-002:001-0000	5(b)	Kekaha Elementary
<b>Department of Health (DOH)</b>		
1 (3) 4-5-006:003	5(b)	
2 (4) 4-6-014:030	5(b)	

**Exhibit 4**  
**Schedule of Non-Receipt Generating Public Land Trust Land by Agency**

<u>Tax Map Key</u>	<u>Trust Land Status</u>	<u>Other Identifier</u>
<b>Boating and Ocean Recreation (DOBOR)</b>		
1 (1) 2-3-037:013-0000	5(b)	Ala Wai Harbor
2 (1) 2-3-037:020-0000	5(b)	Ala Wai Harbor
3 (1) 5-2-005:003-A	5(b)	Kahana Bay Ramp
4 (1) 8-5-001:062	5(b)	Pokai Bay anchorage
5 (2) 1-1-003:087-0000	5(b)	Keanae Ramp
6 (2) 1-4-004:036-0000	5(b)	Hana Ramp
7 (2) 5-7-007:064	5(b)	Pukoo anchorage
8 (3) 8-6-011 (UPDATED)	5(b)	Kauhako Landing (Hookena Ramp)
9 (3) 8-9-004:019-0000	5(b)	Milolii Landing
10 (3) 8-2-004	5(b)	Napo'opo'o Landing
11 (3) 9-5-014:049	5(b)	Honopua Pier
12 (1) Oahu	Cannot Determine	Kaneohe Bay Offshore Mooring Areas
13 (2) Molokai	Cannot Determine	Hale o Lono Harbor
14 (3) Hawaii Island	Cannot Determine	Kauhako (Hookena Ramp)
15 (4) Kauai	Cannot Determine	Anini Ramp
16 (4) Kauai	Cannot Determine	Hanalei Offshore Mooring Area and Pier
<b>Forestry and Wildlife (DOFAW)</b>		
1 (2) 2-4-013:004	5(b)	fgl5490
2 (2) 2-4-013:053	5(b)	fgl5490
<b>Land Division (LD)</b>		
1 (1) 1-5-020:015	Undetermined	
2 (1) 2-4-033:033	No Status	
3 (1) 2-8-029:015	No Status	
4 (1) 3-8-003:027	No Status	
5 (1) 1-3-008:005	No Status	C&C Honolulu
6 (1) 4-5-006:054	5(b)	
7 (1) 4-5-037:060	No Status	
8 (1) 4-5-037:064	No Status	
9 (1) 6-2-003:040	No Status	
10 (1) 8-5-001:004	No Status	
11 (1) 8-5-024:130	5(b)	
12 (1) 8-5-028:038	5(b)	
13 (1) 8-6-002:004	No Status	
14 (1) 9-3-001:022	No Status	
15 (2) 4-5-021:003	5(b)	
16 (2) 4-5-021:021	5(b)	
17 (3) 2-2-004:002	No Status	
18 (3) 2-2-006:001	No Status	
19 (3) 6-5-005:022	5(b)	
20 (4) 2-8-018:021	No Status	
21 (4) 3-9-006:027	5(b)	
22 (4) 4-5-012:039	No Status	

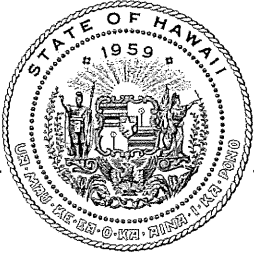
**Exhibit 4**  
**Schedule of Non-Receipt Generating Public Land Trust Land by Agency**

<u>Tax Map Key</u>	<u>Trust Land Status</u>	<u>Other Identifier</u>
<b>State Parks (SP)</b>		
1 (1) 2-1-025:002-0000	5(b)	'Iolani Palace State Monument
2 (1) 2-2-021:012-0000	5(b)	Royal Mausoleum State Monument
3 (1) 2-5-020:003	5(b)	Mana Maoli/ Halau ku Mana
4 (1) 2-5-020:004	5(b)	Mana Maoli/ Halau ku Mana
5 (1) 2-5-020:005-0000	5(b)	Makiki Valley State Park
6 (1) 2-5-020:008	5(b)	Mana Maoli/ Halau ku Mana
7 (1) 3-4-010:003-0000	5(b)	Wa'ahila Ridge State Recreation Area
8 (1) 5-9-005:068-0000	5(b)	Pu'u O Mahuka Heiau State Monument
9 (1) 5-9-006:003-0000	5(b)	Pupukea-Paumalu State Park Reserve
10 (1) 5-9-006:007-0000	5(b)	Pupukea-Paumalu State Park Reserve
11 (1) 6-9-001:030-0000	PL-88-233	Kaena PT State Park ADON (Wailua)
12 (1) 8-1-001:007-0000	5(b)	Ka'ena Point State Park
13 (1) 8-1-001:008-0000	5(b)	Ka'ena Point State Park
14 (1) 8-1-001:018-0000	5(b)	Ka'ena Point State Park
15 (1) 9-9-012:046-0000	5(b)	Rainbow Bay State Park
16 (1) 9-9-012:047-0000	5(b)	Rainbow Bay State Park
17 (2) 1-3-006:009-0000	5(b)	Wai'anapanapa State Park
18 (2) 2-1-006:027-0000	5(b)	Mākena State Park
19 (2) 2-1-006:031-0000	5(b)	Mākena State Park
20 (2) 2-1-006:032-0000	5(b)	Mākena State Park
21 (2) 2-1-006:081-0000	5(b)	Mākena State Park
22 (3) 1-3-007:026-0000	5(b)	MacKenzie State Recreation Area
23 (3) 1-4-001:004-0000	5(b)	Lava Tree State Monument
24 (3) 1-4-001:012-0000	5(b)	Lava Tree State Monument
25 (3) 2-3-027:001-0000	5(b)	Wailuku River State Park
26 (3) 4-4-016:003	5(b)	Mauna Kea State Recreation Area
27 (3) 5-7-001:022-0000	5(b)	Lapakahi State Historical Park
28 (3) 7-2-004:003-0000	5(b)	Kekaha Kai (Kona Coast) State Park
29 (3) 7-2-004:017-0000	5(b)	Kekaha Kai (Kona Coast) State Park
30 (3) 7-2-004:019-0000	5(b)	Kekaha Kai (Kona Coast) State Park
31 (3) 7-2-005:002-0000	5(b)	Kekaha Kai (Kona Coast) State Park
32 (4) 1-4-003:003	5(b)	Na Pali Kona Forest Reserve
33 (4) 1-6-007:001-0000	5(b)	Waimea State Recreational Pier
34 (4) 2-4-004:005-0000	5(b)	Papapaholahola Park Site
35 (4) 2-4-004:049-0000	5(b)	Papapaholahola Park Site
36 (4) 3-7-002:011-0000	5(b)	Ahukini State Recreational Pier
37 (4) 5-9-001:022-0000	5(b)	Hā'ena State Park

**Exhibit 4**  
**Schedule of Non-Receipt Generating Public Land Trust Land by Agency**

<u>Tax Map Key</u>	<u>Trust Land Status</u>	<u>Other Identifier</u>
<b>University of Hawaii (UH)</b>		
1 (1) 2-8-026:034-0000	5(b)	
2 (1) 3-1-042:011-0000	5(b)	Cannon Club (9/1/04 - 8/31/69)
3 (1) 3-1-042:020-0000	5(b)	Fort Ruger Chapel
4 (1) 4-1-026:001-0000	5(b)	Waimanalo Research Station
5 (1) 4-1-026:002-0000	5(b)	Waimanalo Research Station
6 (1) 4-1-026:021-0000	5(b)	Waimanalo Research Station
7 (1) 4-5-023:002	5(b)	Law Library Microfilm Consortium
8 (1) 4-6-001:015-0000	5(b)	HIMB (Coconut Island) [main island] (UHF lease) HIMB Coconut Island (peripheral & submerged lands)
9 (1) 4-6-001:051-0000	5(b)	
10 (1) 5-8-001:007-0000	5(b)	Waialeale Livestock Research Station (CTAHR)
11 (1) 5-8-001:013-0000	5(b)	Waialeale Livestock Research Station (CTAHR)
12 (1) 5-8-001:055-0000	5(b)	Waialeale Livestock Research Station (CTAHR)
13 (1) 6-5-001:011-0000	5(b)	Poamoho Farm (CTAHR)
14 (2) 2-2-007:008-0000	5(b)	Maui IFA Observatory/Offices (Haleakala)[portion leased to USAF]
15 (2) 2-4-013:035-0000	5(b)	Haleakala Research Station (CTAHR)
16 (3) 1-3-007:031-0000	5(b)	Malama-Ki Research Station
17 (3) 1-9-001:029-0000	5(b)	Volcano Research Station
18 (3) 2-1-009:001-0000	5(b)	Pacific Aquaculture & Coastal Research
19 (3) 2-1-009:041-0000	5(b)	Pacific Aquaculture & Coastal Research
20 (3) 2-1-011:004-0000	5(b)	Pacific Aquaculture & Coastal Research
21 (3) 2-2-056:056-0000	5(b)	Panaewa Agricultural Park
22 (3) 2-4-001:041-0000	5(b)	UHH Ag Complex/CTAHR
23 (3) 2-4-001:122-0000	5(b)	UH Hilo Expansion (includes Parcel 12)
24 (3) 2-4-001:162-0000	5(b)	Subleased to Adult Student Housing
25 (3) 2-4-001:163-0000	5(b)	Subleased to Adult Student Housing
26 (3) 2-4-071:023-0000	5(b)	
27 (3) 4-3-010:007-0000	5(b)	Hamakua Agriculture Experiment Station (CTAHR)
28 (3) 4-4-015:001-0000	5(b)	Mld-level facilities (Hale Pohaku) [IFA]
29 (3) 6-4-003:016-0000	5(b)	Mealani Agricultural Experiment Station
30 (3) 6-4-003:097-0000	5(b)	Mealani Agricultural Experiment Station
31 (4) 4-1-001:017-0000	5(b)	Wailua Research Station (CTAHR)
32 (4) 4-1-009:002-0000	5(b)	Wailua Research Station (CTAHR)
33 (4) 4-2-001:005-0000	5(b)	Kauai Agricultural Experiment Station (CTAHR) [reverter clause]

**PART IV**  
**AGENCY RESPONSE**



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355  
Fax: (808) 586-2377

DTS 2017 1108 0847MA

November 13, 2017

Mr. Charles T. Goodin, CPA  
Senior Manager, Assurance Services Division  
N&K CPAs, Inc.  
ASB Tower, Suite 1700  
1001 Bishop Street  
Honolulu, Hawaii 96813

Dear Mr. Goodin:

Subject: DBEDT/Foreign-Trade Zone Response to the N&K CPAs Inc. Report  
on Public Land Trust Receipts for FY Ended June 30, 2016

In response to the N&K CPAs Inc. Public Land Trust Report it conducted on behalf of the State of Hawaii, Office of Hawaiian Affairs (OHA), the Foreign-Trade Zone (FTZ) Division of the Department of Business, Economic Development, and Tourism (DBEDT) agrees in part and disagrees in part with the report.

DBEDT agrees with the findings with regard to the FTZ Hilo, Hawaii, facility which the FTZ Division manages and maintains. The Foreign-Trade Zone Division collects and dutifully pays the appropriate share of revenues from the Hilo facility to the State of Hawaii, Office of Hawaiian Affairs.

DBEDT strongly disagrees with your findings that the Pier 2 land status is classified as 5(b) ceded lands in the SLIMS database and therefore subject to the OHA 20 percent revenue assessment.

DBEDT/Foreign-Trade Zone has rebutted this claim in the past, presenting evidence to the contrary on multiple occasions, including the 1991 memo sent from Foreign-Trade Zone Business Manager, Roy Tsumoto, to Program Administrator, Homer A. Maxey, stating that Hawaii Office of Planning head, Mr. Ted Nakata, made a final determination during an inquiry as to the status of the Pier 2 Diamond Head Terminal, stating that the terminal which houses the Foreign-Trade Zone facilities were in fact 5(a) lands.

Further, in a 2002 transmittal from Foreign-Trade Zone Administrator Mark Anderson to the State Office of the Auditor, documents were provided relating to the Public Land Trust



Mr. Charles T. Goodin, CPA  
Page 2  
November 13, 2017

Revenue Analysis which specifically show that the A-16 State Harbor Parcels, which envelops the FTZ Pier 2 facility and property, were designated as 5(a).

Additionally, a request was made from the Foreign-Trade Zone in 2014 to the State Office of Planning (OP) seeking confirmation of the Pier 2 PLT status. Then Acting Director, Leo Asuncion, stated that OP's research on the request shows their records listing the property as 5(a).

It is also important to note the assertion that the Foreign-Trade Zone Pier 2 property is subject to the OHA assessment has been solely based on the information contained in the PLTIS (SLIMS) database. It is general knowledge that this database currently contains multiple data and informational errors. This is clear to the point that even the database log-in contains a caveat in a pop-up menu, stating:

*The content within the PLTIS, including maps and data, is provided "as-is" and may not have been prepared for legal, engineering, or surveying purposes. The content within the PLTIS has been collected from multiple city, county, and state sources, and the source data may contain errors. Users of this content should consult the primary data sources to ascertain the accuracy and usability of the data provided within. In no event will the State of Hawaii or its officers or employees be liable for any losses or damages that might arise from the use of the content. The State of Hawaii explicitly disclaims any representations and warranties as to the accuracy, timeliness, or completeness of the contentment within the PLTIS.*

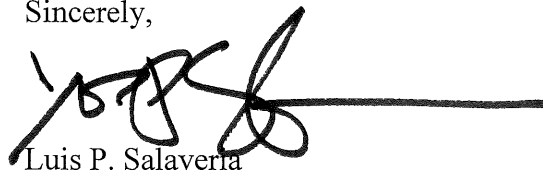
The user must acknowledge this statement prior to use of the system.

DBEDT also disagrees with N&K CPAs, Inc.'s finding that there are gaps or discrepancies in the reporting of receipts related to the Foreign-Trade Zone's Pier 2 operations.

In summary, DBEDT agrees with the report's findings for the FTZ Hilo facility. However, DBEDT disagrees that the FTZ Pier 2 property is 5(b) Ceded Lands. Further, DBEDT disagrees that there are reporting gaps and failure to report receipts for the Honolulu FTZ Pier 2 operations.

Thank you for the opportunity to respond to the subject report.

Sincerely,



Luis P. Salaveria

**SB-2021-HD-1**

Submitted on: 4/2/2022 9:19:21 PM

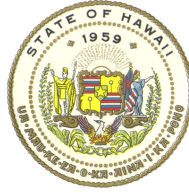
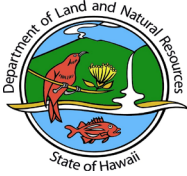
Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Suzanne D. Case	DLNR	Oppose	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
FINANCE**

**Monday, April 4, 2022  
2:30 PM**

**State Capitol, Conference Room 308, Via Videoconference**

**In consideration of  
SENATE BILL 2021, SENATE DRAFT 1, HOUSE DRAFT 1  
RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF  
HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST**

Senate Bill 2021, Senate Draft 1, House Draft 1 proposes to establish the Office of Hawaiian Affairs' (OHA) pro rata share of the moneys derived from the Public Land Trust; and transfer funds from the carry forward trust holding account to OHA. **The Department of Land and Natural Resources (Department) opposes this measure but supports limiting OHA's share to "net receipts".**

First, the Department does not believe funds were "misallocated, underreported, or underpaid" to OHA. All payments to OHA were made as required by law. However, this measure estimates an annual pro rata share of approximately \$78.9 million. According to the bill, this amount is based on 20% of estimated ceded land revenues of \$394,322,163 for Fiscal Year 2015-2016 as determined by a financial review conducted by OHA. From the Department's annual report accounting of all receipts from ceded lands submitted to the Legislature, gross receipts from ceded lands totaled \$177,617,893.09 in Fiscal Year 2015-2016. Given the extreme disparity between the two totals, the Department questions the purported amount used by OHA. Furthermore, as the Department generates a significant portion of total ceded land revenues, this measure would have a catastrophic impact on the Department if it is responsible for covering the shortfall in the fixed annual payments.

The Department opposes paying OHA any additional funds above the fixed annual payment of \$15.1 million, established by legislative mandate via Act 178, Session Laws of Hawaii 2006. If the Department were obligated to pay additional revenue to OHA it would abrogate the Department's ability to adequately fund its natural, cultural, historical and recreational resource management and protection programs. In addition, the severe detrimental economic impact resulting from the ongoing COVID pandemic either already has significantly constrained, or will

**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

significantly constrain the ability of state agencies, including the Department, to generate income from the public land trust, further diminishing natural and cultural resource protection.

Additionally, the Department opposes this measure's attempt to expand the scope of revenues subject to transfer to OHA, and notes that this is inconsistent with Article XII, Section 6 of the Hawaii State Constitution and Section 10-3, Hawaii Revised Statutes. These long-standing authorities limit the scope of revenues transferred to OHA as those resulting from sales, leases and other dispositions of ceded lands. The measure expands this scope to also include revenues from permitted uses or activities that are situated upon and results from the actual use of lands comprising the public land trust, which may include any penalties or levies exacted as a result of a violation of the terms of any proprietary disposition.<sup>1</sup> The Department believes that in addition to increasing the potential shortfall in payments owed to OHA, this would create significant ambiguity and potential conflict in determining what is actually owed to OHA.

The Department supports the amendment to the measure that limits pro rata share proceeds to the net receipts of public land trust revenues that includes required debt service payments, operation and maintenance costs for public housing projects, and costs for supplies, materials equipment, and personnel. The Department further believes that excluding revenues from net receipts that are otherwise precluded by federal law is appropriate.

The revenues collected by the Department's Land Division cover the entire annual operating budget for the Land Division, the Department's Office of Conservation and Coastal Lands, and the Dam Safety and Mineral Resources Programs of the Department. The revenues fund over 80 Department staff positions, including 5 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. It is also fair for OHA to share in the sacrifice made by the State and its citizens during this time, especially when other critical public services could still face potentially severe budget reductions given the ongoing economic uncertainty.

Thank you for the opportunity to comment on this measure.

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<sup>1</sup> The Department notes that this definition of revenue is consistent with the terms of Act 304, Session Laws of Hawaii 1990. However, Act 304 was effectively repealed by the Hawaii Supreme Court in *Office of Hawaiian Affairs v. State* (2001).

**SB-2021-HD-1**

Submitted on: 4/2/2022 9:25:48 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kevin Moore	DLNR	Oppose	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.



**Committee on Finance**  
**April 4, 2022**  
**SB2021 SD1 HD1**

**Amendments.** OHA proposes amendments to SB2021 SD 1 HD1, as follows:

1. **Delete Section 2 in its Entirety and Remove All language Referring to Net Receipts.** OHA STRONGLY OPPOSES any amendments to the language of HRS §10-13.5, from 20% of gross receipts to 20% of “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT would be dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians.
2. **Establish a New Interim Annual Sum.** Establish \$21.5 million as an interim annual sum adjusted annually for consumer price index, as the OHA's annual share of the income and proceeds of the public land trust beginning July 1, 2022.
3. **Release the CFTHA.** Transfer to the OHA the balance of funds contained in the CFTHA as of June 30, 2022, projected to be approximately \$31,000,000, established by the Director of Finance, pursuant to Executive Order 06-06.
4. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act.
5. **Establish a Working Group.** Establish a working group comprised of three members appointed by the governor and three members appointed by the OHA Board of Trustees to:
  - i. Account for all ceded lands in the PLT trust inventory;
  - ii. Account for all income and proceeds from the PLT;
  - iii. Transfer the full twenty percent (20%) pro rata share on income and proceeds from the PLT trust annually to OHA for the betterment of the conditions of Native Hawaiians; and
  - iv. Determine the past due sum due to OHA for the period from July 1, 2012 and June 30, 2022.

**Claims.** Nothing in this Act shall resolve or settle, or be deemed to acknowledge the existence of, the claims of native Hawaiians to the income and proceeds of a pro rata portion of the public land trust under article XII, section 6 of the Hawai’i State Constitution.

OHA acknowledges that currently there are areas of disagreement with what is rightfully owed. We believe that in the short term, to modestly increase a 16-year-old “interim” number to reflect inflation is fair, and to release the money from the CFTHA is fair and just. Creating a working group provides a process and is a step toward resolving some of those areas of disagreement, as we seek to hold the state accountable for its trust obligations to Native Hawaiians.

Mahalo for this opportunity to testify and comment with clarifying amendments on this important measure.

DAVID Y. IGE  
Governor

JOSH GREEN  
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER  
Chairperson, Board of Agriculture

MORRIS M. ATTA  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE COMMITTEE ON FINANCE**

**APRIL 4, 2022  
2:30 P.M.**

**CONFERENCE ROOM 308 & VIA VIDEOCONFERENCE**

**SENATE BILL NO. 2021, SD1, HD1  
RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF  
HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST**

Chairperson Luke and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2021, SD1, HD1. This measure establishes the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust and transfers moneys to the Office of Hawaiian Affairs for income and proceeds due from the use of the public land trust lands between July 1, 2012, and June 30, 2022, that was misallocated, underreported, or underpaid to the Office of Hawaiian Affairs. The Department offers comments and concerns regarding this bill.

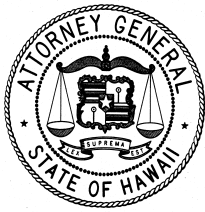
The Department respectfully requests that the required minimum transfer amount language on page 10, SECTION 4 be removed. Should gross revenues decline, due to vacancies or late payments, the minimum transfer amount would exceed the 20% pro rata share of actual receipts. Requiring transfer of such fixed amounts creates an adverse impact to the Department and places a hardship on our programs. The Department understands that this SD1, HD1 obligates the Department of Budget and Finance to make up any shortfall, however, we are very concerned that the obligation could likely be met by passing on the shortfall to the departments by way of additional





charges, fees, or mandatory contributions that could seriously debilitate our ability to perform our core functions and mission.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2022**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2021, S.D. 1, H.D. 1, RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Monday, April 4, 2022 **TIME:** 2:30 p.m.

**LOCATION:** State Capitol, Room 308 and Via Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Craig Y. Iha, Deputy Attorney General

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Chair Luke and Members of the Committee:

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

This bill establishes twenty percent of the net receipts from the public land trust, or \$15,100,000, whichever is greater, as the Office of Hawaiian Affairs' (OHA) annual share of the income and proceeds of the public land trust beginning in fiscal year 2022-2023. In this regard, the bill requires state departments and agencies that collect receipts from the use of lands described in article XII, section 4, of the Hawai'i Constitution, to transfer twenty percent of net receipts to the Office of Hawaiian Affairs (OHA) or \$3,775,000, whichever is greater, on a quarterly basis. The bill also requires the Department of Budget and Finance (B&F) to transfer to OHA all funds in the carry-forward trust holding account established under Executive Order No. 06-06 (EO 06-06) as of an unspecified date.

Article XII, section 4, of the Hawai'i State Constitution provides:

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

Article XII, section 4, of the Hawai'i State Constitution only refers to and describes the land to be held as a "public trust for native Hawaiians and the general public," *i.e.*, the Government and Crown lands that the Republic of Hawai'i seized upon the overthrow of the Hawaiian Kingdom, and later ceded to the United States upon annexation in 1898. *See Office of Hawaiian Affairs v. State*, 96 Hawai'i 388, 389-90 (2001). These lands comprise the corpus of what is commonly referred to as the "public land trust." Section 4 does not refer to the income, proceeds, or receipts collected from those lands, nor does it direct the State to transfer a share, or any portion of the income, proceeds, or receipts from those lands to OHA.

Section 5(f) of the Admission Act, however, does require these lands, and the income and proceeds from these lands, to be used only for one of five purposes: (1) public schools and other public educational institutions; (2) the betterment of the conditions of native Hawaiians; (3) the development of farm and home ownership; (4) the making of public improvements; and (5) the provision of lands for public use.

Article XII, section 6, of the Hawai'i State Constitution designates OHA as the receiving agency for all of the pro rata portion of receipts that go toward the betterment of the conditions of native Hawaiians:

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

However, the Hawai'i State Constitution does not specify the amount, percentage, or nature of the income or proceeds from the lands referred to in article XII, section 4, of the Hawai'i State Constitution that must be transferred to OHA. In fact, both the Hawai'i State Constitution and section 5(f) of the Admission Act are silent on how receipts from the public land trust must or should be apportioned to support any of the five trust purposes. And, the Hawai'i Supreme Court has held that the Legislature determines how the State satisfies the provisions of article XII, section 6. *See, e.g., Office of Hawaiian Affairs v. Yamasaki*, 69 Haw. 154 (1987).

In 2006, the Legislature enacted Act 178, Session Laws of Hawaii 2006 (Act 178), as an interim measure to set the annual amount of OHA's pro rata share of income and proceeds from the lands of the public land trust. It set the amount at \$15.1 million annually, to be disbursed in quarterly payments of \$3.775 million and until modified by further legislation. As section 3 of Act 178 directs, Governor Lingle issued EO 06-06 to outline how each and every applicable agency was to transfer its portion of the quarterly payments of \$3.775 million to OHA. EO 06-06 also established a carry-forward trust holding account, not to override, but to accomplish the Legislature's determination of OHA's pro rata share of receipts.

Under current law, OHA is entitled to annual transfers of \$15,100,000 from the income and proceeds of the public lands trust. See Act 178. Because the State has met this requirement, the State has not underpaid on any legally mandated obligations.

While the Legislature has sole authority to determine OHA's pro rata portion, care must be taken so that the other beneficiaries of the public land trust are treated fairly. See Restatement (Second) of Trusts § 183 (1959) ("When there are two or more beneficiaries of a trust, the trustee is under a duty to deal impartially with them"). Care should also be taken to not impede the State's ability to use funds from the public land trust to accomplish the four other purposes of section 5(f) of the Admission Act.

Finally, regarding the transfer of funds from the carry-forward trust holding account required by section 5 of this bill, it is important to note that Act 178 did not prescribe or require the account to be established or for the funds in excess of \$15.1 million each fiscal year to be transferred to OHA. Because Act 178 requires OHA to receive \$3.775 million after the end of each fiscal quarter, for a total of \$15.1 million each fiscal year, the Director of Finance established the holding account (with the Governor's approval) as a reserve account to make up any shortfall in the \$3,775,000 quarterly payments. While the Legislature has the authority to order the funds to be transferred to OHA, Act 178 does not entitle OHA to these funds.

We also note that the carryover trust holding account only contains funds that have been returned by OHA that exceeded the \$3,775,000 quarterly transfer amount.

We therefore recommend that the Committee amend section 5 of the bill to read as follows:

There is appropriated out of the carry-forward trust holding account established by the director of finance, pursuant to executive order 06-06, the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2022-2023 [~~to pay to the office of Hawaiian affairs amounts received from the public land trust between July 1, 2012, through June 30, 2022~~].

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

Thank you for the opportunity to provide these comments.

**SB-2021-HD-1**

Submitted on: 4/4/2022 9:48:35 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brian Kau	DOA - Agricultural Resource Management Division	Comments	Remotely Via Zoom

Comments:

Available for questions, if necessary.



ESTHER KIA'ĀINA  
VICE CHAIR  
HONOLULU CITY COUNCIL, DISTRICT 3  
Email: ekiaaina@honolulu.gov  
Telephone: (808) 768-5003

April 3, 2022

Aloha Chair Luke, Vice Chair Yamashita, and members of the House Committee on Finance:

As Vice Chair of the Honolulu City Council, mahalo for the opportunity to provide **comments** and share concerns on the current draft of **SB2021 SD1 HD1**. I have significant concerns over the measure's proposed amendment to HRS 10-13.5, which would set the Office of Hawaiian Affairs's pro rata share of the public land trust as 20% of the net receipts from the Public Land Trust or \$15.1 million from the trust, whichever is greater.

The Hawai'i Admissions 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 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. Prior to the 1978 constitutional amendments, no public land trust revenue was set aside specifically for native Hawaiians. The delegates to the Constitutional Convention created the Office of Hawaiian Affairs to specifically address this disparity, and for OHA to manage and expend funds set aside for the betterment of native Hawaiians, which OHA does through their grant programs and other services and programs.

OHA and the State should build upon past agreements, not nullify them. SB2021 SD1 HD1's proposed amendment to replace "all funds derived" with "net receipts" in HRS 10-13.5, would upend and throw out years of agreements between OHA and the State of Hawai'i regarding what revenues should be subject to OHA's, and therefore native Hawaiians', share of the public land trust. The applicability of OHA's pro rata share to gross receipts, not net receipts, is the long standing policy of the State. To instead apply OHA's pro rata share to net receipts, would allow the State to exclude substantial revenue streams. It would also ignore the substantial give and take made by both OHA and the State in its agreements that were embodied in Act 304 (1990) over three decades ago, including OHA's agreement to forego claims to sovereign revenue.<sup>1</sup>

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<sup>1</sup> Sovereign revenues include income, proceeds, fees, charges, or other moneys derived from the exercise of sovereign functions and powers of entities operating on public trust lands, including taxes; regulatory or licensing fees; fines, penalties, or levies;

I respectfully urge you to delete net receipts and restore “all funds derived” in HRS 10-13.5, and if these changes are not made, **HOLD** the bill. Not doing so would call into question the State’s constitutional commitments to the Native Hawaiian people.

Thank you for your consideration of my testimony on this important matter.

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registration fees; moneys received by any public educational institution, including the University of Hawai’i, and the community college system, from its educational programs and ancillary services, such as tuition, registration fees, meals, books, grants, or scholarships; interagency and intra-agency administrative fees or assessments; moneys derived from or provided in support of penal institutions and programs; grants, carry-overs, and pass-throughs; federal moneys, including federal-aid, grants, subsidies, and contracts; moneys collected from the sale or dissemination of government publications; and department of defense proceeds on state-improved lands. 1990 Haw. Sess. Laws 949.



Center for Hawaiian Sovereignty Studies  
46-255 Kahuhipa St. Suite 1205  
Kane'ohe, HI 96744  
(808) 247-7942  
Kenneth R. Conklin, Ph.D. Executive Director  
e-mail [Ken\\_Conklin@yahoo.com](mailto:Ken_Conklin@yahoo.com)  
Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON FINANCE

For hearing Monday, April 4, 2022

Re: SB2021 SD1 HD1

RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST. Establishes the office of Hawaiian affairs' pro rata share of the moneys derived from the public land trust. Transfers funds from the carry-forward trust holding account to OHA. Effective 7/1/2050. (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 40 years of bitter controversy and litigation. Act 273 (1980) 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. The legislature often raids special funds such as the Highway fund or Hurricane Relief fund to balance the budget or transfer to other departments, so why should OHA be treated any differently?

7. Whatever dollar amount will be specified in this bill for future annual payments 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. It is not in the Statehood Admissions Act nor in the State Constitution. Therefore, this law can be amended by the legislature at any time to reduce the percentage; or the law can be rescinded entirely.

At this time of severe budget crisis, 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.

According to OHA's latest annual report, on June 30, 2021 OHA had assets of \$764,820,000. 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."

According to its annual report for 2020, OHA currently has over \$666 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. Whatever dollar amount will be specified in this bill for future annual payments 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.

In year 2019 the first draft of HB402, a bill comparable to this one, 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 that bill would transfer to the Office of Hawaiian affairs a sum of \$139,000,000 to pay OHA 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 unsupportable 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.





April 1, 2022

Committee on Finance

Aloha Chair Luke and Vice Chair Yamashita,

Please accept the following testimony from our organization in opposition to SB 2021 SD1, HD 1.

We request the following amendments should your committee be inclined to pass this bill.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** OHA STRONGLY OPPOSES any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
- 3.
4. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;
5. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
6. **Establish a Working Group.** Establish a State of Hawai'i/OHA working group as a reasonable first step toward resolving the disputed areas.

Mahalo for your consideration of our testimony

Me ka pono,

Makaala Kaaumoana

Vice Chair

Hui Ho'omalulu i ka 'Aina is a taro root organization founded in the early 1980's by traditional practitioners of moku Halele'a to address threats and impacts to the natural and cultural resources of Kaua'i. Founded by farmers and fishermen, weavers and hunters, we seek to provide context for issues related to the ecology of our ahupua'a. The organization is an active advocate for those native things and ways that are disappearing. We are not a nonprofit, we are an activist organization. We do not whine and wait, we act.

**SB-2021-HD-1**

Submitted on: 4/1/2022 6:50:19 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lu Ann Faborito	Makaha Hawaiian Civic Club	Support	Written Testimony Only

Comments:

Makaha Hawaiian Civic club stands in strong support if the above measure as OHA is in dire need of the funding due to continue and & improve services to Native Hawaiian beneficiares.



# KE ONE O KĀKUHHEWA

O'ahu Council of the  
Association of Hawaiian Civic Clubs

Hawai'i State Legislature  
House of Representatives  
Committee on Finance

*Pō'akahi, Apelila 4, 2022*  
*Lumi 'Aha Kūkā 308*  
*Ke Kapikala Moku'āina*  
415 South Beretānia Street

RE: SB 2021 SD1 HD1: RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

*Aloha Luna Ho'omalua* Sylvia Luke, *Hope Luna Ho'omalua* Kyle Yamashita, and members of the House Committee on Finance:

Ke One O Kākuhihewa-O'ahu Council for the Association of Hawaiian Civic Clubs (Council) offers the following comments on SB 2021 SD1 HD1 which establishes the Office of Hawaiian Affairs' (OHA) pro rata share of the moneys derived from the public land trust and transfers funds from the carryforward trust holding account to OHA.

The Council is opposed to any changes to HRS 10-13.5 which designates 20% of all funds from the Public Lands Trust (PLT) as OHA's pro-rata share. We also oppose transferring only the "net" income to OHA, which conflicts with HRS 10-13.5.

The Council supports an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022. And we support the release the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA. Additionally, the Council supports the continued transfer of receipts and payments and the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds.

Mahalo for allowing, O'ahu Council to offer its comments on SB 2021 SD1 HD1.

*Ke One O Kakūhihewa-O'ahu Council of the Association of Hawaiian Civic Clubs, is a native Hawaiian organization made up of 24 Hawaiian 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 Kealiikiamoku Pang, President

**Kūpuna for the Mo'opuna**  
*committed to the well-being of Hawai'i for the next generations to come*  
kupuna4moopuna@gmail.com



**SB2021, SD1, HD1** - RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

Committee on Finance 4-4-2022 @2:30 pm

**COMMENTS**

We, Kūpuna for the Mo'opuna, submit these **COMMENTS on SB 2021, SD1, HD1 in the form of important amendments to make this bill pono.**

- 1. Delete Section 2 in its Entirety and Remove All Language Referring to "Net" Receipts.** We STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to "net" receipts.
- 2. Establish New Interim Annual Sum.** We SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
- 3. Release the Carry Forward Trust Holding Account.** We SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
- 4. Continue Annual Accounting.** We SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
- 5. Establish a Working Group.** We SUPPORT the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

Kūpuna for the Mo'opuna  
Pana'ewa, Hawai'i



***Ua mau ke ea o ka 'āina i ka pono!***



## House Committee on Finance

Monday, April 4th, 2022 2:30 p.m., Conference Room 308

### HAPA Submitting Comments: SB2021 SD1 HD1

Aloha Chair Luke, Vice Chair Yamashita and Members of the Committee,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting testimony providing comments on SB2021 SD1 HD1.

SB2021 SD1 HD1 establishes the office of Hawaiian affairs' pro rata share of the money derived from the public land trust. Transfers funds from the carry-forward trust holding account to OHA.

HAPA strongly support any changes to Hawai'i Revised Statutes 10-13.5, which has always been 20% of all funds derived from the PLT as OHA's pro-rata share. We also oppose transferring only the "net" income to OHA, which is not 20% of all funds derived.

While we support an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022 and the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA.

HAPA also supports the continued transfer of receipts and payments and the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

We strongly believe the State of Hawai'i must fulfill its constitutional obligation to Native Hawaiians.

Thank you for this opportunity to testify and provide these comments.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Anne Frederick', is written above the typed name.

Anne Frederick  
Executive Director

DEMOCRATIC PARTY OF HAWAII

HAWAIIAN AFFAIRS CAUCUS

COMMENTS ON

SB 2021 SD1 HD1: RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE  
OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

COMMITTEE ON FINANCE

Monday, April 4, 2:30 p.m., Conf Rm 308 & Video

RE: SB 2021 SD1 HD1: RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE  
OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

*Aloha Luna Ho'omalua* Sylvia Luke, *Hope Luna Ho'omalua* Kyle Yamashita, and members of the House Committee on Finance,

The Executive Committee of the Hawaiian Affairs Caucus of the Democratic Party of Hawai'i (Caucus) offers its comments on SB 2021 SD1 HD1 which establishes the Office of Hawaiian Affairs' (OHA) pro rata share of the moneys derived from the public land trust and transfers funds from the carryforward trust holding account to OHA.

The Hawaiian Affairs Caucus is opposed to any changes to HRS 10-13.5 which designates 20% of all funds from the Public Lands Trust (PLT) as OHA's pro-rata share. We also oppose transferring only the "net" income to OHA, which conflicts with HRS 10-13.5.

Our Caucus supports an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022. And we support the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA. Additionally, the Caucus supports the continued transfer of receipts and payments and the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds.

Mahalo for allowing the Hawaiian Affairs Caucus Executive Committee to offer its comments on SB 2021 SD1 HD1.

Respectfully,

/s/ Juanita Mahienaena Brown Kawamoto, Chair

**Native Hawaiian & Pacific Islander  
HAWAI'I COVID-19 TEAM**  
Response. Recovery. Resilience.



**In SUPPORT of SB 2021 SD1 HD1, “RELATING TO  
INCREASING THE PAYMENT AMOUNT FOR THE  
OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE  
OF THE PUBLIC LAND TRUST.”**

House Committee on Finance  
Chair Luke and Vice Chair Yamashita  
April 4, 2022 at 2:30PM  
CR308 & Via Video Conference

Aloha Chair Luke, Vice Chair Yamashita, and Members of the House Committee on Finance,

As a coalition of Native Hawaiian and Pacific Islander organizations, the Native Hawaiian & Pacific Islander COVID-19 Hawai'i Response, Recovery, and Resilience (NHPI 3R) Team provides the following **COMMENTS** regarding SB 2021 SD1 HD1 to increase the pro rata share of the Public Land Trust received by the Office of Hawaiian Affairs (OHA).

The following comments are amendment suggestions for SB2021:

- 1. Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** This section amends to HRS §10-13.5, which has always been 20% of gross receipts, to be a new calculation of “net” receipts. This change to “net” receipts reduces the 20% pro rata share of all funds derived from the PLT. The intent of this measure should be to correct the past shortages and ensure OHA receives the appropriate pro rata share, not recalculate what that share is. This correction is in alignment with the State’s trust obligation to Native Hawaiians.
- 2. Establish New Interim Annual Sum.** We support an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
- 3. Release the Carry Forward Trust Holding Account.** We support the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
- 4. Continue Annual Accounting.** We support requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
- 5. Establish a Working Group.** We support the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

The pro rata share funds that OHA receives are used for the betterment of the conditions of Native Hawaiians, and ultimately reach beyond to benefit intersecting communities in the State of Hawai'i as well. Independent audits and State review have demonstrated that OHA has not received appropriate funding despite continued advocacy efforts and independent reviews. OHA’s work to provide resources to the Native Hawaiian people is more needed than ever, and should receive full and fair funding from the State of Hawai'i. OHA has supported COVID-19

response efforts for NHPs during the pandemic, and prior to that, provided other grant programs and support to various community efforts throughout the State. This demonstrated record of commitment to community builds confidence that correcting the pro rata share will benefit the public and increase equity.

Mahalo for the opportunity to provide testimony. The NHP 3R Team can be contacted via email at [nhpicovid@papaolalokahi.org](mailto:nhpicovid@papaolalokahi.org).

Respectfully,



Sheri Daniels, Native Hawaiian Co-Lead



Josie Howard, Pacific Islander Co-Lead



Joseph Keawe'aimoku Kaholokula, Native Hawaiian Co-Lead



Felea'i Tau, Pacific Islander Co-Lead





## Environmental Caucus of The Democratic Party of Hawai'i

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To: The Honorable Sylvia Luke, Chair  
The Honorable Kyle T. Yamashita, Vice Chair  
Committee on Finance

Re: **SB 3004 SD 1 HD 1– RELATING TO COMPOSTING**

Hearing: Monday, April 4, 2022, 2:30 p.m., Conference Room 308 and  
Via Videoconference

Position: **Strong support**

Aloha, Chair Luke, Vice Chair Yamashita, and Members of the Committee on Finance:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SB 2021 SD 1 HD1. This measure would establish the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust. This measure would also transfer funds from the carry-forward trust holding account to OHA.

Pursuant to the Hawaii State Constitution, the Legislature must enact legislation that upholds its trust obligations and duty of care to native Hawaiians to address injustices against native Hawaiians derived from, among other things, the illegal overthrow of the Kingdom of Hawaii, and the transfer of approximately 1.8M acres of crown, government, and public lands to the U.S. under the 1898 Joint Resolution of Annexation without the consent of and without compensation to the native Hawaiian people or their sovereign government. As the result, the State must now: (1) account for all ceded lands tin the public lands trust inventory; (2) account for all income and proceeds derived from the public land trust; and (3) transfer the full twenty per cent pro rata share of income and proceeds from the public land trust annually to the OHA for the betterment of the conditions of native Hawaiians.

The Environmental Caucus of the Democratic Party of Hawai'i strongly supports SB 2021 SD1 HD 1as it would establish the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust and would also transfer funds from the carry-forward trust holding account to OHA.

Please pass this measure.

Mahalo for the opportunity to testify,

*Melodie Akopy*

Co-Chair, Environmental Caucus of the Democratic Party of Hawai'i



# Kamehameha Schools®

House Committee on Finance

Time: 2:30 p.m.  
Date: April 4, 2022  
Where: Conference Room 308

## TESTIMONY

by Kau‘i Burgess

Director of Community & Government Relations

RE: **SB2021, SD1, HD1 – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS’ PRO RATA SHARE OF THE PUBLIC LAND TRUST**

E ka Luna Ho‘omaluku, ka Hope Luna Ho‘omaluku Yamashita, a me nā Lālā o ke Kōmike, aloha!

Kamehameha Schools submits **COMMENTS on SB2021, SD1, HD1**, which establishes the Office of Hawaiian Affairs’ (OHA) pro rata share of the moneys derived from the public land trust (PLT) and transfers funds from the carry forward trust holding account to OHA.

We strongly believe that the Office of Hawaiian Affairs should receive twenty percent of all funds derived from the PLT, as the Legislature previously established.

We ask that this committee ho‘oponopono (fix) the language in SB2021, SD1, HD1, using the requested amendments listed, below:

**Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** We oppose amending HRS 10-13.5 to determine this amount based on the “net receipts.” This amendment goes against all historical and legal precedent and intent to dedicate a portion of PLT revenues specifically for the betterment of the Native Hawaiian people. It would obstruct justice and the State’s fulfillment of its trust obligation owed to the Native Hawaiian people, as set out in the Admission Act and State Constitution;

**Establish a New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for the consumer price index, as OHA’s interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

**Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;

**Continue Annual Accounting.** Require the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and

**Establish a Working Group.** We further support the creation of a State of Hawai'i/OHA working group, as was originally proposed in SB2021.

In conclusion, Kamehameha Schools urges the committee to move this bill forward **with the requested amendments stated above.**

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.

**Hānai i ke keiki, ola ka lāhui. *Nurture the child and the people thrive.***



*Ko`olau Foundation*

P. O. Box 4749  
Kane`ohe, HI 96744  
malamaono744@aol.com

April 4, 2022

To: Rep. Sylvia Luke, Chair  
Rep. Kyle Yamashita, Vice Chair  
Members, House Committee on Finance

From: Mahealani Cypher  
Ko`olau Foundation

Subject: Concerns/Comments – S.B. 2021, S.B. 1, H.D. 1 – Public Land Trust Changes

Aloha Luke, Vice Chair Yamashita, and Committee Members:

The Ko`olau Foundation sends our aloha to you all, but we offer our following concerns regarding proposed changes in Senate Bill 2021, S.B. 1, H.D. 1, which affects the pro rata share of revenues given to the Office of Hawaiian Affairs for the Public Land Trust.

Our Foundation is dedicated to the preservation of Hawaiian history, traditional practices, cultural landscapes and Hawaiian values. We are supportive of OHA's efforts to advocate for the Native Hawaiian people, and are deeply troubled by some of the changes suggested in this legislation. We offer the following comments:

- 1) We oppose section 2 in its entirety, and ask that you remove all language referring to "Net" receipts. To do so seriously reduces what funding would be allotted to OHA and, in doing so, adversely impacts all Native Hawaiian people. This year, the legislature is considering a proposal to provide \$600 million in funding to the Department of Hawaiian Homelands, which addresses the serious shortfall in the State's obligation to Hawaiians 50% or more on the waiting list. However, here, you suggest reducing the State's obligation to all other Hawaiians which, in fact, are the majority of Hawaiian people who are less than 50% in blood quantum.
- 2) We support an interim increase of \$21.5 million, adjusted for inflation, as OHA's interim annual share of the income and proceeds of the Public Land Trust beginning July 1, 2022.
- 3) We support the releases of the Carry Forward Trust Holding Account funds of about \$31 million to the Office of Hawaiian Affairs.
- 4) We support requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act.
- 5) Finally, we support establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the Public Land Trust lands and income and proceeds due.

Mahalo for your consideration of our concerns, and urge that you make the recommended changes.

**SB-2021-HD-1**

Submitted on: 4/4/2022 12:52:18 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kehaulani Lum	Ali`i Pauahi Hawaiian Civic Club	Support	Written Testimony Only

Comments:

Aloha mai kākou,

My name is Kehaulani Lum, and I am the President of the Ali`i Pauahi Hawaiian Civic Club. I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT). APHCC supports 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** We STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** We SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** We SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** We SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** We SUPPORT the establishment of a Working Group to resolve the State of Hawai`i/OHA dispute regarding the PLT lands and income and proceeds due.

Mahalo nui loa for your serious consideration,

Kehaulani Lum

President, Ali`i Pauahi Hawaiian Civic Club

**SB-2021-HD-1**

Submitted on: 4/1/2022 10:55:07 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Shaylyn Kimura	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT [beginning July 1, 2022](#);
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity and I implore you to do what is Pono.

**SB-2021-HD-1**

Submitted on: 4/1/2022 11:09:22 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Amber Kalua	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Mahalo for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/1/2022 11:13:29 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Matthew K. Ing	Individual	Comments	Written Testimony Only

Comments:

Aloha esteemed committee members,

I write with comments to amend SB 2021.

While I support the intent of HD1 to increase the pro rata share of income and proceeds of the PLT, I believe the edits that have been made to the bill need to be corrected so as not to further disenfranchise Native Hawaiians from resources promised to them.

I strongly oppose language in the bill that would amend Hawai‘i Revised Statutes §10-10.13.5 *Use of Public Land Trust Proceeds* and change OHA’s annual share of the income and proceeds of the PLT from:

- 20% of **gross** receipts from the PLT to
- 20% of “**net** receipts or \$15.1 million whichever is greater.”

This redefinition, especially this arbitrary cap, seeks to limit the agreement by arbitrary terms at a level that would not fully support the intent of the Public Lands Trust obligation to Native Hawaiians. A \$15.1 million cap is a slap in the face to the hundreds of thousands of Hawaiians who have been systemically oppressed by trauma (land dispossession, economic instability, National conflict) inflicted upon their ancestors by the State.

I support OHA's proposal to amend HD1 as follows:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** OHA STRONGLY OPPOSES any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;



4. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** Establish a State of Hawai'i/OHA working group as a reasonable first step toward resolving the disputed areas.

**Claims.** Nothing in the HD1 amendments resolves or settles, or acknowledges the existence of, the claims of Native Hawaiians to the income and proceeds of a pro-rata portion of the PLT under article XII, section 6 of the Hawai'i State Constitution.

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Mahalo nui for your consideration, and for carrying forward the State's fiduciary duty's to ensure Native Hawaiian rehabilitation through the use of "Public Lands" Trust Funds.

Me ke aloha,

Matthew Kaulana Ing

Native Hawaiian

Resident, Mililani, Oahu

**SB-2021-HD-1**

Submitted on: 4/1/2022 11:41:17 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Katrina Oliveira	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/1/2022 12:01:50 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marie Lum	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting my testimony on S.B. 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and in support of 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians.

1. I STRONGLY OPPOSE any changes to Hawai'i Revised Statutes 10-13.5, which has always been 20% of all funds derived from the PLT as OHA's pro-rata share.
2. I STRONGLY OPPOSE transferring only the "net" income to OHA, which is not 20% of all funds derived.
3. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
4. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
5. I SUPPORT the continued transfer of receipts and payments and the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

Please make this situation pono. The State of Hawai'i must fulfill its constitutional obligation to Native Hawaiians.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/1/2022 12:24:57 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ralph Hasegawa	Individual	Oppose	Written Testimony Only

Comments:

I propose to amend as follows:

**proposes that HD1 be amended as follows:**

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;
4. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** Establish a State of Hawai‘i/OHA working group as a reasonable first step toward resolving the disputed areas.

**SB-2021-HD-1**

Submitted on: 4/1/2022 12:37:34 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Lea Iwamoto	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning [July 1, 2022](#);
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/1/2022 12:46:00 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kalena Blakemore	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

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3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Kalena Blakemore

**SB-2021-HD-1**

Submitted on: 4/1/2022 12:52:38 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kelly Osorio	Individual	Comments	Written Testimony Only

Comments:

Aloha kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Mahalo nui for this opportunity to testify

Kelly Osorio

**SB-2021-HD-1**

Submitted on: 4/1/2022 1:58:36 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Yoshito L'Hote	Individual	Support	Written Testimony Only

Comments:

It is appalling that the state does not do diligence to its fiduciary duties toward Hawaiians, at a time when the conversation is for tourism ( the biggest revenue producer)to depend even more on the need to connect to "Hawaii".

These long-overdue payments, if not made, will continue to demonstrate the genocide against the Hawaiian people and further demonstrate the incapacity of the state to manage it's affairs.

So for everyone's sake, especially the state, pass this bill!!!



## Testimony for SB2021 SD1

April 4, 2022

House Finance Committee:

Representative, Sylvia Luke, Honorable Chair  
Representative Ty J. K. Cullen, Honorable Vice-Chair  
Representative Patrick Pihana Branco  
Representative Stacelyn K. M. Eli  
Representative Daniel Holt  
Representative Greggor Iliagan  
Representative Bertrand Kobayashi  
Representative Lisa Marten  
Representative Scott Y. Nishimoto  
Representative Amy A. Perruso  
Representative Jackson D. Sayama  
Representative Adrian K. Tam  
Representative Tina Wildberger  
Representative Kyle T. Yamashita  
Representative Bob McDermott

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Aloha e Honorable Committee Members,

Mahalo. Mahalo for your service and for your dedication and commitment to the people of Hawaii; all of the people of Hawaii!

Mahalo for the opportunity to offer my thoughts and mana'o on this bill before you, SB2122- increasing OHA's pro rata share of the Public Land Trust. My name is Kanani Iaea, I am a native Hawaiian and it is with much aloha for my culture; my ancestors; my ohana; all Hawaiians today and future generations that I stand to **COMMENT** on this bill!

It is time. Now, the present- is time to right ALL of the wrongs and injustices that have been done to the Hawaiian people; the suffering and the oppression that continues today after decades and decades of generational depravity and demoralization since 1893.

Now is the time for all of that to end!!! I urge you to make the PLT Bill PONO!!!

I stand with OHA:

OHA strongly opposes language in the bill that would amend Hawai'i Revised Statutes §10-10.13.5 *Use of Public Land Trust Proceeds* and changes OHA's annual share of the income and proceeds of the PLT from:

- 20% of **gross** receipts from the PLT to
- 20% of "**net** receipts or \$15.1 million whichever is greater."

We implore our legislators to fix this problematic language immediately. It's not too late to make this bill pono. We need legislators who can demonstrate leadership, accountability, an understanding of the State of Hawai'i's trust responsibilities, and who will do the work to make the amendments outlined below.

**OHA proposes that HD1 be amended as follows:**

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** OHA STRONGLY OPPOSES any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;
4. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** Establish a State of Hawai‘i/OHA working group as a reasonable first step toward resolving the disputed areas.

**Claims.** Nothing in the HD1 amendments resolves or settles, or acknowledges the existence of, the claims of Native Hawaiians to the income and proceeds of a pro-rata portion of the PLT under article XII, section 6 of the Hawai‘i State Constitution.

Mahalo and sincerely,  
Kanani Iaea

**SB-2021-HD-1**

Submitted on: 4/1/2022 7:28:43 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
johnna rapozo	Individual	Oppose	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
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5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Johnna Ann Rapozo

**SB-2021-HD-1**

Submitted on: 4/1/2022 8:44:29 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

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5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/1/2022 11:24:10 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tadia Rice	Individual	Support	Written Testimony Only

Comments:

Aloha House Finance Committee,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

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- **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Tadia Rice, Kailua, Hawaii

**SB-2021-HD-1**

Submitted on: 4/2/2022 5:38:48 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
thao kamakahi-Watson	Individual	Oppose	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

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5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/2/2022 9:04:57 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Donna Sterling	kahikinui hawaiian homestead assn	Comments	Written Testimony Only

Comments:

*Mahalo for allowing me to testify*

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

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Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/2/2022 10:09:07 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Shaeralee-Tiare Manosa	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

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5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.



Melody Kapilialoha MacKenzie  
579 Kāneʻapu Place, Kailua, Hawaiʻi 96734

**S.B. 2021, S.D. 1, H.D. 1**  
**RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE**  
**OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST**

House Committee on Finance  
Hearing: Monday, April 4, 2022, at 2:30 pm

Aloha Chair Luke, Vice-Chair Yamashita, and Members of the Committee:

Mahalo for the opportunity to submit **written testimony**. Although I support most aspects of this bill, I ask this Committee to **firmly reject section 2 of the bill**, which amends HRS section 10-13.5. I am an attorney, advocate for the Native Hawaiian community, and a Professor Emerita at the William S. Richardson School of Law. I have helped to litigate and written extensively on the legal issues involving the Public Land Trust, and the constitutional and statutory mandates relating to the trust lands and funds. I submit this testimony in my personal capacity.

The findings in this bill succinctly and accurately lay out the long and complicated history related to Public Land Trust revenues, as well as good faith efforts to give full effect to the constitutional and statutory requirements that a “pro rata” portion of the proceeds from the Public Land Trust go to the Office of Hawaiian Affairs (OHA) to benefit the Native Hawaiian community. As you know, in 1980, the Legislature set that pro rata share at twenty per cent. Numerous questions immediately arose: What constituted proceeds? Which lands should be included in the calculation? Indeed, a major issue was determining exactly which state-held lands were part of the Public Land Trust.

After years of effort, including litigation and legislative initiatives, there has been progress in reaching a true and accurate determination of the pro rata share that should go to OHA. Since at least 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 report their proceeds from the Public Land Trust. There are still unresolved and disputed issues. Unfortunately, section 2 of H.D. 1, amends HRS section 10-13.5 by changing “all funds derived” to “net receipts” and then giving a definition of net receipts. **The change to “net receipts” is inconsistent with historical precedent and prior understandings of “funds” and “proceeds,” and ultimately, it is unfair to the Native Hawaiian community.**

Based on the information compiled over these years as well as independent studies commissioned by OHA and other State entities, the true pro rata share due to OHA can be calculated more accurately and with greater certainty. The original version of this bill set the stage for further discussions in order to lead to justice for the Native Hawaiian community and to allow the State to honor its commitments. A fair and reasonable discussion and resolution will result in increased opportunities for the Native Hawaiian community – funding for Hawaiian culture-focused and immersion schools, scholarships for Hawaiian students, greater emphasis on Hawaiian health and ola, support for non-profits working to revitalize ʻāina and restore wahi pana (storied places), and funding for much needed housing opportunities.

I call upon this Committee, and the Legislature as a whole, to seek a resolution and keep the promise made over forty years ago that a pro rata share of the proceeds from the Public Land Trust – lands that were originally the Crown and Government lands of the Hawaiian Kingdom – go to OHA to benefit the Native Hawaiian community. In its current form S.B. 2021, S.D. 1, H.D. 1, will not lead to greater justice and will not fulfill the trust obligation that the State owes to the Native Hawaiian. **Please reject the provision in H.D. 1 that amends HRS section 10-13.5** and keep the language that is currently in HRS section 10.13-5, which states that OHA should receive “twenty per cent of all funds derived from the public land trust.”

Mahalo for allowing me to present this written testimony.

**SB-2021-HD-1**

Submitted on: 4/2/2022 11:57:25 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Maddux	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.

Establish a New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022.

Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA.

Continue Annual Accounting. I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act.

Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Michael Maddux

Hawi

**SB-2021-HD-1**

Submitted on: 4/2/2022 12:27:46 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Hannalore Aiwohi	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

My name is Hannalore Aiwohi and I am a resident of Haleiwa, HI.

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

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5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Respectfully,

Hannalore Aiwohi

**SB-2021-HD-1**

Submitted on: 4/2/2022 12:46:24 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kenneth Makuakane	Individual	Oppose	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

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5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Kenneth Makuakāne

**SB-2021-HD-1**

Submitted on: 4/2/2022 1:01:19 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kevin Kekoa	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/2/2022 1:07:08 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Alice Silbanuz	Individual	Comments	Written Testimony Only

Comments:

Aloha,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Alice Silbanuz

**SB-2021-HD-1**

Submitted on: 4/2/2022 1:49:14 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Edward Halealoha Ayau	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Edward H Ayau

**SB-2021-HD-1**

Submitted on: 4/2/2022 1:52:03 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Constance Keoahunui Uale Warrington	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.  
Constance Keo‘ahunui Uale Warrington



**SB-2021-HD-1**

Submitted on: 4/2/2022 4:48:05 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey Young	Individual	Comments	Written Testimony Only

Comments:

Aloha kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. It is shameful for our legislature to renege on the responsibility of following the law, specifically HRS §10-13.5, by shifting language which will have the effect of eliminating all funding to satisfy the constitutional requirement relative to "ceded" lands as specified in Section 5(f) of the Admission Act. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to submit my comments.

**SB-2021-HD-1**

Submitted on: 4/2/2022 6:07:34 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kalena Lanuza	Individual	Oppose	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Kalena Lanuza

**SB-2021-HD-1**

Submitted on: 4/2/2022 8:56:32 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Madeline C Neely	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kakou,

I am submitting written comments on, SB2021 SD1 HD1, regarding the increase of the pro-rata share of the, Public Land Trust (PLT), which the Office of Hawaiian Affairs has been working hard to establish a resolute to this long over due issue. I am in SUPPORT of, OHA's comments regarding, SB2021 SD1 HD1.

Please do the RIGHT thing by moving this Bill forward of OHA's due diligence and it's recommended comments.

- 1) Delete Section 2 in its entirety and remove all language referring to "Net" receipts which I STRONGLY OPPOSE;
- 2) Establish a New Interim Annual Sum which I am in STRONG SUPPORT;
- 3) Release the Carry Forward Trust Holding Account which I STRONGLY SUPPORT;
- 4) Continue Annual Accounting, which I STRONGLY SUPPORT; and
- 5) Establish a Working Group. I support the establishment of a Working Group to resolve the, State of Hawaii/OHA, dispute regarding the PLT lands and income proceeds due.

Mahalo for the opportunity to make comments,

Madeline Neely



**SB-2021-HD-1**

Submitted on: 4/2/2022 10:03:06 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
William Kinney	Individual	Comments	Written Testimony Only

Comments:

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro rata share of the Public Land Trust (PLT), and support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians.

In regards to the language outlining the State's obligation to manage these lands, and income, for the "betterment of Native Hawaiians": I would say you just need to look at the State of us, Native Hawaiians, and see that our conditions have not improved in generations.

Delete Section 2 in its Entirety and Remove All Language Referring to "Net" Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to "net" receipts. With a shift in language from gross to "net" receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.

Establish New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;  
Continue Annual Accounting.

I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and

Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify and provide comments.

**SB-2021-HD-1**

Submitted on: 4/2/2022 10:06:13 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisette Akamine	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1. I support 20% of all PLT revenue (gross) as what is due to the Office of Hawaiian Affairs (OHA) for the betterment of Native Hawaiians. Please make this bill pono for Hawaiians by making the following amendments to the existing bill:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, specifically any language that replaces the intended 20% of all (gross) receipts, with “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT would be dangerously reduced to nearly nothing. An amendment such as this would be a failure on the part of the state to uphold and honor its trust obligation and duty to Native Hawaiians.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million, adjusted for inflation, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from so-called "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due to Native Hawaiians.

I implore the members of this committee to please do the right thing for the Indigenous people of this land. Too many Native Hawaiians continue to struggle to survive in our own homeland while other people and entities benefit - often at the expense of Native Hawaiians, our land or our culture.

Making this pono by giving Native Hawaiians (via OHA) our rightful share of PLT revenues is a step towards healing some of the wounds that have festered for generations. Considering the nefarious historical events that led us to this place in time, OHA’s requests are more than fair and reasonable.

Thank you for this opportunity to testify.



**SB-2021-HD-1**

Submitted on: 4/2/2022 10:19:34 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Sylvia Hussey	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose the language in the bill that would amend Hawai‘i Revised Statutes §10-10.13.5 *Use of Public Land Trust Proceeds* and changes OHA’s annual share of the income and proceeds of the PLT from:

- 20% of **gross** receipts to
- 20% of “**net** receipts or \$15.1 million whichever is greater.”

I implore our legislators to fix this problematic language immediately. It’s not too late to make this bill pono. We need legislators who can demonstrate leadership, accountability, an understanding of the State of Hawai‘i’s trust responsibilities, and who will do the work to make the amendments outlined below:

**For HD1 amend as follows:**

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** STRONGLY OPPOSE any amendments to the language of HRS §10-13.5, from 20% of gross receipts to 20% of “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT would be dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for the consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;
4. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** Establish a State of Hawai‘i/OHA working group as a reasonable first step toward resolving the disputed areas.

**Claims.** Nothing in the HD1 amendments resolves or settles, or acknowledges the existence of, the claims of Native Hawaiians to the income and proceeds of a pro-rata portion of the PLT under article XII, section 6 of the Hawai'i State Constitution.



**SB-2021-HD-1**

Submitted on: 4/3/2022 7:19:10 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Leatrice Maluhia Kauahi	Individual	Support	Written Testimony Only

Comments:

Your pono consideration to approve with amendments as suggested by the Office of Hawaiian Affairs is requested. I am a believable that the elected officials in Hawaii what to do the right action which we call PONO, however, many times I have to question this believe based on the many actions the elected officials have taken "against" the Hawaiian People after so many years of NOT DOING the PONO action. APPROVE with Amendments and believe in yourself.

**SB-2021-HD-1**

Submitted on: 4/3/2022 7:20:38 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Moana Heu	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.

Establish a New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;

Continue Annual Accounting. I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and

Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

For too long, Native Hawaiians have been deprived of what is rightfully theirs as kanaka maoli. Thank you for this opportunity to testify. Moana Heu

**SB-2021-HD-1**

Submitted on: 4/3/2022 7:38:49 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Sherri-Anne Kamaka	Individual	Oppose	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning [July 1, 2022](#);
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Let's remember that Hawaiians or Kānaka 'oiwi or Kānaka Maoli are native people of Hawai'i and are Guardians of Hawai'i nei. Without us there is no Hawai'i. King Kalakaua invited people of other countries to work the sugar industry and then the Lāhui was created. Hence, the diverse ethnicities here in Hawai'i. Furthermore, the Hawaiian Kingdom was illegally overthrown. It was confirmed by the Administration of President Cleveland. Help make the wrong pono or right. President Clinton apologized but now we need action. Hawaiians deserve what is ours'. People all over the world but especially malahini are using our culture, our words, our vibe to capitalize on still. Thank God for our Queen Lili'uokalani in Life and death, she stepped down to save lives, otherwise we would have experienced a bloody war like Ukraine is now. Be pono like we embody and give the Hawaiians, the Kānaka maoli, the Kānaka 'oiwi what is

rightfully ours'. Do what is right and refrain from putting up blocks for only reasons you each know and resides in your hearts and souls. Life is short, do what is right before we transcend. Mālama pono! Hawaiians are ke 'āina Guardians and only we know how to Mālama. Take care of the Hawaiian people. In God's hands.

**SB-2021-HD-1**

Submitted on: 4/3/2022 8:09:24 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Korissa R	Individual	Oppose	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Welina mai kākou e nā po‘e like ‘ole a pau,

I am submitting testimony on SB 2021 SDI HDI.

I am deeply disturbed by the edits recently added to this bill found in Section 2 Section 10-13.5. I strongly oppose the replacing of the phrasing: “All funds derived” with the phrasing “The net receipts.” **Section 2 Section 10-13.5 must be deleted in its entirety**, as it blatantly seeks to diminish the State of Hawaii’s Constitutional legal obligations to the Native Hawaiian people.

The State of Hawai‘i and its legislatures have profoundly failed the Native Hawaiian people in upholding their own Public Trust Land Revenue Obligations of awarding 20% of gross receipts from the Public Trust Lands. Furthermore, it is incomprehensible that after decades of delayed action, the Office of Hawaiian Affairs must still propose a bill in 2022 to the state legislature for the State of Hawai‘i government to fulfill their legal requirements of using 20% of all revenue generated on the Public Trust Lands towards the betterment of the conditions of Native Hawaiians.

I represent my ‘ohana, who are Native Hawaiians that are now scattered throughout the mainland. I am fortunate to make my home here, in Honolulu nei, while my many siblings, cousins, and their Native Hawaiian kamali‘i are forced to make their homes away from their ancestral homeland. This bill, SB 2021 SDI HDI, has a direct impact on the lives of my ‘ohana. We deserve what the State of Hawai‘i Constitution of 1959 makes clear when the US Federal Government transferred the Public Trust Lands to the State of Hawai‘i, which is 20% of all revenue generated on the Public Trust Lands.

Each of us in this room and the people across the world are aware of the unconscionable acts committed during the illegal overthrow in 1893. Those events have received federal recognition and acknowledgement from the US Congress and the President of the United States. It is my hope that the current members of the State Legislature of Hawai‘i will not continue to perpetuate these wrongs in this day and age. I implore the legislative body to give the Native Hawaiian people what we are entitled to have. Please do not attempt to further diminish us. I pray that you all will act pono and fulfill your sworn oaths of serving the disenfranchised Native Hawaiian people. Remove Section 2 Section 10-13.5 in its entirety from SB 2021 SDI HDI.

me ka ha‘aha‘a,  
Timothy ‘Kimo‘ Barrus



**SB-2021-HD-1**

Submitted on: 4/3/2022 8:52:15 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Thomas	Individual	Oppose	Written Testimony Only

Comments:

Aloha ,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/3/2022 8:54:35 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Paul Aio	Individual	Comments	Written Testimony Only

Comments:

I am submitting this one paragraph of my endorsement of SB2021 SD1, HD1

to make it Pono For Us Hawaiians here in the State of Hawaii.

**SB-2021-HD-1**

Submitted on: 4/3/2022 8:59:04 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
mary drayer	Individual	Comments	Written Testimony Only

Comments:

testimony submitted on SB 2021 SD1 HD1

1. STRONGLY OPPOSE any changes to HRS 10-13-5 - 20% of funds OHA share
2. I SRONGLY OPPOSE transferring only the 'net" share to OHA - which is NOT 20% and therefore in violation of HRS 10--13-5
3. I SUPPORT interim increase of \$21.5 Million as OHA annual share of PLT a/o 7-01-2022
4. I SUPPORT release of carry forward trust holding account funds to OHA
5. I SUPPORT continued transfer of receipts and payments and the establishment of Working Group to resolve SOH /OHA dispute regarding PLT lands and income due.

mahalo for the oppotunity to testify----- #keephawaiianlandsinhawaiianhands Eō

**SB-2021-HD-1**

Submitted on: 4/3/2022 9:36:36 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Raynae Fonoimoana	Ko'olauloa Hawaiian Civic Club	Oppose	Written Testimony Only

Comments:

**SB-2021-HD-1**

Submitted on: 4/3/2022 9:54:50 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tara Rojas	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.

Establish a New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;

Continue Annual Accounting. I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and

Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Tara Rojas

**SB-2021-HD-1**

Submitted on: 4/3/2022 10:10:26 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patricia Louise Leimomi Greene	Individual	Support	Written Testimony Only

Comments:

I Made a Promise to my Hawaiian Mother While She Lay Dying of Stage 4 Cancer as She Requested For Me To Never Stop Fighting For "What Belongs To We The Hawaiian Peoples"

We Have Been Used, Abused, Then Thrown into The Dumps ! We Must Get What Is Due To Us.

I. Our Homelands We Are The Suffering, No Longer Will We Accept This Life Controlled by Others Whom Act Like They Are Better Than US ~ GIVE OUR STOLEN LANDS BACK !!!!

THIS IS NOT AMERICA ! WE ARE NOT AMERICANS !!!!

Aunty Momi Greene MAUNA KUPUNA

**SB-2021-HD-1**

Submitted on: 4/3/2022 10:24:32 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Strather Ing	Individual	Support	Written Testimony Only

Comments:

HI STATE LEG

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.

2. Establish a New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

3. Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;

4. Continue Annual Accounting. I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and

5. Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/3/2022 10:29:34 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Erik Meade	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.



**SB-2021-HD-1**

Submitted on: 4/3/2022 10:49:50 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Davianna McGregor	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/3/2022 10:51:42 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gordon B. Lindsey	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB2021 SD1 HD1, for varrious reasons

**SB-2021-HD-1**

Submitted on: 4/3/2022 11:00:09 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
cindy freitas	Individual	Support	Written Testimony Only

Comments:

April 3, 2022

My name is Cindy Freitas and I'm a Native Hawaiian descended of the native inhabitants of Hawai'i prior to 1778 and born and raised in Hawai'i.

I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

1. am submitting my testimony on S.B. 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and in support of 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians.
1. I STRONGLY OPPOSE any changes to Hawai'i Revised Statutes 10-13.5, which has always been 20% of all funds derived from the PLT as OHA's pro-rata share.
2. I STRONGLY OPPOSE transferring only the "net" income to OHA, which is not 20% of all funds derived.
3. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
4. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
5. I SUPPORT the continued transfer of receipts and payments and the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.

Please make this situation pono. The State of Hawai'i must fulfill its constitutional obligation to Native Hawaiians.

Thank you for this opportunity to testify.

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Cindy Freitas

**SB-2021-HD-1**

Submitted on: 4/3/2022 11:00:40 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Clarence Ching	Individual	Oppose	Written Testimony Only

Comments:

In consideration of the historical record, I am in support of this bill - but with reservations (amendments).

It is important, from a historical point of view, to realize that the source of the funds under consideration is the income from lands stolen from the Hawaiian Kingdom, and that it has presently come to rest in the hands of the so-called "State of Hawaii" as Trustee!

These lands, by hook or crook (mostly crook) were "stolen" by the so-called Provisional Government at the time of the Overthrow - by co-Conspirators u.s. of a. and the "businessmen" who carried out the illegal coup d'etat of 1893. The "title" to these lands, and there can be no disagreement of the fact, is IN the "continuing" (by international

law) Hawaiian Kingdom - despite the so-called attempted "cession" of those lands (without title) from the Provisional Government, to the Republic of Hawaii, to the u.s. of a.

"To the Victor go the Spoils?"

While it is true, that the subject lands were conveyed to the so-called "State of Hawaii" as a Public Trust "for the betterment of "native" Hawaiians and the general public (which includes Native Hawaiians)" in 1959 by the Admission Act. To be more historically correct, the so-called Public Trust (because of the "stolen" character of the original lands) should have been for the Beneficiaries of "all" Hawaiians (primarily as descendants of the Hawaiian Kingdom's Subjects).

At present, by Statute, the Office of Hawaiian Affairs (OHA) represents the "native" segment of the descendants of the Hawaiian Kingdom (and the "Native" segment also) - and instead of OHA being allocated 20% of the income (by statute) from the stolen "ceded" lands - OHA - morally and really - should be receiving 100%!

Unfortunately, the "political question" is an impediment to get to the real truth of the matter!

To continue the argument - that the so-called "State of Hawaii" is the Trustee of the Public Trust is problematic - as the "State" Trustee has (by the Record) excessively disguised itself more like a Beneficiary than as "the" Trustee - and has awarded itself benefits of the Trust rather than having those benefits be transferred to the actual Beneficiaries! So - having a substantial "conflict of interest" IS problematic!

One of the major problems of this Bill is that the legislature (including the House that this bill is before) of the so-called "State of Hawaii" MUST decide whether its action will be that of a [Jump to Toolbar](#) Trustee of the Public Trust or as a "fictitious" Beneficiary!

To appear to be representatively (historically-speaking) fair - this testifier would recommend that the "net" language of the proposed bill be excised and that the \$15 M "Maximum" be re-labeled to be a "Minimum!"

By doing so - is to "recognize" the "stealthy path" that these lands have been on - AND to begin to correct the "TRUTH" of history that is in your power as Agents of the Trustee to correct!

These proposed amendments would, historically and morally speaking, be "minimally" fair!

**SB-2021-HD-1**

Submitted on: 4/3/2022 11:13:23 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Melinda Healani Sonoda-Pale	Individual	Comments	Written Testimony Only

Comments:

**Make the PLT Bill Pono:** I strongly oppose language in the bill that would amend Hawai‘i Revised Statutes §10-10.13.5 *Use of Public Land Trust Proceeds* and changes OHA’s annual share of the income and proceeds of the PLT from:

- 20% of **gross** receipts to
- 20% of “**net** receipts or \$15.1 million whichever is greater.”

I implore our legislators to fix this problematic language immediately. It’s not too late to make this bill pono. We need legislators who can demonstrate leadership, accountability, an understanding of the State of Hawai‘i’s trust responsibilities, and who will do the work to make the amendments outlined below.

I support OHA's proposed amendments below:

1. **Delete Section 2 in its Entirety.** OHA STRONGLY OPPOSES any amendments to HRS §10-13.5, which has always been 20% of gross receipts. Additionally, remove all language referring to “net” receipt;
2. **Interim Annual Sum.** Establish \$21.5 million adjusted annually for the consumer price index, as OHA’s interim annual share of the income and proceeds of the Public Land Trust beginning July 1, 2022;
3. **Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;
4. **Accounting.** Require the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Working Group.** Establish a State of Hawai‘i/OHA working group as a reasonable first step toward resolving the disputed areas.

If none of these amendments can be made then they lease **KILL THIS BILL!**

**SB-2021-HD-1**

Submitted on: 4/3/2022 12:15:33 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoelani Steward	Individual	Comments	Written Testimony Only

Comments:

Aloha nui,

I would like to submit COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust, and I support 20% of all Public Land Trust revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the Public Land Trust is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests. Keeping the language of "gross" receipts allows the right amount of revenue that is long overdue to be received by OHA.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the Public Land Trust beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the Public Land Trust lands and income and proceeds due.

Supporting Native Hawaiians and OHA, in turn, supports and benefits all people and places of Hawai‘i. Thank you for considering this testimony.

**SB-2021-HD-1**

Submitted on: 4/3/2022 12:20:57 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Rebecca Kapolei Kiili	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Sincerely,

Rebecca Kapolei Kiili



**SB-2021-HD-1**

Submitted on: 4/3/2022 12:25:31 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lynn Kenney	Individual	Comments	Written Testimony Only

Comments:

Aloha Mai Kakou,

I'm submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT) and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill Pono for Hawaiians making these amendments:

1. Delete section 2 in it's Entirety and Remove all Language Referring to "Net" Receipts. I strongly oppose amendments to HRS 10-13.5, from 20% of gross receipts to "Net Receipts.

With that shift of language, the 20% pro-rata share of all funds derived from PLT is dangerously reduced. The state will fail to uphold its trust obligation and duty to Native Hawaiians.

2. Establish a New Interim increase of \$21.5 million adjusted for inflation, beginning July 1, 2022.

3. Release and Carry Forward Trust Holding Account! I support the release of the Carry Forward Trust account funds, approximately \$31 million, to OHA.

4. Continue Annual Accounting:

I support requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5 (f) of the Admission Act.

5. Establish a Working Group. I support the establishment of a Working Group to resolve the State of Hawaii/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/3/2022 12:27:37 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Noalani Nakasone	Individual	Support	Written Testimony Only

Comments:

Aloha mai kakou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

**1. Delete Section 2 in its Entirety and Remove All Language Referring to "Net" Receipts.**

I STRONGLY OPPOSE any amendments HRS§10-13.5 from 20% of gross receipts, to "net" receipts. With a shift in language from gross to "net" receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.

**2. Establish New Interim Annual Sum.**

I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

**3. Release the Carry Forward Trust Holding Account.**

I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;

**4. Continue Annual Accounting.**

I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and

**5. Establish a Working Group.**

I SUPPORT the establishment of a Working Group to resolve the State of Hawaii/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Noalani Nakasone

Kauai Resident

**SB-2021-HD-1**

Submitted on: 4/3/2022 12:50:32 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jennifer Noelani Ahia	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Noelani Ahia

**SB-2021-HD-1**

Submitted on: 4/3/2022 12:50:37 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Trinette Furtado	Individual	Oppose	Written Testimony Only

Comments:

Aloha Mai Kākou!

Mahalo for the opportunity to testify.

My name is Trinette Furtado and I live in the moku of Kula on the mokupuni o Muinuiakama.

I am writing in OPPOSITION to SB 2021 SD1 HD1 and ask that you give this ill no further ground. Nothing in the HD1 amendments resolves or settles, or acknowledges the existence of, the claims of Native Hawaiians to the income and proceeds of a pro-rata portion of the PLT under article XII, section 6 of the Hawai'i State Constitution.

Is is no big secret (but perhaps it IS the emepphant in the room, so to speak) that the state owes money to the Office of Hawaiian Affairs, for the betterment and benefit of Hawaiians due to the continued profit from lands that belong to the Hawaiian people, as outlined in the Hawai`i State Constitution.

NO PART of the amendment is beneficial or solves the issue of what is owed and continues to be owed to Hawaiians, that the state seems to be grossly negligent in paying.

We might not like the debt we carry, but we DO have an obligation to pay what we owe. Wouldn't you agree? We chastise our family, friends and coworkers/colleagues when they shirk their responsibilities and kuleana to legal debt and encourage options to "make good" on the debt owed. Its about time the state legislature do the same.

I ask that you consider establishing a State of Hawai'i/OHA working group as a reasonable first step toward resolving the disputed areas and require the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act.

I also ask that you seriously consider the requests the Office of Hawaiian Affairs has asked, in their comments regarding this piece of legislation as listed below:

1. **Establish a New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for the consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
2. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million.

I strongly request that you OPPOSE SB 2021 SD1 HD1 and if pressed to pass it, omit the section OHA suggests.

Mahalo for your time an attention.

**SB-2021-HD-1**

Submitted on: 4/3/2022 12:56:59 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
C Kaui Jochanan Amsterdam	The Mama Loa Foundation, Kanaka Maoli Jew, Educator	Support	Remotely Via Zoom

Comments:

Committee Members and Associates:

I support that the State live up to its mandated responsibility by  
law and pay the 20% gross owed to OHA and the Kanaka Maoli People.

Mahalo and Aloha,

C Kaui Jochanan Amsterdam

The Mama Loa Foundation, Kanaka Maoli Jew, Educator

**SB-2021-HD-1**

Submitted on: 4/3/2022 1:43:39 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Evelyn Hascall	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Malama pono a me Ke Akua Pu,

Evelyn C S Hascall



**SB-2021-HD-1**

Submitted on: 4/3/2022 1:47:35 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
i. k. Lei Niheu	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

- 1. Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
- 2. Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
- 3. Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
- 4. Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
- 5. Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Mahalo, Lei Niheu

**SB-2021-HD-1**

Submitted on: 4/3/2022 2:04:00 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Redford	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/3/2022 2:12:20 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sandra C. Castell	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

Hawaiian deserve the full 20% of the GROSS income of the Public Land Trust as a condition of Statehood. It was wrong to limit the payment to OHA to \$15 million, and it is time to pay up the amount past due and due - which is 20% gross revenue. Our situation is similar to what Russia did to Ukraine, and gthe attempted overtake of Ukraine by Russia. If we file a lawsuit to get the proper amount, the State will lose. It will be a costly lawsuit in the attempt to deprive Hawaiians what is due to them. Pay up!!

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.

Establish a New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;

Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;

Continue Annual Accounting. I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and

Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Yours truly,

Sandra Castell, 'Ewa Beach

**SB-2021-HD-1**

Submitted on: 4/3/2022 2:25:40 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Cyd L. Hoffeld	Individual	Comments	Written Testimony Only

Comments:

Aloha Chair Luke, Vice Chair Yamashita, and Finance Committee Members,

My name is Cyd (Makanui) Hoffeld and I am submitting COMMENTS on **SB 2021 SD1 HD1** for an increase of the pro-rata share of the Public Land Trust (PLT). I **strongly support** that **20% of all PLT revenue be paid** to the Office of Hawaiian Affairs (OHA) as one part of your many obligations to the betterment of Native Hawaiians.

Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** OHA STRONGLY OPPOSES any amendments to the language of HRS §10-13.5, from 20% of gross receipts to 20% of “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT would be dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** Establish \$21.5 million, adjusted annually for the consumer price index, as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** Transfer to OHA the balance of funds contained in the carry forward trust holding account (CFTHA) as of June 30, 2022, projected to be approximately \$31 million;
4. **Continue Annual Accounting.** Require the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** Establish a State of Hawai‘i/OHA working group as a reasonable first step toward resolving the disputed areas.

Thank you for the opportunity to testify on this important measure that will bring you closer to repairing the 129 years of injustices perpetrated on the Hawaiian Kingdom and its native people by the United States government whom you represent. You have the power to do the right thing and when you increase the quality of life, educational attainments, financial security, and land/homeownership for Hawaiians, you raise the quality of life for everyone in Hawai‘i.

**SB-2021-HD-1**

Submitted on: 4/3/2022 3:55:31 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kilihea Inaba	Individual	Comments	Written Testimony Only

Comments:

Aloha kakou,

Kalamai for this late testimony. I hope you will still accept my humble mana'o.

I am submitting COMMENTS relating to SB 2021 SD1 HD1 in **opposition** to the wording change of "20% of gross receipts to 20% of net receipts or \$15.1 million whichever is greater." I am asking to delete Section 2 in its entirety and remove the language in the previous sentence. This would severely reduce the funds received from the PLT and put simply- be a disservice to kanaka.

I would also like to SUPPORT the establishment of a Working Group to resolve the "State" of Hawaii/ OHA dispute regarding the PLT lands.

This is an important opportunity that has great potential to benefit kanaka, IF done correctly.

Please take into consideration this testimony.

Mahalo, Kilihea Inaba

**SB-2021-HD-1**

Submitted on: 4/3/2022 4:04:52 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Rosanna 'Anolani Alegado	Individual	Oppose	Written Testimony Only

Comments:

Aloha mai kākou,

My name is Rosanna 'Anolani Alegado and I am a Native Hawaiian resident of 'Ahuimanu Kahalu'u on O'ahu. I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Aloha,

Rosie Alegado

**SB-2021-HD-1**

Submitted on: 4/3/2022 5:32:29 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
C. Kai Lucas	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou, Chair Luke, Vice Chair Kyle T. Yamashita, members of the Finance Committee:

I am submitting my testimony on S.B. 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and in support of 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians.

1. I STRONGLY OPPOSE any changes to Hawai‘i Revised Statutes 10-13.5, which has always been 20% of all funds derived from the PLT as OHA’s pro-rata share.
2. I STRONGLY OPPOSE transferring only the “net” income to OHA, which is not 20% of all funds derived.
3. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA’s interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
4. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
5. I SUPPORT the continued transfer of receipts and payments and the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

The State of Hawai‘i must fulfill its constitutional obligation to Native Hawaiians. Please make the changes as listed above as amendments, so that we can celebrate SB2021 SD1HD1 as a step toward justice.

me ka pono,

Kai Lucas



**SB-2021-HD-1**

Submitted on: 4/3/2022 7:05:41 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Wehi Kanewa	Individual	Oppose	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

- Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
- Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
- Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
- Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
- Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

me ka ha'aha'a,

Wehi Kanewa

**SB-2021-HD-1**

Submitted on: 4/3/2022 7:43:45 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Johanna Stone	Individual	Comments	Written Testimony Only

Comments:

Aloha nui mai nō kākou e nā hoa ē,

My name is Johanna K Stone and I support this bill with ammendments as follows.

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, which has always been 20% of gross receipts to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro rata share of all funds derived from the PLT is dangerously reduced to near nothing and the State fails to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests over that of Native Hawaiians.
2. **Establish New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from ceded lands described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

I look forward to you folks fulfilling your responsibility to our people, whether you are a settler migrant or a fellow descendant.

me ke aloha nui

johanna k stone

**SB-2021-HD-1**

Submitted on: 4/3/2022 7:47:17 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Marie Leopoldo	Individual	Support	Written Testimony Only

Comments:

Dear Senate Committee,

I am in support of SB2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/3/2022 10:11:08 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Bradford Baang	Individual	Support	Written Testimony Only

Comments:

Please stop these shameful continuous modifying of Hawaiians' PLT that's transparently reducing what's financially due Hawaiians. Our Legislatures need to step up. Thank you.

**SB-2021-HD-1**

Submitted on: 4/4/2022 6:45:12 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Taffi Wise	KANU O KA AINA	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Mahalo, Taffi Wise

**SB-2021-HD-1**

Submitted on: 4/4/2022 7:23:01 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Katie Benioni	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/4/2022 8:48:37 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kelly Kaawa Richardson	Individual	Oppose	Written Testimony Only

Comments:

I am submitting comments to rid of the proposal to lessen the ammount due to OHA/Kanaka. Changing the language from 20% of "gross" to "net" will affect the health and well-being of on already dire Hawaii situation. Twenty percent is already the compromise, that was not originally agreed upon by many Hawaiians. To lessen and cap off the money due to OHA/Hawaiian people is absurd and grotesque on all levels. Furthermore, It will continue to cause the mistrust and apathy toward a government that is suppose to protect and encourage a healthy community.

thank you,

kelly h kaawa richardson

**SB-2021-HD-1**

Submitted on: 4/4/2022 9:03:03 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Louisa Lee	Ka Umeke Kaeo PCS	Oppose	Written Testimony Only

Comments:

**Aloha Lawmakers,**

**I write to you in strong opposition to the proposed amendments to SB 2021 that would amend Hawai'i Revised Statutes §10-10.13.5 Use of Public Land Trust Proceeds and changes OHA's annual share of the income and proceeds of the PLT from 20% of gross receipts to 20% of "net receipts or \$15.1 million whichever is greater." This language change from gross to "net" receipts, of the 20% pro-rata share of all funds derived from the PLT, could mean that funding to OHA from the PLT would remain at the same interim amount set by this very body over 15 years ago in 2006. This is absolutely unacceptable.**

**PLT funding for OHA is critical for supporting programs that serve Hawaiians. Failing to guarantee an increase in PLT funds to OHA will severely impact OHA's ability to continue to fund programs like ours that have utilized funding for development of Hawaiian language curriculum, Hawaiian language teacher professional development, building Hawaiian culture based learning programs, providing Hawaiian students with opportunities to enroll in post-secondary course work, and supporting place based experiential learning.\* It will also impact OHA's ability to provide scholarships to Hawaiian students who attend a University of Hawai'i system school, as they did in 2020 when they provided more than \$1.1 million in scholarship funds (interestingly UH has publicly pushed back against paying their 20% share of the PTL to OHA because they claim to provide education and housing to Hawaiians. The data on the other hand shows of the 22,000 currently enrolled at UH Mānoa only 3,000 are Native Hawaiians and UH Mānoa provides a mere 200 of these Hawaiian students with partial tuition waivers).**

**We must not let this problematic language become law and we must ensure that the state is upholding its trust obligation and duty to Hawaiians. Please make this bill right for Hawaiians by making these amendments:**

- 1. Delete Section 2 in its Entirety and Remove All Language Referring to "Net" Receipts. I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to "net" receipts. With a shift in language from gross to "net" receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.**



2. **Establish a New Interim Annual Sum. I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;**
3. **Release the Carry Forward Trust Holding Account. I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;**
4. **Continue Annual Accounting. I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and**
5. **Establish a Working Group. I SUPPORT the establishment of a Working Group to resolve the State of Hawai'i/OHA dispute regarding the PLT lands and income and proceeds due.**

**Mahalo for the opportunity to provide this testimony.**

**Sincerely,**

**Louisa Lee**

**Director of Operations**

**Ka 'Umeke Kā'eo PCS**

**Keaukaha, Hawai'i Island**

**\*Since 2006 Hawai'i has experienced significant increases in wages and the cost of living. The median household income in Hawai'i increased by 33% from \$61,000 to \$81,275. The minimum wage in Hawai'i increased by 49% from \$6.75 to \$10.10. The median house value increase by 55% from \$529,700 to \$821,263 (even more on the island of O'ahu \$1,060,000). The Per pupil cost of DOE students increased by 66% from \$9150 to \$15,242 (keeping in mind that in 2022 charter school students do not even receive the per pupil allocation that DOE schools/students received in 2006). The average cost of a 20 lb bag of rice increased by 100% from \$7.99 to \$15.99. The cost of resident tuition at UH Mānoa increased by 161% from \$4320 to \$12,192 and the cost of non-resident tuition increased by 173% from \$11304 to \$33,336.**

**SB-2021-HD-1**

Submitted on: 4/4/2022 9:24:46 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Angela Lopes	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/4/2022 10:35:37 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Bianca Isaki	Individual	Comments	Written Testimony Only

Comments:

Aloha -

I support the intent of the bill. But strongly oppose language in the bill that would amend Hawai'i Revised Statutes §10-10.13.5 Use of Public Land Trust Proceeds and changes OHA's annual share of the income and proceeds of the PLT from:

- 20% of gross receipts from the PLT to
- 20% of "net receipts or \$15.1 million whichever is greater.

**SB-2021-HD-1**

Submitted on: 4/4/2022 11:17:23 AM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
colin kippen	Individual	Comments	Written Testimony Only

Comments:

Thank you for the opportunity to testify.

I support passage of this bill if and only if it is AMENDED to delete "net" and insert "gross" as the method for determination of the amount that is owed to OHA on behalf of all Native Hawaiians under the constitution and state statutes implementing those constitutional provisions.

When the state as the trustee for the management of our ceded lands leases these public trust lands to private lessees they do not set the lease rent as the net remaining after the private lessee pays all of his or her expenses (less PLT lease rent) because, in point of fact, the reality is that each private lessee would maximize its expenses to show little if any net profit remaining upon which the amount of rent due and owing to the state could be calculated and remitted. The use of a net versus a gross method for the calculation of rents due and owing vests the private lessee with the ability and the unfettered discretion to determine the amount of rent that will be paid, is difficult if not impossible to calculate the amount of money that will be due and owing to the state beneficiaries on a prospective basis, and fosters extreme inefficiency and poor management by private lessees who have no incentive to minimize the amount of their expenses so that their net profit and the amount of the rent they are required to pay is increased. Were the State to adopt a net standard of calculating the amount of rent that would be collected from their lease of public trust lands, beneficiaries would seemingly have a strong basis for challenging such actions as a breach of the State's trust obligation to both the public and Native Hawaiians as set forth in the State constitution.

As presently written, the current draft of SB 2021 SD1 and HD1 harms and discriminates against Native Hawaiians by creating a method of calculating the amount of rent that will be paid to Native Hawaiians that is based on a mechanism ( ie. rent calculated on the net income generated by each private lessee) that has been wholly rejected by the State in all of its present leasehold transactions. Why then, are Hawaiians being singled out for the use of a process that the State has found unacceptable in all of its other leasehold arrangements?

Further, adopting a "net" standard will similarly give each land leasing state agency no incentive to minimize its expenses against which the amount of money to OHA will be calculated and paid, will foster the growth of program related expenses by each state leasing agency that will burgeon and swell and will minimize the amount of money due and owing to OHA, and will continue and increase the substantial underreporting that OHA has substantially demonstrated by

its audit of the 2015-2016 Public Land Trust data. ( That report showed substantial underreporting by State agencies in their management of State PLT lands.)

For all of these reasons, please amend the bill to delete the "net" language and insert "gross" instead.

Thank you for the opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/4/2022 12:52:00 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Fu	Individual	Comments	Written Testimony Only

Comments:

Aloha mai kākou,

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. Please make this bill pono for Hawaiians by making these amendments:

- 1. Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
- 2. Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
- 3. Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
- 4. Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
- 5. Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

**SB-2021-HD-1**

Submitted on: 4/4/2022 12:52:40 PM

Testimony for FIN on 4/4/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Malia Kaai-Barrett	Individual	Oppose	Written Testimony Only

Comments:

Aloha mai kākou,

As a Native Hawaiian, an active voter and concerned citizen I submit my written opposition to The SB2021 SD1 HD1 bill that would amend the Hawaii REvised Statutes 10-10.13.5 Use of Public Land Trust Proceeds.

I am submitting COMMENTS on SB 2021 SD1 HD1 for an increase of the pro-rata share of the Public Land Trust (PLT), and I support 20% of all PLT revenue as what is due to the Office of Hawaiian Affairs (OHA) for Native Hawaiians. The State has a consitutional and moral obligation and responsibility to the wellbeing of its native population. The State has NEVER fully fulfilled its obligations and has "short changed" the benefits to the Native Hawaiians. I urge you to make things right. The time is NOW. I implore you to fix the problematic language contained in the bill immediately. Please make this bill pono for Hawaiians by making these amendments:

1. **Delete Section 2 in its Entirety and Remove All Language Referring to “Net” Receipts.** I STRONGLY OPPOSE any amendments to HRS §10-13.5, from 20% of gross receipts, to “net” receipts. With a shift in language from gross to “net” receipts, the 20% pro-rata share of all funds derived from the PLT is dangerously reduced to nearly nothing and the state will fail to uphold its trust obligation and duty to Native Hawaiians, in favor of its own interests.
2. **Establish a New Interim Annual Sum.** I SUPPORT an interim increase of \$21.5 million adjusted for inflation; as OHA's interim annual share of the income and proceeds of the PLT beginning July 1, 2022;
3. **Release the Carry Forward Trust Holding Account.** I SUPPORT the release of the Carry Forward Trust Holding Account funds, approximately \$31 million, to OHA;
4. **Continue Annual Accounting.** I SUPPORT requiring the continued annual accounting of all receipts from "ceded" lands as described in Section 5(f) of the Admission Act; and
5. **Establish a Working Group.** I SUPPORT the establishment of a Working Group to resolve the State of Hawai‘i/OHA dispute regarding the PLT lands and income and proceeds due.

Thank you for this opportunity to testify.

Aloha No

Malia Kaai-Barrett