UNIVERSITY OF HAWAIʻI SYSTEM
Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
February 22, 2022 at 10:00 a.m.
by
Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer
University of Hawaiʻi System

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

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

The University of Hawaiʻi (University) supports SB 2021 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. The University also continues to be firmly committed to the betterment of Native Hawaiians and has deep respect for the constitutional role of the Office of Hawaiian Affairs (OHA) as well. Section 2 might be improved to more broadly define "ancillary services," as the University's operations 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 Hawaiʻi State Constitution, the University in 1959 and OHA in 1978. The Hawaiʻi 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 Hawaiʻi 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 Hawaiʻi*** 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 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 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.

DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAIʻI
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAIʻI 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAIʻI 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)

<u>WRITTEN TESTIMONY</u>
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2021

February 22, 2022
10:00 a.m.
Room 211 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.B. No. 2021 proposes the following:

- Requires all departments and agencies to transfer 20 per cent of **<u>each receipt</u> they <u>collect</u>** for the **<u>use, sale, lease, or other disposition</u>** of the lands of the Public Land Trust, unless precluded by federal law, to the Office of Hawaiian Affairs (OHA) without addressing the $15.1 million OHA receives pursuant to Act 178, SLH 2006, and the reasons the Legislature opted to use a fixed dollar amount as an interim means to provide OHA with its share of the income and proceeds from the use of the Public Land Trust lands.
- Requires that if the total of the 20 per cent of the total receipts collected by all State departments and agencies transferred to OHA for any fiscal quarter is less than an unspecified amount required by this Act, the Director of Finance or the director's

designee is to ensure that within ten days of the discovery of the shortfall, an amount equal to the shortfall be transferred to OHA.

- Defines "receipts" to be used in calculating OHA's portion of income and proceeds from the use of the Public Land Trust lands based on the definition of "revenues" from Act 304, SLH 1990.
- Requires B&F to transfer all funds (except an unspecified amount) currently held in the carry-forward trust holding account established pursuant to Executive Order (E.O.) No. 06-06, including funds in excess of Act 178's $15.1 million per year for FYs 13, 14, 15, 16, 17, 18, 19, 20, and 21, plus any overpayment moneys OHA transfers to the carry-forward trust holding account for FY 22 or FY 23.
- Leaves an unspecified amount in the carry-forward trust holding account to act as contingency payments to meet the unspecified minimum quarterly payment.
- Establishes a Public Land Trust Revenues Negotiating Committee (PLTRNC) to propose means for fixing the amount of the income and proceeds from the Public Land Trust OHA is to receive annually under the State Constitution; and requires PLTRNC to submit a status report on the progress of PLTRNC's discussions to the Legislature no later than 20 days prior to the convening of the regular session of 2023, and to submit a final report containing PLTRNC's findings and recommendations, including any proposed legislation, to the Legislature no later than 20 days prior to the convening of the regular session of 2024.

As the department currently responsible for coordinating and overseeing the ceded lands payment process to OHA, B&F recommends that Section 2 of the bill amend Act 178, SLH 2006, to specify a sum certain that is to be transferred quarterly and annually to OHA pending the Legislature's response to the PLTRNC report. The framework established in Act 178 provides: 1) a clearly stated amount due to OHA each quarter; and 2) a process that can be administered reliably and on a timely basis; and 3) an objective means for resolving disputes.

There are long standing unresolved differences in the State's and OHA's positions on various ceded land payment issues. 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?

Creating the PLTRNC and charging it with the responsibility to gather, consider and organize information critical to the Legislature's enactment of a lasting means of providing OHA with its share of the income and proceeds pursuant to Article XII, Section 6 of the State Constitution.

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 on 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 on 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.

LINDA LINGLE
Governor of Hawaii

APPROVED AS TO FORM:

Mark J. Bennett
Attorney General

Attachment A

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 **10th Calendar Day** after the end of each fiscal quarter.

206640_1.DOC

Attachment 2

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
Total Transfers	**11,252,557.78**	**11,619,267.04**	**13,169,154.25**	**10,597,513.44**	**12,368,904.12**	**15,349,384.00**	**16,889,359.08**	**17,799,932.40**	**18,810,883.55**	**18,146,927.36**	**20,186,472.74**	**17,391,958.38**	**17,150,588.94**	**17,909,299.72**	**17,724,442.27**	**5,417,688.61**
Act 178, SLH 2006 Obligation	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
Difference	(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
Totals		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

N&K CPAs, Inc.
ACCOUNTANTS|CONSULTANTS

AMERICAN SAVINGS BANK TOWER | 1001 BISHOP STREET, SUITE 1700 | HONOLULU, HAWAII 96813-3696
T (808) 524-2255 F (808) 523-2090 | nkcpa.com

OFFICE OF HAWAIIAN AFFAIRS

TABLE OF CONTENTS

OFFICE OF HAWAIIAN AFFAIRS

TABLE OF CONTENTS

EXECUTIVE SUMMARY

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 Hawaiʻi Department of Land and Natural Resources ("DLNR") in November 2016.

Background

Pursuant to Section 10-13.5, Hawaiʻi 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 Hawaiʻi 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 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.

Agency	Land Inventory	Financial Reporting
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

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

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.

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;

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 Hawaiʻi, 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 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.

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

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.

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.

A. Department of Accounting and General Services (Continued)

<u>Summary and Differences for AMD</u>

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 Keʻelikōlani Building on Halekauwila Street. Parking Lot C is next to Hale Auhau on Punchbowl Street. Parking Lot F is next to ʻIolani Palace. Parking Lot O is next to the Oahu Rail & Land Building on North King Street. Parking Lot Z-2 is next to the Kauaʻi 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.

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 Hawaiʻi 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*		--
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.

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.

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.

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.

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 Molokaʻi 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 Molokaʻi 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 marshalling 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.

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

<u>Reporting Gaps</u>

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

<u>Comparison to Fiscal Year 2012 Report</u>

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.

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 Hawaiʻi 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.

**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.

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		2,208
		1,256,783
Financial Reporting		
Investment pool interest		8,018
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.

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.

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.

<u>Summary and Differences for FTZ9</u>

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.

**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.

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.

E. Hawaiʻi 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 Hawaiʻi (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		
As Reported by HCDA	$	300,000
Estimated Reporting Gaps		
Land Inventory		
Lot C receipts		219,127
Total Estimated Reporting Gaps		219,127
Total Estimated Reportable Receipts	$	519,127

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.

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.

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

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.

G. National Energy Laboratory of Hawaiʻi Authority
Department of Business, Economic Development and Tourism

<u>Background</u>

The Natural Energy Laboratory of Hawaiʻi Authority ("NELHA") administers the Hawaiʻi Ocean Science and Technology ("HOST") Park, comprised of 870 acres at Keahole Point, Kailua-Kona on the Island of Hawaiʻi. NELHA's mission is to bring economic development and diversification to the state and specifically the western side of the Island of Hawaiʻi. 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 Hawaiʻi 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 Hawaiʻi" 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.

<u>Procedures Performed</u>

Land Inventory

We obtained *Attachment 9 to the DLNR Act 178 Report - Business, Economic Development, and Tourism (DBEDT) Natural Energy Laboratory of Hawaiʻi (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.

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.

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		32,117
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.

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

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		
As Reported by DOD	$	60,611
Estimated Reporting Gap		
Financial Reporting		
Gym and facilities rentals, parking fees, Regional Training Institute billeting, and other miscellaneous fees		54,562
Total Estimated Reporting Gap		54,562
Total Estimated Reportable Receipts	$	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.

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.

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

<u>Procedures Performed</u>

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.

<u>Summary and Differences for DOE</u>

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.

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.

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

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

Public Land Trust Receipts	**Gross Receipts**	**Public Land Trust Receipts**
As Reported by DOE		
(Public Land Trust estimated)	$ 2,346,148	$ 567,960
Estimated Reporting Gaps		
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		172,804
		396,024
Financial Reporting		
Public School System		
Unreported facilities use receipts	25,991	6,292
Total Estimated Reporting Gaps		402,316
Total Estimated Reportable Receipts		$ 970,276

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.

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.

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

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 Hoʻola 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 Hoʻola Hamakua is included as a Land Inventory Reporting Gap.

HHSC personnel provided the deeds to the Maluhia and Hale Hoʻola 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 Hoʻola 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 Hoʻola 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.

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.

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.

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	1,890
Total Estimated Reporting Gaps	40,895
Total Estimated Reportable Receipts	$ 3,430,973

K. Hawaiʻi 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.

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

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.

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
	848,358
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
	2,272,107
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.

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.

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.

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.

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*		281,369
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.

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.

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:

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.

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
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.

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.

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

**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.

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:

Location and Receipt Category	Method of Reporting for Act 178
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

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.

Percentage of Airport Receipts from Public Land Trust (Source: Airports Division)		
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.

<u>Procedures Performed</u>

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.

**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.

<u>Summary and Differences for Airports</u>

Land Inventory

No differences were noted from our procedures performed.

Financial Reporting

No differences were noted from our procedures performed.

<u>Comparison to Fiscal Year 2012 Report</u>

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.

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, Kalaeloa Barbers Point, Hilo, Kawaihae, Kahului, Hana, Kaunakakai, Kaumalapau, 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

**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:

Harbor	PLT Percentage
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 Habor related to invoices dating back to 2007.

<u>Summary and Differences for Harbors</u>

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.

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.

Q. Harbors Division (Continued)
Department of Transportation

<u>Reporting Gaps</u>

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 proration 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.

<u>Comparison to Fiscal Year 2012 Report</u>

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.

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[1] 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

---

[1] 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.

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.

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

<u>Reporting Gaps</u>

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
Total Estimated Reporting Gaps		217,751
Total Estimated Reportable Receipts	$	222,004

<u>Comparison to Fiscal Year 2012 Report</u>

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.

S. University of Hawaiʻi

Background

The University of Hawaiʻi ("UH") is the state's system of higher education and is comprised of 10 campuses (three universities and seven community colleges) on Oʻahu, Hawaiʻi, Maui, and Kauaʻi. Through its three universities (Mānoa, Hilo, and West Oʻahu) and seven community colleges (Hawaiʻi, Honolulu, Kapiʻolani, Kauaʻi, 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 Waʻahila 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.

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.

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.

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
	107,621
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
	1,517,145
Total Estimated Reporting Gaps	1,624,766
Total Estimated Reportable Receipts	$ 4,877,171

* 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.

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 Hawaiʻi
   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
I. Land Identification				
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
II. Reporting				
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 Molokaʻi 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
III. Reporting Gaps				
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
I. Land Identification				
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
II. Reporting				
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
C. Source of Supporting Information for Reported Receipts				
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
III. Reporting Gaps				
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
I. Land Identification				
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
II. Reporting				
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
C. Source of Supporting Information for Reported Receipts				
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%).
III. Reporting Gaps				
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
I. Land Identification				
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
II. Reporting				
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
C. Source of Supporting Information for Reported Receipts				
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
III. Reporting Gaps				
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
I. Land Identification				
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
II. Reporting				
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
C. Source of Supporting Information for Reported Receipts				
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
III. Reporting Gaps				
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
I. Land Identification	
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
II. Reporting	
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.
III. Reporting Gaps	
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.

	Tax Map Key	Trust Land Status	Other Identifier
Department of Accounting and General Services (DAGS)			
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 Cemetary
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 Cemetary
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)
15	(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
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

	Tax Map Key	Trust Land Status	Other Identifier
Agricultural Resources Management (ARM)			
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)	Pahoa Agricultural Park, Phases I and II
21	(3) 1-5-116:003-0000	5(b)	Pahoa Agricultural Park, Phases I and II
22	(3) 1-5-116:012-0000	5(b)	Pahoa Agricultural Park, Phases I and II
23	(3) 1-5-116:013-0000	5(b)	Pahoa Agricultural Park, Phases I and II
24	(3) 1-5-116:015-0000	5(b)	Pahoa Agricultural Park, Phases I and II
25	(3) 1-5-116:018-0000	5(b)	Pahoa Agricultural Park, Phases I and II
26	(3) 1-5-116:019-B	5(b)	Pahoa Agricultural Park, Phases I and II
27	(3) 1-5-116:031-0000	5(b)	Pahoa Agricultural Park, Phases I and II
28	(3) 1-5-116:049-0000	5(b)	Pahoa Agricultural Park, Phases I and II
29	(3) 1-5-116:050-0000	5(b)	Pahoa Agricultural Park, Phases I and II
30	(3) 1-5-116:052-0000	5(b)	Pahoa Agricultural Park, Phases I and II
31	(3) 1-5-116:055-0000	5(b)	Pahoa 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

	Tax Map Key	Trust Land Status	Other Identifier
Agribusiness Development Corporation (ADC)			
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
Hawaii Community Development Authority (HCDA)			
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
Hawaii Housing Finance and Development (HHFDC)			
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)	
Natural Energy Laboratory of Hawaii (NELHA)			
1	(3) 7-3-043:085-0000	5(b)	
2	(3) 7-3-043:091-0000	5(b)	
Department of Defense (DOD)			
1	(1) 3-1-042:006-0000	5(b)	Diamond Head (Ft. Ruger)
Department of Education (DOE)			
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)	Keanae Elementary
4	(4) 1-3-002:001-0000	5(b)	Kekaha Elementary
Department of Health (DOH)			
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

	Tax Map Key	Trust Land Status	Other Identifier
Boating and Ocean Recreation (DOBOR)			
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
Forestry and Wildlife (DOFAW)			
1	(2) 2-4-013:004	5(b)	fgl5490
2	(2) 2-4-013:053	5(b)	fgl5490
Land Division (LD)			
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

	Tax Map Key	Trust Land Status	Other Identifier
State Parks (SP)			
1	(1) 2-1-025:002-0000	5(b)	ʻIolani 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)	Waʻahila Ridge State Recreation Area
8	(1) 5-9-005:068-0000	5(b)	Puʻu 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)	Kaʻena Point State Park
13	(1) 8-1-001:008-0000	5(b)	Kaʻena Point State Park
14	(1) 8-1-001:018-0000	5(b)	Kaʻena 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)	Waiʻānapanapa 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)	Hāʻena State Park

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

	Tax Map Key	Trust Land Status	Other Identifier
University of Hawaii (UH)			
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)
9	(1) 4-6-001:051-0000	5(b)	HIMB Coconut Island (peripheral & submerged lands)
10	(1) 5-8-001:007-0000	5(b)	Waialee Livestock Research Station (CTAHR)
11	(1) 5-8-001:013-0000	5(b)	Waialee Livestock Research Station (CTAHR)
12	(1) 5-8-001:055-0000	5(b)	Waialee 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)	MId-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

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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

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

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 WAYS AND MEANS

FEBRUARY 22, 2022
10:00 A.M.
Via VIDEOCONFERENCE & CONFERENCE ROOM 211

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

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2021. This measure requires agencies that collect receipts for any disposition of the public land trust to each fiscal quarter transfer to the Office of Hawaiian Affairs twenty per cent of each receipt from the disposition. Returns to the Office of Hawaiian Affairs certain moneys previously claimed as public land trust overpayments to the office and establishes a public land trust revenues negotiating committee exempted from part I of chapter 92, Hawaii Revised Statutes. The Department offers comments and concerns regarding this bill.

The Department respectfully requests that the required minimum transfer amount be deleted. Establishing a minimum transfer amount appears to be inconsistent with the pro rata share requirements recited in the preamble of this measure. Should gross revenues decline, the minimum transfer amount would exceed the 20% pro rata share. Requiring transfer of such fixed amounts creates an adverse impact to the Department and places a hardship on our programs.

Lastly, the Department respectfully questions the need for an exemption from Chapter 92, HRS. We understand that the negotiation may contain issues of a sensitive nature, however, when these issues arise, the committee may go into executive session. Open meetings are vital to the public process to ensure alternate views can be heard and properly explored by the committee.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Tuesday, February 22, 2022
10:00 AM
State Capitol, Conference Room 211, Via Videoconference

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

Senate Bill 2021 proposes to: (1) Require agencies that collect receipts for any disposition of the public land trust to each fiscal quarter transfer to the Office of Hawaiian Affairs (OHA) twenty per cent of each receipt from the disposition; (2) Return to OHA of certain moneys previously claimed as public land trust overpayments to OHA; and (3) Establish a public land trust revenues negotiating committee, exempted from PART I of Chapter 92, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) opposes this measure.**

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 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. The Department estimates the immediate impact of the bill if passed is a shortfall of OHA payments in the amount of about $26 million that will need to be made up by the State, in addition to the $15.1 million annual payment. Given that the Department generates a significant portion of total ceded land revenues, this measure would have a disproportionate and severely detrimental impact on the Department.

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, HRS. 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, including any penalties or levies exacted as a result of a violation of the terms of any proprietary disposition, but excluding any income, proceeds, fees, charges, or other moneys derived through the exercise of sovereign functions and powers.[1] 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 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.

[1] 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).

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

ON THE FOLLOWING MEASURE:
S.B. NO. 2021, RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

BEFORE THE:
SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 22, 2022 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Craig Iha,
Deputy Attorney General, at (808) 587-2978)

Chair Dela Cruz and Members of the Committee:

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

This bill requires state departments and agencies that collect receipts from the use of lands described in article XII, section 4, of the Hawaiʻi State Constitution, to transfer twenty percent of such receipts to the Office of Hawaiian Affairs (OHA) on a quarterly basis unless precluded by federal law and sets an unspecified minimum transfer amount. The bill defines "receipts" to exclude moneys derived through the exercise of the State's sovereign powers and functions such as taxes, University of Hawaiʻi tuition payments, and moneys derived from or provided in support of corrections institutions and programs. Page 11, line 11, through page 12, line 13. 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), except for an unspecified reserve amount to remain in the account. Page 12, line 14, through page 13, line 10. Finally, this bill creates a committee to resolve what OHA's share of the receipts from the public land trust under article XII, section 4, of the Hawaiʻi State Constitution should be. Page 13, line 11, through page 14, line 8.

Article XII, section 4, of the Hawaiʻi 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.

Section 4 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 Hawaiʻi 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 Hawaiʻi 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 Hawaiʻi 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 Hawaiʻi 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 Hawaiʻi State Constitution that must be transferred to OHA. In fact, both the Hawaiʻi 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 Hawaiʻi 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 of Trusts (Second) § 183 ("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.

Further, regarding the transfer of funds from the carry-forward trust holding account required by section 3 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. Nothing in Act 178 appears to entitle OHA to these funds.

Finally, the public land trust negotiating committee created in section 4 of the bill might violate section 6 of article V of the Hawaiʻi State Constitution, which requires all executive and administrative offices, departments and instrumentalities of the State to be placed within the principal departments of the executive branch unless they are temporary and for a special purpose. Although section 4 of the bill requires the committee to submit a "final report" to the Legislature no later than twenty days prior to the convening of the 2024 legislative session, it is unclear whether the committee is intended to be temporary or permanent. To address this concern, we recommend amending section 4 of the bill to either (1) state that the committee shall be temporary and dissolved upon submission of its final report to the Legislature, or (2) place the committee within one of the eighteen principal executive departments listed in section 26-4, HRS, for administrative purposes.

Thank you for the opportunity to provide these comments.

HAWAII HEALTH SYSTEMS
C O R P O R A T I O N
"Quality Healthcare For All"

COMMITTEE ON WAYS and MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

February 22, 2022
10:00 a.m.
Hawaii State Capitol
Via Videoconference

Testimony Providing Comments on S.B. 2021
RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.
Requires agencies that collect receipts for any disposition of the public land trust to each fiscal quarter transfer to the Office of Hawaiian Affairs twenty per cent of each receipt from the disposition. Returns to the Office of Hawaiian Affairs certain moneys previously claimed as public land trust overpayments to the office. Establishes a public land trust revenues negotiating committee exempted from part I of chapter 92, Hawaii Revised Statutes.

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

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony **providing comments on S.B. 2021.**

Having HHSC pay rental income on ceded lands when HHSC is either the exclusive or significant provider of healthcare services in those rural communities may jeopardize HHSC's ability to provide the high quality of services that those communities deserve. For fiscal years 2022 and 2023, HHSC is projecting a budget deficit of **$(50,862,000) and $(74,152,000**), respectively, at the state appropriation levels provided in Act 88, S.L.H. 2021 for those fiscal years. As a result, any potential increase in costs to HHSC will either result in a reduction of health care services that are essentially needed in the communities that we serve or require additional general fund appropriations in addition to what HHSC is already requesting. Further, HHSC believes that its revenues should not be subject to the OHA computation, as OHA's constituents directly benefit from the healthcare services that HHSC provides.

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

LATE

PHONE (808) 594-1888

FAX (808) 594-1938

STATE OF HAWAIʻI
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HWY., SUITE 200
HONOLULU, HAWAIʻI 96817

SB2021
RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S. C. Keith-Agaran, Vice Chair

February 22, 2022 10:00 a.m. Virtual Hearing

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2021 and requests that it pass out of committee. SB2021 requires that agencies that collect receipts for any disposition of the public land trust to each fiscal quarter transfer to the Office of Hawaiian Affairs twenty per cent of each receipt from the disposition, returns to the Office of Hawaiian Affairs certain moneys previously claimed as public land trust overpayments to the office, ensure that they are timely paid, provides a definition of "receipts" and establishes a public land trust revenues negotiating committee.

OHA asserts that the State of Hawaii is constitutionally mandated to pay the 20% pro rata share of income and proceeds derived from the Public Land Trust (PLT) to OHA to better the conditions of the native Hawaiians. Since 2012, the interim annual payment fixed at 15.1 million annually for ten years must increase. OHA requests that the State fulfill its constitutional trust responsibilities and duty of care to native Hawaiians to:

1) Account for all ceded lands in the public lands trust inventory.
2) Account for all income and proceeds derived from the public land trust; and
3) Transfer the full twenty percent pro rata share of income and proceeds from the public land trust annually to OHA for the betterment of the conditions of native Hawaiians.

OHA has sued the state on behalf of the beneficiaries and sought to find resolve in its accounting practices. OHA's 2015-16 financial analysis and review reflects the following:

1) The annual amount due OHA is approximately **$78.9 million.**
2) Since 2012, the accumulated past due debt is approximately **$638 million**.
3) The Carry Forward Trust Holding Account holds approximately **$29 million.**

OHA does not dispute that CFTHA funds, approximately $29 million, shall be transferred to the OHA in FY 2021-2022. OHA is ready to deploy those needed funds for programs and services through its grant's programs, contracts and MOU. OHA urges the governor to execute appropriate Executive Orders to effectuate the transfer of CFTHA trust funds accordingly.

Mahalo for the opportunity to submit testimony in support of SB2021.

Native Hawaiian & Pacific Islander
HAWAIʻI COVID-19 TEAM
Response. Recovery. Resilience.

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

Senate Committee on Ways and Means
Chair Dela Cruz and Vice Chair Keith-Agaran
February 22, 2022 at 10:00AM
CR211 & Via Video Conference

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means,

As a coalition of Native Hawaiian and Pacific Islander organizations, the Native Hawaiian & Pacific Islander COVID-19 Hawaiʻi Response, Recovery, and Resilience (NHPI 3R) Team **SUPPORTS** SB 2021, which would increase the pro rata share of the Public Land Trust received by the Office of Hawaiian Affairs (OHA).

Act 273 of 1980 enacted section 10-13.5 of the Hawaiʻi Revised Statutes to implement the Office of Hawaiian Affairs' pro rata share at 20%. These funds are to be furnished to the OHA for the betterment of the conditions of Native Hawaiians, and ultimately reach beyond to benefit intersecting communities as well. However, based on independent audits and the state's own accounting, it is clear that the amount currently received by OHA is not equal to 20%. OHA seeks to receive appropriate funds as a necessary means to achieve its goals, including the provision of resources to the Native Hawaiian people, and should receive full and fair funding from the State of Hawaiʻi. OHA has supported COVID-19 response efforts for NHPIs 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 increasing the pro rata share will benefit the public and works towards equity.

Mahalo for the opportunity to provide testimony. The NHPI 3R Team can be contacted via email at nhpicovid@papaolalokahi.org.

Respectfully,

Sheri Daniels, Native Hawaiian Co-Lead

Josie Howard, Pacific Islander Co-Lead

Joseph Keaweʻaimoku Kaholokula, Native Hawaiian Co-Lead

Feleaʻi Tau, Pacific Islander Co-Lead

SENATE COMMITTEE ON WAYS AND MEANS
Tuesday, February 22, 2022, 10 am, Room 211 & Videoconference
SB 2021
Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust
TESTIMONY
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Dela Cruz and Committee Members:

The League of Women Voters of Hawaii requests amendment of SB 2021.

The League has no expertise or position concerning OHA's fair share of revenues from the public land trust. However, we request amendment of Section 4 of this bill so that the proposed public land trust revenues negotiating committee is subject to Chapter 92, Hawaii Revised Statutes. There is no compelling justification to exempt the proposed committee from the Sunshine Law.

Thank you for the opportunity to submit testimony.

League of Women Voters of Hawaii
P.O. Box 235026 ◆ Honolulu, HI 96823
Voicemail 808.377.6727 ◆ my.lwv.org/hawaii ◆ voters@lwvhi.org

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
Unity, Equality, Aloha for all

 

To: SENATE COMMITTEE ON WAYS AND MEANS
For hearing Tuesday, February 22, 2022

Re: SB2021
RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.
Requires agencies that collect receipts for any disposition of the public land trust to each fiscal quarter transfer to the Office of Hawaiian Affairs twenty per cent of each receipt from the disposition. Returns to the Office of Hawaiian Affairs certain moneys previously claimed as public land trust overpayments to the office. Establishes a public land trust revenues negotiating committee exempted from part I of chapter 92, Hawaii Revised Statutes.

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.

Kūpuna for the Moʻopuna

committed to the well-being of Hawaiʻi for the next generations to come

kupuna4moopuna@gmail.com

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

SUPPORT

Committee on Ways and Means 2/22/2022 @ 10:10am

We are in SUPPORT of SB 2021.

Act 273 (1980) setting OHA's pro rata share at twenty per cent of the income and proceeds from the Public Land Trust, lands that were originally Crown and Government lands belonging to the Hawaiian Kingdom, must be enforced now. This is way overdue. Please support and pass.

The State has a fiduciary duty as trustee of our public lands: "shall be held by the State as a public trust for native Hawaiians and the general public."

PUBLIC TRUST

Section 4. 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…. **shall be held by the State as a public trust for native Hawaiians and the general public.**

Mahalo,
Kūpuna for the Moʻopuna
Panaʻewa, Hawaiʻi

STOP LEGAL THIEVERY

Ua mau ke ea o ka ʻāina i ka pono!