



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Judiciary
and

Senate Committee on Ways and Means
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by

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SB 321 SD1 – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE
OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Chairs Rhoads and Dela Cruz, Vice Chairs Keohokalole and Keith-Agaran, and
members of the Committees:

Thank you for the opportunity to submit our strong concerns with SB 321 SD1. Like the
Office of Hawaiian Affairs (OHA), the University of Hawai'i (University) has a unique
relationship to the public land trust requiring special consideration.

The Admissions Act §5(f), which created the State of Hawai'i public trust lands
commonly referred to as ceded lands, identifies multiple purposes to benefit from these
lands. The first of these purposes enumerated in the Act is the "support of public
schools and other public educational institutions" and the second of these purposes is
the "betterment of Native Hawaiians." As the University is also an identified purpose of
the public land trust, it should not be required to sacrifice its benefits from the public
land trust to OHA¹.

The University and OHA were both established by the Hawai'i State Constitution. With
this equal footing, the Hawai'i State Constitution expressly authorizes that University
lands be used solely for its purposes. Article X, Section 5, states that the University
"shall have title to all the real and personal property now or hereafter set aside or
conveyed to it, which shall be held in public trust for *its* purposes[.]" See Hawai'i State
Constitution, Article X, Section 5, emphasis added.

Furthermore, independent from 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

¹ In creating OHA, the Hawai'i State Legislature adopted Haw. Rev. Stat. §§ 10-3 and 10-13.5 which
provide that 20%, or one-fifth, of all funds derived from the public land trust shall be expended by OHA for
the betterment of the conditions of native Hawaiians. Later in 2006, the Legislature fixed OHA's pro rata
share of the public land trust to \$15,100,000. See Act 178, SLH 2006.

2019-2020, the University has provided in excess of \$7,000,000 to native Hawaiian students in tuition waivers and non-resident tuition differentials.

In addition, the University has embraced its mission to become a model indigenous-serving university and greatly appreciates the financial support from and many partnerships with OHA (along with the Ali'i Trusts and other organizations) to advance native Hawaiian people, language, culture and history.

The University serves one of the same purposes as provided for under the Admissions Act. The University must focus its resources to provide all of its students with the educational tools, training, and tenacity to meet the challenges in today's competitive local, national, and global workforce.

The University respectfully requests that SB 321 SD1 be amended to exclude the University from any obligations to OHA.

In the alternative, the University respectfully requests that the bill include language from Act 178, SLH 2006, Section 3, Page 703, that provides:

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

Lastly, the State's current economic condition and uncertainty should serve as an example as to why the Governor should maintain the flexibility afforded by Act 178 to adjust each department's contribution as needed. This approach could also be beneficial to the OHA as well.

Thank you for your time and consideration.