



OHA-3

Improving State Reporting on Public Land Trust Revenues

This measure would reaffirm and reinforce state Public Land Trust revenue reporting requirements, to help determine an annual payment amount that more fairly and justly reflects the Hawaiian people's share of the Public Land Trust.

WHAT IS THE PUBLIC LAND TRUST (PLT)?

The Hawai'i Admission Act and Hawai'i State Constitution establish the Public Land Trust (PLT) as a subset of state lands to be held in trust **for the betterment of the conditions of native Hawaiians**, and the general public. PLT lands are comprised of "ceded" lands, or **former Crown and Government lands of the Hawaiian Kingdom**, stolen from the Hawaiian people without their consent or compensation. Hawai'i's constitution establishes OHA in part to receive and administer native Hawaiians' pro rata share of revenues derived from the PLT.

THE HAWAIIAN PEOPLE'S SHARE OF PLT REVENUES AND STATE REPORTING RESPONSIBILITIES

Native Hawaiians' PLT share is generally understood to include **20% of revenues** derived from PLT lands. However, how this 20% should be calculated has been a matter of longstanding debate between OHA and the State. In 2006, the State agreed to pay OHA a **fixed \$15.1 million per year** as a temporary approximation of the Hawaiian people's PLT share, based on information available from state agencies at the time. To implement this agreement, **state agencies were ordered to set aside and transfer 20% of their PLT receipts to OHA** (articulated in Executive Order 06-06 (EO 0606)); any amount that OHA received over \$15.1 million in any given year would be returned to a trust holding account administered by the State.

Act 178, which established the \$15.1 million annual payment, also required state agencies to **provide an annual accounting of their PLT receipts**, to inform future adjustments to the payment amount. However, based on OHA's research and third party financial reviews, **most agencies still do not report, much less transfer, major categories of PLT receipts to OHA.** Meanwhile, 13 years later, the \$15.1 million "temporary" annual payment amount remains unchanged.

OHA-3: REINFORCING PLT REPORTING REQUIREMENTS

OHA-3 would codify and reinforce the state PLT reporting requirements originally established under Act 178, ensuring more consistent and accurate PLT revenue information; such information would in turn support a long-overdue update to the \$15.1 million annual payment to OHA that more fairly reflects the Hawaiian people's PLT share.



Specifically, OHA-3 would

- **Set in statute** Act 178's annual accounting requirements for PLT receipts;
- Explicitly affirm that the **reporting requirements applies to all gross PLT receipts**, regardless of whether an agency believes the receipts may be subject to the Hawaiian people's pro rata share;
- Affirm that the **University of Hawai'i** is subject to the same PLT reporting requirements as other state entities, given its **ongoing failure to comply with Act 178**;
- Instruct all state agencies receiving PLT revenues to **explain each instance** in which 20% of a PLT receipt was not set aside and transferred to OHA; and
- **Improve communication and consultation** between the Department of Land and Natural Resources and OHA, to ensure the accuracy, inclusivity, and continued improvement of the state's PLT reporting process.

WHY HAS STATE PLT REPORTING BEEN INCONSISTENT OR UNSATISFACTORY?

Although Act 178 is clear that all state agencies that generate revenues from PLT lands are required to report any and all receipts from such lands, there is little coordinated oversight over agency reporting. There is also little oversight over agencies' compliance with EO 06-06, which orders agencies to set aside and transfer 20% of their PLT receipts to OHA, unless set otherwise by the Governor. Consequently, each department or agency creates their respective reporting and transferring methods, which may fail to consistently or sufficiently account for the Hawaiian people's PLT share, and which may change over time with little to no notice.

HOW WILL OHA-3 HELP ENSURE NATIVE HAWAIIANS RECEIVE THEIR PRO RATA PLT SHARE?

Complete and accurate reporting on all PLT receipts is critical to informing future efforts to provide the Hawaiian people with a fairer share of PLT revenues. OHA believes that the State, OHA, OHA beneficiaries, and the public at large all deserve to have the best and most accurate PLT revenue information available, when a long-overdue update to the decade-old \$15.1 million annual PLT payment amount is finally renegotiated.

WHY ISN'T OHA ASKING FOR AN INCREASE IN THE \$15.1 MILLION ANNUAL PAYMENT?

In 2016 and 2018, OHA introduced and advocated for legislation that would have increased the amount it receives as the Hawaiian people's share of PLT revenues. While unsuccessful, these efforts revealed the need to improve both PLT reporting and transferring processes. By reaffirming state agencies' PLT reporting responsibilities and addressing a number of reporting deficiencies, OHA-3 will ultimately facilitate conversations between the State and OHA that may finally result in Hawaiians receiving a fairer share of the PLT.

WHERE CAN I LEARN MORE ABOUT THE PUBLIC LAND TRUST?

A highly informative, half hour video on the history of the Public Land Trust, featuring historians, researchers, attorneys, and community leaders can be viewed at www.oha.org/plt.