UNIVERSITY OF HAWAIʻI SYSTEM
Legislative Testimony

Testimony Presented Before the
Senate Committee on Hawaiian Affairs
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SB 2124 – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST

Chair Shimabukuro, Vice Chair English, and members of the Hawaiian Affairs Committee:

Thank you for the opportunity to testify. The educational mission of the University of Hawaiʻi (UH), as set forth in Board of Regents Policy, includes embracing, as the only provider of public higher education in Hawaiʻi, its unique responsibilities to the indigenous people of Hawaiʻi and to Hawaiʻi's indigenous language and culture. To fulfill this responsibility, UH ensures active support for the participation of Native Hawaiians at the university and support vigorous programs of study and support for the Hawaiian language, history, and culture. That said, the UH has serious concerns with SB 2124 in its current form, on the basis that this measure promotes foreseeable increased fiscal impacts to the university and its students and programs in particular, as well as taxpayers more generally.

This bill replaces the annual fixed amount of $15.1 million currently paid to the Office of Hawaiian Affairs on an interim basis as its pro rata share of income and proceeds from the public land trust, with an unlimited obligation on state agencies to pay OHA twenty percent of all "receipts for the use, sale, lease, or other disposition of the public land trust" on a quarterly basis. UH is concerned that the term "receipts" is not clearly defined or appropriately limited by SB 2124 as currently drafted, and may be construed to include UH funds such as student tuition and fees that are currently, and properly, excluded from the computation of amounts due from UH toward OHA's pro rata share of the public land trust.

UH, as a public institution of higher education, serves one of the express purposes, and in fact the first-mentioned purpose of the Public Land Trust established by the Admission Act. Under current law, as interpreted and applied by the Office of the Attorney General, receipts from the University's educational programs and ancillary services are not subject to apportionment to OHA. Such receipts include student tuition and fees, services of educational departments, and student housing. The University also receives federal and other research grants and contracts, federal reimbursements

of UH research overhead expenses, philanthropic gifts, and other funding streams, in addition to the support provided by the Legislature.

Currently, in accordance with past discussions with the Office of the Attorney General, OHA has been determined to be entitled to a pro rata share of specific types of University revenues as described in Conference Committee Report No. 101 to S.B. No. 2948, which became Act 178, SLH 2006. Those revenue sources are: UH Mānoa and UH Hilo parking, faculty housing, non-student housing rentals, including food and vending machines, telephone commissions/collections, and UH Hilo Bookstore logo products, sundries but not books or school supply items. UH acknowledges and accepts its obligation to pay over OHA's allocated share of those items. However, given recent positions taken by OHA, the University is deeply concerned that the use of the undefined term "receipts" in SB 2124 could lead to claims that other types of University funds are also subject to OHA's pro rata share, leading to potentially complex and costly disputes and unforeseeable and unmanageable financial impacts to the university, students, and taxpayers relating to all state services.

Thank you for your time and consideration.