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Kaiali'i Kahele
Carmen "Hulu" Lindsey
Keoni Souza
John D. Waihee IV

OFFICE OF HAWAIIAN AFFAIRS
KE'ENA KULEANA HAWAI'I
BENEFICIARY ADVOCACY AND EMPOWERMENT COMMITTEE
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MEETING OF THE COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT

DATE: Wednesday, October 21, 2026

TIME: 9:00 A.M.

PLACE: Remote Meeting by Interactive Conference Technology

Viewable at https://www.oha.org/livestream OR
Listen by phone: (213) 338-8477 Webinar ID: 914 4773 5478

This meeting can be viewed via livestream on OHA's website at www.oha.org/livestream or listened to by phone using the call-in information above. Additionally, this meeting can be viewed live on 'Ōlelo Community Media http://olelo.org. A physical meeting location, open to members of the public who would like to provide oral testimony or view the meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817.

AGENDA

I. Call to Order

II. New Business

- **A. BAE #26-06:** Approval of Funds and Procedures for Island Burial Council Moku Representatives Stipends Per Act 96 (2026)
- **B. BAE #26-08:** Approval of Bills for OHA's 2027 Legislative Package
- **C. Update by Administration** on Federal Advocacy Activities.

III. Community Concerns and Celebrations

IV. Announcements

V. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, please contact Keola Fong at (808) 626-5484 or by email at keolaf@oha.org as soon as possible. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible formats.

In the event that the livestream public broadcast is interrupted and cannot be restored, the meeting may continue as audio-only through the phone number and Webinar ID provided at the beginning of this agenda. Meeting recordings will be made available on OHA's website https://www.oha.org/about/leadership/board-of-trustees/ as soon as practicable after the meeting.

Public Testimony will be called for each agenda item and must be limited to matters listed on the meeting agenda. Community Concerns and Celebrations is not limited to matters listed on the meeting agenda. Hawai'i Revised Statutes,

Chapter 92, prohibits Board members from discussing or acting on matters not listed on the meeting agenda.

* The board packet will be available for the public to inspect at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817, no later than three full business days before the meeting. The board packet will also be made available on OHA's website, https://www.oha.org/bae, as soon as practicable thereafter.

Testimony can be provided to the Board of Trustees either as: (1) *written testimony* or (2) live, oral testimony online, by telephone, or at the physical meeting location during the remote meeting.

(1) Persons wishing to provide *written testimony* on items listed on the agenda should submit testimony via ***email*** to botmeetings@oha.org or via ***postal mail*** to Office of Hawaiian Affairs, Attn: Board of Trustees Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Testimony is requested to be received at least twenty-four hours prior to the scheduled meeting to allow board members with sufficient time to review the testimony before the meeting. *Please note that all written testimony will be posted on OHA's meeting website. Please omit or redact any personal information (e.g., name, email address, phone number, home address, or materials) that you do not want to be disclosed publicly online.*

(2) Persons wishing to provide *oral testimony online* during the remote meeting, please click on the link: https://zoom.us/j/91447735478

To provide oral testimony online, you will need:
(1) a computer or mobile device to connect to the remote meeting, internet access, and
(2) a microphone to provide oral testimony.

Persons wishing to provide oral testimony by telephone during the remote meeting may dial the phone number listed at the beginning of this agenda and enter the corresponding Webinar ID. Telephone participants will be able to provide oral testimony during the meeting.

Persons wishing to provide oral testimony at the physical meeting location can sign up the day of the meeting at the physical meeting location.

If you willfully disrupt the meeting, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

Oral testimony online, by telephone or at a physical meeting location will be limited to five (5) minutes.



Trustee Brickwood Galuteria, Chair
Committee on Beneficiary Advocacy and Empowerment

Date: 10/15/26

OFFICE OF HAWAIIAN AFFAIRS

Beneficiary Advocacy & Empowerment Committee

II. New Business

A. **BAE #26-06:** Approval of Funds and Procedures for Island Burial Council Moku Representatives Stipends Per Act 96 (2026)
B. **BAE #26-08:** Approval of Bills for OHA's 2027 Legislative Package
C. **Update by Administration** on Federal Advocacy Activities.
   **There are no materials for Item II.-C at this time*

ACTION ITEM

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
October 21, 2026

BAE #26-08

Action Item BAE #26-08: Approval of Bills for OHA's 2027 Legislative Package

Co-Prepared by: 10/16/2026

Advocacy Staff & Leinā'ala L. Ley — Date
Ka Pou Kihi Kū (Chief Advocate)

Reviewed by: 10/16/2026

K.Sean Kekina — Date
Ka Pou Nui (Chief Operating Officer)

Reviewed by: 10/16/2026

Everett Ohta — Date
Ka Paepae Puka (General Counsel)

Reviewed by: 10/16/2026

Summer Lee Haunani Sylva — Date
Ka Pouhana Kūikawā (Interim Chief Executive Officer)

Reviewed by: 10/16/2026

Brickwood Galuteria — Date
Chairperson, Committee on Beneficiary Advocacy and Empowerment

I. PROPOSED ACTION: Approval of 2027 Legislative Package

Motion 1: RELATING TO CORRECTIONAL FACILITIES
Approve as part of the 2027 OHA Legislative Package, the proposed measure "Relating To Correctional Facilities" to amend Hawai'i Revised Statutes (HRS) Chapters 353-1 and 343-16.2 to require the director of the Department of Corrections and Rehabilitation (DCR) to incrementally return pa'ahao incarcerated in private, out-of-state correctional institutions to in-state facilities, require the use of appropriate in-state prison and prison furlough capacity, require written justifications for new private out-of-state placements, require notice of transfer to the Hawai'i State Correctional Oversight Commission and the affected person, and require transparent reporting, as provided in Attachment A**.**

Motion 2: PROPOSING AN AMENDMENT TO ARTICLE XI OF THE HAWAII STATE CONSTITUTION TO PROHIBIT DESTRUCTIVE LIVE-FIRE MILITARY TRAINING ON PUBLIC TRUST LANDS
Approve as part of the 2027 OHA Legislative Package, the proposed measure "Proposing an Amendment to Article XI of the Hawai'i State Constitution to Prohibit Live-Fire Military Training on Public Trust Lands," which would place this issue on the ballot for the voters of Hawai'i to decide in the 2028 general election, as provided in Attachment B.

Motion 3: RELATING TO HISTORIC PRESERVATION
Approve as part of the 2027 OHA Legislative Package, the proposed measure "Relating to Historic Preservation" to amend HRS Chapter 6E to effectuate a partial repeal of Act 293 (2025) which created a loophole for private projects within "existing residential property" or in "nominally sensitive areas," as provided in Attachment C.

Motion 4: RELATING TO THE LAND USE COMMISSION
Approve as part of the 2027 OHA Legislative Package, the proposed measure "Relating to the Hawai'i State Land Use Commission," which would amend HRS section 205-1 to add an additional member to the LUC who has "substantial experience in the area of water resource management," as provided in Attachment D.

Motion 5: NO 2027 GENERAL FUNDS BUDGET REQUEST
Approve Administration's recommendation not to seek a General Fund appropriation, historically approximately $3 million, and instead focus OHA's advocacy on securing its "pro rata share" of public land trust (PLT) revenue, increasing the temporary payment, and securing revenues already owed through accurate and timely PLT revenue payments, including the release of funds held in the Carry Forward Trust Holding Account (CFTHA).

Motion 6: NON-SUBSTANTIVE AMENDMENT AUTHORITY
Delegate authority to Administration to make technical, ministerial, strategic or other non-substantive amendments to approved bills as necessary for style, clarity, consistency, and accuracy for final submission to the legislature. This includes preamble language for framing and editorial purposes, titles of measures for strategic and clarifying reason, and technical corrections that do not materially or substantially alter the bills as presented in the attachments to this action item.

II. ISSUE

Whether or not the Committee on Beneficiary Empowerment and Advocacy (BAE) should recommend the Board of Trustees (BOT) approve: (1) Attachments A through D as part of OHA's 2027 Legislative Package; (2) staff's recommendation not to seek a general funds appropriation from the legislature during the next biennium budget cycle; and (3) the requested delegation of authority to staff to make non-material changes to Attachments A through D once approved.

III. BACKGROUND & DISCUSSION

This action item seeks approval of: (1) four separate bills proposed for inclusion in OHA's 2027 legislative package; (2) staff's recommendation not to request general funds appropriation from the legislature during the next biennium budget cycle; and (3) delegation of authority to staff to make non-substantial amendments to the bills after they are approved as necessary for strategic and technical reasons.

The proposed OHA 2027 Legislative Package is grounded in ea: the ability of Native Hawaiians to exercise self-determination over lands and resources. This also means ensuring OHA has the authority to responsibly manage and make decisions about the lands entrusted to us. It means protecting our iwi kūpuna and other cultural resources. It means better management of our public lands while protecting Native Hawaiian claims and interests in those lands. And it means ensuring our pa‘ahao remain connected to Hawai‘i, their ‘ohana and this ‘āina, not sentenced out of state.

Our recommendation not to seek a State General Fund appropriation this year is also part of ea. Rather than asking each year for discretionary State funding, OHA's advocacy should focus on securing its pro rata share of PLT revenue. As recently detailed in an administration update on the Malu Project (stewardship of funds received via Act 32 (2026)), when OHA is entrusted with our rightful share of public land trust revenue, this BOT can exercise its fiduciary discretion in ways that increase the value of these revenues over time—and the services that can be provided to our beneficiaries. Building on the success of Act 032, now is an appropriate time for OHA to refocus on this independent funding stream and long-term self-sufficiency.

A. Relating to Correctional Facilities (Attachment A)

The proposed measure builds upon HB1769, introduced during the 2026 legislative session, and OHA's longstanding advocacy to reduce the disparate impact of the criminal justice system on native Hawaiians. OHA formally supported HB1769 at each stage of the legislative process and conducted a public advocacy campaign urging beneficiaries and community members to support the measure. HB1769 received overwhelming and bipartisan legislative support, including both Democrat and Republican sponsors. The measure made it to conference committee, where Senate conferees were appointed, but did not receive final conference action before adjournment. OHA staff has worked with

the lead introducer and other stakeholders to ensure support for OHA adopting this measure as part of its 2027 Legislative Package.

Recent developments demonstrate the need for a clear, long-term policy to govern out of state incarceration and the eventual return of individuals to Hawai‘i. For example, in June 2026, DCR considered transferring a group of individuals with behavioral health needs to the correctional facility in Mississippi. However, due in part to public backlash, the department instead transferred those individuals to Waiawa Correctional Facility. This decision demonstrates that Hawai‘i-based alternatives may be available when DCR meaningfully evaluates existing facilities and resources rather than default to shipping people to out of state facilities.

For years, the Hawai‘i Oversight Commission has repeatedly recommended that the department move eligible individuals from Hālawa and Saguaro (high security facilities) and more fully utilize Waiawa and Kūlani (low security facilities). The Commission described the underutilization of these facilities as operationally inefficient, financially wasteful, and contrary to rehabilitative best practices. Waiawa and Kūlani may not be appropriate for every minimum-classified individual with behavioral or mental health issues in Hālawa and on the continent. Nevertheless, DCR should demonstrate that it has evaluated existing in-state capacity, corrected avoidable classification and movement delays, and pursued less restrictive in-state placements before transferring additional individuals to the continent.

Native Hawaiians are particularly affected by out-of-state incarceration. OHA's 2011 report, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, found that overrepresentation of Native Hawaiians accumulates at multiple stages of the criminal legal system. The report also found that Native Hawaiians represented 41 percent of the people incarcerated in out-of-state facilities in the data examined, the highest percentage of any ethnic group.[1] For Native Hawaiian pa‘ahao, removal from Hawai‘i also means separation from ‘āina, ‘ōlelo Hawai‘i, cultural practices, and ‘ohana relationships that can strengthen ea, identity, accountability, healing, and successful reintegration.

Reducing Hawai‘i's reliance on out-of-state incarceration supports OHA's Mana i Mauli Ola Strategic Plan, including Strategic Outcome 3.1, increased access to quality, culturally based and culturally adapted prevention and treatment interventions, and Strategic Outcome 3.3, decreasing the number and percentage of Native Hawaiians in jails and prisons. The proposed measure is consistent with OHA's longstanding advocacy to reduce the harmful psychological, social, cultural, and economic effects of the criminal legal system on pa‘ahao, their ‘ohana, and the broader Native Hawaiian community.

Accordingly, staff recommend that the BOT approve the proposed bill amending section 353-16.2, Hawai‘i Revised Statutes, to prohibit future out-of-state transfers, establish a

[1] Office of Hawaiian Affairs, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* (2010), pp. 12 and 41-42, available at OHA.

phased reduction and eventual prohibition on the incarceration of committed felons in private, out-of-state correctional institutions, and require annual reports to the Legislature, as proposed in Attachment A.

B. Proposing an Amendment to Article XI of the Hawai'i State Constitution to Prohibit Live-Fire Training on Public Trust Lands (Attachment B)

This bill is a revised version of a measure included in OHA's 2026 Legislative Package to ban destructive live fire training on public lands through constitutional amendment. Mākua Valley, Kahuku and Kawailoa-Poamoho on O'ahu, Pōhakuloa on Hawai'i Island, and Waimea/Kekaha on Kaua'i (including nearby Ka'ula Island) are wahi pana—storied places—containing irreplaceable Native Hawaiian cultural sites and fragile ecosystems home to endangered species. Each is subject to a 65-year lease with the various branches of the United States military that is set to expire between 2027-2030, presenting a once in a generation opportunity for Native Hawaiians to further ea, and reestablish connection with lands that were confiscated without input by the Native Hawaiian community, including former crown and government land of the Hawaiian Kingdom.

The proposed bill, if passed by the legislature, would give the people of Hawai'i the opportunity to protect public land from further harm through a ballot question asking:

> "Shall the Constitution of the State of Hawai'i be amended to provide that no destructive live-fire military training shall be conducted on public trust lands as defined in Article XII, section 4?"

Because Hawai'i does not have citizen-initiated ballot process, the only way to place the live fire issue before the electorate is by first passing a bill through a supermajority of the Hawai'i State Legislature. Specifically, for a constitutional amendment to pass out of the legislature, it must receive a two-thirds majority vote in both chambers. When placed on the ballot, the amendment must meet two qualifications: (1) the "yes" votes must receive a majority of votes tallied (excluding blank and over (double) votes); and (2) the "yes" votes must receive at least 50% of the total votes cast (including blank and over votes). This means if too many people leave their ballot blank due to lack of understanding of the proposal or for other reasons, the measure will not pass.

Staff recommend that Attachment B be approved as part of OHA's 2027 Legislative Package and to continue ongoing advocacy around stewardship of military leased lands. There is an unknown fiscal impact which depends on how much money OHA may decide to dedicate to educating voters to vote "yes" on this measure, if passed out of the legislature.

C. Relating to Historic Preservation (Attachment C)

This bill is a revised version of a measure included in OHA's 2026 Legislative Package. Substantively, it has been amended to incorporate feedback received from legislators

during the 2026 session and subsequent meetings. Most recently Advocacy staff met with staff from the State Historic Preservation Division (SHPD) and the Honolulu Department of Permitting and Planning (DPP) to continue collaborative work on this bill. While Attachment C reflects the status of current conversations delegated authority, it is particularly important for this bill to allow staff to continue to incorporate feedback received prior to session from key stakeholders, including legislators.

For many Native Hawaiians, iwi kūpuna embody the living spirit of our ancestors and their protection is sacred. Recognizing this, the Hawai'i State Constitution obligates the State—under its public trust duties and Article XII, Section 7—to safeguard iwi kūpuna and uphold traditional and customary practices. However, during the 2025 legislative session, the legislature enacted several measures that significantly weakened the framework for protection of iwi kupuna in the historic preservation review process established in Hawai'i Revised Statutes (HRS) Chapter 6E.

Act 293 (2025) created exemptions from the historic review process for private projects on (1) "*existing residential properties*," and (2) in "*nominally sensitive areas*." Historic review pursuant to HRS section 6E-42 review enables the State Historic Preservation Division (SHPD) to identify and protect iwi before groundbreaking work commences through surveys or monitoring.[2] Skipping this process silences burial councils and descendants,[3] and often results in iwi kūpuna being disturbed during construction, when it is often too late to protect them because engineering and architectural alternatives that could have been adopted prior to construction have been foreclosed.

As written, the Act 293 exemptions could be interpreted to cover large-scale developments, including apartments, condominiums, or even hotels, in high-risk areas, such as jaucas sands, which are known to contain a high concentration of iwi. This is because "*nominally sensitive*" is defined broadly as a project area that is known to include a low density of historic, cultural, or archaeological resources, *or* where the project area has been substantially disturbed by previous excavation or other ground-disturbing work and no significant historic properties or iwi were previously identified. *See* HRS § 6E-42.2(d). Because many structures were built prior to adoption of HRS Chapter 6E in 1989, the fact that iwi weren't discovered or reported does not indicate the area is unlikely to contain iwi.

The proposed bill would restore iwi kūpuna safeguards by ameding Act 293's "nominally sensitive area" exemption to ensure archaeological review commensurate with the risk level associated with the specific parcel. The proposed classificaiton process has already been incorporated into other sections of HRS Chapter 6E pursuant to legislation adopted during the 2025 legislative session. *See* HRS § 6E-8.5.

[2] HRS § 6E-42(a) requires projects involving state or county permits or approvals, that may affect historic property or burial sites, to be reviewed by SHPD prior to any approval.

[3] This is because for iwi discovered prior to construction IBCs have 45 days to make determinations and consult with descendants concenring protective measures. *See* HRS § 6E-43. In contrast, when iwi are discovered during construction, consultation with the IBCs is expedited to 2-3 day, and descendants have limited input. *See id.* § 6E-43.6.

The proposed amendments would help to prevent irreversable harm to iwi, ensure kanaka māoli descendant voices remain central, and restore beneficiary and public trust in the State's historic preservation program. Additionally, the proposed bill reaffirms the State's duty to protect iwi kūpuna and aligns with OHA's BOT Executive Policy 2080 which affirms iwi kūpuna as "the most cherished possession" and the their proper care, management and protection a matter of "paramount consideration."

D. Relating to the Land Use Commission (Attachment D)

This bill is a revised version of a measure included in OHA's 2026 Legislative Package. OHA was requested to re-introduce this bill by community members, who continue to advocate for better integration of wai resource management and land-use planning. The Hawai'i Land Use Commission (LUC) is responsible for classifying lands into four districts: urban, rural, agricultural, and conservation, and reviewing petitions to reclassify lands for different uses[4]. These decisions can authorize more intensive development, including increased housing density and converting lands from agricultural uses. The LUC may also impose conditions on reclassification to ensure compliance with environmental protections, affordable housing requirements, and other obligations.

Responsible land-use decisions require an understanding of whether sufficient wai resources are available to support existing community needs and future development. Yet, existing law does not require any member of the LUC to have expertise in water resource management5. This bill would address that gap by amending HRS § 205-1 to require that "at least one member have substantial experience in the area of water resource management."

This measure is consistent with OHA's Board of Trustees Policy Manual (2070, Wai), which establishes the following overarching principle:

> *"OHA will advocate for, promote, and demonstrate appropriate, responsible, and just wai stewardship practices and values throughout Ka Pae Āina o Hawai'i, allowing the 'āina and wai and the interdependent Native Hawaiian culture and people to thrive, and mutually empowering OHA and communities to 'auamo (carry) the shared responsibility of protecting and ensuring the proper management of our water resources."*

Ensuring a water expert serves on the LUC will help advance responsible stewardship of wai resources as a first step towards increasing transparency and public accountability around land use entitlements that affect long-term water availability.

This bill does not add any members to the LUC, but requires that one of the members serving has this expertise. Unlike our past bill, this bill does not request OHA to also be responsible for any LUC nominations. The proposed bill is attached as Attachment D.

[4] HRS §§ 205-2 and 205-3.1
[5] See HRS § 205-1

E. No General Funds Budget Request

In 2025, OHA's package included a budget request for approximately $4.86 million in General Funds for FY2026 and $5.0 million for FY2027, compared with the historical appropriation of approximately $3 million annually (HB 410/SB 269). The bill proposed $1.26 million in FY2026 and $1.30 million in FY2027 in general funds to support 13 permanent positions in OHA's Strategy and Implementation paia. The balance of money requested was for matching funds directed to beneficiary programs addressing housing, social services, education, legal services, ʻāina protection, and economic development. The final version of HB 410, enacted as Act 248, appropriated $3 million in matching funds with no increase for staffing, maintaining general fund support for OHA at the historical norm of approximately $3 million.

Separately from the biennium budget process, the legislature in 2026 enacted Act 32 which released $55 million in PLT revenues from the CFTHA. Rather than focusing on discretionary general fund support, Act 32 (2026) advances work toward an accurate inventory and accounting of PLT lands and revenues, determination of OHA's pro rata share, and discussion of potential reconciliation frameworks. As recently reported by the Malu Project Ad Hoc Committee, the transfer of CAFTHA funds to OHA will generate a long-term revenue stream through an interest-bearing account which has already generated ~$400,000 since the funds were received in July of this year.

Given this history, Administration recommends that OHA do not seek general funds during the 2027 legislative session and instead focus its advocacy on ensuring that the state fulfils its existing PLT obligations, including accurate and timely transfer of revenues placed into the CAFTHA. This recommendation also aligns with the package's broader focus on ea. Moving forward, rather than returning each biennium to ask the Legislature for discretionary general funds, OHA can focus its advocacy on securing the PLT revenues already owed to Native Hawaiians and ensuring OHA has the authority to responsibly manage those resources for its beneficiaries.

Accordingly, Administration recommends that OHA:

- Not seek general funds from the legislature during the upcoming biennium budget process;
- Focusing on implementing the PLTWG (Act 32) mandates; and
- Continue OHA's advocacy to lift the cap on annual PLT payments to OHA.

IV. TIMEFRAME

Immediate action is necessary to assure that OHA has approval to submit Attachments A through D as part of our 2027 Legislative Package prior to the normal deadline of December 24th for submission of non-administration packages for introduction by the Senate President and Speaker of the House and the necessary

discretion to ensure the bills as introduced conform to feedback received form legislators and other stakeholders.

V. BUDGET AUTHORIZATION

No funding is required although approval of this action item will approve Administration's request not to seek a budget appropriation for the upcoming biennium (FY2027-2029).

VI. RECOMMENDATION

That the BAE approve Motions 1 through 6.

VII. ALTERNATIVES

A. Amend the proposed bills.
B. Take no action.
C. Defer decisionmaking until a later date..

VIII. ATTACHMENTS

Attachment A: Proposed Bill — Relating to Correctional Facilities
Attachment B: Proposed Bill — Proposing an Amendment to Article XI of the Hawaii State Constitution to Prohibit Live-Fire Military Training on Public Trust Lands
Attachment C: Proposed Bill — Relating to Historic Preservation
Attachment D: Proposed Bill — Relating to the Land Use Commission

__.B. NO._____

REVISED:
1ST DRAFT DATE:

A BILL FOR AN ACT

RELATING TO CORRECTIONAL FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that Hawaii's long-standing reliance on incarceration in private correctional facilities located outside the State has separated incarcerated persons from their families, communities, culture, and support systems; impeded rehabilitation and successful reentry; and limited accountability and transparency. The House Concurrent Resolution No. 85 Task Force on Prison Reform concluded that Hawaii's correctional system was not producing acceptable, cost-effective, or sustainable outcomes and recommended that the State transition from a punitive system to a rehabilitative system, develop a plan to return incarcerated persons held on the continent, and end its reliance on private prisons.

The legislature finds that Native Hawaiians and other disproportionately affected communities are overrepresented throughout Hawaii's criminal legal system. The removal of Native Hawaiian incarcerated persons from their aina, ohana, language,

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culture, and traditional practices compounds the harms of incarceration and undermines rehabilitation, healing, and successful reentry.

The legislature finds that the department of corrections and rehabilitation faces substantial behavioral health, staffing, infrastructure, classification, and population-management challenges. These challenges should be addressed through meaningful evaluation and use of existing in-state capacity; appropriate classification and movement of incarcerated persons; coordination with the department of health and Hawaii state hospital; and development of inpatient, residential, community-based, diversion, and step-down treatment options in Hawaii.

The legislature finds that, at the Hawaii state correctional oversight commission's August 13, 2026, meeting, the director of the department confirmed the department transferred thirty-eight inmates from Saguaro correctional facility in Arizona to a correctional facility in Tallahatchie, Mississippi in June 2026. The commission later verified no advance notice was provided before the transfer to Mississippi, despite the action requiring an amendment to the contract between the state and CoreCivic. The director also confirmed

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that the department had initially considered transferring the individuals with identified behavioral health needs to the facility in Mississippi, but instead transferred those individuals to Waiawa correctional facility. The use of an in-state placement for the identified behavioral health population demonstrates the importance of fully evaluating Hawaii-based alternatives before pursuing additional out-of-state incarceration.

The legislature finds that Act 292 took effect on July 1, 2025. Act 292 requires written policies and procedures governing restrictive housing, consideration of less restrictive alternatives, staff training, documentation, monitoring, public reporting, and independent review by the commission. At the July 9, 2026, commission meeting, the department confirmed the commission had not been provided with updated restrictive housing policies as required by Act 292.

The legislature finds that Senate Bill No. 2381, introduced during the regular session of 2026, would have delayed and materially amended Act 292, including by removing certain procedural, reporting, and oversight requirements. The legislature did not enact those changes, and Act 292 remains in

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effect. Despite this, the department maintains additional out-of-state transfers may be necessary to comply with Act 292.

The legislature finds the department's stated need for additional space must be evaluated in light of existing in-state capacity. In the commission's August 2026 oversight coordinator report, the commission found that Waiawa correctional facility and Kulani correctional facility were operating at approximately sixty per cent and thirty-eight per cent of capacity, respectively. As of September 4, 2026, one hundred thirty one individuals classified at community or minimum custody remained at Halawa correctional facility, and twenty one individuals classified at minimum custody remained at the Saguaro correctional center in Arizona. The commission further found that, since 2023, between two hundred thirty and two hundred sixty individuals classified at minimum custody or below had consistently remained at Halawa or Saguaro while minimum-custody beds in Hawaii remained unused. The commission has repeatedly recommended that the department move eligible individuals from Halawa and Saguaro and more fully use Waiawa and Kulani.

The legislature finds that the June 23, 2025, expert assessment of mental health services at Halawa correctional facility and the Oahu community correctional center, prepared

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pursuant to the settlement in Opulento, et al. v. State of Hawaii, et al., documented inadequate psychiatric staffing, unsuitable physical conditions, and significant gaps in treatment for individuals with serious mental illness. The experts recommended that Hawaii explore an agreement between the correctional and state hospital systems to provide inpatient psychiatric care and supported diversion programs to reduce the correctional population. These findings support development of appropriate Hawaii-based treatment capacity and coordination rather than reliance on another correctional institution on the continent.

The legislature finds that expanding out-of-state incarceration should not substitute for compliance with state law, effective use of existing facilities, appropriate classification and population management, or development of adequate behavioral health services in Hawaii. The State must undertake the sustained work necessary to build a correctional system that strengthens rehabilitation, preserves ohana and community connections, respects Native Hawaiian culture, improves public safety, and creates the long-term capacity necessary to bring Hawaii's incarcerated people home.

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Therefore, the purpose of this Act is to require the director of the department of corrections and rehabilitation to incrementally return committed felons incarcerated in private, out-of-state correctional institutions to in-state correctional facilities; the use of appropriate in-state prison and prison furlough capacity; individual written justifications for new private out-of-state placements; notice to the Hawaii correctional oversight commission and the affected incarcerated person; and transparent reporting. This Act is not intended to prohibit individualized transfers necessary to address a grave safety threat or lawful, appropriate transfers under an interstate corrections compact.

SECTION 2. Section 353-1, Hawaii Revised Statutes, is amended to read as follows:

" **§353-1 Definitions**; director may delegate powers. As used in this chapter, unless the context otherwise requires:

"Committed person" means a person committed to the custody of the director of corrections and rehabilitation for imprisonment pursuant to chapter 706, including a probationer serving a term of imprisonment to section 706-624(2)(a) and a misdemeanant or petty misdemeanant sentenced pursuant to section 706-663.

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"Department" means the department of corrections and rehabilitation.

"Director" means the director of corrections and rehabilitation; provided that the signing or approval of vouchers and other routine matters may be delegated by the director to any authorized subordinate.

"Commission" means the Hawaii State Correctional Oversight Commission.

"Prison" means a state, federal, or private housing facility that confines convicted felons with sentences typically longer than one year.

"Prison furlough" means an authorized, unescorted, temporary leave of absence from prison which is creditable toward service of sentence. An inmate remains in the custody of the department regardless of whether the inmate is physically confined at any prison or released on furlough.

"Private, out-of-state correctional institution" includes any correctional institution located outside the State that is operated for profit or under a public-private partnership.

SECTION 3. Section 353-16.2, Hawaii Revised Statutes, is amended to read as follows:

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"(a) The director may effect the transfer of a committed felon to any correctional institution located in another state regardless of whether the state is a member of the Western Interstate Corrections Compact; ~~provided that~~ if the director has shown the following:

(1) the institution is in compliance with appropriate health, safety, and sanitation codes of the state, provides a level of program activity for the inmate that is suitable, and is operated by that state, by any of its political subdivisions, or by a private institution; ~~and provided further that the transfer is either:~~

~~(1)~~(2) The transfer is ~~I~~in the interest of the security~~,~~ or management of the correctional institution where the inmate is presently placed~~, or the reduction of prison overcrowding~~; ~~or~~

~~(2)~~(3) The transfer is ~~I~~n the interest of the inmate~~.~~, and;

(4) Before transferring a committed felon to a private, out-of-state correctional institution, the director shall:

(a) Evaluate suitable placement at an existing in state prison or prison furlough program, including placement made possible through timely classification review and movement of other eligible committed

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felons; document why an appropriate, safely operated placement is not reasonably available; and not count jail or pretrial detention beds as prison or prison furlough capacity;

(b) Make an individualized written finding that the transfer is necessary to address a specific, grave, and imminent risk of death or serious bodily injury that cannot reasonably be controlled through available in-state measure, or to meet a substantial, documented medical, behavioral health, or rehabilitative need for which appropriate in-state care or placement is not reasonably available; and

(c) Verify that the receiving institution holds current accreditation from the American Correctional Association.

(b) Beginning on July 1, 2030, the director shall return twenty-five percent of the number of committed felons incarcerated in private, out-of-state correctional institutions as of July 1, 2030, to in-state correctional facilities; provided further that beginning on July 1, 2032, and each year thereafter, the director shall return a number of committed felons equal to ten percent of the number of committed felons incarcerated in

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private, out-of-state correctional institutions as of July 1 of that year to in-state correctional facilities.

Only a transfer from a private, out-of-state correctional institution to an-in state correctional facility shall count as a return under this subsection. Releases from custody and transfers between out-of-state institutions shall not count as returns. The department shall also demonstrate the corresponding net reduction in the number of persons in private, out-of-state correctional institutions on each deadline, so that subsequent transfers do not negate the mandated progress. The director retains authority to conduct an individualized transfer pursuant to subsection (a) notwithstanding this subsection, but such transfer shall be included in calculating the net population.

Generalized overcrowding, staffing shortages, and the convenience of transferring a group shall not, without the individualized findings required by this subsection, constitute sufficient grounds for transfer to a private, out-of-state correctional institution. The director shall make separate findings for each person transferred.

(c) Except as provided in this subsection for emergency transfers, the department shall provide written notice of a proposed transfer to an out-of-state correctional institution to

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the Hawaii correctional system oversight commission and the committed felon at least five calendar days before transport. The notice to the commission shall identify the individual, proposed receiving institution, statutory basis for transfer, proposed date, and any applicable findings under subsection (a). The notice to the committed felon shall identify the receiving institution and the reasons for transfer, subject to appropriate redaction of confidential safety information. If an immediate, documented danger makes the five-day period impracticable, notice to the commission shall be given before transport, and notice to the committed felon shall be given as soon as safety permits, but no later than twenty-four hours after arrival. The director shall record the reasons for expedited notice. Notice under this subsection does not require commission approval.

(d) Nothing in this section shall withdraw the State from or repeal the Western Interstate Corrections Compact under chapter 355 or the Interstate Corrections Compact under chapter 355D. A lawful transfer under either compact to a publicly operated institution for an individualized security, medical, treatment, or rehabilitative purpose remains authorized, subject to applicable compact terms and notice under subsection (c) to the extent consistent with those terms. A transfer to another out-

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of-state institution under a compact shall not be counted as a return to an in-state correctional facility. A transfer to a private, out-of-state correctional institution does not become exempt from subsection (c) solely because an interstate compact or intergovernmental arrangement is involved.

~~(b)~~ (e) Terms and conditions of a transfer and any reimbursement for expenses shall be agreed upon between the department and the out-of-state correctional institution prior to transfer.

(f) The department shall submit a report to the legislature no later than twenty days before the convening of the regular session of 2028 and each regular session thereafter on progress in effectuating the returns required by subsection (b). Each report shall include the baseline and current populations of private and other out-of-state correctional institutions; numbers returned to in-state facilities; new out-of-state transfers and their individualized grounds, including transfers under chapter 355 and 355D; and occupancy, custody-classification, and available placement data for in-state prisons and prison furlough programs, including the reasons reported vacant beds could not be used. Public reports shall present individually identifying information only as permitted by law.

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SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

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__.B. NO._____

Report Title:
Corrections; Private, Out-of-state Prisons; Transfer Notices; In-state Capacity; Reports

Description:
Requires phased, measurable returns of committed felons held in private, out-of-state institutions; requires consideration of appropriate in-state transfers and notice to the correctional oversight commission and affected persons; preserves appropriate safety transfers and interstate corrections compact authority; and expands annual reporting.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

DRAFT

REVISED:
1ST DRAFT DATE:

__.B. NO._____

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE XI OF THE HAWAII STATE CONSTITUTION TO PROHIBIT LIVE-FIRE MILITARY TRAINING ON PUBLIC TRUST LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the lands at Mākua Valley, Kawailoa-Poamoho, Kahuku, Pōhakuloa, and Waimea, currently subject to leases with the United States military that are set to expire between 2027 and 2030, include former crown and government lands of the Hawaiian Kingdom that must be held in trust by the State of Hawai‘i "for the benefit of Native Hawaiians and the general public." Under the Hawai‘i State Constitution, Article XI, section 1 and Article XII, section 4, the State has the highest fiduciary duty to preserve and maintain public trust lands, which includes the kuleana to mālama ‘āina and to protect natural and cultural resources for present and future generations.

The legislature further finds that military use of public trust lands for live-fire training is inconsistent with the State's constitutional trust duties. "Live-fire military training" means the use of real, fully functioning weapons systems loaded with actual ammunition—including bullets, shells,

rockets, bombs, explosives, and other ordnance—rather than blanks, simulators, or "dry fire" exercises, and encompasses small arms, crew-served weapons, artillery, demolitions, air-to-ground bombing, naval surface fire, and combined arms live-fire exercises, all of which involve combat-realistic use of live munitions that have the potential to ignite wildfires, contaminate soil and water, scatter unexploded ordnance, destroy cultural and natural resources, and desecrate the ʻāina.

Live-fire military training activities at Pōhakuloa, Mākua Valley and across the State have caused repeated wildfires, contamination, habitat destruction, and desecration of sacred cultural sites and iwi kupuna. Although the Hawai'i Supreme Court in *Ching v. Case* ruled that the State of Hawai'i breached its constitutional duties by failing to reasonably monitor and inspect public trust lands that it had leased to the U.S. military, inspections of the Army's lease area at Pōhakuloa remain limited, covering only a fraction of the 23,000 acres under lease, while unexploded ordnance, shell casings, and degraded lands persist across the training area. Similarly, lands at Mākua Valley, Kahuku and Poamoho, although proposed for return to the State of Hawai'i upon expiration of the current lease in 2029, remain highly contaminated, as do current and

former military lands from Kahoʻolawe to Waikāne to Kaʻula Island.

The legislature finds that due to the costs of clean up and technological barriers to complete remediation, many of these former bomb sites may never again be fully accessible to the public land trust beneficiaries for cultural, recreational, educational, or subsistence access and use, or for productive economic use by the State of Hawaiʻi or any future native Hawaiian governing entity that may seek to pursue the unrelinquished claims of Native Hawaiians to the former crown and government lands of the Hawaiian Kingdom, even after the lands are returned by the United States military.

Accordingly, the purpose of this Act is to propose an amendment to article XI of the Constitution of the State of Hawai‘i to prohibit live-fire training on public trust lands.

SECTION 2. Article XI of the Constitution of the State of Hawai‘i is amended by adding a new section to be appropriately designated and to read as follows:

LIVE-FIRE MILITARY TRAINING

Section __. No live-fire military training shall be conducted on the public trust lands identified in Article XII, section 4.

Section 3. The question to be printed on the ballot shall be as follows:

"Shall the Constitution of the State of Hawai'i be amended to provide that no live-fire military training shall be conducted on the public trust lands identified in Article XII, section 4?"

Section 4. New constitutional material is underscored.

Section 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawai'i.

INTRODUCED BY: _____

BY REQUEST

__.B. NO._____

Report Title:
Constitutional Amendment; Live-Fire Training; Public Trust Lands

Description:
Proposes a constitutional amendment to prohibit the use of live-fire training on Public Trust Lands.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

REVISED:
1ST DRAFT DATE:

__.B. NO._____

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the protection of iwi kūpuna (ancestral remains), cultural, and historic resources is a matter of utmost importance, and the Hawai‘i Constitution requires the State to safeguard iwi kūpuna as part of its public trust obligations and to protect the exercise of Native Hawaiian traditional and customary practices. These constitutional obligations have long been implemented under the Hawaii Revised Statutes chapter 6E review process to ensure that potential impacts are carefully identified and assessed, and that lineal and cultural descendants, through the island burial councils, are given meaningful opportunities to guide treatment of iwi kūpuna.

The legislature further finds that recent statutory changes introduced new exemptions to the historic preservation review process that significantly weaken its protective framework. Allowing certain types of projects to avoid review, even when involving ground disturbing activities in culturally sensitive areas, significantly heightens the risk of inadvertent

discovery, disturbance, and destruction of iwi kūpuna. Similarly, the arbitrary and statutory creation of land sensitivity categories, without prior proper surveys, has the effect of excluding large areas from review that may be likely to contain iwi kūpuna or other cultural and historic sites. Designation of land sensitivity areas should only be implemented by historic preservation professionals.

The legislature further finds that increases to inadvertent discoveries will result in diminishing the decision-making role of the island burial councils, and thereby curtail the voices of descendants in matters directly affecting their kūpuna. This skirting of consultation and oversight undermines constitutional protections for Native Hawaiian traditional and customary practices and the public trust in preserving Hawai‘i’s cultural resources.

Accordingly, the purpose of this Act is to reaffirm the State’s commitment to safeguard iwi kūpuna and other cultural and historic resources and restore the integrity of the State’s historic preservation program by:

(1) Clarifying that a residential project involving ground disturbance in high risk areas remains subject to review; and

(2) Clarifying the process for determining when lands are considered nominally sensitive.

SECTION 2. Section 6E-42.2, Hawaii Revised Statutes, is amended to read as follows:

"**§6E-42.2 Excluded activities for existing privately-owned ~~[single-family detached dwelling units and townhouses, residential projects and nominally sensitive areas]~~ residential properties.** (a) An application for a proposed project on an existing privately-owned ~~[single-family detached dwelling unit or townhouse]~~ residential property shall be subject to the requirements of section 6E-42 only when one or more of the following applies[~~if the single-family detached dwelling unit or townhouse is over fifty years old and is~~]:

(1) [~~Listed~~] The property is listed on the Hawaii or national register of historic places, or both;

(2) [~~Nominated~~] The property is nominated for inclusion on the Hawaii or national register of historic places, or both; or

(3) [~~Located~~] The property is located in a historic district.

(4) The proposed project involves ground-disturbing activity and:

(A) Occurs on, or adjacent to, land containing sandy soils; or

(B) The ground-disturbing activity exceeds the excavation of topsoil, and occurs on, or adjacent to, land that:

(i) Contains previously identified burials or cemeteries;

(ii) Contains lava tubes, karst features, or caves; or

(iii) Contains a historic property previously determined to be significant under criterion e pursuant to Hawai'i administrative rules § 13-284-6(b)(5) or § 13-275-6(b)(5).

(5) The proposed project would result in an increase in unit density or intensity of use beyond that permitted under the existing zoning;

Except that review shall not be required if the department has executed a programmatic agreement with the permitting agency to establish a program alternative or has otherwise determined the property to not require review under this section due to the absence of historic properties or iwi kupuna.

[~~(b) An application for a proposed project on an existing residential property shall be subject to the requirements of section 6E-42 only if the existing residential property is over fifty years old and is registered on the Hawaii register of historic places.~~

~~(c)~~] (b) An application for a proposed project [~~in a nominally sensitive area~~] shall not be subject to the requirements of section 6E-42[~~.~~] if it lies in a nominally sensitive area, defined as a project area that is known to include a low density of historic, cultural, or archaeological resources, or where the project area has

been substantially disturbed by previous excavation or other ground-disturbing work and no significant historic properties have been previously identified, as determined by the department based on:

(A) The Hawaii or national register of historic places;

(B) The age of above-surface structures;

(C) Any existing archaeological inventory surveys previously accepted by the department;

(D) Any burial treatment plans accepted by the department;

(E) The type of substrate known to typically contain burials;

(F) Consultation with the:

(i) Relevant island burial council; and

(ii) Office of Hawaiian affairs; and

(G) Any other literary review relevant to the area.

~~(d)~~] (c) For the purposes of this section:

"Dwelling unit" means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating, and sanitation.

"Existing privately-owned residential property" means a previously constructed residential structure, including single-family dwellings, multi-family dwellings, townhouses, or accessory dwelling units, that is not owned, operated, or funded in whole or in part by the State or its political subdivisions.

"Ground-disturbing activity" means any activity that disturbs, penetrates, displaces, or excavates soil or subsurface materials, including but not limited to grading, trenching, digging, augering, drilling, post-hole installation, foundation work, utility installation, excavation, or landscaping activities that disturb the ground surface.

"Karst" means a landform characterized by subsurface cavities, voids, or solution features formed by the dissolution of soluble rock, including caves, sinkholes, and underground drainage features.

[~~"Nominally sensitive area" means a project area that is known to include a low density of historic, cultural, or archaeological resources, or where the project area has been substantially disturbed by previous excavation or other ground-disturbing work and no significant historic properties have been previously identified.~~]

"Sandy soil" means soil classified by the United States Department of Agriculture Natural Resources Conservation Service as sand, loamy sand, sandy loam, or fine sandy loam, including but not limited to Jaucas sands, beaches sand, and other coastal or aeolian sand deposits.

"Single-family detached dwelling unit" means an individual, freestanding, unattached dwelling unit, typically built on a lot larger than the structure itself, resulting in an area surrounding the dwelling.

"Topsoil" means the uppermost naturally occurring soil layer characterized by organic material and biological activity, typically extending to a depth of approximately twelve inches below the ground surface, or to the depth of the naturally occurring organic horizon, whichever is less."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

__.B. NO._____

Report Title:
Historic Preservation; Exclusions

Description:
Amends 6E-42.2, Hawaii Revised Statutes to clarify exclusion of proposed privately-owned residential properties excluded from the State's Historic Preservation Program review, under certain circumstances, and remove the nominally sensitive area exclusion.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

REVISED:
1ST DRAFT DATE:

__.B. NO._____

A BILL FOR AN ACT

RELATING TO THE LAND USE COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislture finds that the Hawaii State Land Use Commission (LUC) was established through statute in 1961 with the intention to protect agricultural lands. The LUC is critical to managing a statewide framework that is focused on upholding rules set forth in statute and the Hawai‘i State Constitution. The LUC is responsible for classifying land into four main categories that set the limits of allowable development on all property, public and private, more than 15 acres. The four land use districts are urban, rural, agricultural, and conservation. The LUC is uniquely positioned with its quasi-judicial process to critically review proposed projects, provides an opportunity for community members to engage and assert their rights, review of a Ka Pa‘akai analysis, in addition to compliance with our state laws and constitution detailing responsible management of public trust resources. Informed land use decisions cannot be made without considering

the availability of water to satisfy community needs and legal entitlements that flow from reclassification.

The legislature further finds that ensuring that the Commission includes a member with substantial expertise in water resource management will help advance responsible stewardship of wai, strengthen the Commission’s ability to uphold the state's public trust obligations, and increase transparency and accountability in land use decisions that affect Hawai‘i's water resources.

The purpose of this Act is to require at least one of the members of the LUC have water expertise to strengthens the LUC’s ability to fulfill its vital kuleana to protect Hawaii’s aina, wai, Native Hawaiian rights, and uphold its constitutional mandates.

SECTION 2. Section 205-1, Hawaii Revised Statutes, is amended to read as follows:

"§205-1 Establishment of the commission. (a) There shall be a state land use commission, hereinafter called the commission. The commission shall consist of nine members who shall hold no other public office and shall be appointed in the manner and serve for the term set forth in section 26-34. One member shall be appointed from each of the counties and the

remainder shall be appointed at large; provided that at least one member shall have substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices and at least one member shall have substantial experience in the area of water resource management. The commission shall elect its chairperson from one of its members. The members shall receive no compensation for their services on the commission, but shall be reimbursed for actual expenses incurred in the performance of their duties. Six affirmative votes shall be necessary for any boundary amendment.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

__.B. NO._____

Report Title:
LUC; Boards and Commissions

Description:
To amend the composition of the LUC to ensure one member has substantial experience and expertise in water resource management, and to require the office of Hawaiian affairs to provide names to the governor for appointment of members with traditional Hawaiian land usage expertise.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

Action Item
Committee on Budget and Finance
September 29, 2026

BAE #26-06

Action Item Issue: **Approval of Funds and Procedures for Island Burial Council Moku Representatives Stipends Per Act 96 (2026)**

Prepared by:

10/15/2026

Kamakana Ferreira & Leinā‘ala Ley — Date
Compliance Archaeologist & Chief Advocate

Reviewed by:

10/16/2026

K. Sean Kekina — Date
Chief Operating Officer

Reviewed by:

Dhiren Patel 10/16/2026

Dhiren Patel — Date
Chief Financial Officer

Reviewed by:

10/16/2026

Everett Ohta — Date
General Counsel

Reviewed by:

10/16/2026

Summer Sylva — Date
Ka Pouhana, Interim Chief Adminstrator

Reviewed by:

10/16/2026

Trustee Brickwood Galuteria — Date
Chair, Committee on Beneficiary Advocacy and Empowerment

Action Item #26-06: Approval of Funds and Procedures for Island Burial Council Moku Representatives Stipends Per Act 96 (2026)

I. ACTION

That the Beneficiary Advocacy and Empowerment (BAE) Committee recommend that the Board of Trustees (BOT) approve the allocation of Fiscal Year 2027 funds totaling $67,200 for stipends dedicated to moku representatives serving on Island Burial Councils (IBCs) consistent with Act 196 (2026), which implements one of OHA's 2026 package measures. The $67,200 will be placed into the compliance honorarium budget account (6410 57120) for payment of $200 to each moku representative for each meeting attended, if the representative so requests consistent with proof of attendance as set forth below.

II. ISSUE

With the passing of Act 96 on June 5, 2026, OHA can provide each IBC moku representative:

> "a stipend for each day of attendance at a duly noticed meeting, paid by the Office of Hawaiian Affairs. The stipend amount, process, and eligibility requirements shall be determined by the board of trustees of the office of Hawaiian affairs."

Act 96 was introduced as HB 2104, and was part of OHA's 2026 legislative package approved by the BOT last year (BAE Action Item #25-07). Therefore, the issue to resolve is how to fund this line item and establish procedures for IBC moku representatives to independently apply for a stipend if they choose to do so.

III. BACKGROUND AND DISCUSSION

A. Background

IBCs are established under Hawai'i Revised Statutes (HRS) Section 6E-43.5 to advise the State Historic Preservation Division on matters affecting Native Hawaiian burials and make decisions regarding the treatment of previously identified iwi kūpuna.[1] Each IBC is comprised of geographic (moku) representatives who have relevant expertise and 'ike concerning the culture, history, and burial practices of their moku, and representatives of large landowners.[2] When iwi kūpuna are identified, IBCs play a central role in determining whether remains should be preserved in place, relocated, or otherwise treated.[3] IBCs are the primary mechanism through which Native Hawaiian descendants exercise decision-making power and self-determination over the care of their ancestors.

In practice, however, the IBCs have struggled for years to function as intended. Many councils, especially on smaller populated islands, have difficulty filling all their seats and

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[1] Haw. Rev. Stat (HRS) § 6E-43.

[2] HRS § 6E-43.5(a).

[3] *See* HRS § 6E-43(b). IBCs only make decisions for burials that are previously identified. The State may consult the IBCs in instances of inadvertent discovery. HRS §§ 6E-43.5(h); 6E-43.6. "Previously Identified "means burial sites containing human skeletal remains and any burial goods identified during archaeological inventory survey and data recovery of possible burial sites, or known through oral or written testimony." HAR 13-300-2.

consistently meeting a quorum[4] due to absences or vacancies. Historically, members served without compensation, which OHA observed has created barriers for some community members who must balance council duties with work and family obligations. Many IBC meetings can run an entire day, and in several cases, qualified candidates have withdrawn their applications to OHA upon learning that council service provides no financial compensation.

Quorum and vacancy challenges directly weaken the HRS Chapter 6E decision-making framework. When IBCs cannot meet, decision-making may default to SHPD, thereby diminishing descendant voices and creating uncertainty for families and project proponents alike.

Therefore, OHA's bill (which has now become Act 1196) was designed to address these issues through quorum reform, stipends to moku representatives, and a nomination timeline extension for unplanned vacancies. OHA is also working to ensure that the Governor's Office consistently advances OHA nominated candidate to the Senate for confirmation, which did not take place this past year. With respect to the stipends, OHA argued during passage of the measure that the discretion to provide stipends to moku representatives upon request would help increase recruitment, reduce vacancies, improve attendance, and acknowledges the value of services provided by Native Hawaiian beneficiaries who serve as council members.

B. Proposed Procedure

After conferring with OHA's Budget Chief, staff recommend that IBC stipends be provided bi-annually to alleviate the administrative burden of processing payments. Accordingly, staff is recommending two payments for the FY2027 year: one to occur in calendar December 2026 and the other to occur in calendar June 2027. Stipends will be provided for meetings attended, as shown by the public record.

The administration proposes to set up a web-portal with an application page. The application will require identification of the moku representative, IBC appointment information, and number of meetings attended. OHA Advocacy staff will verify the information. SHPD has confirmed that they can provide IBC attendance records to OHA if meeting minutes showing attendance are not readily available online. Consistent with existing practice, interested IBC moku representatives will need to submit a W-9 as part of the application. Once Advocacy staff can verify the information and the W-9 is provided and then forward to Financial Services for further processing.

IV. TIMEFRAME

As soon as possible to enable publication and processing of payment information prior to December 24, 2026 at which time OHA will close its office until the new year.

VI. BUDGET AUTHORIZATION

Approve the proposed FY27 budget adjustment totaling $67,200 for IBC moku representatives.

[4] A majority of all members to which each council is entitled shall constitute a quorum to do business. HRS § 6E-43.5(f).

VII. BUDGET CERTIFICATION

Funding of $67,200 is available from the FY2027 Core Operating Budget surplus, subject to Board approval. Table 1 summarizes the available surplus and projected balances after proposed and anticipated funding requests.

Table 1. FY2027 Core Operating Budget—Available and Projected Surplus

Description	Status / Authority	Amount	Remaining Surplus
FY2027 Core Operating Spending Limit	Approved	$53,848,221	
Less: Base Operating Budget	Approved	($52,595,022)	
Initial Budget Surplus			**$1,253,199**
Military Leased Land Initiative Carryover—Program 7170	BF #26-16; approved July 30, 2026	($94,119)	$1,159,080
Corporate Counsel Legal Services	BF #26-24; approved October 8, 2026	($400,000)	$759,080
Available Surplus After Approved Adjustments			**$759,080**
IBC Moku Representatives Stipends	Proposed—BAE #26-06, scheduled for BAE Committee consideration October 21, 2026	($67,200)	$691,880
Hoʻākoakoa Lāhui Event Sponsorship	Proposed—BF #26-26, scheduled for B&F Committee consideration October 21, 2026	($150,000)	$541,880
Projected Surplus After Proposed Adjustments			**$541,880**
CEO Salary and Fringe Differential, November 1, 2026–June 30, 2027	Anticipated request; placeholder[1]	($27,012)	$514,868
KITV Due Diligence	Anticipated request; placeholder[2]	($1)	$514,867
Pōhakuloa Training Area Environmental Assessment	Anticipated request; placeholder[3]	($256,340)	$258,527
Projected Surplus After All Listed Requests			**$258,527**

Note: Proposed and anticipated requests remain subject to approval. Amounts in parentheses represent reductions to the available surplus.

[1]The CEO adjustment reflects a proposed annual salary of $225,324 compared with the current $200,000, plus applicable fringe benefits, for the eight-month period.

[2]The $1 KITV placeholder does not represent the estimated cost; the projected surplus will be revised when the funding requirement is determined.

[3]The Pōhakuloa Training Area Environmental Assessment is a planning placeholder pending confirmation of the funding requirement. The projected surplus will be updated accordingly.

The following is the certification by the Budget Chief that the funds are available:



10/15/2026

Grace Chen **Date**
Budget Chief

VII. RECOMMENDATION

Approve the recommended budget allocation.

VIII. ALTERNATIVES

A. Amend the proposal.
B. Take no action.
C. Defer decisionmaking until a later date..

OFFICE OF HAWAIIAN AFFAIRS

Beneficiary Advocacy & Empowerment Committee

III. Community Concerns and Celebrations
IV. Announcements
V. Adjournment

There is no material for these items at this time.