



**STATE OF HAWAII'
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

DATE: Tuesday, October 25, 2022

TIME: 10:00 a.m.

PLACE: Virtual Meeting

Viewable at www.oaha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 821 4472 5558

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oaha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 821 4472 5558. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order

II. Approval of Minutes

A. February 8, 2022

B. February 15, 2022

C. February 22, 2022

D. March 1, 2022

E. March 8, 2022

F. March 22, 2022

G. March 29, 2022

H. April 12, 2022

I. April 26, 2022

J. May 3, 2022

K. July 12, 2022

III. New Business

A. Presentation: Native Hawaiian Legal Corporation, Kawika Patterson, Board Chair and Makalika Naholowa'a, Executive Director

B. Action Item BAE #22-03: Approval of Due Diligence Activities in Pursuit of an Executive Order re: Kamokila Hawaiian Village, 5523-5519 Kuamo'o Road, Kapa'a, Kaua'i, Hawai'i

C. Action Item BAE #22-04: Approval of the 2023 Legislative Package



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- IV. Announcements
- V. Adjournment

If you need an auxiliary aid/support or other accommodation due to a disability, please contact Everett Ohta at telephone number (808) 594-1988 or by email to everetto@oha.org as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/bae.

In the event that the livestream or the audiovisual connection is interrupted and cannot be restored, the meeting may continue as an audio-only meeting through the phone and Webinar ID listed at the beginning of this agenda. Meeting recordings are available upon request to BOTmeetings@oha.org until the written meeting minutes are posted to OHA's website.

†**Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.**

* Public Testimony will be called for each agenda item and must be limited to those matters listed on the meeting agenda.

Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Board Members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the OHA Board of Trustees either as: (1) *written testimony emailed* at least 24 hours prior to the scheduled meeting, (2) *written testimony mailed* and received at least two business days prior to the scheduled meeting, or (3) live, *oral testimony online or at the physical meeting location* during the virtual meeting.

- (1) Persons wishing to provide **written testimony** on items listed on the agenda should submit testimony via **email** to BOTmeetings@oha.org at least **24 hours prior** to the scheduled meeting or via **postal mail** to Office of Hawaiian Affairs, Attn: Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817 **to be received at least two business days prior** to the scheduled meeting. Any testimony received after these deadlines will be late testimony and will be distributed to the Board members after the scheduled meeting.
- (2) Persons wishing to provide **oral testimony online** during the virtual meeting must first register at:

https://us06web.zoom.us/webinar/register/WN_ngJuxXsrQSeZEzMKZjuJ5Q

You need to register if you would like to orally testify online. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual



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meeting, along with further instructions on how to provide oral testimony during the virtual meeting.

To provide oral testimony online, you will need:

- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony by telephone/landline **will not** be accepted at this time. Once your oral testimony is completed, you will be asked to disconnect from the meeting. If you do not sign off on your own, 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.

- (3) Persons wishing to provide ***oral testimony at the physical meeting location*** can sign up the day-of the meeting at the physical meeting location.

Oral testimony online or at the physical meeting location will be limited to five (5) minutes.

A handwritten signature in blue ink, appearing to read "Kaleihikina Akaka".

Trustee Kaleihikina Akaka, Chair
Committee on Beneficiary Advocacy and Empowerment

10/19/2022

Date

Committee on Beneficiary Advocacy and Empowerment

Trustee Kaleihikina Akaka, *Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Keli'i Akina, At-Large

Trustee Luana Alapa, Moloka'i / Lāna'i

Trustee Carmen Hulu Lindsey, Maui

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Mililani Trask, Hawai'i Island

Trustee John Waihe'e IV, At-Large



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STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

February 8, 2022 10:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee
Trustee C. Hulu Lindsey
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Chak, Kevin, IT
Santos, Dan, IT

EXCUSED:

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, February 8, 2022 to order at **10:00 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	EXCUSED	10:36 a.m.

At the Call to Order, **SEVEN(7)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

IV. NEW BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair, before we turn it over to our Chief Advocate, Trustees, this being our first full consideration of all of the measures. Administration just wanted to provide an overview of the process that we wanted to engage the Trustees with. So first, Chief Advocate will walk through the calendar of the legislative calendar session, kind of put us into context where we are and then she will also then continue on into the updates on Matrix 1, which are the package bills. The Matrix 1 does not need to be approved by you because you have already approved these positions. But Chief Advocate will provide an update to everyone on the package and the progress of that, and so with that I'll turn that over and then as we move through the matrices, we'll have a similar context setting and then continue on to the line items of the matrix. So for those in the electronic package, the session calendar is on pages five and six of the electronic package and the Matrix 1 is on electronic page seven. Not being virtually, Administration wants to help Trustees as well as our beneficiaries listening and following along to orient themselves in a package that's over 100 pages. So again, pages five and six for the session calendar, and then matrix seven, and I'll turn it over to Chief Advocate.

Chief Advocate Kamali'i: Hey, good morning. Aloha kakahiaka Trustees, Na'u Kamali'i, Chief Advocate Office of Hawaiian Affairs. Thank you for the opportunity to present this morning. As Ka Pouhana mentioned we will walk you, I'll walk you through a little bit of the session calendar to orient as to the dates that we are now looking at, i.e. February 8th. Before I do that though, I just wanted to note that Kamakana is online, he is our subject matter expert who will also be presenting on the iwi kūpuna bills and also to applaud him and Kai Markell for the wonderful work that they are doing to bring home iwi kūpuna, as he is presenting today, he's also getting calls with regard to the iwi who are coming home from Europe. So thank you to Kamakana for your time to be here today. I also wanted to note for the Board, in terms of policy, in the past it's always been just the Chief Advocate or leadership. My view of developing the policy department is that it involves more than just writing a piece of legislation or a letter to an office. Advocates have to be a face and speak in various formats such as before a board, such as yourselves, also to the Legislature, also to the community making presentations, and so the development of the Advocacy team involves all of that, and so you will see more faces before the Board as they gain, you know, familiarity with how to work with you and also with your working with the Advocates as the team grows and develops. The last time I spoke we don't have enough. I will say that people are applying, so to the community who is watching and heard the kāhea, mahalo kākou. Mahalo to those who heard the kāhea and who are applying. We are receiving applications, so thank you to the community. Also mahalo to the community who has also heard the kāhea, to be the eyes that only a few have to watch over 3000 bills. We are receiving a emails from Ka Pae 'Āina, Kaua'i, all the way to Moku o Keawe. On bills that affect their community so that we can read them and give them attention as needed. Thank you to the Trustees who are also sending us little love notes, notes regarding bills and also to Legislators and Senators and their staff who are also sending us texts and emails regarding important measures that affect Native Hawaiians. So I just want to mahalo all of that effort. Which is the which is the movement from an advocate being the priority to advocacy, so thank you.

Moving forward with the time frame that we're working with now, as you see on the screen as the Legislative Session calendar. So take you to today, which is February 8th and note that February 9th and 10th are the triple referral, those are the deadlines. The 9th for the House and the Senate the 10th for the Senate. The following week is the first lateral, filing deadlines on the 17th. This is important because those bills that have not yet received a hearing, some of which did not make the deadline of the 8th are dead. They just didn't get a hearing. The same will occur next week for those that are not triple referrals, but single and double. If they do not get a hearing that they also will die, so you'll see as we report out today, even as to one of our measures, it did not get a hearing in the House. So it is no longer viable despite our efforts to call the chairs, that is their prerogative in deciding whether or not the bill will get a hearing.

I would also want to say that as you look at the handout, you know, even I am somewhat overwhelmed by everything we're looking at and well, what's important is that how to think about it. So we have provided sort of at the end or what looks like a sort of a black list of over with several pages, those are all the bills that we're looking at support, opposed monitor as well as comments, so of the 3000, we've pared it down. Now people are calling about those that have not made that list, and so we are actively updating this list. Your presentation that you're looking at was probably outdated the next day, so I want you to know that it's the point in time and what we're working with as Advocates is ongoing, daily and hourly actually, in the list that we're looking at, so that's the all of it. Within that is a smaller subset, which is sort of like as a green label or green Excel spreadsheet, and those are the measures that are affecting Native Hawaiians. You know, when we look at what affects Native Hawaiians in my training from Kīna'u Boyd Kamali'i, who is an amazing Legislator and former Trustee, my mom, she said everything affects Native Hawaiian because we are a lāhui. So I would agree, the 3000 some way or another affect our people. So not to diminish anything that somebody has eyes on, but this was part of the pairing, initial pairing process. So of those, the measures affecting Native Hawaiians is the so-called shortlist. That's the list that we will be looking to you, Trustees, to consider and consider the positions that are stated there, support, comment or oppose. At the end of the day, that's the list that we would like you to vote on, or so that we can continue to do the work. Clearly measured by manager.

Then finally, what I will be talking about as that list gets paired down, you'll say, well hey Na'u, the ones you've talked about i.e. our bills, our package bills are in the list of measures affecting Native Hawaiians, you're absolutely correct. What we did was break it out so we could have a better discussion of key areas, i.e., as you are familiar with in the past, what is called the OHA package bills what are called the OHA named bills and then what I'm referring to as measures affecting Native Hawaiians, they are inclusive of both of them so that you're able to follow along.

I believe we'll start with the OHA Package Bills. So those are Matrix 1. This is for information, not for action today, but information we'll continue to update you on our important measures. One HB1473, which is the Build Back Pono Bill, as you note and I explained earlier, it has a triple referral. It did not get a hearing, so the House bill is dead. That doesn't mean the measure is dead, but just that particular bill. Alright HB1474, which deals with you know that is our PLT bill, that has not yet received a hearing assignment. So and when we go back to the calendar we have next week, this week and next week to pound the pavement and get the House to give it a hearing. Not to say we haven't been doing that, we've already met with the Chair of the Committee, Nakashima. But that continues to be the work to give that bill hearing.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Na'u, thank you very much for the hard work, but just a very quick question. You mentioned HB1473 is dead, so we have a position of support. Does that change for us? Do we remove it from the matrix because it's dead or do we vote on that?

Chief Advocate Kamali'i: I'm not sure how that particular question is to be handled, but there will be no position taken because the bill is dead. So I guess that would be a quick change as of today, so obviously last

week we were watching it and as of today it's not possible for it to get a hearing. I'm not sure how you want to address that.

Trustee Akina: Okay thanks.

Chair Akaka recognizes COO Brown

COO Brown: I would recommend that we keep these bills that have been deemed dead just so it gives us that trail of our efforts and just the context. We could notate that the bill is dead so that if voting, when voting happens that we know that it's not an applicable situation when the bill is dead, but I would recommend leaving it on the table for your guys information.

Trustee Akina: Thank you and I recognize that it's already been said that we don't need to vote on Matrix 1 because we've done so already.

Chief Advocate Kamali'i: Yes

Chair Akaka: Na 'u, if you can please continue, mahalo.

Chief Advocate Kamali'i: Alright 1474 I spoke to that in the House. So we have communications with all the communications we're having with Representatives and Senators, but in the House, particularly Representative, we bring up the PLT bill. For example, we had a meeting with Representative Ganaden, who is the champion in the criminal justice reform area and we brought it to his attention and he immediately got on it and said I'm going to give the Chair a call and make sure that moves along. The connection being, if they want OHA to provide support and programs, then there needs to be some funding for that and our source of funds would be the PLT money. Indicating that last year we deployed more than the 15.1 million, I believe it was 16.3. So we're deploying the money, but we need to have more funds to develop these programs that we're speaking of, and he understood that, he made the connection so that's an example of somebody who's trying to get us a hearing on that.

Alright SB2121, it's still going, still alive, so we're tracking that and again, if you look at the Committee referrals, there's only two, so we have more time to continue to push that Build Back Pono forward and then our 2122, which we did testify on. It is moving along to Ways and Means. I did want to bring up if you have time to take a look at it, to look at what is now being posted as the committee report on that bill. What happened with the bill is that the numbers were taken out of the bill, so there is an SD1. However, our position was preserved in the in the committee report and it's a very nice favorable position in that it did retain the facts and your committee finds that the 2015 and 2016 financial review that was initiated by OHA. It captured the minimum amount of the total gross receipts from the sources that OHA had provided, so the committee captured that and stated that there was a historically claimed \$394,322,163 for fiscal year 2015 and 2016. It made the connection in the committee report that 20% of that amount is approximately 78.9 million.

So for those who are looking at our bill and wanting to get information on it, the logical place would be the committee report so it does capture those figures in the committee report which is great because those are the figures that we're moving forward on and also the \$638 million, the figures in the bill were deleted, they are left blank, so what is left for Ways and Means to do is to deliberate, determine and determine what numbers they're going to put in to the bill, or whether they are going to leave it blank with a committee report and cross it over to the House. So these are the things that we are working on now to get a hearing with Ways and Means and to ensure that we have a favorable position to crossover. That is their prerogative, right. That's part of their decision making in terms of what they're going to put into those blanks that are currently in 2122. The related measure that is not on your list, but it is in the and I'll speak to it later, is in the what is the 28 or 48, which is the measures affecting Native Hawaiians. We had reported out earlier to the Trustees, to the Committee that Senate Bill 2021 had moved out of committee as well. So at this point there are two bills that are going forward

to Ways and Means. Senate Bill our bill, which is Senate Bill 2122 and also Senate Bill 2021, and we distinguish it in that Senate Bill 2021, has to deal with, it captures the fiscal quarter amounts that would be paid, it also captures the CFTHA language, and it also captures the establishment of a Public Land Trust Revenues Negotiating Committee. So those are moving forward. We'll see what happens. Our preference obviously, is that 2122 is the bill that crosses over to the House.

The other bill that was related to this that we were successful in addressing and having the committee defer or to kill is Senate Bill 2594. I will talk about this again as we go through the list. This one had to do with mixing and confusing who would be entitled to receive Public Land Trust money. In that bill, we had testimony opposing it and the measure died, but DHHL and OHA were options to receive the Public Land Trust funds and revenues. In the testimony, DHHL and OHA concurred that there are constitutional issues with regard to both with DHHL receiving PLT funds which are due to OHA. So we concurred with DHHL. Their testimony looked very much like our testimony, the result being that it died committee. It was deferred and didn't get out of committee, so those are the bills that are related to, directly related to this our bill, and so that would be my update. If anyone has any questions, I'll be happy to answer them.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Moving on to the next matrix, which is the OHA named bills. The OHA package bills and the OHA named bills are all inclusive in the measures affecting Native Hawaiians, the 48. So we broke it out so that you could see those bills that name the Office of Hawaiian Affairs. The first bill is relating to Mauna Kea. We have it for comment, again I'll point to the referrals for this particular bill. It's a one referral of three committees. Now at this point, what I'm going to say is that any measures touching Mauna Kea also affects a lawsuit that is pending and in that regard, I'm going to stop and I'm going to defer back to Sylvia or COO to address that.

Ka Pouhana Hussey: Thank you, Na'u. Chair Akaka, given that this first measure relates to Mauna Kea, Administration recommends that the Trustees go into executive session to consult with Board Counsel regarding this measure and its impacts.

Chair Akaka: Mahalo, Ka Pouhana, Na'u. Is there a motion to go into executive session?

Trustee Lee: Point of clarification, Madam Chair.

Chair Akaka recognizes Trustee Lee

Trustee Lee: There are other bills that I have flagged for executive session, so do you wanna take them up one at a time or do we wanna wait, give Chief Advocate Kamali'i the opportunity to go through or update and flag out what needs executive session and wait until that's done and take them all at one time versus going in and out of executive session.

Chair Akaka: Sure, we can do that. Did you want to list the specific bills that you flagged?

Trustee Lee: My flags look like this Chair so.

Chair Akaka: Oh wow, very full.

Trustee Lee: So yeah, it would take a while for me to pull out the individual one, so I have a few of them written down. But that's just my suggestion or my ask, is that we just allow Chief Advocate Kamali'i to continue with her updates because it's a big update, she has a lot to talk to us about.

Chair Akaka: So are all the ones that you flagged.

Trustee Lee: No, they're not all for executive session, Madam Chair.

Chair Akaka: Kala mai, are they all OHA named bills?

Trustee Lee: They are not, these are all three matrices. So my ask, Madam Chair, is that instead of going into executive session for this one bill, we wait until Chief Advocate is done with her update because I'm guessing, well, I know that I have more, but I'm guessing other Trustees might have more that want to be discussed in executive session as well so that we just take them all at one time.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: I just want to say that I also have concerns about other bills, but this one I did promise a beneficiary that I would say something. If he's watching, which he probably is, I just wanted to know that I didn't forget about him, that we are going to talk about this and that's why we're going to go into executive session, okay, thank you.

Chair Akaka recognizes Ka Pouhana Hussey

Ka Pouhana Hussey: Administration wants to suggest an approach to the Trustees, addressing both Trustee Lee's efficiency with all of that. May Administration suggests that Chief Advocate go through Matrix 2 and then put through all of that, to Trustee Lee's point, then call for executive session and discuss Matrix 2 so that all of the conversation is focused on the one matrix with that, and then as we go to the next matrix, if there is that desire, then go ahead, go through Matrix 3 and then go into executive session. So Administration just suggests that approach for efficiency of the discussion.

Chair Akaka: Alright mahalo, if then Na'u could continue, mahalo.

Chief Advocate Kamali'i: For clarity then Trustees, if I am speaking to a bill that may go into executive session, please stop me. So Bill #1 going into executive session. I will move on, Bill #2 relating to Native Hawaiian, a rehabilitation program. It is an OHA named bill. It appropriates funds to public safety to collaborate with the Office of Hawaiian Affairs in the creation of a Native Hawaiian rehabilitation program for prison inmates which puts an emphasis on Native Hawaiian cultural practices, is an OHA named bill. Specifically, it's a very short bill, however, it's within what the Trustees have approved in the past. So the complication of the bill and we have spoken with the House author, I guess the Vice Chair, understand what they have in mind. They want to support effort to address the incarceration of Native Hawaiians through rehabilitation programs. There is a companion bill, but addressing the House side. So the bill directs public safety to collaborate with OHA. The concern is, what does collaboration mean, in the context of native and indigenous people working on this issue, consultation is what is requested and we did raise the issue of consultation because of the nature of the type of program that we're talking about. The concern also is the appropriation. It includes an appropriation to public safety, but there's also concern that if OHA is involved in collaborating, that there would naturally be some expenditure of money. So just cautious on that as it moves along. Pretty soon it could be that there's an amendment, and then OHA is responsible for providing services, so there's a caution on that. However, the bill was supported, drafted by the Women's Prison Project and so it's supported that way, but those are the two concerns that we have that we be consulted and also that we're concerned about the funding aspect of it. The intent of the measure, yes, definitely. A Native Hawaiian rehabilitation program is something that we, OHA has been involved in, is supported, going forward, so that's what we see with that particular bill.

Relating to Federal lands. Is there any concern here about executive session? Okay, there being none. Then I'll move on to that, which is 2327. The related bill to 2311, companion bill is 2770, SB2770. In the end, both of those measures are moving forward. The concerns with both bills are the same. Alright 2327, relating to Federal lands. They're being established within the Department of DLNR for administration purposes a Makua Valley Task Force to prepare for the transfer of management of Makua Military Reservation from the US under a lease, which will expire. Makua Valley Task Force is to consist of a chairperson of DLNR, the chairperson's designee, a member of the Board of Trustees of the Office of Hawaiian Affairs or a designee who shall invite the following person, etc. So we're establishing a task force to negotiate the transfer of lands that are held. The position now is comment. This might be one that the Board may consider a stronger position, but right now that's the position we're holding with regards to 2327. And that matter, however, has a triple referral, so let me go back to the referral. A joint committee, JHA and Finance so that bill would have died today because it didn't get a hearing. So I just checked the website to make sure that nothing happened last night and it appears that as of today it doesn't have a hearing. So again, I guess the issue would be whether or not we preserve the Board's position or we remove that bill from the list. But the Administration was recommending comment.

With regard to SB1411, relating to historic preservation. Kamakana is online. That is one that he had worked on, so what I had hoped to do with Kamakana is have him talk to all the iwi kūpuna bills, but the way this meeting is going, Kamakana if you could get online then you can handle that bill.

Lead Compliance Specialist Ferreira: This is an easy one. This one actually came up last session as well, but it didn't make it. There's a lot of good things in the SB1411 measure. You're expanding the definition of these sort of properties to include a lot of specific Hawaiian cultural sites, but more importantly, they're increasing the fines for historic preservation related violations and requiring that OHA be consulted on those violations, so I think it makes sense to support this measure. I mean in many cases OHA is already consulting on a lot of the violations, so to see it in statute, I think would be more reinforcing and allow OHA to perhaps see some violations that we weren't aware of in the past, so yeah, that's it for this measure unless anybody has any questions. Thanks Na'u.

Chief Advocate Kamali'i: Okay, there being no questions I'll move on. What is #5, SB2021. I had already spoken of, this is one of those collateral bills that are not in our package but is moving along to WAM so the two bills 2021, which is the Keohokalole introduced measure as well as 2122 which is the OHA agency introduced measure. The status again is that this is moving along. So we do take the position of support, even though we may not agree with the particular language of that bill, the title is important and if there are changes that need to be made or if our bill dies, you know it's a vehicle to move along what are the Public Land Trust revenues that are in our favor, i.e. increasing the payment amount for the Office of Hawaiian Affairs and the pro rata share of the Public Land Trust. So we'll see what happens with that. As I reported earlier, it's moving along to WAM.

With regard to SB2770, again, that is the counterpart to the bill that I had already spoken of, which is HB2311, relating to Native Hawaiian rehabilitation programs. As you note, that bill did receive a hearing so it as well is moving along. And finally, with relating to Government Accountability, that's SB2853. That is OHA named as well and I think the description speaks for itself. Requires any report of a study or audit enacted with a legislative appropriation or adopted by concurrent resolution and conducted by an executive department or agency to be submitted to the Senate President, Speaker of the House, Representative, Chairs of the appropriate subject matter, Committee of each House, and a legislative reference bureau, etc. Requires public hearing or informational briefing within one year of the receipt of the report, etc. That is one that we are monitoring just because of the nature of the reporting and it's a funding measure. So that's it for the OHA named bills.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. Na'u, I did have a question about 2853. When I pulled the bill up, I looked at the language as stated, it implies that it's any audit that is brought forward, but it's not really made that clear. So my question is, do we go with the implication that this is any audit that's brought forward or do we seek clarification, like does this affect our normal audits that the legislature pays for, that we're required by law to be audited? Does this bill affect those as well or is this just audits that are brought forward, as in there's a resolution later calling for an audit of SHPD and they want OHA to conduct the audit? I mean, I'm just pulling stuff off the top of my head. Does that question make sense, Na'u?

Chief Advocate Kamali'i: It does and in my wheelhouse I'm trying to understand it and that's why it's still in monitor. So we'll have to see. You know, we're talking about what it really means, but it exempts financial and other regularly occurring audits.

Trustee Lee: Okay, then that answers my question. That was my question, if this affected our regular audit. So you're saying, because I didn't see that language. So okay, then it exempts that. Okay, that answers my question, thank you, Na'u.

Chief Advocate Kamali'i: However, because the way legislation can move, it can be amended, right, so we'll see but it hasn't been given a hearing yet, referred to the two committees, so we'll see what happens in the next week. Okay, thank you very much. So that would conclude the Matrix 2. Just getting guidance again from

Chair Akaka recognizes Trustee Lee

Trustee Lee: I move that we recuse ourselves into executive session.

Chair Akaka: Mahalo, is there a second?

Trustee Ahuna: Second

Chair Akaka: It's been moved and seconded, Brandon, can we please have a **roll call vote**.

							10:43 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

The BAE Committee recuses into executive session at 10:44 a.m.

The BAE Committee resumes open session at 11:21 a.m.

Chair Akaka: Is there any other discussion relating to Matrix 2? Otherwise we'll move on to Matrix 3.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Chair Akaka, I just wanted to note Trustee Lee's hand is up.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair, this is a clarifying question for Chief Advocate Kamali'i. As I have a number of questions about this matrix, what would be your pleasure, to wait till you're done? Or as we go through it and you come up on those bills, would you prefer for me to ask my question at that time?

Chief Advocate Kamali'i: Thank you for asking that question. I'll note that several bills have already been addressed by way of the OHA named bill process and our OHA bills. If I'm going to be stopping every time, I'll note that they're 48. If you want to group them, I do note that I do have staff to also speak. Efficiency, I would defer to the Chair, if Trustee Lee, you are clear as to the bill numbers.

Trustee Lee: I am, Chief Advocate and also it should be noted, you know, a lot of the questions I have when you go over particular bills, you may answer my question and I won't ask one because you've addressed what my question was. I just wanted to do what would prefer, right, it's your presentation, so if you would prefer I wait till the end I'm happy to do that.

Chief Advocate Kamali'i: I'm not concerned about the presentation as much as I am mindful of the Board process, so it makes sense in Board process to go into executive session. I would note which ones that you have issue with and then when we come out I can go straight through the matrix.

Trustee Lee: I apologize for the misunderstanding. The majority of my questions are not for executive session. The vast majority of them, they're just normal questions in the course of us being updated on our matrixes and I'll give you an example such as why has our position changed from the last legislative session? Why are we opposing something can we get clarification on that? It's questions of that nature, they're not all executive session questions.

Chief Advocate Kamali'i: Right, so my understanding is even if there were one bill on this matrix and this is all awkward but anyway, in the event that there is one question on one bill on Matrix 3 which is measures affecting Native Hawaiians, it makes sense to the Chief Advocate to go into executive session now to address those issues that you believe deserve executive session consideration. I defer to the Chair, I defer to Ka Pouhana to address this. That's just my mana'o, thank you.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Would it be better to go over just the general, the descriptions of the matrix, and then we're gonna know what would have to go into executive session. But right now I just don't know where we're at, but

just go generally over this last one and then I think might answer all his questions and I believe it's just the positions that the Trustees are concerned with, thank you.

Chair Akaka: Thank you, Trustee Ahuna. I will call upon Ka Pouhana, I believe she wanted to share something.

Ka Pouhana Hussey: I was going to affirm Trustee Lee and Trustee Ahuna's approach. Matrix 3 includes line items that have been discussed before. So as Trustee Lee points out, as Chief Advocate goes through each of the lines there will inevitably be lines you know to skip because we've already talked about it and then as Trustee Lee has also pointed out, Chief Advocate's presentation and descriptions may already answer some of the questions that he has. So for efficiency for the Board, we're going to recommend that Chief Advocate walk through the 48 lines and then get through that and then, you know, Trustee Lee, if the questions haven't been answered, then go ahead and have that conversation, including identifying those matters to take up in executive session and then that can be done at the end. So Chair, Administration offers that process for Matrix 3.

Chair Akaka: Na'u, if you can please continue.

Chief Advocate Kamali'i: Alright, thank you very much, I thank you for the lively discussion. Regarding our bills, I will proceed. This feels like I'm down to the homestretch. Alright, relating to juvenile restitution, number one, what is HB1459. This is sort of interesting, but not having presided over juvenile issues. This is a question of discretion under the current law, the court has discretion to order the child to pay restitution of money or services to any victims who suffered the loss as a result of the child action. What the bill does is it obligates the court to assign restitution in the trial. Public defenders who had testified this, you know, this is punitive in nature, also noting that many juveniles who come to juvenile court come with Aunt, Uncle, Grandmother, who are not a parent who has a constitutional obligation to support the child. So ordering or requiring restitution of that parent who's stepping up to in sometimes, in hānai contracts, to take care is problematic. The main issue is this is coming forward from the prosecution, but from the judicial standpoint it takes away the discretion of the judge to look at the 'ohana and to make the decision in the best interest of the child. Many times in the situation where you have an 'ohana member who steps up, it's best that the child not pay restitution, but in an alternative to that, engage in meaningful community service. So based on that we take the position to oppose.

Moving on, 1473, 1474, those are our bills, our OHA package. We have already talked about it. Relating to regenerative tourism 1508, it establishes a framework for the Hawai'i State Planning Act for the state visitor industry that advances environmental sustainability, ecological sensitivity. It's this word of cultural preservation, so the engaging and finding that culture preservation is also an important factor within the tourism framework, so we support. However, I do note again that this is a three committee lateral. Let me double check. I don't believe it has been given a hearing, so aside from my comments and support, this bill is dead.

Moving on to 1567, eliminates the use of monetary bail and requires defendants to be released on their own recognizance for what might seem more minor offenses. Traffic offenses, violation of petty misdemeanors, etc., Class C felonies, when they are nonviolent offenses. What this would require then of the judge is to release the defendant on his or her own or recognizance. Provided of course, that they showed up at the first hearing, so the first hearing includes arraignment and plea and after the plea is taken, you're allowed to release the dependent on their own recognizance, which means they would have to come back to court and bail would not be a consideration. So this again is along the lines of OHA's criminal justice reform. Also noting that there are certain exceptions depending on the defendant's record, where this would not be allowed, for example, if they were on a felony probation and they committed, you know, a petty misdemeanor. There are certain factors like that where releasing on your own recognizance would not be allowed because it would take in the terms and conditions of probation. So it's a balance there for the first time offender perhaps, where there is a nonviolent offense. With that basic background, we support. It did pass with amendments. So we are wanting to jump in and have some testimony on this measure.

HN1638, thank you, Administration for reminding me the new Chief Advocate with regard to and also I believe Trustee Ahuna, with regard to appropriation and there being a policy that we not support bills, i.e. OHA, not support bills on appropriation. So I would stand corrected in a position taken here to support this for that reason. However, I do note as our Advocate on Hawai'i Island has reminded us that the Kona Hospital and monies that would go to improve that health system will help many Hawaiians in that area who need improvement in the system. So the support would need to change, even though it says support here and acknowledging the Board's policy on supporting bills that are appropriation bills. We did not submit any testimony on this bill.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. So is it then the recommendation of advocacy that we change our position from support to comment? Actually, we didn't take a position on this, correct? We didn't vote last week, so we can just cross it out and change it to comment here at the table, because there was no action taken last week.

Chief Advocate Kamali'i: That is correct, Trustee Lee. Yes, this should change. Since last week, I thank you Trustee Ahuna, I did raise that question with Administration and our Counsel and this would fall squarely into the category of bills that we would not support. If the Trustees find that even within that context, we can comment on the need for improved systems of health in Kona to service our people in that area then I would put forth the position of comment so that we can submit testimony.

Trustee Lee: I don't see an issue with that. I don't know that other Trustees, I see Trustee Ahuna shaking his head. So we're making a table change, we're just crossing out support and writing in comments. So when we take the motion at the end it's included. We don't have to do all these separate, that's why I'm asking now. So our comments would be in the nature of how important Native Hawaiian health is and how important this facility is to Native Hawaiians. But we're not going to comment at all about money. Or if that's too confusing, then we're changing it to a monitor, I'm asking.

Chief Advocate Kamali'i: Sorry, is that a question for Chief Advocate? I couldn't tell if your.

Trustee Lee: I am, I am.

Chief Advocate Kamali'i: I would like to change the, I'll make it clear, in light of that, this has not been adopted by the Board and the Chief Advocate being informed of the policy of the Board of Trustees, I wish to change that what is written as support to comment and that would be for consideration by the Board.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Madam Chair, do we need to bifurcate and then make a motion to change?

Chair Akaka: No, we don't, we didn't vote on this last week.

Trustee Akina: Okay, so I'm assuming as with myself, no one else has any verbal objection. No one else has any objection to that. I support it.

Chief Advocate Kamali'i: Thank you, Trustee Lee and Trustee Akina for that clarification. Moving on HB1767, relating to regenerative tourism. Again, that's a triple committee, and that bill is dead, although we would have supported it with regard to it's attempt to allow community partnerships to ensure the integrity of Native Hawaiian culture, use of cultural knowledge and stewardship, acknowledging and where appropriate, protecting Hawaiian cultural intellectual property. But at this point, that bill has not survived.

HB1808, relating to geothermal royalties. The position offered is comment. We do note that in this bill it says increasing the percentage of royalties received from the state from geothermal resources that are to be paid to the county in which the geothermal resources are located and requires royalties to be paid to the county to be further used for geothermal resources discovery and development and it has passed out with amendments. In our our position of comment, we do note that the state is asking for an increase from 30 to 60% of the royalties and in our discussions with the community, they are in favor of those monies being used for research and looking into the conditions for the geothermal systems. However, I do have to sort of note and I'm not quite sure of the play here in terms of increasing the royalties for geothermal might indirectly increase the amount of funding for PLT. It's complicated and I'm not sure, so I'll just pull back on that, but because of the subtleties of this measure, we would go with a comment.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. Yeah Na'u, that actually was going to be my question. I don't know to what extent OHA receives PLT funding or if there are any geothermal that are on PLT lands, but if they are and the state passes a law that those money, those royalties would go to the county, is it clear that that would be minus what the state is constitutionally obligated to pay us first and then whatever is leftover goes to the counties? I see what you mean about that because I agree with you, it's a huge gray area. Is that part of our comments that we're asking that question, that state you realize that if you're doing geothermal on the Public Land Trust that you gotta pay OHA so you can't just waive all of those monies to the county. You have to account for you owe OHA money first.

Chief Advocate Kamali'i: Yes, that is correct, so the subtlety of addressing that language would be and how we raise it in the comments. So if it's unclear in the measure we can state that or address that, but it is unclear to what extent monies that would otherwise be due to the Office of Hawaiian Affairs under the State Constitutional obligation to pay the ceded land trust, it's unclear what occurs when those monies go to the city. That's my lack of clarity. There still may be more discussion internally with Counsel, more research to be done, but the testimony, however, can address that by raising the concern in a comment.

Moving on to the next bill 1885, relating to government data, establishes a Chief Data Officer and Data Task Force. You know, OHA has been typically involved in all data measures and this would be the Office of Enterprise Technology, Services, etc., as noted in the description. We did not move forward and testify, but the amendments could be offered to the CPC, which is the next committee. Noting that there was a hearing, so even though it's a triple referral, they met the requirement of having a hearing. So when that matter gets set and goes to CPC, internally, we are in communication with Lisa and our data department with regards to what that support with amendments would look like.

Moving on relating to minimum wage, HB1958. That's pretty straightforward, which would be an increase in the minimum wage. So we support more money in the pockets of our people is good for everyone. This is one of those types of bills that wouldn't necessarily rise. So as I spoke earlier, although it's on the list, there are bills that generally reflect the community that we have to look at and think about it to the extent that OHA wants to take a position on it because the circumstance that our community is in. Obviously this one is pretty general, but raising the minimum wage for all of our people who are, you know, line workers, etc is a good thing. So we reached in and want to take a position of support. I was just going to add that the related companion bill is SB2018.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Thank you, Madam Chair and thank you, Na'u. Na'u, I am in agreement with you that we have to do something about the low wages of Native Hawaiians, and so I agree with the sentiment of the comments and believe that it would be good for us to comment. I'm going to suggest that rather than support it, that we comment. I have received feedback from Native Hawaiians that are concerned about the particular proposals

for minimum wage that we're looking at over here at HB1958 and SB2018. Most Native Hawaiian businesses are small businesses under 25 and there are two populations of Native Hawaiians that could experience unintended consequences of raising the minimum wage. One would be small business owners who would be impacted by the increased costs, The other would be the employees, Native Hawaiian employees of these businesses that would be impacted if they were let off or if their hours were cut. In fact, there's mixed commentary. There's mixed testimony on this, but one that is worth looking at comes from the Chamber of Commerce that did a survey of 355 businesses of 25 employees or less and here's what they said if the minimum wage did go up to, say \$18.00 per hour. 34% of those businesses said they would have to shut down and 57% of them said that they would have to reduce their staff and lay people off. 28% of them said that they'd have to reduce their staff by half, and many of them were speaking from their experience during the pandemic during some of the lockdowns in which they saw directly how their costs impacted their ability to retain employees. So my concern is for Native Hawaiians who own small businesses as well as Native Hawaiians who work for small businesses. That the bill itself could have unintended consequences if enacted into law. So I agree with the sentiments of your comments, but I want to suggest that we instead produce comments rather than support the bill per se. That's what I would recommend to my colleagues. That we move from support to comment.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: I come from the other side. I also speak to small businesses, but let's get some history back here. Last year, the other year, this always comes up this minimum wage. It was \$10, then last year was 12, didn't pass and then election year now it comes up to, it was ten so it died, then this year comes up to 12 and then 18 eventually. But if this dies, you're going to have small businesses more in a hole, Trustee Akina, because it's not going to be 10, 12, we killed this one at 10. It'll be even more with maybe new people being elected to the House, so I would say support this one and I think it'll go through because now Speaker who killed the last bill at 10 recognizes that hey everybody else is paying 15.20. I mean people are getting like \$1000 bonuses at Amazon. They don't have workers, and all of our entrepreneurs I talked to, they also have side jobs. They waitress, they do their crafts at home, they go to a pop-up m^akeke's and they would love to see at least \$12.00. So that's my opinion, mahalo.

Chief Advocate Kamali'i: All right, Trustees, just to continue the discussion, to add the particulars of the bill. What it is recommending as changes beginning 2023 at \$11.00 per hour and then a scale that increases \$12.00 per hour, 13, etc. Certainly as Chief Advocate, I'm not opposed to changing that position to comment, and they could be very strong comments which acknowledge the both sides of the discussion. In any event, you know this is something that we all have to look at and it is a balance between the small business owner that wants to bring on one person, but then even at \$11.00 per hour across the nation is \$15.00 per hour, 14, it's not enough, it's not a living wage, so I'll leave that decision to Trustees. I will certainly write testimony either way with the advocates. Thank you for the discussion.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Thank you, Na'u, I appreciate your openness on this and I do acknowledge Trustee Ahu Isa's position. I think there is much to be said on this issue that can be captured in comments. There may be some diversity here on our Board as to an ultimate philosophy regarding minimum wage and how it's implemented, but I don't know if necessarily our Board is the venue for that debate. As Na'u mentioned earlier, there are great many bills that definitely affect Native Hawaiians that go beyond the usual circle of bills that we weigh in on heavily. Maybe this is one where we can simply gather our comments as we give them Na'u and present that to the legislature, so that the differing views that we have can be reflected. Comment rather than necessarily support or oppose, So what I'd like to do, Madam Chair is ask if you would poll our Members to see whether they're open to changing this from support to comment.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Mahalo, Chair, you know in this Board we've been talking a lot about Native Hawaiian disparities and a lot of it has to do with the income that we make. We make the lowest, I'm tired of being in that class. I'm tired of just fighting for low wages. We don't have to fight for being low. If these businesses cannot survive, they need to leverage opportunities so they can because right now, every single day our prices on housing is going up, taxes is going up. Everything is going up and if you don't want us to get more money, we're gonna have to move out somewhere and I don't want our families to move away, this is our home.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. I just want to offer that it's inappropriate to take a poll at this time. At least one Trustee has already spoken in favor of Administration's suggestion. So if Trustee Akina wishes to change that, then that would have to be taken up in an actual vote, not a poll. At least one Trustee has already stated that they are in favor of Administration's recommendation and just for a little bit of context, Chair, this has been OHA's official position for at least the last four years that I've been a Trustee. This is as stated by Trustee Ahu Isa, this issue comes up in every legislative session and OHA has always taken that position of support. Thank you, Madam Chair.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Thank you very much and I appreciate Trustee Lee's direction as to procedure. I'll wait until we're done and seek someone to second a motion to bifurcate so that differing views can be registered on this, but I do appreciate the sentiments that have been expressed. I think we're all in agreement that we want to see the highest earnings possible for Native Hawaiians, thank you.

Chair Akaka: Mahalo, I don't think we need to bifurcate as we have not voted on this prior. If we want to change our position on it we can.

Trustee Akina: Okay, I'll offer a motion at the appropriate time when we've gone through the matrix.

Chief Advocate Kamali'i: Relating to the Board of Education, HB1986. It was scheduled to be heard Thursday and we did submit testimony on this. It did pass with amendments. This falls squarely within our position on education with regard to the what we call the coordinated advocacy with the approval of the OHA package, position of support.

Relating to the University of Hawai'i, HB2015, establishes the criminal Ho'okaulike Justice System Institute for Restoring and Healing University of Hawai'i, William Richardson School of Law and appropriates money. No testimony was submitted. Again, I'm new to looking at the appropriation of money and, you know, working through that position. But the focus of the Institute is to address the disproportionate impact of the criminal justice system on Native Hawaiians and other Pacific Islanders. The appropriation within it is to fund staff. Also, UH currently does not have a program devoted to criminal justice and administration believes more can be done with a comprehensive program for academia. As well as many influential academics in the Hawaiian community did testify in support of this measure, we are offering a position of support.

Mauna Kea we have addressed. With regard to state symbols designates 'Ōhi'a Lehua as the state endemic tree. We did submit testimony as support emphasizing the importance of our endemic 'Ōhi'a. The bill will name 'Ōhi'a as the state endemic tree, as we know in many of our culture practices how important 'Ōhi'a is, and Hawaiians recognize that 'Ōhi'a, being the first sign, well, a sign of life to emerge after lava flow. Although Hi'iaka would probably disagree with that, but anyway there is that play between the sisters. So we have a position of support.

Relating to the Board of Land and Natural Resources, HB2270. Requires at least one member of BLNR who have demonstrated knowledge of and experience with the state boating and fishing communities and note that it is just the two referrals, so this is still alive, but we have to watch it and includes knowledge of ocean conservation, traditional fishing rights, requires the member representing the boating and fishing communities to be recommended by and apologize the matrix didn't pick that up. Anyway, we do support the voices of our boating and fishing activities for subsistence. Last week we did produce a measure, a resolution for the Miloli'i community, but we do watch the commercial boating fishing activities that are overly represented and have a capacity to influence you know politically, what is going on as well as the grassroots issues with regard to boating, which includes subsistence fishermen. We do support this measure.

With regard to HB2284, relating to equitable distribution of our own resources for Hawaiian Immersion teachers, we did submit testimony on this previously approved by the Trustees for coordinated advocacy with approval of the OHA package. So I'll go quickly through this, we support.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: I believe HB, what you just said Na'u, 1986 and HB2284 is part of our OHA's coordinated advocacy, so I don't think that needs to be voted on, right? That's a question for Administration.

Chief Advocate Kamali'i: Thank you, it's been a question for me as well, but out of caution, given the last discussion bill by bill, we did holomua on this. We took a position of support and we've already submitted testimony aligned with the Board's past position. For ease of approval, we included it, so if you vote to include, vote to approve everything in this green matrix except for I hear one potential bifurcation, that would just be an easier way to proceed through all the bills. I don't know if that answers your question, but that's why we include it.

Trustee Ahuna: Sylvia, do you wanna comment on those two bills because I thought we already voted on it, so like we don't even have to vote on it anymore, right?

Ka Pouhana Hussey: Well the Board in the coordinated advocacy, the Board acknowledged that there were a number of coordinated advocacy positions that was going on, but the actual position of the package was decided upon and then this is the actual explicit approval of the position there, so you're correct as well, in the coordinate advocacy it was agreed that this would be one, but now this is the very specific bill for Trustee explicit approval of the position. So you're correct as well, Trustee Ahuna, as well as continuing through the matrix.

Chief Advocate Kamali'i: Okay, thank you very much for that discussion. HB2311 relating to Native Hawaiian habilitation programs. I had raised and discussed this in the OHA named bills, so I'm going to move on and the position there was comment. Relating to environmental impact statements, this is a triple referral, so this measure is dead.

Relating to federal lands, HB2327. Again, this is a triple referral, so this measure is dead. It was in OHA named, so I had already previously discussed this bill. Relating to Department of Hawaiian Homelands, 2511. We did testify in support of this. This is otherwise I think generally people know this as the \$600 million appropriation to DHHL. This comes up because it affects our potential funding and there was a provision in there which was vague enough that raised concern that they might be pulling in money from our PLT funds, it establishes that special fund and in the appropriation language in that special fund there was broad language which was somewhat arbitrary, it was broad. It was a concern, but certainly the move forward to provide housing for those who are on the waiting list has been celebrated by all. So we did testify on that measure and we did support. As I look back at this Trustees, kala mai, this was in that gray area for me, I got consultation on this with Administration but kala mai if I reached out wrongfully to support this bill. But we were there with CHNA and others to hold the House to its historic announcement, so to speak.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Chief Advocate Kamali'i, I think what might help for clarity with you as far as appropriation bills is when we talk about appropriation bills that OHA doesn't take a stance on, it's typically about a project, right, like doing improvements on a hospital, building a structure, right. This is appropriating funds to a Native Hawaiian agency that's supposed to be doing more work than they're being allowed to do because they're being cut off by funding, just like the other bill before this, where the issue of the bill was, I don't remember what it was, but the appropriation wasn't the issue of the bill. The bill just happened to say that they're going to appropriate funds for that issue. Does that help with clarity? So this bill is appropriating funds to the Department of Hawaiian Homeland so that they can fulfill their mission. It's not the same as it's an appropriation, the state legislature is appropriating funds to build a new freeway. Does that help with clarification?

Chief Advocate Kamali'i: Yes, yes it does help with clarification, as well as clarification that I received from Corporate Counsel. However, any time I see the word appropriation, my red flags go up, particularly if it's appropriations which deals with potentially moving monies from what is a Public Land Trust fund to DHHL. So that's where my flag went up and we were very subtle in raising the issue as to the vagueness of that last section, I think it was Section 5. But we'll see and it to me if there's a special fund, there should be clarity in how that special fund is being appropriated rather than opening it up to any available source. But thank you for that clarity, I'll hold that going forward.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Na'u, I just had a question. This bill establishes the fund. Is this the fund where they're going to put the 600 million to help the Hawaiians to DHHL, because the fund is in DHHL, it's to establish the fund. So is this just setting up the fund where they put the money in, the 600 million? Do you know?

Chief Advocate Kamali'i: I'm pulling up the bill, but yes, yes it does establishes the, specifically the Act will establish a Hawaiian Homelands Special Fund, so the Hawaiian Homelands Special Fund in its establishment, which is to be administered by DHHL shall be deposited appropriations made by the Legislature to the Special Fund grants provided by governmental agencies or any other source, donations and contributions made by private individuals or organizations were deposited into the Special Fund. Interest accrued on all amounts in the special fund, and any other monies made available to the Special Fund from other sources. This subsection 5 is the one that raised a red flag for me. So we just noted in that, that it appeared to be vague as to the source because it's any other money from other sources. So if that answers your question, the monies in this special fund shall be used by the department to fulfill its fiduciary duties to beneficiaries under the Act, including providing funding for beneficiaries to acquire a residence.

Trustee Ahu Isa: Because I did have a talk with Sylvia the Finance Chair, she said we are going to get that 600 mil for Hawaiian Home, DHHL, but I was just wondering if this was the vehicle where they put that money in. I just couldn't figure out how they're going to do it. So mahalo for that explanation.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Thank you, Chair. This might be a terrible question, but when we're talking about appropriations of money, how do we appropriate money if the state is not appropriating us the money? Isn't our appropriations, because we can't take away from our budget anyway. So how do we appropriate money if the state is not appropriating the money to us. So how do we know how much we have to give and stuff like that? That's my only question.

Chief Advocate Kamali'i: I'm just saying that's a very good question, it's complex right, appropriations as opposed to what is the ceded land trust revenues which is the share of income and proceeds and there's often

confusion about that as to whether or not it's appropriated or not, ours is not appropriated, we have a share of income and proceeds for our trust money.

Ka Pouhana Hussey: The language around appropriation and I'll put my accounting hat on. When appropriations, there are also allocations and release of appropriations. So to get the appropriation is one thing, but to get the release of the appropriation and the triggers that come with that are another set of processes. So appropriations, allocations and then the actual expenditures, and then you get into lapsing and all of those conditions. So the top line is what is being shared, right? The appropriation, but there are still a number of gates regarding the allocation and expenditures that come with with that. So I'll take my accounting hat off and that's my comments about this particular measure.

Trustee Ahuna: So the position of comment is what's been recommended, okay thank you, perfect.

Chief Advocate Kamali'i: I'm sorry, 1411. This was a OHA named. We had already presented on this position of support. Relating to minimum wage, there's been a lively discussion on this and vote by the Board. SB2021, I've already spoken to this as well. It's an OHA named, but it was tied to the PLT bills and this has gone on to WAM.

Relating to the Office of Health Equity, I believe we've also spoken to this as well. Other than the hearing today in the House hearing on 2/8 which is today for House companion HB2429. We did not submit any testimony on this yet in light of approval. Relating to rental discrimination. This is new, we haven't talked about this yet. Prohibits discrimination including advertisements for real property based participation in a housing assistance program or requirements related to participation in housing assistance programs in real estate transactions and requirements. We do support prohibitions on discrimination. Our people are discriminated against. But that being the position, it has received from the Senate, let me make sure, let me get the update on the status of this SB206 did move through, which is, there was a Senate draft one, we have not submitted testimony on this.

Relating to koa trees. DLNR wishes to identify all private and public lands suitable for the planting of trees. Authorizes the administrator of forestry and wildlife to issue licenses to plant care for or harvest trees, we take a position of support. Relating to burial sites, I believe Kamakana is still online for 2067.

Lead Compliance Specialist Ferreira: So yeah, SB2067, we're recommending a position of support with amendments. This will establish an interdivision program with SHPD, OCCL and OHA to evaluate iwi that are eroding out along our coastlines and how to handle that problem. It's been a hot topic at the Island Burial Councils for quite some time now and also consuming some pages within our burial sites working group report that's going to be presented to the legislature, so it's a good thing with what they're trying to do here. The amendment that we're asking them to make, though, is right now they're having OHA front the monies for the iwi relocation and nobody consulted with OHA on it. And there's also questions, I think from an administrative perspective, because the rules currently vest SHPD to be responsible, bring discoveries, they receive funds from the state fund as well as NPS, so we think it's problematic that OHA's just being called out to pay for it. Plus the bill points out that physical study needs to be done so until that study is done, they shouldn't be asking any agency to pay for it other than SHPD as they are responsible.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair, the other thing that's problematic about them calling out OHA to fund is that's against the law. OHA Trustees are duly elected by state general election and we are the sole bodies that dictate how OHA expends its funds. So the state legislature does not get to dictate to OHA how we expend our funds. They're not legally allowed to do that. We are duly elected officials. We're not just a department within the state and that needs to be made clear during our testimony.

Lead Compliance Specialist Ferreira: We can emphasize that, Trustee.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: So are we commenting with amendments or support with amendments?

Lead Compliance Specialist Ferreira: Right now, the recommendation is support with amendments. Basically removing that part that's calling on OHA to pay and we had suggested language inside of our testimony.

Trustee Ahuna: Thank you.

Board Chair Hulu Lindsey: It's a good thing, Kamakana.

Lead Compliance Specialist Ferreira: Yes, it is a good thing.

Chief Advocate Kamali'i: SB2072, relating to court appointed attorneys. This has to deal with court appointing counsel for indigent parents upon filing a petition for custody family supervision and make every effort to do so at the first hearing attended by parents. This is a good thing, it's already constitutionally required, but the bill makes clear that the Family Court shall make an effort at the first hearing, as opposed to when it might get to a point where in the family, in the family court process or the CPS process, it might look like the children may be entering into foster care, so we do support this. There are many families or Hawaiian families that fall into this category and they are unrepresented at the first hearing so we do support this. Also, with regard to court appointed attorneys, court appointed attorneys, they fall under the judiciary budget and they are paid for out of that fund. So hearing today at 1:00 o'clock, we have not submitted testimony because it has not yet been approved. But we are ready to go should it be approved. We'll put that into the written testimony submission.

Relating to juvenile restitution, SB2086. We had already talked about this, removing judicial discretion and requiring that restitution, money restitution be mandated. We opposed this bill. 2021 and 2022, these are our package bills, already talked about it, we'll skip over that. Relating to Public Housing Authority, 2251. This for me, we've had discussion about this and this is opposed. Ka Lāhui also raised the flag on this bill. This was introduced by Senator Chang, the issue there is the way in which it is going to evolve, i.e., combined with a 99 year leasing authority and it is on public land. I'm not explaining it well, but it's very complex when you're giving this authority to HPHA to lease lands that are set aside or leased to it without lease length or restrictions. It's a grand attempt to solve our public housing issue, but it involves our Public Land Trust lands, and it also involves giving this authority to this entity HPHA in a way that is problematic. So combined with a 99 year leasing authority, this would create significant pressure and simply set aside or lease state public lands to HPHA, which could then encumber them for 99 years and that would prevent or foreclose Native Hawaiian claims and not even build housing. There's just too many things in this bill that raise a red flag for us and so we opposed.

Lease hold condominiums land controlled, SB2320. This is another I believe it is a Senator Chang bill. HHFA, Development Corporation to enter into 99 year leases of units in residential condominiums. Located again on state lands. It's a similar issue that rises that lands from state lands, Public Land Trust. It would give authority to the Governor to set aside public lands for leasehold condominiums and that structure again is problematic, as we saw in looking at the language of the bill that we opposed. I'm making this very simple and I apologize to the Trustees, but it raises a red flag so quickly that we're opposing it.

The next one, just another iteration relating to housing, SB2465. On this one we're commenting. It's another Senator Chang bill establishing a 99 year lease to own program on public lands and he mentions, you know, the rail coming through and these being certain corridors that might lend itself to this. When I look at it again

this is still a two referral. This is something that we need to look at further. So right now we're just saying to the Board, give us the authority to comment.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. This is not a new bill and granted it's changed over the last four years, but no matter the changes that have been made to this, we have never supported this measure of Aloha Homes program. OHA has always taken a position in opposition of this.

Chief Advocate Kamali'i: In light of that, Chief Advocate would certainly change position. I'm caught in the transition, so in light of that there's no problem to change position.

Moving on, relating to State Native Tree talked about that with regard to 'ōhi'a support relating to Public Land Trust 2594, I talked about that earlier. It was opposed and in our opposition it was deferred and it's dead. Regarding 2663, relating to filing fees. This is a rather interesting bill, I guess because I'm more familiar with family court. We do support it and what this means is, in divorce proceedings when an indigent person files for divorce, they are able to make an affidavit and their fees are waived. In paternity cases most of those actions are initiated by child support enforcement agencies, so there's no cost in child support and custody are established. However, in a paternity case, if you wish to change custody, they have to pay \$100, in a divorce arena if you were to file a motion to change custody, it is at no cost. So the idea here is many of our people come in through paternity actions not necessarily to get married, to have established your 'ohana so we saw it as being punitive for families to come in and have to pay \$100 to change custody or to address increase in child support, so we do support this bill.

With regards to 2770, Native Hawaiian rehab programs. We already talked about that, it's OHA named and comment. Regarding pretrial release, Senate Bill 2778. That establishes a presumption that the person charged with a crime is entitled to unconditional release unless proven otherwise, and it requires consideration of non financial conditions before bail is ordered. This is again within former Advocate Nina Ki flagging all of those bills that amount to criminal justice reform, so the pretrial release conditions and intent to reduce incarceration keep our people out of prison because they are released. Albeit even with conditions they are not in OCCC, so we support this bill.

Senate Bill 2830, relating to mental health licensing and the title speaks for itself, requires psychologist to have at least three hours of continuing education relating to cultural by diversity and cultural competence and or health equity. We support education of those who treat our people, psychologists, so that they are aware of the cultural subtleties, so position of support.

Senate Bill 2861, relating to expungement, requires the court to automatically seal or remove the judiciary publicly accessible database. Any information relative to arrest or case of a person for whom expungement order has been entered. So I'll just say there's an interesting phenomenon when the judiciary moved to the judicial electronic filing system. For those people who did what they were supposed to do, they got their case expunged. It wasn't removed from the electronic system, so when they applied for a job they would not get the job because it showed up in the search by the employer. So this is a way of the proponent, Senator Shimabukuro, of telling the judiciary you need to fix your electronic filing system. So we support that, many of our people get stuck in that situation where they do what they're supposed to do, and then their expungement does not amend the system.

2871, relating to pretrial release. I think I talked about that this again, is a widely supported bill by ACLU, similar to the OHA package bill in 2019, HB175. So without belaboring that, we're supporting that.

Senate Bill 2892, relating to Ke Kula 'O 'Ehunuikaimalino, establishes a working group to address the student enrollment and capacity and expansion very quickly, a charter school movement. We have supported that and supporting Hawaiian immersion schools, so support.

With regard to 2359, relating to expungement of records. Again, expands eligibility for and automates expungement of arrest. Now this is in arrest, so there are different kinds of records. There's the arrest records and then there are records that pertain to a decision by the court, so this is looking at and making sure that the arrest records are also expunged, and so there might be two different houses that deals with that information. And conviction records of certain criteria that are met, including the lack of conviction record for specified time period following the date of I think that was a date, I can't read it on my screen. So the Board approved coordinated advocacies. There were no hearings scheduled yet and we support that position.

SB570, relating to historic preservation. So Kamakana are you still online?

Lead Compliance Specialist Ferreira: So this one is another measure from last year. We had the same stance, it failed last year so it's back again. Basically it's amending the definition of historic property so that any historic property also has to be eligible for the Hawai'i registered historic places, and the only problem with this is that the Hawai'i Registry is also modeled after the National Registry and it doesn't include the state significance criteria for sites that are important to Native Hawaiians. So while most Native Hawaiian sites are significant under at least one of the criteria, there could be a situation where there could be a site that's only significant under criteria for importance to Native Hawaiians, and then it would be disqualified from the process. We expressed this concern to Doctor Downer last year, we actually met with him. He didn't even read our testimony and thought we were overreacting, but I think it's better to be overly cautious in this case, rather than just simply passing it through. Any questions?

Chief Advocate Kamali'i: Next bill SB872, relating to the Commission on Water Resource Management and adds a chairperson of the Hawaiian Homes Commission or chairperson designee, to serve as ex officio voting member on a Commission on Water Resource Management. That one did pass out with amendments on 24. A voting member of the Commission on Water Resource Management added from DHHL will allow for, you know, we see maybe protection of Native Hawaiian interests, so whenever we have the opportunity to add Native Hawaiians or the Native Hawaiian perspective to these commissions we're very mindful, but in this case we thought it was a good thing, so we support.

Senate Bill 879, relating to the counties, gives counties jurisdiction over the infrastructure of DHHL. Housing developments in their boundaries under specific conditions, it did pass out with amendments on 23 and it does require counties within 60 days to commence maintenance on certain infrastructure. So there was strong support by DHHL. You know, the delay in taking action on infrastructure has been an issue. So this would require the counties to take action within 60 days, we support.

SB899, relating to the composition of the State Council on Mental Health, that is hearing today depending on an approval by the board, it would require at least three members of the State Council on Mental House have demonstrated knowledge or work experience involving Native Hawaiian concepts, well being, culturally grounded mental health methodologies or traditional healing practices. You know, again, in dealing with are people who are engaged in and need mental health support, we do feel that it's good for the state to have us weigh in on the treatment of our people. Ho'oponopono, the understanding of culture, the understanding of maybe what Hawaiians see when they see some of these issues so by providing for the representation from those familiar with the benefits and effectiveness of culturally grounded, mental health programs and interventions, you know the bill would assist and serve as a stepping stone towards reducing Native Hawaiian mental health associated disparities through targeted and systemic relief. I know some of our Hawaiian psychologists have been just grappling with this for years, so we see this as a good thing and hearing is on today at 1:00. So I'm happy to report that we have made it through the first matrix of my tenure as Chief

Advocate. I look forward to doing the work and further discussion with the Trustees, and thank you very much for being polite and engaging in this process.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Thank you very much, Madam Chair and thank you, Na'u, great job. Before we move to the voting on the actual matrixes themselves, I would like to make a motion at this time. I move that we change our position from support to comment on the minimum wage bills in matrix #3, numbers 10 and 22, which are HB1958 and SB2018.

Trustee Lee: Point of order, Madam Chair.

Chair Akaka recognizes Trustee Lee

Trustee Lee: The Board has taken no such action, so this motion is out of order at this time.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Chair, I'd like to move to accept the positions on the State Legislative Package for 2022 and 2023.

Chair Akaka: I will call on our Ka Pouhana at this time.

Ka Pouhana Hussey: I just wanted to ask the Chair if she would like to go back to Trustee Lee's, if he had anything that merited executive session and if the Board would, you know, consider going into executive session. But I wanted to offer that follow up with Trustee Lee.

Trustee Lee: Thank you, Ka Pouhana, it was my misunderstanding because the matrixes are both numbered matrix 3. It's just that one is affecting Native Hawaiians and one is affecting Native Hawaiians one. So all of my questions have to do with the 87 pages of that matrix. I'm happy to go through them now or if we want to wait till after we take up this matter of that original matrix 3 affecting Native Hawaiian issues.

Ka Pouhana Hussey: Chair Akaka, if I could respond to Trustee Lee and provide some context for the black header matrix 3. So the black header matrix 3 represents the results of public policies culling through of the 3000 plus measures, and that it represents about 10 to 15%, and so matrix 3 with the black header is like the population control. It's all of that being considered, and is there for reference for the Trustees, not for decision making. So if that helps for context.

Trustee Lee: No, Ka Pouhana, I apologize, it does not. I found discrepancies within that matrix that changes the position that OHA has taken on certain bills in the past and then there are questions that I, as a Trustee have, as those of us that have been around for the last four years know, I have questions about some of the ones that we're monitoring and why are we monitoring and not taking a different position of monitoring versus that and I am happy to speak directly to the bill that I was asking about executive session, it is HB2136, page 28. So it's relating to interim administrative rules of the Department of Hawaiian Homelands. Allows the Department of Hawaiian Homelands after beneficiary consultation, and upon approval of the Hawaiian Homes Commission Act, to issue interim rules that shall be exempt from the public notice, public hearing and gubernatorial approval requirements for chapter 91, Hawai'i revised statutes, the interim rules shall be effective for not more than 18 months. I mean, it's a legal question, which is the only reason why I asked about an executive session. It's a question for our attorneys, as far as the implications this may or may not have one the Office of Hawaiian Affairs.

Ka Pouhana Hussey: So Trustee Akaka, sounds like based on Trustee Lee's that the Trustees should consider an executive session for that discussion. That's what it sounds like, but Trustee Lee, please clarify.

Trustee Lee: Okay then, Madam Chair, I move that we move into executive session to discuss matters regarding House Bill 2136 and possible legal implications for the Office of Hawaiian Affairs.

Chair Akaka: Is there a second?

Trustee Ahuna: Second

Chair Akaka: It has been moved and seconded. Can I please have a **roll call vote**.

							12:37 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

The BAE Committee recuses into executive session at 12:38 p.m.

The BAE Committee resumes open session at 12:54 p.m.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Does your staff have a motion prepared or do you need a motion to be made? Madam Chair, I move that we **approve OHA Administration's recommendations on new bills listed on the nine-page Matrix 3 (green header), items 1-48 on the OHA Legislative Positioning Matrix dated February 8, 2022.**

with the following revisions:

Add bills:

• HB2136, as COMMENT

Change bill position:

- 6, HB1638, from SUPPORT to COMMENT;
- 34, SB 2465, from COMMENT to OPPOSE

Board Chair Hulu Lindsey: Second

Chair Akaka: It has been moved and seconded. Is there any other discussion members?

Trustee Akina: Yes, Madam Chair. Would this be an appropriate time for me to offer a motion to bifurcate an item?

Chair Akaka: Yes

Trustee Akina: I would like to move that we bifurcate from the matrix, the following two bills relating to minimum wage, HB1958, SB2018.

Chair Akaka: Is there a second? Seeing none, we'll go back to the original motion. Again, it's been moved by Trustee Lee and seconded by our Board Chair Hulu Lindsey and we will now call for a **roll call vote**.

							12:58 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Trustee Akina: As stated, I have reservations but I vote aye.

Chair Akaka: Moving on to announcements, members are there any announcements at this time?

Chair Akaka recognizes Trustee Lee

Trustee Lee: So am I to understand that Trustees are not going to have the opportunity to speak to the remaining bills in the in the matrix. As this is our only opportunity as Trustees and Members of this Committee to speak to that.

Chair Akaka: You may do so, please do so.

Trustee Lee: So I will direct my questions, Madam Chair, if it's okay with you directly to our Chief Advocate Na'u Kamali'i. My first one is for HB124, number one on the matrix. Relating to elections, where it's requiring the Chief Election Officer to develop and distribute a voter information guide for all candidates running for state office, including candidates running for any trustee position of the Office of Hawaiian Affairs. Why is the OHA being called out specifically, are we not candidates for state office? Or is this just another way for the state legislator to point out that they think of us as less than?

Chief Advocate Kamali'i: In the engaging, I can't speak for the legislators or what they think or why they do what they do.

Trustee Lee: I understand that, I wanted that on the record.

Chief Advocate Kamali'i: I would just share my, you know, my sentiment that we'll give you how about this. There is a process and opportunity for those bills and measures that are on what is called the matrix 3. The larger representation of bills, there will be a process and opportunity next week to revisit any bills, add it to the 48. If you see that it rises, Trustee Lee, certainly I welcome comment from all Trustees with regard to those measures that are monitored on this list. We are doing the same and like I say it's a pairing process. We miss a few when I've got advocates that listen to the testimony. By the way, I encourage you to as well you can get online. You can go to the hearing notice looking to the right. There's a little icon that says YouTube and listen to it. So I would offer you a process Trustee. With regard to what is on matrix 3, to encourage us or inform us so that we can put it back on what might be a change in Board position with regard to items that don't make the list this year, excuse me this time, so there is process for that.

Trustee Lee: So I will so stipulate, Madam Chair and forgo the rest of those with the exception of those that this matrix 3 changes OHA's position from previous years. So all the ones that I just have questions on I will happily reserve for next weeks meeting as suggested by Chief Advocate. But if the Chief advocate will indulge me, there are a few that our position has been changed from previous years and I will pull those out, Madam Chair.

The first one is on page 23, item 94, House Bill 1961 relating to burials. Now, granted it's a triple referral, so it probably died. Nevertheless, we have it listed as monitor and in just the past legislative session alone this was SB1021, in which OHA supported. But I won't belabor that as noted by the Chief Advocate, that bill died because it's a triple referral.

House Bill 2395, item 164 on page 39, authorizing the issuance of general obligation bonds for affordable housing, and it's talking about 820 Isenberg, the Department of Hawaiian Homes. We have it as monitor and actually, Madam Chair, I withdraw that and I believe we did monitor this as well in the past, and what we were monitoring it for was who was going to pay that debt service. But I believe that was monitored before.

The next one is item 167, House Bill 2466, relating to taro. Establishing an exemption for state income tax. We have it as monitor and again, this is a triple referral. Although it has had a hearing and at the last legislative session, this also has a Senate companion but the previous bill that we supported in the past was Senate Bill 3038 and we did support this measure. I believe in the last session, the House Bill died and the Senate Bill was the vehicle. But we did support this measure.

The next one is item 200 on Page 47, Senate Bill 2270, relating to leasehold condominiums on state controlled lands, and we're monitoring this and in the past, this was Senate Bill 2320, which we opposed.

And then item 293, Senate Bill 2983, which is a Senate companion to relating to taro. Which as I stated before we supported in the past and I believe those are the ones that are different than what our position was in the

past and the rest, Madam Chair, I will reserve for Chief Advocate's suggestion of bringing up my questions next week.

Chief Advocate Kamali'i: Trustee Lee, I will say with regard to some of those that were opposed in the past. They also died in the past, so the Advocates who are here and experienced that may have had the opinion that it's going to go nowhere, so let's just watch it go there, nowhere, so that might have been for some of those that we change position to monitor.

Trustee Lee: I understand that Chief Advocate and I accept that, but I don't know that I would be doing my job without that explanation asking the question right, our positions were changed and I want to know why and that's a perfectly legitimate and acceptable reason why. Trustee Lee, we believe that these bills were not going to go anywhere, they were triple referred so we didn't want to waste our time on it and I completely accept that.

Chief Advocate Kamali'i: Okay, I understand you're making your records, so I'm also making my record for the Trustees who are, may not be as akin as you are to review all the bills, but that being a process of discernment when we go to 3000 to 300, to 48, and that clearing down process, we do as you say, why did we switch position. Sometimes the switch in position is to really look to see what kind of traction that bill got in the past and we just monitor it and frankly watch it go. Now the ones that are support. You know, if you're calling out a couple of them, we'll get on it right away and look at what we can do to support our all important, our taro farmers. So to those if they are listening, we apologize if we missed this, thank you.

Chair Akaka recognizes Trustee Lee

Trustee Lee: And if I can offer to our Chief Advocate, I'm not saying that we're not okay with our positions changing, right. We need to be made aware that a position that the Board has taken in the past is changing, but that's really all it is. Thank you, Madam Chair.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Thank you, Madam Chair. I just need to make a quick clarification for the record to something I said earlier. I cited a study or survey of businesses by the Chamber of Commerce that was 355 businesses. I said that half of them were small. Excuse me, I failed to note that half of them were small businesses under 25. I just want to clarify that. Half of them were small businesses under 25, thank you.

Chair Akaka: Any other discussion members?

V. ANNOUNCEMENTS

Board Chair Hulu Lindsey: Madam Chair, there are no announcements, I move that we adjourn.

Chair Akaka: Members are there any announcements? Chair, would you like to announce when our next Board meeting will be?

Board Chair Hulu Lindsey: This Thursday

VI. ADJOURNMENT

Trustee Waihe'e: I'll second

Chair Akaka: It has been moved and seconded. Any other discussion members? Seeing none, can I please have **roll call vote**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	1:11 p.m. EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at 1:11 p.m.

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

February 15, 2022 10:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee
Trustee C. Hulu Lindsey
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Chak, Kevin, IT
Santos, Dan, IT

EXCUSED:

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, February 15, 2022 to order at **10:01 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:01 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **EIGHT**(8) Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. COMMUNITY CONCERNS AND CELEBRATIONS***

NONE

IV. NEW BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair, and I'll ask Chief Advocate Na'u to be on and walk us through calendars and matrices.

Chief Advocate Kamali'i: Good morning, Trustees, Chair Akaka. Thank you again for the opportunity to present the status of our legislative effort. Also assisting is Seanna has mentioned by Ka Pouhana. So with regard to how I will proceed through this, as you noted from the new business or unfinished business. We'll first go through what is Matrix number one, which is our package, Matrix number two, which are those measures naming OHA. Matrix number three which regards to the positions related to measures affecting Native Hawaiians and Matrix number 4, which relates to positions and monitored bills relating to measures affecting Native Hawaiians, so the Matrix number four as referred covers all of the bills, so that's the comprehensive list. So for the most part, we'll be talking about status updates, changes, and a shortlist of new legislation and of course, hearing from the Trustees on what may be important and relevant to them to add to the list. Also to note that again because of the delay and the way in which we arrive at this meeting, what you are looking at is already old. It was formulated last week Wednesday. Submitted to Board Chair and then distributed in accordance with our rules to provide notice as required. So I will try to update to give more current information and then we start that cycle again tomorrow. Pulling together the list presenting it to a Board Chair, so just a reminder that what you're looking at or what you received may be different from what we will present.

Alright as indicated, I'd like to start again with the calendar because it's very relevant to this week as we move into a time where bills may die simply because they did not get a hearing. So today is the 15th, Tuesday, as I reported last week for those bills that were triple referred, some of them as I will refer to again in the list as I go through it had died because they did not receive a hearing. This week being the 15th, we looked at the deadline of the 17th as being the first lateral filing for bills. So what that means is for those bills that received a single or double referral, they have to have a hearing by tomorrow so that a committee report can be presented, and if that doesn't occur then they will die for not having received a hearing. For those bills that have multiple referrals. We'll look at the what we call the first decking, which is the March 4th date and all bills under an originating House, whether the Senate or whether the House need to have their hearings before the 1st decking. So those with two hearings, for example, that had a first hearing need to have this second hearing by the 3rd or it will be die, it will die in the first checking cutoff. Now some of those bills that received the first hearing. Naturally, we'll move to the second hearing, which is typically either finance, the money hearing, or WAM, on the Senate side, which is another money hearing and our bills are in are headed in that direction. So as I go through it, you'll see why we need the 2nd hearing and what the cutoff for that will be.

I will be repeating this, so if we need to go back to look at the calendar we can, but I will be repeating for each bill how it's moving along. If it does have a second hearing and it's going to not going to survive if it doesn't get that second hearing. Alright, so that is the case with our package bills. So as we look at the OHA package bills, the 1473, as we've reported out last time, with a triple hearing referral, it did not make the first cut off, so the House version died. If we look at the what is #3 of the Building Back Pono, SB2121, the Senate version had a double referral, so that means it has to have a hearing by the by the 16th or it will die and that is the circumstance for that bill, it has not received a hearing. So we do understand that there is lobby against it because it has to deal with socioeconomic impact. We have called both Chairs, Senator Inouye in the Senate and just have not been successful there. Certainly raised the bar, however, by introducing the bill how important it is for those EIS reports and investigations to consider the socioeconomic disparities in the report, which they can report on. However, it's not a requirement which this law would make as a requirement.

Going back to our bill, the OHA introduced PLT bill, House Bill 1474, I want to thank the Communications Department as you all may have already received the blast which has been circulating around the community, which does include the video that we had produced that has encouraged people to testify. We know that OHA can't stand alone in this effort because these monies are for the Native Hawaiian people and they, as we understand, are weighing in with regards to 1474. It has not yet received a hearing, but I do understand, and I've heard that people have called the Chair to receive a hearing, and we'll see what happens this week. But that bill is indicated because it hasn't received a hearing. It's a two committee referral. It must receive a hearing by the 16th so that committee report can make the deadline of the 17th and yes, today is the 15th, so something needs to happen by tomorrow.

With regard to 2122, that is the Senate version, that has passed Hawaiian Affairs and has moved on and is referred to WAM. This is an old representation. We do have a hearing on the 18th. So that moves along nicely for us it's on the 18th. We have time to testify. We have time for the community to weigh in and the blast put that out to the community to provide support for the measure. So we'll see what happens in that effort. Certainly we'll know by next hearing, will know at the end of the day, what the outcome is, it's a decision making only hearing. So that means they won't be taking testimony. However, written testimony will be received.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Yeah, Na'u, I was gonna say that it's decision making only, so submitting only testimonies. I did submit a testimony. Well, I submitted as Vice Chair of OHA, I hope that's okay and not as an individual. Because they're taking written, but they're not taking any oral or anything 'cause it's decision making only Friday. I did get your blast and a lot of my friends did, so they did submit just to let you know and I did send it to Brendon Lee, and he corrected me. Thank you, Trustee Lee for correcting my testimony, mahalo, Na'u.

Chief Advocate Kamali'i: Alright, thank you very much, again I want to say that you know the effort of the communications group to work closely with us. If your friends got it, that wasn't by mistake that was by design, so mahalo to your friends for testifying. Mahalo, so thank you for what you just shared Trustee. I also want to share that there was another bill and this is related. I can go through it again as we go through the list, but we are speaking about our PLT measure. There was a related bill as I had spoken before SB2021, and in that bill introduced by Keohokalole. When it came out of committee, it came out of committee together with the OHA Package Bill, so 2021, which was introduced by Senator Keohokalole along with Senate Bill 2122, which is the OHA Package Bill. Came out of the Hawaiian Affairs at the same time headed to WAM at the same time, so there's concern about the confusion if they both ended up at WAM, but I will note that although it was referred to WAM it has not yet received the hearing. So if there's no hearing on the 2021 which is, you know Senator Keohokalole introduced then by tomorrow it also will be dead. Now that's significant because then what WAM is going to consider is just our bill and our bill, as they receive it will have blanks in the amount lines. So conceivably, if that's all they receive relative to PLT, then they will either a, fill in the blanks or b, passed the bill on and out to the House or c, defer the bill. So we'll we'll see what happens, the Keohokalole bill included

CFTHA language and committee language. So if it does not receive a hearing, then we're looking at the terms of the bill that we offered for introduction, 2021. So we'll see what happens tomorrow. So if you want to track that you can track that and with that understanding if it does not get a hearing, then what moves forward is the bill in the Senate by way of WAM. Also, keep your eye on the bill in the House to see if a Representative Nakashima gives it a hearing. We also hear from the community that they've been sending emails to Nakashima that they've also been calling his office so that the House bill can get a hearing. So there's a bit of active activity, and I again give give credit to the blast and people knowing what's happening with the PLT measures introduced by OHA and related measures. So I'll pause here, that would be the end of what I need to say, or what I'm going to say on what is Matrix one.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Yeah Na'u, kala mai, going back to SB2121 relating to environmental review. You said that Water, Land didn't give it a hearing, Senator Inouye?

Chief Advocate Kamali'i: Yes

Trustee Ahu Isa: Did she tell you why?

Chief Advocate Kamali'i: Uh, no. The lobbyist was calling and we were calling. We did not get an answer why.

Trustee Ahu Isa: I'll call her, I just had lunch with her at the Capitol. When we had that rally for the shut the hill down, she invited me to lunch at her office. She said anytime I need to tell her about whatever I can call her, so I will call.

Chief Advocate Kamali'i: Thank you very much Trustee.

Trustee Ahu Isa: Because it goes to JUD and WAM next, can she still schedule, Na'u?

Chief Advocate Kamali'i: Yes, because this is the first committee. No, that's the triple, that would be the triple referral hold on. That means two committees in one, so yes, it's not considered a triple referral, so both committees would hold the hearing at the same time, so if it passes out of the first committee then they have until March 3rd to hear the combined JUD, WAM hearing.

Trustee Ahu Isa: Okay, let me call her Office Manager, Tammy and see what we can do with that.

Chair Akaka: Any other discussion members? Seeing none if we can please continue, Na 'u.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Okay, so Trustees we'll move on to what is considered the OHA named Matrix and the first measure is HB2024, relating to Mauna Kea. So 2024, relating to Mauna Kea has received a hearing. It is scheduled for all three committees. One hearing, all three committees on Saturday, February 19th at 9:00 AM. Now this is via Zoom. Some question why Saturday? It's possible you know in the old days the Saturday hearing meant everybody met in the basement in the big theater, so a lot of people want to testify. It's possible that's what they anticipate as well a lot of testimony. But in any event, the 19th, February 19th is the date of that hearing. There being a related lawsuit in this matter, it's my understanding that the Board Committees will meet to consider the testimony. The content of the testimony, determine testifier. That's my understanding, and at this point let me just defer to Ka Pouhana to see if she would like to add anything.

Ka Pouhana Hussey: Thank you, Na'u, not much to add Trustees as Chief Advocate has said, we are preparing the testimony to provide to the ad hoc committee for consideration.

Chief Advocate Kamali'i: Okay, thank you, the next bill, 2311 relating to Native Hawaiian Rehabilitative Programs, 2770 is the Senate side, the companion. This has been given this a lot of consideration. It's a very short bill, but it appropriates funds to the Department of Public Safety to collaborate with the Office of Hawaiian Affairs in the creation of a Native Hawaiian Rehabilitation Program. So initially the testimony that we had submitted, i.e. in comment, was there needed to be consultation because there are two departments working on an all important program that was submitted by several groups and women prisons groups and very positively supported, so although the language was coordination, you know it still took some discussion. Note that hearing the effective date was changed to July 1, 3000 to encourage further discussion. WAM will hold decision making on 2/15 at 10:30. The House will hold decision making as well on the same bill earlier in the morning. What we do understand is 'cause we did receive a call is that they're considering appropriations, obviously we're not speaking to appropriations, we're speaking to the value of a Native Hawaiian Rehabilitation Program, but we did offer that a range of amounts that have been expended on programs like this in previous efforts, and it's my understanding that they're considering that type of input from other programs like the Women Prisons Project, etc. Regarding what has been expanded in the past so it sounds positive that it may be funded, and then it may pass.

Also, comment testimony that we offered was about the need for consultation with the Native Hawaiian people as opposed to it being this sort of agency tradeoff type of discussion, i.e. the need to discuss is all important type of program with the people and that was our comment on that bill, which is the same comment on both bills.

Okay, moving on relating to federal lands with regard to Mākua, it was a triple referral, House Bill 2327 and that again, as I had explained earlier, for those bills that had a triple triple referral did not receive a hearing, they would have died, and this 2327 is dead. Moving on to 1411, here was a hearing on that and let me check with Kamakana if he wants to offer anything else since he had reported to the Board, that is on 1411 relating to historic preservation and note that even though we testify sometimes we have to wait for the committee report to see what they've done in terms of the amendment. So Kamakana, is there anything you would like to offer on this bill?

Lead Compliance Specialist Ferreira: I'm here, I don't have anything to update other than what was shared last week. The measure page on the State Capitol website still says that it was referred to Judiciary on February 8th, but it hasn't gotten another hearing. So we are still on standby.

Chief Advocate Kamali'i: Next bill 2021, I already spoke to that. That was what I referred to as the Senator Keohokalole's bill, it may die because it doesn't get a second hearing. It wasn't referred to WAM. Senate Bill 2770 just talked to that when I talked about the House version of that bill so I'll move on. Senate Bill 2853, relating to government accountability. Hold on, I'm sorry Trustees, it's not on my hit list because we've still decided to just monitor that bill. So that's where we are with that, requires any report or a study or audit enacted by the legislature. Let's see, it's a two hearing bill. So just on that alone, if it doesn't get a hearing by the 16th, that will die tomorrow, so that was a monitor bill.

SB3279 is a one that the Trustees have not weighed in on. We were going to try and group these together, but I have to speak to it because it does come up in Matrix two. 2379 relates to the Hawaii Community Development Authority. It was referred to two committees. Although we were asking for comment. I will note that if this doesn't receive any hearing by 2:16 tomorrow, it will die and this 2379 relates to Kaka'ako Makai. We understand that it may not move even though there's been discussion, it was introduced by Senator Fevella. So the Senate is having discussion about the bill, but this is what it talks about raising the building height limit for two of the six parcels owned by the Office of Hawaiian Affairs in its Kaka'ako Makai area to 400

feet, it would lift the current restriction against residential development in Kaka'ako Makai to allow for residential development by OHA or by third parties to which OHA conveys the parcels. Requires the Office of Hawaiian Affairs and any developer to provide written notice to any tenant or resident of potential aircraft etc. related to the parcel because of the height. Again, noting referred to Hawaiian, EET, WAM and JDC. Hawaiian has not given it a hearing. So that's the status of it and that would be the end of the OHA named bills.

Chair Akaka: Is there any other discussion Members? Seeing none, Na'u, if you can please continue with our Matrix three.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: As I move on to Matrix 3, some of the Matrix 3 we've already talked about, so I'll skip over those which were discussion which was included in the OHA package or the OHA named bills and then there are some some bills, at least one bill we may consider a change position given that we were watching the bill and other bills do not have a position as I've already indicated with regard to one of the bills, even though it may die.

Relating to Juvenile Restitution House Bill 1459, this was kind of an interesting one. I think I related to it because it gave discussion. The law right now gives the discretion to the Court to be able to determine whether or not restitution should be paid in cash or restitution could be satisfied by community service. The committees passed with amendments. So we'll just see what happens to that. Even though we had an opposition, there's still, you know, discussion, all of these judiciary type bills do have considerations that the judiciary has to take and take into consideration by the judiciary, but also with the Prosecutor's office and the Public Defender's office. So they go back and forth on the technicalities of this kind of bill, so it did it did pass on, so we'll see what happens with that.

Next relating to environmental review. That's our package bill, spoke about that. Relating to the Office of Hawaiian Affairs, that's a pro rata share bill we already spoke about that. Relating to regenerative tourism, that was a triple referral that died. Relating to criminal pretrial reform, HB1567. HB1567, we supported that. That has to do with our effort in criminal justice reform. This starts at the very beginning, which deals with the bail situation and monetary bail for nonviolent crimes. What the bill considers is that for certain categories of traffic misdemeanor and certain types of Class C felonies that they, the defendant be released on their own recognizance, particularly if they show up at the first hearing. So what happened here is that the Judiciary had an objection to the Class C felony which does does make sense. They did not like that it would be an automatic release on your own recognizance for a felony. However, that being the only change to the classes, that means that the traffic and the misdemeanor class moved on, they didn't object to that. So that's very interesting I'll just say, and it might be considered to be good news for the non violent traffic offenses and the non violent misdemeanors that they would be released on their own or cognizance. So I take that to be, you know, a good step. However, with regard to authorizing the Director of Public Safety to release a defendant if the defendant is unable to post bail in the amount of \$99.00 or less that was deleted and finally to encourage further discussion, the effective date of this measure was changed to January 1st, 2022. So then I see that is a very good thing because you know that allows for discussion and good discussion on changing some of these things that affect the real lives of people who can't get jobs, or will lose a job rather because they're held for trial, so we'll see where that goes, we support it, it's next next committee is Finance, so that means that it will have to have a hearing before March 3rd and March 4th being the date the first decking, so we'll keep an eye on that.

So making appropriations for the Kona Hospital site, that was a comment and that is HB1638. That passed second reading. You know the community there is very supportive of this type of measure, and I understand from Trustee Lee why we would make a comment on that. But I'll just say it was supported and it's on to

Finance. So again the cutoff date there would be the third for that hearing and the 4th being March 3rd and March 4th, those are the two dates, so we'll see what happens if Finance gives this measure a hearing.

Alright, next Bill HB1767 regarding regenerative tourism. That was referred to. That was a triple referral, so that bill is dead.

HB1768 regarding sorry, we'll talk about that bill next. That's one of our new bills, I'm going in a different order. Alright, 1767 regarding HB1808, which is relates to the geothermal, that passed second reading and ended up amending an HD1. In the committee report, they spoke to the increasing royalties to the counties to further advance geothermal resources discovery and development, and positively acknowledging how that might play a role in achieving 100% renewable energy statewide. I note that DLNR opposed the bill because it would reduce their share of the royalties, i.e. that amount that they would otherwise receive would be going to the county. Noting that the effective date was set at July 1, 2100, so they anticipate a lot of discussion on this bill, but that is the status of it and our position was just to comment.

Next measure HB1885 relating to government data, this passed out of CPC. Well, two committees, HET, CPC unamended as to the House draft one and it's moving on to Finance. At the HD1 level they clarified that the role of the Chief Data Officer, they're suggesting that he or she receive a salary of 130,000 for the first year. So the position was to support with amendments we have not submitted any testimony at this time. Not deliberately, but just haven't done that yet. However, we are watching this. The position is to support with amendments.

Relating to minimum wage, 1958. There has been no hearing, but there's been activity in the Senate so that hearing again on this on the House version needs to be had by the 16th and committee reports due on the 17th. So we'll watch to see if it gets a hearing tomorrow and what the status of the minimum wage is. There was a lot of discussion at the Trustee level with regard to minimum wage, but this is the status of it.

With regard to HB1986 relating to the Board of Education, I'll note that it passed second reading, as amended in HD1. Moving on to JHA Committee and that needs to receive a hearing by March 3rd, first decking by March 4th. I note also in this bill that the effective date was changed to July 1, 2050, so that usually indicates that everybody needs to talk before it gets to the next committee. That's the status of that bill, and we did support that. This is part of our 'Aha Kauleo Legislative priorities.

Next bill is 2015, regarding establishing a criminal legal system institute at the University of Hawai'i. That bill passed out of committee unamended. It seemed to get a positive response. A testimony and some support submitted by OHA, and it's on to finance. No hearing as of yet, but must be heard again by the 3rd of March for it to survive the first decking. Next bill HB2024 relating to Mauna Kea, we already discussed the status of that bill.

HB2202, this relates to designating 'ōhi'a lehua as our state endemic tree that did pass out of first committee, waiting for hearing on 2nd committee by March 3rd, again first decking March 4. Noting that there was a change in the effective date of that bill to July 1, 2024, so that means there's some talks that is being had about that. I'm not sure what that means in the background, but certainly we are in support of that bill.

HB2270, relating to the Board of Land and Natural Resources. OHA took a position of support, requires at least one member of the BLNR to have demonstrated knowledge of experience in state boating and fishing communities, including knowledge of ocean conservation, traditional fishing rights, requires some members representing the boating and fishing communities to be recommended by statewide fishing organization for the Governor's nomination of appointment. That was referred to Water and Land, JHA. We needed a hearing by 2/16 or that measure would die. It did not survive the first hearing, so it would appear that that measure is already dead.

Next measure is 2284, relating to equitable distribution of grow your own resources for Hawaiian immersion teachers. That measure passed with amendments. We didn't receive a report as to the 2015, but what we can say is that it's moving on to Finance and so again we need to have a hearing by March 3rd. Committee report by March 4th. So we're waiting for a hearing on that measure.

2311, relating to Native Hawaiian rehabilitation programs, we already spoke to that how that's moving along. 2320, relating to Environmental Impact Statement. That was a triple referral and so that that measure is dead. At some point Trustees, as we reported already, that this is dead we'll have to figure out a way to exclude or remove those bills that have already died so that this is a much shorter process of reporting back to you, but we'll discuss that in the meantime.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Yeah, Na'u, there's no need to discuss if the bill is dead, just remove it off the Matrix. We don't need to talk about it anymore unless it gets revived at a later point, right. Like they could stick it into a short bill or something, but if the measure is dead, you can just take it off the Matrix, we don't need to talk about it anymore, 'cause it's dead.

Chief Advocate Kamali'i: I understand, there are some measures that will die in between the point of our presentation and then next hearing. So for example, this is a time period where because this is up to date as far as I can tell, there's going to be this next time period where measures will die and you will not have received a report on it. So we'll report that it's dead to you and then remove it otherwise it'll just be missing from the list.

Trustee Lee: That's completely up to you, but I'm letting you know in the past, if it dies between this BAE and the next BAE, it's just not on the Matrix when we get our next Matrix because it died.

Chief Advocate Kamali'i: But it will be on the notice Matrix. I guess that's what I'm trying to say. It may be on the notice Matrix i.e., because the notice Matrix goes out on Wednesday. This Wednesday is a critical day for bills dying if they don't have hearings, so I'll have to speak to it the next time, but I will have discussion with Chair how she wants to report that out to the Trustees. But just to let you know. Thank you very much, Trustee Lee.

I think I'm at HB2327 relating to federal lands. We thought it was a triple referral as well. Yeah, it's not on our Matrix, so I believe that one is dead as well. Okay, moving on so thank you it's on the list but it shouldn't be. We'll remove those, we'll get through this faster.

2511, relating to Department of Hawaiian Homelands, that is the measure where the 600 million would have been appropriated to DHHL. I do note that it was for comment, it did pass out. The committee did note that you know there were I guess, what I excerpt from my notes is so because it applies to PLT. I found interesting that the committee noted as they passed this out that revenues collected as of 2021 provided an unprecedented funding opportunity for DHHL to meet its challenges, and fulfill its mission to Native Hawaiians. So it would appear for the PLT bill that there is also an unprecedented funding opportunity, and this is your Chief Advocate extrapolating on that language to meet the challenges to fulfill the state's obligation to Native Hawaiians. So I'll just note that that was provided in the committee report on this measure. So the bill passes out and it moves on to Finance, again it needs to have a hearing by March 3rd, first decking is March 4th.

HB1411, relating to historic preservation. Is there anything Kamakana that you want to say with regard to this measure, seeing that it did pass second reading and there is a FD1.

Lead Compliance Specialist Ferreira: I don't have anything to add on this one at the moment. I mean historically we've supported this measure in the past because it you know increases HP violations and will

require consultation with OHA on historic preservation related violations. So I would say that our position to support continue and that whenever it gets another reading to the Judiciary we can provide testimony in support.

Chief Advocate Kamali'i: Thank you very much. SB2018, this is relating to minimum wage and we note there was an introduction in the House and an introduction in the Senate. SB2018 is the Senate version. It did pass through the Senate and it was received by the House and it passed first reading in the House.

Moving on to SB2021, I reported out on that already, that is the whole Keohokalole bill that was passed out of Hawaiian Affairs at the same time as our measure. If it does not receive a hearing by 2/16 or tomorrow it will be dead and that means that the OHA version of the PLT bill is the only bill that's going to be heard by WAM.

SB2031, that's relating to Office of Health Equity, with that bill the Committee on Health has scheduled a hearing on the 16th, we were authorized to comment on that bill. OHA has signed on to the digital equity resolution, so I do anticipate that we will be crafting nice comment for this bill for the 16th.

Relating to rental discrimination, SB206. House received from the Senate on the third. The House passed a first reading so that is moving along. There is an SD2. They're making you know adjustments to the discrimination language, but it moves out of the Senate and moves into the House, so we'll take a look at that when the House issues it a first reading and see what the House does with it and be prepared for testimony to support.

SB2064, relating to koa trees. 2064 passed out of committee and is moving on to WAM. WAM must hear it by March 3rd. First decking March 4th, you know I don't say there's much to it, but you know, picking and identifying public and private land suitable for the planting of our koa trees.

2067, relating to burial sites. Kamakana just a quick, if you have anything that you would like to say with regard to this measure.

Lead Compliance Specialist Ferreira: Nothing additional to add to this. I mean, it's been referred to the Ways and Means Committee on February 3rd, we haven't heard any updates since. I know that they didn't take any of OHA's comments into consideration before advancing it to WAM, so I would assume our testimony would remain the same. Support with comments or support with amendments, specifically requesting that OHA not be charged with picking up the funds. This would undermine the authority of the Board and also SHPD should be putting this bill as their providing general funds to take care of these measures for now.

Chief Advocate Kamali'i: Alright, thank you very much. Okay, that was 2067. I'm looking at relating to court appointed attorneys on 2072. So this is the situation again where our people are at CPS hearings and they don't receive an attorney at the very first hearing. So this bill would support. We are supporting this bill so that people are adequately represented at the first hearing. So it did pass out of first committee moving on to JDC. No hearing yet there, which is the 2nd committee, that hearing needed by March 3rd. First decking or it will die, first decking is March 4th, so that's a good sign that people are looking at it, even if it doesn't pass. Sometimes it takes coordination between the Judiciary and the way in which that it appoints court appointed attorneys. So to ensure that that happens at the very first hearing.

2086, relating to juvenile restitution. I mean, if I spoke to that a little bit, the companion in the house HB1459, the Senate version has not received a hearing yet. It is a single referral in the Senate, so that needs to be done by the 3rd or it will not survive. So, we are waiting for that to occur and our position on that is oppose.

2021, relating to environmental review. That is our package bill and I've already spoken to it. 2022, that is our package bill spoken to that is our PLT Bill. 2251, related to Public Housing Authority. We had much discussion

about all of these Public Housing Authority bills seemingly introduced by Senator Chang and no hearing on 2251. They need to have a hearing by the 3rd or that bill will die, so we're seeing a trend of opposition to these measures and response being that no hearings have been granted, so we will watch that. All three of these bills. 2251, regarding Public Housing Authority we opposed. 2320, regarding leasehold condo lands. That needs to get a hearing by tomorrow or that will die. 2465, relating to housing otherwise, Trustee Lee, you're very informative on this the Aloha Homes Program and 2465, we oppose, again no hearing, if it doesn't get a hearing by tomorrow, it's dead. So all three of these housing bills which we strongly opposed, if they don't get a hearing by tomorrow the measures will be dead.

Relating to 'ōhi'a, 2520 and that receives support, no hearing by tomorrow, however, that measure will be dead. You know some of these things when the bills are introduced, they get creative and it sends out a message to people but this is the wrong venue to address the sentiment of the bill. Alright 2594, relating to PLT. We had already addressed this, it was deferred. That was the option to fund DHHL and Office of Hawaiian Affairs. That was the one that had a constitutional issue that was deferred instead.

2663, that relates to filing fees and that needs to have a second hearing by the 3rd, March 3rd or that would be dead and again, this is an interesting bill. It doesn't rise to the level initially, but many of our people, you know, aren't married, have children, and if there's a desire for them to change the status initially set by Child Support Enforcement Agency at the first hearing, they would have to pay a filing fee of \$100 and sometimes that filing fee is cost prohibitive to moms who are trying to raise children and can't afford that money to get back into court. So the idea here is to be motion filing fee neutral. There's no cost for motion in divorce cases, so there should be no cost for motion in paternity cases and I did check with Senator Shimabukuro about why this couldn't be handled by the Judiciary itself, and she said it does require a change in the law. So that is moving along.

Alright, next one which is 2770, I already spoke about. That's the rehabilitation measure. SB2778, this is relating to pretrial release, that needs to get a hearing by the 16th, tomorrow or it is dead and that has to deal with pretrial release conditions and the intent to reduce incarceration. So we have a couple of bills that deal with the arrest and pretrial area and then bills dealing with prison reform after sentences have been made. So I will say OHA is really working on the criminal justice reform.

Alright, relating to mental health licensing, that bill requires psychologist to get some training and cultural competency. If that does not get a hearing by the 16th, that bill is dead. SB2861, relating to expungement, again that's another bill in the sort of pre incarceration area. But to make sure that you know the record with regard to expungement is cleared and this sent a signal to the Judiciary that they need to pay attention to their electronic filing system and make sure that it does clear the filing system of those records which need to be expunged. If it does not receive a hearing by the 16th tomorrow, then that measure will be dead as well.

So now moving on to 2871 and that's relating to pretrial release, that's another area where the presumption of the person charged with the crime is entitled to unconditional release. That was a re referral to committee. It also is in this situation if it does not receive a hearing by tomorrow, the measure will be dead. With regards to SB2892, relating to Ke Kula 'O 'Ehunuikaimalino, that did pass out of committee, was referred to WAM and that's the next filing deadline because it was a two committee referral passed out at the first committee. So if no hearing is heard by March 3rd then that will not survive first decking. Also noting that SB2122 has a hearing on 3/4. I'm not sure what that though is. I've lost myself there. Okay, in any event, this one that passed out of committee needs to get a hearing by March 3rd.

SB3159 and that relates to expungement of records. I spoke a little about that already, that needs to have a hearing by tomorrow or that matter will be dead and no this again, there's quite a few bills about expungement of records that we're tracking.

Trustee Lee: Na'u, why would this need a hearing by tomorrow? It's a single referral, will this not be till the 3rd?

Chief Advocate Kamali'i: It's the third, I apologize you're correct. So single referral hearing needed by March 3rd. Thank you, Trustee Lee and first decking is on the 4th. Almost done, SB570 relating to historic preservation, Kamakana, do you have anything that you want to add to this measure?

Lead Compliance Specialist Ferreira: Nothing further to add, it does look like, so it's advancing pretty far. It's made it to the Senate and it's crossed over to the House, so I would assume our position would still be maintained and hopefully that amendment that we propose is taken into consideration before it becomes an ordinance.

Chief Advocate Kamali'i: Relating to SB872, relating to the Commission on Water Resource Management and this would add the Hawaiian Homes Commission Chair to the Water Commission. So this is one of those where, you know Hawaiians are interjecting and Hawaiian leadership is interjecting into other areas to ensure that there's a Hawaiian voice. There seems to be quite a few efforts to do that across the board, as it should be, we should have a voice, so that's what this also relates to, SB872, and that has been adopted, passed second reading and amended, referred to JDC. Note on this bill that the effective date of July 1st, 2050. So there must be a little bit of talking going on. They do encourage more discussion on these types of bills, so that is, you know that is what's going on for this measure as well. When we changed the you know Constitution of a Commission and so our position on that is to support that.

Regarding SB879, relating to the counties. Again, this gives counties jurisdiction over infrastructure of DHHL housing in their boundaries, under specific conditions, and requires the counties under specific conditions to commence maintenance on that certain infrastructure. So this is a sort of a jurisdictional clarification on responsibilities for maintenance and infrastructure. So this one moves on and adopted, passed second reading as amended, SD1, and that was referred to JDC. So hearing by the 3rd, committee report by due by the 4th first decking or be dead. So again, that's to clarify that the appropriate county agency shall be the recipient of the application for maintenance request, it's a good thing. It's very confusing for our people when they file in one place and they are told to file in another, so we'll see what happens to that. We take a position on support.

SB899, relating to the composition of the State Council on Mental Health. The Hawaiian Committee did pass that on with amendments, so it needs a hearing in JDC by the 3rd. A committee report by first decking deadline the 4th, or that will be dead. So we took the position of comment, so we'll see how that moves along and again it requires at least three members of the State Council on Mental Health to have demonstrated knowledge of or working experience involving the Native Hawaiian concepts of well being, culturally grounded, mental health methodologies or traditional healing or health practices. I know that our Hawaiian psychology and psychiatry community and ho'oponopono practitioners have been working on this type of thing for years, so this continues to move along. But we'll see if it gets a hearing on the 3rd.

HB2136, relating to interim administrative rules DHHL. There was a position of comment. The bills get scheduled for decision making on Wednesday, this Wednesday, so we'll see what happens with that decision and we will continue to track that that bill. I believe, Trustee Lee, there was some interest in this bill as well at the last hearing, so we are taking a look at. In that bill, if I recall and maybe you can clarify what I thought I understood the concern to be is that you know OHA should also be looking at the administrative rules as well and how it affects how we conduct our business. But that might be a side discussion I need to have with you to understand the concern there, Trustee Lee.

Trustee Lee: No, my concerns were answered by Everett.

Chief Advocate Kamali'i: Alright, thank you very much. Right, so looks like we have completed what are the approved measures. Are there any questions from Trustees? Otherwise, we'll move on to those that we need approval of position.

Chair Akaka: Any discussion Members, questions? Seeing none, I saw an applause by Trustee Akina.

Chair Akaka recognizes Trustee Akina

Trustee Akina: Just to clarify that applause was not that we were over a long list. It was to praise, Na'u and the team for all their hard work, thank you.

Chief Advocate Kamali'i: As we move into the next grouping, these are the ones that Trustees need to pay attention to. You will have to make a decision as to whether the position is supported. If you don't like the position, whether or not you want to adopt another position, and these measures will be for motion consideration as I understand our process we went through last time.

So the 1st bill relating to the disposition of water rights is HB1768. In this bill and there are a number of bills that are brought to our attention, and I apologize to the community. These have to deal with our ability to access water for cultivation of our kalo and to continue to further and support and enhance our ability of, you know, sustaining ourselves with with our kalo and our cultivation of kalo. This is an exemption, this bill would exempt the instream use of water for traditional and customary kalo cultivation practices from the existing process for disposition of water rights. There was much testimony on this. The bill is scheduled to be heard tomorrow. We have a testimony ready to be submitted on this and as soon as you say yes or no, it gets submitted very quickly and this would be in support of SD1. So we would request that the Trustees adopt a position of support.

With regard to HB1803, that proposes an amendment of the Constitution and we proposed the position of comment. I believe when it, I want to make sure that the Trustees did also have a position of comment. Proposed Constitutional amendment that recognizes the fundamental right of all people, including future generations, to clean water air, a healthful environment, climate and healthy nature, healthy native ecosystems, etc. Always cautious when there's a constitutional amendment. That's the primary reason for comment and Trustees maybe you can weigh in on this because it proposes a constitutional amendment and the processes that go into play with a constitutional amendment. So we propose a position of comment. There's several organizations in support, opposition by DLNR, Retail Merchants of Hawaii, although they're finding it, you know, obviously lofty that we address clean air, water, healthy environments, etc. Their concern is, you know the committee is concerned when it passed it out, is clarifying the findings in the preamble and in doing so and looking at the technical issues, substantive issues as well behind this, they changed the effective date to July 1, 2100 to encourage discussion. So this is where we are, it passed out for second reading JHA, so it will need to get a hearing tomorrow or that will die as well. Yes, it passed the committee so it has to be heard by the 2nd committee tomorrow or that will die. Anyway our proposal on that for position is comment.

1870, this is in support of the Judiciary effort on 'Ōlelo Hawai'i initiatives. Appropriates funds for their staffing. Typically this type of effort would pull from the Judiciary budget so this is their way of trying to increase their budget so that they are mindful of they're supportive of 'Ōlelo Hawai'i, so what it would involve is, you know, perhaps a coordinator, perhaps you know more interpreters and whatever translation that might be needed to continue to further the Judiciary effort to support 'Ōlelo Hawai'i. It passed with amendments, noting as I was saying, the Judiciary is exploring all of those efforts and funding funding requests, but it appears that it's going to supplant an existing funding or increase their budget. In any event, the effective date of that measure has been changed to January 1, 2222. Not sure if that's sending a certain kind of message to the Judiciary, but in any event, that's where that stands. So it would have to have a second hearing in Finance by March 3rd or it would be held and failed the first decking. So our position on 1870 is for support.

Next measure HB2429, relating to Office of Health Equity. Establishes the Office of Health Equity within the Department of Health and appropriate funds. That particular measure has been deferred. So since we had made that request, it was deferred, so that measure is dead.

HB2466, relating to taro, relating to kalo. Establishes an exemption from the state income tax for the 1st 100,000 of income derived from kalo products, land used to produce the kalo, that the total amount of land use to cultivate kalo in Hawai'i does not exceed 30,000 acres at any point in a year. So just think about how that would support the cultivation of kalo. The bill is scheduled to be heard in its second committee ECD on Wednesday tomorrow. So we hope and anticipate that the Board will approve that position so that we may submit testimony on that measure. Obviously it sort of speaks for itself and in its title. You know it recognizes how much work goes into cultivation of kalo and then you'll have to pay tax on top of that. So anyway, think about that Trustees, our position is for support.

Relating to correctional facilities. HB2516, development of a new jail to replace OCCC. Requires the Hawai'i Correctional Systems Oversight Commission to establish a Criminal Justice Reform Committee and appropriates certain monies. We have a position of support on this. I would note that with these efforts for criminal justice reform, particularly in the development and the planning for prisons, that there is a trend as I indicated last time that the trend across the country to really look at the systems from arrest to incarceration, and if those efforts of releasing on their own or recognizance, efforts for rehabilitation programs all at the same time are successful, then one would question why the need for a new jail and if so what would that look like. So this is in line with that thinking and so we support pausing the development of the new jail to have further discussion on that and testimony in support of this measure, they deleted the creation of a new Criminal Justice Reform Committee, also deleted any reference to the Women Community Correctional Center, but also looked at in replacing the need for a Criminal Justice Reform Committee funds would go to what is already established as the Hawai'i Correctional Oversight Commission. So this is one that is moving along to Finance. Must have a first hearing by March 3rd, first decking of March 4th.

Next one SB1277. We're requesting a position of support and this is relating to environmental justice mapping. This passed out of first committee unamended, so it's moving along. The Environmental Justice Mapping Task Force and Advisory Council to develop high quality data relating to environmental justice concerns, identify environmental justice communities and divide a method to correct for racist and unjust practices leading to historical and current environmental injustices. So it's sort of self explanatory in its description. We do support that and it's moving along to the next committee.

SB2759, relating to the disposition of water rights. Again, this looks like the House companion, which I've already spoken to, the exemption of the use of water for traditional and customary kalo conservation practices, so this is the companion to that. Don't want to waste anymore time, we have a position of support.

With regard to the next bill, SB2962, again proposing an amendment to article one of the Constitution. Trustees, I wish to apologize in our presentation to you with regard to this Constitutional amendment, we had a position of support. I wish to clarify that that should have been a position of as we reviewed it again, a position of highly monitor. Again, caution with regard to any proposed Constitutional amendments. In this case, the proposed Constitutional amendment would recognizes and protects for the present and future generations that inherent and inalienable right of all people to clean water, air, healthy ecosystems, including climate and the preservation of natural and scientific helpful qualities, etc. We note that there are federal laws in place. But the question is, you know, Constitutional amendment for this purpose, so at this point we're not even recommending a comment, but to highly monitor this bill. So looking for guidance for the Trustees. Definitely we are not asking for support of this measure because it involves a Constitutional amendment.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. So just to clarify, Na'u, the House version of this we're going to comment on, but the Senate one we're just going to monitor.

Chief Advocate Kamali'i: Hold on.

Trustee Lee: That's fine, I just want to clarify.

Chief Advocate Kamali'i: No, it's a good clarification, you know, as they move along they catch your eye again. You are correct, in looking at this bill again this morning and what's happening, I wish to clarify then for the House and the Senate companion, I think that we should monitor or highly monitor them. I'm very cautious about bills that amend our Constitution, particularly when it's broad sweeping like this, and there are federal laws that address some of the concerns. So I ask the Trustees to weigh in on this.

Trustee Lee: So the recommendation of the Chief Advocate for House Bill 1803 is to change it from comment to monitor as well.

Chief Advocate Kamali'i: Correct

Trustee Lee: Okay, thank you.

Chief Advocate Kamali'i: I apologize, highly monitor, so highly monitor means we're really taking a look at it and that may mean depending on what happens and how they amend it. We may seek to change position, so we are monitoring, but highly monitoring means it's really on our radar if that makes sense. Thank you, Trustee Lee.

Alright, the next is SB 2983, we are asking for a position of support and again this is one of the bills relating to kalo. I believe we spoke of the House version of this 1803, so I won't belabor the discussion and that's the one that relates to the exemption from state income tax.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. I was going to ask this question on the House bill, but we moved on so I let it go. But since it's back on the Senate side, do we know how many acres are currently cultivated? And the reason I ask is because this exemption only goes up to if we stay under 30,000 acres in the state for the year, and if we're at 31,000 now, then what's the point of the law? Even if it were at 29,000, so I just want to gauge how effective is this going to really be for kalo farmers and you know, why is there a cap? Why can't we cultivate all of it for kalo and they receive you know what I mean?

Chief Advocate Kamali'i: I do.

Trustee Lee: So do we know?

Chief Advocate Kamali'i: I don't know.

Trustee Lee: Okay, just something to be aware of because I'm assuming that this bill is meant to help the small farmer, right, this isn't going to help Hale'iwa or Hanalei Poi, right, who has massive productions. I'm guessing this is meant to help the small kalo farmers, but again, if we're already close to this threshold or we're over it then this doesn't help anybody.

Chief Advocate Kamali'i: I suppose there's a tie between being able to state an exemption from income tax to the level of cultivation that is tied to the acreage, so there must be I don't know. We support it, any exemption from tax would be great. But we need to look into this further. But there must be a tie between the 30,000 acres, what it can produce, if it were in a commercial context, and what might be reasonable as an exemption from income tax.

Trustee Lee: That's not the way it reads. It reads that the land use cultivation for taro in all of Hawai'i cannot exceed 30,000 acres, not for a single farm. Unless I'm just interpreting it wrong, if it's meant for just one farm, then that dissuades my concern.

Chief Advocate Kamali'i: Yeah, I don't know if it's meant for one farm, but what I'm trying to say is that there's a relationship between the exemption of income tax at \$100,000 and the acreage and also I suspect that there will also be an application for exemption from income tax, so it may be that not everybody is going to apply for the exemption so hence you're speaking to the complexity of this type of measure, but we support it. We support it moving forward.

Trustee Lee: Absolutely, I'm in support of this. My question is about the 30,000 acres. So if it's meant to be 30,000 acres for a single. So like you cannot cultivate, you or me. I cannot cultivate more than 30,000 acres and receive this exemption. But if it's meant to be, because the way it reads, it could mean the entire state of Hawai'i cannot cultivate more than 30,000 acres of kalo for anybody to receive an exemption. Does that make sense? That's where my question is. If it's meant for a single farm, then I don't have a concern about that, but if it's meant to be the entire state of Hawai'i cannot cultivate more than 30,000 acres for anybody to receive this exemption, then I have a problem with that. I would want the bill amended to take that out or amended to further clarify because if I have this question and it's not clarified anywhere, then somewhere down the line the tax department is going to tell a small farmer no, no, you gotta pay, the whole state cultivates more than 30,000 and then the small farmer going to have to pay because they don't have money for go court for fight this.

Chief Advocate Kamali'i: I think we might be speaking to two different things.

Trustee Lee: I agree

Chief Advocate Kamali'i: Hold on, let me answer, so you're correct in reading the bill that it speaks to all of Hawai'i and 30,000 acres. What I'm saying is that in order for a department of AG and a Department of Taxation to come together on approving the measure, that may be all that they're willing to approve, and behind that is an application process, so it may take several small farmers who apply, and then it adds up to 30,000. But what it does is allow both agencies, one to say we'll let you know when it surpasses 30,000 and with that they can put a figure of 100,000 exemption, but I understand your point, Trustee Lee. We support if your vote as Trustee is to allow us to support with amendments, then I encourage you to make that recommendation at the time of the vote. If that makes sense what I'm saying.

Trustee Lee: It does

Chief Advocate Kamali'i: Okay, so I think we're speaking about the bill for more clarification for all the Trustees. But you are correct, and I'm saying that there may have been discussion about one agency is willing to accept if the other agency is willing to also understand an acreage calculation. So in part, it's a calculation, and that would mean for us to understand there's a cap for a reason, so to speak. There's a cap in the acreage for a reason, and that cap may be in place so that the Department of Taxation can agree to 100,000 exemption. That's all I'm saying. It would take follow up on our part to confirm that, and certainly we can. So if you want us to support with the ability to make amendments, I certainly don't have any objections to that. We would be willing to change our position.

Trustee Lee: I don't know that we want to amend it until we get clarification on what their reasoning for the 30,000 acres is. Where are we at now with cultivation. I mean, I absolutely support the measure. I just want to know, you know. what's the reason for the 30,000? Like you said there's a reason, I just want to know what it is.

Chief Advocate Kamali'i: I don't know, it would require probably a call to the Department of Taxation, the Department of Agriculture to clarify that, more than willing to take a look at it, okay.

Trustee Lee: Yeah, thank you.

Chief Advocate Kamali'i: Okay, thank you. Relating to Hawaiian that was SB2983, relating and the related measure in the House. Relating to SB3218, relating to Hawaiian Recognition Day, La Kuokoa. We support certainly, you know, just waiting for approval to address that. SB3279, relating to Hawaii Community Development Authority. I talked about that earlier, that being the Kaka'ako Makai measure, asking for approval to comment and finally relating to housing SB880. That is a relating to housing. Exempts any housing development for the Department of Hawaiian Homelands from a school impact fee requirement. This is kind of a very small bill, but it matters in communities where we have schools that are on Hawaiian Homelands, they're required to pay a school impact fee, and this would exempt Hawaiian Homelands from having to pay that fee. So kind of straightforward in that, so we asked for position of support to be approved, let me see if I could see if there's status on that. 880 is scheduled tomorrow for hearing at one. So there's still time for us to get in testimony. If I'm not mistaken, we are at the end of that list of measures that need to be approved for position.

Chair Akaka recognizes Board Chair Hulu Lindsey

Board Chair Hulu Lindsey: Na'u, I have a question, on the 2nd to the last bill that you just finished where we're commenting, what could we possibly comment on something we really want although we're not pushing it and that's not our bill, what are we going to say? Because it's something we're going to come back in later years, maybe next year in asking for this. This 400 feet and residential.

Chief Advocate Kamali'i: Well, I think it's for the Chief Advocates, let me see. There are positions that the Trustees could take of which maybe at perhaps at this time I'm not clear on the clarity on the position whether or not to build as certain of feet or, you know, a position with regard to residential. So are we coming out with a strong position to support? Maybe that's just the lack of clarity on my part. Sometimes these bills, when it's not clear the Board needs to give us direction, so there's a position of comment, particularly because it's tied to a development. So that would be my answer. So I will defer to the Board as to how they want to proceed on this particular measure.

Board Chair Hulu Lindsey: I just can't imagine not supporting this because we feel so strongly about it. Although we have agreed not to do it this year, I just think that we should support it. I'll listen to my fellow Trustees.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you Madam Chair. Na'u, this measure is dead isn't it?

Chief Advocate Kamali'i: It's a double, it needs to be heard tomorrow.

Trustee Lee: And has it received the hearing?

Chief Advocate Kamali'i: Has not.

Trustee Lee: So it's dead, right?

Chief Advocate Kamali'i: It's not dead. You know, tomorrow is tomorrow. I mean, it never surprises me when they when they take action on matters. So all of them, all of the other bills that we receive. You know, 17th is a cut off for committee report, agendas can be amended, you know, things can move.

Chair Akaka recognizes COO Brown

COO Brown: Mahalo, Madam Chair and I'll add a little bit that you know, to Chair Hulu's comments. But it does make sense that we would support this effort because this is pretty much what we asked for in prior session. The change this time is that we have a very comprehensive Kaka'ako Makai development plan in the works and that plan includes legislative strategy and already what we can tell is we should be adjusting our approach at the leg. and so we appreciate the introducers of this bill for their support and we would look and hope for their support when we are ready to come back with the future asks around this measure. So not supporting is what and commenting is what's being recommended because we have plans in the future to come back, that's going to be refined on how we ask, mahalo, Chair.

Chair Akaka: Mahalo, Casey, Trustees are there any comments on this, discussion?

Board Chair Hulu Lindsey: I think it'll probably die like Trustee Lee said.

Chair Akaka: Na'u, do you have anything further that you'd like to share.

Chief Advocate Kamali'i: I don't have anything further, but I would just like to run through the numbers very quickly so we understand what the Trustees are, what we are asking the Trustees to do. So there were a group of bills that were approved and then there is a group of bills on the Matrix 3 that have not been approved. So going through just the request very quickly, that would be item number 50, House Bill 1768. We request support. House Bill 51, House Bill 1803 comment. However, that has been changed as Trustee Lee had drawn to our attention the inconsistency on this amendment, we would change our position there to highly monitor. There is a Senate counterpart to that, so item 61, House Bill 1803, to highly monitor. House Bill 1870 to support. House Bill 2429 related to Health Equity, to support. House Bill 2466, support. House Bill 2516 to support. House Bill 1277 to support. House Bill 2759 to support. Excuse me, that's Senate bill. Senate Bill 2962 to highly monitor. Senate Bill 2983, relating to taro, support. Senate Bill 3218, support. Senate Bill 3279 comment and Senate Bill 880, relating to housing support, so I'll defer to Administration again if I got that correct, so to speak. If so, then just mahalo to the Trustees for your support in our very small group, working very closely together from Hawai'i Island to Kamaile and Shane, Kamakana from compliance as well as Michelle and Seanna, they've been working very hard. Remember the 3000 to 300 to this short list there are others that are deserving perhaps, and we will put them on the list next week. But this being a very important week for people to look at what happens tomorrow with bills that die, with our PLT bill, calls that need to be made on our package. As well as the Mauna Kea hearing on Saturday. So until next time there will be a lot of activity and I hope that it's going to be favorable to our people and we are asking our people to testify and to come out and they are responding to the call and I you know, just can't be more happy for the Office of Hawaiian Affairs that the lāhui is rising to support bills that are important to Native Hawaiians. So thank you very much.

Chair Akaka: Mahalo, Na'u and all that have been working so hard on this. Can we please have a motion to approve?

Chair Akaka recognizes Board Chair Hulu Lindsey

Board Chair Hulu Lindsey: I move that we **approve Administration's recommendations on: NEW BILLS (Items 50-62) as listed on Matrix 3 -- Measures Affecting Native Hawaiians – dated February 15, 2022, along with the following revisions:**

Change bill position:

- **Item 51, HB 1803, from COMMENT to HIGH MONITOR;**
- **Item 58, SB 2962, from SUPPORT to HIGH MONITOR;**

Trustee Waihe'e: Second.

Chair Akaka: It's been moved and seconded by our Trustee Waihe'e. Is there any discussion Members? Seeing none, can I please have a **roll call vote**, Brandon.

							11:50 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Trustee Lee: Point of order, Madam Chair.

Chair Akaka: Yes, Trustee Lee.

Trustee Lee: Are we not gonna go over item 4D?

Chair Akaka: Mahalo

Trustee Lee: Because I have questions to Matrix 4.

Chair Akaka: We'll now move on to unfinished business, letter D.

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: We'll go ahead and Chief Advocate will take us through Matrix 4 and be open to Trustee Lees questions.

Chief Advocate Kamali'i: Thank you very much as I had indicated at the beginning of the representation. Matrix 4 is all measures affecting Native Hawaiians, so we spoke to those measures which we had position on

and requesting action and approval by the Board, the others remain on that list, and Trustee Lee I acknowledged that you may ask or want change position in some of those bills that are being monitored, but that's what I would say to speak to this list. It is the all measures list, for the most part they are monitored bills or highly monitored bills which we would not go through at this Board meeting. So if you have some bills that you wish to, I suppose change position then I believe that might be the action. Unless you have a question.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. Probably a little bit of both to answer Chief Advocate Kamali'i's question, some I may be seeking a change in position, but I would believe the majority of them are just for clarification questions and which may lead to not changing the position. So the first one I have is on item 2, House Bill 124, relating to elections and this one I probably would seek the rest of the Committee to change this to comment, and so it requires the Chief Election Officer to develop and distribute a voter information guide for all candidates running for state office, including candidates running for trustee position for the Office of Hawaiian Affairs. Am I the only Trustee that's offended by this? I'm 100% sure that we run for a state election. Why is it that they feel that they need to name us to this bill. If this law passes and so now they have to distribute a guide for candidates running for state offices, by law they have to include OHA. Why are they specifically naming the Office of Hawaiian Affairs Trustees, do they feel that we're less than the rest of Government officials that run for state office. If I'm the only one offended by this then I'll drop it, but I am, I am offended by this. I'm offended that the State Legislature feels that we are less than they. I only see one other Trustee nodding their head, so if no one else cares about this then I will drop it. Okay, I'll drop this one.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Trustee Lee, is it a position that you are seeking change?

Trustee Lee: I was gonna, if everyone else was offended as I am, I was gonna ask to change the position to comment so that we could submit comments as to why are you calling out the Office of Hawaiian Affairs Trustees. We our state government elected officials running for a statewide office like everyone. In fact, State Senators and State Representatives don't run for statewide elections, only the Governor and Lieutenant Governor do.

Trustee Ahuna: Chair, I was just asking if we could get that one up to make a position change because for me it's early in my years, not really thinking about that, but it is offensive 'cause we are statewide elected officials just like everybody else, we shouldn't be separated.

Chair Akaka: Na'u or Casey, can you please bring it onto the screen.

Chief Advocate Kamali'i: This is with regard to House Bill, number 124, number 2 and we should be able to pull up the bill. I will note though this is Matrix 4 and I believe there is still a motion with regard to Matrix 3 so as we go into this.

Trustee Lee: Just for clarity, the motion for Matrix 3 passed with seven ayes and no nays.

Chief Advocate Kamali'i: Okay, thank you, Trustee Lee, hopefully this works. There's a provision i.e. subsection E, I believe Trustee Lee you're referring to the second line after the comma which says including candidates for any Trustee of the Office of Hawaiian Affairs and you find offense to that language. That's my understanding.

Trustee Lee: You are correct Chief Advocate, I do find offense to that. To me that's the State Legislature saying that we are less than, that they feel that they have to point out that we should be included.

Chair Akaka recognizes Trustee Waihe'e

Trustee Waihe'e: I think we should mention that's not necessary. I think it's possible, just to give them some benefit of the doubt, in the past they would often not include us in things or treat us differently. It's possible this person might have had the attention, I don't know who introduced this, but maybe to make sure that we were included this time because of past things where we have not been, but I would think it's a good idea to mention that it's unnecessary and we don't feel respected by having it included in that manner, thanks.

Chair Akaka: So I believe what our Trust Waihe'e is saying that we can comment saying in the spirit of inclusion. If the spirit is to include us mahalo, however, it is not necessary.

Trustee Lee: I would agree with that, Chair. My intention was only to change it to comment, not support or oppose, it was just to comment that the Trustees feel that the inclusion of this line isn't necessary as we do run in a state election and we would think that the Office of Elections would include us because we are state elected officials.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: I was going to say things along the same line. Just comment with revisions and take out the OHA part, the Office of Hawaiian Affairs part, thank you.

Chair Akaka: Any other discussion members?

Trustee Lee: Just on this measure correct, Chair?

Chair Akaka: Yes, mahalo.

Chief Advocate Kamali'i: Hey Trustee Lee, any other measures that you're interested in just to facilitate the the review?

Trustee Lee: I do Chief Advocate, but in the consideration of time, I'm going through them right now. So if they have a minimum of a double referral and have not at least according to this matrix, received a hearing yet, I won't delay the Committee and bring those questions up because, as I said, you know if it hasn't received a hearing yet, then in all likelihood the measure is dead. If it appears back on the matrix next week, then I can ask those questions at that time. So the next one is House Bill 2135 and actually, Chief Advocate, I see that we've changed it from monitor to highly monitor, so maybe you have the same concerns I have about concerning of oversight, so I'll let that one go, 'cause in my mind that's elevating it so I will move on. Madam Chair, I believe the other bills that I had questions on have all not been assigned a committee hearing as of today. In other words, just doesn't even show that it's going to have a hearing tomorrow. So I believe that they will probably die, so that will conclude my questions, Madam Chair.

Chair Akaka: Any other further discussion Members and questions on any bills? Seeing none.

Chief Advocate Kamali'i: Right, so I understand Trustees, the only matter for Matrix 4 change of position. Given the discussion which may warrant a motion with regard to Matrix 4, is that HB 124, relating to elections should change position from high monitor to comment. However, if you are saying you want us to also comment by making amendments and that amendments would be to delete the language following the comma and including the Office of Hawaiian Affairs. Is that what I understand the position is, is comment and then making those amendments?

Chair Akaka: Members any discussion, I see that Trustee Lee has his hand up.

Trustee Lee: Sorry, Madam Chair, I was going to make a motion but I see that they have a motion up on the screen. Yeah, that would have to change to reflect what Chief Advocate Kamali'i has stated, that it's comment with a suggestion of an amendment of removing the Office of Hawaiian Affairs. As we are state elected officials and should rightfully be included in and not being having people. It should be automatic, we shouldn't have to be named.

Trustee Ahuna: That's our comment.

Trustee Lee: And I believe, even though I was personally offended, I do believe that Trustee Waihe'e is correct. They're just going off of past practice and that we've been left out of stuff before, and so they felt they just wanted to make sure that we were included without unintentionally, not meaning to but.

Madam Chair, I **move to approve the addition of measures listed on Matrix 4 -- Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians, to be added as NEW BILLS to Matrix 3 -- Measures Affecting Native Hawaiians – dated February 15, 2022, as follows:**

NEW BILLS:

- **HB 124, with a change from HIGH MONITOR to COMMENT with a suggestion of an amendment to remove the Office of Hawaiian Affairs Trustees as candidates for this position should automatically be included as they are state elected officials;**

Chair Akaka: Mahalo, is there a second?

Trustee Waihe'e: I'll second

Chair Akaka: Mahalo, it's been moved and seconded. Any discussion Members? Brandon, could we please have a **roll call vote**.

							12:09 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

V. EXECUTIVE SESSION

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

Board Chair Hulu Lindsey: Madam Chair, I move that we go into Executive Session.

Chair Akaka: Is there a second?

Trustee Waihe'e: I'll second.

Chair Akaka: Mahalo, it's been moved and seconded. Please can I have a **roll call vote**.

							12:10 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

The BAE Committee recuses into executive session at 12:10 p.m.

The BAE Committee resumes open session at 12:54 p.m.

V. ANNOUNCEMENTS

Board Chair Hulu Lindsey: Madam Chair, there are no announcements, I move that we adjourn.

Chair Akaka: Members are there any announcements? Chair, would you like to announce when our next Board meeting will be?

Board Chair Hulu Lindsey: This Thursday.

VI. ADJOURNMENT

Trustee Waihe'e: I'll second

Chair Akaka: It has been moved and seconded. Any other discussion members? Seeing none, can I please have **roll call vote**.

							12:17 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **12:17 p.m.**

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

February 22, 2022 10:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee
Trustee C. Hulu Lindsey
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Chak, Kevin, IT
Santos, Dan, IT

EXCUSED:

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, February 22, 2022 to order at **10:00 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	EXCUSED	10:42 a.m.
TRUSTEE	DAN	AHUNA	EXCUSED	10:32 a.m.
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SIX(6)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

Germaine Meyers: Aloha, my name is Germaine Meyers. I am an OHA beneficiary for beneficiary advocacy and empowerment. I'm also a Nānākuli Hawaiian Homestead lessee. Today I come before the Beneficiary Advocacy and Empowerment Committee to address things that are coming before the Legislature. In whole, there are numerous bills that are coming to the Legislature and I would like to address all of them through my testimony in a specific way. I'm asking OHA Trustees to continue your advocacy and perseverance in asking the Legislature to increase the ceded land revenues. The Public Land Trust given to OHA, remove the cap and raise the amount. At the same time, OHA is asking for this to happen. I understand that there are bills, they're asking for \$15 million to go to CNHA and also \$600 million to go to DHHL. I'm asking the Trustees today for all of you to work together in supporting, Na'u, our Public Policy Advocate to convince the Legislatures, all of them are people, including my Legislators, Senator Maile Shimabukuro and Representative Stace Eli. I have wanted to come to address you before, but I've never had an opportunity to due to my time schedule. But what has always been on my mind is to come here and express to you my concerns that you give the Legislatures the same messaging, but in addition to that you do not spread false rumors or false lies to the lāhui regarding these efforts. At this specific time one year ago, one of the Trustees had written in his column his Trustee column, that he was upset that the Legislature were having OHA do its job by funding DHHL, then he was quite upset with the Chairman and the CEO for not saying to the Legislatures that it was their job to fund DHHL, but I'd like to point out that in 2008, specifically on June 7, 2008 in the Star Bulletin, there was articles that OHA, DHHL form a valuable partnership for mutual gain. The Office of Hawaiian Affairs, not the Legislature will grant as much as \$90 million to help the DHHL Hawaiian Homelands put people in homes, a plan to financially aid the state agency that provides homes for Hawaiians fits the OHA Board Mission and improving the lives and protecting the culture of its beneficiaries. And it goes on to talk about the \$3 million that would be given each year for 30 years to pay debt service on revenue bonds. The grant also will augment the goal of the Department of Hawaiian Homelands to sustain the partnership between OHA and DHHL anticipates the kind of cooperative efforts that will be necessary should the Akaka Bill receive approval in Washington. Trustees, I will go ahead because of my time limitation. I'll go ahead and email this article to all of you because I want to put into perspective that before we go to the Legislature, please look into your research and before you go ahead and put out a column, and especially when you're blaming the current Chair or the current CEO for false intentions or negative intentions at the Legislature, I'd like to ask you to please do your research. In here it says, though both have largely common beneficiaries, they sometimes come into conflict. They proposed agreement between the state and OHA for payment for ceded land revenues was rejected by lawmakers during the last session, in part because of objections from Hawaiians who thought OHA was extending benefits too widely. The partnership could bring Hawaiians closer and smooth out differences, so to see a column that you know blames the Legislature for wanting OHA to fund DHHL is really poor leadership, so I see that my time has run out. Thank you Akaka, and I hope you all have a blessed day.

Scott Crawford: Aloha kākou, good morning Trustees, members of the Committee and staff. My name is Scott Crawford and I am the Executive Director of the Kīpahulu 'Ohana. I'm here to testify in support of BAE 2202. The resolution in support of the Community Based Subsistence Fishing Area designation for Kīpahulu Moku and first off, on behalf of Kīpahulu 'Ohana, I just want to express our support, our mahalo for your support of this resolution and for our efforts for the Trustees and for the staff who helped put the resolution together and bring it before you. I just wanted to give a little bit of background about the Kīpahulu 'Ohana and our efforts around the CBSFA designation. The Kīpahulu 'Ohana was founded in 1995 by Uncle John Lind and Auntie Tweetie Lind and Uncle Mike Min and our main project for many years was the Kapahu Living Farm which is a traditional wetland taro farm in partnership with Haleakalā National Park. In about 2010, we took on expanding our efforts to include the makai aspect of ahupua'a management and moku management and work to develop ur Mālama I Ke Kai Action Plan, which was finalized in 2012 with input from many fishermen and cultural practitioners and community members, scientists and teachers and one of the items in that plan was a priority action to designate Kīpahulu Moku as some sort of a protected area, a managed area. We chose a community based subsistence fishing area because it is the only designation within the state that first off, prioritizes traditional and customary practices, and focuses on the traditional lifestyle of the Hawaiians in relationship to

the resources, not just on the health of the resources themselves and also it allows for the community to enter into a co-management with the state and especially in remote Kīpahulu where the presence of DAR and you know the distance of DOCARE is very far away. It's all the more important that the community have a real active role in the management of the resources. So over the years we held many meetings and a lot of outreach to the community to develop the rules, package and in 2019 we formally submitted that proposal to DAR along with the management plan and we've continued to do education and outreach and gather feedback on that plan. We have very strong support among the communities and families of East Maui for Kīpahulu CBSFA designation and our emphasis is always on education and for fishers and users to understand the reasons behind the CBSFA designation and the rules that we're proposing so that they you know, comply or participate based on understanding that you know the importance of the pono practices, wanting to be pono and wanting to protect the resources for future generations and so we've, you know, put a lot of effort into outreach and education and we continue to do that moving forward, and we're hoping in April, we're planning to have DAR come out to Kīpahulu for a site visit to go over with all their staff for them to really be able to see. This will be their second site visit, but some additional staff who weren't able to attend the first time to really see exactly the area that we're talking about and then moving forward from there towards a public scoping meeting and towards the formal administrative rulemaking process, so we really appreciate this Committee considering this resolution and supporting this resolution. So as the process moves forward, the Office of Hawaiian Affairs, can take an official position in supporting our efforts and supporting the families of Kīpahulu in being able to manage the resources in partnership with the state and ensure that they are there for traditional practice to continue and Hawaiian lifestyle will continue for many generations to come, so mahalo.

Ka'uiki Lind: Good Morning Trustees, Ka'uiki Lind, I was here about a couple weeks ago testifying on behalf of Miloli'i. Same scope, this is for a resolution supporting community based subsistence fishing management area for Kīpahulu Hawai'i. We need the support from OHA and one of the reasons why we came up with the CBSFA designation which what Scott said, and I'd like to repeat is because of the growing, the rapid and significant decline in fish abundance and bio mass as similar to other more populated parts of Maui Island. So we decided on the CBSFA management because that's the only designation that we kind of geared to cultural and sustainable practices of the Hawaiian people and for everybody else too, but the proposed 1600 acres of submerged area under the jurisdiction of the state, about 5.7 miles of coastline, is what the CBSFA would encompass. In 2013, we had 680 petition, 80 members of the communities and their families to sign a petition in support all the CBSFA designations. Again, please OHA support a resolution and that's all I have to say pretty much. Thank you for listening to me and aloha.

Karin Osuga: Aloha kākou, good morning and mahalo for allowing me this time. My name is Karin Osuga and I'm the Coordinator for the Maui Nui Makai Network. Today I come before you on behalf of the Maui Nui Makai Network to testify in support of Action Item 2202, Resolution supporting Community Based Subsistence Fishing Area designations and rules in Kīpahulu, Maui. The network is composed of eight community group members across Maui County and four supporting organizations. Our mission is to connect communities across Maui Nui to care for and restore healthy ecosystems on which Hawai'i's people depend and Kīpahulu 'Ohana is a founding member of the Maui Nui Makai Network, which was formed in 2013, our purpose as a network is to share and learn from one another's diverse experiences, share lessons learned and best practices and to support one another in mālama-ing our specific makai areas that we care for. As part of our effort to support Kīpahulu 'Ohana, we have been involved in their CBSFA process from the beginning and in particular we've hosted online public informational meetings. In 2021, we held a total of four meetings to provide opportunities for members of the public to learn more about the proposed Kīpahulu CBSFA, ask questions and share any concerns that they may have, we've also been very supportive of the efforts through social media outreach in helping develop products for social media content and amplifying Kīpahulu 'Ohana's message and Kīpahulu 'Ohana is also a large part of our Maui Hikina Huli A Mahi Process, which is an effort that the network is leading by bringing together communities of East Maui, which are all looking at Kīpahulu as an example of what regional management could look like for that area. So mahalo, OHA Trustees for support of community lead management and mahalo for allowing me this time to testify, aloha.

Laila Kaupu: Aloha kākou, ‘O wau ‘o Laila Kaupu ko‘u inoa. No Omoka‘a a me Miloli‘i mai au. Noho au ma Miloli‘i, Ho‘ōpūloa. Good morning, Board, OHA, I'm here before you folks this morning in support for OHA and the Chair and the Committee of Beneficiary Advocacy and Empowerment in adopting the resolution to support the Kīpahulu Community Based Subsistence Fishing Areas and rules. I along with a few that have testified this morning have been before you a few weeks ago in the support of our own community Miloli‘i and their Community Based Subsistence Fishing Areas. I may not be of Kīpahulu or Maui in itself, but as a sister community in this effort and the lawai‘a of Miloli‘i, I support traditional and customary practices in which the CBSFA designation aligns with. I support the protection of the ocean resources within and surrounding rural and secluded communities such as Miloli‘i, Hā‘ena and Kīpahulu who also look towards their communities and their traditional and customary practices to help in replenishing the abundance of their ocean resources while utilizing what they see fit for their community and for their generations to come. In all reality, this is not a practice, this is a lifestyle and a lifestyle of many communities. As a sister community in this effort, we are in this wa‘a together and as we hap hou through the process we learn of each other and each others community and what best helps to keep us moving forward. My support for OHA to adopt a resolution in support of Kīpahulu and their CBSFA is one of the many synchronized strokes of a paddle in the efforts to obtain a community based subsistence fishing area in their community. On behalf of the Miloli‘i community here on the Big Island, I wanna mahalo OHA staff, Ka Pouhana, Chair and Committee of Beneficiary Advocacy and empowerment for the opportunity, mahalo a nui loa.

Niegel Rozet: Good morning Board, good morning Chair, good morning everybody, aloha, just wanted to share my support and urge the OHA Board to support this CBSFA designation by Kīpahulu as well. My name is Niegel Rozet, I'm from Makawao, Maui and living in Wahiawā now. I'm in full support of communities of their place managing their own resources and this proposal from Kīpahulu does that. Yeah, really good opportunity for the ‘ohanas from Kīpahulu to make sure there's fish for the future and yeah, that's all I wanted to share, mahalo.

Kevin Chang: Good morning Chair and Committee for Beneficiary Advocacy Empowerment, Pouhana and team. My name is Kevin Chang, I'm the Executive Director of an organization called Kua‘āina Ulu ‘Auamo, which means grass roots growing through shared responsibility our acronym, KUA, meaning backbone. KUA was created by the families that make up some of the folks who have already testified, and we stand behind and affirmed their testimony. We were created initially by communities in Mo‘omomi, Hā‘ena, Kīpahulu, Miloli‘i, ‘Ewa Beach, Wai‘anae and many others because of a desire to have more say and collaborate to better manage fisheries closer to the traditional ways where communities participated as part of a konohiki system and this resolution before you today is very similar to the one in Miloli‘i and the one passed from Mo‘omomi and Hā‘ena in 2014. As a former and proud employee of OHA back then, I left to do this work because I found that it was important for if our government is to help, if our government is made up of the people, then the people need to be more involved in the management, especially of the resources on the ground and as a former manager at OHA I saw this gap missing and so I appreciate that these resolutions in the past, and hopefully this one as well, have been supported by the Board. I think it's important for OHA to be able to not just make Hawai‘i better by supporting the Native Hawaiian community through its work, but also directly supporting the desires and efforts for self determination that happened within our own communities and regions across the state, especially in those rural areas, these kīpukas where the culture and community still has the strength of values to mālama ‘āina and can lead our state forward and lead the world forward and I would like to say that I think your support of this kind of resolution supports that kind of empowerment and builds a voice for Hawaiians in caring for Hawai‘i and the earth. Thank you for this opportunity to testify, aloha.

Tweetie Lind: Good morning everybody from Kīpahulu. Good morning to all you Board of Trustees of OHA. I have had actually very good communication with you folks over the years, even though it has changed the Board over the years. We have appreciated all that you've done and I hope that looking at our project in support of CBSFA is very important for something kind of, some kind of guidelines that you can follow through instead of all the Hawaiians trying to go on their own. We have always found out that as a ‘ohana that if we stuck together as a Hawaiian and we kept our cooperation Hawaiian it was much easier for us to do what we

have done in Kīpahulu. Over the years, OHA's support have always been I hope that they have been proud of what we have done on the state land that we have received on the projects that have gone around us like the building up of the farm taro patch and making our kitchen. All that came out of a purpose, actually all this came out way before we even created the Kīpahulu 'Ohana. It came back from the old days, in the 1978 after Kaho'olawe when we returned to Kīpahulu and Maui and Hana, we wanted to make things off our own. As we went through going through business, going through land, it wasn't easy to get on it because we never owned the lands. They say was all owned by the corporation of Hna Ranch or the hotel but we all loved them and we all worked with them. They have supported our parents and our families over the many years. So on behalf of the Kīpahulu 'Ohana like I said, this has been a long story, by the way we do have a certified konohiki who is Uncle John Lind and he has been fighting this kind of movement. Anything to improve our ways of life in the Hawaiian have always been to do this. We are sorry sometimes if maybe we have been outspoken in things, but remember with this small community, it's just a whole bunch of us, with just like maybe 30 of us in this community that are surrounded by the National Park and if you ever worked with the National Park like we have over the years, we slowly doubt if they were really in our favor, but always to try to make themselves look better, which we have done. We're very obedient, actually, and we never tried to talk back because we knew down the road that we still had to meet each other. So like I say OHA, what you've done, I watch how you create it and hopefully you have never gone away from the focus of making lives better for the Native Hawaiians. Hawaiians, yes, but it's the Native Hawaiians prior to 1778, which we always push in front of in our community, 'cause we were here first. So I also want to thank some of the old timers, Senator Kahele, who is Kai Kahele's father, he was actually the one that came in to Kīpahulu and explained to us about saving the fish in Miloli'i. Before him we had friends like John Wailani, who was also down there and Kapiko down at the City of Refuge where they were trying very much to save and preserve their fishing area. So it was Senator Kahele that kind of got us started and since then we have progress, slow, slow but effective, and I think the 'Ohana is very effective in what we have done because we have a lot of respect. We have created a lot of good things behind us, taught thousands and thousands of kids, whether they were from the mainland from Hāna from Honolulu from Kaua'i, Moloka'i, all around our islands. We have taught them without a doubt to teach them the good things that we know. So thank you OHA. My love goes all out to you. It's more than what you think. CBSFA and the fishing is not the only thing of our Hāna's concern. We have many, many concerns that we hope you can maybe one day really come into Hāna and really look at beyond what you see or what you hear, but I thank you all of you, all the old timers on the OHA Board and all the new ones. Mahalo very much for listening to our testimony. God bless all of you have a safe and honorable year, mahalo.

III. NEW BUSINESS

A. Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai'i

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair, we will ask Trustee Aide Kama Hopkins to let us know the work that they have continued to be doing along with Shane, go ahead Kama.

Trustee Aide Hopkins: Mahalo, Ka Pouhana. Aloha Trustees, Madam Chair, Kama Hopkins for the Board of Trustees. We just want to share Trustees that in working with our, not only Miloli'i, but Kīpahulu communities as well, we wanted to share this special mahalo to our community, our beneficiaries, our people. They did the work, we were simply a conduit to help get their work here for us to take a look at and approve in support so that when they go before the Board of Land and Natural Resources for public comment they will be supported by us and know that they have our kōkua. Today, Shane could not be with us but he wanted me to share this thought. He wanted to express his mahalo and recognize our Native Hawaiian communities coming forward to civically engage in an arduous process to improve and manage valuable resources for sustainability by

effectuating their traditional and customary rights and practices along with their intergenerational 'ike kūpuna that will decrease the gap of cultural discontinuity and increase social economics. You know, as Shane and I have been able to work with Kevin and different communities throughout our pae 'āina, we want to express again our appreciation to Ka Pouhana, to Chair Akaka, to our Chief Advocate Na'u Kamali'i for all of their support and we would like the Trustees to know that this isn't something that's done in a vacuum. It is something that's done with the work of everyone involved, even getting these resolutions to the Board, you know we want to say thank you to Na'u, to Ka Pouhana and to Chair Akaka because they make sure that it's the very best version that it can be. As it is presented to all of you and I know many of you have had the opportunity to look it over so without delaying this meeting any further, I really want to thank on behalf of Shane and I, thank once again, those that have testified this morning in support of this resolution. We truly, truly appreciate it, and please know that that we are here to support you as best as we can and Madam Chair, that's all for me. I stand ready for any questions if Trustees have them.

Chair Akaka: Mahalo, Kama and mahalo to Shane for all your folks work on this and I also want to mahalo our testifiers for what they shared with us this morning. It's very important to hear the voices of the community that we're working with on this. Members are there any questions, concerns? Seeing none at this time, mahalo.

Ka Pouhana Hussey: I'll turn it back to you, Chair for the action by the Trustees.

Chair Akaka: May I please have a motion to approve **Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai'i.**

Trustee Ahuna: So moved

Trustee Waihe'e: Second

Chair Akaka: It's been moved by our Trustee Ahuna and seconded by our RM Chair Trustee Waihe'e. Any other discussion numbers? Seeing none, Brandon could we have a **roll call vote**.

							10:40 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA	1		X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

IV. UNFINISHED BUSINESS

A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474, SB2121/HB1473, coordinated advocacy - Matrix 1**

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair, I'll go ahead and ask that Chief Operating Office Casey Brown and Chief Advocate to take over this portion of the meeting and continue on.

COO Brown: Mahalo, Ka Pouhana, right to Na'u.

Chief Advocate Kamali'i: Aloha everyone, aloha Trustees, also to community who is also online. Just a quick comment regarding the Kīpahulu resolution, gives me great joy, gives me great joy. All right this morning with regard to the legislative update, first thing we're going to do is to go over the calendar, which will explain why things are going to move along very quickly at this point in time, with regard to this update. So at this time we are at February 22nd. Last time we presented on the 15th, we noted that there were several bills that might die on the 17th and 18th because they would not make the hearing deadline. So I will report on that. I would say bills did die. With regards to the 22nd and also noting the first, this week there are several bills that are being heard in the Finance Committees i.e. WAM and Finance and you note on the 24th, the five day recess begins, doesn't mean that they can't have hearings, but bills are moving very quickly through these committees. Noting also on the third, the single referral deadline. Bills need to be heard by then i.e. WAM and Finance or they will die. There are hearings on the 3rd that have already been set by way of a deferral if they don't get through March 3rd, then they fail to make the first decking deadline. So what you're going to see from us today is really a very quick status of bills that have died. Bills that are deferred, bills that have not yet received a hearing because they are either A. headed to their last committee, headed to Finance or headed to WAM. I would look forward to a much more sort of maybe robust presentation on the 1st because we will be combing through all the bills that have made their way to Finance or WAM and when I mean all the bills, I mean all the bills, so there may have been some that we have monitored but they have survived these committees so we will take note to take a look at them in preparation for the crossover to the House. So I just wanted to preface our, you know, our update with that.

Also there was a hearing today on when we present on the package bills on the PLT Bills which we were able to watch while the community was presenting. So we have an update as to the status of the PLT Bills. Alright, so with regards to the OHA package, we'll note that the Building Back Pono bills did not survive, both versions of the House and Senate are dead. That does not mean that the effort you know is dead. It just means that this session they did not survive, so we will continue to look at ways to address the issue of socioeconomic conditions within environmental impact statements through the Legislature, but also through other means and maybe we can report back later how that could be done because it is a very important thing to our community, but just it should be done that the socioeconomic impact of any of these developments is taken a look at. But for now, for this session, both HB1473 and SB2121 are dead and want to thank the Trustees for making calls to try to get a hearing, but that effort was unsuccessful.

With regard to 1474, the House version of the bill of our PLT bill did not survive, so what remains is Senate Bill 2122 and it is in its last consideration for a crossover to the House if it survives and we believe it will survive, but there is also another bill which is SB2021, which was introduced by Senator Keohokalole which is being heard in consideration. They address different things but they are still moving. So what has happened in hearing today on SB2122, our PLT bill is that it has been deferred in hearing today until February 24th, that is Thursday at 10:05 a.m. The Keohokalole Bill, which is SB2021, it's been deferred until tomorrow and I believe that's at 10:00 o'clock as well. So interesting is that although they are very closely related, they are being deferred to two different days. We know what's in our bill. The Keohokalole Bill essentially looks at the CFTHA

Accounts. Looks at the definition of what are receipts, and also looks at establishing or reestablishing this committee. So it just tells me that they're considering how to do this, so we'll see what happens in a couple of days. Are there any questions regarding status or either of these? I'm bringing up what is 2021 because it's so closely related to our bill and it is surviving. Are there any questions?

Board Chair Hulu Lindsey: Na'u, that's not the bill where we share the Public Land Trust monies, right?

Chief Advocate Kamali'i: That is not the bill where we share the Public Land Trust money. SB2021 requests or that agencies collect receipts for any disposition of the Public Land Trust to each fiscal quarter and transfer to OHA the 20%. Also, requests return to OHA the certain monies that are previously claimed in the Public Land Trust over payments, what we know as CFTHA. Also provides that definition of receipt, and we have been using that definition which was previously, and so has the state in ACT 304 which no longer exists, but we continue to use that definition and then establishes the Public Land Trust Negotiating Committee. Our PLT bill clearly comes out with the annual amount due of 78.9 million. The past due amount of 638 million, and within the 638 million is the CFTHA account monies of 29 million, it's not specifically broken out, but included within the 638 million amount because that it's past due. This bill breaks it out so that there is a vehicle to pay it out to OHA. So we'll see what they do and how they reconcile those two bills. So it's good news that it's going. I'm not sure what it means that they're heard on two different days.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Thank you, Chair. Kala mai, sorry I'm late, I had to go to another meeting. Going back to SB2121, the one that died. I did get in touch with Senator Inouye's Office 'cause she's Chair of that Water Land and I talked to there, they have a Committee Clerk that looks through all of the bills. I talked to Mel Ching, he also works in her office and Tammy Kotani. They said that bill is unconstitutional the way it's written, that's why they wouldn't give it a hearing. So can our attorneys look at that? They said it's not right the way it was written, and it's part of our package bill our package of OHA bills.

Chief Advocate Kamali'i: Thank you, we'll follow up with that Trustee.

Chair Akaka: Any other discussion members? Na'u, if you can please continue.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Moving on the OHA named bills. So number one relating to Mauna Kea. Ka Pouhana testified along with Trustee Ahuna and that matter was deferred, but perhaps I can defer to you Ka Pouhana to give everyone an update on the testimony received from Mauna Kea on Saturday. She's not here, okay. So HB2024 I'll just go through it.

Chair Akaka: Kala mai, unless Trustee Ahuna would like to say something on it.

Trustee Ahuna: Mahalo, it's just that we were also on the working task force that made this bill so we were there to support it and there were a lot of people there to support it too as well, so thank you everyone for that.

Chair Akaka: Mahalo for sharing that Trustee Ahuna.

Chief Advocate Kamali'i: So the technical on SB2024 is that it's deferred for decision making on Wednesday, tomorrow at 11:00 AM, so that's decision making only, so we'll see what happens. There was robust testimony on both sides, so we'll see what happens.

HB2311 has received no hearing in Finance, so essentially we wait to see what the disposition is, but at this point no hearing has been set, and so as I indicated from now until March 3rd, notices and hearings could come up. But at this point, no hearing has been granted.

Relating to federal lands HB2327. That matter is dead. Relating to historic preservation. SB1411, there has been no hearing in JDC, so that was a two committee referral. We did support, but no hearing yet, so we have to monitor that to see if it you know, if a hearing is granted, if not then it would die.

SB2021, I just talked about that. That is what was the Senator Keohokalole Bill. SB2770 and I'm very, you know, 2770 and it's a House counterpart, it's just great that that's moving along. At this point, as of 2/18 the 48 hour notice, granted till 2/22/22, so the last action is WAM had recommended the measure be passed with amendments. So that looks very good and we've had positive feedback on the success of that bill to establish a Native Hawaiian Rehabilitation Program.

Okay, relating to Government Accountability. As you can see that bill has died. Next 3279 relating to Hawaiian Community Development Authority. That bill has died as well and that's it for the OHA named field that we had looked at last week.

Chair Akaka: Is there any discussion members on this? Seeing none, Na'u if you can please continue with the next matrices.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: Okay, going back to the top of what is matrix #3, so again I just want to say Trustees, we didn't offer any new bills for consideration because we wanted to see how they survive, what rises and if they cross over and we're combing through all the bills to see what the status is, even if they didn't make our list the first time because they rise, because of some of the subtleties, we may recommend them for consideration and change position.

So relating to the juvenile restitution, we oppose that bill. It has not received a hearing, this particular bill. But its companion, SB2086 died is dead and that's a technical. We'll really see what happens in the back door discussions about that bill, as I suspect there are discussions going on. Very quickly, HB1473 I already talked about that, that died. Relating to 1474. That was our House version of PLT, that died. Relating to 1508 relating to regenerative tourism, that died as well. Relating to a criminal reform, HB1567. There has been no hearing in Finance, so we're watching to see the notices to see if it gets a hearing. If it does, then you know a testimony to be submitted in support.

Regarding Hospital Association, excuse me, Kona Hospital appropriation bill HB1638. No hearing yet in Finance. Regarding to the House version of the regenerative tourism 1767 that bill died and this list will get shorter, will remove all of the dead bills and however may be replaced with other bills with change position. Relating to the geothermal royalties, that one has not received a hearing yet, but HB1808 is that, as you recall, that's the one that transferred the royalties to the counties and the state didn't like that because it would reduce their income.

Relating to government data, that one has not received a hearing yet. That's HB1885. Relating to minimum wage. The House version is dead. The Senate version is still going, so that's, you know, just their choice, how they want to handle that. Relating to Board of Education. This is where we have one member of the board, one member of the Board of Education be a Hawaiian immersion expert. That one has not received hearing yet, it's not a money issue, but it still hasn't received its hearing in JHA, so we're still, you know, watching that, it needs to get a hearing and we are in support of that.

Relating to the University of Hawai'i. So this again, these are all educational type bills. HB2015, no hearing yet in Finance. But note that the effective date of that bill is 7/1/2050, so it's likely when there's an indication of that type of effective date that there's lots of discussion going on for the proponents of the measure by UH and the state. We just talked about Mauna Kea. Relating to 2202, state symbols i.e. 'ōhi'a lehua, to be our state endemic tree. There has been no hearing in JHA yet. But also note the effective date is 7/1/2044. So they would be looking, you know at to see if there are any money issues when they give that kind of effective date and to be talking with appropriate agencies.

Relating to the Board of Land and Natural Resources, this bill is dead, that was 2270. Relating to the equitable distribution of grow your own resources. That one has not had a hearing yet, so we're watching. Obviously we are supporting that and we'll see what happens. Relating to the Native Hawaiian rehabilitation programs, that's 2311. HB2311, you know the counterpart I just spoke to, which is SB27770, so no hearing in Finance on this one, but the other version of the bill is moving. Noting also that the effective date is July 1, 3000.

We talked about our package bill on the EIS, that one is dead. Relating to federal lands establishing a Mākua Valley Task Force, that died as well. Relating to 2511, Department of Hawaiian Homelands. This is the 600 million bill that would be funding DHHL for Hawaiian Homeland. It was also spoken to by a community testifier Germaine, noting that this bill has not had a hearing in Finance yet.

Relating to historic preservation, 2411. We brought this to your attention a couple of times. There's no hearing in JDC on this measure. Relating to minimum wage, I noted that the House version of this bill died. However, the Senate version of this bill has been transmitted to the House, so that bill is moving, being transmitted to the House. First reading was on the 31st. Relating to increase in a payment, that's the Keohokalole Bill, the 2021 I've already talked about it and that has a hearing of tomorrow.

2023, relating to Health Equity, we were to issue comment. No hearing yet in WAM. Relating to rental discrimination SB206 that was transmitted to the House. Now just note that as we go through these numbers, they track what we did last year, but these numbers going forward are not in chronological order from the top, so this would be the bills that you the Trustees had provided new positions on last week of support or support with amendments. So regarding to rental discrimination that moved on to the House. Relating to the koa trees, no hearing yet.

SB2067, relating to burial sites, there's been, you know, much talk about this and who is to cover the cost when iwi is exposed due to coastal erosion. We did support that with amendments, but no hearing yet. So that's the status of that and Kamakana is, you know, still on top of that bill as he's the subject matter expert.

Relating to court appointed attorneys SB2072 and then that has not received a hearing yet and if you recall, this is ensuring that our families receive a court appointed attorney as soon as possible on the first day of their hearing in a CPS case. Related to juvenile restitution, the Senate version of that is dead and SB2021 is the environmental review. That's our bill that is dead. Our bill, SB2122, relating you know, as I spoken about, our bill is moving along and decision making will be on Thursday, February 24. I also want to interject that what is happening as well with regards to our bill. If you note that Peter Apo had an article this morning in Civil Beat. I was asked last week to be on KITV on Friday, which I did do the early morning show. I was also interviewed for public radio, we also had done presentation to the House, Native Hawaiian Caucus. Last week we also presented to the Nānākuli Neighborhood Board and this coming Thursday we will be presenting to the Moloka'i SHAW community. I think it's a good thing that as this bill moves along, we continue to increase you know, our exposure with a short PowerPoint presentation and I'm just going to interject here Trustee, inviting the Trustees if you know your community that you represent or NHOs or organizations that you represent that may want a short 20 minute presentation, please let us know and I present at night too. So just let us know to keep this going.

Relating to the Public Housing Authority SB225, we did oppose this bill, however, it has been deferred until the 3rd and for our decision making, we'll see what we can do additionally, to make sure that bill dies. The other bills that we had concern about you know that Senator Chang has introduced, SB2320 and SB2465 relating to housing, both those bills have died. Relating to the state native tree. Again, I spoke of 'ōhi'a lehua in the Senate SB2520, but no hearing has been granted yet, so it hasn't died. But no hearing has been granted, so we'll see what they do with that. An old bill I've already reported on related to 2594, Trustee Lindsey you mentioned, is this the one? Is this the bill where they were going to fund both DHHL and OHA. That bill is dead and there is no House version of that.

Relating to filing fees. SB2663. That makes it easier for people to file motion when there is a change in child support. That one is going to have a hearing for decision making on the 24th, that is Thursday. We have been asked to submit testimony for that and we will be doing that.

We've talked about SB2770, the rehab programs. SB2778 relating to pre trial release, that is dead. SB2830 relating to mental health licensing, that is dead. SB2861 relating to expungement. There have been no hearings yet in Judiciary, so there's still time but no hearings yet. SB2871 relating to pretrial release, that is also dead. So all of these court type cases regarding criminal law, you know they're not moving on, and they have died.

Relating to Ke Kula 'O 'Ehunuikaimalino. There is no hearing in WAM yet, so we'll see what happens to that bill. Relating to expungement of criminal records. This was a I believe is an electronic filing system issue. So it does continue to move along, but there is no hearing in JDC yet, so I suppose if they solve the problem it won't get a hearing.

Relating to historic preservation SB570, that has already been transmitted to the House, first reading was on February 8th. SB872, relating to the Commission on Water Resource Management at this point in time, there has been no hearing in JDC. The Chair of Hawaiian Homes Commission wanted to be added to the Water Commission, seeing that water is such an important issue for Hawaiian Homelands. That has not moved on yet, no hearing.

Relating to SB879, gives the county jurisdiction over infrastructure of the Department of Hawaiian Homelands. This was a jurisdictional boundary question. We supported that, no hearing yet in JDC. SB899 relating to the composition of state. The State Council on Mental Health, that as well has not yet received a hearing. In that situation, we wanted to have somebody who sat on the Council on Mental Health to have some experience in Native Hawaiian concepts of well being.

HB2136, relating to interim administrative rules on Department of Hawaiian Homelands, that bill has died. We continue to track a lot of the kalo cases and submit testimony relating to the disposition of water rights. HB1768 that bill is set for hearing tomorrow, February 23rd. Relating to the Judiciary's 'Ōlelo Hawai'i initiative, that has not received a hearing in Finance, that is HB1870. I suspect there's some you know discussion whether it's Judiciary budget or the Legislature's budget. It might be just you know, a budget reconciliation type of thing. But that's as you can see, the effective date is January 1st, 2022. So that deserves discussion.

Relating to the Office of Health Equity, HB2429. Establishing the Office of Health Equity. We commented on that, but you know, we are always interested in data and how that is managed, but that bill is dead for this session. Relating to taro, HB2466, exempts from gross proceeds or income received from the sale of any product resulting from cultivation and production on processed taro in the state from general excise tax. Now we had discussion on this bill the last BAE meeting and I believe we sent out an email to Trustees explaining that and I don't have that in front of me, but they were correct, Trustee Lee, that the total amount of land as referenced in the bill is under cultivation. We would like to think it was more, but it covered what is currently under cultivation. If any of the Trustees want more information on this please let us know and we can continue to provide information. That bill has not had a hearing in finance yet.

HB2516, relating to correctional facilities, that had to deal with the planning and design, there are many that didn't want this to go through. We supported, you know, looking at the design of jails and also looking at the trend with regard to building more prisons. That bill is dead. SB1277, relating to environmental justice mapping, that continues to wait for hearing in JDC, it may receive a hearing. We're not sure, so we're continuing to check that and we support that. Relating to disposition of water rights, SB2759. That was reported from WAM and again, 48 hour notice so that bill is moving along. SB2983 relating to kalo. That's exemption from tax. This version is dead. It did not get a first hearing, the other version is still going. Relating to Hawaiian Recognition Day 3218. No hearing in WAM, as of yet, that's to establish a Lā Kū'oko'a day. It did not request that it be a state holiday, but in any event no hearing has been held in WAM.

Relating to the Hawaii Community Development Authority SB3279, and this is our Kaka'ako Makai. That bill did not receive a hearing so that bill is dead. Relating to SB880. Exempts any housing development for the Department of Hawaiian Homelands from the school impact fee requirement. That bill is dead. It was still potentially to move on the last time we reported last week, but it is now dead. And then finally relating to state symbols, here's the Senate version of the 'ōhi'a lehua bill and that has received 48 hour notice 2022, so that is the status of our current bills and I want to reiterate that we are going through all the measures to determine change up positions and also their status moving out of the finance committees. Are there any questions?

Board Chair Hulu Lindsey: Na'u, can you just line up Senate Bills 2122 and 2021 and just make clear to our Trustees what the differences are between those two bills.

Chief Advocate Kamali'i: Okay, so 2122 is our bill and the asks are a little different. 2122, we should all be familiar with, that's asking for our annual sum of 78.9 million. It also asked for the past due amount and that's the 638 million, included within that is the CFTHA and in that number there's not specific language dealing with a CFTHA account and then also within our bill we have, and let me know Trustee if I'm doing what you want me to do in terms of distinguishing between the two bills. So we have the annual ask. We have the CFTHA amount, difference between the amount of receipts transferred in immediately prior fiscal quarter. We also have the methodology for transfer funds. There's no change to that. That's basically our bill, it's pretty simple to drop in the numbers and I don't know if I'm explaining this right, but you know. So that's our bill, right?

Board Chair Hulu Lindsey: I wanna know if they choose one bill over the other, what we're going to be lacking?

Chief Advocate Kamali'i: Okay, let me go back to the Keohokalole Bill. We didn't focus on our bill quite a bit. Okay, so in the other bill, the 2021, it speaks about the revenue generating public lands and the figure in the preamble and this might be a good thing to consider, but it speaks about the revenue generating, public lands and the amounts derived from those lands. The bill tracks fiscal years 2011 to 2012, and it arrives at the average of for those years, \$197,433,474 and from that they calculate the 20% to be 39,846,000 per year. At this point we're at 15.1 cap and the Keohokalole Bill looks at those years on an average and provides the figure of 39 million per year. Okay, they might look at that figure in addressing what are the annual amounts due. In our bill we are figure is larger than that. It's 78.9 and it's that difference that includes those areas that traditionally have not been included like the airports or underreported or misallocated like harbors, University of Hawai'i and we include those based upon our calculations from the 2015, 2016 financial report, which our figure arrives at the 78.9 million. So there is a distinction there between the two bills of what is the annual amount. The Keohokalole Bill does not address the past due amount that is due. So that is one rather significant distinction. Our bill does address for the 2021-2022, does address the past due amount due and includes the 29 million of CFTHA. The Keohokalole Bill includes the 29 million for CFTHA and also provides language that there shall be an amount to be left in the holding account as contingency payments need to meet the minimum quarterly payment, so it's conceivable and we've heard talk that they want to release the money in the CFTHA account, the 29 million. Also, within the Keohokalole Bill, there is a definition of what is called a receipt and that definition tracks the definition that we have been using. However, it's in the bill, so that

also is a distinction and also the Keohokalole Bill allows for this committee to be formed to resolve the issue of what are the true income and income and proceeds that are due and we've seen before and it hasn't been very effective to resolve this issue. We did support the Keohokalole Bill, but we also clearly support our bill because it addresses different things.

Board Chair Hulu Lindsey: Thank you

Chief Advocate Kamali'i: You know, I will say if I think our Counsel and our presentations to Counsel, Everett and Sherry have presented to this Committee before. If there is an increase and the increase is to the undisputed amount and that would be an increase of 15.1 million to 35 million annually and that would be welcomed. Certainly also if the 29 million that's sitting in account not serving anyone in the state, providing services or to OHA and its beneficiaries and they release those monies, certainly that would be welcomed as well, which is the 29 million. The 638 million, that might be, you know, very difficult to resolve this session so that may very well carry forward, but the testimony that we've provided is if that is carried forward, that does not change the obligation to pay what is due, so it will continue to accumulate and that figure logically would seem to be increasing next session.

Board Chair Hulu Lindsey: Maybe with a new Governor, can have a committee that will be more helpful.

Chief Advocate Kamali'i: Thank you, Trustee for your question. So I have nothing else to present on matrix three. Any other questions?

Chair Akaka: Any discussion members? Seeing none, Na'u, if you can continue.

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chief Advocate Kamali'i: Very quickly to Matrix 4, these are the all positions and again I'm going to reiterate that we are combing through because of the time period between now and next week, we are combing through not only the all positions, but all bills that have made it to Finance and all bills that have made it and are going to WAM. This is like the reconciliation period for us to see if we missed anything. To see if we need to change some of these monitor positions to support, oppose or comments. We're going through that task this week. So I have nothing to say about what is the Matrix 4. Except, Trustees if you see something and you want that to change. Certainly always contact us and we are still getting feedback from the community over on things that we should take a look at. Subtle changes in the DLNR bills. There was one brought to our attention regarding hunting, but the language was always in there and DLNR at the last. So it didn't pose a problem, but in the last hearing, DLNR was successful in removing language pertaining to Native Hawaiians, so we're taking a look at that to add that language back. The language wars of delete and you don't know about it and then add it back because we caught them.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. So last week I waved discussing bills that it looked like they were going to die, but they have not. They have survived, so I have 10 measures that I would like to discuss, Madam Chair.

Chair Akaka: Yes, Trustee Lee.

Trustee Lee: Okay, thank you, so Na'u and I'll take them in order of the Matrix to help with facilitating a quicker movement. So the first one is House Bill 1961 and just for your context it has a companion Senate bill. So this

is the one about the alkaline hydrolysis. So this bill was first introduced in the last session and OHA took a position of support. Why has it changed to monitor? And I apologize that this may seem late in the game, but when we first got our matrix two meetings ago, I was told that I couldn't ask any questions. So last meeting was the first one I could ask questions and it looked like this bill was going to die. So I didn't bring it up then, but it has survived, so that's why I'm bringing it up now.

Chief Advocate Kamali'i: You want a why, I don't have a why. More or less, Trustee Lee, you being the person who has the authority to change, or the power to change, if you're asking us to change a position from monitor to support, that would be helpful. I can't give you the entire discussion of, you know, persons who were here and have since left and why it's sitting in the position it is, I would just say I am extremely proud of the 2, 3, 4 Advocates that has stepped up and is able to do this work so the why, there are many reasons why at this point, do you wish to have a change position? If it's support, I believe we did discuss that and I'm familiar with the bill, and I understand how it aligns with traditional practices. I understand that and had that discussion with Kai as well as Kamakana, but if you wish to change position from monitor to support. Is that the request?

Trustee Lee: Well first, I too would like to recognize the work of your limited team that has stepped up. I completely understand the overwhelming amount of work that they've had to undergo, under very stressful conditions not having the support that your department normally has and the reason why I asked a question about why it was, maybe there was a reason and before I made the suggestion of changing it to support, I just wanted to know if there was a reason because if there was then I'm not going to ask for that change to support, but given the comments then I am gonna ask. If there isn't a reason why Advocacy would prefer it to be monitor rather than support because our position in the past was support, then I think we should be consistent, without a justification I think our position on this measure should be consistent with what it was last session, which was support and so the companion bill for that is Senate Bill 2828.

So I'll move on to the next one so that we can just take them all up together at the end. So just so you understand, Na'u, my intention of asking the questions is just that there may be a reason that I'm just not aware of and that's the reason why I'm asking that question. So the next one is House Bill 2030. Which is one of several. Chair, does Trustee Ahu Isa have a question about the previous bill before I move on?

Chair Akaka: Yes, I see her hands up, but I just wanted you to finish up what bill you wanted.

Trustee Lee: Well, before I move on to the new bill, she has a question about the other one.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Yeah, it does deal with the bill that Trustee Lee is talking about. Some new information came in maybe that's why they monitor. I don't know if that's a real reason, but I wanted to just add some new information. There's other ways now because of the pandemic, because so many like New York and other Louisiana especially, they have so many bodies and they don't know how to handle. They are looking at a new environmental way to handle, so they're going to, but you must have seen this on the news. They're going to cremate, get the ashes, they're going to mix it with the soil of a forest and plant tree, and then they will name the tree after the person and this is a new way of handling our burial. I know we have the bones which we want to keep the iwi, but here's another way that we might look at, which is might be more environmentally friendly. That's all I wanted to add.

Chair Akaka recognizes Trustee Waihe'e

Trustee Waihe'e: Thank you, Madam Chair, I just sense if we're intending to, you know, take them all together on the subject matters. Does this bill basically include alkaline hydrolysis as one of the options for the unclaimed bodies, is that pretty much what it does? Is it just an amendment of an existing law, or am I thinking of the wrong thing?

Chief Advocate Kamali'i: You are looking at the right thing. I'm just asking to see if Kamakana is still online. Yes, he is, so he can answer the technical questions that you are coming up with.

Lead Compliance Specialist Ferreira: So this would basically add an alternative which is currently not allowed under current statute as opposed to traditional cremation. You'd have this basic alkaline hydrolysis technique that would be used in the.

Trustee Waihe'e: Kamakana, that answers my question.

Lead Compliance Specialist Ferreira: Okay

Trustee Waihe'e: And it's amending an existing law that currently only has cremation as an option.

Lead Compliance Specialist Ferreira: Right, I don't know if there's any other questions.

Chair Akaka: Mahalo, Kamakana. Trustee Lee, if you'd like to continue.

Trustee Lee: Thank you, Madam Chair, so the next measure was the House Bill 2030, which is the Red Hill and all the Red Hill proposed legislation, we're only monitoring and the reason I'm asking is Chair Lindsey put out a very strongly worded press statement about Red Hill, which was great and OHA has taken a position about defueling and removing Red Hill, but all the legislation that's being proposed for that very measure, OHA hasn't submitted any testimony, we're only monitoring. I'm just asking the reason, because it seems strange that we would take such a strong position against Red Hill, but we wouldn't provide any testimony for legislation that's asking for that very thing to be accomplished.

Chief Advocate Kamali'i: Part of the approach for Red Hill is to realize the jurisdiction issues, and watching to see how the state bills move, but I'll say OHA has expanded its effort with the White House and with the Congressional Delegation, any defueling of the tanks is not going to necessarily happen because of what the state wants. The immediate defueling of the tanks is going to happen with appropriation, and so in the limited time we have on these bills I apologize, we are monitoring them and expanding the effort with the White House in discussions regarding the tanks, speaking to the military representatives at the highest possible level to ensure that the Native Hawaiian voice is heard, as well as spending time with the Congressional Delegation to ensure that the Committee on Appropriations in the Senate, of which Senator Schatz, as well as Senator Murkowski from Alaska, Senator Leahy from Vermont, that those people are very well informed on the Native Hawaiian issue, not just the contamination of the water, but also the native sentiment, and that it is important to us to fully fund as soon as possible whatever needs to be done so that defueling can occur and so I apologize if we're not as closely paying attention you know, to these bills. Instead, we're watching to see what falls off for lack of jurisdiction or realization with regard to the jurisdictional question of what is going to get the job done. It's Congressional appropriation, so that's why we're monitoring these bills. Some of them will fall off. Some of them will make it past the Finance Committee and CPC. That's the decision or that's the background to these bills.

Trustee Lee: Na'u, no apology is necessary. That is a great explanation. Thank you, that makes perfect sense. Thank you so much for clarifying that, I really appreciate that.

Chief Advocate Kamali'i: And I will say to the Trustees, even those discussions at that level, it takes a little bit of work, including establishing the right of self-determination, the right of consultation, mentioning 171. President Clinton's Executive Order which we are also looking at a Native Hawaiian Executive Order with regards to our right to consult on these very important things, not just the military DoD, but also on the wai, which is included in the Public Land Trust. It's included in the Public Land Trust, so there are different policy

considerations with regard to Red Hill that popped up that are not just apply to Red Hill, but they apply to our greater rights as Native Hawaiians and indigenous peoples of Hawai'i. They're all folded in together.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Yeah, thank you, Chair. Trustee Lee and I were at that rally at the Capitol, so OHA was represented there, and we did speak to Congressman Kahele, so he agreed. He thanked OHA for coming out. He thanked the Hawaiians and I gave my card to Ernie Lau, 'cause he said he didn't know who to call. He had all these Hawaiians he want to thank 'cause whenever there's a protest nobody helps him but Hawaiians show up. You know, we showed up at the Capitol that day and he was so grateful, he took my card and he said I will call you. We need help with this wai, he used the word wai, he don't use water anymore, so that was a real educational thing for him. Mahalo, Trustee Lee for showing up.

Chief Advocate Kamali'i: Yes, mahalo for showing up Trustees, mahalo.

Chair Akaka: Trustee Lee, do you have any other questions regarding any other bills?

Trustee Lee: I do, Madam Chair. So Na'u, the next one is House Bill 2429 and this just might be a clerical thing, but I did notice the change. So in our previous Matrix, House Bill 2429 was approved for support and it has been changed to comment on this week's matrix.

Chief Advocate Kamali'i: And if I'm not mistaken, I believe that bill died.

Trustee Lee: That's okay, if it died it died that's fine, but I noticed the change from one matrix to the other that the position had been changed. So that's the only reason why I'm bringing it up.

Chief Advocate Kamali'i: Yeah, the Office of Health Equity I think I just right reported on that. I think that measure died and we seriously tracked that one.

Trustee Lee: So now I move on to the Senate bills. The first one is Senate Bill 2023. So this is relating to Hawaiian fishponds. I'm just curious why OHA and again, I apologize that this is so late in the process, right. Had I brought this up two meetings ago the Trustees probably would have had a discussion during the meeting about this, but given that it's related to the establishment of a functioning system and supporting loko i'a. I'm curious why OHA wouldn't take a position on this, in either support or adding comments. How you know about the Native Hawaiian practice and the successfulness of loko i'a.

Chief Advocate Kamali'i: We probably should, I don't know Trustee. The process of going through these was done by the team, so I may have missed that one, I'm sorry. I believe the current status is it's still on its way. The focus of my time has been on PLT and everything related to it, including presentations, showing up in front of a news camera you know all of that goes along with that, and I apologize to the Trustees, some of these bills and to the community at large listening. I apologize that it may have needed to have more attention. That is the process that we are going through now before these bills cross over so thank you, Trustee Lee, this raises raises our attention meter to these bills.

Trustee Lee: That's fine, Na'u and so I'll leave that one there, so at least now it's on your radar. The next one is Senate Bill 2544. The reason why I have this one is it has a position of that we're going to provide comments. This appears to be a new bill on our matrix. So I'm fine with us giving comments on it, but I think that's going to require our approval for that because this was not previously approved.

Chief Advocate Kamali'i: And I'm familiar with this bill. It got our attention because our the safe routes to school program is obviously, it speaks for itself. Our children walking to schools and there has been an

increase of children being approached for sex trafficking and those types of things and so when we looked at some of the family bills, this one did rise for us.

Trustee Lee: I read through the bill. I think it's a great bill, but the reason why I flagged it is.

Chief Advocate Kamali'i: Don't recall it, it didn't make the list yeah, I understand.

Trustee Lee: Yeah, but so the Trustees are going to have to approve the position of comment, so that's the only reason why I listed it because I didn't see on the agenda that we were going to be voting on anything so that's the reason why I brought it up so that we could make that motion to approve it so that you folks can go ahead with your comments.

The the next one is Senate Bill 2664. So it's another taro lands one and I'll say that similar to the loko i'a one. You know, why we're not more than just monitoring. Providing either support or comments, supplying some sort of testimony. I would think this would be something that OHA would stand for, but you've answered that question with the local i'a one.

Chief Advocate Kamali'i: Yeah, and I do believe up to the extent that we could identify some of these bills that we had prior testimony on. The team may have submitted testimony, so this is the difficulty with the lag. Some of these bills pop up or get requests, and we consult with, you know, leadership. I'm new to OHA, as to what some of the parameters are for us to be able to testify. I believe that bill fell within the parameters for testimony. Like yes, to testify consistent with what we've done in the past in support.

Trustee Lee: Right and the same would go for Senate Bill 2665, which is basically the same thing.

Chief Advocate Kamali'i: Okay, Trustees, I really hope we can figure out a system that gives us more latitude to feel comfortable to jump into these bills based upon you know past policy with regard to support, anything that supports you know our agricultural lands ties to kalo and you know, enhancing our ability to produce. For example, some sort of broader kind of, and I know Trustee you've told me in the past, no, we like to approve bill by bill, but it does create sometimes an issue for us to be able to testify, to actually testify. So that falls when then that as well, maybe that's something we can work on in the future, but right now this is the process we have.

Trustee Lee: And it's not that we like to go bill by bill, that's just the process that we know.

Chief Advocate Kamali'i: So if you have ideas, I will definitely welcome them. Trustee, you're very 'eleu to this process. Okay, anything else Trustee?

Trustee Lee: The last one is Senate bill 3213. So this one, this is the Hawai'i sailing canoes one. I'm okay with us monitoring it, but I needed to point this out because your team is our voice at the Legislature and I don't know, I haven't had a chance to go through the testimony that's been provided before, so I don't know if somebody has already caught this because I understand that bill is moving and there's been a lot of testimony in favor of this. But what I needed to point out because when I read through the bill it didn't give enough specificity into what a motorized canoe is and the reason why I bring that up is unless you have sailed on Hikianalia, you have no idea that Hikianalia has an engine and a motor and a propeller under it. Now it doesn't sail and that's the reason why Hikianalia doesn't necessarily need to have an escort vessel. But based on the definition that was in the original bill, this bill would exclude Hikianalia, that's an issue and that's the reason why I had it flagged, because like I said, because you folks are a voice at the Legislature and I just wanted to make sure that in the committees that that distinction was made to the Legislator, so that they know and can add an amendment or different wording so that Hikianalia is protected because unlike Hōkūle'a, and Hawai'i'loa, who if they did need to go under motor, which they have in the past, they install an exterior motor that doesn't stay there, and I don't recall the last time Hōkūle'a did it because they usually just go on their tow, but I know

Hawai'iloa does it from time to time. But Hikianalia has a fixed motor that cannot be removed and so that's the reason why I flagged this because I would hate to see Hikianalia excluded from this and that was my last measure, Madam Chair. Thank you, Na'u, I appreciate your answers. Thank you so much for clarifying those issues for me.

Chair Akaka: Mahalo, so Trustee Lee, just to make sure, were there any of the bills that you went over that you definitely would like to have the position changed.

Trustee Lee: I will yield to Trustee Waihe'e.

Trustee Waihe'e: Yeah, I would want to support Bill 1961. The first one that, for sure that one.

Trustee Lee: Thank you, Trustee Waihe'e, so Madam Chair, that was the only one I was going to say that I would like to change our position today. The rest of the ones I will wait for Na'u and her team to come back. Like she said, bills that don't die this week that do move on her team will redigest this Matrix and provide possible position changes for the Trustees and I've already flagged a few that have caught the Chief Advocate's eye so they will make sure that those are in there list. So if you're seeking a motion, Madam Chair, I'd be happy to provide that.

Chair Akaka: Yes, please do.

Trustee Lee: So, Madam Chair, I move that we change OHA's has position on Matrix 4. For House Bill 1961 and Senate Bill 2828, from monitor to support.

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Is there any discussion on that members? Seeing none, Brandon, can we please have **roll call vote**.

							11:52 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: Alright, just wanting to make sure that we have everything sorted before we move forward.

COO Brown: Madam Chair, we're working on the motion language to approve the remaining bill. There was one added bill identified as new so we're working on the motion language for that.

Chair Akaka: Are we adding to this?

BAE Staff - Brandon: Nothing to add Chair, this is the motion.

Chair Akaka: Mahalo, just wanted to confirm. Can I please have a motion to approve this?

Trustee Lee: Hang on, Madam Chair, before you get to the motion so we don't have to amend it. This measure is on Matrix 4, not Matrix 3.

Board Chair Hulu Lindsey: Trustee Lee, go ahead and make the motion.

Trustee Lee: Okay Trustee, I move to approve Administration's recommendations on new bills, item 63, Senate Bill 2059, as listed on Matrix 4, measures affecting Native Hawaiians.

COO Brown: I'm so sorry to interrupt but sorry, Trustee Lee, Madam Chair, but it is also on Matrix 3 as item 63, so I just didn't want to get screwy.

Trustee Lee: That's fine, that's fine.

Chair Akaka: Yes, that's how I have it on my end as well. Everett, was there something that you wanted to add onto this as well?

Interim General Counsel Ohta: Thank you, Chair Akaka. I just wanted to clarify for the Board's information that this motion that's presented referencing Matrix 3 is to add the new bill, that SB2059 relating to the 'ōhi'a lehua. That would be the new bill that was for.

Chair Akaka: Item 63

Interim General Counsel Ohta: Yes, that's correct. That's the new bill for approval, so that is separate from the prior motion by Trustee Lee to add as support HB1961 and SB2828.

Chair Akaka: Mahalo, so therefore we will keep it as Matrix 3.

Trustee Lee: Madam Chair and Senate Bill 2059 is not the measure that I was speaking to 'cause that is not on my list of measures to speak about. So that is incorrect, because the measure that I'm speaking about was not on Matrix 3. Hang on one second I will pull it up, Madam Chair.

Chair Akaka recognizes Interim General Counsel Ohta

Interim General Counsel Ohta: Yes, so recognizing that the bills that were raised by Trustee Lee were those measures relating to the alkaline hydrolysis process, this Committee just moved to approve the addition or the change rather from monitor to support on Matrix 4. However, as part of this Committee's actions Administration is also asking for the addition of new bills that were added to the Legislative Matrix 3 and for this week that is the addition of one new bill. SB2059 as item 63 on the existing Matrix 3 and that's what Administration has requested added on with the position provided in Matrix 3.

Board Chair Hulu Lindsey: Trustee Lee, didn't you ask for the fish pond bill?

Trustee Lee: I said that I would wait for Na'u them, that they were gonna redigest to see what bills survive. But there was another bill in Matrix 4 that has a position of comment that has not been approved by the Trustees, so I'm looking through my list so that we can add it to this motion.

Interim General Counsel Ohta: Excuse me, Chair Akaka, I believe that's measure 2544 actually, as listed on the on the screen.

Trustee Lee: Thank you, Everett.

Interim General Counsel Ohta: Actually I could offer one more suggestion, Chair Akaka.

Chair Akaka: Yes, please do so.

Interim General Counsel Ohta: I believe SB2593 is the companion measure to HB1961, at least as provided for in the State Capitol website. So to the extent that this Committee is looking to adopt a support position on measures relating to alkaline hydrolysis, I believe SB2593 could also be added as the companion to HB1961. I believe SB2828 is also related to alkaline hydrolysis, but it does not have a companion. It's not listed as a companion measure, at least on the state Capitol website.

Trustee Lee: Thank you for that clarification, Everett. When I was going through the matrix, those were the two that I saw that said alkaline. So that's the reason why because one was Senate and one was House. I didn't realize the Senate had two different ones. I must have missed it on the matrix or it wasn't on there. It could be I missed it. I was going through a lot and it was late at night.

Board Chair Hulu Lindsey: Actually, this year they're calling it water cremation. That's why you probably missed it.

Chair Akaka: Yeah, it's been something that's been on the news as well. We're still putting up the motion, right?

BAE Staff - Brandon: Yes, so Everett is there anything you want me to add to this motion here?

Interim General Counsel Ohta: Yes, I guess for the BAE Committee's consideration. You can actually delete reference to item 208, before SB2544 and then below that add SB2593.

Trustee Lee: And on that note Everett, I would remove all references to item numbers and matrices, just so this doesn't get confusing.

BAE Staff - Brandon: And then Everett, what is the position?

Trustee Lee: Support

Interim General Counsel Ohta: As support

BAE Staff - Brandon: Everett, is that okay?

Chair Akaka: And I believe that we were going to remove Matrix 3 from that. Is that not correct?

Interim General Counsel Ohta: I would ask that at least for now, the reference to Matrix 3 remain. Given that the.

Chair Akaka: With your listing the specific item and bill number on there.

Interim General Counsel Ohta: In past BAE Committee actions we've referenced the item numbers to kind of expedite the approval of those measures by this Committee and by the Board referencing a larger number of item numbers as a range as opposed to listing each individual measure that's being approved, given the lower number of bills being approved by this, it would be okay to remove reference to the item numbers, although that was just again meant as a matter of convenience to hasten the Committee's approval of these legislative positions.

Chair Akaka recognizes Trustee Lee

Trustee Lee: And while I understand that practice and I totally get it, if we're going to do that then we would have to add the item number and the matrices for the other two bills that we're adding and because it's only three bills, that's the only reason why I suggested removing that from this particular motion. Because otherwise to be consistent we would need to add the item numbers for Senate Bill 2544 and Senate Bill 2593, and the matrices which refers to them. To Everett's point, I was just trying to save time for today's meeting. I wasn't suggesting that we remove it forever. Just for today, just for this one motion of three bills.

Chair Akaka recognizes Chief Advocate Kamali'i

Chief Advocate Kamali'i: Thank you, Trustee Lee. I just want to say again to Trustees as I had started this discussion for this particular meeting that the position of the bills matters that they are going to decision making in WAM or going to decision making in FIN and we couldn't submit testimony as you're indicating, Trustee, if we wanted to. I mean in that sense, for some of these bills. So we were asking maybe I should have been clearer. We are asking that you give us a week to digest and my team is saying do they understand there are also a thousand other bills that aren't on the matrix. We were asking that you give us time to digest all those bills. All of the bills, not just on the matrix, all the bills going to FIN and all the bills going to WAM, and some of the other bills that are going to important communities such as Judiciary and Finance so that we can come to next meeting on March 1st with a substantive list. It can be included next week, Trustee Lee, so that we have a clear list to be noticed and I'm suggesting that might be an alternative to taking up this motion because it's not going to matter to the action that needs to be taken at the Legislature. So I would just offer that comment.

Trustee Lee: Madam Chair, I'm happy to defer this matter and not take up this motion as the Chief Advocate is suggesting and this is in no way a disparity on our Chief Advocate and her team who have been doing an outstanding job with the limited resources that they have available to them at this point. But I would be remiss, Madam Chair, if I did not voice my displeasure that they're having to do this with limited resources. When the Trustees were given assurances a year and a half ago that this would not happen and I know I've said it in a BAE meeting before and I'm going to say it again today. This is unacceptable that one of our most important teams, our Advocacy team, is having to work under these conditions because they don't have the staff. That's unacceptable, Madam Chair, that they don't have the staff, not that they're not doing the work, but that they're having to work under these difficult conditions. They shouldn't have to. They should have the team that they need and that they deserve to get the work done to get the voices of our people where they need to be. Thank you, Madam Chair.

Chair Akaka: Mahalo, Trustee Lee. Na'u, if you can please flag these bills that we're going over right now so that we can bring it up for discussion when the time is appropriate.

Chief Advocate Kamali'i: Yes, Trustee and more so Trustee Lee to work with you to make sure that we do not leave out and even gleaning over the Red Hill bills again in light of our work at a Congressional and White House level to ensure that they get addressed when they cross over. The substantive work on the bills in the first committees as they crossed over to the House is where it's going to start up again and yes, we do need to be prepared for that, so I do welcome not only, Trustee Lee, but all Trustees to give us their mana'o from their community so that we can appropriately voice those concerns in the testimony. I certainly don't know the

expanse of the community's concerns, so you also are a vehicle for your constituents to let us know when they crossover it's a very important time for us to really hammer what has survived in support, thank you.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Yeah, Na'u, if your still there, just let us know or just let me know if I can help, 'cause I know most of those Representatives and Senators personally and I do get to go into their offices and talk directly to them. So if you need help with anything, just let me know or Nathan. Nathan is always available. Just let me know, I can just go and see them, talk to them personally.

Chief Advocate Kamali'i: Mahalo thank you and Trustee Ahuna the voice from Kaua'i is you know, dear to me as one of my you know place where I spent many of my early days in summer and I really, the voice from Kaua'i I'm calling out for so that we address bills that are important to that community, to the moku. I know they're doing amazing things, but their eyes are incredible. The eyes from Maui, incredible. We need our people to tell us sometimes we can't see it 'cause we don't have that eye, that lens that they have so Trustees I welcome your input from your community, thank you.

Chair Akaka: Mahalo, Na'u, I believe that Trustee Ahuna is no longer on this meeting. Hopefully his supporting staff can inform him. But if you can bring this up back at our next meeting. Can we please have the motion edited. Just to reconfirm, Everett, is that good to go?

Interim General Counsel Ohta: Thank you, Chair Akaka. Yes, except to the extent that SB2544, which was listed as a comment on Matrix 4. Whether or not that in actuality should have a comment position or a monitor.

Chair Akaka: My understanding is that that would be brought up in following meeting.

Interim General Counsel Ohta: In that event then yes, the motion as is just listing SB2059 is sufficient.

Chair Akaka: Mahalo, is there a motion to approve or Trustee Lee did you want to.

Board Chair Hulu Lindsey: Trustee Lee didn't finish his motion.

Trustee Lee: Well now I'm confused. I thought we were just told to hold off on these motions until Advocacy has time to digest everything. If it doesn't matter and it's too late to provide testimony for anything then why do we need to approve just this one measure, why do we need to approve it? Why can't it wait till next week with everything else? That makes no sense to me.

Board Chair Hulu Lindsey: So withdraw

Trustee Lee: If there's a reason then please explain it to me and I'll be happy to make the motion. But if we're going to defer everything else, why are we taking up one item?

Chair Akaka: That makes sense.

Board Chair Hulu Lindsey: So there's no motion today, Madam Chair?

Trustee Lee: Well I don't see anybody else explaining it another way so. Right, if we're not going to be providing any type of anything, testimony or anything for Senate Bill 2059 between now and next week then why do we need to take this motion up today. We can just take everything up next week in a comprehensive list as our Chief Advocate suggested.

COO Brown: Madam Chair, I'm wondering if we need a withdrawal of a motion.

Trustee Lee: No motion has been made. So is this Administration agreeing that there is no need for this motion at this time?

COO Brown: Yes, I would say yes. Based on what Na'u has provided we can reserve everything to the next BAE meeting.

Board Chair Hulu Lindsey: Madam Chair

Chair Akaka: Yes

Board Chair Hulu Lindsey: I move that we recuse ourselves in Executive Session.

Chair Akaka: Mahalo, is there a second?

Trustee Ahu Isa: Second

Chair Akaka: Is there any discussion on this members if we do indeed want to go into Executive Session in regards to Public Land Trust.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Maybe I'll yield to Everett, because I'm guessing Everett is going to ask the same thing I'm going to ask. I will yield to Everett.

Interim General Counsel Ohta: Thank you, Chair Akaka. Yes, as stated in prior meetings, this agenda item is there as a placeholder matter to ensure that we are able to enter into discussions to the extent that we could foresee the need for the Board to consult with its attorney given the sensitivity of the public land trust issues and legislation. So if the Board or this Committee rather has no inclination to engage in such consultation, we do not need to enter into Executive Session.

Board Chair Hulu Lindsey: The question is Na'u, do you need to speak with us in private?

Chief Advocate Kamali'i: No, Trustee. It is just recommended to the body that give us a week to glean through all the bills so that we have a comprehensive list of change position so no Executive Session is needed from for what we're doing.

Board Chair Hulu Lindsey: I withdraw my motion.

V. EXECUTIVE SESSION

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

NONE

VI. ANNOUNCEMENTS

Chair Akaka: Members, are there any announcements at this time? Besides that we have our scheduled 1:30 RM meeting and Wednesday and Thursday Board meeting.

Board Chair Hulu Lindsey: I want to remind the Trustees that tomorrow's meeting and Thursday's meeting of the Board starts at 9:00 o'clock and public testimony for any of the items on the agenda will only be allowed tomorrow and not on Thursday. So I don't want any misunderstanding come Thursday. Somebody wanna offer public testimony and it's not going to be allowed so a reminder for those of you that nominated candidates, please tell them to tell their people who plan to give oral testimony only tomorrow, which is Wednesday.

Chair Akaka: Mahalo, Board Chair. Any other announcements members? Seeing none.

VII. ADJOURNMENT

Board Chair Hulu Lindsey: I move that we adjourn.

Trustee Alapa: Second

Chair Akaka: Brandon, can we please have roll call vote unless there is any discussion on this members. Seeing none, Brandon, **roll call vote** please.

							12:16 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED
KELI'I	AKINA			X			
LUANA	ALAPA		2	X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **12:17 p.m.**

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

March 1, 2022 10:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee
Trustee C. Hulu Lindsey
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Aguinaldo, Arlene, IT
Nakama, Erin, IT

EXCUSED:

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, March 1, 2022 to order at **10:00 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	10:04 a.m.
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	EXCUSED	10:04 a.m.

At the Call to Order, **SIX(6)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. APPROVAL OF MINUTES

Chair Akaka: Can I please get a motion to approve the January 25, 2022 BAE minutes.

Board Chair Hulu Lindsey: Madam Chair, I so move.

Trustee Akina: Madam Chair, I second

Chair Akaka: Mahalo, it's been moved and seconded. Any discussion members? Seeing none, Brandon, can I please have a **roll call vote**.

							10:05 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA		2	X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Akaka: Can I also get a motion to approve the February 1, 2022 BAE minutes.

Board Chair Hulu Lindsey: So moved

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon, can we please have a **roll call vote** to approve the minutes.

							10:06 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

IV. UNFINISHED BUSINESS

A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474, SB2121/HB1473, coordinated advocacy - Matrix 1**

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you again, good morning, Trustees. We'll have Chief Advocate Na'u Kamali'i take us through our matrix.

Chief Advocate Kamali'i: I'll just note that I believe Casey is requesting sharing capabilities to bring up the matrix. Before I do that, go into the matrix. I think the practice has been to go through the calendar as well. The calendar has been provided in the agenda. So, as indicated, the last meeting, it was very important to go through the calendar because this is a very important week. This being March 1st, this is the week of first decking, so those bills that are not heard by the 3rd will not survive the first decking and so there's a lot of sort of activity going on with regard to that. It's sort of the bill's last chance to make it through, and we do see some activity, particularly in our package. So today, being the first, we will have hearings today, tomorrow and Wednesday and there are bills that are that are rising that has not been given a hearing in WAM that are now being given a hearing. So we are tracking those, literally notices are coming up today for the third, so just keep that in mind and that we're looking at a period of crossover. Some bills have crossed over, so this does may have an effect to our situation because even in the situation where bills have died. If they were re referred to a single referral and then got a hearing, they could be so called revived and that is what has happened with one of our bills.

Additionally, this is the time when we are also watching the drafts that come out, so there may have been a position that is on the bill, the original bill, in a certain way, but on the the draft that survives up to this point, there may be a change position and the way in which it flows over to the next house. We have to take a look at the amendments more closely to be able to advise the Trustees if there will be a change position because of amendments. Also, the number of bills that we're now tracking has grown. So that means you know more for

us to do and just be mindful of that. We'll take this needed time during the recess to comb through it and to revisit our testimonies going forward. Okay, with that having said also, as you have noticed, when you got went through your matrices, particularly Matrix 3 and Matrix 4. It seems hema hema, in terms of the order of the bill, numbers, etc. and that results because as we go from week to week, we're adding on to the matrix. So it seems like things are out of order. What I'd like you to consider if we do do this, is that on the crossover we may renumber everything, so that's in a nice chronicle chronological order relative to the bills, sort of a nice restart, and then we'll go through the process of the bills as they crossover and some of which will be headed to conference. So maybe look forward to another matrix next week that looks a little more orderly, so to speak, in chronological order. But admin will have discussions about that and also discussions about how that might affect the motion process, etc. So we're considering that.

Alright, that having said about the the matrices going forward. If Casey is ready to screen share which he is, then we can move into Matrix 1. Alright, Matrix 1, this is our OHA package also importantly our OHA PLT Bill. With regard to the PLT Bill, you'll note that the PLT Bill in the form that we know it, which is SB2122, was deferred and did not get a hearing, so it is dead. The Senate chose to use as a vehicle, SB2021. That's SB202, to date, we have not seen the SB2021 SD1 which is the amended version of that. But what I can do is inform you of what the committee did say relative to the amendment and they're fairly important going forward. So with regard to the amendments and that bill, we did talk about last week because it included the committee. It included CFTHA language and it also included a PLT language relative to what the annual share would be or how we would calculate what the annual pro rata 20% pro rata share would be, and this is what the committee did WAM when it passed it out, it passed it out with amendments to adopt technical amendments, to address concerns of the various agencies in consultation with the Attorney General's Office and this is why we want to see the draft, it established 20% of the net receipts from the Public Land Trust or 15.1 million, whichever is greater as the Office of Hawaiian Affairs annual share of income and proceeds of the Public Land Trust beginning fiscal year 2022-2023. So read that again, established 20% of the net receipts from the Public Land Trust, or 15.1 million, whichever is greater, as the Office of Hawaiian Affairs annual share of income and proceeds of the Public Land Trust beginning in fiscal year 2022-2023. In addition, the committee amended the the language filled to the bill to include language that quote transferred to the Office of Hawaiian Affairs, the balance of funds contained in the carryforward trust holding account. What we know is the CFTHA account. Established by the Director of Finance pursuant to Executive Order 0606 as of June 30th, 2022 for income and proceeds due from the use of the Public Land Trust lands between July 1, 2012 and June 30th, 2022. That was misallocated, underreported or underpaid to the Office of Hawaiian Affairs.

So Administration, we've taken a look at that language. Certainly there are parts of that that are concerning, particularly the use of the language net income. Historically, it's been gross income and then also the language regarding the carryforward trust holding account, which appears to be some sort of reconciliation of the 638 million that we have proposed in our bill. So when the SD1 comes out and is actually available for us to look at, we will probably be taking a look at the calculation issues etc. So I don't have anything further to report other than what happened and wait for the bill to make a recommendation as to the change position. That's with regard to what is 2021.

Our OHA package includes what is SB2122, which we know was deferred and is dead, so this is the vehicle that WAM or the Senate is using that will cross over to the House. Is there anything Ka Pouhana that you want to say about what I've just reported on.

Ka Pouhana Hussey: No

Chief Advocate Kamali'i: Okay, moving forward also with regard to SB2121, relating to the environmental review, which was our Build Back Pono Bill. You will see that it received last week when we submitted this, it received a position of support and it was dead. Well, there's been a change in that. In that it has been re-referred to JDC, a single referral and has also received a hearing of March 3rd. So it's been resurrected by way of the single referral process and so there has been, you know, some work done to do that and so that's

been accomplished, so it's back on for consideration and we will be submitting testimony on that bill. So again, it has a single referral to JDC. Again, going back to the you know to the calendar, if it's a single referral, it must be heard by March 3rd, in which case it has a hearing set on March 3rd and so it's been resurrected by way of that process. Are there any questions on either 2021 or the status of our PLT bill?

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Thank you, Chair. That's the bill that Senator Inouye was supposed to hear because she's Chair of the Water Land, and her Office Manager Tammy apologized for getting back to us late. But that's why we have it back on the agenda. This is the SB2121, she just had to get some education background on it. That's what I wanted to say, thank you, Chair.

Chair Akaka: Mahalo for working on that Trustee Ahu Isa. Yes, Trustee Waihe'e.

Trustee Waihe'e: Thank you, Madam Chair. I guess I just want to express my concern if there talking about net, if that's becoming something that they're focused on. It's a real horrible thing and it's something that I been afraid of happening for years now, but I would you know, it's something that you can't express because you don't want to give them any ideas that they hadn't had, but I guess they're getting it now, I think that alone is something that we should oppose. I mean we're better off having getting nothing at all then getting something that has that in it. So I think we have terrible, terrible times ahead if this is how the discussion is going because that was one thing that the state and OHA had always agreed on was gross and if everything is off the table now and that's the direction they're going. This is a really really terrible thing and we should be very concerned about it, thank you.

Chair Akaka: Mahalo for sharing that Trustee Waihe'e. Any other discussion numbers?

Trustee Ahu Isa: Can you explain I didn't understand?

Chair Akaka: Trustee Waihe'e, I believe Trustee Ahu Isa is asking for more of an explanation.

Trustee Waihe'e: I'm thinking the 20% off the net instead of the gross. Because that could, I mean that could be nothing.

Trustee Ahu Isa: Okay

Chair Akaka: Small fraction.

Trustee Waihe'e: I mean, I don't even know how they would. That's even hard to calculate, I mean it's. Well, it's much less at any rate. That was a good thing that we always had going for us up until now, and I guess they're trying to go there now.

Trustee Ahu Isa: The 2021 is that Jarrett Keohokalole's Bill? SB2021, that's the one that has the net in it 'cause they killed ours, SB2122.

Chief Advocate Kamali'i: Yes, that's correct. So initially that bill did not have the language of net, but when it passed out of committee, which is why we're waiting for the FD1 or the amended version. This is what the committee chair recommended in passing it out, and this is what was voted on. So that's why reserving, although reporting, that this is what was stated when it moved out, we're still as of this morning just before we got on for live stream that draft has still not yet been put out, so when that draft comes out administration will weigh in on the concern of the definition of net, as opposed to gross, net receipts as opposed to gross receipts. The historical treatment as Trustee Waihe'e is speaking of, that had gone back to the, you know, to

the 90s, so to speak and also to do some due diligence on our part so that Trustees have a more comprehensive answer on how to address this language when we seek a hearing in the House.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Mahalo, Chair, my question was just so would it be okay to change the position? Or I mean, how is everybody feeling about that? I mean, are we gonna change it? I just want to know is there gonna be any movement. Usually we have something to weigh against and stuff. So I just wanna just make sure that we actually make the change if we're gonna change our position or if we're not, then we can leave it as is.

Chair Akaka recognizes Ka Pouhana Hussey.

Ka Pouhana Hussey: Trustee Ahuna, following on that, which is why Chief Advocate Kamali'i is anxiously awaiting the SD1 version so that we can actually see what was reported out was what it was. But we actually want to see what the final measure as well as the report of the committee looks like so that we can inform the Trustees of a recommended physician.

Chief Advocate Kamali'i: Also, Trustee Ahuna we do not have to make that change at this BAE meeting. That recommended change because they will be in recess and 1st decking as the calendar indicates, is on the 4th. So we still have time to wait for the committee report, which must be provided by the 4th and then be able to speak to the Trustees with the committee report in hand, with the SD1 or the new amended draft in hand, and then make recommendations. It also gives us time to do some due diligence on our side and so you have a more comprehensive answer or recommendation, as well as the thinking behind that. So in short, we are not asking for a change in the position at this time. Probably next, probably next meeting. So that we can give you more information.

Trustee Ahuna: Thank you, I thought all of our OHA package bills was on the chopping block or like dead but okay, thank you so much.

Chair Akaka recognizes Trustee Lee

Trustee Lee: Thank you, Madam Chair. I agree with Trustee Waihe'e. This is just a convoluted way for them to keep us capped at 15.1. That's why it says the greater of the two. If it's going to be net receipts, it's easy to come up with reasons why this expense has to be taken out, this expense has to be taken out, this expense, this expense has to be taken out and the next thing you know after the gross receipts are reported, the net receipts come out to \$12 million. Okay, OHA here is your 15.1.

Chair Akaka: Any other discussion members? Seeing none, Na'u, or Ka Pouhana if you have any more to share on this.

Ka Pouhana Hussey: No, Chair, if you're okay, Chief Advocate will continue.

Chair Akaka: Yes, please do so.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Alright, with regards to 2024. A hearing, as you can see, status one that's been deferred and hearing is in March 2nd, so we'll wait to see what happens with that. No change in the comment.

It's one of our OHA named bills. With regards to the Native Hawaiian rehabilitation programs, that continues to move along. Also, in the coordinated advocacy part, meetings in the community, I'll just report out that we had a meeting with the Prosecutor's Office, the women prison groups, so it's working, it's moving in that direction, as well as the bill itself. Report adopted a report referred to the Committee on Finance and so that's where that one stands. So report, yeah, City still sitting referred to the Committee on Finance. That's the House version of the bill. The Senate version will report back is the 2770.

Okay, relating to the federal lands 2327, that bill has died. Regarding historic preservation, referred to JDC and I don't know if Kamakana is still on with regard to that bill, but JDC is going to hold a hearing on March 4th, so the status that you have is a little behind. Like I said, there are a lot of hearings being held on bills that were not heard yet. So to update your matrix, the Committee on JDC will hold a public decision making hearing on March 4th. So update on that.

We just spoke about SB2021. I.e., that is the new vehicle for the Public Land Trust bill. With regard to 2770, that's moved over to the House passed the first reading so that bill is moving along very nicely. As I indicated, this is the Senate version of the House Bill I just spoke to.

With regards to Government Accountability, 2853. That bill is dead. With regarding to relating to the Hawaii Community Development Authority, 3279, that bill is dead as well. So that's a very quick report on the OHA named bills. I will say we are watching other measures in the draft version of bills where OHA might be named, and so you might find this OHA named section change and one of those bills that we're watching, whether or not it changes or not, has to do with the appointment of a Native Hawaiian representative to the educational board that has expertise in Native Hawaiian culture and language so we're watching that in terms of you know, the role that OHA, the new role that OHA may play in that bill. Because initially it was the community who will be part of that measure. Part of when these bills crossover, we're also paying attention to the role that the legislature may ask OHA to play and as we look at the role that OHA plays just generally, you know we're sitting on Papahānaumokuākea. We're sitting on Mauna Kea. We're sitting in some of these other measures because we are an agency, a Native Hawaiian agency that will be around and so it's very interesting and we probably need to continue to take a look at the OHA named bills. Because it affects the scope of our ability to sit at those various tables and the responsibility. As that responsibility grows and we all think well, maybe the Chair should sit there or Ka Pouhana. It might occupy a lot of their time to sit there and it may not be possible, so as responsibility grows, we also look at delegated responsibility and authority. This is just something I've been thinking about that the Trustees may want to think about as well. How to look at that growing responsibility and the number of tables that OHA is going to be required to sit at as defined by law.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: While we're along that line, Chair Hulu, do you know if there was anything introduced to take the Salary Commission for OHA, which I've been at eight years and nothing happened, to merge it into that we sit under the State Salary Commission and not on the side? Ka Pouhana can you answer that.

Board Chair Hulu Lindsey: I know that there hasn't been anything introduced to that degree.

Trustee Ahu Isa: Does it have to be introduced into legislative session or can Ka Pouhana explain how Governor can just do that?

Board Chair Hulu Lindsey: No, I spoke with Senator about it and she said that we need to introduce a bill saying that. To put it together so that when the State Salary Commission meets, it includes us.

Trustee Ahu Isa: So OHA has to do that.

Board Chair Hulu Lindsey: Yes, well we can ask a Representative or Senator to do it.

Trustee Ahu Isa: I thought Senator was going to do it this session. Mahalo, I guess it wasn't time.

Ka Pouhana Hussey: Chair Akaka, I can answer after I believe Trustee Lee's hand was up.

Chair Akaka recognizes Trustee Lee

Trustee Lee: The measure that we should introduce is to remove OHA from the Salary Commission. OHA no longer receives taxpayer money to pay Trustees, our salaries come from the Native Hawaiian Trust. The 15.1 million that comes from PLT funds goes directly to beneficiaries. We don't see any of that money, and to say that the corpus of the Native Hawaiian Trust came from PLT. Well, that may be true, but we've more than doubled it now, so the money that pays our salaries does not come from taxpayer money, so we shouldn't be subject to the Salary Commission any longer. The reason the Salary Commission is there is because it's taxpayer money. We no longer get paid by taxpayer money.

Trustee Ahu Isa: So what's the solution?

Trustee Lee: Introduce a measure to have us removed from the Salary Commission. The Salary Commission is there to protect taxpayer money. We don't get paid by taxpayer money.

Board Chair Hulu Lindsey: Repeal that particular section that says we have a special Salary Commission appointed by the Governor, and he hasn't appointed one in four years and we can't do anything about it, so I think that's a great idea that Trustee Lee suggests that we get rid of it. Meaning we repeal that section of the law that it no longer exists. Because we get paid from our corpus money, our trust funds.

Trustee Ahu Isa: I understand, but the Governor doesn't appoint, so who appoints?

Board Chair Hulu Lindsey: Only he can according to the law. So we need to repeal. We repeal, take away that law so there's no laws for a Salary Commission for the Board of Trustees.

Trustee Ahu Isa: The point is he hasn't done it. Even if we're getting paid by trust fund money, he hasn't done it. So if we repeal it, what goes into its place? We get nothing?

Trustee Lee: No, we the Trustees decide our salaries. It would now become our burden to decide how much we get paid because we are the fiduciaries of the funds that pays us. So we would have to come up with a process internally on how that would be handled.

Chair Akaka recognizes Ka Pouhana Hussey

Ka Pouhana Hussey: To all of your point, it's also an amendment of Chapter 10. Chapter 10 describes the Salary Commission process, every four years Administration has sent names to the Governor in the summer of 2019 and in the summer of 2021 to reactivate the Salary Commission that should have been, you know, done in 2020. So we're coming up on that four year, so that's been at least those four year blocks that haven't been appointed. So we have and it's sitting in the Governor's office not being enacted. The community has also responded as well with names for Salary Commission consideration. Thank you, Chair.

Chair Akaka: Mahalo, any other discussion members? Seeing none, Na'u, if you can please continue.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: Alright, so that would conclude the report on what are the measures in Matrix 2, OHA named. So there being no further questions then we'll move on to what is the Matrix 3, measures affecting Native Hawaiians.

Beginning with House Bill 1459, this bill is waiting for a hearing, so again always keep in mind the week that we're in that hearings need to be had by March 3rd or they will die. I'll just say both the 1459 and the Senate version of SB2086, both of them are waiting for hearing, so for lack of hearing this effort with regard to juvenile restitution would die, that would be good for us because we opposed it. So if it never gets a hearing, it's consistent with our position on this bill.

Alright, regarding environmental review. That's our package bill, that one is dead. Relating to the Office of Hawaiian Affairs, 1474, that's again our PLT bill which is dead. Relating to regenerative tourism. What is HB1508, that also died. Relating to a criminal pretrial bail reform, 1567. That's another one that's sitting there waiting to see if it will get a hearing. If not, then that will die as well. The bills are going to die or survive this week.

Going on, relating to number 6, HB1638. The Kona Hospital site bill, we commented on that bill, but it appears to be, at least it had a hearing in Finance. It was passed out of that committee, so it appears to be, you know, moving along. So we'll see what happens. Relating to regenerative tourism, 1767, that bill is dead. Relating to geothermal royalties, HB1808. That one again, that's another one of those that refer to the Committee on Finance. Let's see whether or not it gets a hearing. Probably not, but we'll see. Relating to government data. That's another one that was referred to Finance as well. You know, waiting for hearing. We'll see what happens to that bill, so you can see a pattern here on how critical it is for things to get a hearing or not for this week.

Relating to minimum wage, 1958, that one is dead. Board of Education, 1986. With regard to this one, it was passed out of JHA with amendments, so it's gone through both committees. With regard to the bill draft, I believe this is the one that I was speaking of. We have to wait to see what that draft is to see if OHA is going to be included in that, how that works. 1986 with that draft. Yeah, one Hawaiian immersion expert. So that was the version that came out of committee as an HD1, but we'll see what also comes out, it having passed with amendments out of JHA, so we're looking to see what that bill looks like and whether or not OHA's going to be written into that bill.

Alright, relating to the University of Hawai'i, that one was headed to Finance, 2015 and we're waiting to see if that receives a hearing. Relating to Mauna Kea, we already reported that that has a hearing on the second, tomorrow. Relating to the administrative rules of Department of Hawaiian homelands, we have a position of comment. Relating to state symbols, which is 2202, apologize for confusing you. It did pass second reading as an HD1 at JHA, so it's probably moving forward, but that's all we see because there were only two committees and it passed. Second reading HD1 referred to JHA I misspoke. So it's sitting with the committee. It's one of those that needs to get a hearing. So with relating the state symbols, there are other bills that what is are surviving with regard to lehua, so this one may die and the other ones may move forward. So that's what's happening on the lehua as a state symbol. So if it's confusing, there are a few bills floating around.

Back to your matrix. Relating to the Board of Land and Natural Resources, HB2270, that one is dead. Relating to HB2284. That bill is still sitting in Finance, so we're going to watch to see if it gets a hearing. Again, relating to Native Hawaiian rehabilitation programs. Well, let me stop here. Because these are the approved bills and we're not making any recommended changes. So maybe if I could just refer it back to Ka Pouhana so you can explain what will happen with the new position bills. Make sure because they need to view this next segment because I believe there's going to be a motion tied to that.

Ka Pouhana Hussey: So this is. Chair Akaka, I'll wait for you to recognize Trustee Akina.

Chair Akaka: Mahalo, Trustee Akina, it looks about that time that you will have to head out.

Trustee Akina: Yes, Chair, I'll need to go now, mahalo.

Ka Pouhana Hussey: So I understand Trustees and I apologize for not being in BAE last week. I understand that there were bill positions that were approved, brought forward and therefore would have been reflected on this matrix, and so I believe, Chief Advocate has updates, but I understand those same bills have not progressed as well. So for Matrix 3, the actual items are for approval are on line 63 to the rest of the matrix, and these front part are just updates for previous positions taken and then there's time that the additional items that the Trustees asked for that be the staff wanted to be able to have a more thorough review and those will come back at this point now. That's my understanding of Matrix 3 and what happened last week and how it's reflected or not reflected on this current matrix.

Chief Advocate Kamali'i: So when you look at the matrix in the far right, there is a word approved, new position, approved. So what was an approved position may change and that's why we call it a new position. So be mindful that this wasn't approved, but there is a change in a position, require in with regard to this particular bill of support, I believe the prior position was just to comment. Some of these bills with regard to the Native Hawaiian Rehabilitation Program have evolved and OHA understands its position and its way in which it's engaging with the community. For example, with 2311 and the change position would be support, so just be mindful of that and so there will be a motion on the change position, this is one of them. So just be mindful of that.

The next bill is moving into what is our approved positions, so it's not a change position. We're back discussing those positions that have already been approved, so I'm updating you. The new position bills may require a motion to change from what was comment to support. So just keep that in mind. Alright, and we can have questions on that and to summarize later, so moving on to 2320, relating to environmental impact statements as reported earlier, that is dead. Relating to federal Lands, 2327, that did not survive, it is dead.

Relating to Department of Hawaiian Homelands, I'll just note that this bill is what we know as the bill which would fund \$600 million to the Department of Hawaiian Homelands and we took a position of comment, the Board did, and it's being heard today at 11:00 AM. So in 10 minutes that bill will be heard on that calendar. So we'll see what happens with that. The Senate version of that. Sometimes it's easier to understand the two versions that are moving along and then repeat, so the Senate version of that is Senate Bill 3359 SD1. The Senate version of that will be heard on March 3rd, 2022. So the DHHL \$600 million appropriations bill is in two forms in the House, 2511, HD1 and also in the Senate SB3359. The House version is being heard today. The Senate version is going to be heard on March 3rd. I hope that is an adequate update. The Board takes a position of comment on that. Alright, relating to historic preservation, SB1411. Now we're into the Senate bills that we're reviewing now.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Going back to the HB2511. It says comment. I think that's the one I submitted testimony and I didn't mean to use the OHA letterhead, but it was as a Trustee saying that I support that special fund to give Hawaiian Homelands. I just wanted to make that note and so I think I explained it to Na'u. Well, the other Trustees, if you don't know what I did because the hearing is today. Was supposed to be submitted. Next time I'll just do that as an individual, but I also wanted to say as a Trustee because I am a fiduciary duty for our beneficiaries, and I think our beneficiaries live on Hawaiian Homelands and they deserve (inaudible), mahalo.

Chief Advocate Kamali'i: I'm glad you raised that issue, not specifically to your testimony, but you know you're not the only Trustee that has desired to testify individually. I mean, Trustee Alapa, I believe you had a submitted testimony individually. Trustee Lindsey did also on the prison individually. So maybe by way of review if it's of assistance to the Trustees who want to do that, and so that we're not confusing in terms of what

is the OHA testimony and then what the Trustees want and how they want to submit personally. Maybe we could suggest some language to do that, or certainly anybody even myself, I can submit testimony individually, but to qualify my position as not testifying as the Chief Advocate but individually. There's a form to that, and if that would be helpful to the Trustees, who are, you know, excited about the bills that they want to testify, you know for themselves, or make a reflection of that they you know how to stand on it. Maybe that's something we can address through Chair so that we don't have any confusion going forward, but certainly what we're trying to do by changing from an advocate to advocacy is encourage more people to testify, including Trustees in their individual capacity. I don't know if that's helpful, but I do note that.

Trustee Ahu Isa: I want to explain past years besides this COVID, when the Capitol was open, we would go, I would go Finance Committee, Ways and Means testify sitting across the table from the Senators and the Representatives and they like that. Like Finance when Representative Troy Hashimoto he said it's so great to see OHA come their sit down 'cause they can see the passion. They can see how we really feel about the bill and not just reading these testimonies and so that time we didn't have this misunderstanding or miscommunication, but now with COVID it's so different, we send testimony, then they don't know if it's from individual, they don't know if it's from OHA as a whole, so I understand that part, so hopefully they open up the Capitol again. Like Speaker Saiki wanted to but there was some disagreement with the Senate President, mahalo.

Chief Advocate Kamali'i: Thank you Trustee for that discussion. Moving on, relating to historic preservation, SB1411. We've reported out on this bill as well. As you know, it's referred to JDC again. It's one of those bills that needs to have a hearing or it's going to die. Relating to minimum wage. It did crossover. That's the Senate version. The House version of that bill, I believe, died. So what we're seeing now and just you know, to clarify it, which is why I want to redo the list so we have a nice restart. Is that some of the versions of the bills die and the other houses version you know is survived, but then it crosses back over, you know, into the other house. So we're just going to have to keep track of the numbers and where they lie and what status they're in, so don't lose the confusion on that. We'll try to clarify it in the way we report.

Historic Preservation SB2018. Just reported on that. SB2021 reported on that as well. So Trustee Ahuna, our OHA Bill died. The bill that addresses ceded lands and our pro rata share of the Public Land Trust is this bill, SB2021, which was introduced originally by Senator Keohokalole, so that is the one that we are waiting for the SD1 to come out and then we'll be able to report back to you next week, to all the Trustees on the Public Land Trust revenue, all right, relating to the Office of Health Equity. That is SB2031. That's another one that it passed second reading. It's sitting with WAM. If WAM doesn't give it a hearing, it's going to die. So we're watching to see what goes on there.

SB206, relating to prohibit which relates to rental discrimination, that particular bill 206 that one crossed over to the House and it's passed first reading so it's sitting in the House. With the house as indicated on your report as well, so this is the earlier ones that have already crossed over.

With regard to SB2064 relating to koa trees, it passed second reading. It's sitting with WAM, so we'll see if that survives, so far it hasn't received the hearing. SB2067 relating to burial sites. That is just a straight report back. It's sitting with WAM, has not received a hearing, but these are positions that we have already that you've already approved and it's just a status report so just the status report at this point to the Board. Related to court appointed attorneys. That's the SB2072. That again is single referral Committee on JDC will hold decision making, and that is a double referral, no sorry JDC was holding it for decision making, so I'm not sure why. Let me just double check on this one what the current status is. So JDC did recommend that it passed, and it was a two referral, so we're at this point there. I don't see a second committee report, so maybe they just needed more time to do the committee report.

Okay, relating to juvenile restitution, we opposed that bill, again you see it was deferred at JDC. Didn't get a hearing. So if it doesn't get a hearing, it dies and it's consistent with our position of opposition. Relating to

environmental review. That's our package bill, I already reported out on that. That was re referred to single referral, and now it has a hearing on March 3rd, so it's been resurrected and it's still going. SB2122, this was our Senate bill which is moving along. It was deferred so it's dead. The new vehicle is SB2021, keeping not to be repetitive, but. SB2251, we took a position of oppose. I don't believe that has received a hearing. Let me just double check. They just gave it a hearing. SB2251. This is how fast it changes so I apologize. Referred the measure until 3/3 so it was given a hearing of March 3rd at 10:00 AM. So that was a quick change and that's why I'm saying today and tomorrow a lot of these quick changes are happening, so real time it was given a hearing of March 3rd and we oppose that bill, so we'll be submitting opposition testimony.

With regard to 2320 relating to leasehold condos and 2465, reported last time, both those bills are dead. Regarding the 'ōhi'a lehua. Let me check the current status on that which is 2520. It still looks like it's a single referral and so it has not yet received a hearing and that may die because it hasn't received a hearing yet. Alright, we talked about this bill numerous times. It was deferred, so it's dead. This is the one where both OHA and Hawaiian Homelands were named as recipients of Public Land Trust monies. We'll clean this up as we submit to the Board on the crossover bills everyone so you won't be seeing these numbers again.

Relating to filing fees, 2663. That is still waiting for hearing. Committee on WAM will hold decision making on the 24, so I guess it's waiting for a report. Yeah, I don't see the report coming out on that one, so again, we're waiting for that to clean up before the 1st decking on the 4th. 2770 relating to the rehabilitation programs, this is one of the new position bills, so take note of this for motion. We had to take in a position of comments and that was because OHA was written into the bill. Now that we have a better understanding of what OHA's role may be and OHA is already engaging with the community, including the Prosecutor's Office, we're recommending a change position of support. Additionally, it's our understanding that there will be some appropriations for this for this measure. SB2770, and this is the collaboration between public safety and Office of Hawaiian Affairs on rehabilitation programs regarding prisons. This is actually a very nice bill moving along consistent with our coordinated advocacy in the community. So take note, that's a new position bill. i.e. change position from comment to support.

SB2778, relating to pretrial release, that bill is dead. SB2823 regarding mental health licensing, that one is dead. SB2861 relating to expungement and there was a lot of discussion with regard to expungement and expunging those records, and making sure that it gets through the Judiciary filing system, so it isn't on their record. That was referred to JDC. I don't see any movement there, maybe the problem was addressed by the Judiciary, but again, that's one of those with a single referral. If it doesn't get a hearing by the 3rd or the 4th, it'll be dead. Relating to pretrial release 2871, that ones dead, and let me just check 2892. That was adopted. It passed second reading, referred to WAM, so that was still waiting for a hearing. We'll see what happens. We'll report back next time.

Relating to expungement of criminal records. Again, this is a you know, one of those criminal bills that we've been tracking we're waiting to see if it's got a hearing that is as of your report, let me just double check our report for more current information. 3159 nope, it's still waiting for a hearing, if it does not receive a hearing that bill will die. Moving on with more approved bills, SB570. Regarding the definition of historic property, that crossed over to the House and it received its first reading, so we'll be prepared for testimony on that with a position of comment in the House.

With regard to SB872, which adds the Chairperson of Hawaiian Homes Commission on the Water Commission, i.e., designee to serve as an ex officio voting member in the Water Commission. That passed second reading referred to JDC. Just let me make sure that nothing happened recently. Literally, you know, these these bills are getting hearings this morning, so I'm literally doing a real time check. 879, relating to the Water Commission. That still has not received a hearing. Okay, so if that does not receive a hearing that will die. Alright, relating to the counties, SB879. Yours says that it passed first reading, real time check again this morning, it has been referred to JDC SB879, has now received a hearing on March 4th. So it's now received the hearing as of March 4th, so that bill is moving along and this is regarding the jurisdictional boundaries

between DHHL and the counties, so that's moving along, very interesting since it's a jurisdictional bill and we took a position of support to support the counties with regard to increasing maintenance dollars for the counties so that they can do their work in support of developing infrastructure.

Alright, with regard to Senate Bill 899, again your report shows that it had not been given a hearing, since then it has been given a hearing and decision making. The hearing is on March 4th at 10:30 a.m., so that one is still very much alive although your report is outdated, so these are the changes that happen in a couple of days, so again that has a hearing date.

Alright, relating to interim administrative rules Department of Hawaiian Homelands, 2136. That bill is dead. Relating to HB1768 disposition of water rights. With regard to kalo and kalo practices. That passed the JHA unamended. That was the last committee. So it's moving, moving out, and moving forward. Alright, so we have a couple more approved bills. That's good that it's moved out and moving over. Relating to the Judiciary, 'Ōlelo Hawai'i Initiative, we did move to support that and it has not received a hearing. Let me just double check 'cause it's happening very quickly as I indicated. I take that back, as of yesterday one thing as of today it did receive a hearing. HB1870, HD1, scheduled to be heard by Finance on the second Wednesday, which is tomorrow at 1:00 so that bill is moving along. At the time that this matrix was created, it did not have a hearing. Now it has a hearing.

Relating to the Office of Health Equity. This is the HB version 2429, that measure was deferred, so that means yes, it is dead. HB2466, these are the you know, more of the kalo bills are moving along, that was reported to the Committee on Finance on the 28th, it passed unamended. Finance was the last committee, so this report is likely to continue to move along and cross over but noting effective date is 7/1/2050. This particular bill, I'm getting an indication. Maybe Casey, because I see there's an indication that this might be a change bill or change bill. Is that correct?

COO Brown: Na'u, which bill in particular?

Chief Advocate Kamali'i: Relating to taro. Are we still on track that this is a support and we approved? That is 2466. The HD2. It did move on to Finance. It looks like it's going to crossover, but it appears to be a support and it already approved. Okay, so we're Okay with that. Alright, thank you.

I'll just keep moving with regard to HB2516, relating to correctional facilities. This had to deal with the planning and design where they're not going to put a lot of money into the new prison system that didn't survive. That bill is dead. It doesn't mean that the planning effort is halted, it just means that particular measure did not survive.

Relating to environmental justice mapping, we had a position of support. It did pass a second reading, referred to JDC. Let me just double check. Trustees literally things are happening while I'm reporting. Okay, so real time is passed second reading, still referred to JDC, so that particular one could die if it doesn't get a hearing. So again SB1277, relating to environmental justice mapping, we took a position in support, but it has not received a hearing in JDC, so that may die if it doesn't get a hearing in a couple days.

Alright with regard to SB2759, relating to disposition of water rights. That was an approved bill of support and that has moved through WAM, and received by the House from the Senate, and it has passed its first reading. So that has crossed over, again SB2759 relating to the disposition of water rights. Exempts the instream use of water for traditional and customary kalo conservation practices from existing process for disposition of water rights etc. and that confirms and protects traditional and customary and kuleana rights to water, including rights of use, access, delivery, etc. I'm taking the time because the important bill crossed over, so we have to continue to monitor that and to support it as it crosses over into the House and we have a position of support.

Relating to Hawaiian Recognition Day, we took a position of support. Let's see where it is if it got a hearing yet.

Trustee Lee: Hey Na'u, I'm going to help you so don't have to look all this stuff all up on your own. So just go off the matrix. I'll let you know if there's a real time update 'cause I can stay one bill ahead of you. So you don't have to keep switching screens.

Chief Advocate Kamali'i: Thank you, but no I'm fine.

Trustee Lee: Okay

Chief Advocate Kamali'i: I have multiple things going on, including people that are referring to me. I like to read from the real time so that the Trustees know real time. Unless you're going to report out. You know what I'm saying. Okay, I'm looking at two screens deliberately because I'm actually looking at you guys on one screen, and then there are notes.

Chair Akaka: Na'u, if you want to continue, mahalo.

Chief Advocate Kamali'i: I mean ideally Trustees, I would be more than happy just to give you this and summarily just address the approved and certain updates but I understand that this is the process that people want us to go through so we are going through it. Maybe that's something to consider. If it's not helpful, I'm more than happy to just go straight to the new bill.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: I was just going to say you almost pau. But yeah, I was just going to suggest if there's any changes in where we stand and that's the ones that. I really want to hear.

Chief Advocate Kamali'i: Okay, so we can work on that and again because we're in the little window that we are where everything is getting a hearing you know really quickly. Even from what you're looking at. I'm sitting here real time and some of them are getting hearings. From last night even. Relating to Hawaiian Recognition Day. Okay, so that it's passed second reading, still sitting with WAM, no hearing. Relating to Hawaiian Community Development Authority, position of you know a comment, that as well still sitting there, no hearing so you know that one is dead, sorry. I'm looking at the wrong thing. I'll skip over the dead SB880. That bill is dead. Now we'll stop because now we're getting into the new bills.

Okay, Trustee Akaka, is there anything you would like to give the opportunity to Trustees to comment on? Otherwise, I'll move into the new bills, new positions.

Chair Akaka: Mahalo, I think the Trustees have said what they wanted to, but if not, members is there anything else to discuss or ask questions of Na'u on this? I don't see any, mahalo, Na'u, if you can please continue.

Chief Advocate Kamali'i: Some of the things that the policy group has been doing is looking at not only our directions, but also the strategic plan and 'ohana is a big part of the strategic plan, so we've been looking at these bills that may not necessarily rise, but they are still consistent with the 'ohana concern and so delving into what might be CPS type cases or custody cases or ability of our families to, you know, file motions for custody. Those things are things that we're all taking a look at so, to note also that with the new bills there may be a motion so you know, please consider what your position might be as Administration suggests a position going forward. So relating to temporary assistance for needy families. This authorizes the Department of Human Services to provide housing assistance subsidies up to \$500 per month. So this is taking a look at the the TANF aspect of our families who are receiving assistance and it does appropriate funds. We did take the position of support and I'll say it continues to be a. This type of bill is not where somebody is asking us for support, but it's an appropriation which it increased the support in a governmental program. So it's a very unique slice of a bill that appropriates funds so maybe Trustees if you want to weigh in on this one but we felt

that it was a good thing when subsidies go up and our families who are receiving assistance get more money to support the family. So we took a position of support and if somebody wants to say that's not really aligned with our policy because it talks about appropriation. Then please let us know, but we're raising it because of the situation, the uniqueness of the particular request and how our people are affected by it.

Okay, the next one are relating to Hawaiian fishponds SB2023. We are taking a position of support, but I'll also note as we delved more into this particular bill and the testimony is there. Let me see if I got this. There are couple of this. Yes, this bill all spoke of being able to establish a functional system to provide pua 'ama and pua awa and some of the testimony also included the need to also propagate limu and knowing the significant effect that propagating limu in a loko i'a has in the whole system to propagate the i.e. the pua 'ama and pua awa. So when we looked at that again, even though it went out to the Board as support. We considered a position of support with amendments to include limu as recommended by those who are working in the loko i'a. So that would be something for the Board to consider in its decision whether or not to support or to support with amendments to include the propagation of limu.

Relating to state symbols, as I indicated this particular bill there were several bills that dealt with 'ōhi'a lehua, some died, some haven't gotten a hearing. This particular number, this particular bill, SB2059 did cross over and it's received first reading in the House, so now we're looking at this particular bill number and continuing on with a position of support. So it's a new bill. It's not a new request 'cause the others that we've been supporting may have died or not get a hearing yet. So this represents a bill that's actually moving, has crossed over on the issue of designating 'ōhi'a lehua as the state endemic tree.

Okay next, this is the SB version of the TANF bill that I already spoke of, which was the House version, that's HB2233 and now we have the SB2150, so that's the companion position of support. Relating to youth crisis centers, this is a new bill, SB2481, what is this about? We find that some of our are youth that are on the street, have nowhere to go, and some become victims of the sex trafficking trade and what this bill tries to do is provide a crisis center where they can go and so we support that and it is still moving along.

Relating to SB2639, relating to the comprehensive offender reentry system. It's a Senate bill, crossed over, passed over into the House and received first reading. So again, this is a offender reentry program and we're supporting that. Particularly, this bill also addresses female inmates so we are supporting that as well. So there are bills that address and distinguish male and female services and also incarceration. So we support. Relating to risk assessment needs for female offenders. Again, this is along those same lines, SB2771. We support that bill. It's a new bill.

Relating to historic preservation reviews. I don't know if Kamakana if you want to speak to this, it's a new and we have a position of comment. If you are still available.

Lead Compliance Specialist Ferreira: I'm still here. So yeah, initially we were monitoring this. We didn't think it was going to go anywhere. It's basically they're trying to establish a county preservation officer system and so in theory this could work, but our concern is we don't want the burial responsibilities to be delegated or any type of undermining of the authority of the Island Burial Councils. So that's mainly what our comments are focused on, frankly quite surprised it got a hearing and also you know, prior to this bill being posted, Dr. Donna was trying to explain to individuals that 1643 burials was not being delegated, but as currently written it would allow that, so that's why we have our comments. We did submit testimony from this recent hearing. Any questions?

Chief Advocate Kamali'i: Thank you, moving on to another sort of 'ohana youth bill that is being presented to address our youth who are on the street and not, you know, not that they're sitting with homeless families, but they're just on the street for whatever circumstances. This 3235 relating to safe spaces for youth. It's a pilot program and it's designing to create a shelter just for youth. So we've got programs for youth and then we have a shelter for youth. That's different from the shelters that might be available for women who are victims of

domestic violence. There are, you know, special considerations when we're talking about youth who around the street because they might be minor or youth. But you know, if we don't allow for them to come into a shelter, then we may lose them for various reasons, i.e. again, brought into the sex trade or you know they get into, you know, drugs, use of drugs there and it's just you know it's just suffering. So this is an idea that's coming up and it's a use pilot program. We saw that, we thought that was a good bill to support.

SB3363 relating to wastewater treatment on the County of Hawai'i. You know, authorize the issuance of general obligation bonds waste water treatment. You know, these are things that honestly are important in our neighbor islands where they have to deal with treatment programs that just need to get updated or not, you know, effective, and mahalo to our Hilo advocates who brought this to the team's attention so based on their recommendation, we are taking a position of support. It authorizes an issue of general obligation bonds for replacement in the water, so again I'm not sure how to reconcile some of these bills that have to, you know, move along and they might be considered appropriation bills because it's you know, Trustee Lee, you've said you know what kind of appropriation is it. That appropriation is made for a capital improvement project and you know authorizing the issuance of general obligation bonds for this particular purpose. So please weigh in, if we went off base on that just let us know and we'll remove it from the list. So that's the end of the list. These are bills that are new, that we added to the list. There are other bills that are not notice to you that is in another category and I have not addressed them. I'm going to stop at this point because we would get into a new category and that new category would be new bill that if are not on the matrix and have not been presented to the BAE Committee at this time by way of notice through the agenda notice process.

Chair Akaka: Any discussion numbers?

Chief Advocate Kamali'i: Anything else about this grouping?

Board Chair Hulu Lindsey: Are we done with the matrix?

Chief Advocate Kamali'i: We're done with the matrix, but then there's another category of bills that we've identified in the last few days that we believe the Committee would be interested in, and maybe Ka Pouhana or Casey could speak to this, maybe it's something we add to the matrix for next week, but we've identified them. The reason why we identified them is because they're potentially coming up for hearing.

COO Brown: Madam Chair

Chair Akaka: Yes Casey

COO Brown: Na'u, were we able to determine recommended positions on these new bills?

Chief Advocate Kamali'i: Yes

COO Brown: I would then ask the Trustees what they prefer. Trustees, would you prefer we can only speak to these bills now, so there's nothing documented that share with you unless Na'u has something she's prepared on the side. But it's been so recent. So we could speak to these to give you guys background and context and let you guys think about it and they will show up on the matrices next week.

Chair Akaka: Maybe we should stick to it for the next one as we don't have it on the agenda.

COO Brown: Or option two would be that we don't speak to it now and it'll just show up on the matrices next week.

Chair Akaka: That would be good.

COO Brown: Okay, mahalo Trustee, mahalo Chair.

Ka Pouhana Hussey: So Chair, I would also add to Ka Pou Nui's observations that would have then the Trustees take action on Matrix 3 as been presented which includes new positions, plus change positions to Trustee Ahuna's point, the matrix identifies new positions that Administration is presenting, as well as the new positions coming forward, and I believe staff has a recommended language for the motion for Matrix 3.

Chief Advocate Kamali'i: Ka Pouhana, could I add something as well? In the group that's not on the matrix. There are bills for example, the Red Hill bills that have survived which the Board has taken just a general position on and also of concern to the Chief Advocate and a bill that we've been talking about and watching to see what happens to it. Is a particular bill that deals with the disposition of public lands by negotiation which died in the House, but it's actually getting a hearing in the Senate, and that is concerning. The reason why I'm raising it is because it would appear that we have Board approval to take a position in protection of those ceded lands to oppose, i.e. but we don't have a position on a particular bill. Also, with regard to all the Red Hill bills that are surviving and moving forward that we already have a general arching approval to support those bills that would you know, protect our clean water. So if I could get some guidance because the team is ready to also testify within that general scope of authority or approval.

Chair Akaka: I'm sorry, Na'u, can you please repeat your question?

Chief Advocate Kamali'i: The bills that are not on the matrix also fall under a broad policy. For example, the Red Hill bills and the water. The board's policy on water and protection of our water. They fall under that, so it would seem that we would be free to testify in those bills, even though the specific bill has not been brought before the Committee. The other is in protection of public lands, or those bills that confuse or limit our ability to obtain revenues from our ceded lands because of the way it's being restructured, it would seem that we would have the ability to weigh in on those bills and the one in particular is Senate Bill 3130. We had been monitoring it. Believe the House version died. The Senate version is getting a hearing. It's just a timing thing, I apologize. So under the overarching policy regarding water, we want to testify in the Red Hill bills over the overarching policy regarding ceded lands protection and the revenues that are generated for our people, we want to be able to testify even though the specific bill has not been brought before the Committee. If not, if we wait till next week, that bill would either been approved and move on, or it would have been decked and pau just because of the calendar.

Board Chair Hulu Lindsey: Na'u, I have a question.

Chief Advocate Kamali'i: Yes

Board Chair Hulu Lindsey: The PLT bill that was reported or amended that you're waiting to see the final copy, came out of the WAM?

Chief Advocate Kamali'i: It has the FD1.

Board Chair Hulu Lindsey: 2021

Chief Advocate Kamali'i: Yes it has not, the new version, neither the bill as amended or the committee report has come out of WAM.

Board Chair Hulu Lindsey: And where would it go from there?

Chief Advocate Kamali'i: Well, one we would have the ability to speak to it, but it would cross over to the House.

Board Chair Hulu Lindsey: And how would we have the ability to speak to it? They're going to have another hearing?

Chief Advocate Kamali'i: When it crosses over to the House, like all the bills that crossed over from their originating body crosses over to the next house, which is not the originating body. The next task would be to ask that body, i.e., the House to hold a hearing. So if the house doesn't hold a hearing, it's dead.

Board Chair Hulu Lindsey: That's what happened to Kaka'ako last year.

Chief Advocate Kamali'i: Yeah, so that will be, which is why we want to be clear as to what the position is on the bill so we can alert the lāhui who can also participate in requesting that the measure be heard in the House.

Board Chair Hulu Lindsey: Well, I think it's critical on the changing of the gross to the net. That's like taking half or more of the revenue away from us because they can always pack on expenses and lessen the net and we'll always end up with 15.1. That sucks. So, do you want a motion, Chair? The motion that's up here.

Chair Akaka: Yes, mahalo.

Board Chair Hulu Lindsey: Thank you, I Move to approve Administration's recommendations on: **NEW BILLS (Items 63 - 72) as listed on Matrix 3 -- Measures Affecting Native Hawaiians – dated March 1, 2022, along with the following revisions:**

BILL POSITION CHANGES:

- HB2311 from COMMENT to SUPPORT
- SB2770 from COMMENT to SUPPORT

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded, any discussion members? Seeing none, Brandon, can we please have a **roll call vote** on this measure.

							11:39 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA						EXCUSED
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			

TOTAL VOTE COUNT			6	0	0	2
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MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: Na'u, do you have anything further that you wanted to say?

Chief Advocate Kamali'i: I believe there's also another motion, those are the change motions, but there were also bills that were added to the matrix. So they would be new bills added to the matrix that have positions, so we would need the Board to approve those positions.

COO Brown: Na'u, we handled two of those approvals in the one motion. It covered the new bills that were added those last 10 bills on the Matrix 3.

Chair Akaka: Items 63 through 72.

COO Brown: Correct, is that the bills you're referring to Na'u?

Chief Advocate Kamali'i: Yes, so nothing else other than just the general consideration. So we will have to address my concern that I raised. I'll address it with Administration, so thank you very much, thank you.

Chair Akaka: Yes, I think it's best as we stick to the agenda items.

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chair Akaka recognizes Ka Pouhana Hussey.

Ka Pouhana Hussey: If the Trustees have no more discussion on Matrix 4, in a couple of previous meetings there was a discussion and those items would be taken up by Administration and brought back, so just clarifying if there's anything on Matrix 4 that Administration needed to bring back next week that we haven't been notified of thus far. And then, Madam Chair, I just wanted to make one correction to my statement on the Salary Commission, chapter 10.95 is the section that identifies the Salary Commission process for the Trustees, and so if there's any legislation or regulations to change it'll be in section 10.95.

V. EXECUTIVE SESSION

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

NONE

V. ANNOUNCEMENTS

NONE

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Board Chair Hulu Lindsey: I move that we adjourn.

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon, **roll call vote** please.

							11:44 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA						EXCUSED
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **11:44 a.m.**

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

March 8, 2022 10:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee C. Hulu Lindsey
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Aguinaldo, Arlene, IT
Nakama, Erin, IT

EXCUSED:

Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, March 8, 2022 to order at **10:01 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:01 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	EXCUSED	10:05 a.m.
TRUSTEE	LUANA	ALAPA	EXCUSED	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **FIVE(5)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. NEW BUSINESS

A. Action Item BAE #22-03: Approval of Keith Makale'a Gutierrez as the Office of Hawaiian Affairs Representative for the Native Hawaiian Revolving Loan Fund, Board of Directors

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair. We'll Aikue Kalima the Native Hawaiian Revolving Loan Fund Manager to be on board. Trustees, this is a customary action item for your approval and recommendation to the Administration for Native Americans of a board seat. This particular seat is an OHA seat and so this is an OHA staff member that is being recommended for the board seat representing OHA and if there are any questions of either Aikue or myself we'll be able to answer those questions.

Chair Akaka: Any questions members? Seeing none, Ka Pouhana if you can please continue.

Ka Pouhana Hussey: I believe that's it, Chair. If the Board would want to then entertain the recommended action that we have there in the action item.

Chair Akaka: Sounds great, may I please have a motion.

Trustee Waihe'e: Madam Chair, I'd like to **move to approve Keith Makale'a Gutierrez as the Office of Hawaiian Affairs Representative for the Native Hawaiian Revolving Loan Fund, Board of Directors**

Trustee Ahuna: Second

Chair Akaka: It's been moved and seconded, any other discussion members on this? Seeing none, Brandon can we please have a **roll call vote**.

							10:07 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE'E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			

TOTAL VOTE COUNT			6	0	0	2
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MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

IV. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair. We'll do a quick lateral to Chief Advocate Na'u Kamali'i.

Chief Advocate Kamali'i: Thank you very much. Good morning Trustees. Good morning Administration and for those from the communities who are watching in the live stream, aloha, Na'u Kamali'i, Chief Advocate. We're gonna start this morning as we typically do in looking at the session calendar so we can orient ourselves to where we are in the legislative process. So today being a March 8, we can see during this week we now have an idea of all those bills that were decked on the 4th and are moving to the first crossover on the 10th. We also have during this week a substantive resolution cut off, so there are resolutions coming in. We will not be speaking to any resolutions there. I take that back. There are a couple, but the team is reviewing the resolution for a discussion next week on the 15th so that we can be more comprehensive in the request to the Board for positions on resolutions. So for today I'm hoping that this will move fairly quickly because many bills were decked, many are crossing over from their respective houses from the Senate to the House and the House to the Senate. So with that understanding, and we've been looking at these bills for a while, I'm going to move fairly quickly right through all those bills that died. So Trustees please stop ask a question, raise your hand and just to address those things that may have changed and i.e. those that are still alive and what their status is. So Trustee Ahuna, I certainly share your sentiment to move through this quickly as we can. If that is okay then I will proceed, Chair.

Okay, moving on to Matrix number one. This is the OHA package matrix. I believe as we reported last time the SB2121, which is our Build Back Pono Environmental Review Bill, that did receive a hearing so that it will be crossing over, so we'll prepare for that when it moves into the House. Regarding our PLT bill, SB2122, we reported last time that that bill is dead. However, the vehicle SB2021 is still alive and reported last time that we were waiting for the SD draft to actually be made available along with the committee report. I'll say that leadership is in discussion regarding that, so it may be premature to report out as we look at the various options to be able to share with the Board, so I will perhaps get confirmation from Ka Pouhana that at this time, perhaps not to report out, other than that we now have a draft SD1. So those from the Board, those in the community who wish to take a look at that, you can look at the committee report and also the SB2021 which is the vehicle that Public Land Trust income and proceeds and revenues to the Office of Hawaiian Affairs that is how things are proceeding. If that approach is fine, then I'll continue to move on to the next matrix.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: First of all, mahalo for having Kamakana mention my name. I was watching the hearing on the JUD hearing with Senator Rhodes. SB2121, what were the amendments? Why was DLNR opposed they said we shouldn't do this?

Chief Advocate Kamali'i: Well, let me take a look at that, in particular to pull up the report, but there is generally some concern with regard to the cost to do a socioeconomic impact of consideration, particularly for

the smaller, smaller projects that require an EIS. So that cost issue was raised and I think that's maybe the challenge with this particular request in the way that it's proceeding and what is involved in their request, which includes some health considerations. But other questions from the smaller, those who do smaller projects with you know, where do we get the data and a smaller project may not know where to go to obtain that kind of data. So those were the costs associated concerns with adding this particular impact statement, impact factor. Adding this particular factor to an EIS impact statement.

Trustee Ahu Isa: And the definition of what socioeconomic was, I guess, but I thought it wasn't going to pass because they kept saying, no, no. I think Sierra Club was the only one that said yes. But it did pass.

Chief Advocate Kamali'i: It did pass, and certainly there's enough time you know to have further discussion with that as it goes over to the next house and so it's a good thing that it passed and we can, you know, search out what some of those other concerns are that maybe are valid considerations.

Trustee Ahu Isa: Yeah, 'cause it's a part of our package so I'm glad it went over, mahalo.

Chief Advocate Kamali'i: Yes, so thank you again and it wasn't Kamakana who provided testimony. It was Michelle McCoy. Michelle took it on in light of one of our advocates who is no longer with us. She took on that responsibility, so I appreciate that.

Chair Akaka recognizes Ka Pouhana Hussey.

Ka Pouhana Hussey: So Trustee, section 5 of SB2121 also has an effective date of July 30th, 2075, so that's part of the bill's context going over.

Chief Advocate Kamali'i: Yeah, an issue when you see and thank you for raising that. When you see some of these bills that you know are continuing to 2060, 2222. That's just a big indication that people need to talk. i.e. the stakeholders need to talk and perhaps other discussions need to be had, it's their way of telling us that we need to discuss things. So thank you for adding that, Ka Pouhana.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Alright, moving on to what is Matrix #2 or the OHA named Matrix. The first is HB2024, we know that there's an 'Aha pule happening now at the Capitol regarding the measure and things relating to Mauna Kea, but it is in a good spirit of recognizing that many have different views on a particular legislation. So relating to Mauna Kea, we know that that did pass out and there is a committee report which refers to another draft or a new draft and Ka Pouhana do you wish to speak to that? She's a member of the committee.

Ka Pouhana Hussey: The HD one version that was passed out of committee after that Saturday hearing, that triple committee hearing on Saturday about three weeks ago, the HD One version has a number of edits that were made. One of the particularly noted edits was based on OHA's comment to the bill and that was to replace what they had there as the Chief Executive Officer as a member of the committee to the Chair of the Board of Trustees, and that was one of our points that we made in our comments to that, so that is reflected in the HD1 version. Otherwise they picked up additional comments regarding governance and other issues and so the HD one version is what is going over to the Senate for scheduling it for hearing. That's it, Chair. Unless you have any other questions.

Chief Advocate Kamali'i: Okay, thank you very much. I do encourage Trustees if you are really interested in the subtleties of this measure and the related measure that you do glean through the language along with the committee reports to see what is moving, including some of the cultural concerns as it applies to the preamble, so that's you know, it's moving, so where is it? HB2024 is in third reading. So that means just needs to get done before the 10th, but it's moving along and will likely crossover.

Ka Pouhana Hussey: I'm sorry, Chair. Could I make one more comment about this? One of the additional noted changes was adding of the President of the University of Hawai'i or designee on the member authority, as well as considerations of astronomy on the governing board and in the working group the presence of astronomy in a governing entity was a great discussion, so those are the additional highlights that's included in the committee report and to Chief Advocates point, we will circulate both the committee report and the final HD1 version so Trustees can view them more closely.

Chair Akaka: Mahalo for this update, Ka Pouhana.

Chief Advocate Kamali'i: Relating to the Native Hawaiian rehabilitation programs. We know that that is moving through. Relating to historic preservation, which is a OHA named. We know that is moving through as well. Some of these bills are in a position of the 48 hour notice, one hour notice, having already crossed over or they're dead so there's not much to say except they're either on their way to crossing over or they're dead. So SB1411, OHA Named, that is moving through to crossover.

We talked about 2021 and the status of that the SD1. We've received it and we are looking at the implications of that. Which is the vehicle to address the pro rata share of Public Land Trust lands, income and proceeds. Relating to Native Hawaiian rehabilitation programs, that's an OHA named, that is moving through the pass over. I'm skipping over the dead bills.

HB1986, relating to the Board of Education. That is a new position bill. So if it's alright, I'd like to address that in the new position discussion at the end of the approved bills. But we are asking for support with amendment. Alright, I'll just address it. It's crossing over. It's got 48 hour notice. So that's the status of that. But it's one of those that is new and it's relating to the Board of Education and I've talked about this before, so this is the one where we actually have to take a little bit of time to take a look at it. The sentiment from the Advocate who was tracking this is that it was originally looking for a list of nominees to be submitted by 'Aha Kauleo Kaiapuni. The concern was that I guess the state would prefer to have an entity like OHA that has longevity and so they included OHA in the matter, but OHA's not trying to be the determining body. So we are in discussions with the 'Aha to figure out a way that we will pass the names forward and also within the HD1, Senate President and House Speaker have a say in who the nominees are. So there is a little bit of issue there. We're still looking at how we might make recommendations in the amendments to this particular bill, so advocates already in discussion with the 'Aha on how to perhaps address the changes that were made in order to save the bill, noting again effective date July 1, 2050. That indicates people need to have discussion, so we are in discussion on that bill. So that addresses the OHA named. Are there any other questions regarding that matrix?

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: Okay, moving on to Matrix 3, which is measures affecting Native Hawaiians. So again, with this matrix, as you received it in advance, there's several bills that did not survive. I'm not going to speak to them. I'm going to just move on to those bills that are moving on. So if the bill is dead, just note that in your handouts tied to the agenda, all right. So the first item, HB1459, that is relating to juvenile restitution. Clarifies definition of victim etc. Still a lot of talk on that. January 1, 2022 is the new effective date, but it did

pass second reading. Third reading must be had before March 10th. Anticipate that that will move along and crossover.

Skipping all those bills that appears to be dead. Moving to item number 5, HB1567. Relating to criminal pretrial reform. That is a House bill, it's now in the Senate. HB1638, appropriation for Kona Hospital, 48 hour notice. So that is moving along but still discussion on it. Effective date of 2060. Skipping over those bills that have died, now moving to item 9, HB1885 relating to government data, that passed third reading, transmitted to the Senate. Relating to item 11, HB1986 relating to the Board of Education, this is again having at least one at large member on the Board of Education be a Hawaiian immersion expert. We will have a fresh matrix for the House so we're moving back and forth. I'm sorry that's a new position, so I will wait until the end to address that.

Item 12, HB2015 relating to the University of Hawai'i. That's moved along and it's in the period of 48 hour notice. HB2024, we already talked about that relating to Mauna Kea. HB2022, that's item number 14 relating to symbols, that is dead. Relating to item number 15, relating to the equitable distribution of grow your own resources Hawaiian immersion teachers. 2284, which was approved with a position of support, that has crossed over, it's in the Senate.

Moving to item 20, HB2511 relating to the Department of Hawaiian Homelands. There's the Senate counterpart to this, but this is essentially the bill which funds DHHL with the \$600 million. This has moved on. We submitted comment testimony and is in a period of 48 hour notice. So that's moving through. Next one, SB1411. Kamakana has talked about this quite a bit. The status is it's moving on a 48 hour notice period. Relating to the minimum wage, 2018, that's in the House, passed first reading. Next bill item 23, SB2021. We spoke about this already. This is the vehicle that's moving forward with PLT. The SD1 we are examining it and it has a 48 hour notice in terms of its status so it will cross over to the House.

SB206, relating to rental discrimination, passed first reading, so it's in the House. It's already crossed over. There are a couple of bills that are dead. We'll move on to item 28, SB2022 relating to court appointed attorneys, that's moved on as well, a one day notice. Item 29-31, they're dead and moving on to item 32, SB2251 relating to Public Housing Authority, that has moved on. We oppose it, 48 hour notice. So we'll be focusing in on that and trying to kill that bill. Now we have a couple of bills that died as well. Items 33, 34, 35, 36. Item 37, SB 2663, relating to filing fees. This has a 48 hour notice. There appears to be some headway in this area. Instead of \$100 filing fee, but it appears that the schedule will reflect a more reasonable fee for motions. It's typically around \$15.00, so although it's not a straight you know waiver of the fee. It looks like there's some some headway in that bill to reset the filing fee schedule in family court.

SB2770, this was the OHA named bill, I indicated it's already passed first reading. It's in the house. Moving through quickly 39, 40, 41, 42 43, 44 and stopping at 45. That's SB570 regarding historic preservation. That's a Senate bill. It's already in the House and passed first reading. SB872, relating to Commission on Water Resource Management. We note that that has moved along and it's in the phase of a one day notice. SB879, relating to the counties and this is the shifting of jurisdiction in the Hawaiian homelands housing developments that we support. It's moving along, now has a one day notice period. SB899, composition of State House Council on Mental Health Development. This is again, they're trying to interject people that have, you know, are have some awareness, especially when they're treating Native Hawaiians. We commented on that. 48 hour notice, so that's moving along into the next house.

Alright, next bill and item 49 is dead. Relating to disposition of water rights HB1768. Kalo bills are doing great. They're moving along, people are testifying. We supported this bill. It passed its first reading even though it shows for you that it was transmitted to the Senate, so that's moving along. HB1870, relating to the judiciary's efforts to improve 'Ōlelo Hawai'i in the courthouse. Although there's an effective date and there's still discussion, that bill is moving along, we supported it, so 48 hour notice period. Next bill is dead regarding Office of Health Equity. Relating to taro, or Kalo as I indicated that's another bill, HB2466. That is also moving

along and we had supported that bill. HB2516, item 55, 56, both those bills are dead. Item 57 relating to disposition of water rights, again kalo cultivation bills. SB2759, it's past its first reading, it's in the House. So as a group all of the kalo farmer bills are moving along. It's really great to see that. Item 59, that's another one relating to kalo, the counterpart that one's dead and the next one is dead. So what they're doing is choosing the vehicles to deal with that issue, but they're still moving along. Okay, so item 59, 60, 61, 62 all those were dead bills.

Item 63, HB2233, relating to the temporary assistance for needy families. That we asked for a position of support last time. That's moving along and it's in the Senate. Item 2059, relating to state symbols, passed first reading and remember I reported there were a number of 'ōhi'a lehua bills. But this is the one that's moving along and it has a effective date that encourages discussion. 65 is dead. Items 66, 2150 this is the counterpart in the Senate relating to temporary assistance for needy families, that crossed over to the House, passed first reading. Item 67 relating to youth crisis centers. We had asked for Board support and that measure is moving along with a 48 hour notice. In the 'ohana area, public policy has been looking at youth crisis centers, looking at ways for our families to get in to change custody. All of those types of things and those bills seem to be moving along so it's nice.

Item 68, SB2639 relating to comprehensive defendant offender reentry system, that's in the House, it's already crossed over. Another one of those prosecutor type bills, which is relating to the risk and needs of assessment for female offenders that has crossed over, that's SB2771. So as a group, the criminal justice reform type bills that we've been working on in the community are moving, so that's very good. SB3135, we had asked to testify on this in a position of comment. Regarding historic preservation reviews and that has moved on with the 48 hour notice. So that's moving on over into the House.

SB3235, again this is one of those youth pilot programs that's helping youth at risk who are homeless youth. That is moving along, we took a position of support and it's in the 48 hour notice period. Item 72 is dead regarding wastewater treatment. Item 73 let me pause here because now we're entering into the area of bills where we are requesting a position. Are there any questions? If not, then I will move on. Okay, there being no questions. We'll move on to bills where they're new. We are seeking position on them, so before they, some of them have already crossed over. But this will enable us to start writing testimony.

Item 73, HB1666, relating to mental health. So there are some of these where there's programs that are being established to address these issues and this particular one it's a pilot program within the Adult Mental Services Division of the Department of Health to expand existing county programs and make one or more licensed Mental Health Counselors available to assist first responders responding to mental health crisis in areas of urban core with high rates of homelessness. You know this area has been problematic for a while because those who are homeless and there's clearly a mental health issue. They have been arrested and they've become criminalized. Their behavior becomes criminalized and then they get stuck within the criminal justice system. That would be under chapter 704404 and then it becomes difficult to spin them out. So this being an effort to allow mental health counselors to be there on the spot with first responders so that these individuals are triaged to the health area and not arrested. So this is happening across the country actually, which is really good. So we have a position of support and it was a House bill. It's currently crossed over and in the Senate.

Relating to Prison Reform, HB2312, this establishes the Women's Correction Implementation Commission on the Judiciary to ensure implementation of recommendations of a final report i.e. the task force and I know Trustee Hulu Lindsey and others have been working on women's corrections issues and it's very important to implement evidence based responses in diverting nonviolent women offenders as opposed to what is typically applied for men. Recognizing that the treatment of men and women in the criminal justice system is different, so we supported this as well as the community based rehabilitation programs associated with that. We are requesting a position of support. It has crossed over from the House and is now in the Senate.

Item 75, HB2449. This is an appropriations position in the state archives authorized this issuance of general obligation bonds to finance the construction of a building. We weren't sure as Public Advocates, how to address this. But we included it for perhaps discussion by the Board and requesting our position of comment. It requires all departments, offices and agencies to conduct an inventory of all documents in their possession related to the culture and history of Hawai'i and Native Hawaiians, and requires the state archives to develop a transfer plan. So we do know in our history that many of our documents are when they become old, they're subject to rules which would require them to just be destroyed, and it's very important for us, our history going forward that we retain those documents. So this is that effort. But I do note that there was an appropriation provision. So we would support that with comments because of that provision, but being able to comment on the intent of the bill, it's crossed over and is now in the Senate.

This is the couple of the resolutions that I spoke of. There's a whole slew that's going to come next meeting. Item 76 and 77 deal with the Red Hill issue and resolutions with regard to the storage facility. Establishing water treatment facilities, looking at associated costs and assigning those costs to the Navy, so those resolutions they have passed a couple of the committees, but that is their current status. We are recommending a position of support on these resolutions. However, these resolutions are new.

Item 78, again this is one of the Red Hill storage tanks bills and this is operation and renewal of underground fuel storage tank permits located mauka of the underground injection control line as defined by the Department of Health, and we know that this is one of the strategies that have been employed on the local level is to address the permit and the permitting process in able to address what is happening on Red Hill. We also know also what's happening in Congress and appropriation of funds and Congressional action to shut down the tanks. But this bill is moving along and the other permitting bill is also moving along. So that's one of the strategies.

Board Chair Hulu Lindsey: Na'u, why would we comment and not support this?

Chief Advocate Kamali'i: Well

Board Chair Hulu Lindsey: I think anything to do with underground water in Hawai'i, similar to what happened with these tanks, we should try to protect our resources, don't you think?

Chief Advocate Kamali'i: Yes, I think it might be the, you know, when we start commenting on a permitting process. Either way and I leave that up to the Trustees. It's sort of a jurisdictional dance and when we start looking at that as advocates, we defer to the position of comment sometimes, and I think that's what we were thinking for these two bills. But you want to choose a position of support, not a problem.

Board Chair Hulu Lindsey: Yeah, I think we should be consistent and support all this that's hurting us today. It's just my mana'o, I'm open to the other Trustees. But we went through so much to get the Navy to finally quit.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: I would support it too as long as like before, we would comment only because of we'll be afraid if they might appropriate anything towards us or anything like that so what do you think would be the best one? I would support, but sometimes it's early in the bill and I don't know if we should be supporting that early. So that's my only question. But good question Chair Lindsey.

Chief Advocate Kamali'i: Yeah, I'll read the language that we sort of paused on. A department shall not issue a permit for any new large capacity underground storage tank, right. That's for the new underground storage tank. So conceivably, if what is there now is removed by appropriations, they may put in another storage tank, right? And provided that the permit may be issued by the department for purposes of repairing or removing an

existing underground storage tank. So it's that language there that we're just cautious. I guess we're just a cautious group. The underground injection control line, which is another definition means the underground injection control line represented and it also includes other islands, islands of Hawai'i, Kaua'i, Lāna'i, Moloka'i, O'ahu etc. So it is a wide sweeping bill regarding storage tanks. Position of support, maika'i. So out of caution, you know, we're taking just a comment at this time so if you want to support not a problem, we will so support.

Board Chair Hulu Lindsey: Yeah, I want to support.

Chief Advocate Kamali'i: Okay

Trustee Ahuna: I think we should just put support because I think right now we just need a starting point and it's early and we just need to know where to go. So if you feel good about that Chair, I think we should support because it's just a beginning point. That's all, this is a good discussion by the way.

Chair Akaka: Mahalo, Chair and Trustee Ahuna.

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: I agree with Chair. We should support, in fact my whole Ka Wai Ola article was on that at the Capitol. Listening to the news trying to keep up with what they're doing. They're not gonna put anything here. It's somewhere in the Indo Pacific area. They're not going to put any more in Hawai'i these storage tanks so I think we should support, mahalo.

Board Chair Hulu Lindsey: Thank you.

Chief Advocate Kamali'i: Mahalo, thank you, Trustees for the discussion, so that would apply to item 78 and 80. They're very similar, we'll see which vehicle moves along. But yes, we will ensure that is a position of support for the motion as well. Thank you so much.

Item 79, which is also new, SB2422 relating to the Family Court. This just focuses around what is called a tort claim and sometimes the children are injured within the family court foster system even though the judge may have the discretion and ability to initiate that action. It can be compromised. So what this would allow is for a private attorney along with say a family member that wants to pursue a cause of action against someone who may have injured a child. It gives them a way to do that and what it would allow for is the appointment of a master who would submit a written report to the court. It's like a court appointed master would support a written report to the court and in that would include recommendations on whether or not they should pursue a civil action or a tort claim against those who may have injured the child. They're doing that so they can move it along in civil court. So the injury may not rise to a criminal matter, but it may arise to an injury in a civil case. So certainly that would be a deterrent, and everyone who takes on responsibility to take care of children within the foster system should not be injuring the children, so that's what this is about. It's just another avenue. Although the Judiciary thought that it was not necessary 'cause they already have the authority. The attorneys are saying this is necessary, especially those, and I'll just give a little history. Peter Kema, that case and the other recent case in Waimānalo. You know they're saying this will give us the opportunity to sue and ensure the children are not mistreated, so that's moving along and it's a 48 hour notice. So we took a position of support and we know Hawaiian children are in the foster care system and they have been injured in the past.

Chair Akaka recognizes Trustee Ahuna

Trustee Ahuna: Thank you, Chair. I just have a quick question and the reason why I have a question is, in these types of cases sometimes there wasn't a guardian ad litem assigned to the cases, and now we're trying to put another person when there is somebody who should be in there representing the child and that is the guardian ad litem. So for me, they got to fix the system. They got to fix that system first and the only reason

why I speak as I'm a foster parent and they come in to your home and they inspect your home and they speak for the child. So for me I find it very, very hard to add something on so my questions is where was the guardian ad litem in all these other actions? That's all, where is the person stepping up 'cause the state they have somebody representing that child and that's all I'm saying, so I just wanted to make sure. Thank you.

Chief Advocate Kamali'i: Yes, and I'll say, Trustee Ahuna, that is an excellent observation. A guardian ad litem is appointed by the court to represent the child and they they make a report to the court as to what you know, as a child's attorney they are not necessarily the one that's going to take it to civil court or it's discretionary on their part whether or not they should ask and report on the question whether or not it arises to a court, a tort claim. So there's lots of discretion in the system, and this is just a vehicle for those who are questioning whether others exercise their discretion properly or to the full extent that they have when a child is injured and this would occur after the injury. So GAL should be on the spot right to prevent the injury from occurring in the first place. So as you can tell, it's about the system. I definitely agree with you, Trustee Ahuna.

Trustee Ahuna: Yeah, just sometimes if they don't align when the child come to the family, it's like a temporary, they gotta get things to line up and then that's when we find the problems. But anyway, I'll take any position.

Chief Advocate Kamali'i: Okay, we take a position of support. Do you prefer just to comment on it at this time? That's fine.

Trustee Ahuna: No, it's okay. It's really early, we just need a position right now.

Chief Advocate Kamali'i: Yes, we just need a position. Okay, all right. Thank you for the discussion and I would say to the Board the issue of the foster care system 587A, one of our advocates is very much impassioned to take a look at that statute again. So we may have some package bills next year and certainly we're looking into the processes there and how it affects our Native Hawaiian families and children.

Moving on with item number 80, we already talked about that as changing a position from comment to support. It's the same kind of bill. All right, with regard to creating classification of AG public lands entitled kalo lands and appropriate funds to Land Use Commission to create an inventory of lands classified as Kalo Lands. You know, honestly we're taking a position of comment 'cause we're trying to understand this bill, so that's why it's comment. Certainly that might be a change position bill, because it involves classification of AG lands and not sure of the implications on it honestly, to vet it further for the Trustees. That's why we're taking a position of comment. Given all the bills for tracking, this is one of those that whenever seek classification, land use and appropriations in the same bill, we have to take a pause and do make sure that we're covering all the positions properly. So that's why we take a position of comment at this time. Trustees, if you wish to take a stronger position at this time, not a problem. Certainly there's time because it is moving forward. It gets a hearing in the House, which it's likely to get we'll be able to address more strongly what some of the issues are.

Item number 82, SB2828. We've already talked about this bill. The Trustees have expressed a position of support. It is moving over, it's crossing over to the House, 48 hour notice and finally SB3133 relating to disposition of lands by negotiation. This one concerns Chief Advocate because it's a fast track, even though the statute might allow some of these purposes, it's done within the DLNR, so we're opposing it. Certainly if there's any negotiation of leases or rents you know OHA should be weighing in on that. That's our Public Land Trust revenues. So at this point we're taking a position of oppose and I know other Trustees were looking at this bill and there's been other discussion about this bill, but it is moving along, it had a one day notice. It will be moving on to the House, noting that it does take up that 7/1/2050. That's an indication that there needs to be more discussion, but whenever we were in Chapter 171, we need to take a look at anything that affects the Public Land Trust.

I believe I covered everything, yes. Are there any questions?

Trustee Ahuna: Yes, I believe you were going to go over at the end the new bills and I believe you mentioned that you were going to go over the BOE that related to the HB1986, we're going to talk about the Commission and how to support.

Chief Advocate Kamali'i: As I indicated before, we're at the table trying to figure out. The idea is that OHA not stand in the way and be the decision maker of who sits on that board. Because it's the 'Aha's bill. But there was concern on the state side whether or not the Aha would have longevity in terms of being written into the law. So it was sort of, either we do it this way for more discussion or the bill dies, so they just decided they're going to put OHA in there and be an OHA named bill. So we're in discussion now about how and whether that can be done appropriately so that the 'Aha chooses who those representatives are and OHA just sort of passes the names up to be selected and what that language looks like. We're looking at other areas where that type of thing has been done to ensure that the 'Aha is the body that selects the people that are going to be sitting in the seat. I hope that answers your question.

Trustee Ahuna: Perfect, thank you, Na'u.

Board Chair Hulu Lindsey: I just wanted to share that I had a meeting with members of the 'Aha before the Legislature actually opened and they were heavily asking our support for this bill. So I think if we can get the bill passed whether we are involved or not, and they'll have to trust us that we're going to be working with them and really leaning on them to get what they need to move forward. I think if OHA is involved and it'll condition the passage then we should be involved.

Trustee Ahuna: Thank you, Trustee Hulu Lindsey, because I think support with amendments is the correct position to take right now. We need to support our beneficiaries. Yeah, so thank you so much for that 'cause you wanted discussion. I just wanted to give you feedback. Thank you.

Board Chair Hulu Lindsey: Yeah

Chief Advocate Kamali'i: I'm scratching my brain on this one, right. We have a lot of processes that are in place like you know appointment of Bishop Estate Trustees and you know all of these things where our people are trying to take care of ourselves and then you know, the state interjects 'cause they don't feel comfortable even in the area of health when we're looking at who are going to be the traditional practitioners they keep trying to get into that when they have no business as a State of Hawai'i determining whether somebody is qualified, you know as a traditional practitioner, so I see it something like that so I just want to let the Trustees know that we are looking at language and I understand. Thank you for the discussion because the sentiment is if it means the bill dies then perhaps OHA should stay involved to ensure that the community trusts that we are at that seat to be able to pass the name forward. So thank you for that, we can share that with the community as well that it might be either this way or you don't have anyone sitting there.

Trustee Ahuna: We should have a teacher on it too, as well as a member.

Chief Advocate Kamali'i: Okay so this is an area where policy will have to be more adept at, you know, interjecting Hawaiians in positions of leadership, not just being on the table, but in being in positions of decision making with authority and accountability. It's a little different, so thank you very much for the discussion and thank you, Trustee Ahuna, that we go back to that. So those are all the new bills for approved positions that we are requesting.

Board Chair Hulu Lindsey: So do you need an action item, Na'u?

Chief Advocate Kamali'i: I believe yes we do need an action item and perhaps Ka Pouhana and Chair have some recommendations for action item.

Trustee Ahuna: Chair, I Move to approve Administration's recommendations on: **NEW BILLS (Items 73 - 83)** as listed on **Matrix 3 -- Measures Affecting Native Hawaiians** – dated March 8, 2022, along with the following revisions:

BILL POSITION CHANGES:

- HB1986 from SUPPORT to SUPPORT with Amendments
- SB2172 from COMMENT to SUPPORT
- SB2600 from COMMENT to SUPPORT

Board Chair Hulu Lindsey: I second

Chair Akaka: Mahalo, Board Chair. Any discussion members? Seeing none, Brandon, can we please have a roll call vote.

							11:03 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA	1		X			
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY		2				Lost connection to Zoom
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				5	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chief Advocate Kamali'i: Very briefly with Matrix 4, you've all been handed out that matrix which represents all positions. We do not make any recommendations with regard to this matrix. In the past, Trustee Lee had a few that he would like us to adopt change positions. So at this point, really it's about whether or not the Trustees, having looked at Matrix 4, whether or not they have any change position. Aside from that, we are gleaning through all of the measures of House and Senate that are making its crossover into the various bodies and we will be able to report back either next meeting or the meeting thereafter with regard to change positions that might be reflected in Matrix 4, but nothing at this time.

Chair Akaka: Mahalo, Na ‘u.

Chief Advocate Kamali'i: So the question is are there any change positions?

Chair Akaka: Members any discussion, any change positions? Seeing none.

V. EXECUTIVE SESSION

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

NONE

V. ANNOUNCEMENTS

Chair Akaka: I would like to start off by making note of the press release, the statement by our Board Chair Hulu Lindsey. Mahalo nui to our Chair. The incredibly good news of the Secretary of Defense Lloyd Austin's decision to direct the Department of Navy to defuel and shut down the Red Hill bulk fuel facility. This is amazing news Members and our work continues, the tireless efforts of many. It is noted and we mahalo nui everyone for protecting our life source. E Ola I Ka Wai.

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Trustee Waihe’e: So moved, Madam Chair.

Trustee Ahuna: Second

Chair Akaka: It’s been moved and seconded. Any other discussion members? Seeing none, can we please have **roll call vote**, Brandon.

							11:08 a.m.
TRUSTEE		1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA’ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI’I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI’ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY						EXCUSED

JOHN	WAIHE`E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				5	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **11:08 a.m.**

DRAFT

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

March 22, 2022 9:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Luana Alapa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Santos, Dan, IT

EXCUSED:

Trustee Brendon Kalei'aina Lee
Trustee Leina'ala Ahu Isa

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, March 8, 2022 to order at **9:05 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (9:05 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	EXCUSED	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	EXCUSED	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SIX(6)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

V. EXECUTIVE SESSION (AGENDA ITEM TAKEN OUT OF ORDER)

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

Chair Akaka: We will be moving the Executive Session up to the top of this agenda. Can I please get a motion to recuse ourselves into Executive Session pursuant to HRS§92-5(a)(4).

Board Chair Hulu Lindsey: So moved.

Trustee Waihe'e: Second.

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have roll call, Brandon.

							9:11 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

The BAE Committee recuses into executive session at 9:11 a.m.

The BAE Committee resumes open session at 11:04 a.m.

III. UNFINISHED BUSINESS

A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474, SB2121/HB1473, coordinated advocacy - Matrix 1**

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Chief Advocate

Chief Advocate Kamali'i: Thank you very much for that discussion with regard to the Public Land Trust Bill, which is now moving through the Senate, through the House SB2021. For Mililani, I'll just review for you how we proceed through this part of the agenda. There are matrices which are mentioned in unfinished business in the agenda, Matrix one through four. Each of the matrixes address particular area, although all of the bills are reflected in what we call Matrix 4. So Matrix 1 being the OHA Legislative bill package, #2 being the OHA named bills, #3 being those positions and related measures affecting Native Hawaiians. At this point in the legislative session, there were many bills that had died. There were some bills that changed position and there are many that are ongoing that Advocates are actively testifying on and will be testifying on today as well as throughout the week 'cause there's so many. So the way we typically start is to review the calendar, which is before you. The calendar showing that today is March 22nd. The week prior we had on the 17th, triple referral filing bills. That was a filing deadline. We have coming up the second lateral filing and 2nd lateral. This is a critical week. Many bills need to be heard this week or they will not survive. So there are many hearings being held, so that's in review of the calendar.

Going forward, I'd like to propose when we get to Matrix 3. Just think of it, Trustee Akaka, Chair. If we could move very quickly to the new bills, just think about it rather than review the positions which we have gone through and the Trustees can look up the current status of the bills that are on the third matrix, but just consider that when I get there, I'll ask the question again.

Okay, so let's move to Matrix number one, which is the OHA package bills. In matrix number Trustee Ahu Isa had worked to revive what is SB2021, that has to deal with the environmental review. That is the only one you know, it's got a triple referral, but I'll just say we've experienced re referral as a way of keeping these kind of bills alive. So at this point it has not survived the triple referral deadline and as we note, it's companion in the House 1473 has died. We look at our bills as introduced initially and we've discussed that already this morning HB1474 and SB2122. Both of those measures were deferred in the House and the Senate, so they have died. So essentially our OHA package bills did not survive.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

We can move on to Matrix 2. These are the OHA Bills where OHA is named and we had just talked about Mauna Kea, so that is being heard. It was referred to WAM on the 11th, but that is being heard this afternoon.

Also note for Mililani, there is a delay, so you will see the in the matrix that you receive. These are updated or the status is updated as of the date that we submitted to Trustee Akaka's staff for transmittal in compliance with the Sunshine law, so that's why the dates or what you see are gonna be old and so we try to update it. But basically we know Mauna Kea is being heard this afternoon at 3:00 o'clock and we had some discussion on Mauna Kea.

With regard to HB2311. Now I have to go to another source to get that update. Just give me a second.

Ka Pouhana Hussey: Chair Akaka, may I ask while Chief Advocate is finding her reference point that I just wanted to let the Trustees know that on HB2024, the HD1 version, the comments that OHA has submitted is summarized in a number of points. One is the authority continues to be still placed with DLNR and we have concerns the composition of the working authority has included now the University President as well as recommendations for the observatories, and we are concerned with placements of those physicians in the authority. We also comment on the language in Section 8 of the Public Land Trusts, as well lands transfer of the lands out as well as we have comments on the nomination process of the seating of the authority seats, as well as consultation with the Native Hawaiian organizations. Trustees were provided with the testimony that we have, but we wanted to bring on record those points of comment that we have in our testimony that's filed.

Chair Akaka: Mahalo

Chief Advocate Kamali'i: I just say we continue to show 2311, it really should be removed. It it's dead, but the it's companion, SB27770 that is still alive and having testimony this afternoon as well at 2:00 o'clock. So further in the calendar for this afternoon's hearing will be the companion of 2311 relating to Native Hawaiian rehabilitation programs, so we've really supported that. The House version died. I am not sure why it says name, but the Senate version is still very much moving forward.

So I'll skip over the dead bills, but relating to federal lands that's dead. Relating to historic preservation. That is 2414. Those historic preservation bills is a group of them that have continued to move forward. It was referred to JHA on Monday and it did pass out of committee with amendments. If we want to just keep moving 'cause we spent a lot of time this morning. Otherwise, if Kamakana is still on he can report out on what happened to 1411. Ka Pouhana?

Ka Pouhana Hussey: Maybe we can continue on and I'll go secure Kamakana.

Chief Advocate Kamali'i: Alright, we've also covered fairly extensively SB2021. That's for hearing this afternoon, which is the ceded land trust bill. I mentioned 2770, that's moving along. 2853, that one is dead, next one is dead and finally relating to the Board of Education HB1986, this is the 'Aha Kauleo Bill. I'll just say we've met with them. We've had a presentation with the 'Aha. OHA is prepared to present testimony in accordance with what their wishes are as we work together with regard to providing the name of, or at least requiring that at least one at large member of the Board of Education via Hawaiian immersion expert. It hasn't been given a hearing, so that's the work, so we'll see what happens. However, we understand that in the Senate that will be an uphill battle, but we are still, you know, continuing to work to try to get a hearing on that matter. So those are the OHA named bills so far.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Alright moving on to what is Matrix 3. So again, Mililani, the first part of the matrix on the far right there is the word approved. What that means is that the position is approved and at the end of this matrix are those bills which are considered new or don't have approval to be able to go in and submit testimony. I'll ask Ka Pouhana again, or Trustees, in the interest of time do you wish to for us just to get to the new bills? I'll say also that in

terms of the status, Trustee, we've tried to make it very easy for you to simply click on the hyperlink and you can easily find out what the current status is. So I guess I'm asking in the interest of time because there's several of us who need to testify today. If it's okay to just move forward to the new position.

Ka Pouhana Hussey: And then, Na'u, I believe Kamakana is on for updates on that one bill.

Chief Advocate Kamali'i: Okay, Kamakana do you want to just report since you're here?

Lead Compliance Specialist Ferreira: What bill are we discussing at the moment?

Chief Advocate Kamali'i: I believe it was 1411.

Lead Compliance Specialist Ferreira: So yesterday, it looks like actually it passed yesterday. We offered testimony in support. They suggested some non substantive changes. They want to better integrate the concept of pre contact historic property throughout the statute, but it doesn't change any of the other stuff that we're supporting, so actually kind of pleased to see that it made it through.

Chief Advocate Kamali'i: Okay, thank you very much. So as we move forward just to the new positions that will be items #45 we've discussed which is SB2021, and the complexity there. Item number 46, HB1635. At this point the team did take a look at those bills that survived the crossover and also community calling advocates to support measures that survived, but in the past, you know, maybe we've been monitoring and so this is why these these positions rise. Again, the actual status I'll report on but I'm going to go very quickly again through what these bills represent and the request for the position. Mililani the request for position is just that, a position. Then with the position. So for example of support, then the Advocates go back and craft the testimony in support. We don't necessarily share that with the Board because there's just work that goes along with that, and it's ongoing.

So relating to healthcare HB1635 that establishes a rural health task force within the Department of Health to prepare and develop solutions to make recommendations on registered nurse recruitment, retention, rural areas, Maui, Moloka'i, Lāna'i requires several health expert to submit a report and findings. The team wanted to support this because it always a good thing when we have more data to support more nurses and doctors in our neighbor islands and rural areas and that will help to get funding when there is a task force report. That matter was heard yesterday and moved along. The Committee on Health recommended passing with amendments. So the position for support, new position on that bill is support.

HB1754 relating to adult dental Medicaid benefits. Again, our Advocates that have been looking at these smaller bills which provide benefits and services to our people. This one would appropriate funds to restore diagnostic, preventive and restorative dental benefits to adopt Medicaid enrollees. There's always been a problem in health, how to provide funding on dental health. As you know, serious dental health is a medical condition and that's when it gets covered. But you know, restorative diagnostic and preventive typically isn't covered so that matter Committee recommend the measure passed and that was on 3/17, so we're just following the current status. However, for dental health, requesting a position of support.

HB1777 relating to commercial exploitation of children that requires the Department of Attorney General to provide annual reports to the Legislature on available data pertaining to commercial sexual exploitation of children. This has been just a very unfortunate large issue and our local kids are being kidnapped so we had watched this bill. We're now that it's crossed over, requesting a position of support. It did pass out of JDC. It passed with some amendments, however it is moving along, so we're asking for a position of support. Relating to homelessness. HB1797 that establishes DHS three year medical response pilot program. So these pilot programs you know we just see them as a good thing with the data that comes out of it, we're able to look at gain more information about how best to serve the homeless. The report on the Senate side was adopted.

It passed second reading, so it's sitting there, referred to a double committee, so it's still alive. We asked for a position of support.

Relating to student transportation. This has been an issue in our communities, HB1942 requiring the Department of Education to establish a tiered student bus fare system to include free bus passes for students and households that qualify for free and reduced lunch under the free and reduced lunch program. It's appropriating funding. I know there is some caution about, you know, supporting bills that appropriate funding. This one we're looking for a position of support. Our people have a hard time getting kids to school paying for buses, paying for transportation. That's a barrier to education and we know how important it is also to have free lunch programs. But this at least gives a way to evaluate whether or not a student would qualify for a particular tier of bus fare, we thought that would be a good thing to assist our 'ohana and bussing our children to school. So 3/14, Senate Committee on EDU deferred the measure until 3/23, so we're going to see what happens with that. This is 22nd. 23rd is tomorrow. We're asking for a position of support.

Relating to cesspools, HB2195. This you know it does matter in those communities were successful, you know compliance and pilot programs help us to understand the situation. This one establishes a fiscal compliant pilot grant project to assist low and moderate income property owners including lessees of Hawaiian Homelands with the cost of upgrading, converting or connecting cesspools. This has risen in the community. We've heard, gotten calls about this to support this bill. So position of support is requested. Again, this one has been scheduled for public hearing on the 23rd, so we have time to submit testimony, this being the 22nd. I believe somebody has already written testimony with your approval. We're trying to just get that submitted. So position of support requested.

HB2293 relating to health. It establishes the Prevent Suicide Hawai'i Task Force to develop recommendations to the Legislature to reduce suicide by 25%. Again, it's another one of those task force type of bills and we support that getting data information. Committee on Health scheduled that matter for this afternoon at 3:20 p.m. Position of support.

Relating to the women's court. There were a number of bills that came out this year regarding women's prison, women's programs and this a women's court. All of that in recognition that the treatment of women who are incarcerated and dealing with women in the Judicial system have different consideration. So this one establishes a three year women court pilot program within the Judiciary. We support that, but also noting that this is an appropriation type of bill which would assist the Judiciary. Every time you have a specialty court that is established it takes more positions that are tied to that specialty court, such as kids court, girls court, below 3 court, but they were all very effective in treating that particular population. So this committee, JDC amended the measure. It passed and so it's still alive, has a single committee of WAM to go through. We request the position of support.

HB1294 relating to Medicaid benefits. That's another appropriate funds to reinstate a basic package of diagnostic, preventive, and restorative dental health. Again, we keep running up to sort of appropriation type bills, so there's discussion regarding that, but we see that these are good to support. It's not asking OHA to provide any appropriations, rather its appropriations for the particular purpose in this case, basic package of diagnostic, preventive and restorative dental health. So that one is Committee on HHS recommended measure be passed and so it's moving on to Finance, we request the position of support.

Relating to genetic information and privacy, SB2032. Establishes the Genetic Information and Privacy Act. You know, there was a time and we know indigenous peoples where we were tested, our genetic information was sold. I recall working for years with Trustee Trask on this type of genetic information issues. In this case, it's to establish the privacy. Requires direct to consumer genetic testing companies to adhere to certain requirements pertaining to the collection, use, and disclosure of genetic data. There's been abuse in this area just for years. So we support that bill, scheduled to be heard this afternoon at 2. Again, many bills are heard this afternoon because of the deadline that I had referred to earlier in the calendar.

Relating to correctional facilities, SB2269. Authorizing the Governor to negotiate with any person for development expansion of private in state Correctional Facilities. Prohibits the establishment of private correctional facilities within the state. These bills all come under a sort of an effort to address a correctional system, although it does allow the Governor to enter into a contract or private entity construct, correctional facilities, or public or private lands for the benefit state. So it does repeal authorization of the Governor to enter into a contract with the private entity for the lease or purchase of correctional facilities. It's still moving. It looks like it could be deferred. It had a triple referral, but at this point it's probably not gonna survive unless the referral changes. So, however, Advocates were putting forth a position of support.

SB2280 relating to general assistance, a lot of dental bills. Allows dental assistants to perform limited duties under the general supervision of a licensed dentist, this is sort of in the area of where we had nurse practitioners who were allowed to have certain extending to them certain duties, so long as they're under the supervision of a doctor. Now this is the same trend within the dental office. We have a position of support, Committee on CPC recommended that measure be passed and so it's moving along. CPC, next committee as Finance, so that's still potential to move along.

Relating to offender reentry, SB2373, establishing a position, appropriates funds for a program named Project Reset which will help offenders secure post release housing. Again, this effects many of our people. They get released. It's difficult to find housing, so anytime there's a connection to these types of program, it's really helpful when government funding supports the housing so that they're not rendered homeless and then recommit. So we looked at a position of support. Bill was scheduled to be heard this morning, but this is by HHH, so depending on what happens it could move along to Finance. We have a position of support.

Relating to wellness, SB2482. That temporary establishes an Office of Wellness and Resilience within the Office of the Governor. Yeah, these are all the health type bills. Authorizing the Office of Wellness and Resilience to address issues and implement solutions to improve wellness and resilience, we're advocating a position of support. That particular bill moved past CPC unamended, and is moving to Finance.

SB2612 relating to environmental sustainability. Again, this is another pilot project. Establishes a reusable utensil pilot project in the Department of Educational Schools on Moloka'i and it requires the DOE to submit an interim report. We have a position of support for the pilot project. The bill was scheduled to be heard this afternoon at 2.

SB2677 relating to homelessness, reestablishing long term rental assistance pilot program to be administered by HPHA for individuals 62 years of age or older. Again another pilot program to look at how to address homelessness of those who are are aged, position of support. That bill as well is scheduled to be heard this morning. So I don't know what the outcome of that is, but we'll take a look at it. It will move to Finance and so the opportunity to support that if it moves along.

Relating to Family Resource Center SB111. Establishing a Family Resource Center pilot program. Another pilot program within DHS. Establishing a, you know, paying for a person for the pilot program and a resource coordinator. I don't anticipate OHA will be requested to pay for any of these services. But again, this pilot program to solve a problem, Advocates are advocating for a position of support. So again, that bill was heard this morning at 9:30 a.m., however, if it were approved, it would pass along to Finance.

Relating to homelessness. SB3168 extends a sunset date for 'Ohana Zones pilot program. The pilot programs offer study ideas whether or not these programs can sustain themselves and actually assist in adjusting homelessness so we support as well. That matter passed out of the joint committee and is headed to Finance. SB3190 relating to fish hatchery education, establishing a native fish hatchery pilot program at Wai'anae High School. These are great or awesome. Continuing to perpetuate Native Hawaiian practice with fish and hatchery programs and if these things are successful, they tend to adopt and spread to other other schools and

other communities. We took a position of support. It as well was to be heard this afternoon at 2:00 and if it passes it will be moving on to Finance.

And finally, SB341 relating to kalo, establishes an exclusion from the state income tax for an unspecified portion of personal income. We had talked about this bill before. This version is the Senate bill. For this particular bill, there were a number of bills that were floating around that were changed to not to support income tax support, but GE tax. So one of our Advocates is watching these tax bills, but they are all in favor of the kalo grower and so we have a position of support. It's recommended to one committee and then onto Finance, so I have to check if this one actually died, but we'll see. Yes, it died. Measure recommended that be deferred. So this measure did die. What we did see with these kalo income tax bills is that the Legislature did not want to touch it. Instead, they were willing to provide some GE tax relief for the growers. So that would be that for Matrix 3, requests would be to approve the new positions. Just to note that Matrix 4 continues to reflect all the positions that we're watching, including support, oppose and monitor. So that is the larger group, if you wish to change a position on the Matrix 4 that would need to be made by a Trustee, Trustee Trask highlighting a bill that's on Matrix 4 that does not have a position. So that's the fast go through everyone.

Chair Akaka: Mahalo, Na'u, any discussion members? Seeing none. Do we want to put up a motion.

Trustee Waihe'e: Madam Chair, I'd like to **move to approve Administration's recommendations on new bills, items 46-65 as listed on Matrix 3, measures affecting Native Hawaiians dated March 22nd, 2022, along with the following revisions: Bill position changes SB2021 from support to support with amendments.**

Board Chair Hulu Lindsey: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon can we please have a **roll call vote**.

							11:37 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY		2	X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chief Advocate Kamali'i: Okay, moving on very quickly. That was Matrix 3, Matrix 4 as I indicated I'm not going to go through the matrix. It does show all the various positions. If a Trustee has a change position this would be the time to raise that otherwise it's you know it's the larger pool of bills that we continue to monitor. As you can see we were monitoring a lot of these bills last time and they have resulted in change positions that you just approved. So Trustee Trask, that's how we look at this Matrix 4. Some Trustees have highlighted bills that we had not highlighted and we did adopt those change positions. So are there any change positions from the Trustees on Matrix 4? Okay, I don't hear any change positions. Thank you, Trustee Akaka, that would I guess conclude Chief Advocate's report for the matrix.

V. ANNOUNCEMENTS

Chair Akaka: Are there any announcements members? I know we have a RM meeting coming up today.

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Board Chair Hulu Lindsey: So moved

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon can we please have **roll call vote**.

							11:40 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **11:40 a.m.**

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

March 29, 2022 10:00 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Luana Alapa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Aguinaldo, Arlene, IT
Nakama, Erin, IT

EXCUSED:

Trustee Brendon Kalei'aina Lee
Trustee Leina'ala Ahu Isa

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, March 29, 2022 to order at **10:00 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	EXCUSED	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SEVEN(7)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair, we'll go ahead and have Chief Advocate go ahead and walk us through schedule, Na'u.

Chief Advocate Kamali'i: Thank you very much. Good morning Trustees. As usual, we'll take you through the session calendar. Today being March 29th, we see that we are nearing the end. We have about a month to go, but at this point we are seeing many bills that are going through their last and final committees, either WAM or Finance. Also as noted on the calendar, first lateral Senate concurrent resolutions today. First lateral filing House concurrent resolutions and also the 31st being House lateral concurrent resolutions. When we look at the first crossover deadlines next week, the 6th and the 7th just to be mindful that those are resos. We have a little bit of time for those that are looking for their final hearing. Noting that second decking bills are on the 8th, so we are actively working for example on our PLT bill as well as those that have survived the crossover and will be moving forward. So in terms of the resolutions, this has been our first discussion regarding resolutions. Hopefully we'll try to consolidate them. Many of them have companions, to the extent that I'm able to address the companion. We'll just skip over it because it's the same as the initial explanation on the first companion if that makes sense. So if we have a House concurrent resolution, a House resolution may have a different number, but it's essentially the same resolution, so we'll try to get through the resolutions quickly. But just in requesting your indulgence 'cause this is the first time that we are speaking to resolutions. We'll go through the matrixes as we have in the past because we do have some Public Land Trust considerations with regard to our Chair may wish to go into executive session, defer to obviously the Chair to call for that, if that is necessary. So we can go to our first matrix, which is Matrix 1 and Matrix 1 we know at this point in time that all of these bills have either been deferred or died. However, the most important being SB2122, rather than wait until Matrix 3, I would request that we speak to the Public Land Trust bill, which now has a number of SB2021. Chair, is that appropriate at this time? It is not listed on the Matrix, but it is what is surviving with regard to Public Land Trust.

Chair Akaka: Mahalo, Na'u. I also want to share to the Members that the Committee folder was distributed within the 72 hour deadline for Board materials, thereby requiring a waiver of the 72 hour deadline for Board materials.

Chief Advocate Kamali'i: So my question Chair, may we address the Public Land Trust bill which is not included in our package but is relevant to the issue? Or do you wish to wait till Matrix 3?

V. EXECUTIVE SESSION (AGENDA ITEM TAKEN OUT OF ORDER)

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

Chair Akaka: No, I think that would be good, can I please get a motion to recuse ourselves into Executive Session pursuant to HR Section 92-5.

Trustee Waihe'e: So moved, Madam Chair.

Trustee Akina: Second, Madam Chair.

Chair Akaka: It's been moved and seconded. Is there any discussion Members? Seeing none, can I please have **roll call vote**.

							10:08 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA		2	X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY			X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

The BAE Committee recuses into executive session at 10:09 a.m.

The BAE Committee resumes open session at 11:52 a.m.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Sure, I'm just confirming that Chief Advocate is logging back in. We'll go ahead and have Na'u continue with our matrices.

Chief Advocate Kamali'i: Alright, thank you very much. As we took Executive Session at the close of review of Matrix 1 in which all of those OHA package bills did not survive. We'll move on to what is Matrix 2 or what is known as OHA named bills. And at the onset of Matrix 2, we are looking at what is relating to Mauna Kea HB2024. Discussion in Executive Session, the position at current is comment. Chair, how would you like to address the comment potential change? Or Ka Pouhana, if you would like to lead into discussion regarding this bill.

Board Chair Hulu Lindsey: I'd like to make a **motion to change the position of the Board from comment to oppose.**

Chair Akaka: Is there a second?

Trustee Trask: I'll second

Chair Akaka: It's been moved and seconded, any discussion members? Seeing none if we can please have a **roll call vote**, Brandon.

							11:53 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK		2	X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chief Advocate Kamali'i: Alright, thank you very much. So noting then the position of comment by the Board has been changed to oppose for HB2024. Moving on to HB2311, relating to Native Hawaiian rehabilitation program. This matter took a position of support. Just to note for the Board that any appropriations for this measure would be provided to Public Safety. In that this involves the prisons and OHA would consult with

Public Safety regarding programs of preserving Native Hawaiian values and cultural practices. This bill continues to move along. It has not died and we have a position of support.

Relating to federal lands. HB2327, that also is an OHA named bill. I do note that this one appears to still be. This bill is actually dead. It's dead 2327, apologize for that. SB1411 is most certainly alive. We have Kamakana who may testify or to submit his the current status with regards to this bill, Kamakana.

Lead Compliance Specialist Ferreira: So yeah, we've been tracking this bill since it was in the Senate, in gaining widespread support, I think it's final hearing, I think to be heard on the 31st at the House Committee on Finance. So we're still standing in support. There's been some minor suggested amendments that are non substantive, and so I think this has a good chance of actually making it to the Governor.

Chief Advocate Kamali'i: Alright, thank you very much, Kamakana and I'll say he continues to diligently testify in any bills regarding preservation or iwi kupuna. With regard to SB2021, our PLT bill. Refer back that this current position is support with amendments. Being that there was discussion, any change position on this bill?

Board Chair Hulu Lindsey: Madam Chair, I'd like to make a motion that the Board of Trustees change the position to comment.

Trustee Waihe'e: Second

Chair Akaka: It has been moved and seconded. Any discussion members? Seeing none, Brandon, can we please have a roll call vote.

							11:57 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chief Advocate Kamali'i: Thank you very much on that position. Support with amendments has changed to comment. With regard to SB2853. This is the rehabilitation program bill. It's the companion to the one that I just discussed, a position of support. SB2853, relating to Government Accountability and audit. Requires report, study and audit. This has been referred to WAM. This would have died as well. I'm sorry, there's a little bit of confusion on this particular matrix, so I'll just move on.

I apologize, moving on SB3279 relating to Community Development Authority. We took a position of comment. This is another one. I'm sorry this is as of 1/28. It appears that this one as well got mixed into it, a monitored bill, I apologize. Move back on to SB3279 relating to Hawaii Community Development Authority. This one having a position of comment. 3279 is also dead. Finally moving on to 1986. I'll just pause a little bit, although we know that this bill did not survive. This was the 'Aha Kauleo Bill. We had worked with the 'Aha to try and see if we could get a hearing on this. It was just a strong position of the Senate. But they would not move this forward further. So it doesn't mean that this effort to ensure that you know that we have at least one at large member board of education, you know, be of Hawaiian speaking, etc. It just means that it's not going to pass now, so I'll just tell you that we the Advocacy will be taking a look at all the alternatives to accomplish this goal. It's my understanding that somebody of Hawaiian speaking is currently on the board, but the concern is that that person may fall off that responsibility, so we'll keep working to ensure that. That this goal is accomplished either by legislation or by other means, it's very important to the community, and certainly very important to the Office of Hawaiian Affairs. Okay, that is Matrix 2 and that is done.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: So moving on to what is Matrix 3. Just noting again, the Matrix 3 contains the support of the boards. There are new positions. Again, in the interest of time, we could move through the updates and go to the change positions, some of which we have already done. Being that we've been at this for a couple of hours, and all of these bills are familiar to the Board, if I could seek some guidance from the Chair with regard to the bills.

Chair Akaka: Can you please repeat that, Na'u.

Chief Advocate Kamali'i: Typically what happens is we bring these matrices to the Board to gain the positions. There are several positions that have already been approved by the Board. We've discussed some of them, which are change positions and we have others that are new bills with new positions. To move this along, if the Board is comfortable with the updates, which they can easily look at themselves, then I can go to the business which is to look at the positions, either change or new with regard to the bills that we have been tracking since the beginning. What is your pleasure to move it along?

Board Chair Hulu Lindsey: Madam Chair, may I suggest that the bills that have no changes, we just move past it.

Chief Advocate Kamali'i: Okay, thank you. With that guidance I will move through, and what you would be looking at is far to the right of those positions you see the word under position, support, etc. One column over, you'll see the word approved. So what I'm going to do is move through those positions that have been approved. Certainly we have addressed a couple of them, i.e., Mauna Kea, which there was a change position from comment to opposition. We've also addressed SB2021, which has moved from support with amendments to comment. So Trustees just glean through this. We are moving through the updates of the approved bills and quiet so you can look as well.

At the end of that list, item to the left #61, which is Bill HB1459. We had an initial position of comment, excuse me of opposition and that is because the Prosecutor's Office was moving forward or using this measure to mandate a fine. Through successful advocacy and we did a blast on this as well, i.e., others became more informed and also the testimony of the Judiciary to explain that a change in the law was needed so that they could order juveniles to either A. pay a fine and or B. do community service. In the past Judiciary had discussion only to engage in one position. So because that bill has moved along and that new version of the bill is now what is passing through the Legislature, we are requesting a change position from opposition to comment. It's item 61.

Also change position item 62, relating to the underground storage tanks. We are also moving from support to comment. This has moved out of committee. These are the permit bills and I guess because of the complexity of the permitting process, we felt it better for us to comment on the permit process rather than to take a support. Support on the measure itself, i.e., to take a step back and take a technical position, and so we're requesting that we be able to change position from support to comments.

The next one is a new position, HB1403. This is regarding an alternative route site selection or survey in Puna. You know, we're looking, when you build roads and you know you have alternative paths. There is input from the community and our advocates on Hawai'i Island are looking at this bill and they wish to have the ability to comment on it after having talks with the community. The route directly targets communities of homesteads of Pana'ewa, suggesting a highway through DHHL Pana'ewa residential homestead, potentially having negative effects to the community. So we wish this be a new position of comment. HB1403, item number 63.

Item number 64, relating to abandoned vehicles, you can guess what that has to do with. It's the ability of us to ensure that you know our process well. It's proposing a process that you know. People pay to remove those abandoned vehicles and that it would be tied to their license or registration. So the bill would find the registered owner of the abandoned vehicle because the idea is that it would act as a deterrent and prevent that from happening so. Being that you know this affects the 'āina, we would like to take a position of support.

Relating and so we have HB1413, HB1414. Somewhat in the same vein regarding abandoned vehicles, this bill is acting as a deterrent and holding the owner responsible. We're asking for a position of support. Relating to general excise tax exemption, tax exemption changed in the Senate from only on food and medicine so OHA probably should support. We are tracking this one because it's great if general excise tax flows you know in our favor. So the Advocate reviewing this is recommending a position of support.

Regarding sustainable food items, HB2431. We're asking for a position of comment. This again is establishing a working group within the Office of Planning and Sustainable Development, requires the working group to submit a plan. Any recommendations for a plan. Any proposed legislation, etc. So food and food sustainability being very important, we're recommending a position of comment on this particular measure.

Relating to public safety. Mandates that there be a community based work furlough program for incarcerated women in the state. We've been tracking a lot of the women bills. We took a position of support. Public safety is affirming the importance of the work furlough programs. There are a number of points including you know designing programs to address the needs of women. Developing and determining the type of education, etc. I note that these are, you know, very specifically targeted to women and people are in favor of that. We're looking at all of those measures in support.

The next one regarding to Pauahi Bishop Museum. You know they're asking for support. It essentially is an appropriations bill. I know in the past it's been indicated that OHA doesn't support these types of bills, because then people will be coming to us, but we felt to raise the issue with the Board because many of our items. Our funerary items, our histories, our policy at the museum. So Board just take note if you don't wish to support and

you know because of the issue of appropriation. Please note how you may wish to vote on this matter. So we thought it was important because many Hawaiian things are there.

Okay relating to re-entry planning circles. Again this is along the lines of incarcerated women bills, now this again is appropriating money. Not that we would be responsible for it, but that money needs to be appropriated for the planning circles for incarcerated women. So just to note we would like to see the money appropriated for this purpose, so that it happens, and we see that as positive for our community.

With regard to corrections, item 72, SB3295, this is again, there's quite a few of these bills that we've identified this session. This is another women's corrections implementation type of bill implementing a Commission within the Department of Public Safety. With regard to community corrections centers that incarcerate women, we've taken a position of support. It is moving on to Finance on March 31, so with that position we'll be able to testify in this bill.

And then finally with regards to Kalaupapa, we advocates, we sort of tossed this around but Kalaupapa is such a special place. This particular bill, SB333 relates to a memorial and it appropriates funds for design, planning and construction of a memorial. Normally again, OHA does not get involved in appropriations but we wanted to raise this to the attention of the Board to see how they would feel on this particular expenditure, which is for a memorial on Kalaupapa. So there would be an appropriated out of this year's 22-23 Legislative Session, monies to design, construction of the memorial on Kalaupapa. So those are the new positions on Matrix 3.

Chair Akaka recognizes Board Chair Hulu Lindsey

Board Chair Hulu Lindsey: I'd like to make a motion that the Board accepts the recommendation of our Administration to accept the new positions that we're taking on the bills on Matrix 3.

Move to approve Administration's recommendation on new bills. Item 61 through 73 as listed on Matrix 3. Bill positions related to measures affecting Native Hawaiians dated March 29, 2022, along with the following revisions: Bill position changes, House Bill 1459. From opposed to comment. And Senate Bill 2600 from support to comment.

Trustee Waihe'e: Second

Board Chair Hulu Lindsey: I thought I saw more than these two bills.

COO Brown: Yes, we need to add the 2024 and the 2021 which arose during this meeting.

Chief Advocate Kamali'i: Change position for 2024, is change position from comment to opposed, change position for SB 2021 the PLT bill from support with amendments to comments.

Ka Pouhana Hussey: And the Board already took action on that right in separate motions.

Board Chair Hulu Lindsey: On the first one. Oh yeah, we took action on that so we can take that off.

Chair Akaka recognizes Interim General Counsel Ohta

Interim General Counsel Ohta: I don't believe the Board took. I'm sorry this committee took action regarding HB2024 and SB2021. Oh, I see in the earlier part of the motion on the Matrix.

Ka Pouhana Hussey: They were separate motions right. Two motions that were made before the matrices started to be covered.

Interim General Counsel Ohta: Okay, I stand corrected.

Board Chair Hulu Lindsey: So I think somebody seconded me after I (inaudible).

Chair Akaka: Is there any discussion members? Seeing none and I just wanted to clarify if we would need to bifurcate the Bishop Museum bill, as my father sits on the Board. That wouldn't be of conflict because it's not.

Ka Pouhana Hussey: Everett, could I ask you to provide some guidance. I know when we do grants you provided some guidance for the Board when it came time to declaring.

Interim General Counsel Ohta: Chair Akaka, I guess to your issue that you raised, your father's membership on the Board of Directors for the Bishop Museum does not create a conflict of interest under the ethics code that would prevent you from taking such a vote. However, you can recuse yourself and bifurcate the motion if you so choose, so it's not under the ethics code, something that you would be prohibited from voting on, but you can choose to do so if you wish.

Chair Akaka: Mahalo, I wanted that confirmation that it would not be of conflict with ethics. Brandon, can we please have a **roll call vote**.

							12:18 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chief Advocate Kamali'i: Alright, I'll jump right in there moving along what is considered Matrix 4. Matrix 4 as it is the sort of all encompassing matrix where Advocates have been watching the bills, which does include all positions including also the monitor bills. If we continue to post this and you receive copies of this, so that if you see that a monitored bill should rise and there should be a position on the bill upon which the Advocates can take a position then we will and so that's what it stands for. You can see that it is being monitored and there are updates to that as well. I keep reminding Trustees that to get the current update you can click on the hyperlink, even while we're talking and see what the update is on any of these bills. I would take a pause to see if there are any measures that are on Matrix #4 that Trustees wish to change position.

Board Chair Hulu Lindsey: Na'u, I hate take you back to Matrix 3, but I'm almost positive we did not approve all the positions because I saw more than four new written on the side, but we only approved four position changes.

COO Brown: I can add something, Madam Chair. Chair Hulu, the language included an item number range and that item number range covered all of those new positions you're referring to.

Board Chair Hulu Lindsey: Okay, thank you. No, I don't see any questions on these. Actually, Na'u, I want to really thank you for passing all those women in prison project bills for our review and position taking because it does affect 40% of the women in prison are Hawaiian women. You know, in our population in Hawai'i, Hawaiian women is only 20%. So for them to be 40% in the prisons, we should be concerned and we should be helping them. So thank you for that.

Chief Advocate Kamali'i: Thank you Trustee, I have to thank the team as well. This is in our you know aligns with our strategic plan and looking at 'ohana as you know this year or I don't know, but this session we looked at juvenile justice bills, we looked at and some of them won't come up in the resolutions but we're looking at all those aspects of incarceration. If a mother is incarcerated, then you wonder where the children are. Maybe they're in foster care because of that and OHA's going to take a comprehensive look at the system that way. So we do know as well that with tribes or an Indian country they have the ability through their tribal courts to address some of this, so we're taking a look at the entire system that way. That'll be the future. So thank you very much for that comment. It means we're headed in the right direction.

E. 2022 OHA Legislature Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – Matrix 5**

Ka Pouhana Hussey: Trustee Akaka, could I just contextualize Matrix 5 for Chief Advocate and being mindful of the time the Committee has already invested in looking at that. As you know, Matrix 5 is all of the matrices, all of the resolutions that have come across, there are 100 lines and I want to be sure that the Committee's time is focused on the most important issues, which are positions that Administration has brought forward lines 1 through 61 are all support positions, so we would recommend that the Board take a look at and see if any of the those resolutions on lines 1 through 61 can't be supported. Or you know, just have a lot of heartburn about that and then take those. Otherwise, we would recommend that the committee you know support lines 1 through 61. You then note lines 62 through 100. Because they have other statuses that from monitoring to highly monitor and again, if there's any heartburn in those positions to then advise Administration so that Administration can do the due diligence necessary for the Committee to respond to that at the next BAE meeting. We just want to be sure that the Committee's time is efficiently focused, so with that I'll ask Chief Advocate Na'u to entertain any questions by the Trustees of lines 1 through 61, which is all support positions.

Chief Advocate Kamali'i: Thank you very much for that and also to note what resolutions are, how they you know they operate. Many times they establish working groups. So that we have you know enough data and information. They put committees together. They acknowledge advisory committees, like differently HCR130.

They are apology type measures, apologizing for example to the Native Hawaiian people because of you know what happened in the schools and how people were, you know beaten for speaking our language, but that is the nature of resolutions. Also, there are concurrent resolutions and resolutions themselves. So there are a lot of repeat, although it looks like a lot, many of them, two or three are of the same thing. If we look at the title as it moves along, so thank you very much. I would entertain the Trustees view of this and support positions of support on these few resolutions.

Board Chair Hulu Lindsey: Madam Chair, I'd like to make a motion that we support these positions for the different resolutions presented by Administration.

Chair Akaka: Is there a second?

Board Chair Hulu Lindsey: I think the resolution numbers should be posted, items 1 through 61 as listed on Matrix 5, resolution positions and monitored resolutions related to measures affecting Native Hawaiians dated March 29, 2022.

Trustee Waihe'e: Second

Chair Akaka: Its been moved and seconded. Any discussion members?

Ka Pouhana Hussey: Chair Akaka, may I just clarify myself and it should be items 1 through 60. I said 61, but it should be items 1 through 60.

Chief Advocate Kamali'i: Sorry, before the Board takes the vote, one of my Advocates are jumping in with regard to one reso. I apologize to the Advocate, this particular resolution if you could identify it. I'm familiar with it. I'm scanning down through it. It suggested a particular name for a Russian Fort. The renaming of our areas. However, we've recently learned that there are a couple of names that are being offered so Kamakana, if you could put forth the resolution and the numbers as I'm scanning through it. So because there are a couple of names being offered and we're there to support the community in renaming rather than a position of support on a particular name. We're asking that we just be able to comment. So that is a difference from what you are seeing, I apologize.

COO Brown: Madam Chair, if I may. I think that's okay because we're asking them just to approve our recommended positions, which encompasses whatever is proposed on that matrix. So if comment shows up, if support, if opposed, they can approve any of those positions with this motion language. The only thing I would recommend editing is it should start at item 3 not 1. 'Cause the Trustees already approved those first two resolutions in the last BAE.

Chief Advocate Kamali'i: I guess, Casey, as presented to the Board, we had a position of support that was presented, but since then that should be a position of comment and I'm still looking for it, the name of the particular number. There it is, it's SR106 number 42, and that is also HR100 and SCR199. So we are aware that they are proposing the name of Pā'ula'ula and however there is more community discussion on the name. There's consensus with renaming, but there is not necessarily consensus with what the name should be. So that particular HR100, SR106 and SCR119. We're asking that it not be a position of support but a position of comment. Otherwise, all other positions would be support.

Chair Akaka recognizes Trustee Trask

Trustee Trask: Yes, I just want to ensure in terms of the renaming Resolution 106, 42 and HR100. Are we supporting a Hawaiian name without commenting on that name? And the reason why I ask is because two weeks ago international news covered a story about a haole woman on Kaua'i was a renaming a Russian Fort. She wanted to name it a Russian name and supporting her was the Russian government, that flew her to

Russia. So I don't have a problem with us supporting the renaming generally. But I want to make sure that because we're renaming Hawaiian places that we're supporting renaming them a Hawaiian name.

Chief Advocate Kamali'i: That's correct, Trustee Trask. Changing the position to comment, we support renaming the Russian fort a Hawaiian name, in the resolution itself, however, goes so far in its be it resolved to rename the fort a particular name of Pā'ūla'ūla, and we understand that the Kaua'i community is still figuring out what that Hawaiian name should be. So we wanted to come in with a position of comment to support the renaming of the fort as a Hawaiian name, but not weighing in on a particular name.

Trustee Trask: I got it. I just wanted clarification for the record.

Chief Advocate Kamali'i: And this will continue not only in state law, but also there is a move in federal consultation by Secretary Harry to start renaming a lot of names on public lands. So this is a good thing. But thank you very much. So the clarification again, with regard to the number Casey, did you pick that up?

COO Brown: Yeah, we'll need Brandon and Mark to pick that up and may I clarify that you want to change those following resolutions from support to comment.

Chief Advocate Kamali'i: Yes

COO Brown: Can you rename those numbers for Brandon folks to write correctly.

Chief Advocate Kamali'i: That is HR100, SR106 and SCR119. HR100, SR106 and SCR119.

Board Chair Hulu Lindsey: Madam Chair, I'd like to **Move to approve Administration's recommendations on: NEW RESOLUTIONS (Items 3 - 60) as listed on Matrix 5 – Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – dated March 29, 2022, along with the following revisions:**

RESOLUTION POSITION CHANGES:

- **HR100 from SUPPPORT to COMMENT**
- **SR106 from SUPPPORT to COMMENT**
- **SCR119 from SUPPPORT to COMMENT**

Chair Akaka: Is there a second?

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Is there any discussion numbers? Seeing none, Brandon, can we please have a **roll call vote**.

							12:34 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

V. ANNOUNCEMENTS

NONE

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Trustee Waihe'e: So moved

Trustee Alapa: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have roll call vote.

							12:35 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA		2	X			
BRENDON KALEI'ĀINA	LEE						EXCUSED

CARMEN HULU	LINDSEY			X			
MILILANI	TRASK			X			
JOHN	WAIHE`E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **12:36 p.m.**

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

April 12, 2022 10:01 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

EXCUSED:

Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Aguinaldo, Arlene, IT
Nakama, Erin, IT

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, April 12, 2022, to order at **10:01 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:01 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	EXCUSED	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SEVEN(7)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Chief Advocate Kamaili'i

Chief Advocate Kamaili'i: Alright, thank you very much. Thank you, Trustees, always for the opportunity to present the status of where we're at. We do have the calendar there, but before I proceed with the calendar, I want to just sort of forecast the way we're going to move through the agenda this morning. Also starting with, we all acknowledge that one of our bills is being addressed on the House floor at this point in time. It's something that we can revisit. We can still conduct business even though they are voting on the floor, so just to be mindful that we are all aware that that is happening simultaneously.

Second, with regard to many of the bills that we will sort of move through very quickly. I want to acknowledge the very thoughtful testimony of beneficiaries in many areas. I know we tend to focus on what is the public Land Trust bill or bills relating to Mauna Kea. However, there are other bills that our community has been testifying on and working on diligently that affect our 'Ohana that affect the land. You know, that affect our ability of our kalo growers, and I just want to mahalo them for participating in the process. For looking at the OHA positions that are posted on the website, for engaging with us and also continuing to engage with us as they move forward for the Governor's signature.

Moving forward on today's agenda we will go through where we are in the calendar, but also noting that there's very little business in the sense that of the bills that we are requesting change position. With regard to bills, with regard to resolution, the approach that Chief Advocate and also leadership is going to propose is that we go through the bills in a manner that generally makes references, might highlight some bills, but really leave it to the Trustees to ask questions so we can get through the agenda fairly quickly as we move from matrix to matrix. So that's how I'm going to proceed this morning with the understanding of Administration and also your Chair.

So, with that, the calendar we'll start there. The calendar where we are now is April 12th, and knowing that April 14th is the 2nd crossover, bills and disagreements as to bills. So, we are seeing bills that are going to make the deadline in terms of, you know, having their hearings and we are also seeing bills that are in their 48-hour period and also some that where there is no disagreement, they are moving forward. When there is disagreement, they will go into conference and where you know not necessarily sure what might come out of it. There are a couple of bills that are going into conference that we have been tracking and how to position on. I may highlight one or two of them going forward, but that will happen this week. So, with that, that's the status that we're in. We're also, you know, very close to the end, so we're going to be finding out which bills survives in the next couple of weeks and are headed up for Governor's signature.

We'll move on to Matrix 1. Matrix 1 represents our OHA package bills, so those bills didn't survive. The bills that are active. We will just move on to Matrix 2.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

Chief Advocate Kamali'i: Matrix 2, the two bills that may result in, you know, the Committee going into Executive Session continues to be HB2024 relating to Mauna Kea and the potential effects on the ceded lands and what the current draft means there. As well as HB2021, which is now in its FD1, HD2 version which we have looked at and have been discussing. Because they are so intricately tied, at this time I will defer back to our CEO and Chair, whether or not you wish to go into Executive Session before we go through the rest of the matrix. Once we go into Executive Session, I just will remind the Board that those bills that are not the topic or the reason why we go into Executive Session will be discussed in open session. So, we won't roll into what is Matrix 3 and other bills of concern in Executive Session. So, with that reminder, I'll pose the question back to Chair or to Ka Pouhana.

V. EXECUTIVE SESSION (AGENDA ITEM TAKEN OUT OF ORDER)

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

Ka Pouhana Hussey: I'll pose it to Chair, as to the Board's wishes. I would like to know; do we have Board Counsel on? If we don't have Board Counsel on, then our discussion should just be limited to PLT.

BAE Staff - Brandon: We saw that he did read his email this morning again and so I'm going to call the office just to see if we can't get him in.

Ka Pouhana Hussey: Then Chair Akaka, it is up to the Board, but you certainly can enter Executive Session to discuss PLT.

Chair Akaka: Sure, is it the will of the Board that we go into Executive Session to further discuss this? Yes, can I please get a motion to recuse we into Executive Session pursuant to Section 92-5.

Trustee Akina: Madam Chair, I so move.

Chair Akaka: It's been moved by Trustee Akina. Is there a second?

Trustee Trask raised her hand to second the motion.

Chair Akaka: It's been seconded by Trustee Trask. Any discussion members? Seeing none, Brandon can I please have a roll call vote.

							10:08 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA	1		X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY			X			
MILILANI	TRASK		2	X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

The BAE Committee recuses into executive session at 10:13 a.m.

The BAE Committee resumes open session at 11:12 a.m.

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Trustees, what you are seeing is Matrix 2, right, the OHA named. We will just note that item 1, the position listed as comment is incorrect. The Board approved to oppose the measure after the SD1 was published. The SD2 was recently published after its hearing from WAM, and so a number of troubling points continues, so Administration is recommending that there be no position change for this measure. The SD2 has a number of, as I said, it actually proposes splitting the mountain. 550 acres on the astronomy summit as the astronomy research lands. Mauna Kea conservation lands comprise the rest of it. It establishes joint authority between the established authority and UH. UH is still embedded in the governance there, including that UH can turn around and sublease the lands to the authority for a dollar a year, which sorry, that was quite offensive to me, but also it is UH's role to continue to manage and caretake the astronomy research lands. As well as an assertion that astronomy is a policy of the state, and then the guiding values that perpetuate traditional customary rights are inserted there or retained there and then changing the appropriation for that.

The troubling parts of that are that the continuing footprint of the University and our concerns about the management or mismanagement continues to be evident in the SD2 version. Administration would recommend that the Board keep the opposition position to this bill. I will also say that the SD1 and SD2 has also caused a number of concerns among the original working group members and trying to understand that this SD2 and the HD1 version that came over are vastly different versions of the bill and so with that Administration offers that recommendation to the Board to not change the opposite, but to retain that, and if there are any questions we're here to respond.

Chair Akaka recognizes Trustee Trask

Trustee Trask: Thanks staff, could I ask some questions now, Sylvia? You had said that in the process of this SD1, SD2, concerns were raised by some of the members of the working group. What were those concerns and which members of the working group raised it?

Ka Pouhana Hussey: We just had a meeting. So, the working group convened. We just had a meeting to go over, and so whoever attended that meeting and then some members sent their comments to that, but basically the concerns were that the tone of the bill in the SD versions both SD1 and 2 was not the same tone that the work group had recommended and the HD1. The governance and involvement of the University is significantly troubling to members of the work group, as well as the role of DLNR is not as pronounced. It's interesting that in the testimony of the SD2, even the State Auditor's Office offered testimony of comments that it is telling the State Auditor to audit, and if it doesn't, you know, come up good, that it reverts back. So, they had some a lot of concerns about the implementation and the logistics of that.

Trustee Trask: Could I please get a copy of the comments. So, you're saying this came in from Les Kondos' Office?

Ka Pouhana Hussey: So, included in the published of 240 some odd pages of testimony, is the State Auditor's comments. So yes, we can definitely distribute that to the Trustees.

Trustee Trask: Yeah, I would like to take a look at it, but you know when I hear what you're saying, Sylvia and the other comments. I'm in total agreement with what you've said in your recommendation, I just would like to see you know what the auditor's comments were, and as I had told the Board when I came in a few weeks ago, the auditor called me to onboard me with certain of the laws. We wound up talking for an hour and a half about problems with the Public Land Trust, the Ceded Land Trust, HRS saying you charge appraisals. The highest best use is what is required. That's my fiduciary duty. But when I looked at the Mauna Kea bill and mentioned it to the state auditor, I pointed out to Les that there's a law here saying you get an appraisal and you get the highest and best use and it doesn't come down to \$1.00 a year and when I pointed that out to him, I told him it's not possible, they're getting millions per year. He said how, they were only getting \$1.00, and I told him better go look at the article that came out in the paper a few months back. The Science Reserve deal is \$1.00. The money goes into the University of Hawai'i Foundation. That's where if you'll check the report, you'll see the 100,000,000 per year that they get to the U of H foundation. Auditor was stunned. I told him better go look at the report in the U of H Foundation because I don't think that \$1.00 a year, which means OHA gets \$0.20. There is significant funds being paid. But it doesn't come through the Legislature. It goes directly into U of H Foundation. There's a report out on it. It does not look good and I agree with the mana'o that Sylvia had shared with us earlier. I mean, I don't see that this is a good measure to support.

Ka Pouhana Hussey: Trustee Akaka, that's the report for this particular line item for the Matrix, unless Trustees have, Chief Advocate can continue down the matrices.

Chair Akaka: Any further discussion members on this?

Board Chair Hulu Lindsey: I just want to confirm that our position is opposed, right?

Ka Pouhana Hussey: Correct

Board Chair Hulu Lindsey: Thank you.

Chief Advocate Kamali'i: Great, thank you very much. Moving on to the next bill. Senate Bill 1411. I will turn that over to Kamakana, our Public Policy Advocate who has been tracking all of the historic preservation bills

for an update. Although there is no change in position, there is disagreement amongst the houses, so you might find that interesting.

Lead Compliance Specialist Ferreira: Yeah, so SB1411 is the last historic preservation bill to have survived and we actually thought it had a pretty good chance of making it to the Governor. At first, went through the Senate and the Senate attached some non-substantive technical edits and those were retained when it went to the House. The house also had non-substantive technical edits, but for whatever reason when it crossed back to the Senate, a disagreement occurred, and so now there's a notice of disagreement. We don't understand what that's about. It could be maybe the date needs to be changed, but there should be really no reason to hold this bill back. If all the edits so far were only technical, non-substantive edits.

Chief Advocate Kamali'i: Moving on to SB2021. This measure was discussed in Executive Session. In open session it's Chief Advocate's understanding that the position of comment will remain. Having thoroughly discussed House Draft 2. However, should the measure move into conference, Administration is prepared to make those comments to the body and that's how we'll proceed. So, there's no change in position for SB2021. SB2770, maintains the same position of support.

Okay, if there's no further discussion, we can move on to what is Matrix #3.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: Okay, Matrix #3 includes some of the measures that are discussed in Matrix #2, again just for summary, they're just 2 bills that we're looking at change position. However, being that this is a report back, I'm going to proceed by just mentioning which bills have died. If there's any questions with regard to bills that remain, Trustees at the end of this first section, I will ask if you have any questions or any change positions rather alright.

So, assume that if it has not died, that it is still moving through. Typically, it'll be in a 48-hour notice period, or it may be in disagreement and moving into conference. That's the time frame that we're in the legislative session. So HB1403, that measure has died. HB1638 and HB1666. Both of those measures have died. HB1754 relating to adult dental Medicaid benefits, that measure died. HB1777 relating to commercial sexual exploitation, HB1797 relating to homeless services and HP1870 relating to the Judiciary's 'Olelo Hawai'i initiatives, those three bills have died.

HB1942 relating to student transportation, that measure died. HB2293, relating to health. That measure died. HB2414 relating to general excise tax exemptions, that measures died. HB2431 relating to sustainable food system. That measure died as well. HB2481, which is item 36. I know I'm skipping quite a ways ahead. Item 36, SB2481, that measure died.

Item 55, which is new positions. So, the measures that I mentioned died. All other measures are still alive and moving through the process. Are there any questions or change positions with items 1 through 54?

There being none, moving forward to item 55 relating to juvenile restitution. This is one that we've been tracking and it has moved in a favorable position to support with an SD1 and that one requires victim restitution orders to certain juvenile cases to be converted to independent orders at the time the court terminates jurisdiction, also clarifies the definition of victim, so we've been watching some of these juvenile restitution cases because as the juveniles mature and they move into, you know, time beyond 18, you know they've been

sort of caught in the system, so the Judiciary and the state and everyone working on this is trying to finalize it. So, family court loses its jurisdiction. But also, that if there are any amounts that are still due and owing that they be converted to a civil judgment. Even though they received notice of disagreement, it's still moving forward, and we do want to support the effort. That is currently the current draft and it's favorable to our 'ohana because they're not stuck in the juvie system. So that is one of the change positions.

Relating to taro, with regard to the tax issue. You know changing the measure to address, you know, excise, taxes and exempting that, exempting the gross proceeds or income from the sale of a product resulting from cultivation and production of unprocessed taro, etc. Just generally about getting into the detail that the tax situation peers favorable, and in that we were moving it to comment because we actually wanted more to happen and I'm just getting a note that there may have been some action in the House that it did pass a third reading, so this bill is moving along. However, in its current form 'cause it didn't include as much tax relief as OHA was recommending. But we wanted to change position to comment. So those are the only two bills on Matrix 3 for change position.

HB1459, from comment to support on SD1 draft and HB2466, relating to taro, new position. Support to comment on that particular measure. Other than those changes, there's no further discussion on Matrix 3.

Trustee Ahuna excuses himself from the meeting at 11:29 a.m.

Chief Advocate Kamali'i: So, any motions on Matrix three at this time?

Board Chair Hulu Lindsey: I Move to approve Administration's recommendations on BILL position changes (Items 54 - 55) as listed on Matrix 3 -- Bill Positions Related to Measures Affecting Native Hawaiians-- dated April 12, 2022:

BILL POSITION CHANGES:

- HB1459 from COMMENT to SUPPORT SD1
- HB2466 from SUPPORT to COMMENT

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon can we please have a **roll call vote**.

							11:30 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED from meeting at 11:29 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'ĀINA	LEE						EXCUSED

CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				6	0	0	3

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Chief Advocate, can continue.

Chief Advocate Kamali'i: Moving on to Matrix 4. Matrix 4, as just a reminder, reflects all measures affecting Native Hawaiians, which includes the monitor positions as well as the support positions. No action to be taken on these measures. Except to refer back to Trustees if there are any change positions at this stage of the process. This would be to raise it to attention, and we could make a motion for change. Are there any change positions from the Trustees?

E. 2022 OHA Legislature Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – Matrix 5**

Chief Advocate Kamali'i: Okay, thank you very much. There being are no change positions, we'll move on to Matrix 5. Matrix 5 represents the resolution. There are, you know, several resolutions that you know some of them do affect, you know our Native Hawaiian people and you know, as we review this list again, you know to encourage the Trustees to take a look at their status. I would say sometimes the resolutions as well you know delve into the community and to the extent that you wish to communicate with public policy to follow through on a resolution by a Board resolution or something of that sort, please communicate with us. Typically, they are tied to islands and island activity, acknowledging work of individuals, communities, or NHO's. So, I encourage that engagement with the Trustees and public policy if there's any follow through on some of these resolutions that are moving forward. In the interest of time.

Again, we're proceeding in that way, and I'll take you down to what is item 55 and 56, which is HR152 and SCR50. Those are new resolutions that we added to the list and one recognizing the period between 2022 and 2032 as the United Nations International Decade of Indigenous Languages. Sort of speaks for itself and also SCR50 designating the Wai'anae Moku Kupuna Council as an advisory resource to elected members of the legislature and that to support as well.

Additionally, wanted to raise that in last session or excuse me in the last meeting, we had addressed one of the resolutions, there were four, but one of the resolutions that addressed, that spoke to the Russian Fort being renamed and it just makes sure that that also gets added to the list. It needs to get added to the list because that particular number was not mentioned. So that is HCR104 and previously was HR152 and CR150, they all deal with the Russian Fort, so this is more of a clarification of I guess for Trustees.

COO Brown: Madam Chair, what Na'u is referring too, I'll recommend that we handle that through the motion. We will simply motion to add that resolution to this list so you guys will see it reflected there.

Chief Advocate Kamali'i: Okay, so I don't have anything else to say other than to turn it over to Trustees. If there are any other change positions, then it would move to appropriate motion for position on new resos and for the HCR104.

Chair Akaka: Mahalo, any discussion members?

Board Chair Hulu Lindsey: I Move to approve Administration's recommendations on: **NEW RESOLUTIONS (Items 55 - 56) as listed on Matrix 5 – Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – dated April 12, 2022 along with the following addition(s):**

RESOLUTION ADDITIONS:

- ADD HCR104 as COMMENT

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, Brandon can we please have a **roll call vote**.

							11:37 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED from meeting at 11:29 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			

TOTAL VOTE COUNT			6	0	0	3
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MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

V. ANNOUNCEMENTS

Chair Akaka: Are there any announcements at this time?

Board Chair Hulu Lindsey: Just a reminder that our RM meeting is at 1:30 today and Board of Trustee meeting on Thursday at 10:00 AM.

Chair Akaka: Mahalo, Board Chair.

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Board Chair Hulu Lindsey: I move that we adjourn.

Trustee Waihe'e: Second

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have roll call vote.

							11:38 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED from meeting at 11:45 a.m.
KELI'I	AKINA			X			
LUANA	ALAPA						EXCUSED
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			

TOTAL VOTE COUNT			6	0	0	3
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MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **11:38 a.m.**

DRAFT

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

April 26, 2022 10:03 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Ferreira, Kamakana / Lead Compliance Specialist
Chak, Kevin, IT
Santos, Dan, IT

EXCUSED:

Trustee Brendon Kalei'aina Lee

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, April 26, 2022, to order at **10:03 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:03 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **EIGHT**(8) Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair. We'll go ahead and have Chief Advocate Na'u, go ahead and run us through the calendar and matrices.

Chief Advocate Kamali'i: Alright, thank you very much. Good morning, Trustees, we are getting near the end of our session, as typical we'll go through the calendar. This being Tuesday, the 26th of April, we see that we are in almost our last week. Session ends next week, but this is an important week as we discussed last week that we have many bills that are in conference and we were at the leg. yesterday. We'll go today, we'll go tomorrow to make sure that OHA is there to answer questions as things are tweaked in this conference process.

But here we're at the 26th. There was hearing yesterday on the PLT bill, noting that the 29th is the final decking of fiscal bills. 28 the final decking of non-fiscal bills. So essentially what that means is that regarding the fiscal bills, excuse me, I will start with the 28th, with regard to non-fiscal bills. That is the deadline for submitting non-fiscal bills for final reading by both chambers. With regarding the final decking of fiscal bills, the 29th, that is the deadline for submitting fiscal bills for final reading by both chambers and fiscal bills include appropriation or spending bills, tax credits, etc. or any bill with a House Finance or Senate Ways and Means referral and then next week May 5th is adjournment.

So, lots of activity this week with regard to those measures as they indicated they're being fine tuned and tweaked, which includes our measures as well. So we'll move on to matrix. What is matrix one. As indicated last time and time before all of our OHA package bills have died and did not make it through. However, we know that our PLT bill is moving in a different form and I'll address that in Matrix #2. So, Madam Chair, I'd like to move on to Matrix 2.

Chair Akaka: Yes please, mahalo.

**B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA –
Matrix 2****

Chief Advocate Kamali'i: Matrix 2, that includes those measures that name OHA in the measure. Just very quickly we're looking at Mauna Kea, historic preservation bills or PLT bills and Native Hawaiian rehabilitation programs. So, I'll just defer to Sylvia as how she wishes to address Mauna Kea, which is for hearing today.

Ka Pouhana Hussey: Sure, Trustees it's scheduled for conference at 2:30 this afternoon and there's nothing that we've seen that would change the recommendation to continue to oppose the current SD2 version of the bill and that's it. We'll update the Trustees as soon as we find out from conference. But we have seen a number of deferrals in conference, so we will let you know if that's deferred or there's action taken.

Chief Advocate Kamali'i: Moving on to SB1411. 425 conference room. Kamakana indicated that he would not be here to present on that, but I'll just take a look at it. They will reconvene on that measure on 4/26. That's today this afternoon at 4. So, as I indicated to Sylvia, we may just sort of hang around, you know, the Capitol in case there any questions on any of these bills or other measures where they want input from the Office of Hawaiian Affairs.

Moving on to SB2021, that was heard yesterday, but also will be heard again today this afternoon, and I will note that we were able to receive what is a conference draft that is under consideration. We don't know, you know, typically it could result in another conference draft. I can at least tell you what the changes are that came across the table. I'll note that the Senate received the conference draft in committee from the House. So, this was the House offering to take into consideration what were the concerns of Budget and Finance. The short of it is they retained what is 21.5 million for the annual share and changed language from what we understood to be 20% or 21.5, whichever is greater. So that is no longer there but referred back to language that we had considered as well before. Which is, notwithstanding the provisions of Chapter 10, Hawai'i Revised Statutes, including section 10-13.5 and until further action is taken by the Legislature, incoming proceeds from the pro rata portion etc. etc. shall be 21.5 million. So in short, they're preserving the 20% as it is in 10-13.5 yet beginning fiscal year 2022-2023, there's the increase from the 15.1 million to 21.5 million. So, we'll continue to take a look at that and see if that changes again. By this afternoon, which is possible, so we'll be there to see if there are any additional changes with regard to that style.

So, with that being said, notwithstanding the provisions of Chapter 10, again looking back at language which is familiar and referring to the Executive Order 66 which we have talked about throughout the session and beginning in fiscal year 2022-2023, as opposed to what used to be 2005-2006 and that was the year where they marked the 15.1 million. So beginning fiscal year 2022-2023 the quarterly amounts will be increased from 3,775,000, which was flowed from the 15.1 million to 5,375,000, so that would reflect the quarterly amount to be paid to OHA, that's tied to the 21.5 million and familiar language that we have seen before that the Governor to expressly authorize and fix those amounts to be paid by the agencies. Now this language would be similar to or consistent with what Budget and Finance has seen before. So Administration hasn't had a chance to talk about this, so I'm reading it to you first hand and then we will digest it before our conference this afternoon.

Establishing a working group as we had requested to account for all ceded lands in the Public Land Trust inventory, account for all incoming proceeds from the Public Land Trust subsequently determine the 20% pro rata share. I'm moving very quickly and determine any past due sum owed to the Office of Hawaiian Affairs for the period of July 1, 2012 to 2022.

So in sum, the working group tasks appear to be what we had requested. No changes there. There was concern that the working group start date had not been indicated in the House version of the bill. The start date in the CD1 is no later than February 28, 2023. So that means we can get to work sooner, but no later than that a meeting shall be called. Also, to submit a report, etc., etc. There is a change adding a Section 5 for appropriation of 250,000 or so for two FTE administrative positions to Budget and Finance so that they can expand those monies to essentially carry out the provisions of the working group. There was discussion about that on OHA's side, and we offered to assume the responsibility for that, you know, and a request for appropriation at this late in the game could be reason to kill the bill. We don't want that to happen, so you know OHA did make clear that we would be willing to assume the responsibility for the administrative aspect of the working group and this has been done before by OHA with other measures, so it felt comfortable and also we know we're going to get the job done.

The report will be submitted and it will be timely submitted to the Legislature, so we'll see what comes out of conference today to see if they accepted that. Additionally, with regards to the CFTHA, we know that the projected amount is about 30 million in the proposed CD1, they indicate that the sum of 21.5 million would be appropriated to OHA so that would leave a little bit of a balance, a little bit of a buffer, so to speak. The difference between 21.5 and about 30 million, but it looks like they'd be willing to release the 21.5 for fiscal year 2022-2023. That's a good thing. Other than that, there does not appear to be any other significant changes to the House version. Also noting that the Act shall take effect upon its approval and that is consistent with the House measure. So that's what we know so far. We also know that this can change between 8:00 o'clock this morning and 1:30 this afternoon, so we'll wait and see what the committees decide to do in the next version of the Conference Draft. Is there any questions or any comments?

Chair Akaka recognizes Ka Pouhana Hussey.

Ka Pouhana Hussey: I just wanted to add to Chief Advocate Kamali'i that to set expectation, the CD draft also gives the Governor till February 28, 2023 to appoint the members of the working group which you know makes sense as there's going to be new leadership in the state so. But that also sets expectation that there won't be recommendations until the 2024 Legislature, just to set context and expectation of the work and the 2023 Legislature is when the biennium budgets for 2024 and four you know get set. So just again to set expectation of the timing of the working groups work.

Chief Advocate Kamali'i: And I also note that Sherry Broder was there with me. I don't know if that's appropriate to ask if she has anything to add. But we will go together as well. We were consulted, you know, informally, so they may during recess ask questions of us and then go back into session. So, it is helpful that we're present at the conference committees, although there is no testimony, there's no questions. It's really between the conferees, but in the recess they may have questions.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: Kala mai, Na'u, I can't remember if we took the gross out and put the net in. Is it net or gross?

Chief Advocate Kamali'i: There's no reference in the bill to either net or gross, so it refers back to 10-13.5, which is, you know, the statute which refers to 20% but no changes to that. That's all still in place. And then yet as the language you know reflects. This is the way that they can increase the so-called interim amount from 15.1 to 21.5. So it's more or less tracks where OHA had started and are thinking of how to do this, but so that issue of gross or net, that was dealt with in the cross reference language.

Trustee Ahu Isa: Okay, so now this is the House CD, so the Senate has to agree, right? That's when they go back. Mahalo, Chair.

Chief Advocate Kamali'i: And I also note that the Senate did not receive it until yesterday in conference. So, they were discussing it in the afternoon as well as yesterday evening. So we received it this morning on the clarification of that and so we'll see what they decide to do. Anything else, Trustees? I know there were, there were a lot of numbers floating around, so we'll see what happens. I'll just say in terms of a conference and what they continue to discuss outside of you know, out of the public view, which is what they can do and are doing.

Chair Akaka recognizes External Counsel Broder

External Counsel Broder: Casey, could you put section two of the redraft up on the screen? So I just want to draw your attention to a couple of points.

COO Brown: The CD1?

External Counsel Broder: I do think it would, yes, the CD1.

Chief Advocate Kamali'i: Well, I don't think, I don't know that we can make reference to that draft because we just, you know, wasn't noticed, but maybe, Everett can speak to that. Can we do this at this point because we have an update?

External Counsel Broder: It's a proposal. It says proposed CD1 at the top so I don't know why we couldn't share it.

Chief Advocate Kamali'i: Okay, I'm fine.

Interim General Counsel Ohta: I agree.

External Counsel Broder: So, okay, so the change that they made in Section 2, it used to say the amount shall be 21.5 million or the 20% of the incoming proceeds, whichever is greater. Okay, so though, whichever is greater has been taken out, and so I think it could be interpreted to. I thought that we might have a good argument we could make that because of that it might be more than 21.5 so there would be a continuing past due claim. I think that argument can still be made, but I think that it's going to be more difficult to make because they've said specifically that the amount shall be 21.5 million and taken out whichever is greater. So I think that is unfortunate, but given that the committee that's to be established is supposed to be looking at this overall, I still think the argument can be made, but I don't think it's as strong as it was before.

So then the next thing is Section 3. They list different departments, they don't limit the departments that are going to contribute. They say in any other department or agency that collects receipts from lands within the Public Land Trust. So I think that, you know, I just draw your attention to the fact that you know the big one not mentioned is UH, but I think that OHA has gained something in the sense that it says transportation for its harbor divisions because this was a big argument before whether or not harbors had to pay. So I think that's a positive development and then I think that the fact that the appointments shall be made no later than February 20th, 2023 is good. In the past, the past working group which was appointed was supposed to be appointed by Governor Ige and called by Governor Ige. Nothing happened, so hopefully this allows the new Governor to appoint and I assume that means that we will have better success.

And section 9 says this Act shall take effect upon its approval, so that's good. That was already always there, but nonetheless, Na'u was asked about that yesterday by Senator Shimabukuro. And I will say that Senator Shimabukuro, you know, turned to look to Na'u, for her, was she shaking her head yes or no. So even though she didn't talk to her, she did look to see if Na'u was agreeing or not. Yeah, those are my comments.

Chair Akaka recognizes Trustee Trask.

Trustee Trask: Yes, I just wanted to make a couple of comments. One is that I think that the first point that Sherry addressed is kind of dispositive because when you see legislation and it says that OHA's share shall be and it gives a figure and other languages deleted that could be interpreted as more. I think the change is dispositive of it. That OHA, you know, I'm looking at the 21.1. I think that that's been pretty much resolved.

I had also wanted to ask what was Maile Shimabukuro's questions or points that she had made? There was a comment here that Maile had said something, and I would like to know what it was.

Chief Advocate Kamali'i: Trustee, she wanted to know if we had received the draft and I said no and I think we confirmed that it's our understanding that it would take effect on approval. But everything that we see here was not discussed.

Trustee Trask: Okay, a question I had for yourself Na'u and Sherry. When I look at the provision that identifies the various divisions of the state, DLNR, transportation, education. I would like to know from you every division of the state that is not included, is not and I'm making that request in writing. I mean I'm making that request. If you could send me the response in writing. The other thing I wanted to point out is that we need to take a real good look at lines 4, 5 and 6. What we're talking about here are all departments and agencies that collect receipts from land within the public trust for transfer to OHA. So, we are not looking at all at the state agencies determination of what is actually in the public trust, colleagues. Here we're talking about only state agencies and departments that collect receipts. So, whatever is the baseline they're beginning from is not going to be the full view of the public trust. We're only looking here at those that provide receipts, and I say this because we move now with a PIG Committee and although there's language in this measure that talks about the trust itself, when it comes to this measure right here in this language, we are only going to be dealing with state agencies and departments that are providing revenues. So, this is not and could not be a measure of the value of the trust. Yeah, that's my only comment. Yeah, as a member of the PIG and let's just be aware of what they're doing here.

Chair Akaka recognizes Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair. Administration also wanted to point out, Casey, if you go to Page 8 and line 2021, yeah, right there. So, if you see the Governor is expressly authorized to fix the amounts each agency shall transfer to the Office of Hawaiian Affairs and as an example, the Department of Transportation Harbors the arithmetic calculation of 20% based on the last report is 18 million, but they have expressly transferred only 10 million rounded to the Office of Hawaiian Affairs. So, I just flagged that for the Trustees information that that line is explicitly codifying that practice if you will and just bring that to your attention, thank you, Chair.

Chair Akaka: Mahalo, Ka Pouhana. If you folks would like to continue on?

Chief Advocate Kamali'i: Okay, thank you very much for those comments Trustee Trask and certainly as the the PIG moves forward beginning as meetings, we'll be able to look at the shortfalls of the measure, first if it passes. The goal is to have it passed, but any shortfalls, any administrative action going forward, any trustee action going forward, as is the charge of the PIG, and that certainly doesn't prohibit the trustees from engaging in activities to fulfill its Constitutional and fiduciary duties under what you're referring to as the Public Land Trust. Which could also mean introducing Legislation next year and every year thereafter to ensure that we receive the highest and Constitutional revenue from not only that the lands generate, but also as mineral rights etc. from the Public Land Trust and make those things clear for the betterment of the condition of Native Hawaiians. So, thank you for raising that, and certainly we can provide you with the report from the department that was issued December 21 of last year, which would give you a real clear idea of what agencies were submitting revenue and what agencies, how they were paying the office as Ka Pouhana has indicated, harbors for example, you look at the report says 18 million, but they only you know, provided us with 10 million. So that's easy to get to you and that'll begin our work. So thank you for all of those comments and issues regarding the Public Land Trust. So we'll see what happens this afternoon.

Okay, moving on to relating to the rehabilitation program, SB2770. That was also heard yesterday, continued to I believe tomorrow Wednesday and it moves on. The question there was what would the appropriation amount be? There was some offering or questions to the Office of Hawaiian Affairs. But what came out of that was a recommendation from the House that \$2,000,000 be appropriated for this effort. Which would require public safety and OHA to work together on Native Hawaiian rehabilitation programs. The other suggested amendment from Representative Ganaden was to also include prisons that are on the continent. We know many of our Native Hawaiians are shifted and transferred to continent prisons and so we saw that as a good thing, and it would also allow us to gain some valuable data that we do not have regarding some of those prisons and prison activities regarding, you know our Native Hawaiians who are there. Additionally, we know that families have also moved to be close to their loved ones who are incarcerated so you know, this would

continue the effort of what we understood what some of the Hawaiian Civic Clubs were concerned about so we're hopeful that this bill continues to move along and become law so that we can develop these needed programs. So OHA is named in that, and that's the level of appropriation that was put forth yesterday, \$2,000,000 to this effort. Okay, that being the end of Matrix 2, are there any questions? If not, we'll move on to Matrix 3.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

Chief Advocate Kamali'i: Matrix 3 is our, you know, it's our general I guess the matrix that refers to all of those bills affecting Native Hawaiians, which include those bills for OHA named. This is the status, so I'll just if you know to move this along. Generally, things are in conference, we're tracking them as best we can. Then we'll be able, I think, to have a better idea next week as to what survives or not, so this is the week where we hang out and, you know, see what gets deferred. Where there are tweaks, etc. So I'm just going to sort of address it that way, and you can take a look at and click on the current status of the bills. We've highlighted the main ones, i.e., Mauna Kea etc., but I'm going to just sort of address it that way, Trustees so we can move along unless there's anything that you would like to highlight in Matrix 3. There are two measures that we do need to talk about. There is item 44 and item 45.

When we did review of our matrix for item 44, which refers to SB1128. When we did a review of our matrix for some reason, we may have lost track of whether this bill had been approved by the BAE or not. I know we had submitted testimony on it. So this is just to ensure, because we can't find the position in our in our matrices, just to ensure that this is correct. We'd like to add that this is a new position and the request for position of support, and this would permit vocational programs within the purview of Office of Youth Services to engage in commercial, enterprise, etc. and it requires the Office of Youth Services to submit annual reports etc. So, we felt that you know this was a good thing and supported it. But somehow in the matrices we lost track of it. Right now, the House and Senate disagrees, so we'll see what happens with that one. So that would be the request of Trustees and the 2nd is relating to the judiciary.

We had received, again this is just to ensure that the Board is aware of the action taken and gives the Board the opportunity to support. We were aware of from the Judiciary who had contacted OHA to support their need for increasing the number of Associate Judges in the Intermediate Court of Appeals. Yeah, we know and historically know that there has been a backlog of cases because there aren't enough judges to hear those appeals and you know, we know that there are Hawaiian cases within that track, and sometimes because it takes so long for the Appellate Court to render a decision. You know honestly, people just dismiss because they figure out another way to resolve it or they just never get that relief in the meantime. So, this is a request from the Judiciary to OHA and Administration had issued a letter of support. I believe the way on making the request is that Administration issued a letter of support, this is now to the Board for their support of this effort as well, to increase the number of associate judges on the ICA. So those are the two new positions that would require action by the Board. And that would be it for Matrix 3.

Chair Akaka: Seeing that we don't have any questions, we could continue on to the next matrix.

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

Chief Advocate Kamali'i: Now do we take action now or do we take action at the end of the presentation? Okay, then I'll move on. Matrix 4 historically that has just been available to our Trustees so that they could see all of those bills that we are monitoring but did not take a position on at the Board level. And if the Board has any positions that they would like to take on a measure that is advancing, this would be the time to raise that by way of motion as to Matrix 4. Okay, there being no action we'll move to Matrix 5.

**E. 2022 OHA Legislature Resolution Positions and Monitored Resolutions
Related to Measures Affecting Native Hawaiians – Matrix 5****

Chief Advocate Kamali'i: Matrix 5, just again an iteration of all the resolutions and their current status. So, it reflects again those resos. that were approved and at 52, item 52 and beyond, those resolutions where there was no action taken by the Board. So if there's no action or no change position or no new positions on resolutions, then this just is reflecting the current status of the Board. Are there any questions or any positions to change?

Chair Akaka: Yes, if we can go back to OHA Administration's recommended motion for our new bills, items 44 to 45 as listed on Matrix 3. Can we please put the motion language up. Chair Hulu.

Board Chair Hulu Lindsey: Yes, I'd like to make a motion to **Move to approve Administration's recommendations on: NEW BILLS (Items 44 - 45) as listed on Matrix 3 -- Bill Positions Related to Measures Affecting Native Hawaiians-- dated April 26, 2022.**

Trustee Akina: I second

Chair Akaka: Mahalo, Trustee Akina. It has been moved by our Board Chair Hulu Lindsey, and seconded by Trustee Akina. Is there any comments members? Seeing none, can we please have a **roll call vote**.

							10:45 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA		2	X			
LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka recognizes Trustee Akina.

Trustee Akina: I just wanted to say mahalo to Na'u and to Sylvia for keeping us informed. I appreciate all of the memoranda that we're receiving. It's good to be up to date with these issues. Thank you very much.

V. EXECUTIVE SESSION

- A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).**

NONE

V. ANNOUNCEMENTS

NONE

VI. ADJOURNMENT

Board Chair Hulu Lindsey: I move that we adjourn.

Trustee Alapa: Second.

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have roll call vote.

							10:47 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA		2	X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **10:48 a.m.**

DRAFT

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

May 3, 2022 10:01 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Kamali'i, Na'u / Chief Advocate
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Chak, Kevin, IT
Santos, Dan, IT

EXCUSED:

Trustee Dan Ahuna
Trustee Brendon Kalei'aina Lee

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, May 3, 2022 to order at **10:01 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:01 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	EXCUSED	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	EXCUSED	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SEVEN(7)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

IV. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,
SB2121/HB1473, coordinated advocacy - Matrix 1****

Chair Akaka yields the floor to Chief Advocate Kamali'i.

Chief Advocate Kamali'i: Thank you very much. I also want to add, first of all I'd like to start with a mahalo to staff and to the Board for support. As everyone is experiencing, this is a historic circumstance that we're in where you know our Public Land Trust bill in its current form looks and appears as if it is going to be successfully adopted this year as law, however, we still have the votes that you had indicated, but also action by the Governor. So we'll wait until that is officially done and then obviously we'll be taking action on the law itself, but I also wanted to mahalo the community. Those who are watching, our Native Hawaiian community who have come out throughout the year of the session to testify at its various public hearings. And you know it really takes everyone at every juncture at every hearing to make this kind of thing happen, many of whom made phone calls to their Legislators, who hosted meetings in their communities. I'm getting calls also today to come back to the community to explain, you know what this all means, what does the bill really say, so it's an ongoing process with our community relative to this type of measure, but also there are many other measures that were successfully adopted this year, particularly in the women's prison or the women's caucus, their measures dealing with abducted, you know sex abuse abducted children, bill reform, you know those are all things that our team will continue to assess and come back to the Board with further understanding of things that don't involve money but they significantly affect lives and that's another important piece of the policy work in the bills before the legislature. So mahalo to all those groups, committees, nonprofits etc. helped pass some of those measures which significantly affect our Native Hawaiian community and OHA seeking to take action in the betterment of our community.

There is more to be done in those areas where it doesn't involve money but it involves a lot of hard work so I'll just say to the community we're committed going forward even at this point in time, as we look at our calendar which is you know the final decking was on the 29th of April we're here on May 3. The session will be pau on the fifth, and then we wait for the Governor's action, but we know getting it this far to the third, and you know action on the floor, which is ongoing. It took a lot of work by a lot of people and not just one or two people even at OHA to make some of these things happen, so I have to start with, you know mahalo to everyone who made that not happen, so I sort of jumped ahead, and you know, expressing the calendar.

The first item on businesses, the unfinished business relative to our bill, so I do want to add to as well, Chair indicated that she'll be with the Senate, but many of us are watching live just before this meeting that there was acknowledgement of OHA, acknowledgement of our CEO from the Members of the House to her sitting in the gallery, but also acknowledgement in Sylvia Luke's statement regarding all of the work done for the betterment of Native Hawaiians which includes DHHL, which includes monies that are for Native Hawaiian programming, which includes money you know better available for these other programs that may not get as much newsworthy attention but are critical for the betterment and condition of our people, so there was acknowledgement of hard work done in the House so we'll see what happens on the Senate side, so I did want to acknowledge or let you know that OHA was acknowledged, but in particular our CEO was acknowledged as being someone in the gallery.

All right, going forward we'll sort of skip through what is major number one really quickly because of those bills are dead.

Chair Akaka: Na'u if I may, I also wanted to say something regarding the Public Land Trust passing in our Conference Committee. This truly is historic and I really want to make note of that. This has been a work done by many as you had said, and I want to send also a sincere mahalo to our Board Chair Hulu Lindsey for being so steadfast with our Ka Pouhana, our COO, Na'u, Sherry Broder, our Public Policy Staff, our Communication staff Alice and your crew there and also a special mahalo to Senator Donovan of the Ways and Means Committee and the Finance Chair Sylvia Luke, and also Senator Maile Shimabukuro, Senator Michelle Kidani and also to Representative Mark Nakashima. There's so many that worked so hard on this and the communication throughout this Legislative session, before this, the years leading up to this, the people have worked so very hard and we also mahalo our community, all those who are unsung heroes, that are not always spoken of but that have backed us in this Public Land Trust Bill. This is really not just the win for the Office of Hawaiian Affairs, but this is truly a win for Hawaiian people so that we can provide more funding and more services within our community and this is all aligned with our strategic plan, so this is wonderful wonderful news and we mahalo the Governor in advance to support us to pass this bill.

Mahalo nui to all those listening. But again, this is really, really an amazing feat, that when our Hawaiian people are able to be productive, more self reliant it uplifts our community as a whole, so mahalo nui to everyone, for all your work on this mahalo, mahalo, mahalo.

I also want to announce to our Members that our committee folder was distributed within the 72 hour deadline with the board materials, so thereby we're requiring a waiver of the 72 hour deadline for Board materials. Mahalo, Na'u please continue.

Chief Advocate Kamali'i: Thank you very much. Matrix 1 as you know dealt with all of our initial introduction of measures. I will say the current version is interestingly, there were sections of our initial bill that were inserted into the current version of the measure. So for those who are listening, thank you to the team, Sherry Broder, you know Everett who's always been online that it took a team of attorneys to be maka'ala to read these words as we went back and forth between the House the Senate and OHA. To keep bringing meaning, even as it went from our request to 78.9 million to net and then somewhere to an interim bill, and emphasize an interim bill. Which is what we're experiencing now, which means that there's a working group that's also established. But the work has not been completed, it is somewhat only started.

B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2**

So, as we move forward to what is Matrix 2, I'll bring forward the discussion of 2021 as well. The first bill on Matrix 2 is the Mauna Kea bill. As you know our position was opposed for a number of reasons, particularly tied to the ceded lands and the management on Mauna Kea and the continuing management, even in the current form of the bill by the University of Hawai'i. I don't know if this time, if you wish to go into Executive Session on Mauna Kea because it is in its you know so called final form and it's 48 hour notice form that will be voted on, if there's any issues or legal issues that you wish to discuss relative to the ceded lands, particularly Mauna Kea because it's the first bill. So Chair if there any Members of the Trustees that wish to have that advice to Counsel you can request that at this time, otherwise I can only say that it's a 48 hour notice period.

Chair Akaka: Members, would anyone be interested?

Board Chair Hulu Lindsey: There's nothing to discuss.

Chief Advocate Kamali'i: Alright, so if that is being on 48 hour notice, whether it's going to be voted on in its current form, we will see to that. The other bills that made it, 1411, 2021, which is our PLT bill that are also being voted on. Note with regard to the 2770, both Sherry Broder and I were in conference committee at the time that that was voted to be deferred. It appeared to be an issue with regard to money initially 2 million was appropriated for that bill, but in conference I guess the reason was money but we're never really sure what the reason is but that bill died, however, Representative Ganaden gave us a rather sort of nice departing speech regarding how important these programs or rehabilitative programs for prison inmates are. OHA is not stopping at this point just because the bill dies, there's some question whether or not we would be able to enter into an MOA or do any further work. So I'll say in this area for the Community listening that this is an important bill, it is not stopped for us at this point just because the bill died, it's rather beginning, certainly if it needs to be changed in form for next session, that is something that the team will be looking at, as well as working with Representatives or Senators regarding you know programs for our Native Hawaiian prisoners that emphasize Native Hawaiian values and cultural practices, however, the status of 2770 is that it did not survive conference.

So those are the bills that have survived so far up to this point, there are others that died earlier, we will continue to assess the bills where OHA was named and all the bills that we've already started that work. I'm hoping we can get to next meeting, if not next week, then the following week to give you a better assessment of where all of these bills lie, even those that died early on in the session. Any questions regarding what are, what is the OHA named. I don't know Casey perhaps if you want to go through the detail of 2021 we can do that at this time, or we can move on and you know discuss it, there is out on the website and that's what we have the committee report for CD1, Conference Draft 1 that was filed on the 29th and then we also have the final version of the bill SB2021, which is our Public Land Trust bill. So Chair, Casey, let me know if you wish to go through that. What would you like to do?

COO Brown: Madam Chair Akaka, leave it to the Trustees and to you, and you know what you folks feel like you might need more information on that or any lingering questions or wonderings, we'll put that to the Trustees.

Board Chair Hulu Lindsey: I think if, Na'u if you would just explain to the Trustees what the bill comes down to, the 64, the 21, and the committee and basically that's what it covers. If you could share with them so that they know exactly what it covers.

Chief Advocate Kamali'i: Okay, thank you, I'll do that. A little start I don't know why I feel is relevant to me, but it feels relevant to me to go back to the start, all the work done to create the bill, which was 2122 our bill that we submitted for package, we felt at that time, given the history of the legislation prior to simplify the legislation did not propose a working group, but to simplify it in terms of what will be the annual share, what do we do with CFTHA, how is it paid out quarterly right, and then what do we do with the past due sum and we went on a rocky road journey from then to now. So what is left is an interim measure, and it addresses essentially the same thing, I.e. to address what is the constitutional duty of care to Native Hawaiians to account for all the ceded lands in the Public Land Trust. To account for all the income and the proceeds derived from the Public Land Trust and to transfer the full 20% pro rata share of income and proceeds from the Public Land Trust annually to the Office of Hawaiian Affairs for the betterment and the condition of Native Hawaiians. Simply that is still what this bill is about and that's a good thing, because we disagree or still have questions about what is the ceded land trust inventory. We still have questions about well we don't know that what is the income and proceeds derived from the Public Land Trust, and then we fought hard to maintain what is the 20% pro rata share of the income and proceeds.

So some of the questions that we posed at the beginning of the session they're still there, what's different is a working group is in place, so how did they resolve the interim measure on page seven, which establishes for particular purposes of this Act. One, to establish 21.5 million as the Office of Hawaiian Affairs interim annual share of income and proceeds of the Public Land Trust beginning fiscal year 22-23. That may seem fairly simple but we needed to emphasize that this is an interim annual share for the community listening, there was

no negotiation, where we started from the 78.9 million to where we are now, this is, you know, this is a bump up and it's based upon what we might consider you know inflation, as was indicated and actually made quite clear from our Speaker of the House Sylvia Luke this morning in her floor speech to her fellow members.

Second, appropriate 64 million to the Office of Hawaiian Affairs, as indicated by the House and also in a committee report the 64 million represents taking the 21.5 retroactively applying that back to 2012 and we come up with 64 million. What is missing is what will happen to CFTHA, there's no mention of the CFTHA or the holding trust account in this bill so that is still a question to be addressed and there's also, as you know, the sum was based upon inflation. So there's still a question of what is the full past due amount, or what is the past due amount starting from 2012 going forward. So, as we look further through the bill section two also and that's 12 notwithstanding the provisions of Chapter 10 Hawai'i Revised Statutes including section 10-13.5. Very important because there was a point in time where this 10-13.5 was amended to reflect a net income and proceeds and we fought hard to make sure that that did not happen, and so that was removed, I think there was understanding in both houses that there's just lots of precedent based upon 20% income and proceeds, Budget and Finance even spoke to that so that is still in place, however, the interim amount is what remains.

So you'll see on line 20, page seven, at the bottom, we have the 21.5 million. Moving to Section three. This reflects the quarterly amount that's suggested, so the three line 12 page eight there is 3,775,000 which is deleted and then replaced with the 5,375,000 that's based upon the new annual interim annual of 21.5 million, so we have a bump up every quarter. I'll leave it to Administration to explain how that might happen if the Governor signs, so we say mahalo to the Governor for moving this bill forward, but the timing of those payments I'll leave to Administration to address.

Going down through the bill is more or less laying out how the department, which is familiar language 16 through 20 are to pay, how they are to transfer those sums, that's all what we are familiar with. Pursuant to the Public Land Trust income and proceeds. Regarding the next page, page nine, lines six through eight, there was a question if the working group did its work and we found that there are more than 5,375,000 that should be due we wanted to make sure that not less than that amount is coming to us so it's not fixed at that figure for another 10 years. 15.1 remember, we were fixed at that number for 10 years and then the overages went into CFTHA. So if there are increases, we wanted to make sure that was a minimum floor. So it says, provided that a total of not less than 3,375,000 each quarter she'll be transferred so in the event that there's more we're hoping that, with this language, the government, the Governor has the authority to transfer the access to us. There are technicals to line three through six maybe at the appropriate time Sherry can come back or Everett can come back and explain that, but let me get through the bill.

Line nine, section three to line 19, this establishes the purpose of the working group i.e. to account for all the ceded lands in the public land trust inventory, to account for all income and proceeds from the Public Land Trust inventory and then to determine the 20% pro rata share. What is not here is to determine what the past due amount is for the period of 2012 through 2022 so that is not there, however, certainly in looking at what all income and proceeds are due from the Public Land Trust there will probably be some discussion about that. Also, to note that how the working group is comprised, it's six members three three, so there's no four three or three four vote on both the state side and OHA side. Don't know what's going to happen if it's a lock, who the tiebreaker is but I suppose the committee will figure that out if they are voting three on OHA side and three on the state side, but the idea is that everyone has equal you know accountability and Constitutional duty to work through this.

I guess I'll skip down to line 11 page 10, there was discussion early on and we thought that this might be a reason why the bill might be deferred was that money was to be appropriated to Budget and Finance, 250,000. We didn't want Budget and Finance to assume what is the administrative support, including preparation of the report, etc. We were concerned that if an additional appropriation was made to an agency or to Budget and Finance that could be a sticking point for deferring or killing the bill. So there was a question whether or not the Office of Hawaiian Affairs would assume that responsibility and leadership determined that that would be fine,

we have done it before in other bills, such as the Burial Council bill. So in section D, Office of Hawaiian Affairs shall provide any necessary administrative support, including preparation of the report required by sub section C to the working group. Note that we would be the authors of the initial draft, and then the working group would approve that, so there are other things to consider other than the necessary administrative support. So note that we did assume that responsibility, initially, they were going to appropriate money to Budget and Finance to assume that responsibility.

Sections four, again I mentioned this, the 64 million coming to the Office of Hawaiian Affairs, so this is appropriated out of the general revenue of the State of Hawai'i to OHA and yet section five the general revenue appropriation by the act is deemed to be income and proceeds from the Public Land Trust. So we had a discussion about whether or not this section would be deemed as a settlement from the state side of all the past due sums that was due from 2012 to 2022. There was concern in the initial draft, so the way that was resolved was to add the language on line 17 that this amount to be paid to the Office of Hawaiian Affairs for a portion of the income and proceeds from the Public Land Trust, so that word portion is there so that it's clear that this is not the amount that is due, remember we started off with \$638 million and certainly \$64 million is not equal to \$638 million, so the working group will have to resolve that and the language or the word portion is to reflect our desire to be clear that this is just a portion of what is due, not necessarily an installment because that would indicate that that would be an installment you know, there would be an understanding of what the total amount is but that hasn't been determined yet so for the community looking at this there was no negotiating of the entire amount, that's still on the table to be addressed by the working group.

The Act will take effect on its approval. I didn't pull out the technical areas here, I'll leave that either to Everett or Sherry to jump in and address those other areas. There used to be language in there and I'm actually not seeing it here that the working group would convene this year or by February 28. So either Sherry or Everett there were concerns regarding claims that were addressed in this version of the bill, if you would like to share that now, this would be the time to point out those sections, thank you.

Okay, so are there any questions regarding the quick review that I've gone through.

External Counsel Broder: Yes, thank you. I think that the issue of past due amounts, I think it's unclear from the bill as to what supposed to be done about that. I think that part of what happened was Na'u and I went to all the conference committee hearings, but in fact we never saw the final version of the bill, we saw some redrafts that Sylvia sent us but you know it's the first time I've seen the final version of the bill, so we didn't really have an opportunity to comment in the end, on the final, although we did you know work closely with Sylvia, who seems to be up all hours of the night to work on bills. You know, on what was going back and forth. I think that if we take a look at, I'm looking at a different I guess version of the bill that I printed off from the website, but if we look in the finding section before we get to one, two and three. Casey is it possible to find where that is you know where it says the purpose of this act is to 123, go to the page before and at the end of that page. Okay, the paragraph before that references OHA's financial review that was done and then it found 20% of this gross amount is approximately \$78,900,000, so I think that's good for OHA because it, you know it acknowledges the financial review and the findings of the financial review, which of course this is what OHA wanted instead of the 21.5 million. So it at least acknowledges that, it doesn't say if that's right or wrong, but it doesn't say that it's wrong, so I think it acknowledges that our figures are very different than what the Legislature finally came up with, and then in the next paragraph you know it finds that the Legislature must enact another legislative measure in light of the information data and facts provided to the Legislature by state agencies, I think that that's also a good. Those lay some good foundations for the work of the working group, and you know their statements made there that can be utilized and then when it gets to one, two and three it specifically says what is the purpose of the Act and so I was very happy, I think we should be very happy to see the word interim, at least in the purpose section of the Act, so you know that I think so those three statements together, the three issues together in the findings that they are good for OHA and set a positive avenue for the work ahead of the working group.

So basically in section two and for this bill they really reuse Act 178 and kept it simple. So they just made a few changes to Act 178. Basically, the years and the numbers and that to establish what the new amounts would be for OHA and I think that's also good for OHA because you know, this is a follow up to Act 178 and specifically it's finding this bill is finding that OHA was owed more money than what it was paid, so I think that this is also a positive piece of positive developments that hopefully will become the basis and guidelines for the working group.

Okay, section three. The assignment of the working group is to account for all lands in the Public Land Trust inventory. So that is a pretty big assignment, but I think the way that the working group is set up where state agencies are required to cooperate with this working group is going to put OHA in a very good position to work on this project. I don't know you know if this goal can be accomplished within one year, but certainly if the state agencies have to cooperate as part of the working groups work. That should give OHA a leg up in working on this project. There is no date in this section three as Na'u pointed out, for when the appointment is going to be made, I don't know if the Legislature didn't want to tell the Governor what to do. But in any event there's no date, so I hope that's not going to create a problem and the issue I think will be if it is this Governor or the next Governor who will make the appointments and I don't know if that's probably something that the Committee wants to discuss maybe at a later meeting. As after you know if the bill is actually passed not vetoed or something like that, but to give consideration to how you want to approach what's the best way to approach getting people appointed, I mean, obviously, if this Governor appointed three people I would assume the next Governor would have the prerogative to replace those three people if he or she wanted to.

Okay, as Na'u said, OHA will provide the administrative support and OHA specifically agreed to that, I think this committee is great for OHA because OHA has got an equal voice, it's three and three, so OHA's voice is equal to the voice of the state, and I think that's really good for OHA and to have OHA providing an administrative report and support in including preparation of the report that's also good for OHA because OHA will have control over that report. Of course a contrary or opposing report can also be prepared, but in any event, you know, sometimes when you do the work yourself, you can have a better result.

Section four as Na'u pointed out specifically appropriates the 64 million for a portion of the income and proceeds, so along with some of the statements that are made at the beginning of the bill that I pointed out, you know relating to its interim status, I think that it can be certainly utilized to, with the interim measure issue to again set the stage for the working group. I don't know why they didn't use the CFTHA money but hopefully, perhaps the reason for that is to be still able to use the CFTHA money in the event that the transfers from the state agencies don't meet the new quarterly amount that is to be paid. So it's possible but I'm just guessing, no one discussed it with me as to why they didn't use the CFTHA money and of course section five, that's great because it's makes it very clear that the money appropriated is not an appropriation but it's the amount due to OHA for its ceded land revenues and that goes back to AG opinion 03-04 that says that because the moneys not appropriated it's up to the Board of Trustees to determine how the funds should be expended. So are there any questions, mahalo.

Chief Advocate Kamali'i: Alright, thank you very much, Sherry for adding that other flavor to this bill and I'll say that you know there's still a lot of work to be done in as much as where we're happy at that is where it's at. We will continue to be very diligent to the community on what our Constitutional obligation is to Native Hawaiian people relative to the ceded lands, the lands and that which flows from those lands and the income and proceeds.

C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3**

D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 **

E. 2022 OHA Legislature Resolution Positions and Monitored Resolutions Related to Measures Affecting Native Hawaiians – Matrix 5**

So moving forward to what is Matrix 3, at this point where we're talking about Matrix 3, 4 and 5, these are the bills that affect Native Hawaiians. Matrix 4 is sort of all the bills that we were looking at and Matrix 5 are the resolutions. I can just generally reference the status that we know these bills are at, either they did not survive or they're continuing and their 48 hour notice. I'm getting texts from Ka Pouhana, she's you know still there at the House, they're moving through bills as we are having this meeting relative to what their decisions are, and then we have even though they passed through both bodies, the House and the Senate, we still have the Governor that may either veto or sign or go through that statutory period.

So Chair, there is not much left here, we have the Mauna Kea. What I'd like to do is just generally reference them, and if there are any questions from the Trustees because they're all in the same situations, they're being discussed as we are speaking of being the 48 hour notice period and they're on the floor of both Houses. I would like to Madam Chair just reference the bills if there are any questions, that's the status.

BAE Chair Akaka: Yes, please do.

Chief Advocate Kamali'i: Any questions for our Trustees? All right, thank you very much. Matrix 4 same thing. Those which did not have a position of support or oppose etc., they were monitored so that's just the larger matrix which also showed those bills that we were monitoring. There being no change in a position, they're still in the same position as those which are Matrix 3. Are there any questions regarding any bills that were monitored or otherwise supported or opposed.

Then the resolutions as well, so I'll just leave it to the Trustees. Having received the matrix in the electronic folder, any questions regarding the resolutions? Okay, thank you very much, if not then, Madam Chair that will conclude the status and again the session ends on Friday and we'll move into see what the Governor does.

Chair Akaka: Mahalo nui, Na'u

V. EXECUTIVE SESSION

A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).

NONE

V. ANNOUNCEMENTS

Chair Akaka: I'll pass this on to our COO to announce what's happening at the Capitol tomorrow.

COO Brown: Tomorrow, we have been informed of a Native Hawaiian Caucus gathering, this is being organized by number of people, Jacob Aki being one of them, but the purpose of this is to highlight and celebrate Native Hawaiian actions from this 2022 ledge session. Benefits of people being able to support each other are another purpose as well. A number of speakers are being lined up. OHA of course is going to be

sending a speaker and it's going to be Chair Hulu and so we have our com team drafting a short speech for Chair and she'll be speaking on behalf of OHA. We have a tentative sort of run of show for the day, Daniel Holt looks like will be opening the speech and then it'll kick over to DHHL and then it'll go over to OHA and then Mauna Kea, it is our understanding that Noenoe will be speaking and then they'll be a closing by Senator Keohokalole. Again this starts at 10am tomorrow that's sort of what drove the rescheduling of our Nā Lama Kukui blessing.

Chief Advocate Kamali'i: Casey, can I give a shout out to our com team. You know, a big part of our being able to move as we have is Alice and you know Ed and Pua, who have been more than on top of it they've been sort of in front of it and creating all the vehicles that were necessary, starting with videos, emails regarding news media that wanted to talk to whomever to get the status and also and encouraging us to be there, but also as you've seen they've been at the end of this session writing all of the texts that's necessary for Chair to make her statements and it doesn't go without saying that somebody is writing those things and working with a team of people to get that done so mahalo.

Chair Akaka: Members, are there any other announcements? I understand that we have a RM Committee meeting later today at 1:30 p.m.

VI. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Trustee Waihe'e: So moved, Madam Chair.

Trustee Alapa: Second.

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have **roll call vote**, Brandon.

							11:08 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA		2	X			
BRENDON KALEI'ĀINA	LEE						EXCUSED
CARMEN HULU	LINDSEY			X			
MILILANI	TRASK			X			
JOHN	WAIHE'E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at **11:08 a.m.**

DRAFT

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

July 12, 2022 10:30 a.m.

ATTENDANCE:

Chairperson Kaleihikina Akaka
Trustee Leina'ala Ahu Isa
Trustee Luana Alapa
Trustee Brendon Kalei'aina Lee
Trustee C. Hulu Lindsey
Trustee Mililani Trask
Trustee John Waihe'e, IV

BAE STAFF:

Brandon Mitsuda
Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
Brown, Casey / COO
Hinck, Ramona / CFO
Ozawa, Nietzsche / Interim Senior Counsel
Ohta, Everett / Interim General Counsel
Aguildo, Arlene, IT
Santos, Dan, IT

EXCUSED:

Trustee Dan Ahuna
Trustee Keli'i Akina

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, July 12, 2022 to order at **10:33 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:33 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	EXCUSED	
TRUSTEE	KELI'I	AKINA	EXCUSED	
TRUSTEE	LUANA	ALAPA	EXCUSED	10:45 a.m.
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	MILILANI	TRASK	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	EXCUSED	10:36 a.m.

At the Call to Order, **FIVE(5)** Trustees are PRESENT, thereby constituting a quorum.

II. NEW BUSINESS

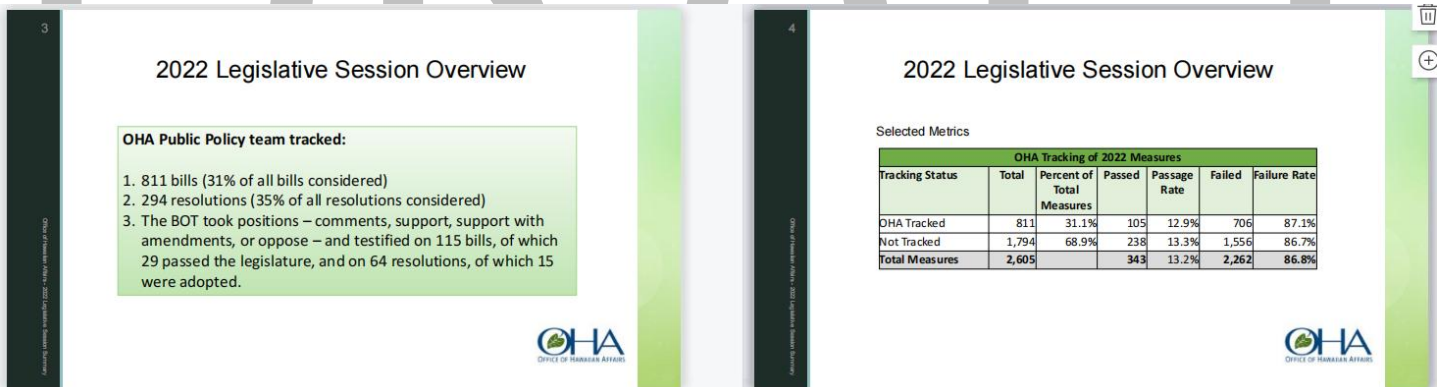
A. Administration: 2022 Legislative Wrap Up*

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Thank you, Chair. I'm going to ask interim Chief Advocate and Chief Operating Officer Casey Brown to go through the overview of the session summary.

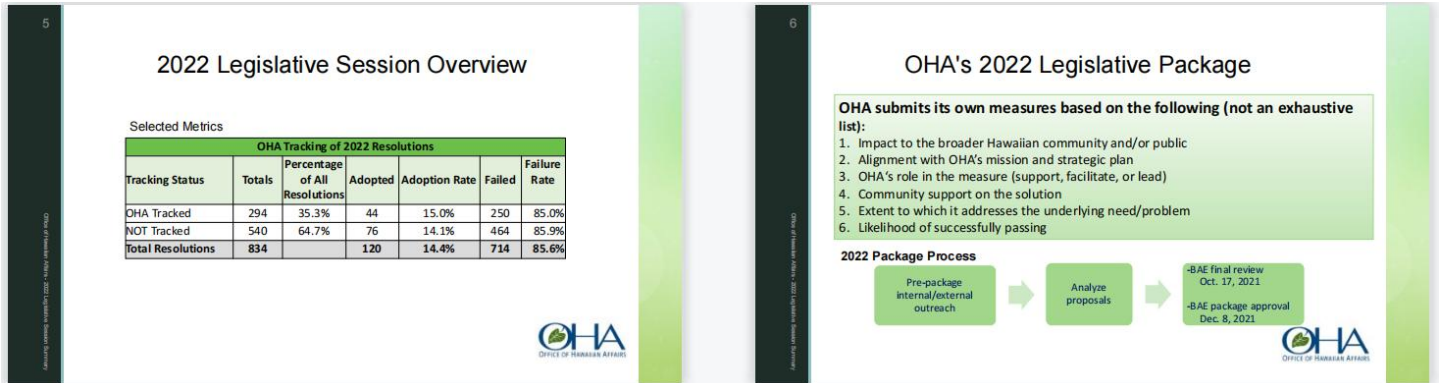


COO Brown: Mahalo, Ka Pouhana. So we're going to do a legislative session summary, a legislative wrap up. And so, in your packets, you'll have the the PowerPoint that's going to be used. We try to keep it at a high level by intent. It's going to give a quick overview with a few metrics. Then we're going to go into the package, which should seem familiar to folks. Look at some bills of interest and then talk about some other areas monitored.



Okay, so looking back at the 2022 session. Every session has its own character. It was a phenomenal session overall for Native Hawaiians in terms of money. But note that there was still a lot of bills. You know, non money bills out there that you know still didn't pass and represented a lot of varying issues across the Board. In terms of our own Public Policy Team, they tracked on 811 bills and considering we had about just over 2600 bills considered by the Legislature this session, looking at about a 31% rate of all bills considered so it's quite a few. The team normally does cover quite a few, and so those 811 bills are represented in all the different matrices. So the four matrices for the bills themselves and measures, and then the 5th Matrix which was the resolutions ones. So the 800 didn't relate to the measures, the bills themselves. Next number down 294 resolutions were also tracked on that Matrix 5 and that represents about 35% of all the resolutions that were considered this past session. And you, Trustees, you folks took positions and testimony was submitted on 115 bills, of which 29 passed this session, as well as on 64 resolutions and 15 of those were adopted.

So this is some selected metrics that the team has produced and so this kind of speaks a little to the last slide that I just talked about. So you can see OHA tracking 811, you also see for context that here is the 2605 bills that were considered this year. What's another interesting take away from this is that just for context setting, the overall passage rate, so you can see that of the 2605, 343 passed, so you're looking at about a 13% passage rate this past session.



The next slide is the same metrics but for the resolutions, so 294 out of a total 834 and you can see that the adoption rate lands at about 14%. The next slide, so this should feel a little familiar, but just wanted to demonstrate the method as well as the process that's taken, so something kind of act as a reminder for you folks and anybody streaming in publicly. So OHA also submits its own legislative package, that's well known. And when we submit our own package, the team goes through a number of steps in their vetting process, and these are, there's six criteria listed here. It's not an exhaustive list, there's few other things that they consider. For example, budget. You know if something requires budget by OHA, you know that has to be considered. But just a reminder of these are the criteria used. You know it has to align with our mission and strategy. We need to consider what role we would play in any measure we introduce, right. And number four and five are our good ones as well. Like we want to understand the level of community support that doesn't exist or does exist.

So this is to demonstrate that there's definitely a level of analysis going into every single idea generated to turn it into a proposed measure. And then down below on this slide, it's just kind of a quick reminder of the process that was taken last session. So the team usually starts performing there idea gathering, information collecting, usually in the July through September period of every year and they checked, they always start internally and then of course they do their outreach to community entities and and others in the community. Then all of that is put into their bucket to analyze. They bump it up against these criteria. They actually perform sort of scoring. So that it gives them some quantitative data points, but there's a lot of qualitative things that go into it as well, and then they prepare their proposals for you folks. Last year the workshop was the first meeting, but the first real review of a finalized proposed packet goes on October 17th at BAE and then BAE approved it last year on December 8th and then it went to the Board.

7

OHA's 2022 Legislative Package

OHA measures:

OHA-1: [HB1474](#) / [SB2122](#): The Public Land Trust.

This measure would have required the State to fulfill its obligation in conveying OHA's pro rata (proportionate) share of the Public Land Trust (PLT) revenues

OHA-2: [HB1473](#) / [SB2121](#), Building Back Pono.

This measure would have required developers to include specific analysis of whether an action would exacerbate existing socioeconomic disparities in their environmental review process

See more at oha.org/legislation



8

OHA's 2022 Legislative Package

Historical Metrics

Year	Package Measures	Enacted	Percent Enacted	Description/Notes
2022	2	0*	0%*	*Note the issue of OHA's SB2122 bill (PLT), which died, was carried forward in another vehicle, SB2021 this session and passed.
2021	4(+2)	2(+1)	50% (50%)	HB204 OHA Budget SCRS Data Governance Resolution (SB1384 'AhaPūnana Leo on the Early Learning Board)
2020	6	1	17%	SB2193 Employment Discrimination
2019	5	2	40%	HB172 OHA Budget SB192 Unsecured Bail
2018	4	0	0%	N/A
2017	3	1	33%	HB335 OHA Budget
2016	5	1	20%	HCR 188 Urging The Convening of a Public Land Trust/Revenues Negotiating Committee
2015	7(+1)	4 (+1)	57% (71%)	HB209 OHA Budget HB207 Native Hawaiian Law Training Course SB434 Traditional Hawaiian Farming HB206 Hawaiian Plants in Landscaping (SB913 Incarcerated Parent Data)



So this was our package, very familiar, two bills. It was very focused, packaged by intent. We had a very bill of high interest and high value for us and our people. So we focused the resources we had on hand on that. But it didn't prevent us from also monitoring the rest of the bills that was demonstrated in the above slide. Both of these bills did not make it through, however, as you all know, our Public Land Trust bill. The issue of PLT was carried forward in another vehicle.

So this is some historical metrics just to give you guys a quick snapshot. You can see that this past year very like I said, very focused package, and even though we have a zero there for enacted, we know that Senator Keohokalole's bill became the vehicle as Legislators wanted to use that vehicle to push forward the issue of PLT and then that one eventually passed, so it's a 0, but it's an asterisk 0. And then kind of looked at the past 7-8 years there, and another key take away I'd like to point out is if you look at these past seven years and you remove those biennium years where the budget bill was there. You're really looking at on average, OHA's getting one bill, one measure passed a session. We always have significant bills. All of those are significant so but yeah, just to give you a sense that you know we're enacting about one bill on average and I went back to scan the last 18 years because the team had data on this and there was really only four of the 18 years where more than one bill or zero bills passed, so it is interesting, you know, over the years that it ends up to be a lot of impact on public policy, but just wanted to give you a sense of the historicals.

9 Bills of Interest	10 Bills of Interest
<p>SB2021: Relating to Increasing the Payment Amount for The Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust. After the Senate Ways and Means committee deferred OHA's senate PLT bill (SB2122), legislators looked to SB2021 as a vehicle to change OHA's pro rata share. The final adopted bill included the following:</p> <ul style="list-style-type: none"> a. Increased OHA's interim annual pro rata from \$15.1 million to \$21.5 million, which is less than OHA's calculations and request for \$78.9 million annually. b. Allocated a one-time payment of \$64 million to OHA, which is about one-tenth of projected \$638 million in back PLT revenues. c. Established a working group that OHA will lead to account for all ceded lands in the PLT inventory and for all income and proceeds from PLT, in order to determine the actual 20 percent pro rata share. <p>Status (as of July 12, 2022) [Will be reported in July 12, 2022 BAE Committee Meeting]</p> 	<p>HB2024, Relating to Mauna Kea Stewardship and Oversight Authority In 2021, the House adopted HR33, a resolution to convene a working group to develop recommendations for a new governance and management structure for Mauna Kea. OHA participated in the Mauna Kea Working Group (MKWG), which presented its recommendations to the 2022 Legislature. These recommendations were incorporated into the original draft of HB2024. OHA did not oppose the original draft, but as the bill progressed in the legislative process, committees amended HB2024, and key provisions were changed that OHA opposed. The final bill that passed the Legislature includes substantive changes to MKWG's recommendations including University of Hawai'i's stewardship and oversight authority and public lands trust limitations.</p> <p>Status (as of July 12, 2022) [Will be reported in July 12, 2022 BAE Committee Meeting]</p> 

Okay, a couple of bills of interest now. There was a lot of bills of interest out there, non OHA measures as well. You know, Red Hill, the other Hawaiian bills such as the DHHL, but we're going to focus on just the two that we're very familiar with you. You folks had a Joint BAE-RM meeting earlier today, so you kind of went into this and you kind of got a status update. So some of this might be a little duplicative. This is, you know, the PLT bill and I'm going to go through a A,B&C really quickly, as those three takeaways are the key takeaways from our bill, right, so an annual increase to 21 million. Which is a great win, but still not the amount that we originally requested for based on our own calculations of 78.9. So still a lot of room to be made-up there. We did get a one time 64 million payment and it was accounted for as a portion of back due revenues.

And as a reminder that amount was simply calculated as the difference between the 15.1 and 21.5 and multiply that difference by the 10 years. It hasn't been adjusted for 10 years and then C. to establish the working group. So this is something that OHA was in. In the legislation OHA was also named as the entity to provide administrative support and to submit the report, the final report. So not only do we have to connect with the Governor's office to you know, understand there are three members to send to this committee to this working group. OHA has to send three members as well. There's a total of six that will comprise this working group, but we also have to be ready and get prepared to provide the administrative support and produce the report.

And then you guys got the update on other status in terms of we just received the 64 million, you guys just approved how it's going to be invested. Any other questions from Trustees?

Chair Akaka recognizes Trustee Lee.

Trustee Lee: Thank you, Madam Chair. Casey, so on the matrix that you supplied, the matrix on page 5 for what we tracked, what was adopted and what failed. In the future, if we could also have another row because this doesn't show us our success rate on bills that we opposed. So all it shows is what failed. It would be good to know how successful our advocates were at the Legislature in getting bills not passed that OHA was opposed to because that's a win, and so we should highlight that.

COO Brown: Yeah, no it's great. I think the team normally produces that and so I'll look to see if the team has ran those numbers and I can at least provide it to you folks after this meeting. But yeah, good idea, Trustee.

Trustee Lee: Thank you, Madam Chair.

Chair Akaka recognizes Trustee Trask.

Trustee Trask: I just wanted to ask Casey if he can give us the background on what actually happened when the Legislature opened because OHA had its own bill, but instead we got a Senate Bill 2021. There was a change there and I just wanted to ask Casey if he could just give the background of what had happened there.

COO Brown: Fortunately, I attended one of the meetings along with colleagues from OHA and Chair Hulu, Trustee Akaka and several of the admins and I picked up something from that meeting and they simply took Senator Keohokalole's bill, which was introduced in prior session as well and the reasoning they gave was they wanted to work with a colleagues bill. It was simple as that, they were more comfortable using their colleagues bill.

Trustee Trask: And the difference between the two bills?

Board Chair Hulu Lindsey: I think the biggest difference was our bill asked for the PLT for the normal gross of our PLT and the new bill had us in for net, and as you all know, a net can come down to 0.

Trustee Trask: That's right.

Board Chair Hulu Lindsey: So we fought and fought and fought and it was Sylvia Luke that finally brought the two houses together and gave us what we got.

Trustee Trask: I had a follow up because I'm trying to get a clarification in terms of Jarett's involvement. You know what I'm saying. The initial report we got was that Keohokalole had done this, but then there was some other political situation and I'm trying to find out who in the Legislature was that backed us and I know that Sylvia put the two together, Sylvia Luke. But who were the legislators that replaced the initial bill we put in because this is an election year.

Board Chair Hulu Lindsey: Keohokalole's bill was the replacement bill.

Trustee Trask: Yes, did we work with him on that, prior to?

Board Chair Hulu Lindsey: No

Trustee Trask: Okay, thank you very much. It tells me that he did not work with us going in. Got it, thank you.

Chair Akaka recognizes Ka Pouhana Hussey.

Ka Pouhana Hussey: I just wanted to add to Trustee Trask's response to her question. The short of it is our House bill. We had a companion Senate and House Bill. The House bill did not even get a hearing in its first subject matter committee, and the Senate got one hearing, well two. It went through its subject matter, Hawaiian Affairs, and then ended in WAM and in WAM our bill was deferred and so then Senator Keohokalole's bill became the vehicle for which to move forward.

Chair Akaka recognizes Trustee Ahu Isa.

Trustee Ahu Isa: Now I had two questions. Is there a deadline for that working group and you also said administrative support from OHA would be funding this working group. Do we have a dollar amount for that? No, okay deadline, do you know when it's due. I'm just asking questions because when I was in the Leg. 1998, year 2000, Ed Case was Chair of our Hawaiian Affairs and we tried to get an inventory 'cause that was the question. 20% of what inventory? And this went on for years for us to get now a working group and we're going to have to put this together. It's a lot of work, so I just wondered if your staff or our administrative staff is prepared to do this, and if there's a deadline, there's no deadline on the bill.

Ka Pouhana Hussey: Trustee, it just outlines the process to select the members. The Governor selects three, OHA selects three and then the process you know goes from that. But given that we're in an election cycle and you know we'll have a new Governor, it's highly unlikely that a new Governor will appoint anyone to this until at the earliest January, at the earliest, so Administration is just recommending that we take this time until January to do planning, so that when that committee is organized, we can be prepared to hit the ground.

It is highly unlikely that there will be any findings out for the 2023 Legislature, but probably the 2024 Legislature that the working group would have findings, but again, this is just based on planning thoughts that Administration has on how to implement and among the reasons we asked to be administratively responsible. Honestly, it's to control the process and the report. Budget and finance asks for two positions to be able to do this work group and we didn't think it was necessary to have two positions to manage the work of the work group, so hence we advocated that OHA take the responsibility for administratively managing the process.

Chair Akaka recognizes Trustee Lee.

Trustee Lee: Thank you, Madam Chair. It was noted that Senator Keohokalole's Bill SB2021 had a net amount in there that was amended to add the net. His original bill did not say net. The Senate Committee hearing amended it to add in the net. That was not in the original bill. Thank you, Madam Chair.

Chair Akaka: Board Chair, did you want to say something?

Board Chair Hulu Lindsey: Yes, I do and Trustee Lee is correct. But what was scary about Senator Keohokalole's bill is that he wanted the Public Land Trust to be shared between 2 departments, OHA and DHHL. So that that was not something that we could accept, because that's not how the Constitution reads. Thank you.

Chair Akaka: Mahalo, Any other questions members?

COO Brown: Madam Chair, sorry I got a couple more slides. We have one more bill of interest and it's the Mauna Kea bill. We followed it well during session, it started out Trustees took a position of comment because initially the first bill as written aligned with the working groups report. But as we saw it go through session through SD1 HD1, it slowly became refined, where oversight and authority shifted back to UH, and limits were placed on the Public Land Trust and therefore, or then Trustees took a position of oppose. So that's the bill. It was signed on July 7th by the Governor and it is via Act 255. I'll invite Ka Pouhana or anyone on Admin if they know any other current status.

Ka Pouhana Hussey: No other current status, but just a refresher. As you will recall Trustees, the position recommended to change to oppose came when it crossed over to the Senate. The House Bill version was more aligned to the working group, which both Chair Hulu and I participated in. We never supported, we just commented on a number of matters and outright recommended opposition when it crossed the Senate and OHA was removed from the Stewardship Authority composition and a number of troubling factors regarding long term leases, astronomy and the reduced role of cultural practitioners on the governance was realized through the bill. And as well as it continued to align with the Board legal position in terms of holding the University accountable for mismanagement of the Mauna. So our position to Trustee Lee's point, that's an example of an opposed position that was eventually signed into law and so now the University is implementing because it's subject to immediate implementation, so they're moving through that implementation phase.

COO Brown: Mahalo, Ka Pouhana. Okay, moving on to the final slide.



This is just to showcase a few other subject matters that was prevalent this session and that our Public Policy team tracked on. Across those 811 bills. You know some of the categories were perpetuating 'Ōlelo Hawai'i, assisting our Native Hawaiian prisoners, gender responsive policies, protecting Native Hawaiian Youth, Kalo Farming, Historic Preservation Laws. There was several iwi bills, several iwi issues being addressed. And a number of bills we're taking positions on as well. We also have a more detailed report that's produced by Public Policy, which goes into a little more depth in some of these areas, and the bills themselves that were tracked on. But that completes the legislative wrap up session and I just also wanted to say a big mahalo to all the beneficiaries and the communities that came out to support OHA this session. We did see an uptick in support for things like our PLT bill and an uptick throughout the session in the amount of testimony for example, and it was reported throughout session, but a lot of work by our own OHA team. You know our Comms team to throw in assist to advocacy in terms of developing messaging. A lot of high level thinking by, you know, even you Trustees as well. It was very very successful in many ways, session, but still a lot going forward that needs to be done for our people, but mahalo to the communities.

Trustee Ahu Isa: Can I ask a question of Casey if he said this is the last bill about the new department that the Governor created, or the Leg. created, Public Safety? Some beneficiaries are asking how is that different, is

the Police Department, which I figure is a County issue and this is the State Sheriffs, I forget the name of it, the new department, something law enforcement. I think it is because we always go in and try to do stuff with the public safety for the prisoners.

COO Brown: Okay, so Trustee Ahu Isa you're saying that there was a bill that created a new public safety department in our existing say HPD and that new bill that created this new office, OHA might want to take an interest in working with them.

Trustee Ahu Isa: It combines several deep departments.

COO Brown: Okay yeah, thanks for pointing that out. That does sound familiar and I can have our team look into it to see what are the plans, what's the vision of that department? So we need to get a sense of you know the intent.

Chair Akaka: Brandon, do we have any testifiers?

BAE Staff Brandon: Chair, we don't have any written testimony. We do not have any testifiers that have signed up to testify and we do not have anybody physically here present to testify.

Chair Akaka recognizes Trustee Lee.

Trustee Lee: I would prefer not to go into Executive Session, so I'll just suffice it to say, as we do not have public testimony agendaized on the agenda, can we not ask if anyone has or wishes to testify and I would prefer not to go into detail about that because I would have to call for an Executive Session.

Chair Akaka: Trustee Lee, because of the new rules, I will read it out and we have it listed on our agenda.

Trustee Lee: We do not have public testimony listed on the agenda, Madam Chair.

Chair Akaka: Yes, and I can also have Corporation Counsel share on this too, but.

Trustee Lee: Okay so I understand, Madam Chair, so you wish to have Corp. Counsel weigh in on this. Then in that case, Madam Chair, I move that we move into Executive Session.

Chair Akaka: No, first of all before we do that I'd like to read this. If you read the agenda farther down, it says public testimony will be called for each agenda item and must be limited to those matters listed on the meeting agenda and this is to accommodate the I want to say the new Sunshine Law. Everett, can you please share further on this?

Interim General Counsel Ohta: Yes, thank you, Chair Akaka and good morning Trustees. Yes, so the Sunshine Law has been amended by the Governor signing into a bill last week Friday, this bill no longer allows boards and commissions, including the Board of Trustees and the Committees to take public testimony only at the beginning of an agenda and therefore, public testimony must now be taken throughout the agenda as we've done for both the Joint Committee meetings and today's BAE meeting. So this is no longer listing public testimony as a standalone agenda item, instead we're taking it with each agenda item as they come up.

Chair Akaka: Mahalo, Everett.

Trustee Lee: Yeah mahalo, Everett. Thank you for clarifying that for me.

Chair Akaka: It is listed on the agenda if you look farther down though.

Trustee Lee: I see it now, Madam Chair on the 2nd page. Thank you, Everett and that was my complacency. I didn't look over the second page, just assuming that it's the same as we've always had because there was no special notice sent out to the Board members or the Committee members that there had been a change to Sunshine Law, thank you.

Chair Akaka: There actually was Trustee Lee, it was sent out to us.

Trustee Lee: Can I get a date of that transmittal Trustee Akaka and I'll go and verify it because I don't recall seeing that.

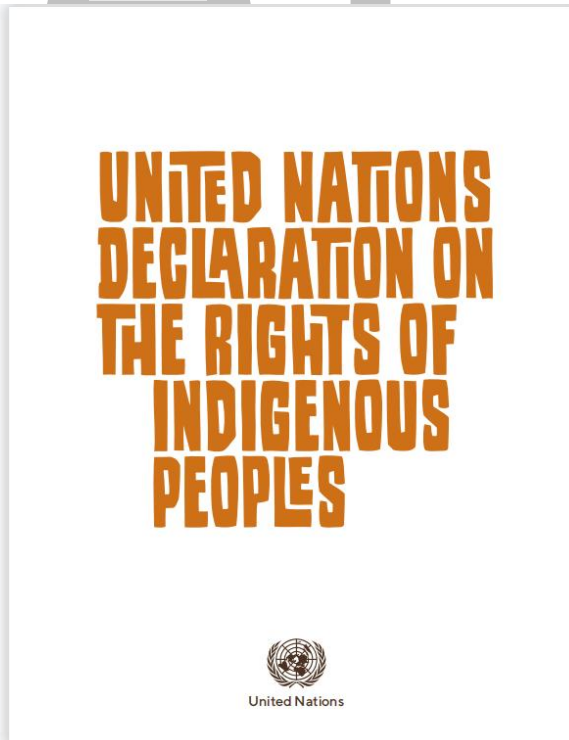
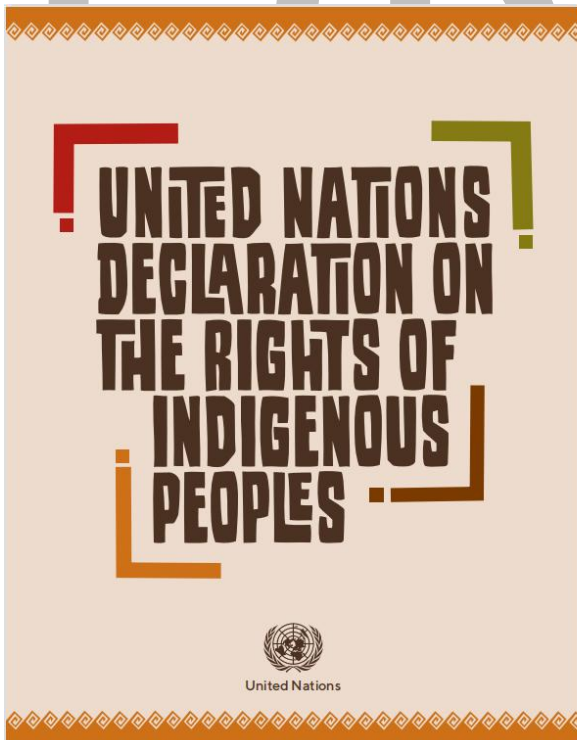
Chair Akaka: Everett, are you able to pull that up?

Trustee Lee: It doesn't have to be during the meeting Trustee Akaka. That can just be forwarded to me.

B. Administration: Overview of Policies Within the Purview of the Committee on Beneficiary Advocacy & Empowerment*

Chair Akaka yields the floor to Ka Pouhana Hussey

Ka Pouhana Hussey: Thank you, Trustee Akaka. Trustees, the Board with its policy work and its continuing governance framework has spent almost over a year on financial policies with investment endowment, those policies. In January Administration put together a policy packet if you will of all policies related under the purview of the Beneficiary Advocacy and Empowerment just to signal that it's not just financial policies that there is work to do. There's also BAE related policies and so this memo just refreshes to that policy packet and before any formal workshop is done, and Administration also wanted to introduce and add too.



So Administration just wanted to share with Trustees this particular document. It hasn't been codified as a basis in policy, but we wanted to make you aware of we do have an international engagement policy. This particular declaration on the rights of Indigenous people is very broad and provides much of a foundation and I just wanted to signal to the Trustees that this will become and offered up as a foundational document for all of the policies that are being done. And I just wanted to slowly scroll through and just point out some of the salient points and pieces. And remember, as an international document, this resonates so well with all of our brothers and sisters and indigenous cousins.

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples

3

affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

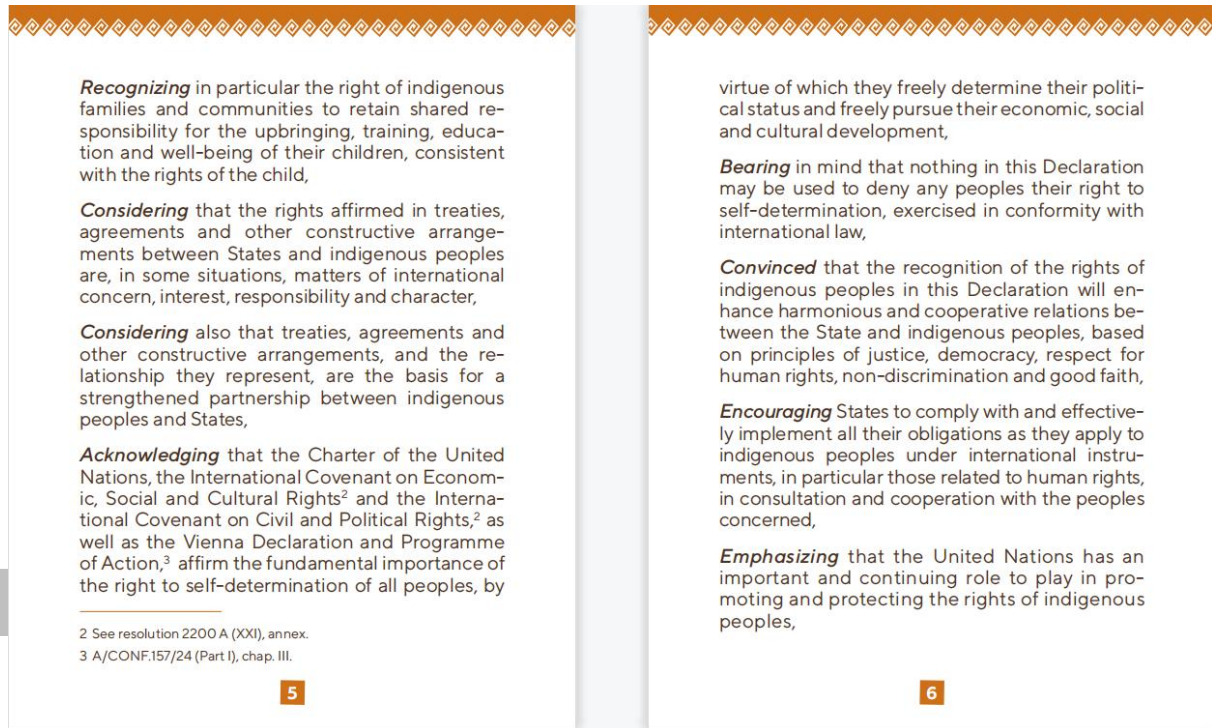
Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

4

One of the consistency's here is on Page 3 where the DRIP concerns that we've suffered from historic injustices, so not just Native Hawaiians, but a number of indigenous peoples who have been colonized, dispossessed of lands, etc. So it's a common experience that we have and one that, as Native Hawaiians through policy, we want to ensure that we align with as well.



I did want to also just bring to your attention on Page 5. This particular in recognizing the rights of families and community to retain responsibility for bringing, training and education, and as you are very familiar with, Leo, you know the Hawaiian focused Charter Schools is really based on a family model of families being the first educators in our teaching and families choosing how to educate their children and in what language. So this helps to build that foundation.

Next is this section here in terms of self-determination. There's a lot of use of the word sovereignty interchange to federal recognition, and one of the pieces that this rings is the word self-determination doesn't have a federal construct, it is placed here so that the indigenous peoples are self determinate if that they choose and I think you agree that our policies are about what is the Office of Hawaiian Affairs is on behalf of our lāhui and that fiduciary responsibility is self determinative if not based on someone else's rules or someone else's policies, even though as a state agency, we work within a state construct. So I wanted to point out that language that's in the DRIP. Then in the DRIP itself, there will be a number of articles that as you read through more specifically, hopefully you will find some resonance in the language that is used. The words of self-determination, self-governance is there.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

9

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

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Article 7, I want to point out the first or among the first of. Indigenous peoples have the collective right to live in freedom and security. The current national discussion on boarding schools, tell us that there's a deep history of hurt and awfulness about what has happened to Native Americans in boarding schools, as well as examples that were called out in the report here in Hawai'i.

The entire Article 8 talks about assimilation and how Native peoples have been assimilated into the construct of whatever the government entity has been, and so this is important to call out to recognize forces of assimilation.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

11

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

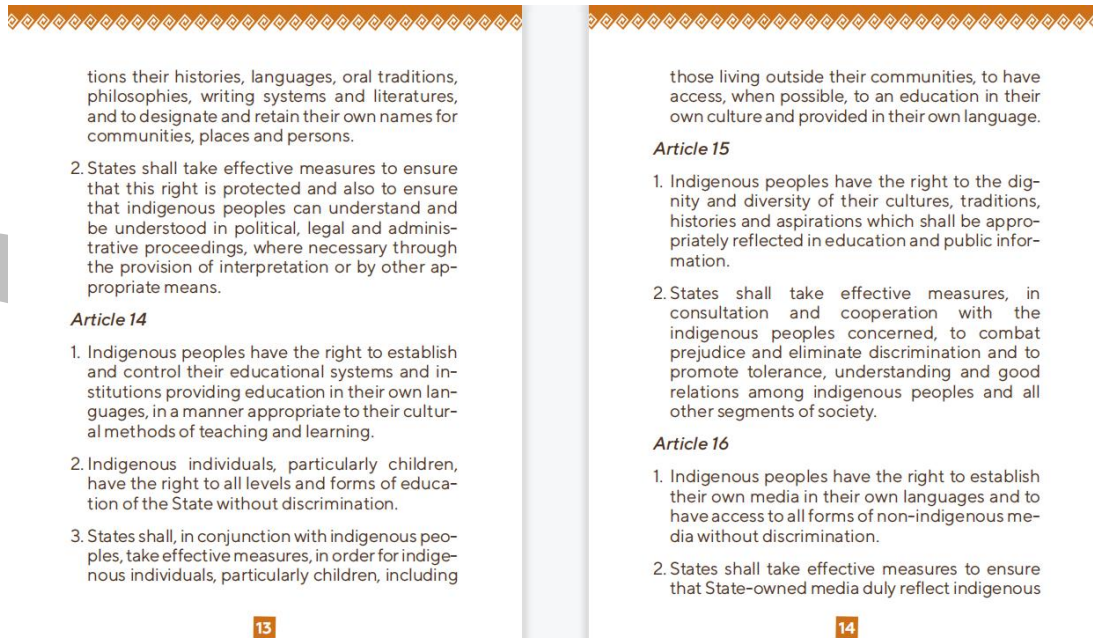
Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future genera-

12

I also wanted to just point out in Article 10 this terminology of free prior and informed consent of the indigenous people and about consulting. The government should be consulting with the Native peoples of that land and so if you think about that consultation, things like military leases, anything that's being done on the land, in the land, in the waters, in the oceans, in any of their resources, consultations should be occurring with the Native people and as a practice that has not been done very consistently.

Article 12 I hope resonates. It talks very specifically about repatriation and about traditional customary rights and about ceremonial objects. Although the things that we have in iwi kupuna policy that ties into this.



Article 13 kind of spans these two pages, but it also talks about the right for the histories and to retain their own names and communities in places. We have many examples where the place name that was there has been replaced. For example, Leilani Estate on Hawai'i Island, that's not the place name of that area, and so this article talks about the rights of indigenous people to hold the name places of what was there rather than have it be subjugated to another governance and construct to rename the places.

Article 14 is all about supporting Hawaiian medium education, and so this is a good section for us to base policy work on as well and to find again resonance around the world with other indigenous people, and Trustees, I'll stop there, but I just wanted to point out that this document is very powerful to help us in formulating our policy and having our policies be applicable not just in Hawai'i or even in the continental US but internationally as well. And if there's any questions from Chair Akaka or Trustees, Administration just wanted to reframe the policy work that will be coming before the the BAE Committee.

Chair Akaka: Mahalo, is there any discussion numbers?

Chair Akaka recognizes Trustee Ahu Isa

Trustee Ahu Isa: Ka Pouhana, is Kamehameha Schools involved?

Ka Pouhana Hussey: Involved in?

Trustee Ahu Isa: It says educational system, so I just wondered, indigenous.

Ka Pouhana Hussey: So when we think about indigenous systems, we think about part of our strategic plan we look at Hawaiian focused charter schools. Kamehameha is certainly a large system, but even the universities have a indigenizing the university effort, and there's a large effort within the UH system itself. What does it mean to be an indigenized university in the broader academy, you know, the construct of the academy. Yeah, so it would be all of that very much so with our support of Hawaiian focused charter schools, this policy resonates very clearly.

Trustee Ahu Isa: Well, some things they work with Punahou School like when they do some summer school things and now all the schools like even Saint Louis is really heavy into all. Yeah this is good to know, mahalo.

Chair Akaka recognizes Trustee Alapa.

Trustee Alapa: Mine is really quick, I wanted to know is it possible Ka Pouhana that we could get a copy of that? That in this article it sounds wonderful and I really enjoyed you pointing that out and I would like to see more of it.

Ka Pouhana Hussey: It's in the packet, but we can certainly send a separate file for easier reference, sure.

Trustee Alapa: Yes, thank you.

Chair Akaka: Any other questions, members?

Chair Akaka recognizes Trustee Trask.

Trustee Trask: You know, I just had wanted to make two comments here. The attachment of the UN DRIP is to the interoffice memo that Sylvia sent out that concerns the policy within the purview of the BAE Committee. So one thing I would like to do is I would like to say here that I've looked at all my on boarding materials, including the Board of Trustees governing documents. I do not have the binder with all of the office policies. All of the office policies and I am requesting it because when I looked at the memo you know, we see the policy doing the ceded lands, water, protecting iwi kūpuna. These are selection of the policies that we really needed to pull together to look at because of the work we're doing on the ceded land inventory, but it also demonstrates that there are many other policies that we're not seeing here, and I can't find the binder that has them and I want to review them everyone.

One thing I had wanted to point out, the UN declaration. One of the reasons why it emerges now is because when Kealoha and I and Na'u began to look at the ceded land picture, OHA already interfaces in some ways, for instance, the United States Westpac and the United States, NOAA, the National Oceanic divisions, those who take care of the fisheries. They have been implementing this framework on the DRIP since President Obama signed it into law. That is why OHA is sitting in consultation in three areas with Westpac and NOAA relating to the Northwest Hawaiian Islands. So when you look at the DRIP, it's already being implemented and has been for a while with the federal government, so it shows us how the federal government, the states and the general assembly have to relate to us. But it also shows us how we might use the declaration to advance positions we're taking with the United States of America and a good example on the ceded lands is that America and the UN took the whole Northwest Hawaiian Islands and made it into a world heritage site. The US ships sailed there. The US has the right to launch intercontinental ballistic missiles there. But we don't have a right to go there and take food unless the NOAA and the Westpac agree, so you can see from this that it may have serious impact on our subsistence food rights. But I just wanted to use this as an example so it doesn't fall through the cracks and also I just wanted to end by saying that I need to get the binder with all the policies. You know, I just realized when I saw this that I hadn't actually in the four months I've been here, I had not myself done a comprehensive review of the policies. I'm sorry colleagues, maybe you have, but I really didn't

catch it until I saw this memo so I'm just asking the Chair and the you know, the Board Chairs and Sylvia if I can get this and then I'll try to go through it as quickly as it can. Thank you.

Chair Akaka, if I can respond to Trustee Trask. Trustee Trask, we'll bring the January memo because the January memo has the mapping of the policy documents from the current policy manual and then all of the plus minus and the migration and mapping that's planned. So we'll provide that for you.

Chair Akaka: Any other questions, comments members? I wanted to check with Brandon to see if we have any testifiers on this matter.

BAE Staff Brandon: Chair, we don't have any written testimony. We do not have any testifiers that have signed up to testify and we do not have anybody physically here present to testify.

Chair Akaka: Mahalo, and just to provide clarification on what we had discussed earlier in terms of the new Sunshine Law. It was my understanding that we received it, and to clarify that that was received to myself and my team as well as the Vice Chairs of the Committees. But if you can provide more clarification on that, Everett.

Interim General Counsel Ohta: Yes, thank you, Chair Akaka. Yeah, so with the changes to the Sunshine Law I provided an e-mail to the Chairs and Vice Chairs of the Board and Committees to notify them of the change and how the public meetings of OHA need to be run so that was not sent to all members of the Board, but can be done.

Chair Akaka: Mahalo

Trustee Lee: As a member of both Committees and a member of the Board, I would appreciate that so that I don't ask clarifying questions of the Chairs like I did today.

Chair Akaka: Again, we just wanted to highlight again we did make the adjustment for the agenda so it is viewable for our viewing public and as well for our members.

III. ANNOUNCEMENTS

Board Chair Hulu Lindsey: I just want to announce that we will have our meeting of the Board at 2:30 today. We'll take up whatever is on the agenda and I'll defer the portion that refers to the Committee on Resource Management.

IV. ADJOURNMENT

Chair Akaka: I will entertain a motion to adjourn.

Board Chair Hulu Lindsey: So moved.

Trustee Trask: Second.

Chair Akaka: It's been moved and seconded. Any discussion members? Seeing none, can we please have roll call vote to adjourn.

							11:24 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED
KELI'I	AKINA						EXCUSED
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
MILILANI	TRASK		2	X			
JOHN	WAIHE'E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Chair Akaka: The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

Chair Akaka adjourns the BAE meeting at 11:24 a.m.

Respectfully submitted,

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 10/25/22.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

Committee on Beneficiary Advocacy and Empowerment
Trustee Kaleihikina Akaka, *Chair*

Members

Trustee Leina'ala Ahu Isa, At-Large
Trustee Dan Ahuna, Kaua'i / Ni'ihau
Trustee Keli'i Akina, At-Large
Trustee Luana Alapa, Moloka'i / Lāna'i
Trustee Carmen Hulu Lindsey, Maui
Trustee Brendon Kalei'aina Lee, At-Large
Trustee Mililani Trask, Hawai'i Island
Trustee John Waihe'e IV, At-Large



**STATE OF HAWAII'
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

DATE: Tuesday, October 25, 2022

TIME: 10:00 a.m.

PLACE: Virtual Meeting

Viewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 821 4472 5558

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 821 4472 5558. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. February 8, 2022
 - B. February 15, 2022
 - C. February 22, 2022
 - D. March 1, 2022
 - E. March 8, 2022
 - F. March 22, 2022
 - G. March 29, 2022
 - H. April 12, 2022
 - I. April 26, 2022
 - J. May 3, 2022
 - K. July 12, 2022

III. New Business

A. **Presentation:** Native Hawaiian Legal Corporation, Kawika Patterson, Board Chair and Makalika Naholowa'a, Executive Director

B. **Action Item BAE #22-03:** Approval of Due Diligence Activities in Pursuit of an Executive Order re: Kamokila Hawaiian Village, 5523-5519 Kuamo'o Road, Kapa'a, Kaua'i, Hawai'i

C. **Action Item BAE #22-04:** Approval of the 2023 Legislative Package



OFFICE OF HAWAIIAN AFFAIRS
Action Item

Committee on Beneficiary Advocacy and Empowerment
October 25, 2022

BAE #22-03

Action Item Issue: Kamokila Hawaiian Village, 5523-5519 Kuamo‘o Road, Kapa‘a, Kaua‘i, Hawai‘i, Due Diligence Activities in Pursuit of an Executive Order

**Prepared &
Reviewed by:**

A handwritten signature in black ink, appearing to be 'S. Hussey'.

Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

10/20/2022

Date

Reviewed by:

A handwritten signature in black ink, appearing to be 'Casey Brown'.

Casey K. Brown
Ka Pou Nui, Chief Operating Officer

10/20/2022

Date

Reviewed by:

A handwritten signature in black ink, appearing to be 'Everett Ohta'.

Everett Ohta
Paepae Puka Kūikawā, Interim General Counsel

10/20/2022

Date

Reviewed by:

A handwritten signature in blue ink, appearing to be 'Kaleihikina Akaka'.

Kaleihikina Akaka
Luna Ho‘omalua o ke Kōmike BAE
Committee on Beneficiary, Advocacy & Empowerment, Chair

10/20/2022

Date

Action Item BAE #22-03: Kamokila Hawaiian Village, 5523-5519 Kuamo‘o Rd, Kapa‘a, Kaua‘i, Hawai‘i, Due Diligence Activities in Pursuit of an Executive Order

I. PROPOSED ACTION

Authorize Administration to execute due diligence and other activities in pursuit of an Executive Order for Kamokila Hawaiian Village, 5523-5519 Kuamo‘o Road, Kapa‘a, Kaua‘i, Hawai‘i, in accordance with existing policies, processes and procedures.

II. ISSUES

Whether or not, the Board of Trustees (“Board” or “BOT”) will authorize Administration to pursue due diligence and other activities in pursuit of an Executive Order for Kamokila Hawaiian Village, 5523-5519 Kuamo‘o Road, Kapa‘a, Kaua‘i, Hawai‘i, in accordance with existing policies, processes and procedures.

III. BACKGROUND & SETTING CONTEXT

Beneficiary Community Concerns. At the March 24, 2022 Board meeting, during the Community Concerns & Celebrations agenda item, the following beneficiaries provided testimony: Kihei Fernandes, Kimo Fernandes, Benjamin Fernandes, Nainoa Fernandes, Stephanie Fernandes, (collectively Fernandes ‘Ohana”), Kamealoha Hanohano Pa-Smith, Kainoa Kanahale and Daniel Finer (Attachment A). The initial ask of the beneficiary family was for OHA to assist with the extension of GL S-3674 lease, issued to William E. Fernandes, on December 18, 1961, which expired on December 17, 2021, with the Department of Land and Natural Resources (“DLNR”), Division of State Parks (“DSP”).

Initial Administration Follow-Up. The Board Chair asked Administration to gather further information from the beneficiary, DLNR and DSP, in order to assess how best to address the Fernandes ‘Ohana’s raised concerns. Administration’s arranged with the Fernandes ‘Ohana a site visit on Monday, March 28, 2022 and a subsequent meeting with DLNR, DSP Administrator and Deputy Administrator on Tuesday, April 5, 2022, to obtain a baseline understanding of the situation at hand. Correspondence reviewed from DLNR, DSP summarizes, from DLNR, SPD’s perspective regarding the issue at hand, DSP indicated that “...despite ample cause to issue a Notice of Default or terminate the lease, have determined that simply allowing the lease to expire is warranted. This is in deference to your family’s history with this portion of Wailua River State Park, and, importantly, allows you to be considered for a future disposition of the parcel, an opportunity which would be precluded by a termination of your lease for cause.”; therefore DLNR, DSP simply allowed the lease to expire on December 17, 2021.

Post Lease Expiration Activities. Post lease expiration, the Fernandes ‘Ohana have been in communication and worked with DSP *Kaua‘i* to remove personal family effects, artifacts brought to the site over time or structures that may be inconsistent with a future cultural use.¹ The original date for the Fernandes ‘Ohana to remove items originally set at February 28, 2022 was extended twice to March 31, 2022 and then April 30, 2022.

¹ Per the DLNR DSP 11/17/2021 correspondence, the next steps is for DSP to conduct either a Request for Proposal or an Invitation for Bid process for sustainable cultural and/or recreational use for the park parcel, to include community/non-profit/non-commercial options.

Due Diligence Focus. Since the lease has expired and no longer eligible for extension, OHA’s due diligence focused on strategic considerations for the Board.

IV. DISCUSSION - Due Diligence Overview for Board Strategic Consideration

The essential questions for this due diligence memorandum are the following:

- A. **Provenance.** What is the provenance of Kamokila Hawaiian Village (“KHV”), including its leasing history with the Fernandes ‘Ohana and DLNR, SPD? What additional community interests have been expressed for the property?
 - B. **Strategic Alignment.** What is the strategic alignment of KHV to OHA’s Mana i Maui Ola (“MIMO”) Strategic Plan, including strategic foundations and directions, and the related Endowment Strategy?
 - C. **SCOT.** What are the strengths, challenges, opportunities and threats (SCOT) of KHV, as presented, including community perspectives and proposed action/decision scenarios?
 - D. **Strategic Consideration/Alternatives.** What additional information is needed to strengthen any proposed strategic consideration decision alternatives for the Board of Trustees (“BOT”)?
- A. **Provenance. What is the provenance of Kamokila Hawaiian Village (“KHV”), including its leasing history with the Fernandes ‘Ohana and DLNR, DSP? What additional community interests have been expressed for the property?**

1. Overview of Kamokila Hawaiian Village – Kaua‘i²

The approximately four-acre village sits on an authentic and sacred site on the north fork of the Wailua River, only navigable river in the State. At the height of operations, cultural village tours (\$5 for adults, \$3 for older children and free under three); outrigger canoe rides; guided tours to Secret Falls (Uluwehi Falls); small tours to Fern Grotto; hiking and swimming (including King and Queen’s Bath); a venue for lū‘au and weddings; annual field trips by 20-30 schools from Kaua‘i, O‘ahu, and Big Island, including Hawaiian immersion schools; Hawaiian crafts, including coconut weaving and lei making; and traditional Hawaiian games, including spear throwing and Hawaiian bowling (‘ulu maika); and surrounding native flora and fauna and peacocks.

Kamokila Hawaiian Village is a cultural and environmental treasure on *Kaua‘i*. Over the course of the lease terms, four generations of the Fernandes family have maintained and nurtured the property with skill and sensitivities. Starting in the 1960’s, the Fernandes ‘ohana spent four years building the paved road down the steep embankment to the riverside, and opened the village in 1979 which was followed by destruction in 1982 by Hurricane ‘Iwa and 1992 by Hurricane ‘Iniki, and subsequent rebuilding efforts.

The traditional village site includes the Canoe House (Hale Wa‘a), Birth House (Hale

² From family provided correspondence.

Action Item BAE #22-04: Kamokila Hawaiian Village, 5523-5519 Kuamo‘o Road, Kapa‘a, Kaua‘i, Hawai‘i, Due Diligence Activities in Pursuit of an Executive Order

Pōhaku Hānau), Underground Oven (Imu), Ancient Hawaiian Temple (Heiau), Chiefs Assembly House (Hale Ali‘i ‘Akoakau), Menstrual House (Hale Pe‘a), Men’s Eating House (Hale Mua), Sleeping House (Hale Moe), Doctor’s House (Hale La‘au Lapa‘au), Warrior House (Hale Koa), Petroglyph (Ki‘i Pōhaku), Hawaiian Dancing House (Halau Hula), Drum House (Hale Pahu), Prime Minister’s House (Hale Kalaimoku) and Oracle Tower (Lanau‘u Mamao).

The grounds include fruits, flowers, plants and trees, including aloe vera, ‘awa, banana, ‘ulu, kukui, niu, guava, ginger, hibiscus, noni, mango, mountain apple, pandanus, wauke, plumeria, kāō, ti leaf and ‘ōlena.

2. Provenance from State Parks Division³

Note: The following section of information was provided by Alan Carpenter, Assistant Administrator, DSP and OHA’s Genealogist provides additional insights below beginning with the information provided.

Working with the DSP history/archaeology staff, no Land Commission Award (“LCA”) info for the parcel in question. An in-depth analysis of Māhele docs is in our files, and it is clear that no Land Commission Awards were granted this far up the river. There were many awarded lower down, and across the ridge along ‘Ōpaeka‘a Stream, presumably an ‘ili of Wailua (see attached Wailua Fig 5). One of those LCA parcels along ‘Ōpaeka‘a appears to be owned by the Fernandes ‘ohana today. However, we do not have the time to research whether it was purchased or passed down through family succession. It is LCA 3909, awarded to Nahinu (see attached LCA docs).

The parcel presently called Kamokila does not have a Hawaiian name attached to it in early maps, and it is shown as being in rice cultivation at the turn of the 19th century (see Wailua Fig 8). The parcel where Kamokila is located is Lot 25, rice, 7.2 acres, near the bottom right. We have never uncovered evidence of habitation use at this location, only agriculture. Attached is a photo looking downstream from the North Fork. While I have not seen any historic photos specifically of the Kamokila site, in this photo you can see the area just above Kamokila in irrigated cultivation, on the left side of the river at the center of this photo.

3. OHA Research

Regarding the research request for Kamokila Hawaiian Village and (Land Commission Award) LCAw 3909 RP 6978 to I Nahinu, the following is a brief summary of research. The land and current owner breakdown is:

1. Two different tax map keys; and
2. Two different landowners.

Kamokila Hawaiian Village consists of three tax map keys:

³ Source: Email from Alan Carpenter, Assistant Administrator, Monday, June 20, 2022

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1. 4-4-2-003-005 which consists of the Hawaiian village itself, (this is the initial lease);
2. 4-4-2-003-008 consists of the dirt road to the village entrance; and
3. 4-4-2-003-010 consists of overflow for the village and entrance to the Wailua River. (item 2 and 3 may not be included in the lease, will depend on contents of the lease)

Per the information sheet the project name is Hawaiian Museum and the tax classification is commercial. LCAw 3909 RP 6978 is tmk 4-4-1-001-005, it consists of 4.589 acres and is located along ‘Ōpaeka‘a Stream as indicated from the information provided as an attachment in the email by DLNR, State Parks to this property.

In tracing the title, after the death of Nahinu he puts this parcel in trust for his daughter, Kamehaokalani. She dies and this parcel then is inherited by her husband J. Ka‘ae. Further information will be sought from the Bureau of Conveyance to complete the title to this property, as the ownership to the Fernandes family will be much later, as the property initially owned by Benjamin Ohai, who is the father of Evelyn Fernandes whose spouse is William (Billy) Fernandes.

This is the clarification as to who owns which properties. Kamokila Hawaiian Village is a State Lease and tmk 4-4-1-001-005 doesn’t impact this lease at all regarding ownership or lineal descendency. Kamokila Hawaiian Village is leased by William K Fernandes from the State of Hawai‘i, on the county parcel.

4. Stakeholders

The names of the following individuals are provided for context:

a. Beneficiary – Fernandes ‘Ohana, Community

- William E. Fernandes, Original Lessee
- William Kimo Fernandes, son of William E. Fernandes
- Kihei Fernandes, son of William Kimo Fernandes
- Ben Fernandes, son of William Kimo Fernandes
- Kamealoha Hanohano Pa Smith, Community Advocate

b. Department of Land and Natural Resources, State Parks Division

- Curt A. Cottrell, Administrator
- Alan B. Carpenter, Assistant Administrator
- David Tsuchiya, District Superintendent, *Kaua‘i*

c. Department of Land and Natural Resources

- Leimana DaMate, Executive Director, Aha Moku Advisory Committee

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5. Subject Property, Lease History

General Lease No. S-3674 (Kamokila Hawaiian Village), Lot 25 (Revised), Wailua Rice and Kula Lots, Wailua, Kawaihau (Puna), Kaua‘i:

- a. Unrecorded General Lease No. S-3674 dated December 18, 1961 to December 17, 1986 (25 years);
- b. Assignment of lease to William Kimo Fernandes, 1983;
- c. Unrecorded Extension of General Lease No. S-3674 dated October 11, 1984 for an additional 15 years, up to December 17, 2001 (40 years cumulative);
- d. Unrecorded Consent to Assignment of General Lease No. S-3674 dated November 18, 1994, with Assignment of Lease dated November 18, 1994;
- e. Unrecorded Second Extension of General Lease No. S-3674 dated October 19, 1995, for an additional 20 years, up to December 17, 2021 (60 years cumulative);
- f. Unrecorded Amendment of General Lease No. S-3674 dated March 12, 2007; key amendment elements of the term “allied uses”. “Allied uses” shall include only the following...water based activities with traditional Hawaiian 4 and 6 man outrigger canoes and surfboards...”;
- g. In 2009, the lease was transferred from the DLNR, Land Division to DSP, noting a number of default notices and Board of Land and Natural Resources actions; the primary concern of DSP is the unauthorized kayak rentals and allegations of unauthorized subletting. Post 2018 flooding, which caused extensive damage to the North Fork Wailua River, DSP authorized the landing and launching of permitted kaya tour operations at Kamokila in a good faith effort to economically benefit both parties in the face of a damaged and unsafe river access. This one-time allowance was rescinded following the re-establishment of the North Fork trail to Uluwehi Falls.
- h. August 24, 2021 Zoom meeting, despite intention to let lease expire, DSP in good faith, and notwithstanding lease violation described, requested a proposal from lessee with an amended character of use or development plan. No plan was provided.
- i. Lease expired December 17, 2021 (1961-2021 60 years).

6. DLNR Related Information

- a. Section 171-43.1 Lease to eleemosynary organizations. The board may lease, at nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they are certified by the Internal Revenue Service.

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- b. DSP reviewed Department of Commerce and Consumer Affairs (DCCA) Business Registration data noting Kamokila Hawaiian Village, Inc. is dissolved as an entity, not having filed any documents since 2006—see below.
<https://hbe.ehawaii.gov/documents/search.html>, retrieved June 12, 2022

Search Home

Help

0

Search results

Q. New search

Begins with...

Kamokila Hawaiian Village

Search

Record Type

ALL

Status

ALL

Entity Type

ALL

Apply filter(s)

Name	Record Type	File Number	Status [More info]
KAMOKILA HAWAIIAN VILLAGE	Trade Name	320982 D1	Active
KAMOKILA HAWAIIAN VILLAGE, INC.	Entity	104535 D1	Inv. Dissolved

Figure 1: DCCA Search Results



Annual Filings		
Filing Year	Date Received	Status
2009		Delinquent
2008		Delinquent
2007		Delinquent
2006	Dec 6, 2006	Processed
2005	Dec 6, 2006	Processed
2004	Dec 6, 2006	Processed
2003	May 1, 2003	Processed
2002		Not Required
2001	Mar 27, 2002	Processed
2000		Processed
1999		Processed

Figure 2: Annual Filing Details Kamokila Hawaiian Village, Inc.

- c. Administration’s subsequent review of DCCA records found newly filed information as of May 17, 2022 (about a month ago) for registrant Kamokila Hawaiian Adventures Corporation, Trade Name: Kamokila Hawaiian Village at Figures 3, 4 and 5.
<https://hbe.ehawaii.gov/documents/trade.html?fileNumber=320982D1&certificate=4263986>, retrieved June 12, 2022

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Trade Name KAMOKILA HAWAIIAN VILLAGE	Expiration Date May 16, 2027
File Number 320982 D1	Registration Date May 17, 2022
Certificate Number 4263986	Mailing Address 5443 KUAMOO RD KAPAA, Hawaii 96746 UNITED STATES
Status Active	Registrant KAMOKILA HAWAIIAN ADVENTURES CORPORATION
Purpose CULTURAL THEME PARK	AGENT NAME JACLYN FERNANDES
Category 0 - NO CATEGORY SELECTED	AGENT ADDRESS 5443 KUAMOO RD KAPAA, Hawaii 96746 UNITED STATES

Figure 3: Registration Details for new Trade Name, Registrant

Trade Names					
Name	Type	Category	Registration Date	Expiration Date	Status
KAMOKILA HAWAIIAN VILLAGE	Trade Name	NO CATEGORY SELECTED	May 17, 2022	May 16, 2027	Active

Other Filings		
Date	Description	Remarks
Dec 14, 2021	Articles of Incorporation	Articles of Incorporation

Figure 4: Registration Details for new Trade Name, Registrant

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MASTER NAME KAMOKILA HAWAIIAN ADVENTURES CORPORATION	TERM PER
BUSINESS TYPE Domestic Profit Corporation	AGENT NAME JACLYN FERNANDES
FILE NUMBER 320982 D1	AGENT ADDRESS 5443 KUAMOO RD KAPAA, Hawaii 96746 UNITED STATES
STATUS Active	
PLACE INCORPORATED Hawaii UNITED STATES	
REGISTRATION DATE Dec 14, 2021	
MAILING ADDRESS PO BOX 3693 LIHUE, Hawaii 96766 UNITED STATES	

Figure 5: Kamokila Hawaiian Adventures Corporation

7. *Website, Social Media Presence, Press, Context*

The following links were returned when a google search of “Kamokila Hawaiian Village” was entered, including closure related links:

<http://villagekauai.com/>

https://www.tripadvisor.com/Attraction_Review-g1865930-d2269319-Reviews-Kamokila_Hawaiian_Village-Wailua_Kauai_Hawaii.html

<https://www.facebook.com/VillageKauai/>

https://www.hawaii-guide.com/kauai/sights/kamokila_hawaiian_village

<https://www.yelp.com/biz/kamokila-hawaiian-village-kapaa-2>

https://www.kitv.com/news/business/kamokila-hawaiian-village-forced-to-close-on-kauai/article_c67870c2-b0a8-11ec-9df0-9f3de7b4301c.html

<https://www.youtube.com/watch?v=pzNL18znb7s>

July 4, 2012 Mid-Week Kaua‘i Cover Story Fernandes Ohana:

<https://midweekkauai.com/kauai-coverstory/fernandes-ohana/>

8. Site Visits

a. Site Visit – Monday, March 28, 2022

Photos from a site visit by Trustee Luana Alapa (at the invitation of her ‘ohana) and Ka Pouhana are available and previously made accessible to all Trustees. Island Trustee Dan Ahuna was aware of the plight of the Fernandes ‘ohana, though was not able to attend the site visit on the date.

b. Site Visit – Tuesday, June 21, 2022

Site visit by Chair Hulu Linsey, Trustee Luana Alapa and Community Engagement Director Capsun Poe was completed. Curt Cottrell, State Parks Administrator provided the following feedback as it related to OHA’s goals for the second site visit⁴:

i. To get a better sense of items, features, particularly the existing restroom items—septic tank, building, connections, etc.

There is no septic tank or Integrated Wastewater System (IWS) on the parcel. The Large Capacity Cesspool (LCC) has been closed and filled and this has been documented. EPA action is pending. Per DOH, once the current structure that enclosed the disabled comfort station is removed (which State Parks can support), portable toilets may be used on site for public use and events associated with this portion of Wailua River State Park. Any additional development on site associated with human waste management (such as an IWS, vault system or other technology) requires designs subject to DOH review and approval and possibly Chapter 343 HRS process. I would have to check the DLNR 343 exemption list to be certain.

ii. To better understand requirements needed for a next use consideration (e.g., restrooms, road/access needs, cultural artifacts, flood control, other).

Due to proximity to river and flood cycle uncertainty, especially related to climate change, all future uses must factor in flooding events and proximity to river and water table.

iii. To hear DLNR’s mana’o and regarding a next use consideration.

At this point, the primary goal is to insure all the rubbish and other discarded items are removed and the demolition of the structure associated with the closed LCC. The hale (s) used for program and interpretation in the past may remain, as they be repurposed for future adaptive and similar uses.

Board of Land and Natural Resource approval is required to initiate a Request for Proposal to seek methods to repurpose the property for sustainable and environmentally sound public use and a new disposition. In

⁴ From C. Cottrell’s e-mail dated June 3, 2022

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broad strokes, State Parks would be interested in a use associated with pastoral and cultural/traditional practices of the region, given the prior historical agrarian uses such as kalo cultivation. However, cultural programs, including but not limited to such practices as la‘ua lapa‘au and/or other traditional practices State Parks feels would be of optimal value to both the community and visitors. Additional commercial use of the river is not State Park’s current preferred outcome, due to the management goals to downsize tourism along the river. Also, if OHA determined there is value of a lease or potentially a transfer, State Parks is also open to the discussion – but with the caveat on limits to uses of the river.

9. Pihana Ka Ikena

During the June 2022 Kaua‘i Board meetings, members of the Fernandes ‘ohana as well as representatives from Pihana Ka ‘Ikena came to express their mana‘o regarding the Kamokila Hawaiian Village site. Information was gathered regarding Pihana Ka ‘Ikena who shared about the education programming primarily using cultural approaches for high risk youth and adults. The non-profit organization appears to be recently formed and received its IRS determination in 2022. Speakers recognized the length of time the Fernandes stewarded the property but recommended it was time for a change in use of the property.

MASTER NAME PIHANA KA IKENA	TERM PER
BUSINESS TYPE Domestic Nonprofit Corporation	AGENT NAME SEAN CHUN
FILE NUMBER 320773 D2	AGENT ADDRESS 6512 AHELE DR KAPAA, Hawaii 96746 UNITED STATES
STATUS Active	
PLACE INCORPORATED Hawaii UNITED STATES	
REGISTRATION DATE Nov 10, 2021	
MAILING ADDRESS 6512 AHELE DR KAPAA, Hawaii 96746 UNITED STATES	

Figure 6a: Pihana Ka Ikena

<https://hbe.hawaii.gov/documents/business.html?fileNumber=320773D2>, retrieved 7/13/2022

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Other Filings

Date	Description	Remarks
Nov 10, 2021	Articles of Incorporation	Articles of Incorporation

Figure 6b: Pihana Ka ‘Ikena

Pihana Ka Ikena

[DONATE TO THIS CHARITY >](#)

Cultural, Ethnic Awareness | EIN: 87-3236960 | Kapaa HI

Mission: Not Available

*Pihana Ka Ikena is a 501(c)(3) organization, with an IRS ruling year of 2022, and donations are **tax-deductible**.*

Is this your nonprofit? [Access the Nonprofit Portal to submit data and download your rating toolkit.](#)

CONTACT INFORMATION

🌐 URL not available

📍 6512 AHELE DR
Kapaa HI 96746-9407

Figure 7: Pihana Ka ‘Ikena from Charity Navigator

<https://www.charitynavigator.org/ein/873236960>, retrieved 7/13/2022

Mission

This organization has not provided GuideStar with a mission statement.

Ruling year ⓘ
2022

Main address
6512 Ahele Dr
Kapaa, HI 96746

EIN
87-3236960

Subject area ⓘ
Cultural awareness

NTEE code ⓘ
Cultural, Ethnic Awareness (A23)

Figure 8: Pihana Ka ‘Ikena Mission from GuideStar

<https://www.guidestar.org/profile/87-3236960>, retrieved 7/13/2022

B. What is the strategic alignment of KHV to OHA’s Mana i Maui Ola (“MIMO”) Strategic Plan, including strategic foundations and directions, and the related Endowment Strategy?

1. Strategic Outcomes – Endowment

Refer to the Endowment Strategic Outcomes regarding Strategy 10. Steward land resources to fulfill fiduciary responsibilities and enable strategic outcomes.

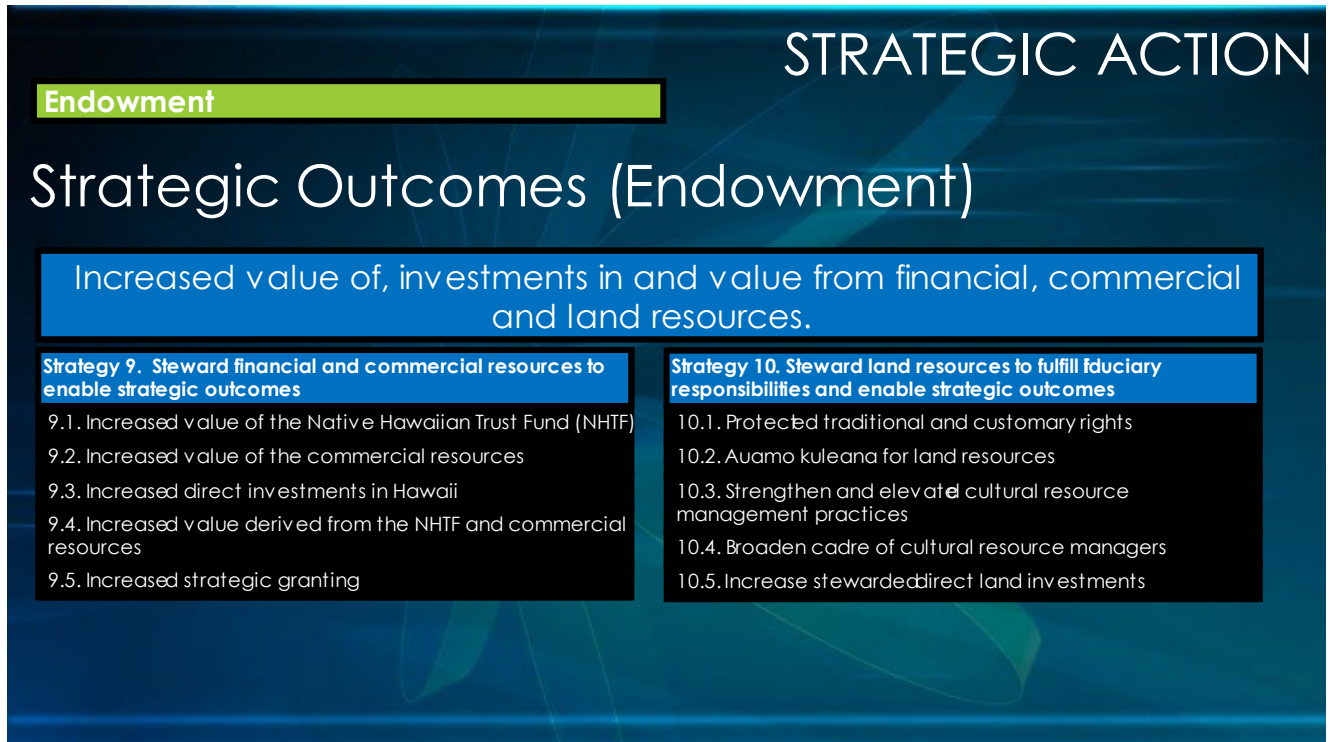


Figure 9: Strategic Outcomes (Endowment)

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Strategy	Application
Strategy 10.1 Protect traditional and customary rights	Pictures taken on March 28, 2022 site visit made available to Trustees earlier. Since 1961, the parcel has been in continuous use aligned with Hawaiian culture values and practices.
Strategy 10.2 ‘Auamo kuleana for land resources	
Strategy 10.3 Strengthen and elevated cultural resource management practices	
Strategy 10.4 Broaden cadre of cultural resource managers	The cultural resource managers have been the Fernandes family, with opportunities extended to schools, community groups, tourists.
Strategy 10.5 Increase steward direct land investments	This parcel would be similar to other land investments currently in OHA portfolio.

Table 1: Strategic Alignment

2. Existing Legacy Land Portfolio Reference

Legacy Land Portfolio presentation provided to the Committee on Resource Management in October 2021 and the 62 page presentation previously shared with the Board.

C. What are the strengths, challenges, threats and opportunities (SCOT) of the case, as presented, including community perspectives and proposed action/decision scenarios?

<u>Strengths</u>	<u>Challenges</u>
<ul style="list-style-type: none"> Stewarded by beneficiary for 60 years preserving cultural artifacts, providing educational opportunities, maintaining traditional and cultural practices and creating economic opportunity. 	<ul style="list-style-type: none"> Need to demolish the structure associated with the large capacity cesspool – State Parks will complete; Need to clean up rubbish – State Parks will complete; Clarity needed regarding the ownership of the road accessing the property (e.g., county);

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<u>Strengths</u>	<u>Challenges</u>
<ul style="list-style-type: none"> DLNR stated uses⁵ align to OHA’s strategic foundations of ‘ohana, mo‘omeheu (culture) and ‘āina 	<ul style="list-style-type: none"> Road access to site (e.g., grade and width) limited to vans or cars vs. a bus for schools or tours; Ingress and egress off the main highway need to be explored;
<u>Threats</u>	<u>Opportunities</u>
<ul style="list-style-type: none"> At least one community group, while they appreciate the long serving stewardship of the Fernandes family, believes it is time to have a new cultural based use and programming – Pihana Ka ‘Ikena 	<ul style="list-style-type: none"> While the commercial use is not State Park’s preferred outcome, there is an opportunity to reconcile the utilization of culturally relevant canoe(s), adaptive to its cultural context on the river, for example, or other river access methods, can be a part of a cultural education experience to: 1) Educate about historical cultural flora, fauna, history and life vibrancy of this wahi pana; 2) Educate about traditional and customary cultural and natural management practices; 3) Advocate for protective measures and practices to preserve the river; 4) Create opportunities for implementation of preservation grants, eco-tourism service events for the river and place; and 5) Creation of a preservation fund for the river, with this area just one of potentially many opportunities on the river for private funding to be combined with federal, state and community funding.

Table 1: SWOT

D. What additional information is needed to strengthen any proposed decision alternatives for the Board of Trustees (“BOT”)?

Follow Up Meeting with DLNR DSP

On Wednesday, July 13, 2022, Chair Hulu Lindsey and Ka Pouhana Hussey met with Curt Cottrell, Alan Carpenter and Leimana DaMate and discussion including: overall site and large capacity cesspool; Chapter 343 Exemption (from Environmental Impact Assessment) follow up; and permissible continuing activities.

⁵ pastoral and cultural/traditional practices of the region, given the prior historical agrarian uses such as kalo cultivation

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As it relates to permissible continuing activities, Board of Land and Natural Resource approval is required to initiate a Request for Proposal to seek methods to repurpose the property for sustainable and environmentally sound public use and a new disposition. In broad strokes, State Parks would be interested in a use associated with pastoral and cultural/traditional practices of the region, given the prior historical agrarian uses such as kalo cultivation. However, cultural programs, including but not limited to such practices as la‘au lapa‘au and/or other traditional practices State Parks feels would be of optimal value to both the community and visitors. Additional commercial use of the river is not State Park’s current preferred outcome, due to the management goals to downsize tourism along the river.

OHA offered for consideration the following: While commercial use is not State Park’s preferred outcome, how can we reconcile that utilization of culturally relevant canoe (as an example), adaptive to its cultural context on the river or other river access methods, can be a part of a cultural education experience to: 1) Educate about historical cultural flora, fauna, history and life vibrancy of this wahi pana; 2) Educate about traditional and customary cultural and natural management practices; 3) Advocate for protective measures and practices to preserve the river; 4) Create opportunities for implementation of preservation grants, eco-tourism service events for the river and place; and 5) Creation of a preservation fund for the river, with this area just one of potentially many opportunities on the river for private funding to be combined with federal, state and community funding.

Also, if OHA determined there is value of a lease or potentially a transfer, State Parks is also open to the discussion – but with the caveat on limits to uses of the river. Hā‘ena on Kaua‘i is a model in which DSP worked with the community to enable the community to be co-managers especially after the 2018 flooding; challenge is enforcement. There is one example on Moloka‘i in which DLNR leases the site from DHHL.

E. Reference Documents

OHA was provided multiple documents assembled by the Fernandes ‘ohana, including correspondence from an attorney representing the family. Other sources of information have been DLNR, DSP Administrator and Assistant Administrator and e-mails from OHA’s Ancestry and Genealogy function. The information provided is taken at face value, and no additional verification or validation activities were performed as all DLNR, DSP related beneficiary correspondence are treated as primary sources.

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V. ALTERNATIVES FOR BOARD CONSIDERATION

As summarized by and discussed with DLNR DSP, the following alternatives are proposed by Administration for Trustees consideration, including Administration’s recommendation below:

1. **Alternative A – AS IS, DLNR RFP.** OHA does not pursue any further action, and the DLNR, DSP proceeds with a Request for Proposal (RFP) process for an entity for future management of the parcel.
2. **Alternative B – AS IS, DLNR Direct Negotiation.** OHA does not pursue any further action, and the DLNR DSP enters into direct negotiation under Chapter 171 HRS for an eleemosynary/nonprofit for a direct general lease
3. **Alternative C – OHA Responds to DLNR RFP or DLNR Direct Lease.** OHA responds to DLNR, DSP request for proposal process or seeks to direct lease with the DLNR, DSP. Waialua Courthouse is an example of a 35-year lease, gratis, with DLNR beginning 1998 (ending 2033); Ho‘omana on Kaua‘i, 2016, gratis lease; Kekaha Armory, 1998, 65 year lease with DLNR, \$1/year and 30-year sublease to Ke Kula o Ni‘ihau.
4. **Alternative D - Executive Order.** OHA pursues a set aside via Executive Order to transfer the property to OHA for its Legacy Land portfolio and manage it accordingly. Executive Order 4624, February 2020, Kūkaniloko Birthstone, 5.0 acres, to OHA is an example.

Administration recommends Alternative D – Executive Order as it is a model that OHA is familiar with; and would convey a mission aligned legacy property. OHA could implement a pilot tactical plan to transition land management to the local community over time. In its legacy land planning, OHA could also manage the property itself or implement a request for proposal process to seek a community steward for the property. Further OHA planning, budget and management activities would be in alignment with and subject to existing policies procedures and practices.

VI. RECOMMENDED ACTION

Authorize Administration to execute due diligence and other activities in pursuit of an Executive Order for Kamokila Hawaiian Village, 5523-5519 Kuamo‘o Road, Kapa‘a, Kaua‘i, Hawai‘i, in accordance with existing policies, processes and procedures.

VII. ALTERNATIVES TO RECOMMENDED ACTION

As discussed above the following are alternate actions for Board consideration:

- A. Alternative A – AS IS, DLNR RFP.** OHA does not pursue any further action, and the DLNR, DSP proceeds with a Request for Proposal (RFP) process for an entity for future management of the parcel.

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- B. Alternative B – AS IS, DLNR Direct Negotiation.** OHA does not pursue any further action, and the DLNR DSP enters into direct negotiation under Chapter 171 HRS for an eleemosynary/nonprofit for a direct general lease.
- C. Alternative C – OHA Responds to DLNR RFP or DLNR Direct Lease.** OHA responds to DLNR, DSP request for proposal process or seeks to direct lease with the DLNR, DSP.

VIII. IMPLEMENTATION TIMELINE

Implementation of the action item is recommended immediately upon Board ratification.

IX. ATTACHMENTS - None

Committee on Beneficiary Advocacy and Empowerment

Trustee Kaleihikina Akaka, *Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Keli'i Akina, At-Large

Trustee Luana Alapa, Moloka'i / Lāna'i

Trustee Carmen Hulu Lindsey, Maui

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Mililani Trask, Hawai'i Island

Trustee John Waihe'e IV, At-Large



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

DATE: Tuesday, October 25, 2022**TIME:** 10:00 a.m.**PLACE:** Virtual MeetingViewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 821 4472 5558

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 821 4472 5558. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. February 8, 2022
 - B. February 15, 2022
 - C. February 22, 2022
 - D. March 1, 2022
 - E. March 8, 2022
 - F. March 22, 2022
 - G. March 29, 2022
 - H. April 12, 2022
 - I. April 26, 2022
 - J. May 3, 2022
 - K. July 12, 2022

III. New Business

- A. **Presentation:** Native Hawaiian Legal Corporation, Kawika Patterson, Board Chair and Makalika Naholowa'a, Executive Director
- B. **Action Item BAE #22-03:** Approval of Due Diligence Activities in Pursuit of an Executive Order re: Kamokila Hawaiian Village, 5523-5519 Kuamo'o Road, Kapa'a, Kaua'i, Hawai'i

C. Action Item BAE #22-04: Approval of the 2023 Legislative Package



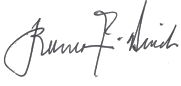
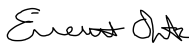




ACTION ITEM

Committee on Beneficiary Advocacy and Empowerment October 25, 2022

BAE #22-04

Action Item Issue: 2023 OHA Legislative Package

Prepared by:		<u>10/20/2022</u>
	Capsun M. Poe Ka Pou Kihi Kū Kūikawā, Interim Director, Advocacy Interim Chief Advocate	Date
Reviewed by:		<u>10/20/2022</u>
	Casey K. Brown Ka Pou Nui, Chief Operating Officer	Date
Reviewed by:		<u>10/20/2022</u>
	Ramona G. Hinck Ka Pou Kihi Kanaloa Wai, Chief Financial Officer	Date
Reviewed by:		<u>10/20/2022</u>
	Everett Ohta Ka Paepae Puka Kūikawā, Interim General Counsel	Date
Reviewed by:		<u>10/20/2022</u>
	Sylvia M. Hussey, Ed.D. Ka Pouhana, Chief Executive Officer	Date
Reviewed by:		<u>10/20/2022</u>
	Kaleihikina Akaka Luna Ho'omalū o ke Kōmike BAE Chair, Committee on Beneficiary Advocacy and Empowerment	Date

I. PROPOSED ACTIONS

Motion 1: OHA-1 – RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS

Approve the measure entitled *OHA-1- RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS*, to be included in the 2023 OHA Legislative Package as drafted at Attachment A.

Motion 2: OHA-2 - KAKA‘AKO MAKAI RESIDENTIAL REPEAL

Approve the drafting and submission of a Kaka‘ako Makai residential repeal focused bill for submission to the 2023 Legislature, that considers the: 1) Elements and conditions of the 2012, State of Hawai‘i, \$200 million, 30 acres, 10 parcels of the public land trust revenues settlement, for 1980-2012; 2) Outcomes of SB1334 and HB1267 from the 2021 Legislative Session; 3) Additional information obtained during the drafting process; 4) Titling of the measure for strategic and clarifying reasons; and 5) Labeling of the measure as OHA-2 for tracking purposes.

Motion 3: Drafting, Editing and Final Approval

Approve drafting and editing measures, to: 1) Make, appropriate, technical, ministerial, non-substantive edits for style, clarity, consistency, and accuracy of the final measures; 2) Add preamble language in the measure(s) for framing and editorial purposes, as needed; 3) Title the measures for strategic and clarifying reasons; 4) Label the measure(s) for ease of tracking; and 5) Return to the Committee on Beneficiary Advocacy and Empowerment (BAE) and the Board of Trustees for approval action prior to the bill submission deadline established by the State Legislature.

Motion 4: Coordinated Community Advocacy

Approve OHA’s participation in 2023 coordinated community advocacy efforts in alignment with: 1) OHA’s mission, vision and values; 2) Strategic Foundations (‘Ohana, Mo‘omeheu, ‘Āina); 3) Strategic Directions (Educational Pathways, Health Outcomes, Quality Housing and Economic Stability); and 4) Previously approved Board positions and resolutions; with the understanding that Administration will bring forward to the Committee on Beneficiary Advocacy and Empowerment (“BAE”) 2023 State Legislative matters in the normal course of established processes (e.g., matrices, position changes), in addition to informing BAE members, and the Board of Trustees as a whole, regarding status of support(s) of community advocacy efforts.

II. ISSUES

Should the Committee on Beneficiary Advocacy & Empowerment (BAE) approve, or not, the:

- A. Inclusion of *OHA-1- RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS*, in the 2023 Legislative Package, as drafted at Attachment A;
- B. Drafting and submission of a Kaka‘ako Makai residential repeal focused bill, labeled as OHA-2;
- C. Drafting, editing and approval parameters; and
- D. OHA’s participation in coordinated advocacy efforts.

III. DISCUSSION

- A. **2023 Legislative Schedule.** Image 1 below details OHA’s 2023 Legislative Action Plan as shared at the joint Committee on Beneficiary Advocacy and Empowerment (“BAE”) and Committee on Resource Management (“RM”) meeting on September 20, 2022, including timelines.



Image 1. – 2023 Legislative Schedule

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Image 2. – Proposed Package Activities

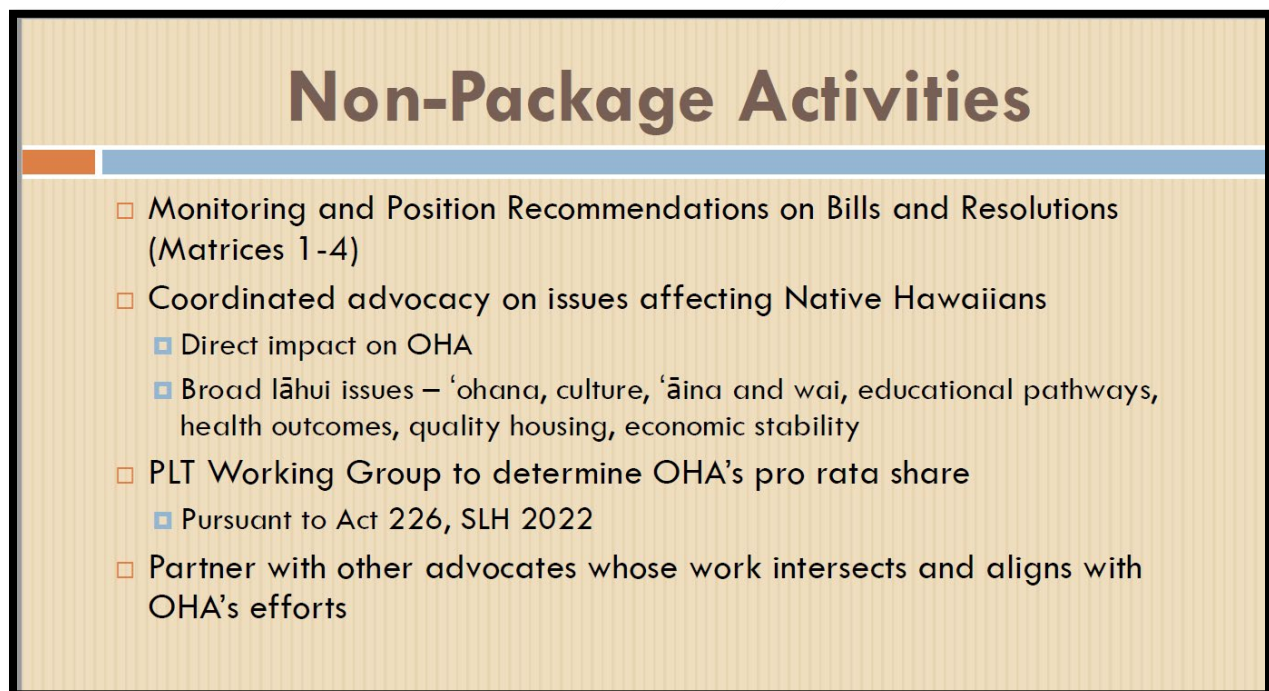


Image 3. – Non-Package Activities

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B. OHA-1 – RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS.

1. **Via Act 29 (2021).** At Attachment B, Table 1 below details the 2021-2022 (FY22) and 2022-2023 (FY23), General Fund provisions:

Legislative Provision (Proviso)	Prog ID	FY2021-2022 (FY22)	FY2022-2023 (FY23)
Occupancy Ready	OHA 175 – Beneficiary Advocacy	\$500,000	\$500,000
Social Services		\$415,000	\$415,000
Education		\$615,000	\$615,000
Legal Services		\$524,400	\$524,400
Follow Up Report ¹		\$200,000	
Legal Services ²			\$200,000
Total		\$2,245,400	\$2,245,400

Table 1. – FY22 and FY23 General Fund Appropriations

2. **2023 Recommendation.** Based on the observed needs of beneficiaries and communities, Administration recommends the following, as drafted at Attachment A:

Legislative Provision (Proviso)	Prog ID	FY2023-2024 (FY24)	FY2024-2025 (FY25)
Occupancy Ready	OHA 175 – Beneficiary Advocacy	\$500,000	\$500,000
Social Services		\$415,000	\$415,000
Education		\$615,000	\$515,000
Legal Services		\$600,000	\$600,000

¹ Per Section 11 of Act 29 (2021), \$200,000 for fiscal year 2021-2022 shall be expended to conduct or contract for a follow-up contract and disbursement review of the CLA – OHA & LLCs Contract and Disbursement Review – Report, dated December 4, 2019.

² Per Action Item RM #22-23D: OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY 22) and 2022-2023 (FY 23) - Realignment #5, approved by the RM Committee on October 11, 2022, and ratified by the Board of Trustees on October 13, 2022, designated for legal services.

Legislative Provision (Proviso)	Prog ID	FY2023-2024 (FY24)	FY2024-2025 (FY25)
‘Āina, Addressing impacts of Climate Change		\$500,000	\$500,000
‘Ohana Economic Stability		\$370,000	\$370,000
Total		\$3,000,000	\$3,000,000

Table 2. – FY24 and FY25 General Fund Appropriation Recommendations

- C. OHA-2 – RELATING TO KAKA‘AKO MAKAI.** Via Action Item BAE-RM #22-03: Approve Non-Core Budget for Kaka‘ako Makai Legislative Activities and the Renaming of Kaka‘ako Makai, September 20, 2022, the joint committees engaged in discussion re 2023 legislative considerations re: Kaka‘ako Makai, including the outcomes of SB1334 and HB1267 from the 2021 Legislative Session. Refer to Image 2. – Package Activities above.

A draft of the proposed bill is still under consideration by Administration considering the: elements and conditions of the 2012, State of Hawai‘i, \$200 million, 30 acres, 10 parcels of the public land trust revenues settlement, for 1980-2012; outcomes of SB1334 and HB1267 from the 2021 Legislative Session; and further research needed.

- D. Act 226 (2022) PLT Work Group.** Via Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs’ Pro Rata Share of the Public Land Trust, July 12, 2022, Administration will be activating planning and other activities in preparation for implementation of the working group further described in Section 3 of Act 226 (2022) in calendar year 2023, refer to details at Attachment C.

- E. Coordinated Advocacy.** As noted in Image 3. – Non-Package Activities above, Administration continues its work with our community on issues affecting Native Hawaiians, including measures that have direct impact on OHA, broad Lāhui issues including alignments with OHA’s mission, vision and values; Strategic Foundations (‘Ohana, Mo‘omeheu, ‘Āina); and Strategic Directions (Educational Pathways, Health Outcomes, Quality Housing and Economic Stability). Advocacy actions and positions if necessary are also aligned to previous Board positions and resolutions.

Coordinated advocacy occurs with community-based networks such as the Association of Hawaiian Civic Clubs, Council for Native Hawaiian Advancement, Kamehameha Schools Legislative Hui, Sovereign Council of Hawaiian Homestead Associations, Native Hawaiian & Pacific Islander COVID-19 Response Team, Papa

Ola Lokahi, Native Hawaiian Education Council, Nā Limahana o Lonopūhā and Kanaeokana, as examples.

Coordinated advocacy is led, initiated, coordinated and facilitated by the Advocacy paia and includes organization wide supports from Community Engagement, Land, Research, Office of Strategy Management and Financial Services.

- F. Monitoring and Position Recommendations, BAE Processes.** Administration will be working with BAE leadership to improve the efficiency and effectiveness of the tools used to inform and bring forward recommendations to the BAE Committee, including considerations for how matrices are presented, timing of information provided and utilization of coordinated advocacy networks to inform recommendations.

IV. RECOMMENDED ACTIONS

Action 1: OHA-1 – RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS

Approve the measure entitled *OHA-1- RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS*, to be included in the 2023 OHA Legislative Package as drafted at Attachment A.

Action 2: OHA-2 - KAKA‘AKO MAKAI RESIDENTIAL REPEAL

Approve the drafting and submission of a Kaka‘ako Makai residential repeal focused bill for submission to the 2023 Legislature, that considers the: 1) Elements and conditions of the 2012, State of Hawai‘i, \$200 million, 30 acres, 10 parcels of the public land trust revenues settlement, for 1980-2012; 2) Outcomes of SB1334 and HB1267 from the 2021 Legislative Session; 3) Additional information obtained during the drafting process; 4) Titling of the measure for strategic and clarifying reasons; and 5) Labeling of the measure as OHA-2 for tracking purposes.

Action 3: Drafting, Editing and Final Approval

Approve drafting and editing measures, to: 1) Make, appropriate, technical, ministerial, non-substantive edits for style, clarity, consistency, and accuracy of the final measures; 2) Add preamble language in the measure(s) for framing and editorial purposes, as needed; 3) Title the measures for strategic and clarifying reasons; 4) Label the measure(s) for ease of tracking; and 5) Return to the Committee on Beneficiary Advocacy and Empowerment (BAE) and the Board of Trustees for approval action prior to the bill submission deadline established by the State Legislature.

Action 4: Coordinated Community Advocacy

Approve OHA's participation in 2023 coordinated community advocacy efforts in alignment with: 1) OHA's mission, vision and values; 2) Strategic Foundations ('Ohana, Mo'omeheu, 'Āina); 3) Strategic Directions (Educational Pathways, Health Outcomes, Quality Housing and Economic Stability); and 4) Previously approved Board positions and resolutions; with the understanding that Administration will bring forward to the Committee on Beneficiary Advocacy and Empowerment ("BAE") 2023 State Legislative matters in the normal course of established processes (e.g., matrices, position changes), in addition to informing BAE members, and the Board of Trustees as a whole, regarding status of support(s) of community advocacy efforts.

V. ALTERNATIVE ACTIONS

- A. Not approve the inclusion of or modify OHA-1- RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS, for the 2023 OHA Legislative Package as drafted at Attachment A;
- B. Not approve a Kaka'ako Makai focused bill for the 2023 OHA Legislative Package;
- C. Not approve or provide additional drafting, editing and/or approval parameters; or
- D. Not approve OHA's participation in or modifying the coordinated advocacy efforts.

VI. REFERENCES

The following action items are provided as references for this action item:

- A. Action Item BAE-RM #22-03: Approve Non-Core Budget for Kaka'ako Makai Legislative Activities and the Renaming of Kaka'ako Makai, September 20, 2022;
- B. Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000, July 12, 2022;
- C. Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust, July 12, 2022;
- D. Action Item BAE #21-07: Public Land Trust Bill, 2022, December 27, 2021; and
- E. Action Item BAE #21-06: 2022 OHA Legislative Package, December 8, 2021.

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VII. FUNDING & CHIEF FINANCIAL OFFICER CERTIFICATION

No funding is required to approve the 2023 OHA Legislative Package or the coordinated advocacy efforts.

The following is the certification by the Chief Financial Officer that the financial implications of the proposed 2023 OHA Legislative Package items are aligned to fiscal and budget related policies:

Ramona G Hinck
Chief Financial Officer
Date: 10/20/2022

VII. TIMEFRAME

Immediate action is recommended upon Board approval to meet the State Legislative submission deadline, estimated to be December 31, 2022 (based on 2021 schedule).

VIII. ATTACHMENTS

- A. OHA-1- RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS (draft)
- B. Act 226 (2022) – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS’ PRO RATA SHARE OF THE PUBLIC LAND TRUST – SB2021 SD1 HD2 CD1
- C. Act 29 (2021) – RELATING TO THE BUDGET OF THE OFFICE OF THE HAWAIIAN AFFAIRS – HB204 SD2 CD1

REVISED:
1ST DRAFT DATE:

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS.

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

PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the Office of Hawaiian Affairs Appropriations Act of 2023.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this Act:

“Meands of financing” or “MOF” means the source from which funds are appropriated or authorized to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

A General funds

T Trust funds

“Position ceiling” means the maximum number of permanent and temporary full-time equivalent positions authorized for a particular program during a specified period or periods, as denoted by an asterisk (*) for permanent full-time equivalent

____.B. NO.____

1 positions and a pound (#) sign for temporary full-time
2 equivalent positions.

3 "Program ID" means the unique identifier for the specific
4 program and consists of the abbreviation for the Office of
5 Hawaiian Affairs (OHA) followed by the organization number for
6 the program.

7 **PART II. PROGRAM APPROPRIATIONS**

8 SECTION 3. APPROPRIATIONS. The following sums, or so much
9 thereof as may be sufficient to accomplish the purposes and
10 programs designated herein, are hereby appropriated or
11 authorized from the means of financing specified to the Office
12 of Hawaiian Affairs for the fiscal biennium beginning July 1,
13 2023, and ending June 30, 2025. The total expenditures and the
14 number of positions in each fiscal year of the biennium shall
15 not exceed the sums and the numbers indicated for each fiscal
16 year, except as provided elsewhere in this Act, or as provided
17 by general law.

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P R O G R A M A P P R O P R I A T I O N S

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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL	M	FISCAL	M
				YEAR 2023-24	O F	YEAR 2024-25	O F
	Hawaiian Affairs						
	1.	OHA150 - OFFICE OF THE TRUSTEES					
				0.00*		0.00*	
				0.00#		0.00#	
	OPERATING		OHA	00,000A		00,000A	
				0.00*		0.00*	
				0.00#		0.00#	
			OHA	000,000T		000,000T	
	2.	OHA160 - ADMINISTRATION					
				0.00*		0.00*	
				0.00#		0.00#	
	OPERATING		OHA	0,000,000A		0,000,000A	
				0.00*		0.00*	
				0.00#		0.00#	
			OHA	0,000,000T		0,000,000T	
	3.	OHA175 - BENEFICIARY ADVOCACY					
				0.00*		0.00*	
				0.00#		0.00#	
			OHA	3,000,000A		3,000,000A	
				0.00*		0.00*	
				0.00#		0.00#	
			OHA	3,000,000T		3,000,000T	

.B. NO.

1 **PART III. PROGRAM PROVISIONS**

2 SECTION 4. Provided that the general fund appropriations
3 in part II of this Act shall be expended by the Office of
4 Hawaiian Affairs.

5 SECTION 5. Provided that of the funds appropriated for
6 beneficiary advocacy (OHA175), the sum of \$415,000 in general
7 funds and \$415,000 in trust funds for fiscal year 2023-2024 and
8 the same sums for fiscal year 2024-2025 shall be expended to
9 provide for social services, including referral services and
10 case management, to at-risk Office of Hawaiian Affairs
11 beneficiaries to immediately address unexpected crises; provided
12 further that program activities shall be designed with an
13 overall objective to provide financial assistance to improve
14 stability during emergency situations; and provided further
15 that notwithstanding section 10-17(e), Hawaii Revised Statutes,
16 any funds expended for the purpose of this section shall be in
17 accordance with chapter 103D or 103F, Hawaii Revised Statutes,
18 or a competitive grants process, as appropriate.

19 SECTION 6. Provided that of the funds appropriated for
20 beneficiary advocacy (OHA175), the sum of \$615,000 in general
21 funds and \$615,000 in trust funds for fiscal year 2023-2024 and
22 the same sums for fiscal year 2024-2025 shall be expended to

.B. NO.

1 provide for educational improvement programs for Native Hawaiian
2 students; provided further that program activities shall be
3 designed to help Native Hawaiian students prepare for post
4 secondary education and economic stability pursuits to support
5 families and communities; and provided further that
6 notwithstanding section 10-17(e), Hawaii Revised Statutes, any
7 expenditures for the purposes of this section shall be in
8 accordance with chapter 103D or 103F, Hawaii Revised Statutes,
9 or a competitive grants process, as appropriate.

10 SECTION 7. Provided that of the funds appropriated for
11 beneficiary advocacy (OHA175), the sum of \$600,000 in general
12 funds and \$600,000 in trust funds for fiscal year 2023-2024 and
13 the same sums for fiscal year 2024-2025 shall be expended to
14 provide for legal services and legal representation to Office of
15 Hawaiian Affairs beneficiaries for:

- 16 (1) The assertion and defense of quiet title actions;
- 17 (2) Assistance with ahupua'a and kuleana tenant rights,
18 including rights of access and rights to water;
- 19 (3) Land title assistance, including review of title and
20 genealogy;
- 21 (4) Preservation of traditional and customary practices;

_____.B. NO._____

(5) Protection of culturally significant places, including
iwi kupuna protections;

(6) Preservation of Native Hawaiian land trust
entitlements;

(7) Home ownership retention strategies for Native
Hawaiians;

(8) Family law related matters including adoption, foster
care, child welfare, incarceration, guardianship,
elder care and similar matters;

Provided further that, notwithstanding section 10-17(e), Hawaii
Revised Statutes, any funds expended for the purposes of this
section shall be made in accordance with chapter 103D or 103F,
Hawaii Revised Statutes, as appropriate.

PART IV. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 8. Provided that, whenever necessary, the board of
trustees of the Office of Hawaiian Affairs or the board's
designee may transfer sufficient funds and positions between
programs for operating purposes; provided further that these
transfers shall be consistent with legislative intent; and
provided further that the Office of Hawaiian Affairs shall
submit a report to the legislature of all uses of this authority
for the previous twelve-month period from December 1 to November

.B. NO.

1 30, no later than twenty days prior to the regular sessions of
2 2024 and 2025.

3 SECTION 9. If any portion of this Act or its application
4 to any person, entity, or circumstance is held to be invalid for
5 any reason, the legislature declares that the remainder of the
6 Act and each-and-every other provision thereof shall not be
7 affected thereby. If any portion of a specific appropriation is
8 held to be invalid for any reason, the remaining portion shall
9 be expended to fulfill the objective of such appropriation to
10 the extent possible.

11 SECTION 10. In the event manifest clerical, typographical,
12 or other mechanical errors are found in this Act, the board of
13 trustees of the Office of Hawaiian Affairs is authorized to
14 correct these errors. All changes made pursuant to this section
15 shall be reported to the legislature at its next session.

16 SECTION 11. This Act shall take effect on July 1, 2023.

17

INTRODUCED BY: _____

BY REQUEST

____.B. NO.____

Report Title:

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Description:

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

DRAFT



GOV. MSG. NO. 1129

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

May 28, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on May 28, 2021, the following bill was signed into law:

HB204 SD2 CD1

RELATING TO THE BUDGET OF THE OFFICE
OF HAWAIIAN AFFAIRS
ACT 29(21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS.

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

1 **PART I. GENERAL PROVISIONS**

2 SECTION 1. SHORT TITLE. This Act shall be known and may
3 be cited as the Office of Hawaiian Affairs Appropriations Act of
4 2021.

5 SECTION 2. DEFINITIONS. As used in this Act, unless the
6 context otherwise requires:

7 "Means of financing" or "MOF" means the source from which
8 funds are appropriated or authorized to be expended for the
9 programs and projects specified in this Act. All appropriations
10 are followed by letter symbols. These letter symbols, where
11 used, shall mean the following:

12 A General funds

13 T Trust funds

14 "Position ceiling" means the maximum number of permanent
15 and temporary full-time equivalent positions authorized for a
16 particular program during a specified period or periods, as
17 denoted by an asterisk (*) for permanent full-time equivalent



H.B. NO. 204
S.D. 2
C.D. 1

1 positions and a pound sign (#) for temporary full-time
2 equivalent positions.

3 "Program ID" means the unique identifier for the specific
4 program and consists of OHA, the abbreviation for the office of
5 Hawaiian affairs, followed by the organization number for the
6 program.

7 **PART II. PROGRAM APPROPRIATIONS**

8 SECTION 3. APPROPRIATIONS. The following sums, or so much
9 thereof as may be sufficient to accomplish the purposes and
10 programs designated herein, are appropriated or authorized from
11 the means of financing specified to the office of Hawaiian
12 affairs for the fiscal biennium beginning July 1, 2021, and
13 ending June 30, 2023. The total expenditures and the number of
14 positions in each fiscal year of the biennium shall not exceed
15 the sums and the numbers indicated for each fiscal year, except
16 as provided elsewhere in this Act, or as provided by general
17 law.



H.B. NO. 204
S.D. 2
C.D. 1

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID.	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2021-2022	M O F	FISCAL YEAR 2022-2023	M O F
1		Hawaiian Affairs					
2	1.	OHA150 - OFFICE OF THE TRUSTEES					
3				0.47*		0.47*	
4	OPERATING		OHA	0A		0A	
5				4.53*		4.53*	
6			OHA	275,687T		275,687T	
7							
8	2.	OHA160 - ADMINISTRATION					
9				5.03*		5.03*	
10	OPERATING		OHA	0A		0A	
11				31.97*		31.97*	
12			OHA	2,861,727T		2,861,727T	
13							
14	3.	OHA175 - BENEFICIARY ADVOCACY					
15				1.47*		1.47*	
16	OPERATING		OHA	2,254,400A		2,254,400A	
17				18.53*		18.53*	
18			OHA	3,292,290T		3,292,290T	
19							



PART III. PROGRAM PROVISIONS

SECTION 4. Provided that the general fund appropriations in part II of this Act shall be expended by the Office of Hawaiian Affairs.

SECTION 5. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of \$500,000 in general funds and \$500,000 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended for office of Hawaiian affairs beneficiaries for occupancy ready housing needs.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of \$415,000 in general funds and \$415,000 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended to provide for social services, including referral services and case management, to at-risk Office of Hawaiian Affairs beneficiaries to immediately address unexpected crises; provided further that program activities shall be designed with an overall objective to provide financial assistance to improve stability during emergency situations; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any

1 funds expended for the purposes of this section shall be in
2 accordance with chapter 103D or 103F, Hawaii Revised Statutes,
3 or a competitive grants process, as appropriate.

4 SECTION 7. Provided that of the funds appropriated for
5 beneficiary advocacy (OHA175), the sum of \$615,000 in general
6 funds and \$615,000 in trust funds for fiscal year 2021-2022 and
7 the same sums for fiscal year 2022-2023 shall be expended to
8 provide for educational improvement programs for native Hawaiian
9 students; provided further that program activities shall be
10 designed to help native Hawaiian students succeed academically;
11 and provided further that notwithstanding section 10-17(e),
12 Hawaii Revised Statutes, any expenditures for the purposes of
13 this section shall be in accordance with chapter 103D or 103F,
14 Hawaii Revised Statutes, or a competitive grants process, as
15 appropriate.

16 SECTION 8. Provided that of the funds appropriated for
17 beneficiary advocacy (OHA175), the sum of \$524,400 in general
18 funds and \$524,400 in trust funds for fiscal year 2021-2022 and
19 the same sums for fiscal year 2022-2023 shall be expended to
20 provide for legal services and legal representation to Office of
21 Hawaiian Affairs beneficiaries for:



1 (1) The assertion and defense of quiet title actions;
2 (2) Assistance with ahupuaa and kuleana tenant rights,
3 including rights of access and rights to water;
4 (3) Land title assistance, including review of title
5 and genealogy;
6 (4) Preservation of traditional and customary
7 practices;
8 (5) Protection of culturally significant places;
9 (6) Preservation of native Hawaiian land trust
10 entitlements; and
11 provided further that notwithstanding section 10-17(e), Hawaii
12 Revised Statutes, any funds expended for the purposes of this
13 section shall be made in accordance with chapter 103D or 103F,
14 Hawaii Revised Statutes, as appropriate.

15 **PART IV. RELEASE OF PRIOR FUNDS**

16 SECTION 9. Act 37, Session Laws of Hawaii 2019, is amended
17 by amending section 8 to read as follows:

18 "SECTION 8. ~~[(a) Provided that of the trust funds~~
19 ~~appropriated in part II of this Act, the sum of \$500,000 for~~
20 ~~fiscal year 2019-2020 shall be expended for the costs for the~~



~~auditor to conduct or contract for a financial and management
audit of the Office of Hawaiian Affairs.~~

~~The auditor shall submit a report of the findings and
recommendations of the audit to the legislature, governor, and
the chairperson of the board of trustees of the office of
Hawaiian affairs no later than twenty days prior to the
convening of the regular session of 2020.~~

~~(b)]~~ Provided that the general funds appropriated for
fiscal year 2020-2021 pursuant to part II of this Act shall not
be released to the Office of Hawaiian Affairs until after the
[~~audit report required by subsection (a)]~~ CLA - OHA & LLCs
Contract and Disbursement Review - Report, dated December 4,
2019, is received by the legislature."

SECTION 10. The general funds appropriated for fiscal year
2020-2021 pursuant to part II of Act 37, Session Laws of Hawaii
2019, shall not lapse at the end of the fiscal year for which
the appropriation is made; provided that all moneys from the
appropriation that are unencumbered as of June 30, 2022, shall
lapse as of that date.

SECTION 11. Provided that of the general funds
appropriated for beneficiary advocacy (OHA175), the sum of



1 \$200,000 for fiscal year 2021-2022 shall be expended to conduct
2 or contract for a follow-up contract and disbursement review of
3 the CLA - OHA & LLCs Contract and Disbursement Review - Report,
4 dated December 4, 2019.

5 **PART V. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

6 SECTION 12. Provided that whenever necessary, the board of
7 trustees of the Office of Hawaiian Affairs or the board's
8 designee may transfer sufficient funds and positions between
9 programs for operating purposes; provided further that these
10 transfers shall be consistent with legislative intent; and
11 provided further that the Office of Hawaiian Affairs shall
12 submit a report to the legislature of all uses of this authority
13 for the previous twelve month period from December 1 to November
14 30, no later than twenty days prior to the convening of the
15 regular sessions of 2022 and 2023.

16 SECTION 13. If any provision of this Act, or the
17 application thereto to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable. If any portion of a specific



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1 appropriation is held to be invalid for any reason, the
2 remaining portion shall be expended to fulfill the objective of
3 that appropriation to the extent possible.

4 SECTION 14. If manifest clerical, typographical, or other
5 mechanical errors are found in this Act, the board of trustees
6 of the Office of Hawaiian Affairs may correct these errors. All
7 changes made pursuant to this section shall be reported to the
8 legislature at its next session.

9 SECTION 15. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 16. This Act shall take effect on July 1, 2021;
12 provided that sections 9 and 10 of this Act shall take effect
13 retroactive to June 30, 2021.

APPROVED this 28 day of MAY, 2021



GOVERNOR OF THE STATE OF HAWAII



HB No. 204, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives




Brian L. Takeshita
Chief Clerk
House of Representatives

H.B. No. 204, S.D. 2, C.D. 1

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate



GOV. MSG. NO. 1327

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 27, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 27, 2022, the following bill was signed into law:

SB2021 SD1 HD2 CD1

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

ACT 226

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2021
S.D. 1
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A BILL FOR AN ACT

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

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

1 SECTION 1. The legislature finds that it must set right
2 and fulfill its trust responsibilities to native Hawaiians,
3 consistent with governmental action across America to address
4 injustices against Indigenous Peoples. It is incumbent upon the
5 legislature to enact legislation that upholds its trust
6 responsibilities and duty of care to native Hawaiians to:

- 7 (1) Account for all ceded lands in the public lands trust
8 inventory;
9 (2) Account for all income and proceeds derived from the
10 public land trust; and
11 (3) Transfer the full twenty per cent pro rata share of
12 income and proceeds from the public land trust
13 annually to the office of Hawaiian affairs (OHA) for
14 the betterment of the conditions of native Hawaiians.

15 The genesis and source of the State's public land trust
16 responsibility to native Hawaiians are the historical events
17 that led to the illegal overthrow of the Kingdom of Hawaii; the



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1 transfer of approximately 1,800,000 acres of crown, government,
2 and public lands to the United States under the 1898 Joint
3 Resolution of Annexation without the consent of and without
4 compensation to the native Hawaiian people or their sovereign
5 government; the admission of Hawaii as a state of the Union in
6 1959, with the explicit trust responsibility and requirement in
7 section 5(f) of the 1959 Admission Act that one of the five
8 purposes of the public land trust is that the income and
9 proceeds from the public land trust are to be used "for the
10 betterment of the conditions of native Hawaiians"; and the 1978
11 Constitutional Convention's recognition that native Hawaiians
12 are one of the beneficiaries of the public land trust and the
13 creation of OHA to manage and administer the specific allocation
14 of "all income and proceeds from that pro rata portion of the
15 [public land] trust . . . for native Hawaiians" (Article XII,
16 section 6, of the Hawaii State Constitution). The United States
17 and the courts have consistently affirmed the trust nature of
18 the government and crown lands, including large tracts of ceded
19 lands used for military or other purposes under federal control.

20 In 1959, as a condition of its admission into the Union,
21 the State of Hawaii agreed to hold certain lands granted to the



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1 State by the United States in a public trust for five purposes
2 delineated in section 5(f) of the Admission Act, which provides
3 in relevant part:

4 The lands granted to the State of Hawaii by subsection
5 (b) of this section and public lands retained by the United
6 States under subsections (c) and (d) and later conveyed to
7 the State under subsection (e), together with the proceeds
8 from the sale or other disposition of any such lands and
9 the income therefrom, shall be held by said State as a
10 public trust [(1)] for the support of the public schools
11 and other public educational institutions, [(2)] *for the*
12 *betterment of the conditions of native Hawaiians, as*
13 *defined in the Hawaiian Homes Commission Act, 1920, as*
14 *amended, [(3)] for the development of farm and home*
15 *ownership on as widespread a basis as possible [(4)] for*
16 *the making of public improvements, and [(5)] for the*
17 *provision of lands for public use. Such lands, proceeds,*
18 *and income shall be managed and disposed of for one or more*
19 *of the foregoing purposes in such manner as the*
20 *constitution and laws of said State may provide, and their*



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1 use for any other object shall constitute a breach of trust
2 for which suit may be brought by the United States.

3 (*Emphasis added.*)

4 In 1978, the people of Hawaii affirmed the State's trust
5 obligation to native Hawaiians by ratifying constitutional
6 amendments from the Constitutional Convention, including
7 article XII, sections 4, 5, and 6, of the Hawaii State
8 Constitution, which established OHA and charged it with managing
9 income and proceeds from the public land trust for the benefit
10 of native Hawaiians. Article XVI, section 7, of the Hawaii
11 State Constitution required the State to enact legislation to
12 comply with its trust obligations. Thus, in 1979, legislation,
13 codified as chapter 10, Hawaii Revised Statutes, set forth the
14 purposes of OHA and described the duties of its trustees.

15 In September 1981, an initial land inventory by the
16 department of land and natural resources listed approximately
17 1,271,652 acres, falling woefully short of its duty to provide a
18 complete inventory of the public land trust lands.
19 Additionally, the state land information management system does
20 not include all lands held by all state entities.



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1 Act 273, Session Laws of Hawaii 1980, enacted section
2 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata
3 share and required that OHA receive "[t]wenty per cent of all
4 funds derived from the public land trust[.]" This legislative
5 directive addressing the constitutional mandate has led to a
6 series of lawsuits and legislative enactments concerning OHA's
7 constitutional pro rata share of the public land trust. The
8 State and OHA have labored to resolve the political question of
9 the statutory pro rata share of income and proceeds derived from
10 the public land trust, and payment to OHA.

11 Act 178, Session Laws of Hawaii 2006, affirmed the State's
12 trust obligation to native Hawaiians by requiring that the
13 department of land and natural resources provide an annual
14 accounting of revenue-generating public trust lands and the
15 amounts derived from those lands to the legislature. The
16 measure also set a fixed amount of \$15,100,000 from the pro rata
17 share of the public land trust income and proceeds due to OHA
18 for the betterment of the conditions of native Hawaiians until
19 further action is taken by the legislature for this purpose.

20 Act 15, Session Laws of Hawaii 2012, (Act 15) was enacted
21 to address past-due amounts, which accumulated during the period



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1 between November 7, 1978, up to and including June 30, 2012, of
2 income and proceeds from the public land trust owed to OHA by
3 implementing an agreement between the State and OHA for the
4 State to convey certain lands in Kakaako, Oahu, to OHA valued at
5 approximately \$200,000,000. Act 15 did not, however, address
6 the State's constitutional obligations relating to OHA's twenty
7 per cent pro rata share of the income and proceeds from the
8 public land trust generated after June 30, 2012. Notably, a
9 2015-2016 financial review initiated by OHA found that the
10 minimum amount of total gross receipts from sources that OHA has
11 historically claimed was approximately \$394,322,163 in the
12 fiscal year 2015-2016. Twenty per cent of this gross amount is
13 approximately \$78,900,000.

14 The legislature finds that to uphold its constitutional
15 trust obligation and duty to native Hawaiians, it must enact
16 another legislative measure in light of the information, data,
17 and facts provided to the legislature by state agencies since
18 the enactment of Act 178, Session Laws of Hawaii 2006, more than
19 a decade ago.

20 The purpose of this Act is to:



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1 (1) Establish \$21,500,000 as the office of Hawaiian
2 affairs' interim annual share of the income and
3 proceeds of the public land trust beginning in fiscal
4 year 2022-2023;

5 (2) Appropriate \$64,000,000 to the office of Hawaiian
6 affairs; and

7 (3) Establish a working group to determine the pro rata
8 share of income and proceeds from the public land
9 trust due annually to the office of Hawaiian affairs.

10 SECTION 2. Act 178, Session Laws of Hawaii 2006, is
11 amended by amending sections 2 and 3 to read:

12 "SECTION 2. Notwithstanding the provisions of chapter 10,
13 Hawaii Revised Statutes, including section 10-13.5, Hawaii
14 Revised Statutes, and until further action is taken by the
15 legislature for this purpose, the income and proceeds from the
16 pro rata portion of the public land trust under article XII,
17 section 6, of the state constitution for expenditure by the
18 office of Hawaiian affairs for the betterment of the conditions
19 of native Hawaiians for each fiscal year beginning with fiscal
20 year [~~2005-2006~~] 2022-2023 shall be [~~\$15,100,000.~~] \$21,500,000.



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1 SECTION 3. Notwithstanding the provisions of chapter 10,
2 Hawaii Revised Statutes, or the requirements of Executive Order
3 No. [~~03-03,~~] 06-06, beginning in fiscal year [~~2005-2006,~~] 2022-
4 2023, the departments of agriculture, accounting and general
5 services, business, economic development, and tourism,
6 education, land and natural resources, and transportation (for
7 its harbors division), and any other department or agency that
8 collects receipts from the lands within the public land trust,
9 shall determine and transfer to the office of Hawaiian affairs
10 that portion of their receipts from the use of lands within the
11 public land trust collected during each fiscal quarter,
12 necessary to ensure that a total of [~~\$3,775,000~~] \$5,375,000 of
13 revenues generated by the public land trust is transferred to
14 the office of Hawaiian affairs, within thirty days of the close
15 of each fiscal quarter; provided that for fiscal year [~~2005-~~
16 ~~2006,~~] 2022-2023, the departments shall have until thirty days
17 after the close of the fiscal year to transfer a total of
18 [~~\$15,100,000~~] \$21,500,000 from their receipts from the use of
19 lands within the public land trust collected during fiscal year
20 [~~2005-2006,~~] 2022-2023, to the office of Hawaiian affairs



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1 whether by the procedures set out in Executive Order No. [~~03-03~~]
2 06-06 or this Act.

3 The governor is expressly authorized to fix the amounts
4 each agency shall transfer to the office of Hawaiian affairs in
5 each quarter by executive order to implement the provisions of
6 this section[-]; provided that a total of not less than
7 \$5,375,000 each quarter shall be transferred to the office of
8 Hawaiian affairs, as provided in this section."

9 SECTION 3. (a) There is established a working group to:

10 (1) Account for all ceded lands in the public land trust
11 inventory;

12 (2) Account for all income and proceeds from the public
13 land trust; and

14 (3) Subsequently determine the twenty per cent pro rata
15 share of income and proceeds from the public land
16 trust due annually to the office of Hawaiian affairs
17 for the betterment of the conditions of Native
18 Hawaiians.

19 (b) The working group shall be comprised of six members,
20 three of whom three shall be appointed by the governor and three



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1 of whom shall be appointed by the office of Hawaiian affairs
2 board of trustees.

3 (c) The working group, with the cooperation of any
4 department or agency that uses, manages, or receives income,
5 proceeds, or any other funds derived from the public land trust,
6 shall prepare and submit a report of its findings and
7 recommendations, including any proposed legislation and the
8 amount it determines for the annual amount of the twenty per
9 cent pro rata share of income and proceeds from the public land
10 trust, to the legislature.

11 (d) The office of Hawaiian affairs shall provide any
12 necessary administrative support, including preparation of the
13 report required by subsection (c), to the working group.

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$64,000,000 or so
16 much as may be necessary for fiscal year 2021-2022 to pay to the
17 office of Hawaiian affairs for a portion of the income and
18 proceeds from the public land trust. The sum appropriated shall
19 be deposited into the native Hawaiian trust fund and expended by
20 the office of Hawaiian affairs.



1 SECTION 5. The general revenue appropriated by this Act
2 shall be deemed income and proceeds from the public land trust
3 as if the sum had been paid out of income and proceeds from the
4 public land trust pursuant to article XII, section 6, of the
5 Hawaii State Constitution.

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.



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APPROVED this 27th day of June, 2022

A handwritten signature in black ink, appearing to read "David I. Byrne". The signature is fluid and cursive, with a long horizontal stroke at the end.

GOVERNOR OF THE STATE OF HAWAII


S.B. No. 2021, S.D. 1, H.D. 2, C.D. 1

THE SENATE OF THE STATE OF HAWAI'I

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.


President of the Senate


Clerk of the Senate

SB No. 2021, SD 1, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives