MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT

DATE: Monday, December 12, 2022
TIME: 11:00 a.m.
PLACE: Virtual Meeting
560 N. Nimitz Hwy., Honolulu, HI 96817
Viewable at www.oha.org/livestream OR
Listen by phone: (213) 338-8477,
Webinar ID: 872 5514 5524

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: 872 5514 5524. 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. New Business
   A. Action Item BAE #22-04A: Approval of the 2023 Legislative Package as Updated

III. Executive Session
   A. Consultation with Sherry Broder, Esq. and Interim General Counsel, Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to legislation related to OHA lands in Kaka‘ako Makai, O‘ahu. Pursuant to HRS §92-5(a)(4)*

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_SLO78jwrTNW_iyXt0_ns8w

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 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.

Trustee Carmen Hulu Lindsey, Board of Trustees Chair

Date

12/6/2022
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IV. Announcements

V. Adjournment

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ACTION ITEM

Committee on Beneficiary Advocacy and Empowerment
December 12, 2022

BAE #22-04A

Action Item Issue: 2023 OHA Legislative Package as Updated

Prepared by: Capsun M. Poe
Ka Pou Kihi Kū Kūikawā, Interim Director, Advocacy
Interim Chief Advocate

Reviewed by: Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Reviewed by: Ramona G. Hinck
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by: Everett Ohta
Ka Paepae Puka Kūikawā, Interim General Counsel

Reviewed by: Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Reviewed by: Kaleihikina Akaka
Luna Ho‘omalu o ke Kōmike BAE
Chair, Committee on Beneficiary Advocacy and Empowerment
I. PROPOSED ACTION

Approve the measure entitled OHA-2 – RELATING TO HOUSING, to be included in the 2023 OHA Legislative Package as drafted at Attachment A.¹

II. ISSUES

Should the Committee on Beneficiary Advocacy & Empowerment (BAE) approve, or not, the inclusion of OHA-2 – RELATING TO HOUSING, in the 2023 Legislative Package, as drafted at Attachment A.

III. DISCUSSION

Action Item BAE #22-04: 2023 OHA Legislative Package and Plan, dated October 25, 2022, and its attachments are included at Attachment B, and is provided for context and assistance in understanding the updated 2023 OHA Legislative Package OHA-2 measure which is the basis for the recommendation action.

Note: Attachment B includes OHA-1 – RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS, which is the FY24-25 general funds bill approved by the Board. However, the Board also approved Administration’s ability to complete ministerial drafting and editing prior to final submission.

IV. RECOMMENDED ACTION

Approve the measure entitled OHA-2 – RELATING TO HOUSING, to be included in the 2023 OHA Legislative Package as drafted at Attachment A.

V. ALTERNATIVE ACTIONS

A. Not approve the inclusion of OHA-2 – RELATING TO HOUSING, for the 2023 OHA Legislative Package as drafted at Attachment A; and/or

B. Modify OHA-2 – RELATING TO HOUSING, for the 2023 OHA Legislative Package as drafted at Attachment A.

¹ Note: OHA-1 – RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS, at Attachment B was approved by the Beneficiary Advocacy and Empowerment Committee on October 25, 2022, and ratified by the Board of Trustees on October 27, 2022, via Action Item BAE #22-04: 2023 OHA Legislative Package and Plan. Attachment C includes an updated OHA-1 for related ministerial drafting and editing changes (e.g., okina, kahako).
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 Kakaʻako Makai Legislative Activities and the Renaming of Kakaʻako 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.

VII. FUNDING & CHIEF FINANCIAL OFFICER CERTIFICATION

No funding is required to approve the 2023 OHA Legislative Package as updated. The following is the certification by the Chief Financial Officer that the financial implications of the proposed 2023 OHA Legislative Package, as updated, are aligned to fiscal and budget related policies:

____________________________
Ramona G Hinck
Chief Financial Officer
Date: 12/09/2022

VII. TIMEFRAME

Immediate action is recommended upon Board approval to meet the State Legislative submission deadline of Friday, December 30, 2022.

VIII. ATTACHMENTS

A. OHA-2- RELATING TO HOUSING (draft)

B. Action Item BAE #22-04: 2023 OHA Legislative Package, October 25, 2022, plus attachments

C. OHA-1- RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS (draft)
A BILL FOR AN ACT
DRAFT

RELATING TO HOUSING

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI‘I:

SECTION 1. The legislature finds that it must set right and fulfill its trust responsibilities to Native Hawaiians, consistent with governmental action across America and internationally to address injustices against Indigenous Peoples. It is incumbent upon the legislature to enact legislation that upholds its trust responsibilities and duty of care to native Hawaiians to:

1) Account for all ceded lands in the Public Lands Trust inventory;

(2) Account for all income and proceeds derived from the Public Land Trust;

(3) Transfer the full twenty per cent pro rata share of income and proceeds from the Public Land Trust annually to the Office of Hawaiian Affairs (OHA) for the betterment of the conditions of native Hawaiians, including the fair and just amounts of past due; and
(4) Address the unfairness and injustice created by the undervaluation of the lands transferred to the Office of Hawaiian Affairs in Act 15 (Sess. Laws Haw. 2012) and thereby allow the State to meet its constitutional obligation to native Hawaiians under article XII, sections 4 and 6, of the State Constitution for amounts past due between November 7, 1978, up to and including June 30, 2012.

The legislature finds that, to uphold its constitutional trust obligation and duty to native Hawaiians, it must enact another legislative measure in light of the information, data, and facts provided to the legislature to make pono the intent of Act 15.

The genesis and source of the State’s Public Land Trust responsibility to native Hawaiians are the historical events that led to the illegal overthrow of the Kingdom of Hawai‘i; the transfer of approximately 1,800,000 acres of crown, government, and public lands to the United States under the 1898 Joint Resolution of Annexation without the consent of and without compensation to the native Hawaiian people or their sovereign government; the Admission of Hawai‘i as a State of the Union in 1959, with the explicit trust responsibility and requirement in section 5(f) of the 1959 Admission Act that one of the five purposes of the Public Land Trust is that the income and proceeds from the Public Land Trust are to be used “for the betterment of the conditions of native Hawaiians”; and the 1978 Constitutional Convention’s recognition that native Hawaiians are one of the beneficiaries of the Public Land Trust and the
creation of OHA to manage and administer the specific allocation of “all income and proceeds from that pro rata portion of the [Public Land] Trust . . . for native Hawaiians” (Article XII, section 6, of the Hawai‘i State Constitution). The United States and the courts have consistently affirmed the trust nature of the government and crown lands, including large tracts of ceded lands used for military or other purposes under federal control. In 1959, as a condition of its admission into the Union, the State of Hawai‘i agreed to hold certain lands granted to the State by the United States in a public trust for five purposes delineated in section 5(f) of the Admission Act, which provides in relevant part:

The lands granted to the State of Hawai‘i by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust [(1)] for the support of the public schools and other public educational institutions, [(2)] for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, [(3)] for the development of farm and home ownership on as widespread a basis as possible [(4)] for the making of public improvements, and [(5)] for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more
of the foregoing purposes in such manner as the
constitution and laws of said State may provide, and their
use for any other object shall constitute a breach of trust
for which suit may be brought by the United States.
(Emphasis added.)
In 1978, the people of Hawai‘i affirmed the State’s trust
obligation to native Hawaiians by ratifying constitutional
amendments from the Constitutional Convention, including article
XII, sections 4, 5, and 6, of the Hawai‘i State Constitution,
which established OHA and charged it with managing income and
proceeds from the Public Land Trust for the benefit of native
Hawaiians. The 1978 Constitutional Convention Delegates
conferred on OHA a unique status. OHA was created as a
semiautonomous agency and was intended to provide Hawaiian
people with a vehicle for “self-determination and self-
government” and to be “unique and special.” “The establishment
by the Constitution of the Office of Hawaiian Affairs with power
to govern itself through a board of trustees ... results in the
creation of a separate entity independent of the executive
branch of the government.” Standing Comm. Rep. No.59, 1
Proceedings of the Constitutional Convention of Hawai‘i of
1978 at 644. Article XVI, section 7, of the Hawai‘i State
Constitution required the State to enact legislation to comply
with its trust obligations.
Thus, in 1979, legislation, codified as chapter 10, Hawai‘i
Revised Statutes, set forth the purposes of OHA and described
the duties of its trustees.
In September 1981, an initial land inventory by the department of land and natural resources listed approximately 1,271,652 acres, falling woefully short of its duty to provide a complete inventory of the Public Land Trust lands. Additionally, the state land information management system does not include all lands held by all state entities.

Act 273, Session Laws of Hawai‘i 1980, enacted section 10-13.5, Hawai‘i Revised Statutes, to implement OHA’s pro rata share and required that OHA receive “[t]wenty per cent of all funds derived from the Public Land Trust[.]” This legislative directive addressing the constitutional mandate has led to a series of lawsuits and legislative enactments concerning OHA’s constitutional pro rata share of the Public Land Trust. The State and OHA have labored to resolve the political question of the statutory pro rata share of income and proceeds derived from the Public Land Trust, and payment to OHA.

Act 178, Session Laws of Hawai‘i 2006, affirmed the State’s trust obligation to native Hawaiians by requiring that the Department of Land and Natural Resources provide an annual accounting of revenue-generating public trust lands and the amounts derived from those lands to the legislature. The measure also set a fixed amount of $15,100,000 from the pro rata share of the Public Land Trust income and proceeds due to OHA for the betterment of the conditions of native Hawaiians until further action is taken by the legislature for this purpose.

Act 15, Session Laws of Hawai‘i 2012, was enacted to address past-due amounts, which accumulated during the period
between November 7, 1978, up to and including June 30, 2012, of income and proceeds from the Public Land Trust owed to OHA by implementing an agreement between the State and OHA for the State to convey certain lands in Kaka’ako, O’ahu, to OHA. This settlement was based on an alleged value of approximately $200,000,000, which subsequently has not been proven to be correct under the current limitations of its use. Act 15 did not, however, address the State’s constitutional obligations relating to OHA’s twenty per cent pro rata share of the income and proceeds from the Public Land Trust generated after June 30, 2012.

Notably, a 2015-2016 financial review initiated by OHA found that the minimum amount of total gross receipts from sources that OHA has historically claimed was approximately $394,322,163 in the fiscal year 2015-2016. Twenty per cent of this gross amount is approximately $78,900,000.

The legislature finds that the Office of Hawaiian Affairs (OHA) was established under Article XII, section 5, of the Hawai‘i State Constitution to "hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for Native Hawaiians and Hawaiians."

The Office of Hawaiian Affairs' Board of Trustees is authorized by Article XII, section 6, of the Hawai‘i State Constitution "to manage and administer the proceeds from the sale or other disposition of the lands . . . and income derived
from whatever sources for Native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article [the Public Land Trust] for Native Hawaiians." The Board of Trustees is also authorized under article XII, section 6, "to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for Native Hawaiians and Hawaiians."

The 1978 Constitutional Convention Delegates conferred on OHA a unique status. OHA was created as a semiautonomous agency and was intended to provide Hawaiian people with a vehicle for "self-determination and self-government" and to be "unique and special." "The establishment by the Constitution of the Office of Hawaiian Affairs with power to govern itself through a board of trustees ... results in the creation of a separate entity independent of the executive branch of the government." Standing Comm. Rep. No.59, 1 Proceedings of the Constitutional Convention of Hawai‘i of 1978 at 644.

In section 1 of Act 15, Session Laws of Hawai‘i 2012 (Act 15), the legislature found that a purpose of the Act was to: "[E]ffectively and responsibly fulfill the constitutional obligation to Native Hawaiians under article XII, sections 4 and 6, of the State Constitution between November 7, 1978, up to and including June 30, 2012 ... and providing additional resources to the office in the form of fee simple title to certain parcels of land."
In the same section of Act 15, the legislature declared that the "[c]onveyance of the fee simple interest to the lands . . . will allow the State to effectively and responsibly meet those constitutional obligations to Native Hawaiians."

Further, section 2 of Act 15 stated, "the fee simple interest to [nine] parcels of land identified by tax map key (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-130 (Lot B), tax map key (1) 2-1-58-130 (Lot C), tax map key (1) 2-1-58-48 & 2-1-60-27 (Lot D), tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I), tax map key (1) 2-1-60-28 (Lot K), and tax map key (1) 2-1-15-51 (Lot L), was conveyed to OHA as grantee, as of July 1, 2012, as is where is." In the same section of Act 15, however, the legislature specifically directed that, "[t]he [nine parcels] are and shall remain (even after conveyance to the Office) under the jurisdiction and authority of the Hawai‘i Community Development Authority with respect to zoning, land use conditions[,] and all other matters over which the authority has jurisdiction and authority to act," and "shall be subject to all laws, except sections 206E-8, and 206E-10, Hawai‘i Revised Statutes, and otherwise provided in this Act.

Particularly pertinent to the purpose of Act 15, in section 6, the Legislature further declare that "[t]he [p]roperties conveyed by this Act shall be deemed income and proceeds from the Public Land Trust, as if the [p]roperties had been paid out of the income and proceeds from the Public Land Trust pursuant to article XII, section 6 of the Hawai‘i State Constitution."
Relying on its Board of Trustees' authority to "exercise control" over lands that OHA holds in trust for Native Hawaiians, and to "manage and administer" the income and proceeds from the Public Land Trust lands it receives, OHA has asked the legislature to enact this Act to allow OHA to maximize the income or proceeds that the parcels of land conveyed by Act 15 could generate for the purposes of bettering the conditions of Native Hawaiians, by allowing the parcels to be developed for residential use.

Haw. Rev. Stat. §10-1, Declaration of purpose, acknowledges that Native Hawaiians are the aboriginal peoples of Hawai‘i. It provides that (a) The people of the State of Hawai‘i and the United States of America as set forth and approved in the Admission Act, established a public trust which includes among other responsibilities, betterment of conditions for native Hawaiians. The people of the State of Hawai‘i reaffirmed their solemn trust obligation and responsibility to native Hawaiians and furthermore declared in the State Constitution that there be an Office of Hawaiian Affairs to address the needs of the aboriginal class of people of Hawai‘i. Haw. Rev. Stat. § 10-2, Definitions, finds that "’Hawaiian’ means any descendant of the aboriginal peoples inhabiting the Hawaiian Islands which exercised sovereignty and subsisted in the Hawaiian Islands in 1778, and which peoples thereafter have continued to reside in Hawai‘i."

The United States Congress has repeatedly recognized Native Hawaiians as indigenous peoples, see for instance, “Native
Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778.” 

Native Hawaiian Health Care Improvement Act, 42 U.S. Code § 11701, Findings (1).

See also, (Congressional finding that “Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship”); 20 U.S.C. § 7512(12)(D) (Congressional finding that “the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives”); 20 U.S.C. § 7512(1) (Congressional finding that “Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago”); 42 U.S.C. § 11701(1) (Congressional finding that “Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778”).

The Apology Resolution, Joint Resolution to Acknowledge the 100th Anniversary of the January 17, 1893 Overthrow of the Kingdom of Hawai‘i, Pub. L. No. 103-150, 107 Stat. 1510 (1993) (“Apology Resolution”), makes findings that: “Whereas the Republic of Hawai‘i also ceded 1,800,000 acres of crown,
government and public lands of the Kingdom of Hawai‘i without the consent of or compensation to the native Hawaiian people of Hawai‘i or their sovereign government. . . . Whereas the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum . . . .” at paras. 25, 29.

The legislature recognizes the growing international movement for the protection of the rights of the world's indigenous peoples. In 2007, the United Nations General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”) by a vote of 144 nations in favor. In 2011, President Barack Obama announced the support of the United States for the UNDRIP. In 2022, President Joseph Biden reiterated that the United States supports the UNDRIP. Article 3 provides, “Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Article 4 provides: “Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.” And Article 5 provides: “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.”

The legislature finds that OHA has the right to use the 30 acres (nine parcels) it owns in Kaka‘ako Makai to benefit the Hawaiian people and residential development in this area allows OHA to develop and sustain programs to benefit the Native Hawaiian people. The legislature understands that these lands are Hawaiian Lands and that the Hawaiian Nation is owed money from the ceded lands. The Legislature further understands that OHA is interested in creating long-term, sustainable solutions to help the Native Hawaiian people while simultaneously benefiting the general public through additional housing units for local people, and an improved, vibrant gathering space for all in Kaka‘ako Makai. Furthermore, it is recognized by the legislature that OHA aspires to provide more affordable housing at lower area medium income (AMI) levels than current Hawai‘i Community Development Authority rules require.

The legislature finds that the ongoing transformation of Kaka‘ako Makai into a place where the people of Honolulu can live, work, and play should increase the revenue generating potential of the land conveyed to OHA by Act 15 and at the same time increase the number of programs and kinds of services that OHA has created and is able to provide for Native Hawaiians. The legislature further finds that even more revenue could be generated to provide programs and services to better the conditions of Native Hawaiians, if OHA were permitted to develop
some or all of the parcels it received under Act 15 for residential use as part of a master plan that will include retail and other commercial uses with a focus on ensuring Native Hawaiian culture, arts and practices thrive through the State’s first dedicated Native Hawaiian Cultural Center.

The legislature agrees that the residential development restriction to which all of the parcels transferred to OHA by Act 15 were and continue to be subject should be lifted to the extent necessary to allow OHA to realize the maximum income or proceeds that the parcels identified by tax map key (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-130 (Lot B), tax map key (1) 2-1-58-130 (Lot C), tax map key (1) 2-1-58-48 & 2-1-60-27 (Lot D), tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I), tax map key (1) 2-1-60-28 (Lot K), and tax map key (1) 2-1-15-51 (Lot L) could generate if they were developed for residential use as promulgated in article XII, section 6 of the Hawai‘i State Constitution.

The legislature further finds that at present, the value of these lands to OHA remains unfulfilled due to pre-existing conditions and significant deferred maintenance by the State that further eroded its value. In order to assure the value of the lands transferred to OHA in 2012 by Act 15, and make OHA whole for amounts passed due, the legislature concurs that the State should also provide the funds necessary for required infrastructure repairs such as repairs to bulkhead retaining walls and revetments at an estimated cost of $65 million.
Furthermore, the legislature recognizes that lands conveyed to OHA by Act 15 in 2012 was IN LIEU of $200 million cash payment for ceded lands revenue. That if OHA had invested that money in 2012 at a conservative return rate of 7%, OHA would now have $400 million. The legislature also finds that to fully deliver the true value of the lands conveyed by Act 15 of $200 million, the State should also consider supplemental allowances to OHA in the form of additional lands or funds in the amount of $150 million.

Finally, the legislature finds that inasmuch as this Act furthers one of the principal purposes for which the Office of Hawaiian Affairs was established, its provisions should be deemed consistent with and not in violation of article XI, section 5, of the Hawai‘i State Constitution.

The purpose of this Act is to enhance the revenue generating capacity of nine parcels of land that were transferred to the Office of Hawaiian Affairs by Act 15. To accomplish this purpose, this Act will:

1) Lift the current restriction against residential development in Kaka‘ako Makai, to allow residential development by OHA and their consultants or developers.

2) Raise the building height limit for three parcels to four hundred feet identified as tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I) consistent with heights allowed across the street throughout Kaka‘ako Mauka.
3) Increase the Floor Area Ratio to 6 to allow for more density which will increase OHA’s desired ability to provide more affordable housing units for Native Hawaiians and local residents.

4) Provide for additional State investments in required infrastructure repairs and provide supplemental value in lands or funds to meet the fair present value of the conveyed lands in lieu of cash payment made in 2012 as identified in Act 15.

SECTION 2. Chapter 206E, Hawai‘i Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§206E- Limited residential development in Kaka‘ako; public hearing prerequisite; height limit; association fee; required disclosures and nuisance mitigation efforts. (a) The authority may approve any plan or proposal for any residential development in Kaka‘ako on any parcels identified as tax map key (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-130 (Lot B), tax map key (1) 2-1-58-130 (Lot C), tax map key (1) 2-1-58-48 & 2-1-60-27 (Lot D), tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I), tax map key (1) 2-1-60-28 (Lot K), and tax map key (1) 2-1-15-51 (Lot L); provided that the authorization for residential development pursuant to this section shall apply to each of these parcels regardless of if a parcel's tax map key number is amended; provided further that approval may be granted only after the
applicant seeking approval conducts a public hearing held in accordance with subsection (b).

(b) Prior to submission to the authority of any plan or proposal for any residential development pursuant to this section, the applicant seeking approval shall hold a public hearing that shall be exempt from chapter 91. Notice shall be published in accordance with section 1-28.5, at least thirty days prior to the hearing. The notice shall include:

(1) The date, time, and place of the hearing;

(2) A statement of the topic of the hearing; and

(3) A description of where, when, and how the residential development proposal may be viewed by the public.

All interested persons may submit data or opinions, orally or in writing, in conjunction with the hearing.

(c) Prior to submitting to the authority for approval any plan or proposal for residential development pursuant to this section, the applicant seeking approval shall fully address all written and oral submissions permitted pursuant to subsection (b) regarding the proposed residential development.

(d) Prior to the approval of any plan or proposal for residential development pursuant to this section:

(1) The authority shall hold a public hearing in accordance with subsection (b); and

(2) The authority shall fully consider all written and oral submissions received at the public hearings held by the applicant and the authority.
(e) Any other law to the contrary notwithstanding, the building height limit shall be four hundred feet for residential development pursuant to this section on the parcels identified by tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I); provided that the building height limit for residential development pursuant to this section shall apply to each of these land areas even in the event that a parcel's tax map key number is amended.

(f) Any other law to the contrary notwithstanding, as set in Hawai‘i Administrative Rules §15-23-62, the maximum floor area ratio (FAR) for any development lot within any land use zone shall be set forth in Exhibit 3, entitled “Maximum Height and Density Plan”, dated September 2005, and attached at the end of this chapter; is amended to allow for FAR of up to 6 for parcels identified as tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I).

(g) The Office of Hawaiian Affairs and any developer shall provide advance written notice to potential lessees and residents of the possibility of noise, odor, and other aircraft-related nuisances before entering into any lease agreement. The Office of Hawaiian Affairs and any developer shall assess and propose mitigation efforts to address possible noise, odor, and other aircraft-related nuisances in any development plan or proposal.”
SECTION 3. Section 206E-12, Hawai‘i Revised Statutes, is amended to read as follows:

"§206E-12 Dedication for public facilities as condition to development. (a) The authority shall establish rules requiring dedication for public facilities of land or facilities, or cash payments in lieu thereof, by developers as a condition of developing real property pursuant to the community development plan. Where state and county public facilities dedication laws, ordinances, or rules differ, the provision for greater dedication shall prevail.

(b) This section shall not apply to lands identified in section 206E- (a)."

SECTION 4. Section 206E-31.5, Hawai‘i Revised Statutes, is amended to read as follows:

"§206E-31.5 Prohibitions. Anything contained in this chapter to the contrary notwithstanding, and except as provided in section 206E- (a), the authority is prohibited from:

(1) Selling or otherwise assigning the fee simple interest in any lands in the Kaka‘ako Community Development district to which the authority in its corporate capacity holds title, except with respect to:

(A) Utility easements;
(B) Remnants as defined in section 171-52;
(C) Grants to any state or county department or agency;
(D) Private entities for purposes of any easement, roadway, or infrastructure improvements; or
(E) Reserved housing as defined in section 206E-101;

or

(2) Approving any plan or proposal for any residential development in that portion of the Kaka'ako Community Development district makai of Ala Moana boulevard and between Kewalo Basin and the foreign trade zone."

SECTION 5. Section 206E-34, Hawai'i Revised Statutes, is amended adding (F) Office of Hawaiian Affairs to read as follows:

"§206E-34 Cultural Public Market. 
( (c) The Hawai'i Community Development Authority shall:
(1) Designate and develop the state-owned land for the cultural public market;
(2) Accept, for consideration, input regarding the establishment of the cultural public market from the following departments and agencies:
(A) The Department of Agriculture;
(B) The Department of Business, Economic Development, and Tourism;
(C) The Department of Land and Natural Resources;
(D) The Department of Labor and Industrial Relations; and
(E) The Hawai'i Tourism Authority;
(F) The Office of Hawaiian Affairs

SECTION 5. There is appropriated out of the general fund the sum of $65 million or so much thereof as may be necessary for fiscal years XXXX-XX to the Office of Hawaiian Affairs to for the purpose of infrastructure repairs to bulkheads and revetments in Kaka'ako Makai pursuant to this Act.

SECTION 6. There is appropriated out of the general fund the sum of $XX million or so much thereof as may be necessary for fiscal years XXXX-XX to the Office of Hawaiian Affairs to for the purpose of supplementing value for parcels in Kaka'ako
Makai transferred by Act 15 in 2012 to the Office of Hawaiian Affairs pursuant to this Act.

SECTION 7. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2023.

MAP TO BE ATTACHED.
ACTION ITEM

Committee on Beneficiary Advocacy and Empowerment
October 25, 2022

BAE #22-04

Action Item Issue:  2023 OHA Legislative Package

Prepared by: ________________________________  10/20/2022
Capsun M. Poe
Ka Pou Kihi Kū Kūikawā, Interim Director, Advocacy
Interim Chief Advocate

Reviewed by: ________________________________  10/20/2022
Casey K. Brown
Ka Pou Nui, Chief Operating Officer

Reviewed by: ________________________________  10/20/2022
Ramona G. Hinck
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by: ________________________________  10/20/2022
Everett Ohta
Ka Paepae Puka Kūikawā, Interim General Counsel

Reviewed by: ________________________________  10/20/2022
Sylvia M. Hussey, Ed.D.
Ka Pouhana, Chief Executive Officer

Reviewed by: ________________________________  10/20/2022
Kaleihikina Akaka
Luna Ho‘omalu o ke Kōmike BAE
Chair, Committee on Beneficiary Advocacy and Empowerment
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 - KAKAʻAKO MAKAI RESIDENTIAL REPEAL**

Approve the drafting and submission of a Kakaʻako 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, Moʻomeheu, ʻĀina); 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 Kakaʻako 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.

![2023 Legislative Schedule]

Image 1. – 2023 Legislative Schedule
Action Item BAE #22-04: 2023 OHA Legislative Bill Package

Package Activities

- Propose a Highly-Focused Legislative Package
- OHA-1, OHA Budget
  - Maintain general fund appropriations for Fiscal Biennium 2023-25
- OHA-2, Kakaʻako Makai
  - Pursue repeal of certain use restrictions
  - This would allow OHA to realize the promised value of Kakaʻako Makai

Image 2. – Proposed Package Activities

Non-Package Activities

- Monitoring and Position Recommendations on Bills and Resolutions (Matrices 1-4)
- Coordinated advocacy on issues affecting Native Hawaiians
  - Direct impact on OHA
  - Broad lāhui issues – ‘ohana, culture, ‘āina and wai, educational pathways, health outcomes, quality housing, economic stability
- PLT Working Group to determine OHA’s pro rata share
  - Pursuant to Act 226, SLH 2022
- Partner with other advocates whose work intersects and aligns with OHA’s efforts

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:

<table>
<thead>
<tr>
<th>Legislative Provision (Proviso)</th>
<th>Prog ID</th>
<th>FY2021-2022 (FY22)</th>
<th>FY2022-2023 (FY23)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupancy Ready</td>
<td>OHA 175 – Beneficiary Advocacy</td>
<td>$500,000</td>
<td>$500,000</td>
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<tr>
<td>Social Services</td>
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<td>$415,000</td>
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<tr>
<td>Education</td>
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<td>$615,000</td>
<td>$615,000</td>
</tr>
<tr>
<td>Legal Services</td>
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<td>$524,400</td>
<td>$524,400</td>
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<tr>
<td>Follow Up Report¹</td>
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<td>$200,000</td>
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<tr>
<td>Legal Services²</td>
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<td>$200,000</td>
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</table>

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:

<table>
<thead>
<tr>
<th>Legislative Provision (Proviso)</th>
<th>Prog ID</th>
<th>FY2023-2024 (FY24)</th>
<th>FY2024-2025 (FY25)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupancy Ready</td>
<td>OHA 175 – Beneficiary Advocacy</td>
<td>$500,000</td>
<td>$500,000</td>
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<td>Social Services</td>
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<td>$415,000</td>
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<tr>
<td>Education</td>
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<td>$515,000</td>
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<tr>
<td>Legal Services</td>
<td></td>
<td>$600,000</td>
<td>$600,000</td>
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</table>

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.
### Table 2. – FY24 and FY25 General Fund Appropriation Recommendations

<table>
<thead>
<tr>
<th>Legislative Provision (Proviso)</th>
<th>Prog ID</th>
<th>FY2023-2024 (FY24)</th>
<th>FY2024-2025 (FY25)</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘Āina, Addressing impacts of Climate Change</td>
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<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>‘Ohana Economic Stability</td>
<td></td>
<td>$370,000</td>
<td>$370,000</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$3,000,000</strong></td>
<td><strong>$3,000,000</strong></td>
</tr>
</tbody>
</table>

C. **OHA-2 – RELATING TO KAKA‘ĀKO 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 - KAKAʻAKO MAKAI RESIDENTIAL REPEAL

Approve the drafting and submission of a Kakaʻako Makai residential repeal focused bill for submission to the 2023 Legislature, that considers the: 1) Elements and conditions of the 2012, State of Hawaiʻi, $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
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:

“Means 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
positions and a pound (#) sign for temporary full-time
equivalent positions.

“Program ID” means the unique identifier for the specific
program and consists of the abbreviation for the Office of
Hawaiian Affairs (OHA) followed by the organization number for
the program.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much
thereof as may be sufficient to accomplish the purposes and
programs designated herein, are hereby appropriated or
authorized from the means of financing specified to the Office
of Hawaiian Affairs for the fiscal biennium beginning July 1,
2023, and ending June 30, 2025. The total expenditures and the
number of positions in each fiscal year of the biennium shall
not exceed the sums and the numbers indicated for each fiscal
year, except as provided elsewhere in this Act, or as provided
by general law.
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>PROGRAM ID</th>
<th>PROGRAM</th>
<th>AGENCY</th>
<th>EXPENDING YEAR</th>
<th>EXPENDING O</th>
<th>APPROPRIATIONS FISCAL 2023-24 M</th>
<th>APPROPRIATIONS FISCAL 2024-25 M</th>
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<td>1.</td>
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<td>3.</td>
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OHA-1 2023 Budget Bill
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 $415,000 in general funds and $415,000 in trust funds for fiscal year 2023-2024 and the same sums for fiscal year 2024-2025 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 funds expended for the purpose of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $615,000 in general funds and $615,000 in trust funds for fiscal year 2023-2024 and the same sums for fiscal year 2024-2025 shall be expended to

OHA-1 2023 Budget Bill
provide for educational improvement programs for Native Hawaiian students; provided further that program activities shall be designed to help Native Hawaiian students prepare for post secondary education and economic stability pursuits to support families and communities; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any expenditures for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $600,000 in general funds and $600,000 in trust funds for fiscal year 2023-2024 and the same sums for fiscal year 2024-2025 shall be expended to provide for legal services and legal representation to Office of Hawaiian Affairs beneficiaries for:

(1) The assertion and defense of quiet title actions;
(2) Assistance with ahupua'a and kuleana tenant rights, including rights of access and rights to water;
(3) Land title assistance, including review of title and genealogy;
(4) Preservation of traditional and customary practices;
(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...
30, no later than twenty days prior to the regular sessions of 2024 and 2025.

SECTION 9. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, the legislature declares that the remainder of the Act and each-and-every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 10. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the board of trustees of the Office of Hawaiian Affairs is authorized to correct these errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 11. This Act shall take effect on July 1, 2023.

INTRODUCED BY: _______________________________

BY REQUEST
Report Title:
[Click here and type Report Title (1 line limit)]

Description:
[Click here and type Description (5 line limit)]

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

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 2021.

SECTION 2. DEFINITIONS. As used in this Act, unless the context otherwise requires:

"Means 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. These letter symbols, where used, shall mean the following:

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
positions and a pound sign (#) for temporary full-time

"Program ID" means the unique identifier for the specific

program and consists of OHA, the abbreviation for the office of

Hawaiian affairs, followed by the organization number for the

program.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much

thereof as may be sufficient to accomplish the purposes and

programs designated herein, are appropriated or authorized from

the means of financing specified to the office of Hawaiian

affairs for the fiscal biennium beginning July 1, 2021, and

ending June 30, 2023. The total expenditures and the number of

positions in each fiscal year of the biennium shall not exceed

the sums and the numbers indicated for each fiscal year, except

as provided elsewhere in this Act, or as provided by general

law.
### PROGRAM APPROPRIATIONS

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<th>ITEM</th>
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<th>PROGRAM</th>
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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
funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $615,000 in general funds and $615,000 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended to provide for educational improvement programs for native Hawaiian students; provided further that program activities shall be designed to help native Hawaiian students succeed academically; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any expenditures for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 8. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $524,400 in general funds and $524,400 in trust funds for fiscal year 2021-2022 and the same sums for fiscal year 2022-2023 shall be expended to provide for legal services and legal representation to Office of Hawaiian Affairs beneficiaries for:
(1) The assertion and defense of quiet title actions;

(2) Assistance with ahupua'a and kuleana tenant rights, including rights of access and rights to water;

(3) Land title assistance, including review of title and genealogy;

(4) Preservation of traditional and customary practices;

(5) Protection of culturally significant places;

(6) Preservation of native Hawaiian land trust entitlements; and

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. RELEASE OF PRIOR FUNDS

SECTION 9. Act 37, Session Laws of Hawaii 2019, is amended by amending section 8 to read as follows:

"SECTION 8. [(a) Provided that of the trust funds appropriated in part II of this Act, the sum of $500,000 for fiscal year 2019-2020 shall be expended for the costs for the
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.

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) 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
$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.

PART V. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 12. 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 30, no later than twenty days prior to the convening of the regular sessions of 2022 and 2023.

SECTION 13. If any provision of this Act, or the application thereto to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. If any portion of a specific
appropriation is held to be invalid for any reason, the
remaining portion shall be expended to fulfill the objective of
that appropriation to the extent possible.

SECTION 14. If manifest clerical, typographical, or other
mechanical errors are found in this Act, the board of trustees
of the Office of Hawaiian Affairs may correct these errors. All
changes made pursuant to this section shall be reported to the
legislature at its next session.

SECTION 15. Statutory material to be repealed is bracketed
and struck. New statutory material is underscored.

SECTION 16. This Act shall take effect on July 1, 2021;
provided that sections 9 and 10 of this Act shall take effect
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
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.

[Signature]
President of the Senate

[Signature]
Clerk of the Senate
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,

[Signature]

DAVID Y. IGE
Governor, State of Hawai‘i
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:

SECTION 1. The legislature finds that it must set right and fulfill its trust responsibilities to native Hawaiians, consistent with governmental action across America to address injustices against Indigenous Peoples. It is incumbent upon the legislature to enact legislation that upholds its trust responsibilities and duty of care to native Hawaiians to:

1. Account for all ceded lands in the public lands trust inventory;
2. Account for all income and proceeds derived from the public land trust; and
3. Transfer the full twenty per cent pro rata share of income and proceeds from the public land trust annually to the office of Hawaiian affairs (OHA) for the betterment of the conditions of native Hawaiians.

The genesis and source of the State's public land trust responsibility to native Hawaiians are the historical events that led to the illegal overthrow of the Kingdom of Hawaii; the
transfer of approximately 1,800,000 acres of crown, government,
and public lands to the United States under the 1898 Joint
Resolution of Annexation without the consent of and without
compensation to the native Hawaiian people or their sovereign
government; the admission of Hawaii as a state of the Union in
1959, with the explicit trust responsibility and requirement in
section 5(f) of the 1959 Admission Act that one of the five
purposes of the public land trust is that the income and
proceeds from the public land trust are to be used "for the
betterment of the conditions of native Hawaiians"; and the 1978
Constitutional Convention's recognition that native Hawaiians
are one of the beneficiaries of the public land trust and the
creation of OHA to manage and administer the specific allocation
of "all income and proceeds from that pro rata portion of the
[public land] trust . . . for native Hawaiians" (Article XII,
section 6, of the Hawaii State Constitution). The United States
and the courts have consistently affirmed the trust nature of
the government and crown lands, including large tracts of ceded
lands used for military or other purposes under federal control.
In 1959, as a condition of its admission into the Union,
the State of Hawaii agreed to hold certain lands granted to the
State by the United States in a public trust for five purposes delineated in section 5(f) of the Admission Act, which provides in relevant part:

The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust [(1)] for the support of the public schools and other public educational institutions, [(2)] for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, [(3)] for the development of farm and home ownership on as widespread a basis as possible [(4)] for the making of public improvements, and [(5)] for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their
use for any other object shall constitute a breach of trust
for which suit may be brought by the United States.
(Emphasis added.)

In 1978, the people of Hawaii affirmed the State's trust
obligation to native Hawaiians by ratifying constitutional
amendments from the Constitutional Convention, including
article XII, sections 4, 5, and 6, of the Hawaii State
Constitution, which established OHA and charged it with managing
income and proceeds from the public land trust for the benefit
of native Hawaiians. Article XVI, section 7, of the Hawaii
State Constitution required the State to enact legislation to
comply with its trust obligations. Thus, in 1979, legislation,
codified as chapter 10, Hawaii Revised Statutes, set forth the
purposes of OHA and described the duties of its trustees.

In September 1981, an initial land inventory by the
department of land and natural resources listed approximately
1,271,652 acres, falling woefully short of its duty to provide a
complete inventory of the public land trust lands.
Additionally, the state land information management system does
not include all lands held by all state entities.
Act 273, Session Laws of Hawaii 1980, enacted section 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata share and required that OHA receive "[t]wenty per cent of all funds derived from the public land trust[.]" This legislative directive addressing the constitutional mandate has led to a series of lawsuits and legislative enactments concerning OHA's constitutional pro rata share of the public land trust. The State and OHA have labored to resolve the political question of the statutory pro rata share of income and proceeds derived from the public land trust, and payment to OHA.

Act 178, Session Laws of Hawaii 2006, affirmed the State's trust obligation to native Hawaiians by requiring that the department of land and natural resources provide an annual accounting of revenue-generating public trust lands and the amounts derived from those lands to the legislature. The measure also set a fixed amount of $15,100,000 from the pro rata share of the public land trust income and proceeds due to OHA for the betterment of the conditions of native Hawaiians until further action is taken by the legislature for this purpose.

Act 15, Session Laws of Hawaii 2012, (Act 15) was enacted to address past-due amounts, which accumulated during the period
between November 7, 1978, up to and including June 30, 2012, of income and proceeds from the public land trust owed to OHA by implementing an agreement between the State and OHA for the State to convey certain lands in Kakaako, Oahu, to OHA valued at approximately $200,000,000. Act 15 did not, however, address the State's constitutional obligations relating to OHA's twenty per cent pro rata share of the income and proceeds from the public land trust generated after June 30, 2012. Notably, a 2015-2016 financial review initiated by OHA found that the minimum amount of total gross receipts from sources that OHA has historically claimed was approximately $394,322,163 in the fiscal year 2015-2016. Twenty per cent of this gross amount is approximately $78,900,000.

The legislature finds that to uphold its constitutional trust obligation and duty to native Hawaiians, it must enact another legislative measure in light of the information, data, and facts provided to the legislature by state agencies since the enactment of Act 178, Session Laws of Hawaii 2006, more than a decade ago.

The purpose of this Act is to:
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.
SECTION 3. Notwithstanding the provisions of chapter 10, Hawaii Revised Statutes, or the requirements of Executive Order No. [63-03] 06-06, beginning in fiscal year [2005–2006] 2022-2023, the departments of agriculture, accounting and general services, business, economic development, and tourism, education, land and natural resources, and transportation (for its harbors division), and any other department or agency that collects receipts from the lands within the public land trust, shall determine and transfer to the office of Hawaiian affairs that portion of their receipts from the use of lands within the public land trust collected during each fiscal quarter, necessary to ensure that a total of [$3,775,000] $5,375,000 of revenues generated by the public land trust is transferred to the office of Hawaiian affairs, within thirty days of the close of each fiscal quarter; provided that for fiscal year [2005–2006] 2022-2023, the departments shall have until thirty days after the close of the fiscal year to transfer a total of [$15,100,000] $21,500,000 from their receipts from the use of lands within the public land trust collected during fiscal year [2005–2006] 2022-2023, to the office of Hawaiian affairs.
whether by the procedures set out in Executive Order No. [03-03] 06-06 or this Act.

The governor is expressly authorized to fix the amounts each agency shall transfer to the office of Hawaiian affairs in each quarter by executive order to implement the provisions of this section[-]; provided that a total of not less than $5,375,000 each quarter shall be transferred to the office of Hawaiian affairs, as provided in this section."

SECTION 3. (a) There is established a working group to:

(1) Account for all ceded lands in the public land trust inventory;

(2) Account for all income and proceeds from the public land trust; and

(3) Subsequently determine the twenty per cent pro rata share of income and proceeds from the public land trust due annually to the office of Hawaiian affairs for the betterment of the conditions of Native Hawaiians.

(b) The working group shall be comprised of six members, three of whom three shall be appointed by the governor and three
of whom shall be appointed by the office of Hawaiian affairs
board of trustees.

(c) The working group, with the cooperation of any
department or agency that uses, manages, or receives income,
proceeds, or any other funds derived from the public land trust,
shall prepare and submit a report of its findings and
recommendations, including any proposed legislation and the
amount it determines for the annual amount of the twenty per
cent pro rata share of income and proceeds from the public land
trust, to the legislature.

(d) The office of Hawaiian affairs shall provide any
necessary administrative support, including preparation of the
report required by subsection (c), to the working group.

SECTION 4. There is appropriated out of the general
revenues of the State of Hawaii the sum of $64,000,000 or so
much as may be necessary for fiscal year 2021-2022 to pay to the
office of Hawaiian affairs for a portion of the income and
proceeds from the public land trust. The sum appropriated shall
be deposited into the native Hawaiian trust fund and expended by
the office of Hawaiian affairs.
SECTION 5. The general revenue appropriated by this Act shall be deemed income and proceeds from the public land trust as if the sum had been paid out of income and proceeds from the public land trust pursuant to article XII, section 6, of the Hawaii State Constitution.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.
APPROVED this 27th day of June, 2022

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.

[Signature]
President of the Senate

[Signature]
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
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:

“Means 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
positions and a pound (#) sign for temporary full-time

equivalent positions.

“Program ID” means the unique identifier for the specific

program and consists of the abbreviation for the Office of

Hawaiian Affairs (OHA) followed by the organization number for

the program.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much

thereof as may be sufficient to accomplish the purposes and

programs designated herein, are hereby appropriated or

authorized from the means of financing specified to the Office

of Hawaiian Affairs for the fiscal biennium beginning July 1,

2023, and ending June 30, 2025. The total expenditures and the

number of positions in each fiscal year of the biennium shall

not exceed the sums and the numbers indicated for each fiscal

year, except as provided elsewhere in this Act, or as provided

by general law.
## PROGRAM APPROPRIATIONS

<table>
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<tr>
<th>ITEM NO.</th>
<th>PROG. ID</th>
<th>PROGRAM</th>
<th>AGENCY</th>
<th>2023-24 F</th>
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<td>1. OHA150 – OFFICE OF THE TRUSTEES</td>
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<td>3. OHA175 – BENEFICIARY ADVOCACY</td>
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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 $415,000 in general funds and $415,000 in trust funds for fiscal year 2023-2024 and the same sums for fiscal year 2024-2025 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 funds expended for the purpose of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $615,000 in general funds and $615,000 in trust funds for fiscal year 2023-2024 and the same sums for fiscal year 2024-2025 shall be expended to
provide for educational improvement programs for Native Hawaiian students; provided further that program activities shall be designed to help Native Hawaiian students prepare for post secondary education and economic stability pursuits to support families and communities; and provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any expenditures for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA175), the sum of $600,000 in general funds and $600,000 in trust funds for fiscal year 2023-2024 and the same sums for fiscal year 2024-2025 shall be expended to provide for legal services and legal representation to Office of Hawaiian Affairs beneficiaries for:

(1) The assertion and defense of quiet title actions;
(2) Assistance with ahupua'a and kuleana tenant rights, including rights of access and rights to water;
(3) Land title assistance, including review of title and genealogy;
(4) Preservation of traditional and customary practices;
(5) Protection of culturally significant places, including iwi kūpuna 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
30, no later than twenty days prior to the regular sessions of 2024 and 2025.

SECTION 9. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, the legislature declares that the remainder of the Act and each-and-every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 10. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the board of trustees of the Office of Hawaiian Affairs is authorized to correct these errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 11. This Act shall take effect on July 1, 2023.

INTRODUCED BY: _____________________________

BY REQUEST
Report Title:
[Click here and type Report Title (1 line limit)]

Description:
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