

**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

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	<b>AHU ISA</b>	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**.

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'AINA	LEE						EXCUSED
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE`E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			

10:07 a.m.

<b>TOTAL VOTE COUNT</b>			<b>6</b>	<b>0</b>	<b>0</b>	<b>2</b>
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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 emersion 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 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.

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			
<b>TOTAL VOTE COUNT</b>				<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>

**MOTION:** [ ] UNANIMOUS [  ] 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.

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

11:08 a.m.

JOHN	<b>WAIHE`E, IV</b>	<b>1</b>		<b>X</b>			
<i>CHAIR</i> KALEIHIKINA	<b>AKAKA</b>			<b>X</b>			
<b>TOTAL VOTE COUNT</b>				<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>

**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.**

Respectfully submitted,

Handwritten signature of Brandon Mitsuda in black ink, written over a horizontal line.

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.

Handwritten signature of Kaleihikina Akaka in blue ink, written over a horizontal line.

Trustee Kaleihikina Akaka  
Chair  
Committee on Beneficiary Advocacy and Empowerment