PHONE (808) 594-1888
BOARD OF TRUSTEES
Colette Y. Machado, *Chairperson*Brendon Kalei'āina Lee, Vice Chairperson
Leina'ala Ahu Isa, At-Large
Dan Ahuna, Kaua'i & Ni'ihau
Kalei Akaka, O'ahu
Keli'i Akina, At-Large
Carmen Hulu Lindsey, Maui
Robert K. Lindsey, Jr., Hawai'i Island
John Waihe'e IV, At-Large



STATE OF HAWAI'I OFFICE OF HAWAIIAN AFFAIRS

MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, December 5, 2019

TIME: 10:00 am

PLACE: OHA Board Room, Nā Lama Kukui

560 N. Nimitz Hwy., Suite 200

Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. September 26, 2019†
- III. Public Testimony*
- IV. Unfinished Business
 - A. Interim CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities
- V. New Business
 - A. Committee on Beneficiary Advocacy and Empowerment
 - 1. Action Item BAE #19-02: Approval of OHA 2020 Legislative Package**†
 - B. Committee on Resource Management
 - 1. Presentation: CLA OHA & LLCs Contract & Disbursement Review Final Report†
- VI. Executive Session‡
 - A. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding Makekau, et al. v. State of Hawaii, et al. *Pursuant to HRS §92-5(a)(4)*.
 - B. Approval of Minutes
 - 1. September 26, 2019
- VII. Community Concerns
- VIII. Announcements
 - IX. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email at: rainag@oha.org no later than three (3) business days prior to the date of the meeting.

*Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz. Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

**Notice: Trustees may establish or revise an OHA position on ANY proposed bill/resolution/executive message currently moving through the state legislature or other relative elected body. The Matrices, which are available for public review in the meeting room at this stated meeting, provide a brief description of each bill, the bill's number, the bill's title, the bill's intent, and the proposed and specific OHA position on each measure, current through 11/27/19. However, the Trustees both in committee and as the Board of Trustees (BOT) reserve the right to discuss any and all bills on the Matrices, as well as those that time does not permit to be placed on the Matrices, in order to discharge their fiduciary obligations as Trustees of the Office of Hawaiian Affairs.

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

‡Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

Columy. Machado
Trustee Colette Y. Machado
Chairperson, Board of Trustees

11/26/19

Office of Hawaiian Affairs Board of Trustee Meeting December 5, 2019 10:00 am

II. Approval of MinutesA. September 26, 2019

STATE OF HAWAI'I OFFICE OF HAWAIIAN AFFAIRS 560 N. Nimitz Highway, Suite 200 Honolulu, HI 96817

Minutes of the Office of Hawaiian Affairs Board of Trustees Thursday, September 26, 2019 10:00 am

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE BRENDON KALEI'ĀINA LEE
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE KALEI AKAKA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, BOARD COUNSEL

ADMINISTRATION STAFF:

SYLVIA HUSSEY, ICEO
LISA WATKINS-VICTORINO, ICOO
JIM PATTERSON, PROG
RAINA GUSHIKEN, CC
MEHANA HIND, CE
MOMILANI LAZO, ADM CEO
DAVID PRICE, CO
EVERETT OHTA, CC
JOCELY DOANE, PP
KAHEALANI PELERAS, CE
TIGER LI, IT

BOT STAFF:

CAROL HO'OMANAWANUI
LAURENE KALUAU-KEALOHA
ZURI AKI
LEHUA ITOKAZU
PRISCILLA NAKAMA
DAYNA PA
MARIA CALDERON
MELISSA WENNIHAN
ALYSSA-MARIE KAU
NATHAN TAKEUCHI
KAUIKEAOLANI WAILEHUA
LEIANN DURANT
BRANDON MITSUDA
CLAUDINE CALPITO

GUESTS:

CHERYL BURGARAT **CHARLES JAEGER** MALIA MARQUEZ KAWIKA KĀNE LANAKILA MANGAUIL RAMONA KAHIKINA **CAMERON GRIMM ILIMA LONG** IMAIKALANI WINCHESTER KEKAILOA PERRY CAMILLE KALAMA MICHAEL JANICKI AARON POOLOA KAUIKEOLANI NANIOLE RAMSEY FIORELLO MICHAEL TADA DEXTER KAIAMA KALEOOKALANI KAMAI **BO KAHUI BRUCE LUM** LEE TRENT KAPUA KELIIKOA KAMAI **ROBIN DANNER**

I. CALL TO ORDER

Trustee Colette Machado Calls the Board of Trustees meeting to order at 10:04 am. Roll call is taken; Trustees Ahu Isa, Ahuna, Akaka, Akina, Lee, Carmen Hulu Lindsey, Robert Lindsey, Waihe'e and Machado are present, constituting a quorum.

Thank you, members we have quorum, we can proceed. Before we move on to the official agenda. I'd like to acknowledge the 72-Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for the following items:

IV. New Business

- B. Committee on Resource Management
 - 1. Action Item RM #19-14: Action Regarding the Economic Development Policy Implementation Procedures (1st Reading)
 - 2. Action Item RM #19-15: Action Regarding the Debt Management Policy Implementation Procedures (1st Reading)
 - 3. Action Item RM #19-17: Realignment #1 of the OHA Biennium Budget for the Fiscal Biennium Periods 2019-2020 (FY 20) and 2020-2021 (FY 21)
- C. Action Item BOT #19-14: Approval of Strategic Plan 2020+ Strategies and Timeline

II. PUBLIC TESTIMONY

Chair Colette Machado – We are now in public testimony. But I wanted to go over, normally we provide 5 minutes to each of those that have signed up to address the board relating to what is on our agenda under Public Testimony. So, if we can keep that in mind, we will have a 5-minute notification on the board and if you wanted more additional time, we could bring you back after everyone has presented. With that said we can proceed with our first speaker. I'd like to call Cheryl Burgharat followed by Charles Jaeger.

Cheryl Burgharat – My name is Cheryl Burgharat and I live in Honolulu and I came today to talk to you about and thank you for your sharing and helping with the mauna. I just came down on Tuesday. So, I was able to participate and be there with the growing lāhui. I am not kanaka but I am privileged to be a part of that. I wanted to be here today to express my thanks for everything that you are currently doing and hope that we will continue to be supported. As you can see lots of the lāhui are here today and the rest are on the mauna or they are at Sherwoods. There is a lot going on today.

The one thing I wanted to express for myself and I hope you can see how it relates. Yesterday I watched a video of Lenny Kravitz speaking about the Bahamas. He was speaking about what he can do for the Bahamas and he said, the rich people will always be able to take care of themselves. They will be able to rebuild their houses; they will be able to fly out and do the things that they need to do. What he is there for is the people who have always been on those islands. Who are the local people, who were born and raised there and that is where his support, he felt it should go. I kind of correlate that with what I believe OHA should be doing and has been doing. I hope that we will continue to be able to do that. There are a lot of people who are counting on you. Lots of beneficiaries, I know that but when you look at it, I recently had the opportunity to price an ad, a half page ad in the newspaper, it was \$10,000 if you guys didn't know that. None of us have \$10,000 to place an ad. So, when we talk about money and use of money, I just would like to thank you again for supporting the Lāhui. Thank you.

Chair Colette Machado - Charles Jaeger followed by Malia Marquez.

Charles Jaeger – My name is Charles Jaeger. I'd like to thank you all for the stand you guys take on the mauna. For years, decades from the overthrow of the Government, po'e Hawai'i has taken it deep very humbling experiences have been set up for failure. I have an uncle that is 86 years old he had a baby at a young age, 14 years old, he was a kolohe buggah so he went to court. The Judge told him he had two options, you get married and raise your family or we send you Waiale'e, Waiale'e is a concentration camp, industrial school for boys back

in the day in Kahuku. He said no way he going over there. You no listen, he tell me, he is still alive today, he said they bend you over a 55-gallon drum and do their business. That is pilau, that is heinous. For years, for decades, for centuries, heinous crimes have fallen upon our people. From the 70s, I was born in the 70s, I was born in 1970 and I as I grew up for some reason, I couldn't stand the sight of Waikiki. And latter in my years, kanaka was kicked off of the beach at times. Military presence consider them black, slave like people, in other words the "n" word. How dare they enjoy their times. Back home we lynch those people. Disgusting, heinous crimes. As they say in old lyrics, don't ask me why, open your eyes, we losing our paradise. Hawaii 78 they cried guaranteed.

As we got the kāhea couple weeks back. National Guard was supposed to come up the mauna. A friend and I took out time to go up there. I got there 7 pm. 9 pm there was a false alarm. We stood in kia'i, nothing happened but to keep that kapu aloha hard. You no go someone's house 9 at night and act up. Especially when you no own the house. The land is po'e Hawai'i, nobody else's, this is not a vote. People like take um to the vote, it's not a vote. Its Hawaiian Home Lands. The experience I had for 1 week up there, I didn't want to leave. Kapu aloha is for real. The heinous and underground movement by the Governor makes the public want to believe its hewa, he is hewa. I want to thank you once again. I have a story I want to share it touches on someone at this table. Back in the day, and I not saying this to brag, using this as a learning point in my life. We was playing the coed softball league Kapiolani Park, this wahine hit the ball and kind of jogged to 3rd beach where I was playing. I said, ho you get big stick yeah. She tell me, she show me like that. I came up to back I showed her my bat, we had the same bat. I go nice your bat, I show my bat, her bat the same. She go yeah, swing it like a man. Just so happen I don't know what fired me up or made contact with that ball. But I did round the bags a one pound. Before I hit home plate, I put up my man and told her is that man enough. She look at me and said man enough. I tell when you guys, OHA when you up to the plate swing like a man, swing like a mana wahine, swing enough is enough. Mahalo you guys.

Chair Colette Machado - I'd like to call Malia Marquez followed by Kawika Kāne.

Malia Marquez – My name is Malia Marquez. I really don't talk in front of boards. I like to do things behind the scenes. I am a colonized kanaka. I am one of the last orphans from the Queen Lili'uokalani Trust for Hawaiian Children. I was adopted by Thomas and Shirley Marquez. My mom was pure Caucasian and my dad was pure Chinese. They adopted my brother Tony Lum in 1965 and in 1971 I was one of the last from the Queen's Trust. I didn't grow up Hawaiian. I had to learn. I had to study. I had to work really hard to know who I was and open my records to find out that my lineage is Keawe Mauhili. I come from our Queen Kapiolani. This is the Office of Hawaiian Affairs, Hawaiian. That is us. Our Nation is finally rising and mahalo, mahalo to you that support our Lähui on the mauna. Thank you. As I know some of you don't. And that is everyone's right. We are fighting money. Somethings are priceless, you cannot put a price on our ancestors and you cannot put a price on our children. I wasn't there for the first time because my hia was here to take care of my mother. She recently passed. So, I finally got the pass to get to the mauna where I longed to be and she knew I wanted to be. I took my family and my kids and I left my hiapo there. She is still there. She is priceless, there is no money you can put on our kids who are adults and standing for us.

I beg of you to continue to support our lāhui. The World is watching. And it's so beautiful to see our people come together finally. And yes, there are Hawaiian blooded people for the telescope. There is always going to be one side and another. But I highly say, if you haven't been to the mauna, go to her. Whether you are pro or anti, this isn't about a telescope anymore. I was a teacher for 12 years for the DOE for the Hawaiian Studies Program, how can I be against Education and how can I be against science. I am just pro Lāhui, I am pro mauna, she is our kupuna and our people need to because we are not going anywhere after seeing this rise. It is the most beautiful thing to see people of every color or every age and elder Hawaiian men dancing hula for the first time of their lives and knowing their identity before they leave this Earth. Colonized kanaka because we couldn't help it, that is who we are, that is who we were born into. I beg of you, mahalo to those that stand with us. Be a part of this movement. Mahalo nui.

Chair Colette Machado - Thank you, Kawika Kāne followed by Lanakila Mangauil.

Kawika Kāne – Aloha Chairperson and Vice Chairperson and Board of Trustees. I'd like to start by sharing as a haumana of Po'okela navigation and PVS and Papa Mau. My kumu Nainoa, Uncle Bruce, Kaiulani Murphy. I have a fascination and huge respect for astronomy and when my work would take me to the Big Island, I would make sure to go to the summit of Maunakea and observe the stars, the milky way. It is so amazing and at time I remembered the doors opening at some of the telescopes and the telescopes would pop out. I always wondered what was going on inside. I thought it would be so cool to see what they could see. That said, Nainoa would talk on the wa'a its importance, safety first and always put on sunscreen. There was one keiki, ah uncle I Hawaiian no need put on sunscreen. What Nainoa said was very profound, he said, if our ancestors had sunscreen from the beginning of time, our ancestors were akamai. They believe in innovation, they were creative, they believed in science and they would definitely use sunscreen. The haumana would laugh at that. That made a lot of sense to me. I appreciate all the 'opio here in the room today. I want them to go after science and go after astronomy. I am definitely pro science and pro astronomy. Since being on the mauna what I realized is our beneficiaries, OHA beneficiaries, our Lāhui, our kupuna and out people choose to believe in the old ways. They choose to believe in ways that are a 100 years old, a 1,000 years old and that is to protect Maunakea. In the chants and hula and in the stories, just in general the movements, someone mentioned in the Hilo testimony about being spiritually blind, spiritual blindness. Really, I think there are a lot of our beneficiaries that choose to not be spiritually blind and remember our ways of our ancestors. And they choose to want to protect every last pohaku on the mauna.

I just want to share my testimony that I stand with them in choosing to believe in the old ways. Choosing and Lanakila would argue, that is not old, its present, it is still here today. I guess I would correct my testimony to say that I believe in the old ways that they are still present and they are here today. With that my final two minutes I want to share what it's like on the mauna and the kupuna tent. I was fortunate to take my mother there; she was in the kupuna tent. I just want to give you a timeline of activities of what goes on there. About 5 am we start to turn lights up and get Kupuna up. Aunty Cindy is there and kāko'o kupuna are there to help them get up, put away their bedding, put away their cots, close to 5:30 the kitchen is bringing some māmaki tea, some hot water to get them warmed up. Any warming lamps are put away. So 5:30 is still cold but we are putting those lamps away to put the cots away to make rooms for their chairs where they sit down. 6 o'clock we have protocol, sunrise protocol. Very few people join that one. Then of course 8 o'clock is protocol. So kupuna participate in protocol in teaching the oli and hula and then eat breakfast after that. 11:30 light lunch comes, 12 o'clock in protocol after protocol more full lunch comes for the kupuna. Then there are classes at Pu'uhuluhulu University. Kupuna contribute to that or teaching hula at the aha. Then protocol at 5 o'clock. Some snacks might be out. Kupuna has a long day, they are up 12 hours at that point, from 5 am to 5 pm. Then 5:30 there is protocol again. 6:30 they have dinner then they sleep at around 8:30. I stand with the kupuna that believe in the old ways. They want to continue today, it's no longer old it's also present. I appreciate the support that OHA is providing and I would encourage OHA to continue to support those of us. Mahalo.

Chair Colette Machado – Lanakila followed by Ramona Kahikina

Lanakila Mangauil – Aloha no. I just want to start off by saying mahalo for the support that you have given to us on the mauna. The impact of that is very great that is what allows out people to still be there. It's very important because it is also helping us mālama the 'āina. So, we can do what we need to do and lessen the impact. Mahalo, we need the lua. That is critical to our health, our safety as well as the safety of the environment. It is crucial. Mahalo for doing what OHA is supposed to be doing. Helping to support the beneficiaries, support the kanaka to be kanaka, to support and protect kanaka and Hawaiian ways, Hawaiian people and Hawaiian Āina. It's a beautiful time to be kanaka right now. I myself has been put my full trust in the leadership on the mauna and our Lāhui gathering there. I have been able to go out to the community and do a lot the outreach. Every single place we got to go is overflowing. Overflowing with kanaka coming out. I was just out in Waianae last night; I think we estimate 400 that came out. Yes, from keiki to kupuna learning the pule, learning the oli, learning the hula. We still this interesting dialogue going on out there that they are just dancing hula. That still shows the ignorance of what our hula really is. It is the heartbeat of our people, it is our encyclopedia, it is our Wikipedia, it is our google, it is our History, it's all intertwined in all of that.

DRAFT

What I was just saying to, what we are seeing is the next wave of consciousness for our people to malama 'aina, aloha 'āina and actually be Hawaiian. That is what it is to be Hawaiian, is that we are part of the natural ecosystem of this 'āina. That's what makes us unique. So, any support that you are able to give to that you are helping to support the indigenous native people of this place, we are that. We being able to live in our ways and abide by these traditional concepts it all has to do with maintaining and preserving the natural ecosystem because we are part of it. Its science, so anyone who wants to bark in that narrative that we are anti science are very misread too. Astronomy is not the definition of science, it's a particular branch of science that right now the World is not in need of that. We are in need of the Earth Sciences. We are need in the instructions on how to live properly and in balance with our environment again. That's why people march by the millions just a few days ago. Because for too long we have turned our back on our own traditional ways, we have turned our back on the need to preserve and malama wahi kapu because we've allowed ourselves to go into a foreign perspective of what our kupuna talked about. We allowed foreign religion and foreign concepts to cloud our visions to understand what they are actually teaching us. It wasn't simply just a belief system it was scientific observation over a thousand of years of scientific observation. That's why we say this area you leave it alone. It's because of its critical ecosystem, it's because of its role that it plays in our aquifers and it's also because of the sanctity of our people engage in that where we pili our babies when they are young or where we pili our kupuna when the iwi is laid to 'āina.

There is so much to this that this is what is waking up our Lāhui. Because it's a balance and rooting us to who we are as a people and our role and responsibility. We know why we are here, because we are stewards of this 'āina. we are children of this 'āina. So, supporting in any way that you can your Lāhui here, this is what galvanizing our people like we have never seen before. Right now, as we speak, our people are standing. Our people are standing, they are being arrested for standing for the right to protect 'āina. For too long we have all been ignored. That's why you have this monstrosity of a city here that has contaminated our soils, contaminated our oceans. We have not been progressively moving forward in a good way. So, we are waking up that is why we are here. We are going to continue to stand and your support is greatly needed. The other side has a lot of support behind them. They drop over half a million dollars in media just a couple months ago. They have choke support already for the some Hawaiians that support the TMT. Like I said in 2014 they are going to be packing up and will be going home. We are already home, that is what is our kuleana.

Chair Colette Machado – Ramona Kahikina followed by Cameron Grimm.

Ramona Kahikina – Aloha. I am humbly proud to be in front of the board and express my greatest love and mahalo, mahalo, mahalo for all the support that you have shown at the mauna. I am a kupuna and to make it what touches me, I am proud to live in this timeline here is history that is being made in this State. My grandmother Mary Kawena Pukui, she taught me everything and from my family is Keaukaha and in Kau, I've learned so much from my kupuna. That now I stand as a kupuna at the mauna. I am one that was born as an old soul I was told growing up from my kupuna. This keiki here is an old soul. I could see things that would totally freak me out as a child because I could see things that are in this room, its overflowing with ancestors. At the mauna you can hear it, you can feel it, you can taste it, you can feel the ground vibrating, you can feel it alive. I am proud to be a kanaka and I am proud to be in front of the Board of Trustees of OHA. Mahalo, Mahalo, Mahalo. I also want to express it is hard for the kupuna because its cold and hard, you have to get up so early. But we have so much of our ancestors telling us to get up and you can do this. We are here with you; they protect us when we are at the mauna. When we are sleeping with one eye open and the other ear open to knowing are, they coming. We don't get full sleep; we are there to get ready and with our ancestors to stand. I believe in astronomy; I have passion in my life to make a difference in astronomy and believe in science. But my kupuna is teaching me every day 24/7 every second about our culture, about the way we live and what is still alive in all of us. If we choose not to hear them that is a choice. We choose to be pro TMT that is a freedom and how beautiful we have that freedom to choose. We have to choose what we believe in our heart that works for us. But I trust OHA and the Board of Directors and I mahalo again for all that you have done. I appreciate everything that is given. The kupuna there at the mauna, when I told my son Kawika who spoke, I told him mom how are we going to use the bathroom. Like we can rough it we can figure it out. Ma you cannot do this. All the kupuna we there to make it work because we made a stand and we knew were weren't alone. I want to express that I am not in the past, I am not pro anti or anti TMT I believe in Science and that is where our History comes from way back when. Before we even became what, we

are today. To remember the future is our past, and that past I our present. We will make a timestamp of what our future will be our culture. Mahalo, mahalo, mahalo. Thank you.

Chair Colette Machado – Cameron Grimm followed by Ilima Long.

Cameron Grimm – Aloha my name is Cameron Grimm. I am originally from Kihei Maui. Currently I am a graduate student in the Political Science Department and my main focus is on imagining and enacting a sustainable future for Hawaii that are our own. So, I am just here to thank you guys for the continued support for the kia'i on Maunakea. There is a lot of things at Pu'uhonua o Pu'uhuluhulu is as far as when we are thinking about our framework for governance and future. But today I am going to focus on education and the University. I am going to focus on education and the University because I find that it falls directly in line with your guys strategic priorities and I think this is a perfect way to explain why your continued support is necessary for the beneficiaries of OHA.

When we broke down your guy's strategic priorities, we had mo'omeheu, 'āina, 'ea, ho'okahua waiwai, and ho'ona'auao and mauli ola. Out of the 653 classes that have been taught at Pu'uhuluhulu University we found that 425 of those falls under the category of mo'omeheu. 116 in the categories of 'āina. 198 in the category of ea with Governance. 58 in Ho'okahua waiwai and 111 in ho'ona'auao and 139 in mauli ola. Some of these do overlap so if you add the numbers it won't add up to 653. But every class that was taught touched on every one of these subjects. For example, mo'omeheu was part of the large push to teach Hawaiian language inside Pu'uhuluhulu, in the 'āina we had classes such as 'āina microbiology. In ea we had the occupied futures. In ho'okahua waiwai Restoring He'eia Fishpond is a good example of economic sustainability. Ho'ona'auao we had people teaching about Hawaiians in Higher Ed as well as Hawaiian Education in the Kingdom period. And Mauli ola we had classes of ho'oponopono and such.

I want to focus on Governance because that is something I super interested in and I actually taught three classes up there. One of them was the occupied futures the other was called Americas Collapse De occupation then what. The main purpose of these classes for me was trying to get our community of Hawaiians to start to engage in imagining what a de-occupied future looks like, that could be our own. Which in our Governance it says facilitating a process that would give Hawaiians an opportunity to create a governing entity that would be define Native Hawaiians as a political group and that leads to control of our destinies. Just to kind of touch on my class and the importance of it. I found that it allowed me to engage in the community. At University, that is why we are here today, is because of the lack of community engagement and I think you guys support helps to bridge that even though the University isn't a part of this community engagement process. But for me, engaging in conversation, facilitating imagination of a de-occupied or our own governing entity in Hawaii where we have control or power was super inspiring to also see the conversations, the disagreements, the agreements within our Lāhui. These are the types we need if we are going to be able to achieve this governance structure that you guys want. That is your guys goal right is to have control over our destiny. Our Lāhui is so diverse, I believe that by your guys continued support in creating this space you give an opportunity for one, community engagement, two to have the Lāhui engage with each other. You are creating a space where people can vet their ideas with each other, you can give agreements, disagreements and then from that process we can move forward, that is community involved and reaching this goal you have here.

One thing I wanted to say that really was the most important thing that we can talk about as far as communicating stories to our Lāhui that will provide a better situation. At the end of one of my classes, an uncle came up to me and he said, braddah the wheels are turning now. That is the kind of thing we want to do. We want to engage people in thinking, being critical of the current structure and that is why we are all there at Pu'uhonua o Pu'u Huluhulu. I am going to leave you guys with one thing real quick. What does it mean to be a protector, a kia'i rather than a protestor. The difference I find between protecting and protesting is protecting is acknowledging our right to our origins. When you protest it kind of comes out of nowhere, its seen as this phenomenon but it's not for us. We come from a longer genealogy of protecting and it is being a protector is different as we reclaim our origins, our humanity and your continued support is to support our rights to our piko, Maunakea and our origins. Mahalo.

Chair Colette Machado – Ilima Long followed by Imaikalani Winchester.

Ilima Long – Aloha Board, Aloha Chair. I wanted to also pick up the thread of education today in terms of trying to highlight the impact of what is happening up on the mauna and how important the support from OHA has been thus far. Myself and Cameron Grimm have been creating a data base of every single class that has been taught up at Pu'uhuluhulu University over the past two days and this morning and late last night. Really thinking about how this movement has facilitated a new thirst for knowledge among our Lāhui. I hear stories all the time, oh my gosh my mom called me and asked me, eh you ever heard of Professor Dr. Willie Kawai, because they are starting to follow threads online that eventually lead them to the people who are teaching class up there to people who have videos on YouTube on Hawaiian History. I have my uncle who lives in Washington who has never really been interested in these things posting testimonies from the DOI Hearings in 2014 and there is just thirst for knowledge from opio all the way to kupuna.

That is because people are absolutely inspired by what they see up on the mauna. They see that now is the time to really know who we are to know where we come from to know our culture, to know our language. That is what this movement is inspiring which is absolutely in alignment with the strategic priorities of OHA. So, as Cameron mentioned the number of classes that have been taught up there just to give you guys a snapshot of one of the aspects, this isn't just a protest, this is so much more. I really mahalo those of you who came up last Thursday and I was a bit disappointed by those who choose not to come up there and see what is happening up there. 651 classes have taught at Pu'uhuluhulu University and we are still going through all of the classes and crunching the numbers. But what we could get to in the last couple of days, there have been 7 classes on the topic of economy; 32 classes on the topic of education; 24 classes on the topic of food security in Hawaii; 32 classes on Hawaiian History; 51 classes pertaining to issues of health; 21 classes pertaining to different issues of Law and Hawaiian Rights; 74 classes teaching various cultural practices; 30 classes by scientist and science practitioners ranging from engineering to microbiology, to oceanography we do science that is very clear; 82 'ōlelo Hawaii classes that is very intentional to have 'ōlelo Hawaii classes every single day. Teachers of these classes include 43 distinct professors from various campuses even through the United States and Canada, 12 UH lecturers, 26 different graduate students, 8 kumu hula and countless community practitioners, programs coordinators just folks who have knowledge in the community.

That's a snapshot of the thirst and the giving of education that is happening up on the mauna. It's something that when this is over, we are never, it's going to be hard replicate the intensity and the concentration of this much knowledge going back and forth. However, I do also want to point out in the minute and a half that I have left. That right now the question of TMT and the especially the question of astronomy in Hawaii is taking up a lot of air in the room. At the University of Hawaii which is where I am a graduate student at, and where I work as faculty at Native Hawaiian Student Services, and keep my thumb on the pulse of research, Hawaiians are at the center of the most cutting edge research coming out of the University right now. A lot of it, it across all disciplines, but a lot of it is in the Earth Sciences. I want to invite the Board of Trustees, Native Hawaiian Student Services would be happy to host, to come and do a visit and do a tour of the research centers, meet the faculty, get more familiar with the research projects that are happening and the research paradigm that are happening at UH. We are in the Sciences, we are building upon the work of many other science professors, Hawaiian and non-Hawaiian. Who have been committed to changing the ethical paradigms of science to one that is responsive and in communication with and in a good relationship and in service to the community. We have been talking about this at UH for the last couple of years, the TMT. The way that the University has pushed forward the TMT and not responded to its own communities' grievances about it, threatens to compromise the work that others have done for decades. To define a different relationship between science and community. Now in more recent years between science and indigenous communities. It's not just astronomy that has stakes in this, its disciplines, professors, researchers and community members who have been teaching and building relationships over decades and that can't be compromised do in closing I want to invite everybody to UH, to see the most progressive indigenous knowledge centered science that is being done. And to again thank you for your support, not only up on the mauna but in the way's you folks support people in higher education across the board. Mahalo.

Chair Colette Machado - Imaikalani Winchester followed by Bo Kahui.

Imaikalani Winchester – My name is Imaikalani Winchester. I want to thank the Board, the Trustees specifically who has spent time on Maunakea with us kia'i we are very happy to speak with you today to share a little bit about my back ground and our appreciation of the continued support that duty that the Office of Hawaiian Affairs is providing to the kia'i recently. I would first also like to bring our brothers and sisters our kia'i in Waimanalo who are currently being arrested for protecting a very special place just like our kia'i on Maunakea who have taken a moral stand so have our kia'i all around the world especially in Waimanalo. I want to make sure that our brothers and sisters who are watching being arrested this morning make their way to the board room today. I am here to support Maunakea. I support science. I do not support bad business which is what this is. We here today are the fruits of our investment. In 1978 the Office of Hawaiian Affairs was created and likewise this big explosion of Hawaiian Educational programs followed. I am a teacher now; I hold several degrees from the University. I am working on my third. I brought my students here from Hālau Ku Mana New Century Public Charter School. Charter Schools also need support and I would like to bring our issues to this board as well.

But we are the fruits of our investment. So, its time, it's time to join the people. It's time to say a'ole to bad business. It's time to say a'ole to discretion, a'ole to exploitation. The division that is being caused by the media and throughout our communities have failed they have only made us stronger. The winds of contention may blow but like Leiala Lee, we stand strong. We have not forgotten who we are. On Maunakea I was very fortunate to teach several classes with some very important kupuna, namely Uncle Walter Ritte. He talked about aloha 'āina and about our contribution to our Lāhui leaving this place better than when we came in. I was also part of an organization of carvers who created new ki'i to stand with our people. To ho'omana, to take us into a new era, a great awakening of our people the next wave. We are not done. These are the pua that stand with our people and there will be more. I'd also like to shed light on the racism that has been brought to the fore light. John Laradin the University of Hawaii Manoa, I would think the Office of Hawaiian Affairs would have something to say about that. With my two minutes left I will read a little bit of testimony from the 70s.

We are not criminals and our conviction and belief is to protect and perpetuate the righteousness of our land. The truth is there is man and there is environment. One does not supersede the other. The breath of man is the breath of Papa the earth. Man is merely the caretaker of the land and maintains its life and nourishes his soul. Therefore, 'āina is sacred. The church of life is not in a building. It is in the open sky the surrounding ocean the beautiful soil. My duty is to protect mother earth who give us life and to give thanks with humility as we also ask for forgiveness of the arrogance and insensitivity of man. This continued disregard of our seriousness, this refusal to give credibility to the Hawaiian culture based on aloha 'āina forces me to protest. I am Hawaiian, and I have inherited the soul of my kupuna. It is my moral responsibility to attempt an ending to his desecration of our sacred 'āina Maunakea. For each telescope add further injury to an already wounded soul. Kahoolawe, Maunakea, is a part of my culture. We are not against science we are against imperialism. We have vowed to protect the remains of our culture at whatever cost and the culture cannot exist without the land. Aloha Āina George Helm. Mahalo.

Chair Colette Machado - Bo Kahui followed by Kekailoa Perry.

Bo Kahui – (*Please see attached testimony from Bo Kahui*) Good morning Trustees coming around is my testimony and I graph. I am here to announce to the Board of Trustees that I have recently resigned.

Chair Colette Machado - Bo this item is not listed on the agenda it would fall under Community Concerns.

Bo Kahui - I will tie it into Action item number number 1. B.1.

Chair Colette Machado - Go ahead.

Bo Kahui – I will be speaking on Committee on Resource Management B. Action item 1 regarding economic development policy implementation. My recent resignation on the Villages of Laiopua 2020 was a result of the change of leadership. But during my tenure there I was able to raise \$19 million, build a medical center for our

community and dental center, build a community center and build and technology center. All of which leads to our economic prosperity and our health. When we talk about how we going to survive as a Lāhui we got to make sure that can feed our families. Your economic policy should include agribusiness, it should include aqua culture, I should include support for our native communities to find a way to ensure their own sustainability and selfsufficiency. It's not enough just to merely support the programs we believe that are going to lead us down that pathway. You got to throw money at our programs. I raise \$19 million that this board provided \$150,000 in the day. Which is .0% of the income that I raise for our community. I know OHA can do more. Because we need to create new economic opportunities for our community as we try to empower ourselves and feed our families. Kia'i is going to have hard time up Maunakea to feed the Lāhui up there. If we were owners of our big agribusinesses, we are owners we can contribute to these opportunities to preserve who we are. It's important that we look deep into how this organization and Hawaiian Homes can come together. So, my new corporation Laiopua Community Development Corporation in embarking on an energy project. Why is that important. While we save our community anywhere from 30-50% of their energy costs. If we can put more disposable income in their pocket then they can feed their families and pay for their education. So sadly, we got to start picking out of the box. This Pili project is a 10-megawatt project on Homestead land. HELCO is coming up with an RFP and yet they have not put out the RFP for this proposal. Sadly, beneficiary owned corporation develop a PV project to support somewhere over 10,000 homes is not being supported. The Honokahau Culture Marine Center is another economic initiative that we will be pursuing. \$100 million project that gives us jobs that provides us a medium by which we can express our culture. We no like live in the glass museum. I remember George Helm saying that, that day. I was a PKO member too. I am glad to see kia'i is embarking on this journey to preserve Maunakea. With respect to our policy we'd like to get community engaged in your directives, in your policy making. Because hoomanawa is human policy that doesn't impact me. Only because it serves your purpose. It has to serve our purpose your beneficiaries, the people that you serve. I stand today asking for that mahalo.

Chair Colette Machado - Kekailoa Perry followed by Camille Kalama.

Kekailoa Perry – Morning Trustees, morning Lāhui. Good news today, I drank a cup of coffee, took my happy pill. Bad news today happy pill only going last another minute. Aloha. I already submitted testimony online. So, you folks have my testimony. (*Please see attached testimony of Kekailoa Perry*)

There are over 30 people, Hawaiians, kia'i now arrested in Waimanalo. That is hard to stomach right now. I don't know why I am here when those things are happening. Two questions. If OHA's support for the kia'i on Maunakea a legally responsible way to carry out its trust duties for Native Hawaiians. My answer absolutely yes. Question two is OHA doing enough to support the kia'i on Maunakea. My answer if the protectors are still on the mauna fighting to stop TMT, then OHA needs to do much, much more. As far as I understand the law, OHA only serves one specific group of beneficiaries, Hawaiians or if you want to get technical Native Hawaiians and Hawaiians. The law is pretty clear that the Trustees that are elected here at OHA, I don't want to keep reiterated but it needs to be said and heard from your beneficiary, which I am one, Trustees are elected, besides the Governor, you guys are the only elected officials Statewide. You have a huge responsibility. But the responsibility is tied to a Trust obligation to Native Hawaiians. Last, I check David Ige is not a beneficiary. AG Connors is not a beneficiary. The University of Hawaii at Manoa and the President are not beneficiaries. They are not even Hawaiian institutions even though they like to claim and use Hawaiian culture for their needs. The TMT a private corporation partly owned by foreign Governments and foreign actors is not a Hawaiian institution and they do not represent our beneficiaries.

So, it's not really that difficult if you think about it. When you looking at the TMT issue what OHA's duties and obligations are and should be. Just because TMT pays for people to support them and those people happen to be Hawaiians doesn't meant TMT is a representation of Hawaiians. So, for the Board of Trustees it's kind of a no brainer. The constitution is clear, the laws of the State are absolutely clear, your responsibility is not to buckle under the pressure of the Governor and the AG who will in my estimation violating the constitution of the Law if they are starting to pressure you folks to give up information with regard on how you serve your beneficiaries. As far as I am concerned you serve your beneficiaries the best way you know how and if the Governor and the TMT and the AG can't stomach it then that is their problem. Because at the end of the day the lawsuit you should be

DRAFT

worried about is the lawsuit that comes from your beneficiaries who will tell you are breaching your trust responsibilities. The heck with the Governor, he has already demonstrated his unwillingness to follow the law when it comes to protecting Hawaiian rights and he is not stopping. As far as I am concerned you folks should find the freedom and courage to say no to any kind of proposal coming out of that office because it's not intended to support your beneficiaries.

I think I am kind of at the end. I don't like time limits; I might go over just because. There's this thing that Aunty Pua Case and all of the protectors remind us at all protocols. We rise like the mighty wave. I try to say this to the Board of Regents, I try to say this to the President. I am saying to you folks, although you probably already know, that this is not some kind of issue that is going to go away once the TMT leaves. This issue is bigger than TMT and our awakening is unbelievable. We are rising like a mighty wave and its consuming all of us. The question that we need to ask our self is, are we ready to drown. Are we ready to drown? Can we handle swimming in the currents of this important change? I think the kia'i, our keiki here, a lot of kupuna on the mauna, they are trying to teach us how to swim. Nobody is listening, so you better be ready to drown if you not ready to learn how to swim. Thank you everybody.

Chair Colette Machado - Camille Kalama followed by Michael Janicki.

Camille Kalama – Aloha mai Kākou. I am a native Hawaiian attorney that has worked on some of these issues for the past decade. I want to mahalo some of you who have stood with us on the mauna, who have stood with the kupuna. Those of you who have supported us since 2015 even when the Board's position was pro TMT. Those of us who stood with us not just on the mauna but at many of our other issues. Mahalo. Those that do support TMT we still mahalo the Board, approved the support of the kia'i. It's been said before but this is a turning point for our people. If you don't recognize that you haven't seen that yet, you will. The OHA support that has come through that I can speak to personally has been the support for legal observers. From 2015 I've been part of organizing legal observers to support kia'i on the mauna. I've heard from a number of people many times that they feel supported, they feel comforted and they feel safer with us there. Our primary objective up there is to deter unlawful police conduct and unconstitutional conduct. I really want to mahalo the staff for recognizing early on the need for observers to be up there because of the potential of violating our constitutional right. As you know kanaka have constitutionally protected rights of access to our mauna. That road has been closed since July 15. If anyone is not clear, it is the State that closed the road. But our kupuna have chosen to stand there and be there day in and day out, rain and wind as some of you have seen. It comes at a huge cost to their personal wellbeing and their families.

Hearing about night raids on a daily basis, being in fear of law enforcement action that is not of the same magnitude the same responsible of the peaceful nonviolent action up there. Hearing that there may be thousands of officers, National Guard, it is a huge stress on our people. So, the support that OHA's provided for health, for wellbeing for safety is critical. It is a critical time right now. At any given time, especially during the arrest we had anywhere from 8 to 15 legal observers on hand. When kupuna were arrested we had folks there able to get their names, able to track them through the system. Now we have a number of attorney's on hand representing those kupuna and two of them are my clients. I think no matter your stance on the TMT project itself, as you heard today and as you've seen its undeniable that this is a point that will down in history as a time of awakening for our people, of consciousness, but huge opportunity for education and to engage in our culture in a way that shows we are a living people. We are not of history; we don't belong in a museum. We are here today and we are still alive. What's happening up there is not for display, it's not for show, it's not for Facebook it's for our mauna, it's for our Lāhui.

The second thing that should be undeniable is that our people and I know some of you have advocated for this. But our people need a say in what happens to our 'āina. We need to be able to be part of the decision making as beneficiaries of the land, trust lands, that you folks are Trustees for. As indigenous people with rights of free prior consent to say what happens to our sacred 'āina. As humans who have rights to say that this should not happen. An 18-story industrial facility should not happen in our most protected conservation zone. The very tallest building on the entire island built in a sensitive environment and our most sacred mauna. If we don't change this, if we don't

change our ability to have a say in what happens to our 'āina we will see this again, and again and again. As an attorney I participated in lawsuits and fought against the telescope on Haleakala and TMT in certain issues. What we saw is that the decisions were made well in advance. This talk about law and order, this talk about process it did not happen. Just because there were hearings, just because there was a re-hearing, the decisions and the decision to allow this telescope on our mauna happened form the very top, it happened even before there was a hearing. You can go back and check the record on that. The decision was made to approve the permit and then the decision was made to hold a hearing. That happened both times. For Haleakala there was documented evidence that the Senator's office was involved in talking to the BLNR Board Chair who talked to our hearings officer about when are we going to get our decision faster. It was clear that the decision that they wanted. It came from the very top. We got that out as part of our hearings. Those kinds of things made no difference. These permits are just decided, then we have these things called processes then they are approved.

Our people know better and are educated. Our opio are amazing because they are coming up knowing our culture, knowing our values and knowing that this system is flawed. That is why I am saying, unless we change it. Unless you as Trustees for these lands, you as Trustees for our people support us in making real change on that mauna. Not just to satisfy a telescope, not just for this one permit. These need to be addressed no matter what or the State will face us again and again. What I am proud of, I don't know if proud is the right word. I am proud to be part of our Lāhui who has stood up in this way that is pono, that is dignified and is just asking or demanding to be heard this time. We are not doing it by yelling and screaming. We are doing it with oli, with mele, with hula and with intelligence. We ask you to hear us. I will leave you with one question or maybe its two. What kind of kupuna do you want to be, what kind of ancestor do you want to be? We are asking of everyone what kind of legacy you want to leave, because one day our opio, our moopuna, our keiki will look back and say what did you do when this happened to our people. I can say mahalo for stepping up for supporting what is going on up there. I ask you keep moving, we cannot stop here, it's not just about lua, it's not just about food, it about making meaningful change. Lastly, I just want to say to everyone out there Maunakea needs you what are you going to do about it.

Chair Colette Machado - Michael Janicki followed by Aaron Pooloa.

Michael Janicki – Aloha, my name is Michael Janicki. I just want to mahalo you guys for the support that you provided so far. I do agree as well that as along as TMT still stands as an issue that there could be more to be done. So, it doesn't necessarily have to be financially. As we can see information is, the amount of information that is being passed around since this issue has been breathtaking and that information is powerful. Not only the financial support is useful but another way you can support or anybody can support is the spreading of information and I think that by publicizing a lot of this stuff will help enlighten people who just aren't knowledge in what is going on. They are not aware of what foundation of it is. I think that one of the significant talking points or argument points that TMT will bring jobs to Hawaii, but I would find it interesting to see the statistics and the reaction of the community if it was publicized to see how many native Hawaiians are employed by the telescopes and let alone locals even. How many the proposed telescope would provide it will only be theoretical and do those jobs sustain the individuals and more families. I think that would be important information for everyone to know. I want both culture and science I think it's doable. But it's been done thousands maybe millions of times throughout history and across the World. All of the instances have to have respect. I think that we deserve that. I think that OHA is helping but I think there are many ways not just financial. There are many ways to help. Not expensive either. I think lastly OHA, UH, DHHL, Ige everybody has had the opportunity and still had the opportunity to come out of this as not being somewhat of a hero. It hasn't been closed yet and I think that we should capitalize on this opportunity to been seen as heroes, protectors listening to the majority of the people we are who we are, who we represent. Mahalo nui loa.

Chair Colette Machado – Aaron Pooloa followed by Kauikaolani Naniole.

Aaron Pooloa – Aloha Kākou. I don't usually do this. I am not a kumu, I don't have any degrees. I am just a regular man and I've been touched by what is going on, on Maunakea. I am a parent though, and to see what is going on at Maunakea, Kapu Aloha is a big thing that is happening there is the foundation of the protection of Maunakea. As a parent when I see my kids getting into arguments, they are using maybe bad words or anger

against each other. I have to correct that action. But if they are being nice and they are complimenting each other and is showing aloha to one another then I do not correct that action. I want to mahalo you guys for supporting the kia'i and as a parent I would support my kids that they are showing kapu aloha between each other and everyone on the mauna. Just a couple of things I want to bring up as a parent. At one point I worked 5 jobs, and I do not see how TMT will help the economy as far as the majority of kanaka. I've had the opportunity to go to the mauna and I've been a haumana for little over a year in lomilomi. I was there to help to heal mentally, physically the kia'i that were there. I understand how important my kuleana is as a support of kia'i. I just wanted to say mahalo to you guys and I hope you guys continue to support the kia'i up there like I have done.

Chair Colette Machado – Kauikeolani Naniole followed by Ramsy Florello.

Kauieolani Naniole – Aloha nui Kākou. As a product of Hawaiian Immersion Schools, I would like to thank OHA for the support that you have shown immersion schools. I want to commend those of you that are on the side of the conversation that fulfills your fiduciary duty on Maunakea. We are here today because of the access that OHA has allowed immersion schools to grow and expand and access legal documents, read our Hawaiian newspapers, exercise the language part of what has been withheld from us for so long. If we consider the role immersion schools had played in achieving and in surfacing in places like Maunakea, we can all agree that OHA has done a wonderful job in showing support of that. Now with that kuleana we have to continue to support. Now that we understand how to read our legal documents, now that we have context into organizing our thoughts and our rights as Hawaiians, as kanaka, we've created that space. And we've for our students to not just be told what to think, now they have access to the information in which they can learn to think. In that process we, we, you are very much a part of that, empower the kanaka to voice. I think it's pretty clear with the overwhelming support that we don't teach our students to oppose TMT, we provide them with the evidence. We've taken them to imiloa, we've allowed astronomers to come speak to our kids. We are now bringing them here to see due process of how these items become effects of their education. That we no longer are being told what our History is going to be. That we are allowing our students and our children to sit at the table. That is very important. As a teacher that is all I can ask. So mahalo to those of who have stood with my father, with my auntys and uncles every day on Maunakea. Whether its spiritually or not. That you were there in thoughts, that you were there in agenda items that can no longer be hidden from us. That we are a part of this conversation. Now to those of you who haven't participated in this. As I teach my students, you must understand both sides of the argument. You must be present in order for the place that you represent as Trustees to teach you, let Maunakea teach you. Let Maunakea affect you. Because the second you can do that you can begin to think, you can begin to make appropriate decisions that affect our students. I am a graduate of Ke Kula o Nawahiokalaniopuu on Hawaii island. The prominent aloha 'āina leader Isoeph Kaho'oluhi Nawahiokalaniopuu of which my school was named after, he was a Kahu, a Teacher, a legislator. Now when he won a seat at the table with the Legislators, in Hilo, they fought against him. They left him at Hilo port, they misguided him. They let him struggle. You know what he did, the other haole Legislators jumped on those steam ship and made their way to the capital. Nawahi, he said can I catch a ride, and he did just that, and they were so surprised to see him at the Legislator to receive his appointment. This is what someone in the crowd reminded him. If you are afraid of what people will think of you remember Nawahi, if you don't know about his read about him, and he will remind you to find that courage in order for you to break free of what you might feel constrains you. So please mahalo, continue supporting the movement and we will continue to do our jobs as teachers, and if we can work together in doing those things no one is going to stop us in our own home. Mahalo.

Chair Colette Machado – Ramsy Florello followed by Michael Tada.

Ramsy Florello – Aloha mai Kākou. My name is Ramsy Florello I am a Hawaiian, a mother and I am the Math Science Kumu at Hālau Ku Mana Public Charter School. I don't usually do testimonies. But I thought it was appropriate today to come and say that I am very grateful for all of you who do support what is happening on the mauna. I also think that it's really important that we continue to support not just kia'i on the mauna but Hawaiians in all these different place for all these different reasons that we are trying to change the narrative for our people. I also wanted to say that Historically there has always been an agenda and I know that a lot of the testimonies and the things that we hear being published that this movement is anti-science. I have my master's degree in STEM

education and I think that none of what is happening on the mauna is anti-science. It is very much Science. It's not old ways, it is the ways that our kupuna was able to observe and kilo our places to know what's best for it so that we weren't evasive but that we allowed our people and our place to thrive and I think the only reason I think it is considered old ways is because that type of education of Hawaiian perspective education was stopped historically it wasn't allowed and a western perspective science was pushed in our educational system. There has been a line drawn saying them and us but it's really that the type of science I am trained to teach the type of science that we are not looking at today of the kia'i on the mauna is trying to educate everyone here that the kupuna, our ancestors were very much scientist. They were able to do this in our place in a way that allowed them to thrive and this place to thrive. I think that is important for us to remember as we move forward to think of a Hawaiian perspective in all that we are doing, in Education, on the mauna and for all these places. The other thing I wanted to say is that I think it's also important to remember that there are a lot of protocols even in western science for ethical approaches. I think what is happening on the mauna and the way that TMT is conducting themselves isn't ethical. Event western science makes you do an IMB to make sure that what you are doing is not going to disrupt anything, any people or any place. Money shouldn't be allowed to supersede these ethical practices in Science. As a Kumu, as a mother I am hoping that this board, these Trustees and the ones that come after you also will think of our future generations and not just what is happening right now and the pressures from the power that be but what is going to happen to our kids. Our kids need to be in a place where they feel safe, secure, sustainable practice for them and their voices are heard. Their voices matter and the things of our Lāhui that has been silent so long is because we all have this disturbance in our naau to stand up finally and be heard and make changes for the betterment of this place and our people. Mahalo again and I hope that you guys continue to support the kia'i. Mahalo.

Chair Colette Machado – Michael Tada followed by Kapua Keliikoa Kamai.

Michael Tada – Aloha Kakahiaka. My name is Michael Tada. I going to talk about Maunakea. You know we all hear it's about culture, it's about this, it about that, it's about science. All that is good. However, the bottom line for me is this issue is TMT not Hawaiian. (conversation indiscernible) The question is to all of you people but all it is our culture and our history. They took away the language, they took away the culture, the took away the hula for a while. They took away everything of who Hawaiians are. Maunakea is a piko. Maunakea is who Hawaiians are. We have to be kanaka warriors. A'ole TMT. (conversation indiscernible) Thank you.

Chair Colette Machado – Kapua followed by Dexter Kaiama.

Kapua Keliikoa Kamai - Aloha Kākou. Mahalo Chairman and Trustees and mahalo for coming up to the mauna because your presence makes a significant to the Lāhui. We are the Lāhui and this is the Hawaiian Kingdom. We currently exist in the fake State of Hawaii. But this is the Hawaiian Kingdom, it has always been and will always be. Just to get us in the right frame of mind. I want to thank Michael and all of the first time testimony folks and I encourage everybody, haumana, everybody to share your manao because there comes a time when we not only got to come to support when we got to, give our leo we do whatever we can do. Because if we all do our little share it will build our nation stronger, faster, better. He mea Kākou. To that I would like to ask you Trustees, Chairman that this live video of all of our meetings the BOT, the RM and the ARM that all of these videos be saved so that those that are working, those who are not on Oahu can watch it at their time. Right now, its real time. But the real time is not everybody's time. So, if we are serving the beneficiaries the beneficiaries have their own time. Save it for our time so that we can all benefit. I also want to ask you folks to collaborate with the other agencies and alii Trustees so not only can they see but they can participate on the neighbor islands. Everyone has technology, everybody has resources, perhaps not OHA but maybe with Kamehameha Schools, maybe with Queens Trust, maybe with DHHL all of our other entities collaborate because is how we are going to do it. This one person can make a difference, two people even more. But all of us makes the biggest difference. All of us together, Kākou. We are not going to be pili on everything but on those things that we can be pili on let us be pili. That mauna is where we are pili regardless of whether you are Fed Rec or Independent Hawaiian National, regardless if you are Democrat of a Republican or an Independent. He mea Kākou no ka mauna. We are here for Mauna a Wakea. We stand there with her in kapu aloha. This is the biggest difference between now and in the past. This is why we have succeeded for 76 days now on this effort. We passed 1600 days last month or so, so we are as a Lāhui come

together for several years now. But there have been people who have been at the fore front for decades. So now as our kumu have shared we are learning, putting things in their proper context. So, lets continue to kakoo that, continue to serve your beneficiaries. So, people say whether you are for the TMT or not it doesn't matter to me, I am for the mauna. We are here to stop that desecration upon our mauna. Why don't they do it on Mount Fuji, why don't they do it in other Countries. Why must we, Kanaka, continue to sacrifice for everybody else. Like it has been mentioned earlier. When you are kupuna if you are not yet, what is your moopuna going to do when they say the kanaka stood strong, where were you Trustees. Where you with us not only in face but in your votes. When you vote continue funding, give more funding, how else can we kakoo. Please vote that way. I also want to share, let's be pro, pro kanaka is pro Maunakea. I am very sorry to hear about brother Bo resigning as we all heard he brought so much to his community. Let's do our best to incorporate what he was suggesting. Incorporate the agribusiness, incorporate the aquaponics, incorporate that. So again, mahalo for your patience I also voluntold, she doesn't know it but my daughter will be testifying because she has also accompanied me so some of us go to the best that we can and that is to stand there. Others go and we have kuleana and it is our kuleana to not just be there to be presence because this child was ready for the line on day one when our kupuna got arrested. She was ready. But we were advised maybe not so good this is her senior year, we want her to graduate here with her hoapapa at her Hālau Ku Mana. For her she is ready to stand. And we stand with her. Mahalo.

Chair Colette Machado – Dexter Kaiama followed by Kaleookalni Kamai.

Dexter Kaiama – Aloha Chairman and Board members. Thank you for giving me this opportunity to speak. I know in the past OHA and I had our differences in regards of where we should be going. But today that is not why I am here. Today I really want to thank the Board for all that is has done so far to protect those on Maunakea. I can tell you from my personal experience what they've done, the support they've provided has provided essential benefits for the kupuna and kia'i on the mauna. To the extent that its essential life-giving essential benefits. I also want to thank those Trustees, Trustee Ahuna for being there the first day when arrests didn't occur willing to stand on the line to be arrested. I want to thank Trustee Carmen Hulu Lindsey also for being there on the third day when arrests occurred and she made that sacrifice for the kupuna and the kia'i. I want to thank all those who have been up there on the mauna. I know there have been many of the OHA members that have been there, staff and Board members I haven't seen them all. I can tell you for example I did see Davis Price. I can tell you Davis one of your staff members whenever he was asked for help, we was on the phone talking to you guys. I have to give credit where I saw it. I know there were other members too but I have to give you all big mahalo. Thank you very much for doing that.

I also want to ask you to do more. I can do that because I can tell you I have given a lot. I served as kupuna up there as kia'i, I served as kakoo, I served as kumu and right now I serve as volunteer attorney for those who have been arrested. I right now have 8 clients who I am representing. All of that is for the love of the mauna. Everyone here and all the kupuna up there is doing it for the love of the mauna. So, it's easy for me to ask for more form you. There is more that needs to be done. I think you need to continue to do what you are doing but more. I can tell you from personal experience when they see OHA staff members and OHA Trustees sitting on the line it brings you closer to your own beneficiaries. I think that is important. I also think and many of you know. It needs to be said anyway. The commitment of our kupuna and our kia'i is long rooted, their commitment is resolved to be there until this is done. So, you have to understand they will sit or stand there and take all consequences that come their way to protect the mauna. For your as the Trustees you have to understand that many of those are your beneficiaries and you need to provide basic protection for them. We know the State is a bad actor in this. They've made many misrepresentations. Many misrepresentations with the intent to incite law enforcement, the intent to cause chaos on the mauna. But because of the leadership and the kupuna they've made kapu aloha historical proportions. They made our people proud of what they do. I mean it goes throughout the World this is how you conduct yourself. I think we need to do everything we can to support that beautiful conduct.

For example, I know OHA has both the access and the resources to make sure that these kinds of false narratives from the State is addressed. Whether OHA comes out and makes it themselves that these are false narratives. We need to make sure these false narratives stop. They are going to continue because their objective up there is to move forward and try to clear the area. The only way they can do it is to provide these kinds of false narrative to

make it seem like the kupuna are the aggressor that the kupuna are the law breakers. But we know that is far from the case. They are there protecting the mauna. So again, I humbly ask, I thank you for the support so far and I humbly ask that you continue to do more. Lastly, I want to leave you with what's happening in Waimanalo today. Again, we know there have been more arrests, between 27 and 30 who have been arrested in protection of iwi kupuna. I am proud to say that the volunteer legal team that Camille and I helped put together for mauna is mostly native Hawaiians. We have about 10 to 16 who are there supporting and volunteering to protect kupuna on the mauna. But I can also tell you that everyone is doing it for free, it's all volunteer. So, we don't have the resources again to protect those at Waimanalo and perhaps OHA can help.

Chair Colette Machado – I am sorry Dexter, the matter is not really on the agenda, so you just went off little bit.

Dexter Kaiama – Sorry I can tell you the volunteers on the mauna have exhausted their volunteer abilities so that is something you guys should consider next time. Mahalo nui. Thank you.

Chair Colette Machado - Kaleookalani Kamai.

Kaleookalani Kamai – Aloha mai Kākou. First and foremost, I would like to mahalo you Board members and Trustees for the continued support and being out there and hearing our voices today. In 1978 when OHA was created it was created in benefiting Hawaiians in education and like anakala stated, TMT is not Hawaiian so I urge and humbly ask the Board to support Hawaiians for sort of protecting self-sufficiency in trying to change the narrative, this Maunakea TMT movement will do down in history as a time of awakening consciousness for people rising up and finding our voice. The presence and endless kakoo by everybody in the Lāhui is very empowering for me as a haumana still growing and finding my own voice. Being able to hear both sides of the story, pro TMT and pro kia'i and pro mauna and Mahalo.

Chair Colette Machado – Members before we move on to our agenda, we received testimony from Veronica Ohara and the subject is OHA support for the illegal blockade, Christopher Tipton seeks a possibility of a reconsideration support of TMT, we received another testimony from Michael Desert regarding the TMT discussion. So Kaleooakalani was our last speaker, she was number 19. With that said would like to take a break or proceed with our agenda. We have several items for decision making. The Chair would like to take a 5 min recess please.

Chair Colette Machado calls recess at 11:53 am.

Chair Colette Machado reconvenes the meeting at 12:02 pm.

Chair Colette Machado – We are now moving to unfinished Business.

III. UNFINISHED BUSINESS

A. CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities

Chair Colette Machado - The Chair would like to call upon the Interim CEO, Sylvia Hussey, for any updates.

Sylvia Hussey – Good afternoon Trustees. Just one quick piece to keep you updated. OHA has the opportunity to benefit from a collaboration with University of Hawaii as it relates to planting 10,000 trees at our Kūkaniloko area. So, as more information gets solidified and messaged out, we will be sure to keep you updated. But it is consistent with the plans that are there as well was consistent with just overall environment and planting of the trees. The land legacy team is working on pre event day and post days to make sure the 10,000 trees are maintained and that is consistent with our Kūkaniloko plans. We just wanted to update you.

Trustee Brendon Kalei'āina Lee – Is administration aware of a concern from a beneficiary?

Sylvia Hussey - Yes.

Chair Colette Machado – Thank you we will move on to IV. New Business. Item A.

VI. NEW BUSINESS

A. OHA Administrative update by Interim CEO Sylvia Hussey on the expenditures related to the resolution approved by the Board on July 25, 2019 via Action Item BOT #19-11 authorizing the OHA Administration to advocate for the rights, safety, and well-being of OHA beneficiaries engaging in peaceful protests of the state's decades-long pattern of mismanagement of Maunakea, perpetuating their constitutionally protected Native Hawaiian traditional and customary practices, and exercising their constitutionally protected rights of freedom of speech and assembly.

Sylvia Hussey – I am going to invite Mehana and Jocelyn up to the table to give us some context. Then we will go ahead and distribute the expense sheet so that we can walk through the expenditures that are consistent with our beneficiary resolution. Both Mehana and Jocelyn have been on the frontline of coordinating our beneficiary efforts. What Sterling is doing, is not only, he is passing out the actual expenditure and we are going to give Mehana and Jocelyn, again a contextual how did we get here summary from the start, what events and those kinds of things.

(Please see attached handout regarding the expenditures related to the resolution approved by the Board on July 25, 2019 via Action Item BOT #19-11)

Mehana Hind -Aloha Chair, Trustee mahalo for this time today. Just some of the background and some of the timeline. The event that triggered what we see right now is the dismantling of the structures on the mauna on June 20th. Then subsequently a group of our beneficiaries heading to Pu'u Huluhulu and on the weekend of July 14th the Pu'uhonua o Pu'uhuluhulu being established on that day. Which is a Sunday and the actions and activities occurred on that following Monday with the chaining of our beneficiaries to the cattle guard and then the kupuna arrests on July 17th. In between that time on July 12th OHA has issued a statement asking for the Governor, basically telling the Governor that we would like our concerns to be met and the long overdue unaddressed concerns of both our beneficiaries and the Office of Hawaiian Affairs to be address first before any action be taken. That's when our community engagement and community outreach along with our Public Policy staff started working to assure that our beneficiaries' needs were going to be addressed. Then we initiated between both paia a response consistent with our previous Board positions and consistent with our Lāhui policies and consistent with our information that was provided in our press releases at that time to address our beneficiary needs. From then until now we have taken on a few activities and actions on our behalf to service our beneficiaries up there. Mostly with community outreach in partnership with advocacy going ahead and calling on our legal professionals just provide some assessments. Our legal observes and the training that occurred up there along with assessments talked about earlier. Then moving into actually providing of services that are existing up on the mauna till this day.

Jocelyn Doane – I want to hone in on the point of what we have provided. Consistent with the resolution that our Board unanimously passed and the previous board positions, we have been focusing on specifically on the rights of our beneficiaries to exercise their constitutional rights and providing for the public health and safety of our beneficiaries. I think that is really important. Because the media is suggesting that we are paying for their legal defense, we are paying for the bail fund, we are paying for all kinds of things we are not paying for. I think that is really important for us to reiterate. So, the cost that you see in the handout that you got are specifically for only for those purposes. Ensuring that our people have the right to exercise their traditional and customary rights and other constitutional rights. Particularly in light of what we know has been bad mismanagement up on the mountain and then of course in large response by statements by the Governor and the emergency proclamation and other statements that are coming from Law Enforcement wanting to make sure our beneficiaries are safe. I think that is really important to reiterate.

Chair Colette Machado – I wanted to raise this point of clarification. On the distribution of material, is that accurate on the provision on the top, that this reflects the actual resolution.

Sylvia Hussey – If you look there is a column called resolution alignment, so the resolution alignment on the footer at the bottom part of this document has all of the language that comes from the resolution. So, there are 9 phrases that describes what he resolution is calling for. What this key is for example, the Pu'uhonua o Pu'uhuluhulu, that support is aligned to if you look at the key the establishment and maintenance of the Pu'uhonua. The observation and documentation of the actions by law enforcement, etc. so, all of the little alphabets on that realignment align to language that comes directly from the resolution.

Trustee Brendon Kalei'āina Lee – Point of clarification. I believe what the Chair is speaking of is at the top of this document. It has the verbiage of the Maunakea Ad Hoc committee approves and recommends to the board a resolution and that the language that is in here is not what was passed by the Board.

Sylvia Hussey – This was put into a context to that. It's not the piece that is being used to map. The actual resolution is what is being used to map to the expenditures.

Trustee Brendon Kalei'āina Lee – Thank you, as it appears you get the handout that's the resolution.

Trustee Carmen Hulu Lindsey – This is the Statement that was made.

Trustee Brendon Kalei'āina Lee – I understand that, but the rest of the public is going to have access to this.

Sylvia Hussey – Just for context, this is just the action of the context, the actual resolution as here and is passed is what is being mapped. That's why all the alphabets are being mapped to the resolution.

Trustee Brendon Kalei'āina Lee – Thank you for the clarification.

Jocelyn Doane – The resolution was passed on July 25th by the Board, but as you know the explanation that we provided for the resolution, we felt the advocacy and the expenses that occurred before the 25th was absolutely consistent with the Board's previous positions and policies. And as soon as we had the opportunity, we wanted to bring it back to the Board so that the Board could explicitly determine if these actions were consistent with what they wanted us to do moving forward. I think that's a really important point to make because there was statements and advocacy and expenditures prior to the resolution which the administration interpreted consistent to the board's previous positions and as soon as there was an opportunity we brought it back to the Board that you can affirm that or like not.

Chair Colette Machado – Is Sterling in the room? Could you come to the front Sterling? When you distribute this to the media, will you provide the full resolution and some other attachments for them to get a better perspective?

Sterling Wong – Yes, I can certainly provide all the backup documents like the resolution.

Chair Colette Machado – And also incorporate some of the discussion so that we are clear about pre and post kind of expenditures that have been expressed at the table.

Sterling Wong – Just to be clear the box at the top comes directly from the action item, which Trustee Lee is correct not all of it was adopted. But it looks like that language comes directly from the action item.

Trustee Brendon Kalei'āina Lee – Right, but it gives the inference that, that is the action that was taken by the Board, especially when its noted in our publication that this language was approved by all 8 Trustees that were present.

Chair Colette Machado – I just don't want Hawaii Free Press on this page and they misinterpret it. I want to make sure that we are real clear and keep everything as accurate as possible.

Trustee Carmen Hulu Lindsey – I just wondered with this question that Trustee Lee raises, why is this even up here. This whole thing.

Sylvia Hussey – As part of the analysis we just put that there because that came from the action item, it was the impetus. This isn't necessarily what should be released, it's just a business working document here.

Trustee Brendon Kalei'āina Lee – Madame Chair once something comes to this table, it is released. If it was the intention this should not be released it should not have come to this table. Once a document comes to the 9 of us at this table it has been released.

Trustee Keli'i Akina – I just want to reiterate that I have a big concern about the statement appearing here on this document given out at the Board. I also don't want us to be misunderstood. I think there is language there that we decided to exclude from the resolution and this statement here doesn't speak to that. I am wondering if we could qualify this today.

Trustee Brendon Kalei aina Lee - I believe that has been clarified. I made a point of clarification about the language that is up here and administration has clarified the purpose of it, it was put on this document for context purposes so the board would understand the context of where this process was initiated. At the bottom of the document it has the pulled-out items form the resolution. Although we all agree that this might be a little confusing the clarification has in fact been given by Administration.

Trustee Carmen Hulu Lindsey – I am good with the bottom but I think with confusion of the top we need to take it off.

Trustee Brendon Kalei'āina Lee – Whether we take it off or not it's already on the record.

Chair Colette Machado – I'd just like to acknowledge Trustee Keli'i Akina's concern and I am not sure how we will be able to work this out. This is just a working document. It does not require any kind of approval from the Trustees, this is an update that we wanted to give in public, we don't have anything to hide. We want people to know what we are spending, we authorized three expenditures and its listed right there in addition to some of the travel that is part of this report.

Jocelyn Doane – If Sterling decides to release this exact document, he will take that out.

Sterling Wong – I will fix it, I think there is only one line that's been removed from the reso it's the, "reiterates that OHA has no position on the siting of the TMT on Maunakea."

Chair Colette Machado – With that said can we move forward? Thank you team.

Trustee Kalei Akaka – I have a question for more information regarding volunteers and air. Can you please define volunteer?

Jocelyn Doane – The \$991 is related to airfare to send 5 attorneys up to Maunakea soon after the arrest of the kupuna and during the time there were going to be additional arrest to assess the legal needs of our beneficiaries so consider whether or not we wanted to bring back to the Board any further recommendation on assisting legal services. They did that, we found out after that. Soon after those 5 attorneys went up to Maunakea they coordinated a pro bono legal services. So, every kupuna that was arrested has been offered legal services by one of the volunteer attorneys and we have spent no more money on legal assessment. Basically, in the beginning we weren't sure how it made sense for us to participate. So, we sent 5 attorneys that were willing to offer pro

DRAFT

bono services to help with arraignments, etc. But we sent them to do assessment because at that time there were no arrests. That is what the \$991 was for and it was only for flights 4 round trips and 1 one-way.

Trustee Dan Ahuna – I just wanted to circle back, our native Hawaiians access rights are being denied. Constitutionally those are violations. That is our beneficiaries up there. Thank you.

Trustee Carmen Hulu Lindsey – Since I was one of the kupuna arrested I just want to make a statement that none of the monies here was contributed to my protection. I have my own attorney; I was up on the mountain at my own expense. So, nothing here other than the travel of the one trip is accountable to my name. I just want to make that clear.

Trustee Dan Ahuna - Me too.

Jocelyn Doane – None of the funds here are related to the legal defense of anybody that was arrested at this time. Again, we sent 5 attorneys, we knew they were interested in providing pro bono services down the line. We weren't sure it made sense or nor for us to be involved so we sent them to do an assessment for us. We've been chatting with them since then but we haven't spent any money on any legal defense of anybody in 2019.

Trustee Brendon Kalei āina Lee – So I just want clarification, I already know the answer but we have to have it on record. I just want clarification from administration that although you were aware that that legal volunteers and observers that OHA paid for went up there were interested in providing pro bono services. OHA in no shape for form either endorsed for helped fund their access to clients to provide pro bono services. The sole intent of OHA to fund these legal observers to go up was to protect the legal rights of our beneficiaries. Correct?

Jocelyn Doane – I feel like I have to clarify what you just said. There are two sets of legal related costs that are in your spread sheet. The first is to legal observers.

Trustee Brendon Kalei 'āina Lee – Then I will clarify Madame Chair. I am speaking only to the question that Trustee Akaka had about the volunteer air of \$991.84 nothing else I am asking about.

Jocelyn Doane – Yes, it was only for an assessment for OHA to use and for Administration to use to make a recommendation, if appropriate about further assistance of which we have not recommended any further assistance.

Trustee Brendon Kalei'āina Lee – Thank you, my question has been answered.

Chair Colette Machado – Members any other discussion on this item. Can we move forward? We are V.B.

- B. Committee on Resource Management
 - 1. Action Item RM #19-14: Action Regarding the Economic Development Policy Implementation Procedures (1st Reading)

Chair Colette Machado – I would like to call on Trustee Ahuna.

Trustee Ahuna moves to approve Administration's recommendation to the Board of Trustees (BOT) to approve the Economic Development Policy implementation procedures as detailed in Attachment A.

Trustee Robert K. Lindsey seconds the motion.

Chair Colette Machado – Members we have a motion that has been moved and seconded. Any further discussion? Hearing none roll call vote please.

Trustee Ahuna moves to approve Administration's recommendation to the Board of Trustees (BOT) to approve the Economic Development Policy implementation procedures as detailed in Attachment A. Trustee Robert K. Lindsey seconds the motion. TRUSTEE 'AE A'OLE **KANALUA** EXCUSED (YES) (NO) (ABSTAIN) TRUSTEE LEINA'ALA **AHU ISA** X TRUSTEE DAN AHUNA X Х AKAKA TRUSTEE KALEI X TRUSTEE KELI'I **AKINA** X TRUSTEE BRENDON KALEI'ĀINA LEE X X(1st vote) TRUSTEE CARMEN HULU LINDSEY X TRUSTEE ROBERT LINDSEY X Х TRUSTEE JOHN WAIHE'E X TRUSTEE COLETTE **MACHADO** X TOTAL VOTE COUNT MOTION: [x]UNANIMOUS []PASSED []DEFERRED []FAILED Motion unanimously passes with nine (9) yes votes.

2. Action Item RM #19-15: Action Regarding the Debt Management Policy Implementation Procedures (1st Reading)

Chair Colette Machado - I'd like to call on Trustee Ahuna with the second referral from your committee.

Trustee Ahuna moves to approve Administration's recommendation to the Board of Trustees (BOT) to approve the Debt Management Policy implementation procedures as detailed in Attachment A.

Trustee Robert K. Lindsey seconds the motion.

Chair Colette Machado – Members it has been moved and seconded. This is relating to the item identified as the Debt management policy implementation this is our first reading. Roll call vote please.

Trustee Ahuna moves to approve Administration's recommendation to the Board of Trustees (BOT) to approve							
the Debt Management Policy implementation procedures as detailed in Attachment A.							
Trustee Robert K. Lindsey seconds the motion.							
TRUSTEE	1	2	'AE	A'OLE	KANALUA	EXCUSED	
			(YES)	(NO)	(ABSTAIN)		
TRUSTEE LEINA'ALA AHU ISA			X				
TRUSTEE DAN AHUNA	х		X				
TRUSTEE KALEI AKAKA			X				
TRUSTEE KELI'I AKINA			X				
TRUSTEE BRENDON KALEI'ĀINA LEE			X		177		
TRUSTEE CARMEN HULU LINDSEY	=		X				
TRUSTEE ROBERT LINDSEY		Х	X				
TRUSTEE JOHN WAIHE'E			X				
TRUSTEE COLETTE MACHADO			X	The second		-	
TOTAL VOTE COUNT			9				
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED							
Motion unanimously passes with nine (9) yes	vot	es.					

3. Action Item RM #19-17: Realignment #1 of the OHA Biennium Budget for the Fiscal Biennium Periods 2019-2020 (FY 20) and 2020-2021 (FY 21)

Chair Colette Machado – Members we are now on item 3. Action Item RM 19-17 realignment 1. We will be taking two separate motions with the referral from the RM Committee.

Trustee Ahuna moves to approve Motion #1:

Approve OHA's Total Operating Budget Realignment #1 for fiscal year 2020 as outlined in ATTACHMENT #1.

- 1. Transfer \$2,000,000 in cash from the Kaka`ako Makai cash account to the Native Hawaiian Trust Fund for use when needed in realizing OHA's Total Operating Budget Realignment #1 as outlined in ATTACHMENT #1;
- 2. Designate \$1,445,000 in unspent, unencumbered funds (fka Fiscal Reserve) from FY 2018, for the purposes noted below:
 - a)\$500,000 to support Disaster Recovery:
 - b)\$500,000 in support of funding the audit by the State Auditor as required by State of Hawaii's Act 37/HB172;
 - c)\$100,000 for the purposes of repatriation (e.g., iwi kupuna, moe pu, funerary items), beyond current fiscal biennium project;
 - d)\$120,000 for litigation contingencies; and
 - e)\$225,000 for possible fringe rate increases beyond current FY 2020 budgeted 63% fringe rate;
- 3. Activate seven (7) frozen OHA staff positions and proceed with implementing the proposed Organizational Charts dated 9/4/19 as illustrated in ATTACHMENT #4.

Trustee Robert K. Lindsey seconds the motion.

Chair Colette Machado - Any further discussion on this realignment number 1. Hearing none roll call vote

Trustee Brendon Kalei'āina Lee - Point of order Madame Chair.

Chair Colette Machado - Trustee Lee.

DRAFT

Trustee Brendon Kalei'āina Lee – I believe, was it the intention of a motion to come forward to bifurcate something from the realignment.

Chair Colette Machado – That is the second one. This was a separate referral on the bifurcation that came from the RM Committee.

Trustee Brendon Kalei'āina Lee – So Madame Chair if we vote to pass this realignment budget here there will be no bifurcation because the item that wants to be bifurcated out is in this budget.

Sylvia Hussey – Similar to the process that happened in the RM, the bifurcation motion came forward, then the actual action was taken then it rolled back to the original motion.

Trustee Dan Ahuna – Is it ok if I take back my motion?

Trustee Brendon Kalei'āina Lee – No, the motion is correct but you need to make the second motion to bifurcate that out.

Trustee Ahuna moves to approve:

Motion #2:

To move to bifurcate to reimburse Trustee Hulu Lindsey, \$758.12 utilized in support of beneficiaries impacted by the Kauaula, Maui fire in August 2018.

Trustee Robert K. Lindsey seconds the motion.

Chair Colette Machado – Before I call for the vote, are we clear as to what is happening. We have a main motion that supports the realignment 1 which this amount is included. We bifurcated it based on a request so that we will have Trustees review both action and then render their decision making.

Trustee Keli'i Akina – Are we going to be able to separately on the bifurcated item.

Chair Colette Machado - Yes.

Trustee Carmen Hulu Lindsey – I want to ask my colleagues if they have any questions at all on that reimbursement. Because there seems to have been a question of how this came about and I would be so happy to clarify.

Trustee Brendon Kalei'āina Lee – And Trustee Carmen Hulu Lindsey will be afforded that once we get to that point. This motion is not to approve this amount it's just asking the question of whether we want to bifurcate it out or not. This is not about the money yet.

Chair Colette Machado – The real question is do we want to accept this referral because we actually bifurcated the decision in RM Committee are we willing to approve it as part of the total request for Realignment 1. That is the question do we want to keep it separate or do we want to just do the first item.

Robert G. Klein, Board Counsel – The vote is on the bifurcation. Whether you want to take it in two pieces or one piece. And motion number two is suggesting that you are going to have two votes.

Chair Colette Machado – Maybe we should go back to the main motion.

Trustee Brendon Kalei'āina Lee – We still have this motion on the floor.

Trustee Keli'i Akina – I would like to vote on separately as bifurcated.

Chair Colette Machado – So we will move forward with the separation.

Trustee Brendon Kalei'āina Lee – We have to take a vote of whether to bifurcate it out.

Chair Colette Machado - Roll call to bifurcate the item.

Trustee Ahuna moves to approve:

Motion #2:

To move to bifurcate to reimburse Trustee Hulu Lindsey, \$758.12 utilized in support of beneficiaries impacted by the Kauaula, Maui fire in August 2018.

Trustee Robert K. Lindsey seconds the motion.

	STOCKION WITH MICHIE						
TRUSTEE		1	2	'AE	A'OLE	KANALUA	EXCUSED
				(YES)	(NO)	(ABSTAIN)	
TRUSTEE LEINA'ALA	AHU ISA					XX	
TRUSTEE DAN	AHUNA	Х		X			
TRUSTEE KALEI	AKAKA			X			
TRUSTEE KELI'I	AKINA			X			
TRUSTEE BRENDON K	ALEI'ĀINA LEE			X			
TRUSTEE CARMEN HU	LU LINDSEY					X(kanalua)	
						X (recuse)	
TRUSTEE ROBERT	LINDSEY		Х	X	75		
TRUSTEE JOHN	WAIHE'E				X		Y L
TRUSTEE COLETTE	MACHADO			X			
TOTAL VOTE	COUNT			6	1	1 abstention	
						and 1 recusal	
MOTION, C. LUNIANDA	DIACC - 1 DIACC	ED	r 1	DEFEDE	TTD []]	CAHED	

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

Motion passed with six(6) yes votes, one (1) no vote, one (1) abstention and one (1) recusal.

Trustee Dan Ahuna moves to approve:

Motion #3:

To approve to reimburse to Trustee Hulu Lindsey, \$758.12 utilized in support of beneficiaries impacted by the Kauaula, Maui fire in August 2018.

Trustee Robert K. Lindsey seconds the motion.

Chair Colette Machado – Is there any further discussion, any comments?

Trustee Brendon Kalei 'āina Lee – Point of clarification Madame Chair. I think there is a typo because the Resource Management Committee had full and free discussion on September 25th not September 4th.

Chair Colette Machado – That was the referral from the committee. We can correct that.

Trustee Brendon Kalei aina Lee – Its not the actual motion so its not substantive.

Trustee Carmen Hulu Lindsey – I am going to ask my colleagues again if they have any questions at all about that expenditure, I will be happy to answer.

Trustee Leina'ala Ahu Isa – For the record I just want to say I'm not against Trustee Carmen Hulu Lindsey getting reimbursed. I just wondered why it took couple years before this was even brought up. I feel that she

DRAFT

should have just gotten reimbursed at the time this thing happened. Cant administration just pay her why does the Board of Trustees, why do we have to approve another Trustees reimbursement?

Robert G. Klein, Board Counsel – Its not that simple.

Trustee Leina'ala Ahu Isa – I know there was a moratorium on it, I know the CEO denied it, just for the record I am going to say why I'm voting no on it.

Trustee Dan Ahuna – Call for the vote.

Trustee Keli'i Akina – I did want to say some things but in response to Trustee Hulu's question. I have absolutely no questions for Trustee Hulu for this matter or any concerns or doubts about its propriety. My only concern is where the decision should be made. Whether it should be made at administration or at the Board. My purpose for raising this is because I want to protect us as a Board. I will vote no and encourage the board to send the matter back to Administration and have Administration resolve this for two reasons. Number one its generally administrations duty and capability to determine reimbursements and they can use practice and good policy to do that. Number two, I am uneasy about whether there is an unethical concern as a Board voting on payment to one of our members. Again, this is not about Trustee, this is not about whether this is right, I'm just raising the question on who should do it. Therefore, I want to encourage us to vote no and send it back to administration for their determination.

Trustee Dan Ahuna – Who received this money?

Sylvia Hussey – The families, the beneficiaries.

Chair Colette Machado – The check was written out to Na Wai Eha.

Trustee Dan Ahuna - Does that sound like a water rights case we have on Maui?

Sylvia Hussey – Its not related to that.

Trustee Carmen Hulu Lindsey – The same entity.

Trustee Dan Ahuna - I was just wondering.

Trustee Carmen Hulu Lindsey – Let me just share very briefly how this came about. I will be brief. I was RM Chair at the time, and we've had several emergencies. I know that Trustee Ahuna will back me up on this. We had an emergency in Kauai where we needed gas money, so I asked Administration and it was very imperative that they get help with gas money for the people to go in and out of Hanalei. I talked with Administration and they cut a check for a nonprofit in Kauai for \$2,000. Shortly after that the fire at Kauaula occurred and it was a Friday I tried to contact you; I didn't have your right number. So, I went ahead, I was called by beneficiaries that the pipelines were all burnt, no water for them to bathe, drink or anything. Out of emergency I fronted \$1,000 of my personal money and then when I asked for a reimbursement, they asked me for receipts. I asked Na Wai Eha if they had any receipts for the pipes that they have purchased. They gave me receipts to the tune of the \$758. 12. So I said no problem I will donate the rest of the \$1,000. But I've waited over a year to be reimbursed. Going in an out of different hands, I have on clue what happened. I think it was very unfair that it was treated in this manner. No one should go through what I went through. I was helping my community out of emergency. It was a Friday, there was no way I could get a check from our Administration at that point. I agree that some process and maybe through our policy work we will be able to improve this so this kind of stuff doesn't happen.

Chair Colette Machado – I think what was acknowledged yesterday was that because we did not have access to our Trustee Protocol Allowance, normally that kind of expenditure could be utilized, was not available for that purpose. I wanted to just make one correction. There was a string of emails, I did communicate with you Hulu

because I have an email that I sent to you acknowledging that you need to try to work this out with Administration. That did not occur, so I look at this very carefully, because of the negative response to the reimbursement from the former Ka Pouhana, I tried to figure out how to best get the funds to Hulu. If we approve this today it will come out of the Chair's budget under protocol. Its not coming out of Admin. Just to be clear about that. It will be assigned to the Chair's office as part of the protocol funds that we can utilize. But the idea was this, it was an unauthorized disbursement and that is how it came back from Admin at that time. So, working with Sylvia we tried to figure out how best she could authorize the payment and what was in place for the declaration of Kauaula. To allow for this payment. Because we have allowed for additional funding for \$35,000 when we were on Maui. I thought it could fit under there but it did not fit under there for approval. So, whatever the technicalities the question was did we have the resources to do it. In Hulu's situation we did not have the Trustee protocol allowance accessible to her. We didn't she was correct it was not on the radar on how to accommodate the families, the fire was unexpected and it just occurred and families were in major disarray in a 911 situation. It does look kind of awkward that we are actually approving this, we haven't explored that legally and how that might appear before the auditor. All of those things have been put on the table as real issue to consider.

Trustee Brendon Kalei'āina Lee – So to that point, were the funds frozen for Kauai, I believe, the reason the funds were able to be allocated for Kauai and not Maui was the Governor had declared a State of Emergency for Kauai. And that triggers different types of rules so that allowed Administration to cut that check immediately. The Governor did not declare a State of Emergency for Maui. Now whether he should have or not is a separate issue, because Native Hawaiian lives were in danger. But he did not, so I believe that is the reason why Administration could not approve sending funds as quickly because the funds were frozen. Funds become unfrozen when we have a State of Emergency.

Robert G. Klein, Board Counsel – Just for clarification, a Trustee that is recused from the motion. Not only can the Trustee not vote on the motion they should not be discussing a position. I understand in this case Trustee Hulu just wanted to give some background that is not apparent in the motion nor was it ever discussed. I appreciate your comments as background not with he intent to influence a vote that you recused yourself from.

Trustee Carmen Hulu Lindsey - Yes.

Chair Colette Machado – We have a motion on the floor to approve.

Trustee Leina'ala Ahu Isa – Because we just got through an audit and I was cited for doing something like this before with my reimbursement, I feel, I want to write my check, give it to Hulu and take this off the agenda on here. Because for the public to pick this up its different they are not going to hear all this discussion. I would rather do that a not vote on it.

Robert G. Klein, Board Counsel – Then I you would have to get the second to withdraw the motion.

Trustee Brendon Kalei'āina Lee – Its already on the record.

Robert G. Klein, Board Counsel - Trustee Ahu Isa said she will volunteer her own funds.

Trustee Carmen Hulu Lindsey - I think you guys need to vote on it.

Trustee Keli'i Akina – In urging us to vote no, I am not only thinking of protecting ourselves as Trustee Ahu Isa has referenced as an ethics concern. But also, protecting the reputation from our very esteemed colleague as well. Should this be a matter that is an ethical issue? Her name is involved, though she absolutely in my eye has not don't anything improper and as an organization we own her an apology. In the spirit of what I am saying is our overall protection and hers.

Trustee Carmen Hulu Lindsey – Didn't this go to the ethics commission, maybe you should enlighten my colleagues.

Chair Colette Machado – I would like to call Carol to the microphone and she can describe the advice from the Ethics Commission.

Carol Hoomanawanui – Aloha Trustees. There were several matters that I need to contact the Ethics Commission on. And I verbally described the situation that, like Trustee Hulu said we did have a moratorium, the response back to me verbally from the Attorney of the Day was that they felt that this was not an ethical issue that this has to do more with the process so OHA's internal process. They did not identify any issues, I did let them know that at the time there was a fire, there was no emergency proclamation, there was a concern from Administration at the time that it did not follow the process because there was a moratorium that was placed on the Trustee Protocol Allowance and I think the other thing that Administration had identified at the time. Just fresh off when the Audit Report 18-03 came about and the Auditor basically criticized OHA about not following its process. I think that's the reason Administrations raised this concerns that we would follow the process that was in place. But essentially, verbally what Ethics Commission came back and said was that they did not, from the Ethics Commission they did not see any problem with this. It was more about OHA's process.

Trustee John Waihe'e IV – Carol, the question is about the process though. Did the Ethic Commission say that it was ok for the Board to now approve this reimbursement, the Board that has been denied previously by the Administrator, did they say we could do that and it would be proper under the Ethics Laws. I mean the expenditure, its about the process that we are concerned about.

Carol Hoomanawanui – I did not ask them about whether or not they wanted to weigh in. If Ethically they would weigh in on whether the Board can take this matter up. That was not the question that I posed. The concern at the time was whether or not there was any ethical concern with the expense. I did not ask that question.

Sylvia Hussey – I want to piggyback on Trustee Waihee's question about the process. The process that is being brought through here either through a realignment or through a separate action item is our process for approval as an unbudgeted item because it is an unbudgeted item, the optics of, again its not the dollar amount it's the optics of approving something after the fact, went though another process, there is a moratorium that is in place. So, the process that the Board has established is to bring it forward in an action item or in this case a Budget realignment which is an action item. So, you are following the process as far as this kind of expenditure.

Chair Colette Machado – I will call for the question if there are no further discussion.

Trustee Dan Ahuna moves to approve:							
Motion #3:							
To approve to reimburse to Trustee Hulu Lindsey, \$758.12 utilized in support of beneficiaries impacted							
by the Kauaula, Maui fire in August 2018.							
TRUSTEE		-1	2	'AE	A'OLE	KANALUA	EXCUSED
- (A)				(YES)	(NO)	(ABSTAIN)	
TRUSTEE LEINA'ALA AF	IU ISA				X		
TRUSTEE DAN	AHUNA	Х		X			
TRUSTEE KALEI A	KAKA			X			
TRUSTEE KELI'I	AKINA				X	ii —	
TRUSTEE BRENDON KALEI	ĀINA LEE				X		
TRUSTEE CARMEN HULU L	INDSEY						recuse
TRUSTEE ROBERT LI	NDSEY		Х	X			
TRUSTEE JOHN WAI	HE'E				Y.	X – abstain	
TRUSTEE COLETTE MACH	HADO			X			
TOTAL VOTE COUN	T			4	3	1 abstention	1 recusal
MOTION: [] UNANIMOUS	MOTION: [] UNANIMOUS [] PASSED [] DEFERRED [x] FAILED						
Motion failed with four (4) yes	votes, three (3)) no	vot	es, one (1)	abstention	n and one (1) recus	al.

Chair Colette Machado – We will now move to the main motion.

Trustee Keli'i Akina – Just a question of the last matter. Does Administration have any wherewithal to weigh in on that reimbursement.

Chair Colette Machado – Not at this time. We will not discuss that at this time. Can we get to the main motion? The motion has been moved and seconded. Any further discussion on the realignment. It does not include the request to reimburse Trustee Carmen Hulu Lindsey in this action. Roll call vote.

Trustee Ahuna moves to approve

Motion #1:

Approve OHA's Total Operating Budget Realignment #1 for fiscal year 2020 as outlined in ATTACHMENT #1.

- 2. Transfer \$2,000,000 in cash from the Kaka`ako Makai cash account to the Native Hawaiian Trust Fund for use when needed in realizing OHA's Total Operating Budget Realignment #1 as outlined in ATTACHMENT #1;
- 3. Designate \$1,445,000 in unspent, unencumbered funds (fka Fiscal Reserve) from FY 2018, for the purposes noted below:
 - a)\$500,000 to support Disaster Recovery;
 - b)\$500,000 in support of funding the audit by the State Auditor as required by State of Hawaii's Act 37/HB172;
 - c)\$100,000 for the purposes of repatriation (e.g., iwi kupuna, moe pu, funerary items), beyond current fiscal biennium project;
 - d)\$120,000 for litigation contingencies; and
 - e)\$225,000 for possible fringe rate increases beyond current FY 2020 budgeted 63% fringe rate; and
- 4. Activate seven (7) frozen OHA staff positions and proceed with implementing the proposed Organizational Charts dated 9/4/19 as illustrated in ATTACHMENT #4, as amended.

Trustee Robert K. Lindsey seconds the motion.

TRUSTEE		1	2	'AE	A'OLE	KANALUA	EXCUSED
				(YES)	(NO)	(ABSTAIN)	
TRUSTEE LEINA'ALA	AHU ISA			X			
TRUSTEE DAN	AHUNA	Х		Х			
TRUSTEE KALEI	AKAKA			X			
TRUSTEE KELI'I	AKINA			Х			3 11 11 11,
TRUSTEE BRENDON KA	LEI'ĀINA LEE			X			
TRUSTEE CARMEN HUI	LU LINDSEY				X		
TRUSTEE ROBERT	LINDSEY		Х	X			
TRUSTEE JOHN	WAIHE'E				X		
TRUSTEE COLETTE N	/ACHADO			X			
TOTAL VOTE O	COUNT			7	2		
MOTION: [] LINANIMOUS [v] PASSED [] DEEEDDED [] EAH ED							

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

Motion passed with seven (7) yes votes, and two (2) no votes.

C. Action Item BOT #19-14: Approval of Strategic Plan 2020+ Strategies and Timeline

Chair Colette Machado – We are now on V.C. which is Action item 19-14 which is our strategic plan. I will call on Sylvia.

Sylvia Hussey – We have material that is being circulated. This is back in August at the end of the Molokai meeting waiting in your offices was the close out Report and that was for the period of 2010-2018. As part of the context for the current strategy this is a presentation. Lisa knows that she has 15 minutes at most to go through the highlights. But is important go contextualize the current strategy before you take action on that.

Lisa Watkins-Victorino – Thank you for this opportunity. (Lisa goes over PowerPoint presentation Lahui Impact Report 2010-2018, which is attached to the minutes. Please see attached document)

1:00 pm Trustee Robert K. Lindsey leaves the meeting.

Lisa Watkins-Victorino – All of this sets the tone for the next Strategic Plan. Some of the indicators may be very close because of the Strategic Directions that we choose.

Chair Colette Machado – We have a motion. I'd like to call on the Vice Chair.

Trustee Brendon Kalei'āina Lee moves that the Board of Trustees (BOT) approve the recommended strategies and proposed timeline of 2020-2035 with 3 year course correct opportunities presented September 5, 2019 OHA Strategic Planning 2020+ Phase III. Workshop Three.

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado – It has been moved and seconded. Any further discussion or concern that you would like to address? Hearing none roll call vote.

Trustee Brendon Kalei'āina Lee moves that the Board of Trustees (BOT) approve the recommended							
strategies and proposed timeline of 2020-2035 with 3 year course correct opportunities presented							
September 5, 2019 OHA Strategic Planning 2020+ Phase III. Workshop Three.							
Trustee Dan Ahuna seconds the motion.							
TRUSTEE	1	2	'AE	A'OLE	KANALUA	EXCUSED	
			(YES)	(NO)	(ABSTAIN)		
TRUSTEE LEINA'ALA AHU ISA			X				
TRUSTEE DAN AHUNA		Х	X				
TRUSTEE KALEI AKAKA			X				
TRUSTEE KELI'I AKINA			X				
TRUSTEE BRENDON KALEI'ĀINA LEE	Х		X				
TRUSTEE CARMEN HULU LINDSEY			X				
TRUSTEE ROBERT LINDSEY			X	1 =		M	
TRUSTEE JOHN WAIHE'E						Excused	
TRUSTEE COLETTE MACHADO			X				
TOTAL VOTE COUNT			8			1	
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED							
Motion passes with eight (8) yes votes, and o	ne (1) ex	cused.				

D. Report of the Permitted Interaction Group re: the investigation of the alignment and update of the existing Board of Trustees By-Laws for OHA's Board Governance Framework, without discussion. Pursuant to HRS 92-2.5(b)(1)(B) †

Chair Colette Machado – We are now on IV. D. which is the report of the Permitted Interaction Group. There will not discussion just circulation of the report.

(Report of the Permitted Interaction Group re: the investigation of the alignment and update of the existing Board of Trustees By-Laws for OHA's Board Governance Framework is distributed to the Trustees and it is attached to the minutes.)

Sylvia Hussey – As the project manager the process is that the report is distributed, no discussion, the discussion will occur at the October 10th meeting so within a couple of weeks go through it and any action from that will be on the October 17th meeting.

Trustee Brendon Kalei'āina Lee – I know that although this is our third one using Permitted Interaction Group is somewhat new to this body. I just want to remind Trustees that if you have question within the next three weeks please do not refer them to any member of the Board or their staff or administration that is not permissible. Please make not of any questions that you may have for the Permitted Interaction Group and bring them forth at that meeting on the 10th. And it can be addressed at that time.

VI. COMMUNITY CONCERNS

Chair Colette Machado – Members I will hold off in recusing ourselves into Executive Session. We do have numerous people here on Community Concerns. I wanted to begin, Bo Kahui if he is still in the House. Baba Akiona is next.

Trustee Dan Ahuna - Baba left.

Chair Colette Machado – Ok, Bruce Lum, how about you Char, next after the Lums will be Lee Trent. I can take it out of order Lee Trent, are you still here. Please come forward.

Lee Trent – Thank you for giving me the opportunity to speak. This is my first time that I am doing a testimony but I felt that it was important enough for me to talk. I am a local girl born and raised in Honolulu, Hawaii. I am of Hawaiian, Chinese, Filipino and Spanish decent. I wanted to encourage OHA to take a look at the vast majority of supporters of the Thirty Meter Telescope and not only focus on the opponents. Why are you OHA, shortchanging Hawaii's future, culture? Our Hawaiian ancestors would welcome the opportunity to advance their knowledge and skill by having TMT built. They studied the sky and the stars. I would be similar to that being of an avid sports fan and getting the chance to see your favorite professional team play in person. Who would not want to be a part of something bigger. Why watch it on TV when you have the opportunity of watching your favorite time live. Economics, with the building and maintenance of TMT it will lead to more jobs to local people and businesses. Carpenters, plumbers, electricians just to name a few that will be needed to help build this project. TMT will help with the economy by more people being able to stand and shop at markets and stores so that they can be able to put money back in our economy. So, it's not only the trade industries, it also the shops, its also the single parent that has to put food on the table. It's not only the industries of these trade jobs, but its stand strong the people that work at the stores, people that want to spend more. So, it's all coming into the economy.

Education, TMT has helped Hawaii students through their Science and Technology jobs, and STEM programs. Tourism cannot be the only industry in our State. I used to work for the hotel industry for over 20 years, we can do better than that then just relying on tourism. We have an opportunity to provide and advance our future generations with program like these. Family, it said to see families split apart and move to the mainland because of our high cost of living in paradise. With the support and the building of TMT I believe we will have a better chance to keep more of our 'Ohana here in Hawaii then of not having TMT at all. Reputation, the beliefs or opinions that are generally held about someone or something. Hawaii is known as a beautiful and popular tourist designation. But what about business. Some ratings, Hawaii is rated as one of the lowest to do business and considered antibusiness friendly. We are fortunate to have Maunakea as selected to be top choice of TMT. For Hawaii to be collaborating with other countries around the world is a great opportunity and history in the making. To delay the production of TMT will not only impact Hawaii's economy but Hawaii's reputation. If you really want to keep Hawaii stagnant so no other companies will want to invest in Hawaii' I humbly ask you to reconsider your position and support us in supporting the building of TMT. By opposing TMT you are not only closing the door the future of Hawaii's kids but instilling the reputation of OHA's inability to give legitimate, respectful agency for Native Hawaiians. Thank you.

Chair Colette Machado – Our next speaker is Robin Danner.

Robin Danner – I rarely come to the Office of Hawaiian Affairs Board meeting. I am always impressed. I just wanted to make a few comments. I appreciate the discussion on the report on the expenses on supporting our beneficiaries on Maunakea. I'd like to say as the SCHAA Chairman we are watching closely, we are supporting the kia'i, but in terms of OHA I just want to say, congratulation that you are able to support the safety of our beneficiaries. Support their constitutional rights to speak with out getting embroiled into whether for or against TMT. What is most important it the work that you are doing to support beneficiaries to be safe up there and to gather. We all know that the opposition who is perfectly fine, is fully supported by the entire Governor's office, DLNR, they are also supported by DHHL, and indeed an entire TMT funding. So, thank you very much for the

little bit that you are funding our people. My comments are also to request that on that issue that OHA come out on something for, something that effects the mauna that is in favor. Come out strong unified together to say that you are for getting the industry and our unions on board, with deconstruction of the 5 obsolete telescopes. Why can't all sides before that which gets the economy going and we all know that eventually has to happen. If our Office of Hawaiian Affairs can come out in favor of moving that along with the Governor that might help to build a bridge.

My last reason I wanted to come to, on your realignment, what a wonderful process. I wanted to say that I appreciated listening to the realignment process and then getting to read it and how the board has the opportunity throughout the year. My one concern is, holy smoke, \$1 million of our beneficiary trust funds are being spent on audits. That kind of bums we out given that one of the major issues of the SCHHA we are counting and taking stock of the about to be homeless homesteaders that are facing lease cancellations and foreclosures. Our people are having process used against them. We have dozens and dozens of Hawaiian families that are 50% less than 50% that are about to be homeless. When I see a million dollars, half of it being forced by the legislature, I think we need to fight a little bit more or I'd love to see us spend money and have a consultant auditor who is not an auditor but used to be an auditor sitting at this table right next to our attorney to help guide. I think we need to be a little bit more courageous and not be afraid of the audit. We got your back we want to get to the bottom of things but when I see our people getting evicted, I rather have the million dollars or couple 100,000 dollars to help us at the SCHHA bring consulting legal services to individual families that we are qualifying for. Finally what I wanted to say is I'd like to know who do we speak to from the SCHHA for the next realignment so that we can engage with the Board of Trustees or the Administration to bring you some low impact, low hanging fruit realignment that would be a direct impact to native Hawaiian families. Thank you so much. I am very happy to be here.

Chair Colette Machado - Thank you Robin. Our next speaker is Bruce and Char Lum.

Bruce Lum – Aloha Kākou, mahalo for staying. That was a very interesting meeting. I am basically here to mahalo you folks, Chair and Trustees, Interim CEO for allowing me to address all of you with Aloha and mahalo for support of beneficiaries like my 'Ohana and me as we asserted our birth right, defending native Hawaiian rights, for all of our Lāhui. With OHA's support beneficiary voices were collectively heard and in an escalated manner. That was very important for us because we were alone. That bring me to my main message, and its sort of an update for all of the support that you have given us over the past 4 years. For the past 54 months, my wife, myself and our group Save Ala Moana Beach Park Hui have engaged with the City Administration to protect Ala Moana Beach Park's main purpose of being the people's park. However, I also had a deeply personal motivation as a native Hawaiian gatherer and practitioner, so I asked OHA for their special support as a beneficiary. I gather various na mea huna makamae, secret treasures. Hawaiians we have to keep it secret these days. And I fear that these may be severely impacted. Plans proceed as proposed by City Administration. I mahalo nui OHA, Chair Machado, CEO Hussey and all the excellent staff, like Kamakana Ferreira and other staff who have support us in this challenge over the 54 months. If not for OHA's comment letters to the EIS and the Office of Environmental Control, the effect of our voice would be so much less and probably not heard. The FEIS comment period ends in less than 30 days and if we do not sue the risk increases for losing na mea huna makamae. The native gathers today enjoy to Ala Moan Regional Park. But that defense work we will wait for another time. For today all I really wanted to say is mahalo nui for all of your support. Thank you.

Chair Colette Machado – Members of the Board she presented us the makana of the muffin that we just devoured.

Char Lum – It is a small token of our aloha, being open to our questions as beneficiaries and Kamakana of doing a great job of printing up all that and preparing letters for Kamana'o and then Sylvia. It has been a long journey but as Bruce said, because the final EIS is out we have to decide what to do next. So sue, or just trying to pursue through the City Council and other things. We do appreciate all of OHA's support in this. Mahalo. Wherever OHA can support the native people trying to protect the 'āina that would be great. Mahalo for all you do.

Chair Colette Machado – That concludes our community concerns section of our agenda. The Chair would like to go back to V. A.

V. EXECUTIVE SESSION

Chair Colette Machado – Members the Chair would like to entertain a motion for recuse ourselves into Executive Session pursuant to HRS 92-5 (a)(4).

Trustee Brendon Kalei'āina Lee moves to recuse into executive session pursuant to HRS §92-5(a)(4).

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado – It has been moved and seconded. Roll call vote please.

Trustee Brendon Kalei'āina Lee moves to recuse into executive session pursuant to HRS §92-5(a)(4). Trustee Dan Ahuna seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA		х	X			
TRUSTEE KALEI AKAKA			X			-
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEE	X		X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with eight (8) yes votes, and one (1) excused.						

Chair Colette Machado – Please help in clearing the room please, just the Trustees please. Thank you so much.

The Board resolved into Executive Session at 1:27 pm

A. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities relating to the State Auditor's request for confidential and Attorney-Client privileged materials and information in connection with the legislatively mandated audit per Act 37. Pursuant to HRS §92-5(a)(4).

The Board reconvenes in open session at 1:44 pm.

VII. ANNOUNCEMENTS

NONE

VIII. ADJOURNMENT

Chair Colette Machado - I would like to adjourn the meeting.

Trustee Brendon Kalei'āina Lee moves to adjourn the meeting.

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado - It has been moved and seconded. Roll call vote please.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	(ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA		х	X			
TRUSTEE KALEI AKAKA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE BRENDON KALEI'ĀINA LEI	E x		X			
TRUSTEE CARMEN HULU LINDSEY						Excused
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7	T		2

The	meeting	was	adjourned	at	1:47pm.
-----	---------	-----	-----------	----	---------

Respectfully submitted,	
Dayna Pa, Board Secretary	
As approved by the Board of Trustees on	······································
•	
Colette Y. Machado, Chairperson	
Board of Trustees	

Attachments:

- 1. Bo Kahui Testimony
- 2. Kekailoa Perry Testimony
- 3. Veronica Ohara Testimony
- 4. Christopher Tipton Testimony
- 5. Michael DeWeert Testimony
- 6. Handout regarding the expenditures related to the resolution approved by the Board on July 25, 2019 via Action Item BOT #19-1. (corrected)
- 7. PowerPoint presentation Lahui Impact Report 2010-2018
- 8. Report of the Permitted Interaction Group re: the investigation of the alignment and update of the existing Board of Trustees By-Laws for OHA's Board Governance Framework (For the draft minues only the memorandum for the By-Laws Permitted Interaction Group is attached, complete report will be attached with the approved minutes. Copy of the report can be found in the October 17, 2019 BOT Meeting folder.)

Office of Hawaiian Affairs Trustees September 26, 2019

Subject: Craig Bo Kahui Resigns from Laiopua 2020

Aloha Kakou.

On behalf of my family, friends, partners and supporters, I regret to announce that on August 15, 2019, I had resigned from the Laiopua 2020 community based nonprofit corporation which I founded in 2006. Long before 2006, my family and neighbors were involved in Kokua Housing Inc. building homes under a "Habitat for Humanity model. I was fortunate to be among 60 recipients to build "self-help housing" for native Hawaiians, my initial Kona Community based development project.

It has been a pleasure and privileged to serve our native Hawaiian community in the Villages of Laiopua Homestead Association and surrounding neighborhoods. I've had an awesome 19 years of community service that has led to the construction of a medical & dental center, a community center, and a multi-media technology facility on the Kealakehe High School campus

Over the years, we have raised an astonishing \$19M through, State, Federal, County, and Private grants and capital funding to bring Laiopua 2020 to this operating period in its life cycle.

I leave Laiopua 2020 in capable hands as the new L2020 Board begin to establish itself in the community and pursue the current mission and purpose of Laiopua 2020.

During my tenure, L2020 programs and services has impacted our communities and I hope that the new Board will carry-on to deliver the programs and services we initiated to include the Haleo Hawaiian Language program, computer literacy courses, Certified Nursing Assistant Training program, CPR & First Aid Certification program; Hawaiian Community Assets Financial Literacy and Housing Counseling program; , and Going Home Initiative for a Vocational-Trades program for "Post Incarcerated Hawaiians, Individuals and family members.

Recently, As part of the 3 year \$2.4 million grant through the USDE Native Hawaiian Education program, La'i'Opua 2020 hosted the 6 week summer Freedom Schools enrichment program at Kealakehe and Konawaena elementary schools serving approximately 200 keiki. The program provided books, literacy enrichment, Hawaiian language and culture activities taught by the Hui o Hanohano staff (led by Leina'ala Fruean), arts and crafts, STEM, and field trips. I hope L2020 will continue this initiative and continue to pursue funding sources to offer educational opportunities for our Keikis.

Lastly, the L2020 community economic development initiatives must be pursued to endow L2020 and the Villages of Laiopua Association with a revenue source to maintain its social, educational, cultural, recreational, medical programs and services to improve the betterment of the conditions of our native Hawaiian beneficiaries and surrounding neighborhoods.

On behalf of the Villages of Laiopua Association, I will continue to serve VOLA to bring the Department of Hawaiian Home Lands a water well development project to fruition. This water well will include sufficient water to complete the Laiopua Community Master Plan community facilities development, provide sufficient water to build 800 homes, and lastly offer sufficient water for the commercial site development.

There is much more to do and lots to accomplish.

I respectfully wish the current Laiopua 2020 Board well as they pursue the purpose and mission of Laiopua 2020

Aloha A Hui Hou, Craig Bo Kahui

CC: VOLA Board

PGA Tamar Defries

County of Hawaii Mayor Kim

Rep. Nicole Lowen, Sen Kanuha

LA'I'OPUA2020

3,344,109.00	572,825.00	750,000.00	693,716.00	12,736,000.00	19,506,350		Grants Received to date TOTAL
					116300	116300	subtotal
18000						18000	County of Hawaii- Aquaponics program Grant
			50,000			50,000	Roberts Foundation Award
	48,300.00					48,300	Kona Kai Ola Foundation Award
							Miscellneous Grants
					5,119,241	5,119,241	subtotal
	200,000					200,000	2018 State Operations Grant Award
				450,000		450,000	2018 State CIP Grant Award
				500,000		500,000	2017 State GIA CIP Grant Award
				950,000		950,000	2014 State GIA- CIP Grant Award
			400,000			400,000	2013 State GIA Grant- Operations Grant Award
						1,526,000	2010-2017 State CIP- Design Award
	250,000					250,000	2010-2011 DHHL Kulia I Ka Nu'u Award
		150,000				150,000	2009 OHA- Planning Grant Award
				250,000		250,000	2009 State CIP Bond Award- Sewer Grant Award
	32,000					32,000	2009-2010 DHHL Regional Plan Priority Grant Award
	40,000					40,000	2009-2010 DHHL Implementation Award
			243,716			243,716	2008 DHHL Priority Grant Award
		125,000				125,000	2007 Grant-In Aid Award
	2,525					2,525	DHHL Capacity Grant Award
							State
3,326,109		475,000		10,586,000	14,387,109	14,387,109	subtotal
2,400,000						2,400,000	Sept 2018 US DOE- Native Hawaiian Educationa Act Grant
				1,506,000		1,506,000	Sept 2018 US Treasury-CDFI New Market Tax Credits
				4,080,000		4,080,000	Dec 2013 US Treasury-CDFI New Market Tax Credits
				5,000,000		5,000,000	June 2012 US Health Resource Service Administration
926,109						926,109	Sept 2009 US Department of Education - NHEA
		475,000				475,000	May 2009 US Department of Housing & Urban Development – Award
Educational Awards	Program Awards	Planning Awards	Operations Awards	Funding	TOTAL AWARDS		Federal
			3/30/2019)	THRU	SCHEDULE OF GRANTS RECEIVED -(03/31/2007	GRANTS REC	SCHEDULE OF
					OI CILIONO	1	

Dayna Pa

From:

Kekai Perry

)gmail.com>

Sent:

Thursday, September 26, 2019 3:39 AM

To:

BOT Meetings; Colette Machado; Kaleena Patcho

Subject:

KPerry Testimony for BOT 9/26/2019

Attachments:

Testimony OHA Sept 26 2019.pdf

Aloha. Attached is my testimony to the BOT for the September 26, 2019 meeting. I will also be attending the meeting to testify. Please contact me if there are questions or concerns.

Peace,

Kekailoa.

Testimony Before the Office of Hawaiian Affairs Board of Trustees

In Support of the Authorization of the OHA Administrator to Protect OHA Beneficiaries and Kia'i on the Hawaiian Homelands Access Road and Pu'uhonua o Pu'uhuluhulu on Maunakea

September 26, 2019

I am Kekailoa Perry, an 'Oiwi beneficiary and Associate Professor at the Kamakakūokalani Center for Hawaiian Studies in the Hawai'inuiākea School of Hawaiian Knowledge at the University of Hawai'i Mānoa. I am testifying in support of the authorization of the OHA administrator to protect OHA beneficiaries and Kia'i on the Hawaiian Home Lands access road and Pu'uhonua Pu'uhuluhulu on Maunakea. My testimony today will address the BOT's agenda items IV.A. and V.A.

The Board of Trustees are mandated to protect and advocate on behalf of native Hawaiian beneficiaries pursuant to their constitutionally protected rights under Article XII. Under the State constitution OHA Trustees have a fiduciary duty to manage and administer monies, the Ceded lands and other lands, natural resources, and minerals for a specific class of beneficiaries. Those beneficiaries are native Hawaiians and Hawaiians.

Let us be clear: OHA Trustees have a trust obligation to native Hawaiians and Hawaiians. OHA Trustees DO NOT have a Trust duty to Governor Ige, the University of Hawai'i or TMT. As individuals, every member of this BOT has a right to choose TMT or Maunakea. However, as Trustees, you are mandated to work ONLY for your beneficiaries, not TMT.

The lands on Maunakea are Ceded lands or trust lands. The trust lands are to be managed for the benefit of Hawaiians and native Hawaiians. TMT is not a Hawaiian or native Hawaiian. TMT is a US and foreign owned corporation. TMT might employ a few Hawaiians but TMT is not a Hawaiian institution. Therefore, OHA is under no obligation to support TMT. In fact, OHA's support of TMT is a breach of its fiduciary duty because serving TMT will directly undermine the purpose of OHA's trust responsibility to its native Hawaiian and Hawaiian beneficiaries.

The BOT is further directed under HRS §10 to manage the trust lands and assets as a solumn trust for the "betterment of conditions for native Hawaiians." HRS §10 also states that OHA must "address the needs of the aboriginal class of people of Hawaii" and that "it shall be the duty and responsibility of all state departments and instrumentalities of state government providing services and programs which affect native Hawaiians and Hawaiians to actively work toward... [bettering the conditions of native Hawaiians and] to cooperate with and assist whereever possible the Office of Hawaiian Affairs."

OHA does not work for the executive branch of the state of Hawai'i. The executive branch has a duty to "cooperate with and assist" OHA. Therefore, AG Connor is behaving inappropriately and may be violating the law herself when unethically demanding, on behalf of the TMT project, that OHA turn over privileged information relating to the management and care of a specific group of beneficiaries.

OHA was created in 1978 precisely because the state of Hawai'i had been mismanaging and abusing the Ceded Lands trust to the detriment of the native Hawaiian and Hawaiian beneficiaries. The OHA BOT must deny the AG and governor any power to scrutinize its support of native Hawaiian and Hawaiian beneficiaries on Maunakea lest the trust fall back into the abusive control of the other branches in the state government. In fact, if OHA allows the AG and governor to interfere with its trust obligations, OHA Trustees will be breaching its trust obligation to Hawaiians.

Therefore, OHA should not fear the corrupt behavior and threats of Governor Ige and his hench woman Connor. The Governor and AG have no power under the law to compell OHA to breach its constitutional and legal duty to serve native Hawaiian and Hawaiian beneficiaries regardless of the beneficiary's political and social affiliation. However, native Hawaiians and Hawaiians do have the power to sue OHA and its Trustees if the trustees breach its fiduciary duty by caving to the illegal acts of the state administrators and executive branch.

Trustees: You are here to serve a specific class of beneficiaries, native Hawaiians and Hawaiians. Supporting the Kia'i and taking a position against TMT is clearly part of your legal obligation and you must carryout that duty enthusiastically and faithfully.

Arguing that money should go to Hawaiians working for TMT is an ignorant reading of the law that amounts to a serious breach of trust. Buckling under the pressure of a governor who has demonstrated a willingness to manipulate the law for the benefit of a foreign and American owned corporation is equivalent to a house slave praising the table scraps of the master. TMT and the State are not your beneficiaries. Neither are OHA and native Hawaiians slaves to the TMT and the governor. As Trustees you serve for the betterment of native Hawaiians. Period.

Hold your ground. Serve no other master but the people that you were elected to protect.

E Ola ka lāhui kū'oko'a mana piha.

Dayna Pa

From: Sent: Veronica Ohara <. @gmail.com> Tuesday, September 24, 2019 12:56 PM

To: BOT Meetings

Subject:

OHA support for the illegal blockade

Aloha OHA,

I am submitting testimony about your unending support for the TMT protests. I find your actions to be an affront to your elected duties all Hawaiian people. You should be ashamed of yourselves for dereliction of duty but clearly you are not. So I will remind you of the outcome of your weak leadership.

You are basically using tax payer money to fund your private vision of Hawaii. Your partiality helps no one. People are suffering because they have been waiting to build TMT, local people who voted you into office. The blockade people are exhausted and basically morphed into cult hysteria because you clearly support them with plane tickets and more. You have caused a break down in social order in Hawaii. And this fraying of the communites is clear in the comments all over social media. Racist vitriol, obscenity laced profanity, death threats and threats of violence. It's so prevalent that we have a secret Hawaiians only support TMT group, to which none of you will ever be privy. This is you legacy and your shame.

You have failed us again and again. You take our money for your selves and whisper to your brainwashed supporters that "this is nothing we haven't seen before". Your lack of impartiality feeds the problems afflicting the Hawaiians and you just take our money and use it as if it is your own wallet.

Unless you change, which I doubt you can these worse, which is yet to come, will be on your hands.

Sincerely,

Veronica Ohara

Dayna Pa

From:

Christopher Tipton ·

⊉gmail.com>

Sent:

Tuesday, September 24, 2019 11:15 AM

To:

BOT Meetings

Subject:

Reconsideration of TMT Position

Aloha OHA BOT,

As an initial disclaimer, I am not a Native Hawaiian. However, I would urge you to reconsider your position regarding the Thirty-Meter Telescope in light of the <u>Civil Beat Poll</u>, in which among Native Hawaiians there is no majority opinion regarding the TMT; support for TMT is at 44%; and opposition is at 48%. Up to this point in time, OHA seems only interested in representing this 48%. Please consider also representing the interests of the other 52% of Native Hawaiians.

Mahalo,

Chris Tipton

Dayna Pa

From:

Michael DeWeert 2 <

nawaii.rr.com>

Sent:

Tuesday, September 24, 2019 9:26 PM

To:

BOT Meetings

Subject:

TMT discussion

Dear OHA Trustees,

The blockade of Mauna Kea by activists protesting construction of the Thirty Meter Telescope (TMT) is a tragedy for all the people of Hawai'i. The TMT is a worthy enterprise, supported by the majority of the people of Hawaii, and has been through extensive environmental, technical, and cultural vetting.

I see the opposition to TMT in two ways: first as a conflict of religion with science, and second as a desperate cry for help from a community that has legitimate grievances, but has targeted astronomers out of frustration.

With respect to the religious case, our Constitution guarantees everyone the right to practice their own religion, and the TMT plans include provisions and safeguards for religious and cultural observances on the Mauna – there is more than enough room at the summit for religions and science to co-exist. At the same time, no religion or supernatural belief systems should be allowed to impose it's dogma on the rest of society.

With respect to the historical injustices that have led to poverty, homelessness, lack of opportunity, action by the government and business sectors to solve the problems is long overdue. Too many have been left out of the prosperity that our supposedly booming economy could provide. Stopping TMT will make those problems worse, not better.

Injustice cannot be cured by imposing another injustice, and stopping astronomy on Mauna Kea would be an injustice, not just to the astronomers and scientists who have spent decades getting the world's best observatory built at world's best observing site, but also:

- to the construction workers who will not have jobs building TMT or demolishing the five telescopes the University will decommission;
- to the community of Hilo, which has the highest unemployment rate in Hawai`i, much worse than the national average; and, most importantly,
- to the children of Hawai'i who would have a bleaker and poorer prospects unless they choose to leave Hawai'i. The clear message our ke'iki will get is "don't you dare aspire to science, astronomy, or any other career that is not approved by our dogma."

To be fair, anti-science is not confined to one state or community. The most famous current example is the persistent denial of evidence linking fossil-fuel emissions with climate change. Many other examples abound, in medicine (such as the anti-vaccination movement), and in the social sciences (such as denial of Thomas Piketty's evidence on economic inequality.)

Please return to supporting TMT. We will need all of our best science to survive the 21st century!

Aloha and Mahalo, Mike

Michael J DeWeert

Kaneohe, HI 96744

The Maunakea Ad Hoc Committee approves and recommends that the Board of Trustees approve a Board resolution that implores the governor to take material steps to eliminate the high potential for physical harm to OHA's beneficiaries; expresses its kaumaha over the arrest of Native Hawaiian kapuna; opposes use of unwarranted force and calls upon the Governor to rescind his Emergency Proclamation; refit to the second position on the Solidary of the TMT on Machaelea, and expressly authorizing OHA Administration to take action to advocate for the rights, safety, and well-being of beneficiaries engaging in peaceful protest of the decades long mismanagement of Maunakea, perpetuating Native Hawaiian traditional and customary practices, and exercising their rights to freedom of speech and assembly.

	<u>Description</u>		\$ Amount	Resolution Alignment
A	Puuhonua o Puuhuluhulu - Beneficiary Sup Restroom Facilities, Servicing Dumpster Removal & Landfill Disposal Fees Tent Rental & Lighting	\$ 21,689.00 \$ 1,680.04 \$ 5,403.66 \$ 28,772.70	\$ 28,772.70	[b], [c], [d], [f], [g], [h], [i]
В	Legal Observers Training Travel (Air, Ground) Workshop supplies	\$ 2,054.72 \$ 191.64 \$ 2,246.36	\$ 2,246.36	Resolution Alignment [c], [d]
	T 00 10 10 10 10 10 10 10 10 10 10 10 10			Resolution Alignment
C	Travel re: Site Visit/Beneficiary Needs Assessment/Ad-Hoc Committee Meeting Staff - Air Staff - Ground Staff - Subsistence Staff - Parking Staff - Hotel Trustees - Air Trustees - Ground Trustees - Subsistence Volunteers - Air	\$ 1,442.81 \$ 1,143.86 \$ 990.00 \$ 45.00 \$ 181.60 \$ 3,803.27 \$ 1,516.33 \$ 591.19 \$ 1,130.42 \$ 3,237.94 \$ 991.84 \$ 8,033.05	\$ 8,033,05	[c], [d], [f], [g], [h], [i]
D	Digital Print Media Output: Digital/Social Media (e.g., posts, livestreams, videos, photos) Monitoring: Social Media Media Support: Jam4Maunakea, Mana Maunakea Workshop Video Editing: Jam4Maunakea			68 40 11.5 40 159.5
	Out-of-pocket as of 9/17/2019		\$ 39,052.11	159.5 HRS

Source: Community Engagement, Advocacy and Financial Services

Beneficiary Resolution Mapping Key

authorizes the OHA Administration to:

- [f]-advocate for the rights, safety, and well-being of OHA beneficiaries
- [g] engaging in peaceful protests of the state's decades-long pattern of mismanagement of Maunakea,
- [h]-perpetuating their constitutionally protected Native Hawaiian traditional and customary practices, and
- [i]-exercising their constitutionally protected rights of freedom of speech and assembly, ---DELEGATION OF ACTION

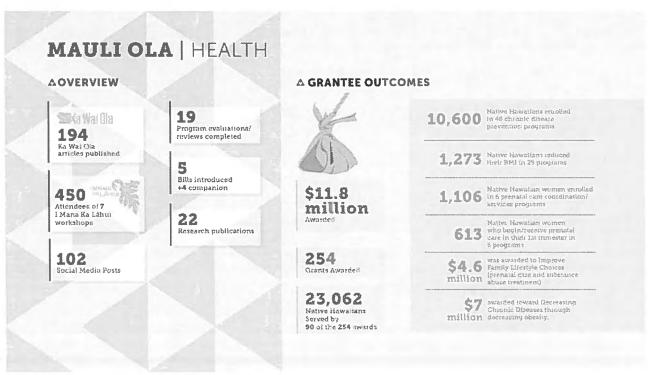
including but not limited to:

- [a]-the negotiation of rules of engagement;
- [b]-the establishment and maintenance of pu'uhonua or safe spaces;
- [c]-the observation and documentation of actions by law enforcement, government, university or community personnel;
- [d]-an assessment and provision of health, safety, and legal needs; and
- [e]-any other actions as may be reasonably necessary or appropriate;



SELECTED HIGHLIGHTS OF

THE OFFICE OF HAWAIIAN AFFAIRS
STRATEGIC PLAN:
LÄHUI IMPACT REPORT 2010-2018



ADVOCACY HIGHLIGHT: IMPROVING PUBLIC HEALTH PLANNING THROUGH LEGISLATION

HRS \$226-20 - Act 155 (HB1616 HD1 SD1)

This new law amenoed the state mean's panning statute for the first time in nearly 30 years, bringing is up to date with current best practices in health planning, in coing sin, it ellows state agencies to part around and mean resources in addressing the social determinants of health otherwise known as the systemic, circumstantial factors dust can greatly influence health outcomes of communities and indicatants Secondly, it aligns state policy with referral policy with the first stating Native Hawasan health to the high est sevet, and expresses the operational factors form minment to rating Native Hawasan health to the high est sevet, and expresses the special reliabilishes between halve Hawasians and the federal policy miner them. Lastly, this law directs agencies to specifically address the health dependent of Native Hawasians under Pacific Islanders and Fitzerion.

"OHA has been one of the strongest adrocates for closing the health dispances that affect Native Hawaiters." said Kamana oponio Crabbe, Ka Pobbana, and CED. "With this new law, the state acknowledges the importance of ember and strategic health planning and has referenced its commoment to address the health status of Native Hisvalues and other values able communities.

Support of SCREM and Sil6BI (2014). During 2013 – 2017 OHA provided frieding and advocancy caperties is support the successful passing of SCREM and SR60 in 2014 with the consenting of 33 task losts members from Hawar is leading hearth and habiter howelfan serving organizations. Offic was Cor Chair of the Task Force in a the CED with the Department of Habiter and Department of Native Hawarian Health respectively. OHA was ordarized the Hawarian Health respectively. OHA was ordarized the supporting the development of the Senate incomplication as Briefing and the SR60 Legislations Report submitted to the Legislation before the seas on began in 2017 Both of these included several important recommendations for legislative according to Matthewship Senate in Proposed and Proposed Senate Proposed

3

STRAFEGIC INDICATOR

Reduce the rate of objectly a world Native Havaiians from 49.52 to 362

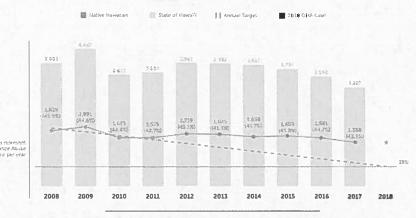
native hawaiian adult obesity in the state of hawai'i



Source: Francii State Coppetition of Health, Behaviora: Risk Farter Superillanck Epittem.
"Data has varietied at into of reporting."



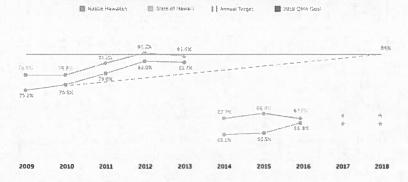
native hawaiians in the state doh substance abuse treatment in the state of hawai'i

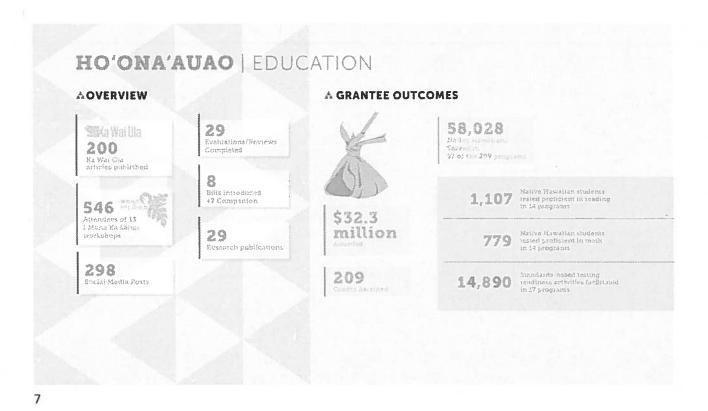


5

STRATEGIC INDICATOR: Increase the number of Native Hawaiian motivers receiving prematal care in the first trimester from 81.4 % to 85.67

NATIVE HAWAIIANS MOTHERS RECEIVING PRENATAL CARE IN THE FIRST TRIMESTER IN THE STATE OF HAWAI'I

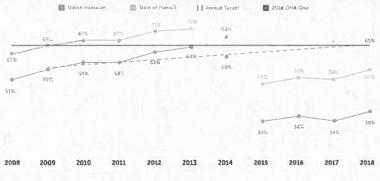




ODDANESIA INGICATOR

Increase the percentage of Native Howaran students translation of the resolution and contents to the

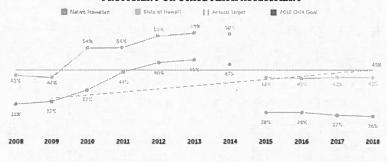
PERCENT OF NATIVE HAWAIIAN STUDENTS TESTING PROFICIENT ON STATE READING ASSESSMENT



Office of Hawaiter Affairs (2015), Hawait Accessment Sest inducious Short \$72017. Honology, His Revenue & Crishins, Special Propert Annexes from Miss Javanes of a septent-contention testinated in 1967 Hawait-Sucration Properties and colors State for

STRATEGIC INDICATOR: Increase the percentage of Native Hawaiian students racking and exceeding mails standards from 32% to 45%.

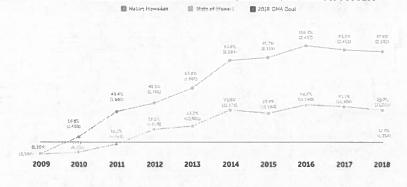
PERCENT OF NATIVE HAWAIIAN STUDENTS TESTING PROFICIENT ON STATE MATH ASSESSMENT



Office of Savesian Artists (2017). Heres's Assessment Test Industrie Sheet (1/2012). Himselbi, Ht. Reseauth Overson, Epenal Project Emmered from https://www.mm.urg.nep-commitsephads/endicatus/92017 Novemb Securitional Assessments-Infocemb (1/2012).pdf

9

PERCENT CHANGE IN NUMBER OF DEGREES AND CERTIFICATED EARNED BY NATIVE HAWAIIAN STUDENTS IN THE UH SYSTEM





All seven of Kamakau's seriors this year were part of WCC's Early College High School pro-gram The program brings WCC professives into public high schools to trach college inveit ter school movement, which OHA has invested coursework, and enables participating students. \$14.2 million into since 2010. These 17 charter to earn college and high school credits. The precipitation of the precip be altending college next year.

Something remarkable happened at Windward graduation ceremony. Throughout this journey function of the foundation ceremony of the following the following the following the following following the following following the following follow to receive their associate degrees in sheral arts six was weeks before they graduated from high school.

That was unfamiliar to my sociation. It was the mane of my kipuns that pushed me through it. and continues to do so today

Hamakau's class of 2019 stands as restament to the success of the Hawking-focused charalso providing an academically ngorous carricula that prepares heumana for post-secondary The Early College program at IWCCH was such an ormating opportunity I decided to entroll in this program for my latitut, my people. Yard formskar alumna Wariale ale Sarzona, who developing our rest generation of Native Indexisan learners who will guide the tahal severed a spreach in felicial Hawarii at the WCC. schools are diversioning our next generalism of Notice Hawtenin leaders who will guide the little



million

→ 17 -

→ 4,100 students

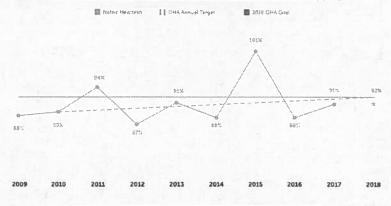
11

HO'OKAHUA WAIWAI ECONOMIC SELF-SUFFICIENCY AOVERVIEW **A GRANTEE OUTCOMES** 29 **S**ka Wai Ola Program evaluations/ reviews completed 3,165 Mative Hawailann enrolled in 14 housing programs 194 Ka Wai Ola articles published Native Hawaiians completed financial literacy education in 12 housing programs 1.789 226 MALARIA Bills introduced \$47.3 Native Hawsharts achieved homeownership in 7 housing programs Attendees of 11 million I Mana Ka Lahui 38 workshops Research publications Native Hawaiian families obtained stable rental housing in 6 housing programs 220 359 179 Social Media Posts Grants Awarded \$7.9 towards intiatives to increase family income million 15,598 Native Hawailans Served by 70 of the 179 programs

STRATEGIC INDICATOR:

Native Hawaiian median family income will be 92% or greater than the Statewide median family income

native Hawaiian median family income as a percentage of Hawai'i Statewide median family income



Science, 4.5. Cleman Bureau, 2001B. American Community Survey (ACS), 5. year Estimator (2015)-2017.

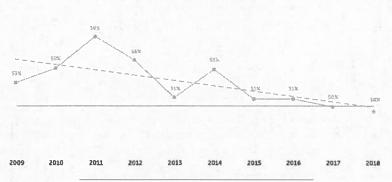
**Post one 13 to end to the end to end to

13

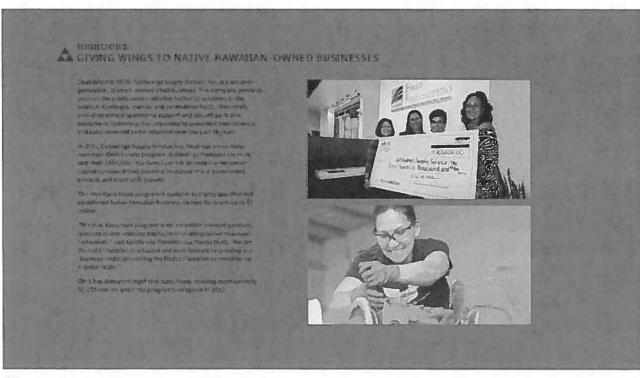
STRATEGIC INDICATOR:
Decrease from 55% to 50% the percent of Native Hawaiian renters who are paying more than the HUD standard housing cost (no more than 30% of household income)

PERCENT OF NATIVE HAWAIIANS PAYING 30% OR MORE OF HOUSEHOLD INCOME ON RENT

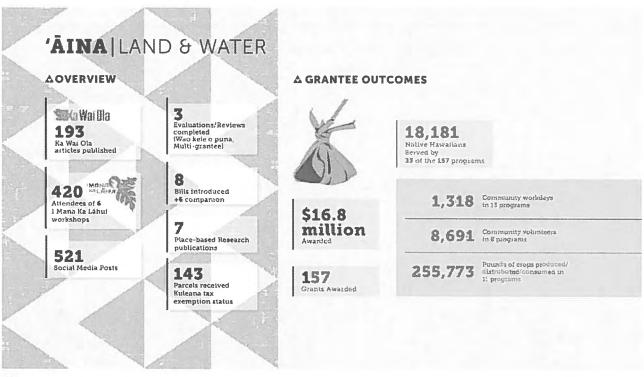




STRATEGIC INDICATOR: Increase Native Hawaiian owner-occupied housing from 56 62% to 58% NATIVE HAWAIIAN OWNER-OCCUPIED HOUSING PERCENTAGE State of Hawait I finance Target 2018 OHA Gest 25-48 36 79 15-12 23.43 55 GW 52.2% 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 Source IJS Extract Bureau (2007) Amonta and Community Source (ACIS) I year Syllmate (2009-2017) **Data and yet substance of him of properties **Packets Theory: IJS See 1156-1156. The contemporary Source (ACIS) I year Syllmate (2009-2017) **Se teams 13000 Sensor Syllmations feel to cities (Acid Syllmatics) ACIS (Acid Syllmatics) Acid Syllmatics) **Sellmatics 13000 Sensor Syllmations feel to cities (Acid Syllmatics) ACIS (Acid Syllmatics) Acid Syllmatics) **Sellmatics 13000 Sensor (ACIS (Acid Syllmatics) Acid Syllmatics) **Sellmatics 13000 Sensor (ACIS (ACID Syllmatics) ACID Syllmatics) **Sellmatics) **Sellm



16



17

STRATEGIC INDICATOR: Increase from 12% to 15% the percent of ahupua'a that are managed sustainably STRATEGIC INDICATOR: 14% of ahupua'a are managed sustainably, within 1 percent point from the OHA 2018 Goal

HIGHLIGHT: A OHA LAND & PROPERTY STEWARDSHIP



WAO KELE O PUNA
Lecation: Tunk also est
part of tissue.
Size: "A 165 a prop
Acquired Young to the common of the co



KAHA AND MAKAI



NÄ LAMA KURUI Lacation: 560 Harth Elizati Algirica. Claira Sira: 436 serce

WAIALUA COURTHOUSE

WANALUA COURTHOUSE
Locations: Froign High enginements
Frailmake (Stating) High enginements
Frailmake (Stating) High enginements
Frailmake (Stating)
Frailmake (Stating



KÜKAHILOKO

PANUA HEIAU
Location (THEP Hashes) coa Pietre
Name al (THEP)
Size 115 store
Accounted (THE
Description) THE TREE store to account accounted with personal
accounters accounted with personal
accounters accounted with personal
accounters accounted with personal
accounters (approximate) accounters accounted
accounters (approximate) accounters
accounters (approximate) accounters



PALAUEA CULTURAL RESERVE







WAIMEA VALLEY



PAPAHÁNAUMOKUÁKEA

19

HIGHLIGHT:

A PERPETUATING CULTURALLY-GROUNDED RESOURCE MANAGEMENT

The mapped Emilion Replacement is a final mapped to the control of the control of

This is a great deposit with the section of participating of the medical participation of a transitional confidence of the section of the sec

Electric strains fundament Reconstration to the James 2 Techniques and a Guesty morning to the research shall be facilities that the proposing our land and offer your minimization of the pre-hand and our employment of the land to the pre-hand our employment of the land in the pre-hand our employment.

our partition and feel the union version being and feeling many made upon 1 lines.

"However," which can be up an order or companies of the c

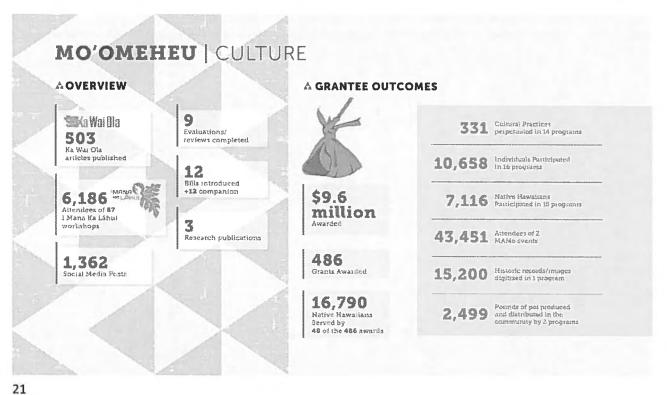
Per summitted designation by a how ordering to a little participation of a summaries regions and promote action accounts and appropriate for the summaries of t

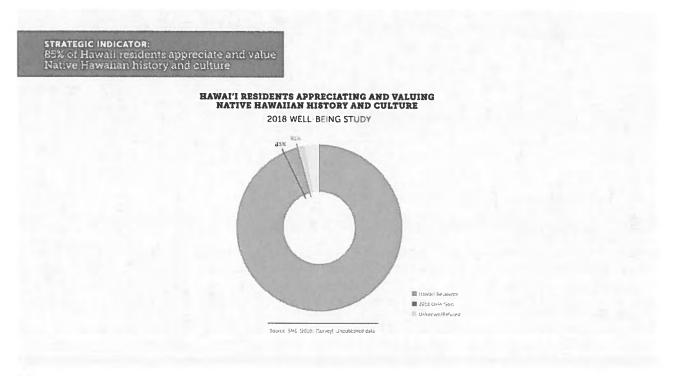
The Billion has about appeal before the minute of an edge french to accome to the president me controlled and the president of the president o

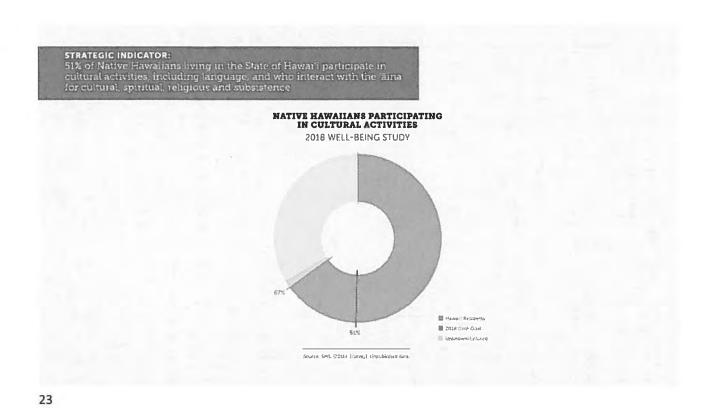
Our vicinities, but in a creation individual for and control with those one main posts for the and more reported as a control of the reported as a control of the

And president personal records internal internal view Militeracy



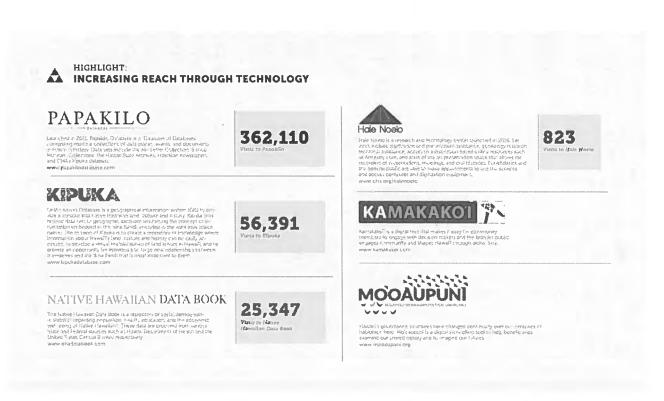






EA | GOVERNANCE AOVERVIEW **A GRANTEE OUTCOMES** 20 3,102 **™**kaWai0la Native Eawalians Served by 2 of the 160 programs Bills introduced +19 companion 386 Ka Wai Ola articles published Revisit 101 Mildell Research publications of the Governance Program Attendees of 4 I Mana Ka Lähui workshops Advocacy for Native Hawaiian ability to make \$4.4 Self-Governance million Decisions 344 Social Media Posts Board adoptation of an International 160 Grants Awarded **Engagement Policy**







OFFICE OF HAWAIIAN AFFAIRS

Interoffice Memorandum

B_UR_

DATE:

September 17, 2019

TO:

Board of Trustees

FROM:

Trustee Brendon Kalei'aina Lee, Vice-Chairperson_

CC:

Sylvia Hussey, Ka Pouhana Kuikawa

SUBJECT:

By-Laws Permitted Interaction Group (PIG)

With the adoption of the new Governance Framework and the new Lahui Level Policies the next phase of the BOT Governance project was approved by the BOT to reexamine the By-Laws. Using the University of Hawaii Board of Regents By-Laws, for formatting only, the four (4) Trustee member PIG began their work.

The team consisted of four (4) Trustees, their respective staff, BOT chief of staff and secretary, administration and staff. This was a long process and all team members brought their own respective edits to the table. The team went through the document page by page and addressed every issue brought forward by both BOT and administration. The only section not addressed was ARTICLE XVIII. TRUSTEE CODE OF CONDUCT AND SANCTTIONS FOR VIOLATION OF THE CODE OF CONDUCT, given the on-going work of another Permitted Interaction Group (PIG).

I would like to especially mahalo Jim McMahon for his contribution in providing the analysis of the UH By-Laws and all the high-level discussions on the intent of the language in the By-Laws. His insight helped the committee to focus on the importance of language and its impact on intent versus practice. Mahalo nui also to our project manager Ka Pouhana Kuikawa, Sylvia Hussey, for the tracking of ideas and amendments as this was a very fluid process. Also, mahalo Keala Nichols for stepping in when Sylvia was not able to be at meetings.

Office of Hawaiian Affairs Board of Trustee Meeting December 5, 2019 10:00 am

V. New Business

- A. Committee on Beneficiary Advocacy and Empowerment
 - 1. Action Item BAE #19-02: Approval of OHA 2020 Legislative Package

OFFICE OF HAWAIIAN AFFAIRS Committee on Beneficiary Advocacy and Empowerment (BAE) COMMITTEE REPORT

November 27, 2019

The Honorable Colette Y. Machado, Chair Board of Trustees
Office of Hawaiian Affairs

Chair Machado,

Your Committee on Beneficiary Advocacy and Empowerment, having met on November 27, 2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

ACTION:

To support the following new legislative proposals and approve their inclusion in the 2020 OHA Legislative Package (See referenced attachments for text of the proposals):

- OHA-1 Restoring Hawaiian Expertise in Land Use and Resource Management: (Attachment A)
- OHA-2 Addressing Employment Discrimination Against Former Pa'ahao: (Attachment B)
- OHA-3 Preventing of Historic Preservation Review Evasion and Other Violations (Attachment C)
- OHA-4 Protecting Our Ancestors via SHPD Admin Rules (Resolution): (Attachment D)
- OHA-5 Facilitating Practitioner Access Onto Private Lands: (Attachment E)
- OHA-6 Capital Improvement Project Budget Request for OHA's Wahiawā Lands: (Attachment F)

Relevant attachments are included for your information and reference.

Attachment(s):

- 1. ACTION ITEM: BAE #19-02: Approval of 2020 OHA Legislative Package**†

 In an effort to save paper please refer to the attachments distributed with the 11/27 BAE folder or the Electronic version of this Committee Report sent via email.
- 2. BAE Roll Call Vote Sheet BAE #19-02: Approval of 2020 OHA Legislative Package**

Respectfully submitted:	
Win U	Kalin' Ur
Trustee John Waihe'e, IV, Chair	Trustee Kaleihikina Akaka, Vice-Chair
EXCUSED	Sile
Trustee Leina'ala Ahu Isa, Member	Trustee Dan Ahuna, Member
100 (18	
eld film	
Trustee Keli'i Akina, Member	Trustee Brendon Kalei'āina Lee, Member
CONCURRED	EXCUSED
Trustee Carmen Hulu Lindsey, Member	Trustee Robert K. Lindsey, Jr., Member
EXCUSED	
	_
Trustee Colette Y. Machado, Member	



ATTACHMENT 1

Action Item Committee on Beneficiary Advocacy and Empowerment November 27, 2019

BAE #19-02

Action Item Issue: To support the inclusion of new legislative	re proposals in the 2020 OHA
Legislative Package	
Prepared by:	11/20/19
Jocelyn M. Doane	Date
Pou Kāko'o Kulekele Aupuni, Public Policy Manager	
Reviewed by:	
John Just Willer, J.D.	11/20/19
John James McMahon, J.D.	Date
Ka Pōhaku Kihi Paia Kū, Advocacy Counsel	
Reviewed by:	
Shy Dy	11/20/19
Keola Lindsey	Date
Ka Poukihi Kū, Chief Advocate	
Reviewed by:	11/21/19
10000	11/21/19
Sylvia M. Hussey, Ed.D.	Date
Ka Pouhana Kūikawā, Interim Chief Executive Officer	
Reviewed by:	11-22ig
John Waihe'e IV	Date /
Luna Hoʻomalu o ke Kōmike BAE	
Chairperson, Committee on Beneficiary Advocacy and Empo	werment



I. Action

To support the following new legislative proposals and approve their inclusion in the 2020 OHA Legislative Package (See referenced attachments for text of the proposals):

1. OHA-1 Restoring Hawaiian Expertise in Land Use and Resource Management: Since 2016, a number of state boards and commissions with land use and resource management responsibilities have been required to attend a Native Hawaiian law and public trust training course; in addition, several of these boards are required to have at least one member possess experience or expertise in relevant Native Hawaiian traditional and customary practices or resource management approaches. Combined, these requirements seek to ensure that decisions impacting our lands and resources are more informed as to the rights, values, and practices of Native Hawaiians, and have the potential to enhance our islands' sustainability and resilience for present and future generations.

Unfortunately, despite the regular provision of notice to board and commission administrators, the vast majority of boards and commissions subject to the training course requirement have failed to fully comply with their training responsibilities. As a result, land use and resource management decision-making may continue to be less than fully informed on Native Hawaiian concepts, practices, and rights associated with the 'āina. Moreover, requiring only a single member of critical decision-making bodies, such as the Land Use Commission (LUC) and Board of Land and Natural Resources (BLNR), to have experience or expertise in Hawaiian practices or resource management approaches, has not resulted in decisions that consistently recognize or incorporate Native Hawaiian knowledge, values, and rights. These issues in turn have led and continue to lead to substantial conflict, distrust in government decisions and processes, and even legal action against the state, and may further foreclose critical opportunities to ensure our islands' resiliency and self-sufficiency through culturally-informed land use and resource management.

This measure would seek to address the above challenges and ensure greater recognition and incorporation of Hawaiian perspectives, expertise, and rights in land use and resource management decision-making. First, it would provide clear statutory remedies for noncompliance with the Native Hawaiian law and training course requirement, including by

- Requiring an annual report by OHA and the Department of Land and Natural Resources of all individuals who have failed to meet the one-year training deadline under the law;
- Prohibiting individuals who have failed to meet their requirement from serving on a permitted interaction group or voting on any matter before their respective boards or commissions, until they have attended a training course;
- Removing untrained individuals from their respective boards or commissions at the end of the regular legislative session following their deadline to complete the training course, unless they complete the training course or are reconfirmed by the Senate before the session ends; and

Allowing the individual votes of untrained council, board and commission
members to be challenged and subject to being nullified and voided following a
contested case proceeding.

Second, this measure would require that four of the nine-member LUC and four members of the seven-member BLNR be appointed from a list of nominees submitted by OHA, similar to the way in which OHA nominees are appointed to the various island burial councils; this requirement would take effect after the end of the current terms of all sitting BLNR and LUC members. Such meaningful representation of Native Hawaiian perspectives will particularly ensure that land use and resource management decisions incorporate and benefit from Native Hawaiian practices, values, and knowledge relating to the 'āina.

(Attachment A)

OHA-2 Addressing Employment Discrimination Against Former Pa'ahao:

As noted in OHA's 2010 report on *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, the inability of former pa'ahao to find stable employment and support their families after their release is one of the major "collateral consequences" of incarceration, which particularly burden the Native Hawaiian community. Criminal background checks as part of the employment process may exacerbate this burden by allowing prospective employers to effectively discriminate against pa'ahao even after they have paid their debt to society. Notably, national studies show that employers may be far less inclined to hire individuals with even a misdemeanor criminal conviction record – particularly for individuals of color – and despite the length of time from their past illegal activity.

While existing state laws generally prohibit employment discrimination based on arrest and court records, Hawai'i statutes still allow employers to rescind job offers or make other employment decisions based on convictions up to ten years old, as long as the conviction has a "rational relationship" to the job. This express allowance and the ten-year criminal background checks it encourages may substantially and unreasonably hinder pa ahao efforts to earn a legitimate income and support their families, potentially leading to recidivist behavior and otherwise frustrating state investments in their rehabilitation and reentry into society.

This measure would mitigate the impacts of the ten-year criminal background checks encouraged under state law, by limiting the length of time that convictions may be used in employment decisions from a maximum time period of five years for felonies and three years for misdemeanors (subject to existing exceptions for certain occupations and agencies such as those related to law enforcement). These new limits will discourage most employers from using old and possibly irrelevant convictions in making employment decisions; shorten the unreasonably long ten-year background check period used by employers in evaluating job applicants; and ensure that those who have long past paid their debt to society receive a more meaningful opportunity to support themselves and their families and become contributing members of the community. By striking a better balance between employers' liability concerns and the need to provide pa'ahao

with meaningful employment opportunities, this measure will help to reduce recidivism, facilitate successful pa'ahao reentry, and enhance public safety in the long-term.

Importantly, this measure will not apply to employers who are expressly permitted to inquire into their employees' or prospective employees' criminal history pursuant to federal or state laws (e.g. DOE to determine suitability to work with children, public safety to insure against risks to the department or the public, etc.), nor will it affect existing reporting requirements (e.g. for sex offender registries).

(Attachment B)

OHA-3 Preventing of Historic Preservation Review Evasion and Other Violations: State historic preservation laws provide a process by which county grading- and construction-related permit applications can be vetted for potential impacts to iwi kupuna and archaeological/historical sites; this process includes the opportunity to attach permit conditions as well as develop and apply other protective measures to mitigate any potential impacts. Historic preservation laws further impose criminal and civil penalties for the knowing desecration of iwi kupuna, burials, and archaeological/historical sites, and for failing to stop work upon the discovery of a burial.

Despite these laws, concerns have been raised regarding landowners and contractors who ignore county permitting requirements before beginning construction work, thereby avoiding the procedural protections established under our historic preservation laws, and likely impacting countless iwi kupuna and archaeological/historical sites as a result. These concerns have been compounded by written statements from the State Historic Preservation Division that impacts to iwi kupuna from unpermitted grading or construction activities cannot be investigated or enforced after-the-fact, due to the likelihood that any evidence of such impacts have already been destroyed. For unscrupulous landowners and contractors, this admitted lack of after-the-fact enforcement may even represent a significant financial incentive to engage in unpermitted work especially where iwi kupuna may be found, as the otherwise minimal penalties for unpermitted work may be far less than the costs of complying with permitting processes and conditions protecting iwi kupuna and historic sites.

Accordingly, this measure would seek to better protect Native Hawaiians' ancestors by

- Providing for increased maximum fines for violations to the chapter, including unpermitted grading or construction activities that would have otherwise involved historic preservation review;
- Prohibiting any further work or permit issuance for the subject property where unpermitted activities occurred, until the submission and approval of a work schedule that includes recommended actions from SHPD staff or a departmentapproved archaeologist who has inspected the worksite for evidence of potential impacts to iwi kupuna or historic sites;
- Holding landowners and contractors jointly liable for all assessment and mitigation costs associated with unpermitted activities;
- Requiring the establishment of a citizen complaint intake process and the development of informational resources for citizens to document/report potential HRS 6E violations and impacts to iwi kupuna or historic sites;

- Requiring the posting of notice at worksites regarding iwi kupuna and historic
 preservation laws, and informing workers and the public of the citizen complaint
 intake process; and
- Amending the historic preservation special fund, which collects historic
 preservation fines and fees, to explicitly allow fund monies to be dedicated
 towards enforcement related activities.

(Attachment C)

OHA-4 Protecting Our Ancestors via SHPD Admin Rules (Resolution):

Both OHA and the federal government have noted concerns that support amendments to SHPD's administrative rule. Over the years, OHA's compliance division has chronicled and commented on persistent procedural inconsistencies relating to the identification and protection of iwi kupuna and burial sites, which have led to inconsistent and inadequate protection for iwi kupuna. Concerns about SHPD were also noted by a 2010 review of the Hawaii SHPD by the National Park service, who found significant operational problems with the division. Despite the apparent need for greater regulatory guidance to address these issues, no rule amendments have been made to the administrative rules for burial sites, iwi kupuna, or archaeological/historical sites and resources for many years. Specifically, there have also not been any updates to the administrative rules relating to the protection of iwi kupuna and burial sites for over 23 years, and the protection of archaeological/historical resources and sites for over 16 years.

The State Historic Preservation Division has been contemplating rulemaking action in the near future and this resolution would send a clear legislative message to the division that any such rulemaking must address specific, long-standing issues that have inhibited the consistent and appropriate protection of iwi kupuna, burial sites, and archaeological/historical resources and sites that embody the physical and spiritual legacies and final resting places of our ancestors. The resolution will point to general and specific rule provisions that SHPD should consider, and will likely include:

- Improving accountability for archaeologists responsible for surveying development sites;
- Developing an alternative or streamlined historic preservation process for projects specifically aimed at preserving or stewarding historic resources or cultural resources;
- Standardizing the archaeological inventory survey sampling and reporting requirements to improve consistency;
- Creating a process to reclassify "inadvertently discovered" burials as "previously identified" burials, especially where burials are discovered during exploratory testing or where burials are found in concentrations;
- Empowering the Island Burial Councils:
- Providing stronger and periodic training to Island Burial Councils on their statutory and administrative authorities and responsibilities;
- Improving requirements for consistent consultation with descendants and knowledgeable individuals throughout the historic preservation review process;
- Requiring the metes and bounds recordation of preservation sites at the Bureau of Conveyances; and

 Creating a process to document and address rule violations by cultural resource contractors.

(Attachment D)

OHA-5 Facilitating Practitioner Access Onto Private Lands:

The Hawai'i constitution provides cultural practitioners with the right to access less-than-fully-developed lands in the reasonable exercise of their Native Hawaiian traditional and customary practices; in recognition of Hawai'i's unique history of land ownership, land tenure, and native displacement, this right extends to both government and privately held lands. Unfortunately, both private and government landowners may be reluctant to provide explicit permission or otherwise accommodate practitioners seeking to access their lands, due to liability concerns. Such landowner reluctance may force practitioners to risk physical conflict or even the possibility of citation and/or arrest in order to access lands they do not have permission to be on. In the latter case, practitioners would also have the costly burden of proving in court that they were in fact engaged in the reasonable exercise of their traditional and customary practices, in order to avoid conviction and a criminal record. Faced with such risks and burdens, Native Hawaiian practitioners may choose to forego the continuation of their practices and the perpetuation of their culture, undermining the vision and intent of our unique constitutional protections.

This measure would address the liability concerns of private landowners and government entities (in the case of government lands not otherwise open to the public) who grant explicit permission to cultural practitioners to access their lands to specifically engage in Native Hawaiian traditional and customary practices. By protecting landowners from legal claims arising from such access, this measure would encourage their accommodation of practitioners and facilitate the perpetuation of Native Hawaiian traditional and customary practices, as envisioned in our constitution and otherwise protected under the law.

This measure does not require practitioners to obtain permission to exercise their constitutionally protected rights, but increases the likelihood that a landowner would grant permission, and thereby facilitate the perpetuation of Native Hawaiian cultural practices.

(Attachment E)

OHA-6 Capital Improvement Project Budget Request for OHA's Wahiawā Lands: OHA is working to plan, design, permit, and otherwise prepare for the construction of a water storage and distribution system on OHA's 511-acre property in Wahiawā. This activity aligns with OHA's Conceptual Master Plan (Plan) for the property, approved by the BOT in 2018, which requires a consistent and reliable water source for its implementation. This activity is also necessary to amend the conservation easement that accompanied OHA's acquisition of the property in 2012; the City and County of Honolulu (the holder of the easement) has communicated that OHA will need to demonstrate agricultural uses before the easement can be amended to accommodate the Plan's commercial elements. Notably, OHA has secured an allocation of water from the

Agribusiness Development Corporation (ADC), which would provide OHA with one million gallons of water per week from ADC's Bott Well; however, ADC cannot provide the water to OHA without a water storage system. OHA has committed OHA funds for FY 20 (\$200,000.00) and FY21 (\$300,000) for the planning, designing, and permitting of the system and is starting the procurement process. Bill OHA-6 would request state CIP funds raised by the issue of general obligation bonds to pay for the actual construction of the system, estimated by our research to be approximately \$3 million.

(Attachment F)

II. Issue

Should the OHA Board of Trustees support the new legislative proposals and approve their inclusion in the 2020 OHA Legislative Package?

III. Discussion

From July through October 2019, OHA Public Policy staff collected more than 40 legislative proposals from staff, key stakeholders, experts, and community leaders. These proposals were vetted, filtered, and developed into the legislative proposals offered in this Action Item for inclusion in the 2020 OHA Legislative Package.

Editing note:

With this Action Item, we also ask the Board of Trustees to authorize staff (1) to make, as appropriate, technical, non-substantive changes for style, clarity, consistency, and accuracy to all of the legislative proposals in the 2020 OHA Legislative Package (2) to add or amend preamble language in the measures for framing and editorial purposes and (3) to make changes to the title of the measures for strategic and clarifying reasons.

IV. Recommended Action

To support the new legislative proposals and include those new proposals in the 2020 OHA Legislative Package.

V. Alternative Actions

- A. To support only selected new legislative proposals and include only those selected new legislative proposals in the 2020 OHA Legislative Package.
- B. To not approve any of the new legislative proposals and not include any of the new legislative proposals in the 2020 OHA Legislative Package.

VI. Funding

No funding is required.

VII. Timeframe

Immediate action is recommended.

VIII. Attachments

- A. OHA-1 (Attachment A)
- B. OHA-2 (Attachment B)
- C. OHA-3 (Attachment C)
- D. OHA-4 (Attachment D)
- E. OHA-5 (Attachment E)
- F. OHA-6 (Attachment F)

PAGE INTENTIONALLY LEFT BLANK

ı	.B.	NO	

A BILL FOR AN ACT

RELATING TO HAWAIIAN EXPERTISE IN LAND USE AND RESOURCE MANAGEMENT.

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

- 1 SECTION 1. In Act 169, Session Laws of Hawai'i 2015, the
- 2 legislature found that pursuant to Hawai'i's constitution,
- 3 statutes, and case law, the State recognizes a mandate to
- 4 protect Native Hawaiian traditional and customary rights.
- 5 Accordingly, Act 169 amended chapter 10, Hawai'i Revised
- 6 Statutes, to require the Office of Hawaiian Affairs to
- 7 establish, design, and administer a training course on Hawaiian
- 8 rights, the sources of these rights, and how the infringement of
- 9 these rights affects the Hawaiian people, and further required
- 10 new members of certain state councils, boards, and commissions
- 11 to complete the training course within one year of their
- 12 appointment.
- Unfortunately, despite the regular provision of notice to
- 14 board and commission administrators, a significant number of
- 15 board and commission members subject to the mandatory training
- 16 course continue to fail to comply with their training course
- 17 completion responsibility. As a result, critical land use and

- 1 resource management decision-making may continue to be less than
- 2 fully informed on Native Hawaiian concepts, practices, and
- 3 rights.
- 4 The legislature further finds that, in recognition of the
- 5 importance of incorporating Native Hawaiian knowledge, values,
- 6 and rights in resource management decision-making, certain
- 7 critical decision-making bodies, such as the land use commission
- 8 and board of land and natural resources, are statutorily
- 9 required to have at least one member with experience or
- 10 expertise in Native Hawaiian practices or resource managment
- 11 approaches. However, requiring just one member of the land use
- 12 commission and one member of the board of land and natural
- 13 resources to possess such experience or expertise has not
- 14 resulted in decisions that consistently recognize or incorporate
- 15 Native Hawaiian knowledge, values, and rights.
- 16 These issues in turn have led and continue to lead to
- 17 substantial conflict, distrust in government decisions and
- 18 processes, and even legal action against the State, and may
- 19 further foreclose critical opportunities to ensure our islands'
- 20 resiliency and self-sufficiency through culturally-informed land
- 21 use and resource management.

1	Acco	rdingly, the legislature intends to ensure a deeper
2	understan	ding among board and commission members of the State's
3	legal res	ponsibilities to Native Hawaiians, Hawaiʻi's political
4	history,	the public land trust, Native Hawaiian traditional and
5	customary	rights, Hawaiʻi's water laws and the public trust
6	doctrine,	and laws relating to Native Hawaiian burials. The
7	legislatu	re further intends to ensure greater recognition and
8	incorpora	tion of Hawaiian knowledge, values, and rights in land
9	use and r	esource management decision-making. The purpose of
10	this meas	ure is to:
11	(1)	Prohibit council, board, and commission members who
12		fail to meet their training course completion
13		requirement from serving on a permitted interaction
14		group or voting on matters before their respective
15		councils, boards, or commissions;
16	(2)	Require council, board, and commission members who
17		fail to meet their training course completion
18		requirement to complete their training requirement or
19		be reconfirmed by the senate by the end of the regular
20		legislative session following their training course
21		completion deadline;

1	(3)	Require the Office of Hawaiian Affairs and the
2		department of land and natural resources to compile an
3		annual report of council, board, and commission
4		members who have failed to complete their training
5		course requirement, and to submit the report to the
6		governor and legislature no later than twenty days
7		prior to the convening of the regular legislative
8		session;
9	(4)	Require four members of the board of land and natural
10		resources to be nominated from a list provided to the
11		governor by the Office of Hawaiian Affairs; and
12	(5)	Require four members of the land use commission to be
13		nominated from a list provided to the governor by the
14		Office of Hawaiian Affairs.
15	SECT	ION 2. Section 10-42, Hawaiʻi Revised Statutes, is
16	amended t	o read as follows:
17	"[[]	§10-42[] Training relating to native Hawaiian and
18	Hawaiian	traditional and customary rights, natural resources and
19	access ri	ghts, and the public trust. (a) All council, board,
20	and commi	ssion members identified in section 10-41(a) shall
21	complete	the training course administered by the [office] Office
22	of Hawaii	an [affairs] <u>Affairs</u> pursuant to this section within

- 1 twelve months of the date of the member's initial appointment.
- 2 Members who fail to complete the training course within the
- 3 required period shall be:
- 4 (1) Prohibited from serving on a permitted interaction
- 5 group or voting on a matter before their respective
- 6 council, board, or commission until the mandatory
- 7 training course is completed; and
- 8 (2) Removed from their respective council, board, or
- 9 commission at the end of the regular legislative
- session following their deadline to complete the
- 11 training course, provided that such members shall not
- be removed if they complete the mandatory training
- course or obtain the advice and consent of the senate
- 14 to continue serving on their respective council,
- board, or commission by the end of the regular
- 16 legislative session following their deadline to
- 17 complete the training course.
- 18 (b) Individual votes taken by council, board, and
- 19 commission members who failed to complete the mandatory training
- 20 course may be challenged and subject to being nullified and
- voided following a contested case proceeding.

(c) The Office of Hawaiian Affairs and the department of 1 2 land and natural resources shall prepare an annual report of all council, board, and commission members who have failed to meet 3 the training requirement in this section as of September 21 of 4 each year, which shall be made available for public inspection 5 at the Office of Hawaiian Affairs, the department of land and 6 natural resources, and submitted to the governor and the 7 legislature no later than twenty days prior to the convening of 8 each regular session of the legislature. 9 [\(\frac{\text{(b)}}{\text{]}}\)] (d) The [\(\frac{\text{office}}{\text{]}}\) Office of Hawaiian [\(\frac{\text{affairs}}{\text{,}}\)] 10 Affairs, at its own expense, shall establish, design, and 11 administer a training course relating to native Hawaiian and 12 Hawaiian traditional and customary rights, native Hawaiian and 13 Hawaiian natural resource protection and access rights, and the 14 public trust, including the State's trust responsibility. 15 16 training course shall include: (1) Historical information, explanations, and discussions 17 of key state laws, state constitutional provisions, 18 and court rulings that reaffirm and provide for the 19 protection of native Hawaiian and Hawaiian rights; and 20 (2) A discussion of the importance of public trust 21

- resources and various programs to native Hawaiian and 1 Hawaiian rights. 2 [(c)](e) The [office] Office of Hawaiian [affairs,] 3 Affairs, at its own expense, shall develop the methods and 4 prepare any materials necessary to implement the training 5 course, administer the training course, and notify each council, 6 board, and commission identified in section 10-41(a) that 7 attendance in a training course is mandatory. 8 $[\frac{d}{d}](f)$ The $[\frac{d}{d}](f)$ The $[\frac{d}{d}](f)$ Office of Hawaiian $[\frac{d}{d}](f)$ 9 shall offer the training course at least twice per year. 10 [(e)](g) The governor shall provide to the [office] Office 11 of Hawaiian [affairs] Affairs the names of persons required to 12 take the training course pursuant to this part within thirty 13 calendar days of their initial appointment [by the governor]." 14 15 SECTION 3. Section 26-15, Hawai'i Revised Statutes, is amended to read as follows: 16 "§26-15 Department of land and natural resources. (a) 17 18 The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural 19 20 resources, except for matters relating to the state water code where the commission on water resource management shall have 21 22 exclusive jurisdiction and final authority.
 - OHA-1 Relating to Expertise in Land Use and Resource Management

.B. NO.

The board shall consist of seven members, one from each 1 land district and three at large. The appointment, tenure, and 2 removal of the members and the filling of vacancies on the board 3 shall be as provided in section 26-34. At least one member of 4 the board shall have a background in conservation and natural 5 resources, as provided in section 171-4. At least one member, 6 other than the member with a background in conservation and 7 natural resources, shall have demonstrated expertise in native 8 Hawaiian traditional and customary practices, as provided in 9 section 171-4, and at least four members shall have been 10 appointed from a list of nominees submitted to the governor by 11 the Office of Hawaiian Affairs, as provided under subsection 12 (b), to ensure assistance to the board to better administer the 13 public lands and resources with respect to native Hawaiian 14 15 issues and concerns, the public land trust obligations, and the recognition of native Hawaiian cultural values that are 16 intrinsically tied to the ['aina.] 'āina. 17 18 The governor shall appoint the chairperson of the board from among the members thereof. 19 20 The board may delegate to the chairperson such duties, powers, and authority, or so much thereof, as may be lawful or 21

OHA-1 Relating to Expertise in Land Use and Resource Management

proper for the performance of the functions vested in the board.

The chairperson of the board shall serve in a full-time 1 capacity. The chairperson, in that capacity, shall perform 2 those duties, and exercise those powers and authority, or so 3 much thereof, as may be delegated by the board. 4 Lists from the Office of Hawaiian Affairs to fill 5 (b) vacancies on the board shall be submitted as follows: 6 7 (1)For vacancies attributable to the expiration of terms, the list shall be submitted on the first business day 8 of December prior to the expiration of the terms; and 9 (2) For a vacancy that occurs during a board member's 10 term, the list shall be submitted within thirty 11 12 business days after the vacancy occurs. (C) The department shall manage and administer the public 13 lands of the State and minerals thereon and all water and 14 15 coastal areas of the State except the commercial harbor areas of 16 the State, including the soil conservation function, the forests and forest reserves, aquatic life, wildlife resources, state 17 parks, including historic sites, and all activities thereon and 18 19 therein including, but not limited to, boating, ocean recreation, and coastal areas programs. 20 [(a)](d) The functions and authority heretofore exercised 21 by the commissioner and board of public lands (including the 22

- 1 hydrography division and the bureau of conveyances), the Hawaii
- 2 water authority, the commission on ground water resources, the
- 3 Hawaii land development authority, the soil conservation
- 4 committee, and the commission on historical sites and the
- 5 function of managing the state parks and the function of
- 6 promoting the conservation, development and utilization of
- 7 forests, including the regulatory powers over the forest
- 8 reserve, aquatic life and wildlife resources of the State
- 9 heretofore exercised by the board of commissioners of
- 10 agriculture and forestry as heretofore constituted are
- 11 transferred to the department of land and natural resources
- 12 established by this chapter."
- SECTION 4. Section 205-1, Hawai'i Revised Statutes, is
- 14 amended by amending subsection (a) to read as follows:
- "[+](a)[+] There shall be a state land use commission,
- 16 hereinafter called the commission. The commission shall consist
- 17 of nine members who shall hold no other public office and shall
- 18 be appointed in the manner and serve for the term set forth in
- 19 section 26-34. One member shall be appointed from each of the
- 20 counties and the remainder shall be appointed at large; provided
- 21 that one member shall have substantial experience or expertise
- 22 in traditional Hawaiian land usage and knowledge of cultural

- 1 land practices [-], and at least four members shall have been
- 2 appointed from a list of nominees submitted to the governor by
- 3 the Office of Hawaiian Affairs. Lists from the Office of
- 4 Hawaiian Affairs to fill vacancies on the board shall be
- 5 submitted as follows:
- 6 (1) For vacancies attributable to the expiration of terms,
- 7 the list shall be submitted on the first business day
- 8 of December prior to the expiration of the terms; and
- 9 (2) For a vacancy that occurs during a board member's
- term, the list shall be submitted within thirty
- 11 business days after the vacancy occurs.
- 12 The commission shall elect its chairperson from one of its
- 13 members. The members shall receive no compensation for their
- 14 services on the commission, but shall be reimbursed for actual
- 15 expenses incurred in the performance of their duties. Six
- 16 affirmative votes shall be necessary for any boundary
- 17 amendment."
- 18 SECTION 5. Notwithstanding the amendments made by this Act
- 19 to section 26-15, Hawai'i Revised Statutes, each current sitting
- 20 board member may serve the remainder of the member's term, and
- 21 until the expiration of the current terms of all current sitting
- 22 board members, the decisions and other actions of the board

- 1 shall not be subject to challenge on the basis that the
- 2 requirement of section 26-15, Hawai'i Revised Statutes, that four
- 3 members of the board be appointed from lists submitted by the
- 4 Office of Hawaiian Affairs, has not been met.
- 5 SECTION 6. Notwithstanding the amendments made by this Act
- 6 to section 205-1, Hawai'i Revised Statutes, each current sitting
- 7 commission member may serve the remainder of the member's term,
- 8 and until the expiration of the current terms of all current
- 9 sitting commission members, the decisions and other actions of
- 10 the commission shall not be subject to challenge on the basis
- 11 that the requirement of section 205-1, Hawai'i Revised Statutes,
- 12 that four members of the commission be appointed from lists
- 13 submitted by the Office of Hawaiian Affairs, has not been met.
- 14 SECTION 7. Statutory material to be repealed is bracketed
- 15 and stricken. New statutory material is underscored.
- 16 SECTION 8. This Act shall take effect upon its approval.

INTRODUCED	BY:

By Request

 B.	N(D.	

A BILL FOR AN ACT

RELATING TO EMPLOYMENT DISCRIMINATION.

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

1	SECTION 1. PREAMBLE
2	SECTION 2. Section 378-2.5, Hawai'i Revised Statutes, is
3	amended by amending subsections (c) and (d) to read as follows:
4	"(c) For purposes of this section, "conviction" means an
5	adjudication by a court of competent jurisdiction that the
6	defendant committed a crime, not including final judgments
7	required to be confidential pursuant to section 571-84; provided
8	that the employer may consider the employee's conviction record
9	falling within a period that shall not exceed the most recent
10	[ten years,] five years for felony convictions and three years
11	for misdemeanor convictions, excluding periods of incarceration.
12	If the employee or prospective employee claims that the period
13	of incarceration was less than what is shown on the employee's
14	or prospective employee's conviction record, an employer shall
15	provide the employee or prospective employee with an opportunity
16	to present documentary evidence of a date of release to
17	establish a period of incarceration that is shorter than the

23

sentence imposed for the employee's or prospective employee's 1 conviction. 2 (d) Notwithstanding subsections (b) and (c), the 3 requirement that inquiry into and consideration of a prospective 4 employee's conviction record may take place only after the 5 individual has received a conditional job offer, and the 6 limitation to the most recent [ten year period,] five-year 7 period for felony convictions and three-year period for 8 9 misdemeanor convictions, excluding the period of incarceration, shall not apply to employers who are expressly permitted to 10 inquire into an individual's criminal history for employment 11 purposes pursuant to any federal or state law other than 12 subsection (a), including: 13 (1)The State or any of its branches, political 14 15 subdivisions, or agencies pursuant to sections 78-2.7 16 and 831-3.1; The department of education pursuant to section (2) 17 302A-601.5; 18 The department of health with respect to employees, 19 (3) providers, or subcontractors in positions that place 20 them in direct contact with clients when providing 21

to section 321-171.5;

non-witnessed direct mental health services pursuant

```
The judiciary pursuant to section 571-34;
         (4)
1
         (5)
              The counties pursuant to section 846-2.7(b)(5), (33),
2
              (34), (35), (36), and (38);
3
         (6)
              Armed security services pursuant to section 261-17(b);
4
              Providers of a developmental disabilities domiciliary
5
         (7)
              home pursuant to section 321-15.2;
6
         (8)
              Private schools pursuant to sections 302C-1 and
7
              378-3(8);
8
              Financial institutions in which deposits are insured
         (9)
9
              by a federal agency having jurisdiction over the
10
              financial institution pursuant to section 378-3(9);
11
12
         (10) Detective agencies and security guard agencies
              pursuant to sections 463-6(b) and 463-8(b);
13
14
         (11) Employers in the business of insurance pursuant to
              section 431:2-201.3;
15
16
         (12) Employers of individuals or supervisors of
              individuals responsible for screening passengers or
17
              property under title 49 United States Code section
18
              44901 or individuals with unescorted access to an
19
              aircraft of an air carrier or foreign carrier or in a
20
              secured area of an airport in the United States
21
              pursuant to title 49 United States Code section
22
              44936(a);
23
```

1	(13)	The department of human services pursuant to sections
2		346-97 and 352-5.5;
3	(14)	The public library system pursuant to section
4		302A-601.5;
5	(15)	The department of public safety pursuant to section
6		353C-5;
7	(16)	The board of directors of a cooperative housing
8		corporation or the manager of a cooperative housing
9		project pursuant to section 421I-12;
10	(17)	The board of directors of an association under
11		chapter 514B, or the managing agent or resident
12		manager of a condominium pursuant to section 514B-133;
13		and
14	(18)	The department of health pursuant to section
15		321-15.2."
16	SECT	ION 3. Statutory material to be repealed is bracketed
17	and stric	ken. New statutory material is underscored.
18	SECT	ION 4. This Act shall take effect upon its approval.

By Request

INTRODUCED BY:_____

THIRTIETH LEGISLATURE, 2020 STATE OF HAWAI'I

16

17

B. N	O
------	---

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

SECTION 1. Iwi kūpuna and wahi kūpuna are treasured among 1 the Native Hawaiian community as fundamental parts of its 2 history and identity. Burial sites and other historic sites are 3 4 physical vestiges of Native Hawaiian heritage; their continuing presence is vital to the perpetuation of the Native Hawaiian 5 culture and the unique mana and character of Hawai'i. 6 7 This legislature has acknowledged the deep significance of irreplaceable historic resources and has developed prudent 8 policy to protect iwi kūpuna and historic properties from 9 inadvertent destruction as a result of development. State 10 historic preservation laws provide a process by which county 11 12 grading- and construction-related permit applications can be 13 vetted for potential impacts to iwi kūpuna and other 14 archaeological and historic sites. Unfortunately, these goals are undermined when landowners 15

and developers circumvent required permits and, likewise, the

historic preservation review process they trigger. As a result,

- 1 it is impossible to know whether and how many significant
- 2 historic resources have been destroyed.
- 3 Therefore, the purpose of this Act is to better protect
- 4 historic properties and burial sites and facilitate stronger,
- 5 more effective enforcement against non-compliance with county
- 6 permitting processes that involve historic preservation review
- 7 as well as against violations of other historic preservation
- 8 review requirements by:

10

11

12

13

14

15

16

17

18

19

20

21

22

- (1) Explicitly clarifying that any failure to comply with advisement or approval processes that would trigger state historic preservation review shall be a violation of chapter 6E, Hawai'i Revised Statutes;
- (2) Authorizing the state historic preservation division of the department of land and natural resources to issue an order to stop work immediately where such a violation has occurred until a site inspection by department staff or an approved archaeologist is conducted and a work schedule for recommended mitigation or restoration measures is approved by the board of land and natural resources;
 - (3) Providing that any violators shall be responsible for the costs of site inspections and any mitigation or restoration measures recommended;

1	(4)	Increasing the limit for civil and administrative
2		fines for violations of historic preservation review
3		requirements to further disincentivize noncompliance;
4	(5)	Requiring the department to publish a list of
5		violators of chapter 6E, Hawai'i Revised Statutes, to
6		inform state agencies of the individuals and entities
7		with whom they are restricted from contracting
8		pursuant to subsection 6E-11(g);
9	(6)	Explicitly allowing for moneys in the historic
10		preservation special fund, including civil and
11		administrative fines collected for violations of
12		chapter 6E, to be expended for the costs of
13		enforcement against violations of chapter 6E;
14	(7)	Requiring the department to establish a citizen
15		complaint intake process and to prepare informational
16		materials, including a worksite poster, related to
17		that process for dissemination to the public; and
18	(8)	Requiring construction worksites to post prominently
19		an informational poster regarding the citizen
20		complaint intake process developed by the department.
21	SECT	ION 2. Section 6E-8, Hawaiʻi Revised Statutes, is
22	amended by	y amending subsection (a) to read as follows:

"(a) Before any agency or officer of the State or its 1 political subdivisions commences any project which may affect 2 historic property, aviation artifact, or a burial site, the 3 agency or officer shall advise the department and allow the 4 department an opportunity for review of the effect of the 5 proposed project on historic properties, aviation artifacts, or 6 burial sites, consistent with section 6E-43, especially those 7 listed on the Hawaii register of historic places. The proposed 8 project shall not be commenced, or if it has already begun, 9 10 continued, until the department has given its written concurrence. If: 11 12 (1)The proposed project consists of corridors or large land areas; 13 Access to properties is restricted; or (2) 14 15 (3) Circumstances dictate that construction be done in 16 stages, the department may give its written concurrence based on a 17 phased review of the project; provided that there shall be a 18 19 programmatic agreement between the department and the project applicant that identifies each phase and the estimated timelines 20 for each phase. 21 The department shall provide written concurrence or non-22

concurrence within ninety days after the filing of a request

- 1 with the department. The agency or officer seeking to proceed
- 2 with the project, or any person, may appeal the department's
- 3 concurrence or non-concurrence to the Hawaii historic places
- 4 review board. An agency, officer, or other person who is
- 5 dissatisfied with the decision of the review board may apply to
- 6 the governor, who may take action as the governor deems best in
- 7 overruling or sustaining the department.
- 8 Commencing or continuing any project or any phase of any
- 9 phased project without a written concurrence from the department
- 10 as required in this subsection shall be a violation of this
- 11 chapter."
- 12 SECTION 3. Section 6E-42, Hawai'i Revised Statutes, is
- 13 amended by amending subsection (a) to read as follows:
- 14 "(a) Except as provided in section 6E-42.2, before any
- 15 agency or officer of the State or its political subdivisions
- 16 approves any project involving a permit, license, certificate,
- 17 land use change, subdivision, or other entitlement for use,
- 18 which may affect historic property, aviation artifacts, or a
- 19 burial site, the agency or office shall advise the department
- 20 and prior to any approval allow the department an opportunity
- 21 for review and comment on the effect of the proposed project on
- 22 historic properties, aviation artifacts, or burial sites,

- 1 consistent with section 6E-43, including those listed in the
- 2 Hawaii register of historic places. If:
- 3 (1) The proposed project consists of corridors or large
- 4 land areas;
- 5 (2) Access to properties is restricted; or
- 6 (3) Circumstances dictate that construction be done in
- 7 stages,
- 8 the department's review and comment may be based on a phased
- 9 review of the project; provided that there shall be a
- 10 programmatic agreement between the department and the project
- 11 applicant that identifies each phase and the estimated timelines
- 12 for each phase.
- 13 Commencing or continuing any project or any phase of any
- 14 phased project without first obtaining an approval from an
- 15 agency or office that would have initiated the historic
- 16 preservation review process with the department pursuant to this
- 17 section is a violation of this chapter."
- 18 SECTION 4. Section 6E-10.5, Hawai'i Revised Statutes, is
- 19 amended to read as follows:
- 20 "§6E-10.5 Enforcement. (a) If the board of land and
- 21 natural resources determines that any person has violated or is
- violating this chapter, or any rule adopted pursuant to this
- 23 chapter, the board shall serve written notice by certified mail

1	~		~ ~		- lo -	_		~	violators
	()r	personal	Service	11177(7)11	1 rı 🗠	alleged	violator	()r	violators
	\circ	PCIDCIIGI		$\alpha \rho \circ i$	$c_{11}c$	a ± ± c g c a	VICICOI	\sim \pm	VICIACOID

- 2 specifying the alleged violation and may include with the
- 3 notice:
- 4 (1) An order to stop all work in the parcel containing the site of the violation;
- 6 (2) An order specifying a reasonable time during which
 7 that person shall be required to take such measures as
 8 may be necessary to correct the violation and to give
 9 periodic progress reports;
- 10 $\left[\frac{(2)}{(3)}\right]$ An order imposing penalties provided in section 11 6E-11.6; and
- [(3)](4) An order that the alleged violator or violators
 appear before the board for a hearing at a time and
 place specified in the notice or to be set later and
 answer the charges complained of.
- (b) If the board determines that any person is continuing
 to violate this chapter or any rule adopted pursuant to this
 chapter after having been served notice of violation, the board
 shall serve written notice by certified mail or personal service
 upon the alleged violator or violators specifying the alleged
 violation. With the notice, the board:
- 22 (1) Shall order the violator or violators to cease and
 23 desist from the activities that violate this chapter

1		or any rule adopted thereunder and to stop work in any
2		parcel or parcels where unauthorized or unapproved
3		work has commenced, until the board accepts the
4		written schedule required by this subsection;
5	(2)	Shall order the alleged violator or violators to
6		submit a written schedule within thirty days
7		specifying the measures to be taken and the time
8		within which the measures shall be taken to bring that
9		person into compliance with this chapter or any rule
10		adopted thereunder[-]; provided that for violations
11		involving the commencement or continuation of work
12		without a written concurrence from the department as
13		required by 6E-8(a) or an approval from an agency or
14		office that would have triggered historic preservation
15		review requirements as required by 6E-42(c), the
16		written schedule shall include findings and a timeline
17		of mitigation or restoration measures for any impacted
18		or potentially impacted burial site or historic
19		property as recommended by department staff or an
20		archaeologist approved by the department who has
21		conducted an inspection of the site, provided further
22		that the violator or violators shall be responsible
23		for all costs of any site inspection. The board shall

1		accept or modify the submitted schedule within sixty
2		days of receipt of the schedule. Any schedule not
3		acted upon after sixty days of receipt by the board
4		shall be deemed accepted by the board;
5	[(2)	Shall order the alleged violator or violators to
6		cease and desist from the activities that violate this
7		chapter or any rule adopted thereunder, if that person
8		does not submit a written schedule to the board within
9		thirty days. This order shall remain in effect until
10		the board accepts the written schedule;
11	(3)	May impose penalties as provided in section 6E-11.6;
12		and
13	(4)	May order the alleged violator or violators to appear
14		before the board for a hearing to answer the charges
15		issued, at a time and place specified in the notice or
16		otherwise set by the board.
17	(c)	If the board determines that any person has violated
18	an accepte	ed schedule or an order issued pursuant to this
19	section,	the board shall impose penalties by sending a notice in
20	writing,	either by certified mail or by personal service to that
21	person, de	escribing such non-adherence or violation with
22	reasonable	e particularity.

- 1 (d) Any order issued pursuant to this chapter shall become
- 2 final, unless the person or persons named therein requests in
- 3 writing, not later than twenty days after notice of violation
- 4 and order is served, a hearing before the board. Upon request
- 5 for a hearing, the board shall require that the alleged violator
- 6 or violators appear before the board for a hearing to answer the
- 7 charges issued, at a time and place specified in the notice or
- 8 otherwise set by the board.
- 9 Any penalty imposed pursuant to this chapter shall become
- 10 due and payable twenty days after the notice of penalty is
- 11 served, unless the person or persons named therein requests in
- 12 writing a hearing before the board. Whenever a hearing is
- 13 requested on any penalty imposed pursuant to this chapter, the
- 14 penalty shall become due and payable only upon completion of all
- 15 review proceedings and the issuance of a final order confirming
- 16 the penalty in whole or in part.
- 17 (e) Any hearing conducted pursuant to this section shall
- 18 be conducted as a contested case under chapter 91. If, after a
- 19 hearing held pursuant to this section, the board finds that a
- 20 violation or violations has occurred, the board shall:
- 21 (1) Affirm or modify any penalties imposed;
- (2) Modify or affirm the order previously issued; or

Issue an appropriate order or orders for the (3) 1 prevention, abatement, or control of the violation or 2 for the taking of such other corrective action as may 3 be appropriate. 4 Any order issued after a hearing may prescribe timetables 5 for necessary action in preventing, abating, or controlling the 6 violation. If, after a hearing on an order or penalty contained 7 in a notice, the board finds that no violation has occurred or 8 is occurring, the board shall rescind the order or penalty. 9 10 If the amount of any penalty is not paid to the (f) department within thirty days after it becomes due and payable, 11 the board may institute a civil action in the name of the State 12 to collect the administrative penalty, which shall be a 13 government realization. In any proceeding to collect the 14 15 administrative penalty imposed, the board need only show that: 16 (1)Notice was given; A hearing was held, or the time granted for requesting 17 (2) a hearing has run without such a request; 18 19 (3) The administrative penalty was imposed; and (4)The penalty remains unpaid. 20 In connection with any hearing held pursuant to this 21 section, the board may subpoena the attendance of witnesses and 22 the production of evidence on behalf of all parties." 23

SECTION 5. Section 6E-11, Hawai'i Revised Statutes, is 1 2 amended by amending subsections (f) and (g) to read as follows: 3 "(f) Any person who violates this section shall be fined not more than [\$10,000] \$25,000 for each separate violation. If 4 the violator directly or indirectly has caused the loss of, or 5 damage to, any historic property or burial site, the violator 6 shall be fined an additional amount determined by the 7 environmental court or an administrative adjudicative authority 8 to be equivalent to the value of the lost or damaged historic 9 property or burial site. Each day of continued violation of 10 this provision shall constitute a distinct and separate 11 violation for which the violator may be punished. Land owners 12 and developers responsible for projects where violations are 13 14 found to have occurred shall execute any mitigation and preservation measures ordered by the department and shall be 15 jointly and severally liable for the costs of such mitigation 16 and preservation. Equipment used by a violator for the taking, 17 18 appropriation, excavation, injury, destruction, or alteration of any historic property or burial site, or for the transportation 19 20 of the violator to or from the historic property or burial site, shall be subject to seizure and disposition by the State without 21 22 compensation to its owner or owners.

- 1 (g) Any person who [knowingly] violates this chapter with
- 2 respect to burial sites shall also be prohibited from
- 3 participating in the construction of any state or county funded
- 4 project for ten years. The department shall maintain a list of
- 5 violators who have violated this chapter with respect to burial
- 6 sites during the preceding ten years and the dates and locations
- 7 of such violations, provided that the list shall be transmitted
- 8 to all other state departments and the counties annually, and
- 9 made available to the public."
- SECTION 6. Section 6E-11.5, Hawai'i Revised Statutes, is
- 11 amended to read as follows:
- 12 "§6E-11.5 Civil penalties. Except as provided in section
- 13 6E-11, any person who violates this chapter, or any rule adopted
- 14 pursuant to this chapter shall be fined not less than \$500 nor
- 15 more than [\$10,000] \$25,000 for each separate violation. Each
- 16 day of each violation constitutes a separate violation."
- SECTION 7. Section 6E-16, Hawai'i Revised Statutes, is
- 18 amended by amending subsection (b) to read as follows:
- 19 "(b) Subject to legislative authorization, the department
- 20 may expend moneys from the fund:
- 21 (1) For permanent and temporary staff positions;
- 22 (2) To replenish goods;
- 23 (3) To produce public information materials;

1	(4)	To provide financial assistance to public agencies and	
2		private agencies in accordance with chapter 42F	
3		involved in historic preservation activities other	
4		than those covered by section 6E-9; [and]	
5	(5)	To cover administrative and operational costs of the	
6		historic preservation program[.]; and	
7	(6)	To cover administrative and operational costs for	
8		enforcement of this chapter."	
9	SECT	ION 8. Chapter 6E, Hawaiʻi Revised Statutes, is amended	
10	by adding	a new section to part I to be appropriately designated	
11	and to read as follows:		
12	" <u></u> § 6E	Citizen complaint intake hotline. (a) The	
13	departmen	t shall establish an intake hotline by which citizens	
14	may confi	dentially report via telephone or electronic	
15	communica	tion alleged violations of this chapter.	
16	(b)	The department shall develop and distribute to the	
17	public ap	propriate informational materials, including a worksite	
18	poster th	at explains the statutory protections for burials,	
19	historica	l sites, and archaeological resources, and provides	
20	informati	on on how citizens can submit complaints to the citizen	
21	complaint	intake hotline.	
22	(C)	Beginning on July 1, 2021, a copy of the department's	
23	informati	onal poster shall be prominently posted at all	

- 1 worksites where ground disturbing construction activities take
- 2 place to provide notice of the citizen complaint intake hotline
- 3 to construction personnel or the public."
- 4 SECTION 9. Statutory material to be repealed is bracketed
- 5 and stricken. New statutory material is underscored.
- 6 SECTION 10. This Act shall take effect upon its approval.

INTRODUCED BY:	
----------------	--

By Request

THIRTIETH LEGISLATURE,	2020
STATE OF HAWAI'I	

 C.	R.	N(O. ₋	
			_	

CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ADOPT ADMINISTRATIVE RULES TO BETTER PROTECT IWI KUPUNA AND NATIVE HAWAIIAN CULTURAL AND HISTORIC RESOURCES.

WHEREAS, our State's cultural heritage is imbued in its historic and cultural resources; and

WHEREAS, preservation of irreplaceable historic properties and cultural resources as well as responsible stewardship of precious and sacred iwi kupuna is of utmost importance to Native Hawaiians and the State; and

 WHEREAS, Chapter 6E, Hawai'i Revised Statutes, authorizes the Department of Land and Natural Resources (Department), through its State Historic Preservation Division, to adopt rules in accordance with Chapter 91, Hawai'i Revised Statutes, in order to administer historic preservation review laws and regulate the treatment and protection of invaluable historic properties and resources throughout the state; and

WHEREAS, the Department's historic preservation rule chapters have not been updated in over fifteen years or longer in some instances; and

WHEREAS, the Department's historic preservation rules are, in places, incomplete, ineffective, and inadequate to provide clear guidance on historic preservation processes and strong protection for historic resources and iwi kupuna; and

 WHEREAS, the Department's historic preservation rules contain no standards for professional responsibility in archaeology and no process to regulate archaeology permits or discipline archaeologists who engage in practices that cause harm to historical resources or departmental resource waste; and

WHEREAS, the Department's historic preservation rules fail to distinguish requirements for projects aimed at developing land which may harm, displace, or destroy historic and cultural resources and projects aimed at rehabilitating, restoring, preserving, and or stewarding historic or cultural resources; and

5

WHEREAS, the Department's historic preservation rules have failed to adequately effectuate statutory protections for burial sites, especially in areas with large concentrations of skeletal remains, as contemplated in Section 6E-63, Hawai'i Revised Statutes; and

WHEREAS, under current historic preservation rules, "previously identified" burials are burials identified during an archaeological inventory survey (AIS) or burials previously registered with the State Historic Preservation Division; and

WHEREAS, "inadvertently discovered" burials are all other burials including burials found during exploratory testing that may use the same exact methodologies as an AIS and that may occur prior to the commencement of work; and

WHEREAS, the current distinction between what are considered "previously identified" burials and "inadvertently discovered" burials leads to vastly different decision-making processes, with "previously identified" burial disposition determinations made by the Island Burial Councils and "inadvertently discovered" burial disposition determinations made by the State Historic Preservation Division; and

 WHEREAS, the Island Burial Councils possess far more appropriate expertise to advise upon, and make determinations about dispositions of burials and moepu, irregardless of their classification as "previously identified" or "inadvertently discovered"; and

WHEREAS, the distinction between "previously identified" burials and "inadvertently discovered" burials does not warrant such vastly differential treatment such that burial councils are completely left out of decision-making on burial dispositions for "inadvertently discovered" burials, especially when the "inadvertently discovered" burials are located in close

proximity to previously identified burials, leading to patchwork and inconsistent burial treatment plans; and

WHEREAS, the different processes, treatments, and dispositions applied respectively to "previously identified" and "inadvertently discovered" burials has incentivized irresponsible archaeological testing practices that minimize the prior identification of burial sites, and that has thereby resulted in the disinterment of countless burials contrary to the intent of Hawai'i's historic preservation laws; and

WHEREAS, the Department's historic preservation rules require recordation of the metes and bounds of unmarked burial sites with the Bureau of Conveyances to provide perpetual protection to such sites, but they do not require the same for historic preservation sites such as heiau, which has caused the unintentional destruction of many historic properties; and

 WHEREAS, the Department's historic preservation rules require consultation with descendants and knowledgeable individuals to inform determinations on the historic significance of sites, but these consultation requirements are inconsistently effectuated and inadequately enforced; and

 WHEREAS, the inadequacy of the Department's historic preservation rules has caused much confusion, costly litigation, and the destruction of invaluable and irreplaceable historic resources and cultural sites as well as iwi kupuna; now, therefore,

 BE IT RESOLVED by the [originating chamber] of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2021, the [non-originating chamber] concurring, that the Department of Land and Natural Resources is requested to adopt administrative rules that strengthen historic resource protections by:

- (1) Improving accountability for archaeologists responsible for surveying, recording, and making recommendations for treatment of historic resources discovered on development sites;
- 42 (2) Developing an alternative or streamlined historic 43 preservation process to facilitate the approval of 44 preservation plans and permits for projects

5

- specifically aimed at rehabilitating, preserving, or stewarding historic properties or cultural resources;
- (3) Standardizing and formalizing the archaeological inventory survey sampling and reporting requirements to improve thoroughness and consistency;
- (4) Creating a process to allow for the reclassification of "inadvertently discovered" burials as "previously identified", especially where burials are discovered during exploratory testing authorized or ordered by the Department or where burials are discovered in concentrations;
- (5) Empowering the Island Burial Councils with greater authority, responsibility, and deference to advise in the historic preservation review process and determine the treatment of Native Hawaiian burials;
- (6) Providing stronger and periodic training to Island Burial Councils on their statutory and administrative authorities and responsibilities;
- (7) Requiring landowners to record the metes and bounds of preservation sites with the Bureau of Conveyances to ensure perpetual protection of culturally significant and irreplaceable historic sites and resources;
- (8) Clarifying requirements for consultation with the Native Hawaiian community and organizations throughout the historic preservation review process when Native Hawaiian historic and cultural sites are threatened by development; and
- (9) Providing for stricter fines, clearer enforcement processes, and a process by which citizens may report the discovery and potential destruction of burials and other historic resources, to improve the effectuation of historic preservation review process and the enforcement of historic properties protections; and

BE IT FURTHER RESOLVED that the Department of Land and Natural Resources is requested to report on the status and progress of its administrative rules proceedings to the Legislature no later than twenty days before the convening of the regular session of 2021; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chairperson of the Board of Land and Natural Resources and the Chairperson of the Board of Trustees of the Office of Hawaiian Affairs.

Page	5
------	---

C.R.	NO	
O.1 (.	110.	

1			
	OFFERED BY:		
		Ry Request	

B. I	NO

A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

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

1 SECTION 1. The legislature finds that article XII, section 7 of the Hawai'i state constitution requires the state to protect 2 3 and enforce the reasonable exercise of Native Hawaiian traditional and customary rights. The legislature further finds 4 that Native Hawaiians are legally entitled to engage in the 5 reasonable exercise of such rights and associated practices on 6 both publicly and privately owned lands that are less than fully 7 developed, regardless of whether or not they are granted express 8 permission by landowners. However, notwithstanding the rights 9 of Native Hawaiian cultural practitioners, public and private 10 11 landowners and property managers may refuse to accommodate practitioners' access to sites and resources on lands under 12 their ownership or control, due to liability concerns. As a 13 result, practitioners may often be forced to risk potential 14 15 conflict with landowners or property managers as well as face potential citation and even arrest, in order to exercise their 16 constitutionally recognized right to reasonably engage in Native 17

Hawaiian traditional and customary practices.

18

- 1 The legislature finds that although there are statutory
- 2 liability protections for private landowners who allow
- 3 recreational users to access their lands free of charge,
- 4 liability concerns regarding the scope of these protections
- 5 continue to result in the denial of access to cultural
- 6 practitioners seeking to enter private lands. In addition, the
- 7 legislature finds that existing liability protections for
- 8 landowners who allow the recreational access and use of private
- 9 lands do not extend to public lands or landowners. Accordingly,
- 10 the legislature finds that the state's obligation to protect and
- 11 enforce the constitutional rights of Native Hawaiians requires
- 12 statutory amendments that can better facilitate the exercise of
- 13 Native Hawaiian traditional and customary rights and associated
- 14 practices, by explicitly extending liability protections to all
- 15 landowners who specifically allow practitioners of Native
- 16 Hawaiian traditional and customary practices to access and use
- 17 their lands to engage in such practices.
- 18 The purpose of this Act is to establish a new chapter in
- 19 the Hawai'i Revised Statutes that provides liability protections
- 20 for public and private landowners who expressly allow
- 21 practitioners of Native Hawaiian traditional and customary
- 22 practices to access and use their lands to engage in such
- 23 practices.

- 1 SECTION 2. The Hawai'i Revised Statutes is amended by
- 2 adding a new chapter to be appropriately designated and to read
- 3 as follows:
- 4 "CHAPTER
- 5 **S** -1 Purpose. The purpose of this chapter is to
- 6 encourage owners of land to make land and water areas available
- 7 for the exercise of Native Hawaiian traditional and customary
- 8 rights and associated practices by limiting their liability
- 9 toward persons entering thereon for such purpose.
- 10 § -2 Definitions. As used in this chapter:
- "Charge" means the admission price or fee asked in return
- 12 for invitation or permission to enter or go upon the land.
- "Cultural practitioner" means any person who is on or about
- 14 the premises that the owner of land either directly or
- 15 indirectly invites or permits, without charge, entry onto the
- 16 property for the purpose of engaging in a Native Hawaiian
- 17 traditional and customary practice.
- "Land" means land, roads, water, watercourses, private ways
- 19 and buildings, structures, and machinery or equipment when
- 20 attached to realty, other than lands owned by the government
- 21 that are open to the public.
- "Owner" means the possessor of a fee interest, a tenant,
- 23 lessee, occupant, or person in control of the premises,

- 1 including but not limited to private individuals, corporations,
- trusts, and public entities.
- 3 "Native Hawaiian traditional and customary practice" means
- 4 any practice that is exercised pursuant to article XII, section
- 5 7 of the Hawai'i state constitution.
- 6 S -3 Duty of care of owner limited. Except as
- 7 specifically recognized by or provided in section -5, an
- 8 owner of land owes no duty of care to keep the premises safe for
- 9 entry or use by others for the purpose of engaging in a Native
- 10 Hawaiian traditional and customary practice, or to give any
- 11 warning of a dangerous condition, use, structure, or activity on
- 12 such premises to persons entering for such purposes, or to
- 13 persons entering for a purpose in response to a cultural
- 14 practitioner who requires assistance, either direct or indirect,
- 15 including but not limited to rescue, medical care, or other form
- 16 of assistance. For the purposes of this section, a statement or
- 17 assertion that a person is seeking entry or use of the premises
- 18 in order to engage in a Native Hawaiian traditional and
- 19 customary practice shall be sufficient to establish that the
- 20 person's entry or use of the premises is for the purpose of
- 21 engaging in such a practice.
- 22 § -4 Liability of owner limited. (a) Except as
- 23 specifically recognized by or provided in section -5 an owner
- 24 of land who either directly or indirectly invites or permits

- 1 without charge any person to use the property for the purpose of
- 2 engaging in a Native Hawaiian traditional and customary practice
- 3 does not:
- 4 (1) Extend any assurance that the premises are safe for any purpose;
- 6 (2) Confer upon the person the legal status of an invitee 7 or licensee to whom a duty of care is owed;
- 8 (3) Assume responsibility for, or incur liability for, any
 9 injury to person or property caused by an act of
 10 omission or commission of such persons; and
- 11 (4) Assume responsibility for, or incur liability for, any
 12 injury to person or persons who enter the premises in
 13 response to an injured cultural practitioner.
- (b) An owner of land who is required or compelled to

 provide access or parking for such access through or across the

 owner's property because of state or county land use, zoning, or

 planning law, ordinance, rule, ruling, or order, to reach

 property used for the purpose of engaging in a Native Hawaiian

 traditional and customary practice, shall be afforded the same

 protection as to such access, including parking for such access,
- 21 as an owner of land who invites or permits any person to use
- 22 that owner's property for the purpose of engaging in a Native
- 23 Hawaiian traditional and customary practice under subsection
- **24** (a).

- 1 § -5 Exceptions to limitations. Nothing in this chapter
- 2 limits in any way any liability which otherwise exists:
- 3 (1) For wilful or malicious failure to guard or warn
- 4 against a dangerous condition, use, or structure which
- 5 the owner knowingly creates or perpetuates and for
- 6 wilful or malicious failure to guard or warn against a
- 7 dangerous activity which the owner knowingly pursues
- 8 or perpetuates.
- 9 (2) For injury suffered in any case where the owner of
- land charges the person or persons who enter or go on
- 11 the land for the use thereof, except that in the case
- of land leased to the State or a political subdivision
- thereof, any consideration received by the owner for
- such lease shall not be deemed a charge within the
- meaning of this section.
- 16 (3) For injuries suffered by a house guest while on the
- owner's premises, even though the injuries were
- incurred by the house guest while engaged in one or
- more of the activities designated in section -2.
- 20 § -6 Persons using land. Nothing in this chapter shall
- 21 be construed to:
- 22 (1) Create a duty of care or ground of liability for
- injury to persons or property.

Page 7

1	(\(\(\(\) \)	Refleve any person using the land of another for the
2		purposes of engaging in a Native Hawaiian traditional
3		or customary practice from any obligation which the
4		person may have in the absence of this chapter to
5		exercise care in the person's use of such land and in
6		the person's activities thereon, or from the legal
7		consequences of failure to employ such care."
8	SECT	ION 6. This Act shall take effect upon its approval.
9		

INTRODUCED BY:

BY REQUEST

THIRTIETH LEGISLATURE, 2020 STATE OF HAWAII

.B.	NO	

A BILL FOR AN ACT

RELATING TO A WATER STORAGE AND DISTRIBUTION SYSTEM FOR CERTAIN AGRICULTURAL LAND IN WAHIAWĀ, O'AHU.

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

- 1 SECTION 1. The director of finance is authorized to issue
- 2 general obligation bonds in the sum of \$3,000,000 or so much
- 3 thereof as may be necessary and the same sum or so much thereof
- 4 as may be necessary is appropriated for fiscal year 2020-2021
- 5 for the purpose of funding construction costs of a water storage
- 6 and distribution system on agricultural lands owned by the
- 7 Office of Hawaiian Affairs in Wahiawā, O'ahu surrounding the
- 8 Kūkaniloko Birthing Stones site.
- 9 The project will include the water storage structures, site
- 10 work, security fencing, piping, distribution pumps, and stub
- 11 outs to feed an irrigation system.
- 12 The sum appropriated shall be expended by the Office of
- 13 Hawaiian Affairs for the purposes of this Act.
- 14 SECTION 2. The appropriation for the capital improvement
- 15 project authorized by this Act shall not lapse at the end of the
- 16 fiscal biennium for which the appropriation is made; provided

6

By Request

that all moneys from the appropriation unencumbered as of June
30, 2022 shall lapse as of that date.

SECTION 3. This Act shall take effect on July 1, 2020.

INTRODUCED BY:

ATTACHMENT 2

Office of Hawaiian Affairs 560 N. Nimitz Highway, Suite 200 Honolulu, HI 96817

Roll Call Vote Sheet

COMMITTEE ON
BENEFICIARY ADVOCACY AND
EMPOWERMENT (BAE)

DATE: November 27, 2019

MOTION: 2:05 p.m.

AMENDMENT: 2:08 p.m. AMENDMENT VOTE: 2:09 p.m.

MAIN MOTION, UNAMENDED VOTE:2:09 p.m.

AGENDA ITEM:

V. New Business

A. ACTION ITEM: BAE #19-02: Approval of 2020 OHA Legislative Package**

MOTION: 2:05 p.m.

- 1 Trustee Dan Ahuna
- 2 Trustee Brendon Kalei'āina Lee

MOTION:

To support the following new legislative proposals and approve their inclusion in the 2020 OHA Legislative Package

(See referenced attachments for text of the proposals):

- OHA-1 Restoring Hawaiian Expertise in Land Use and Resource Management: (Attachment A)
- OHA-2 Addressing Employment Discrimination Against Former Pa'ahao: (Attachment B)
- OHA-3 Preventing of Historic Preservation Review Evasion and Other Violations (Attachment C)
- OHA-4 Protecting Our Ancestors via SHPD Admin Rules (Resolution): (Attachment D)
- OHA-5 Facilitating Practitioner Access Onto Private Lands: (Attachment E)
- OHA-6 Capital Improvement Project Budget Request for OHA's Wahiawā Lands: (Attachment F)

AMEND	MENT:	2:08	p.m.

- 1 Trustee Keli'i Akina
- 2 Trustee Hulu Lindsey (for the purpose of discussion)

AMENDMENT MOTION:

To bifurcate OHA -1 out, as its own voted-on measure, for a separate vote.

MEANS OF FINANCING:

			1	1	1		
AMENDMENT					4101 =	17.4.1.1.1.4	
				'AE	A'OLE	KANALUA	
TRUSTEE		1	2	(YES)	(NO)	(ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA				X		
VICE-CHAIR KALEIHIKINA	AKAKA				X		
KELI'I	AKINA	1		X			
BRENDON KALEI'ĀINA	LEE				X		
CARMEN HULU	LINDSEY		2		X		
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE'E			X			
TOTAL V	OTE COUNT			2	4	0	3

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

DISCUSSION:	

MAIN MOTION, UNAMENDED: 2:09 p.m.

MAIN MOTION, UNAMENDED:

To support the following new legislative proposals and approve their inclusion in the 2020 OHA Legislative Package (See referenced attachments for text of the proposals):

- OHA-1 Restoring Hawaiian Expertise in Land Use and Resource Management: (Attachment A)
- OHA-2 Addressing Employment Discrimination Against Former Pa'ahao: (Attachment B)
- OHA-3 Preventing of Historic Preservation Review Evasion and Other Violations (Attachment C)
- OHA-4 Protecting Our Ancestors via SHPD Admin Rules (Resolution): (Attachment D)
- OHA-5 Facilitating Practitioner Access Onto Private Lands: (Attachment E)
- OHA-6 Capital Improvement Project Budget Request for OHA's Wahiawā Lands: (Attachment F)

AMENDMENT:

MEANS OF FINANCING:

AMENDMENT							
				'AE	A'OLE	KANALUA	
TRUSTEE		1	2	(YES)	(NO)	(ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA	1		X			
VICE-CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE		2	X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO						EXCUSED
CHAIR JOHN	WAIHE`E			Х			
TOTAL V	OTE COUNT			6	0	0	3

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

DISCUSSION:	

Office of Hawaiian Affairs Board of Trustee Meeting December 5, 2019 10:00 am

V. New Business

- B. Committee on Resource Management
 - 1. Presentation: CLA OHA & LLCs Contract & Disbursement Review Final Report*

*- If there is any material for this item, it will be distributed after the RM Committee meeting on December 4, 2019.

Office of Hawaiian Affairs MEETING OF THE COMMITTEE ON RESOURCE MANAGEMENT

COMMITTEE REPORT

December 4, 2019

The Honorable Colette Machado, Chairperson Board of Trustees Office of Hawaiian Affairs

Madame Chair Machado,

The Committee on Resource Management, having met on December 4,2019 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

Move to recommend that: 1) the Board of Trustees receive the final report on OHA & OHA's LLCs Contract & Disbursement Review prepared by CliftonLarsonAllen LLP and commissioned by the Board under 3284, as amended; and 2) direct Administration to review and analyze the recommendations contained in the final report and report back to the RM Committee with its analysis and plan to implement the recommendations at the first Resource Management Committee meeting in January 2020.

Relevant attachments are included for your information and reference. Attachment(s):

1) Roll Call Vote Sheet

Respectfully submitted:

Trustee Dan Ahuna, Chair Trustee

Tustee Kalei Akaka, Member

Trustee Leina'ala Ahu Isa, Member

Trustee Robert Lindsey, Member

Trustee Keli'i Akina, Member

Trustee Colette Machado, Member

Trustee Hulu Lindsey, Member

Trustee John Waihe'e, IV, Member

Trustee Brendon Lee, Member

Office of Hawaiian Affairs 560 N Nimitz Hwy. Ste. 200 Honolulu, HI 96817

Action Item

COMMITTEE	ON	
RESOURCE	MANAGEMENT	(RM)

DATE: Dec. 4, 2019

Motion: Vote:

AGENDA ITEM:

III. NEW BUSINESS

C. Presentation: CLA - OHA & LLCs Contract & Disbursement Review

Final Report

MOTION: Move to recommend that: 1) the Board of Trustees receive the final report on OHA & OHA's LLCs Contract and Disbursement Review prepared by CliftonLarsonAllen LLP and commissioned by the Board under contract 3284, as amended; and 2) direct Administration to review and analyze the recommendations contained in the final report and report back to the RM Committee with its analysis and plan to implement the recommendations at the first Resource Management Committee meeting in January 2020.

AMENDMENT:

MEANS OF FINANCING:

TRU	STEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (2 kanalua's =ABSTENTION)	EXCUSED
LEI	AHU ISA						Not present
KALEI	AKAKA			X			
KELI 'I	AKINA		2	X			
BRENDON	LEE			Х			
HULU	LINDSEY			Х			
ROBERT	LINDSEY						EXCUSED
COLETTE	MACHADO	1		X			
JOHN	WAIHE'E			Х			
CHAIR DAN	AHUNA			X			
TOTA	L VOTE COUNT			7			

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

DISCUSSION:			

Office of Hawaiian Affairs Board of Trustee Meeting December 5, 2019 10:00 am

VI. Executive Session*

- A. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding Makekau, et al. v. State of Hawaii, et al. *Pursuant to HRS §92-5(a)(4)*.
- B. Approval of Minutes1. September 26, 2019

^{*-} Any material that is relevant to this section will be distributed at the table during Executive Session.