

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

**JOINT MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT AND THE
COMMITTEE ON RESOURCE MANAGEMENT**

DATE: Tuesday, July 12, 2022

TIME: 9:00 a.m.

PLACE: Virtual Meeting

Viewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 856 5447 7246

Due to COVID-19, the OHA Board of Trustees and its standing committees will hold virtual meetings until further notice. This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 856 5447 7246. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order

II. Approval of Minutes

A. JOINT BAE-RM Meeting Minutes of June 23, 2021*

III. New Business

A. **Action Item BAE-RM #22-01:** Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust*

B. **Action Item BAE-RM #22-02:** Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000*

IV. Announcements

V. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Everett Ohta at telephone number (808) 594-1988 or by email at: everetto@oha.org no later than three (3) business days prior to the date of the meeting. Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.



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

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

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

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

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

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

https://us06web.zoom.us/webinar/register/WN_tT2MikqxQQWlvqJTcVwTBA

You need to register if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide oral testimony during the virtual meeting.

To provide oral testimony online, you will need:

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

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


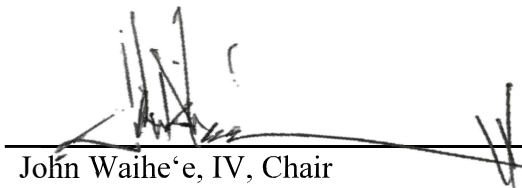
Oral testimony online or at the physical meeting location will be limited to five (5) minutes. Oral testimony by telephone/landline will not be accepted at this time.

Once your oral testimony is completed, you will be asked to disconnect from the meeting. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.



STATE OF HAWAII
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Please visit OHA’s website for more detailed information on how to submit Public Testimony OR Community Concerns at: <https://www.oha.org/how-to-submit-testimony-for-oha-bot-meetings/>

	7/6/2022		7/6/2022
Trustee Kaleihikina Akaka, Chair Committee on Beneficiary Advocacy and Empowerment	Date	John Waihe'e, IV, Chair Committee on Resource Management	Date

Committee on Beneficiary Advocacy and Empowerment

Trustee Kaleihikina Akaka, O'ahu, *Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Keli'i Akina, At-Large

Trustee Luana Alapa, Moloka'i / Lāna'i

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Carmen Hulu Lindsey, Maui

Trustee Mililani Trask, Hawai'i Island

Trustee John Waihe'e IV, At-Large



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

Committee on Resource Management

Trustee John Waihe'e IV, At-Large, *Chair*Trustee Luana Alapa, Moloka'i / Lāna'i, *Vice Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Kaleihikina Akaka, O'ahu

Trustee Keli'i Akina, At-Large

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Carmen Hulu Lindsey, Maui

Trustee Mililani Trask, Hawai'i Island

**JOINT MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT AND THE
COMMITTEE ON RESOURCE MANAGEMENT**

DATE: Tuesday, July 12, 2022**TIME:** 9:00 a.m.**PLACE:** Virtual MeetingViewable at www.oha.org/livestream OR

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AGENDA

I. Call to Order

II. Approval of Minutes**A. JOINT BAE-RM Meeting Minutes of June 23, 2021***

III. New Business

A. Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust*

B. Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000*

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STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200

JOINT MEETING of the
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT (BAE)
and the COMMITTEE ON RESOURCE MANAGEMENT (RM)
MINUTES

June 23, 2021 1:30 p.m.

ATTENDANCE:

RM Chairperson John Waihe'e, IV
RM Vice-Chairperson Luana Alapa
BAE Chairperson Kaleihikina Akaka
BAE Vice-Chairperson Keola Lindsey
Trustee Leina'ala Ahu Isa
Trustee Dan Ahuna
Trustee Keli'i Akina
Trustee Brendon Kalei'aina Lee
Trustee Carmen Hulu Lindsey

BOT STAFF:

Crayn Akina
Melissa Wennihan

ADMINISTRATION STAFF:

Sylvia Hussey, Ed. D., CEO / Ka Pouhana / Administrator
Casey Brown, COO / Ka Pou Nui
Erin Nakama, IT
Everett Ohta, CC
Kevin Chak, IT
Maile Lu'uwai, GRANTS
Miki Cachola Lene, GRANTS
Raina Gushiken, CC
Ramona Hinck, CFO
Tiger Li, IT

GUESTS:

Germaine Meyers

I. CALL TO ORDER

RM Chair Waihe'e calls the Joint Meeting of the Committee on Beneficiary Advocacy and Empowerment and the Committee on Resource Management for Wednesday, June 23, 2021 to order at **1:31 p.m.**

RM Chair Waihe'e notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (1:31 p.m.)	TIME ARRIVED
RM CHAIR	JOHN	WAIHE'E, IV	PRESENT	
RM VICE-CHAIR	LUANA	ALAPA	PRESENT	
BAE CHAIR	KALEIHIKINA	AKAKA	PRESENT	
BAE VICE-CHAIR	KEOLA	LINDSEY	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN "HULU"	LINDSEY	PRESENT	

At the Call to Order, **NINE (9)** Trustees are **PRESENT**, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

Germaine Meyers: Thank you. Aloha, Chair Waihe'e, Vice-Chair Alapa, Trustees, lāhui and staff members.

I'm kind of flustered because I was listening earlier to the Biennium Budget meeting and what I am here for, is to speak about the agenda item, which is the grants. I emailed all of you my concerns about the grants that are being recommended today and the research that I did. I couldn't provide any type of testimony regarding the applications because I was denied receiving the applications.

As I shared with you earlier, I contacted the Grants Manager, she's on the line right now. I had asked for copies of the grant applications, for those that were eligible and those that were ineligible. I asked her for the process that was followed, how was the scoring done, etc. She got defensive and said that she wouldn't give that to me - and I had to go through UIPA.

So now what I've contended with is when I heard Ka Pouhana's comment earlier, in the budget meeting, saying that, well, some of the scores may have been lower, that's why we only gave the top four.

So, the question is:

- *Who scored them?*
- *Who created the scoring system?*
- *What were they scored on?*
- *Were the organizations interviewed?*
- *Did they go out and check out the situation?*
- *Did they ask if they already received CARES funds to fund that program, that they're not asking for grants for?*
- *How much CARES Act did they get to fund their services?*
- *How much of it is grassroots?*

Then looking at the 990's and seeing if their Executive Directors or the CEOs are getting paid and compensated in such a high amount. The figures that I gave you in my email yesterday, were only compensations that would be claimed on the W-2 form, meaning what they're going to get in cash on their W-2 form in the form of a paycheck, right. It didn't even include the amounts that are for their benefits; like medical etc. The ones that I shared with you having these high compensations like, \$220,000 - \$240,000 that didn't even include \$20,000+ in other benefits that are not on the W-2 form.

Compared to the one in Maui that I had acknowledged that they were getting paid low; for 55 hours they were only like \$8,000 in benefits. So twice as much of other compensation benefits are also needed to be considered. With such a short period of time. and without being given these documents, I can't give you a comprehensive understanding as a beneficiary of the process.

What it comes down to is nonprofits that take \$8 million or \$15 million in government grants and pay the three top people \$700,000 in salary versus grassroots that may have gotten low scores because they secure volunteers in their community. They hear the community, they are part of the community, and they look in the community. They get calls saying, *"Aunty, I need food. Daddy is still high on meth and we don't have anything and Tutu doesn't have anything for us."* This or that.

Germaine Meyers: I don't want to give names, but I have had experiences with people, total strangers that I don't know, that have families that are living on the streets, because they're high on meth. They take their food stamp monies from the kupuna to buy crystal meth by selling the food stamps.

These are the kinds of stuff that we're dealing with on the ground level. So, when we finally trust the system, thinking that the system is going to be pono to look for ways in which to help us to reach our community - then to see that the ones that are paying their top three - is the ones that are going to get more grant money. Then when you ask the question, *how is the process done?* Then there's defensiveness about; Don't ask me how I came to consider the one that's paying \$700,000 in salary to three people, then I'm concerned. So, I'm looking at my time I only have seconds left, so that's all I can say. Thank you, Trustees. Thank you, Chair Waihe'e.

RM Chair Waihe'e: Thank you Germaine. *Were there any questions for Germaine?*

There are zero questions.

RM Chair Waihe'e: If there are no objections, I would like to ask our honorable BAE Chair Akaka if she would agree to move each BAE & RM Motion and Vote concurrently for both committees.

BAE Chair Akaka: 'Ae.

III. APPROVAL OF MINUTES

A. JOINT BAE-RM Meeting Minutes of May 18, 2021

Trustee Ahu Isa moves to concurrently approve the JOINT BAE-RM meeting minutes of May 18, 2021.

Trustee Alapa seconds the motion.

RM Chair Waihe'e asks if there is any discussion or corrections.

There is no discussion. Nor are there corrections.

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the **BAE** and **RM Committees** concurrently.

BAE COMMITTEE							1:38 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA		2	X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

RM COMMITTEE							1:38 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA		2	X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

IV. UNFINISHED BUSINESS

None

V. NEW BUSINESS

- A. ACTION ITEM BAE-RM #21-09: Approve the Awarding of Budget Realignment #3 Unexpended Funds for a total of \$496,260 to the Iwi Kupuna Repatriation & Reinternment Grant, the Homestead Community Grant, the 'Ohana & Community Based Program Grant, and the COVID-19 Impact & Response Grant**

RM Chair Waihe'e: *Are we doing each of these separately?*

Ka Pouhana Hussey: Yes, Chair Waihe'e.

RM Chair Waihe'e: *Ok, can we get the Motion on the table?*

V.A. – MOTION #1

Trustee Ahu Isa moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$50,000 from the reallocation of Budget Realignment #3 Unexpended Funds to the Iwi Kupuna Repatriation & Reinternment Grant, Core Operating Budget (Object Code 56530) to Awardee: Supporting the Language of Kaua'i, Inc.

Trustee Hulu Lindsey seconds the motion.

RM Chair Waihe'e asks if there is any discussion.

There is no discussion.

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V. A. - MOTION 1							Motion: 1:42 p.m. Vote: 1:44 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V. A. - MOTION 1							Motion: 1:42 p.m. Vote: 1:44 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #2

Trustee Ahu Isa moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$21,905 from the reallocation of Budget Realignment #3 Unexpended Funds to Homestead Community Grant, Core Operating Budget (Object Code 56530) to Awardee: Homestead Community Development Corporation.

Trustee Hulu Lindsey seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V. A. - MOTION 2							Motion: 1:45 p.m. Vote: 1:46 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 2							Motion: 1:45 p.m. Vote: 1:46 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #3

Trustee Akina moves to concurrently approve and award the following Fiscal Year 2021 disbursements totaling \$159,543 from the reallocation of Budget Realignment #3 Unexpended Funds to the 'Ohana & Community Based Program Grant - O'ahu, Core Operating Budget (Object Code 56530):

1.	Institute for Native Pacific Education and Culture	\$10,768
2.	The Salvation Army Family Treatment Services	\$148,775

Trustee Ahu Isa seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.A. - MOTION 3							Motion: 1:46 p.m. Vote: 1:47 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
KELI'I	AKINA	1		X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 3							Motion: 1:46 p.m. Vote: 1:47 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA	1		X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #4

Trustee Hulu Lindsey moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$118,832 from the reallocation of Budget Realignment #3 Unexpended Funds to 'Ohana & Community Based Program Grant - Hawai'i Island, Core Operating Budget (Object Code 56530) to Awardee: Big Island Substance Abuse Council.

RM Vice-Chair Alapa seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.A. - MOTION 4							Motion: 1:48 p.m. Vote: 1:49 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA		2	X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 4							Motion: 1:48 p.m. Vote: 1:49 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA		2	X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #5

Trustee Hulu Lindsey moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$23,507 from the reallocation of Budget Realignment #3 Unexpended Funds to ‘Ohana & Community Based Program Grant - Maui, Core Operating Budget (Object Code 56530) to Awardee: Hana Arts.

BAE Chair Akaka seconds the motion.

RM Chair Waihe’e asks if there is any discussion. *There is none.*

RM Chair Waihe’e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.A. - MOTION 5							Motion: 1:50 p.m. Vote: 1:50 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 5							Motion: 1:50 p.m. Vote: 1:50 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #6

Trustee Hulu Lindsey moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$20,801 from the reallocation of Budget Realignment #3 Unexpended Funds to ‘Ohana & Community Based Program Grant - Kaua‘i, Core Operating Budget (Object Code 56530) to Awardee: Hanalei River Heritage Foundation.

Trustee Ahuna seconds the motion.

RM Chair Waihe‘e asks if there is any discussion.

Trustee Ahuna: I just wanted to thank all the people who came and visited the island and got to see the organizations on the island that were able to share. I wanted to apologize that we were unable to cover the entire island. We were supposed to go to the statue unveiling of King Kaumuali‘i; where we were supposed to meet more of the Ni‘ihau people. I’m so sorry we were unable to do that. I just wanted to thank everyone who came, and everyone who participated in our meetings on Kaua‘i. Thank you so much.

RM Chair Waihe‘e: Thank you Trustee Ahuna.

RM Chair Waihe‘e asks if there is any further discussion.

There is no further discussion.

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.A. - MOTION 6							Motion: 1:51 p.m. Vote: 1:52 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 6							Motion: 1:51 p.m. Vote: 1:52 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #7

Trustee Hulu Lindsey moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$3,020 from the reallocation of Budget Realignment #3 Unexpended Funds to COVID-19 Impact & Response Grants - O'ahu, Core Operating Budget (Object Code 56540) to Awardee: Ke Kula Nui O Waimanalo.

RM Vice-Chair Alapa seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.A. - MOTION 7							Motion: 1:53 p.m. Vote: 1:54 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA		2	X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 7							Motion: 1:53 p.m. Vote: 1:54 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA		2	X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #8

Trustee Ahu Isa moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$85,743 from the reallocation of Budget Realignment #3 Unexpended Funds to COVID-19 Impact & Response Grants - Hawai'i Island, Core Operating Budget (Object Code 56540) to Awardee: KUPU.

BAE Chair Akaka seconds the motion.

RM Chair Waihe'e asks if there is any discussion.

Trustee Hulu Lindsey: Mr. Chair, I noticed that this awardee is on several islands - and I just wondered how these monies are going to be given out.

Grants Manager Lu'uwai: Aloha Trustees, this is Maile, I can speak to that. So, when we did the COVID solicitations, we actually restricted organizations from multiple applications per each solicitation, but because we had solicitation for all the islands, we allowed applicants if they wanted to apply across the island chain, similar to our statewide programs.

That's why KUPU was awarded for multiple islands.

If you look at the program, it's an excellent program, excellent opportunity for our Native Hawaiian community to be a part of this program. So, that's why KUPU has awards on several different islands for the same type of program.

Trustee Hulu Lindsey: My question is - *was there no qualified people from the island of Hawai'i to distribute those funds?*

Grants Manager Lu'uwai: Well, for this grant, when we move to COVID, the COVID action item, Hawai'i Island does have multiple funders for our COVID money.

KUPU was one of the applicants for our COVID - Hawai'i Island. So, we're kind of going backwards, because after this, we're going to be moving to the COVID action item, and you will see the other organizations that have been awarded for Hawai'i Island COVID. KUPU was actually one of the applicants, and they were only partially funded.

So, they were the last of the top scoring applicants; and so that's why we're coming in for the reallocation money because we had extra funds to fully fund this grant.

That's what we're recommending. It was only partially funded. When we go to the Hawai'i Island action item, you'll see that.

Trustee Hulu Lindsey: Okay, my point in questioning Maile is these funds are directed towards the islands individually and I just think that the island people know their beneficiaries better than O'ahu. I understand KUPU is from O'ahu and I just wondered if the island people don't know their people better to do the awards. I didn't see Maui yet, but I'm assuming it's KUPU too and I'm going to have the same question. So, I'm asking a general question on behalf of the islands.

Grants Manager Lu'uwai: We didn't restrict them from applying for a grant to serve this, the Native Hawaiian community on this island. So, that would require - that if we do islands specific solicitations, then we would have to restrict applicants to only applicants that are based on that island.

So, in order to get the result that you want, that's how we would have to proceed - is to only allow applicants from a specific island organization to apply for that specific solicitation for that island - and we didn't do that here.

Trustee Hulu Lindsey: I see.

As an island trustee - my preference is that you give preference to the island and still consider everybody else, but there should be a preference for the island that you're giving out the money to. I would rather my Maui people give out the money to the Maui beneficiaries - *because who knows them better than the Maui people?*

Grants Manager Lu'uwai: Trustee, we can definitely incorporate a preference for our island-specific solicitations. I think that is a great idea to provide that preference for our neighbor island organization. So, we can definitely do that.

Trustee Hulu Lindsey: Thank you, Maile.

Trustee Keola Lindsey: Building on this because we're on it. KUPU, I believe the recommendation is for three separate islands - *right?*

So, they could apply, but if it's awarded, they have to utilize and report on the use of those funds, even though it's for the same program individually - *right?*

You can't use money that was awarded from one island on another.

Is there a restriction on that part of it?

Grants Manager Lu'uwai: Yes. So, we would contract them specifically to serve the Moloka'i Community for KUPU on Moloka'i. For Hawai'i Island we would do the same thing.

So, we are contracting specific to what they applied for, for that specific Island. So yes, that money; expenditures, everything would have to be targeted under that contract specific to that island.

Trustee Keola Lindsey: *And that's something Maile that you and your team are going to be monitoring and reporting from the grantees, right?*

Grants Manager Lu'uwai: Oh, yes, we do.

Trustee Keola Lindsey: One more question. So, the idea of islands-specific preference - *it sounds like we have a process in place that allows us to do that already?*

We don't need to create anything new? We can do that?

Grants Manager Lu'uwai: We could create a preference in the solicitations. So, if we go back to the table again, and we have island-specific solicitations, we would create a preference for organizations that are based on that island.

So, it probably, off the top of my head, would be some type of scoring element.

Right now, we have a preference for Native Hawaiian serving organizations, we already have that embedded in our solicitations. So, we can figure out a way how to get that done and how to do it.

Trustee Keola Lindsey: Thank you, Maile. Thank you, Mr. Chair.

Trustee Lee: Maile, I think more what Trustee Keola Lindsey was asking is:
Does that require Board action to add that preference?
Or, is that something that Administration can just add in?

Grants Manager Lu'uwai: Administration can just add-in.

Trustee Lee: Okay.

Grants Manager Lu'uwai: I think you're looking at kuleana.

Trustee Lee: That's fine. *I think that's more what his question was right?*
Do you currently have a process?
Or - does the Board have to create this process?

Grants Manager Lu'uwai: Oh, okay. Yeah, it's Administration's kuleana.

RM Chair Waihe'e recognizes RM Vice-Chair Alapa, followed by Trustee Ahuna.

RM Vice-Chair Alapa: Thank you. Hi, really quick question. *Maile is KUPU, a Native Hawaiian Organization?*

Grants Manager Lu'uwai: I have to go look. I have staff members out there and looking; I'll get you that answer. Yeah, I would have to go back and look at the application. I don't have it all memorized off the top of my head. Most of them I know, but that one I don't know off the top of my head.

Trustee Ahu Isa: KUPU is huge, it's by John Leong.

Grants Manager Lu'uwai: Any moment now, one of my employees is going to message me and tell me. So, I'll get to that answer.

RM Vice-Chair Alapa: Okay, if they're not a Native Hawaiian Organization, *how does that affect them, then, in the awarding of the...?*

Grants Manager Lu'uwai: Well, Native Hawaiian serving organizations actually get a 10 point preference in our applications. So Native Hawaiian serving organization means that at least 50% or more of the participants, members, or clients that you currently serve, because we don't want you to make it up - so, you currently serve are Native Hawaiian.

Grants Manager Lu'uwai: That's evaluated. We look at the data that they provide. We look at that and if they are Native Hawaiian serving; they get 10 points. So, they get a 10-point lead in the application process.

If you look how close the scoring is, a lot of the scoring is really close - that 10-point lead makes a significant difference. If you see how the organizations that we now are awarding has changed in the last several years, it's actually changed because of that Native Hawaiian preference because our Native Hawaiian organizations have an advantage coming in and competing for our OHA funding.

On the federal level, it's way different. ANA requires that the majority of your Board members are Native Hawaiian.

We're requiring the majority of the people that you serve, are Native Hawaiian.

So that's how that works. *Did I answer that question?*

Trustee Hulu Lindsey: I have a follow up question, Maile. If that's the case - *where is this COVID money coming from? Our Native Hawaiian Trust or from the Federal Government?*

Grants Manager Lu'uwai: This is from our Trust. This came out of your FY20 BOT approvals.

Trustee Hulu Lindsey: That's what I thought; so, it concerns me that we're supporting 50% non-Hawaiians. That's not what our grant programs are for.

Grants Manager Lu'uwai: No, this is the preference that we created for Native Hawaiian serving organizations. So, if your organization serves 50% or more Native Hawaiians, right, so that means you're serving more than 50%.

A lot of the organizations we're looking at serve like 70%, 80%, it's huge. So, you would be serving more than 50% of your client-participant member base, being Native Hawaiian.

Most of these organizations - it's way more than 50%, when they check that box and provide us the data and background. It's more than that.

Trustee Hulu Lindsey: Well, I'm going to be asking for the report for the island of Maui.

Grants Manager Lu'uwai: Okay.

Trustee Ahuna: I did want to add that KUPU is funding jobs on the island of Kaua'i. I believe, on the other islands, so what I'm trying to say is, I'm not sure if there are other organizations on each island that have the capacity to do what they are doing. They're a great organization. I think they're doing a great job for Native Hawaiians on our islands. So, just wanted to say thank you.

RM Chair Waihe'e asks if there is any further discussion.

There is no further discussion.

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.A. - MOTION 8							Motion: 1:54 p.m. Vote: 2:06 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 8							Motion: 1:54 p.m. Vote: 2:06 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA	1		X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #9

Trustee Hulu Lindsey moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$12,489 from the reallocation of Budget Realignment #3 Unexpended Funds to COVID-19 Impact & Response Grants - Maui, Core Operating Budget (Object Code 56540) to Awardee: Maui Economic Opportunity, Inc.

Trustee Ahu Isa seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.A. - MOTION 9							Motion: 2:08 p.m. Vote: 2:09 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 9							Motion: 2:08 p.m. Vote: 2:09 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.A. – MOTION #10

Trustee Hulu Lindsey moves to concurrently approve and award a Fiscal Year 2021 disbursement totaling \$420 from the reallocation of Budget Realignment #3 Unexpended Funds to the Board Approved Award for Homestead Community Development Corporation to administer and disburse Ni‘ihau FY 2021 ‘Ohana & Community-based Program Grant and COVID-19 Impact & Response Grant funds.

BAE Chair Akaka seconds the motion.

RM Chair Waihe‘e asks if there is any discussion.

Trustee Lee: I know it's only \$420, but if Maile could elaborate what the money is for, just because there is not Homestead Community on Ni‘ihau, and Ni‘ihau is privately-owned land. Just so we know what it's for.

Grants Manager Lu‘uwai: Yes, this is one of the first years that we're going to be funding two grants, both the COVID and the ‘Ohana grant for Ni‘ihau. I believe Trustees approved this for FY20. So, I was a little bit shocked - *how am I going to do that?*

So, what we did was, contacted different organizations on Kaua‘i to make that Ni‘ihau contact because all of that money needs to go directly to that island to benefit the Native Hawaiians there. Some of the organizations that were recommended to us did not have a 501(c)(3), so we couldn't use them.

We have currently a successful grant with HCDC and some of the Board members are from Ni‘ihau. So, for \$420, that's what we're going to pay HCDC, they will help us administer and make contact with the community to identify those needs. They're small funding pots, but it could make a significant difference for that island; identify those funding needs.

What HCDC is going to do - they're going to become our grant contractor, and their job is to make contact, make sure the needs are identified, and make sure that money is expended towards those identified needs - which we don't know what that is yet.

As soon as those needs are identified, then we're going to create a budget for that and make sure that the money gets dispersed to the island. HCDC for \$420 will do all the work and all the reporting and the expenditure reports and follow-up. So that's what this is about.

Trustee Lee: Cool.

Trustee Ahuna, maybe you can answer this; *is this in consultation with the Robinson Family, since they're the ones that own the island?*

Trustee Ahuna: Okay, I do want to speak up for HCDC; and the reason why I say this is because they're also in Kekaha, which is our Ni‘ihau community.

Trustee Lee: Right, I think they're great.

Trustee Ahuna: I wanted to say this is because not everyone could go visit all the places that needed help, and our CEO and myself got to go visit and talk to them. This is another organization that is very unique, they have a large capacity, they have a lot of people helping them in this organization.

For me, we don't want to recreate it, it's already there, they're in place to help the people from Ni'ihau. Ni'ihau is like almost two islands, there's two charter schools, two churches, there's a lot, but Kekaha is where they're centralized.

Trustee Lee: Right and that's kind of part of my question. I'm aware because I was fortunate enough to be invited there many, many, many years ago, that there is a private community in Kekaha, that is considered Ni'ihau, *right?* You have to be from Ni'ihau to access that community.

So, can they use these funds there? Or do these funds have to actually be expended on the island of Ni'ihau?

Trustee Ahuna: I believe they have a State Public School System there too. So, they receive State funds.

Trustee Lee: Not really answering my question.

Grants Manager Lu'uwai: I'll answer your question. The funding is specific for Ni'ihau Island; and so the money is to be used for Ni'ihau Island.

Trustee Lee: *So, is this working in conjunction with the Robinson family?*

Grants Manager Lu'uwai: Yes, this is going to be HCDC. This is going to be their job - to make those contacts, coordinate, identify those needs, and then make sure the funding is expended in that manner.

The reason I'm coming for \$420 is because I didn't want to take any administrative fee out of the Ni'ihau money because there's hardly any money. I didn't want to ask them to do it for free even though they probably would have. So, this is actually a 10% administrative fee, and that's why I'm asking for it.

RM Chair Waihe'e: Ok. *Is there any further discussion?*

There is no further discussion.

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.A. - MOTION 10							Motion: 2:10 p.m. Vote: 2:15 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.A. - MOTION 10							Motion: 2:10 p.m. Vote: 2:15 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Trustee Hulu Lindsey: *Mr. Chair, can I deviate?*

In this morning's meeting, I asked about the COVID money being earmarked for certain communities. I asked if seven entities, Maile, were approved as far as being eligible to receive the monies.

Why didn't we give the seven communities - and gave only four, for example, especially Honolulu?

Grants Manager Lu'uwai: Okay, so the grants program, implements grants best practices.

So, I want to start to, I want to talk about the evaluation process, *right?*

So, we're a grant making entity. We use an evaluation process to score and then identify those top scored applications and then we fund the highest scored applications because of this evaluation process. If I funded all eligible applications, I think Kūlia had like 12, and we're funding six.

If we just blanket anybody who applies, if they're eligible, we're going to fund them, then we don't need an evaluation process and we don't need a scoring process. This is what the result is going to be; when grant reviewers evaluate each one of these applications, what they look at is capacity, organizational capacity.

For some specific grants like homestead, they really wanted to hone-in on mission statements, *right?* If they're serving homestead communities, but they are scored on organizational capacity, they are scored on their experience specific to the proposal that they're submitting that specific application.

They are also scored on the needs assessment that they provide in their application. They are scored on the impact on their Native Hawaiian community impact. They are also scored, whether-or-not they are in alignment with our strategic plan and those very important outcomes that are in our strategic plan, because that's where we're going to get our significant data regarding impact.

So, my big goal in the end everything...

Trustee Hulu Lindsey: Maile, I don't want you to go into great detail, I do understand the process. What I'm questioning you about is the COVID-19 impact money; it's different from all other monies that we give out in grant form. It affects everybody in the community, everybody on the island.

My question is, and I know that you approved seven entities, but you gave only four.

So why couldn't we have shared the money for the impact of the COVID-19 among all of our Hawaiians and let it go as far as it'll go?

I understand the process of granting...

Grants Manager Lu'uwai: So, there wouldn't have been a need for the evaluation process; because what you're telling me that all eligible applications that met our minimal, minimum eligibility requirements should have been funded across the board, and each of these organizations given an equal amount of money. *Is that what you're saying?*

Trustee Hulu Lindsey: I'm saying that you approved seven, but you didn't approve some; so, I'm talking about the seven. *So how can you give Waimānalo and Papakōlea and don't give any to Nānākuli, the west side of our island, they're not gonna get any COVID money?*

Grants Manager Lu'uwai: Okay. Number one, the seven organizations that you're looking at are seven eligible organizations.

Trustee Hulu Lindsey: Yes, but you only gave four.

Grants Manager Lu'uwai: That were eligible after the evaluation process; we gave the funding to the highest scored applications. If we gave to all seven organizations, what we would have had to do is dilute everyone's budget and give everybody money across the board and here's going to be the result.

There may be organizations that do not have the experience, background, and capacity to implement that grant. That's why we score them. There may be already where they didn't have defined needs assessments, and that their application didn't really, address Native Hawaiian impact.

There could be organizations that had applications that were not aligned with our strategic plan and so if I just awarded everybody, all eligible applications across the board, our result is going to be seven partially funded grants into our community.

Some of those organizations are not going to have the capacity to implement their grants, because they don't have the experience, they didn't identify community impact, and do a good needs assessment.

The organizations that were the highest scoring organizations, then will have their budgets diluted and I'll give you an example.

The highest scoring organization for O'ahu; when I look at their budget, and what they plan to implement, if I cut their budget, dilute their budget, because I'm giving to all seven organizations right now, I would have had to cut their budget in half. There was no way they would have been able to implement the program that they proposed in their application, or it would be a half-okole one.

The bottom-line result for us when we're looking at impact and outcomes for our Native Hawaiian community, especially our outcomes aligned with our strategic plan, none of them are going to be able to meet any of those outcomes, because they're going to be partially funded, and the lead organization probably will back out.

That highest scoring applicant that I looked at; I was thinking no way they would be able to do it, if they were only partially funded. They probably would take their application off the table. We would lose the highest scoring applicant that could have gone into our Waimānalo community and made a significant impact on our lahui in our Waimānalo community.

I think that is the reason why we have this process, even for COVID. You have to have some type of process. You want quality. You want organizations that have capacity. You want organizations that have experience that they can. You also want to make sure that COVID money going into our community addresses need assessments that are clearly identified for our community and are aligned with our outcomes.

Trustee Hulu Lindsey: I hope that's going to happen.

Grants Manager Lu'uwai: It will.

Trustee Keola Lindsey: I was wondering if it's possible for Maile to share a little bit between, like, what are some of the things that makes an organization eligible versus I think she's talked a lot about what happens once they're eligible, and you get into the scoring, and evaluation capacity, need and all that. I learned about this, too. So, the eligibility, I'm not going to say, it's easy, but those are some of the basic things that an organization needs. Just a few Maile...

Pou Nui Brown: *Maile, can I interject?* If you can describe qualified, eligible, and approved because those three things matter in this relationship.

Grants Manager Lu'uwai: Sure, number one let's start with eligible.

There are minimum eligibility requirements for our grants and most of them are statutory, we have to comply with HRS§10-17 and we are a State agency. In every solicitation, you'll see minimum eligibility requirements and for us, number one, you have to be a 501(c)(3), we need your IRS letter of determination.

Don't get bummed out, because if you don't have one, you can get a fiscal sponsor that has one. So, you'll see that some of our programmatic grants - a lot of our 'Ahahui grants have fiscal sponsors.

So, your fiscal sponsor or you, has that IRS letter of determination. You have to have a clean CVC and this is for all State agencies and a clean, a compliant CVC means that you've paid your State taxes, you've paid your Federal taxes, you're up to date on your DCCA and I think that's what it is.

A lot of the organizations that were deemed ineligible, did not have compliant DCCAs including Germanie's organization; so, they did not have a compliant DCCA.

We also have certifications that they have to check off, and those I align straight with HRS§10-17. So, if you meet these minimum eligibility requirements, then you go into the evaluation process; so that's eligibility number one.

You meet all the eligibility requirements, then you move to the next phase, which is application evaluation. That's when your application gets evaluated based. If you look at all of our solicitations, our scoring system, everything is in there. The criteria, and all the application questions are actually also in our solicitations; and so that next phase you go in.

Then that's when your application, you compete. That's when you shine, you show your background, your experience, your organizational capacity, your commitment to your community. If you're Native Hawaiian-serving, you show them 'Native Hawaiian-serving', you do your needs assessment. We want to see if you really, clearly identify that need.

So, all that stuff goes into the evaluation process and that's where the organizations are scored. That is the process that the majority of grant making organizations use is that scoring process. Then what we do - there's a two-phase scoring process for our grant reviewers, who we train to each question.

They score individually, and then we have them meet as a group, and they discuss their scores. Based on that discussion, sometimes they're like: "yeah, I never thought of that", "I should have given them more points."

Grants Manager Lu'uwai: Sometimes reviewers are like: "I'm good. I evaluated - this is how I scored it. I'm good with my score."

What we do is we take that second matrix of scores, and then I'll see how much money there is. If it's \$250,000, I start from the highest scored application, and then we dispersed the \$250,000. That's why you saw in the reallocation, and last action item, where we were able to fund some of the organizations at that top. Near the bottom of that score, were only partially funded; and we were able to fully fund.

To me, all of the organizations who meet the minimum eligibility and move to evaluation, that's all they have shown is that minimum, and it is what you see, when we come to the table, the highest scoring applicants is based on that evaluation process.

It's tough to find reviewers, because it's a lot of work. It takes a lot of time just to review one application, and then you have your team meeting and sometimes those meetings are three or four hours long.

The result you see is what I come to the table with; it's those highest scored applications and then we just disperse the money down. For number four, if there's money left over, we try to give them partial. Some of these organizations, they cannot do anything with the partial money, they would come back to us; we had that in FY20. They're like, oh, that's not enough money, I'm not going to be able to fully fund this project, that's okay.

Then some of them - we had a Moloka'i project, which was able to implement, based on partial funding, and they're doing very well. So, that's what the process is; there's minimum eligibility, you make it through this gate, then you make it to evaluation, and then we get the scores. That's how we determine awards.

Trustee Hulu Lindsey: One final question. When you review for eligibility, *do you ask the applicants if they've received grants from other people?*

Grants Manager Lu'uwai: Yes. That's part of organizational capacity.

Trustee Hulu Lindsey: So, I understand that these COVID-19 funds are emergency funds. So, it cannot be geared towards a project, it's geared towards necessity in the community. *Right, am I correct?*

Grants Manager Lu'uwai: The solicitation was very broad; so, the solicitation allowed it to apply to COVID-related type of services to our community. It's not just: products, meals, diapers - they had the option. It was a broad solicitation.

Trustee Hulu Lindsey: I understand that Waimānalo got 200,000 dollars from Hawaiian homelands, and then another 150,000 dollars from us. That's kind of plenty.

Grants Manager Lu'uwai: The money that they get from Department of Hawaiian homelands is very specific. I'm not really sure what they're doing with that funding, but they could be using it for other things that are in their community. I am not sure what they're using it for.

Trustee Hulu Lindsey: That's a lot of money in one community. We should share it around. Thank you.

Trustee Keola Lindsey: I have a couple more questions and I apologize for prolonging this. I know we've had a long day, but it's important for me to sort through this because it applies.

Maile - *so the grant reviewers are external from OHA, right?*

Those are not OHA employees, those are folks that volunteer to do the reviews.

Grants Manager Lu'uwai: Yes, we do not use OHA employees for our programmatic grants. That's part of that pono process that we have tried to institute. We want to make sure that, when somebody says *the Grants Manager, the Grants Manager*, I'm like - we facilitate the process.

We train, we facilitate, but these are Native Hawaiians in our community, who are coming in, to volunteer to review our applications. That's what our external reviewers are. People contact us or were recommended to us.

We did a blast out; in fact, I'm going to do a blast out again this summer, because I would like more reviewers in our pool, because sometimes it's really tough because of the time commitments to get people to review our applications. So, you'll see that this summer, we're looking for more reviewers.

Trustee Keola Lindsey: So, when an application proposes to use a portion of the grant funding for staff salaries is that disclosed in the application and considered in the evaluation.

Grants Manager Lu'uwai: The application has a budget, and the budget is actually scored too. When we do train the grant reviewers, we train them to keep an eye out for that administrative personnel cost, because that personnel cost has to be justified.

If you look at one of our budgets, we require them to justify personnel, and we require them to justify subcontractors.

We want to know:

- *What's the title?*
- *What's the FTE?*
- *How much you're going to pay?*

We look at that, it's really critical.

The service grants, you're going to have a lot of personnel, even a lot of the culture grants, because it being 'feet on the ground'; it's the cultural experts. So, a lot of those grants, you're going to have personnel, and they have to justify it. That, we're really careful about because, our grants just don't go out into the community just to pay people, it's to pay people to serve our lāhui.

It's pretty detailed when you see it. When we do a contract, we talk to them about their budget again. So right now, we're deep in contracting with a lot of the awards that you guys have already approved.

Grants Manager Lu'uwai: So, we go back through, and we make sure that we have those budgets in their contracts being very specific. Because when I see their quarterly expenditure reports, I want to make sure that we're paying exactly who, we, are supposed to be paying for the services that they were committed to in our contract. Every quarter we're looking at their expenditure reports and we go back to them, and we ask.

We also do source documentation pools. Where there are red flags, we ask for documents for their personnel. It's been very helpful because I found discrepancies when we do those documentation pools. So yeah, it's from budget from their application and budget to their contract, it's very detailed.

If you look at an application, when they do their background and capacity, actually when they do their experience narrative - they have to provide us and speak to who is going to be working on this grant. A lot of times they provide us the information regarding employees, "Aunt Jojo Kealoha is going to be the cultural expert she has seven years of expertise in lauhala weaving". So, they detail that actually in their narrative and then it shows up in their budget.

Trustee Keola Lindsey: *So, how's the concept of, I guess, geographic parity, if you will, on an island for grant awards?*

We're hearing that, it sounds like on O'ahu in this round, a high Native Hawaiian population area isn't getting awarded.

Is there any part of the evaluation that looks at that and says, we're going to try and disperse the funds evenly across an island? Or is it really just based on highest scoring organizations?

Grants Manager Lu'uwai: Right now, I do not have geographical distribution as an evaluative item. It's something we can consider. I've just got to figure out how we're going to do that. I think what I would like to do is provide more grants training for Native Hawaiian serving organizations; so, they're much more competitive coming in the door for our grants.

I've been looking at doing a training specific for our Native Hawaiians serving organizations to get them more competitive, not only for our grants, but for the ANA grants; they have lots more money than us. So that's something, I think, that we will be doing, as soon as I get the time, sometime this summer. Maybe August, for our organizations, because we can get them competitive with their grants.

So those areas that you're looking at, we can work with some of those organizations and train them, but I can train you to write a good grant.

My concern is when we give you a contract - *do you have the ability and capacity to implement?* That I'm not going to be training people on those issues. That for OHA, that's the most critical part because we want them to succeed, for our lāhui.

Trustee Keola Lindsey: Thank you, Maile and your team; and thank you, Mr. Chair.

RM Chair Waihe'e: Thank you. *Is there is any further discussion?*

There is no further discussion.

V. NEW BUSINESS

- B. ACTION ITEM BAE-RM #21-07-01: Approve the Awarding of COVID-19 Impact and Response Grants, Island of O‘ahu, for a total of \$524,380 for Solicitation No. 21-04-01, Released March 2021**

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 COVID-19 Impact & Response Grants, Island of O‘ahu, for disbursements totaling \$524,380 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
1.	Partners in Development Foundation	\$150,000
2.	Papakōlea Community Development Corporation	\$78,541
3.	Healthy Mothers Healthy Babies Coalition of Hawai‘i	\$149,999
4.	Ke Kula Nui o Waimanalo	\$145,840
	<i>Grant Funds Awarded</i>	\$524,380

Trustee Akina seconds the motion.

RM Chair Waihe‘e asks if there is any discussion.

There is none.

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.B. - MOTION							Motion: 2:38 p.m. Vote: 2:40 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA		2	X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.B. – MOTION							Motion: 2:38 p.m. Vote: 2:40 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA		2	X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- C. ACTION ITEM BAE-RM #21-07-02: Approve the Awarding of COVID-19 Impact and Response Grants, Island of Hawai'i, for a total of \$582,653 for Solicitation No. 21-04-02, Released March 2021**

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 COVID-19 Impact & Response Grants, Island of Hawai'i, for disbursements totaling \$582,653 from the Core Operating Budget (Object Code 56540):

	Organization	Award Amount
1.	Five Mountains Hawai'i dba Kipuka o ke Ola	\$118,454
2.	Big Island Substance Abuse Council	\$150,000
3.	Hamakua Youth Foundation	\$50,000
4.	Pōhāhā i ka Lani	\$149,854
5.	Ho'okako'o Corporation (Fiscal Sponsor for Waimea Middle Public Conversion Charter School)	\$60,000
6.	KUPU	\$54,345
	Grant Funds Awarded	\$582,653

Trustee Keola Lindsey seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.C. – MOTION							Motion: 2:41 p.m. Vote: 2:42 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY		2	X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.C. – MOTION							Motion: 2:41 p.m. Vote: 2:42 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY		2	X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- D. ACTION ITEM BAE-RM #21-07-03: Approve the Awarding of COVID-19 Impact and Response Grants, Island of Maui, for a total of \$335,994 for Solicitation No. 21-04-03, Released March 2021**

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 COVID-19 Impact & Response Grants, Island of Maui, for disbursements totaling \$335,994 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
1.	Pā‘upena Community Development Inc.	\$58,395
2.	KUPU	\$140,088
3.	Maui Economic Opportunity, Inc.	\$137,511
	<i>Grant Funds Awarded</i>	\$335,994

Trustee Hulu Lindsey seconds the motion.

RM Chair Waihe‘e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.D. – MOTION							Motion: 2:42 p.m. Vote: 2:43 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.D. – MOTION							Motion: 2:42 p.m. Vote: 2:43 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- E. ACTION ITEM BAE-RM #21-07-04: Approve the Awarding of COVID-19 Impact and Response Grants, Island of Kaua'i, for a total of \$169,537 for Solicitation No. 21-04-04, Released March 2021

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 COVID-19 Impact & Response Grants, Island of Kaua'i, for disbursements totaling \$169,537 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
1.	‘Āina Ho‘okupu o Kilauea	\$50,201
2.	KUPU	\$84,336
3.	Hanalei River Heritage Foundation	\$35,000
	<i>Grant Funds Awarded</i>	\$169,537

Trustee Ahuna seconds the motion.

RM Chair Waihe‘e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.E. – MOTION							Motion: 2:44 p.m. Vote: 2:45 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.E. – MOTION							Motion: 2:44 p.m. Vote: 2:45 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- F. ACTION ITEM BAE-RM #21-07-05: Approve the Awarding of COVID-19 Impact and Response Grants, Islands of Moloka'i and Lāna'i for a total of \$55,042 Solicitations No. 21-04-05 and 21-04-06, respectively, Released March 2021**

V.F. – MOTION #1

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 COVID-19 Impact & Response Grants, Island of Moloka'i, for contract and disbursement totaling \$48,731 from the Core Operating Budget (Object Code 56540) to KUPU.

Trustee Hulu Lindsey seconds the motion.

RM Chair Waihe'e asks if there is any discussion.

Trustee Lee: Given that we're going to Moloka'i in a few weeks, I'm hoping that we can get an update from KUPU while we're on the island.

Trustee Hulu Lindsey: Good idea.

RM Vice-Chair Alapa: Can do.

RM Chair Waihe'e asks if there is any further discussion.

There is no further discussion.

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.F. – MOTION 1							Motion: 2:45 p.m. Vote: 2:46 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.F. – MOTION 1							Motion: 2:45 p.m. Vote: 2:46 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.F. – MOTION #2

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 COVID-19 Impact & Response Grants, Island of Lānaʻi, for contract and disbursement totaling \$6,311 from the Core Operating Budget (Object Code 56540) to KUPU.

Trustee Hulu Lindsey seconds the motion.

RM Chair Waiheʻe asks if there is any discussion.

Trustee Lee: I don't have doubt that Lānaʻi needs this help; as Trustee Hulu Lindsey has pointed out, everybody has been impacted by COVID-19. We saw firsthand on the news how that one contractor came onto the island of Lānaʻi and everybody was infected. However, it's disappointing to me that we didn't hear anything about this during our Lānaʻi virtual meeting; we didn't hear anything from anyone in the community.

Given that KUPU had already submitted their grant application for this process, they didn't even show up to our meeting to tell us that *we're going to help the community with these COVID things, so that's why we applied for the grant...* I just wanted to state that.

Trustee Hulu Lindsey: Good point.

RM Chair Waiheʻe asks if there is any further discussion.

There is no further discussion.

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.F. – MOTION 2							Motion: 2:46 p.m. Vote: 2:48 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.F. – MOTION 2							Motion: 2:46 p.m. Vote: 2:48 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- G. ACTION ITEM BAE-RM #21-08: Approve the Awarding of a Noncompetitive Grant for a total of \$4,186 to Administer the Ni‘ihau FY2021 ‘Ohana & Community Based Program Grant and FY2021 COVID-19 Impact & Response Grant**

Trustee Lee moves to concurrently approve and award the Fiscal Year 2021 Ni‘ihau ‘Ohana & Community Based Program Grant for \$1,792 from the Core Operating Budget (Object Code 56530) and Fiscal Year 2021 COVID-19 Impact & Response Grant for \$2,394 from the Core Operating Budget (Object Code 56540), totaling \$4,186 to Hawai‘i Community Development Corporation (HCDC) to administer for the benefit of Native Hawaiians on the island of Ni‘ihau.

Trustee Ahuna seconds the motion.

RM Chair Waihe‘e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.G. – MOTION							Motion: 2:48 p.m. Vote: 2:49 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.G. – MOTION							Motion: 2:48 p.m. Vote: 2:49 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- H. **ACTION ITEM BAE-RM #21-10: Approve the Awarding and Reallocation of the Native Hawaiian Teacher Education & Professional Development Grants for a total of \$212,739 from Solicitation No. 21-06, Released March 2021**

V.H. – MOTION #1

Trustee Lee moves to concurrently approve and award a Fiscal Year 2021 Native Hawaiian Teacher Education & Professional Development Grant disbursement totaling \$175,000 from Core Operating Budget (Object Code 56530) to the Institute for Native Pacific Education and Culture.

BAE Chair Akaka seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.H. – MOTION 1							Motion: 2:49 p.m. Vote: 2:50 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.H. – MOTION 1							Motion: 2:49 p.m. Vote: 2:50 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.H. – MOTION #2

Trustee Lee moves to concurrently approve and reallocate a Fiscal Year 2021 Native Hawaiian Teacher Education & Professional Development Grant disbursement totaling \$37,739 from Core Operating Budget (Object Code 56530) to the Fiscal Year 2021 Kūlia Grant, Core Operating Budget (Object Code 56540) and award the disbursement to Bishop Museum.

Trustee Hulu Lindsey seconds the motion.

RM Chair Waihe'e asks if there is any discussion.

BAE Chair Akaka: I will be recusing myself from the vote for Bishop Museum, as my father sits on the Board.

RM Chair Waihe'e asks if there is any further discussion. *There is no further discussion.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.H. – MOTION 2							Motion: 2:50 p.m. Vote: 2:51 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA						RECUSED
TOTAL VOTE COUNT				8	0	0	1

BAE VOTE: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.H. – MOTION 2							Motion: 2:50 p.m. Vote: 2:51 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA						RECUSED
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY		2	X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				8	0	0	1

RM VOTE: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

V. NEW BUSINESS

- I. **ACTION ITEM BAE-RM #21-11: Approve the Awarding of Kūlia Grants, for a total of \$500,000, Solicitation No. 21-07, Released March 2021**

V.I. – MAIN MOTION

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 Kūlia Grant disbursements totaling \$500,000 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
1.	Maui Family Support Services, Inc.	\$100,000
2.	Ko'ihonua	\$87,740
3.	Kulaniakea	\$100,000
4.	Kukulu Kumuhana o Anahola	\$100,000
5.	Pacific American Foundation (Fiscal Sponsor for Moanalua Culture Project)	\$100,000
6.	Bishop Museum	\$12,260
	<i>Grant Funds Awarded</i>	\$500,000

Trustee Ahuna seconds the motion.

RM Chair Waihe'e asks if there is any discussion.

BAE Chair Akaka: I would like to vote for items one through five; however, item six, Bishop Museum – I would be recusing myself from that vote.

AMENDMENT TO BIFURCATE – MAIN MOTION 1

Trustee Lee bifurcates Number 6. Bishop Museum \$12,260 out making the new total for the original motion, as amended, \$487,740.

AMENDMENT

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 Kūlia Grant disbursements totaling \$487,740 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
1.	Maui Family Support Services, Inc.	\$100,000
2.	Ko'ihonua	\$87,740
3.	Kulaniakea	\$100,000
4.	Kukulu Kumuhana o Anahola	\$100,000
5.	Pacific American Foundation (Fiscal Sponsor for Moanalua Culture Project)	\$100,000
	<i>Grant Funds Awarded</i>	\$487,740

Trustee Ahuna seconds the amendment.

RM Chair Waihe'e asks if there is any discussion on the amendment.

There is none.

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.I. – AMENDMENT (BIFURCATE)							Amendment: 2:54 p.m. Vote: 2:55 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.I. – AMENDMENT (BIFURCATE)							Amendment: 2:54 p.m. Vote: 2:55 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.I. – MAIN MOTION 1, AS AMENDED (NOW 1. A.)

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 Kūlia Grant disbursements totaling \$487,740 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
1.	Maui Family Support Services, Inc.	\$100,000
2.	Ko‘ihonua	\$87,740
3.	Kulaniakea	\$100,000
4.	Kukulu Kumuhana o Anahola	\$100,000
5.	Pacific American Foundation (Fiscal Sponsor for Moanalua Culture Project)	\$100,000
	<i>Grant Funds Awarded</i>	\$487,740

Trustee Ahuna seconds the main motion, as amended.

RM Chair Waihe‘e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a ROLL CALL VOTE for the BAE and RM Committees concurrently.

V.I. – MOTION 1, AS AMENDED (NOW 1. A.)							Main Motion: 2:52 p.m. Amendment: 2:54 p.m. Amendment Vote: 2:55 p.m. Main Motion, As Amended Vote: 2:55 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.I. – MOTION 1, AS AMENDED (NOW 1. A.)							Main Motion: 2:52 p.m. Amendment: 2:54 p.m. Amendment Vote: 2:55 p.m. Main Motion, As Amended Vote: 2:55 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
BAE CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

V.I. – MOTION 1. B.

Trustee Lee moves to concurrently approve and award the following Fiscal Year 2021 Kūlia Grant disbursements totaling \$12,260 from the Core Operating Budget (Object Code 56540):

	<u>Organization</u>	<u>Award Amount</u>
6.	Bishop Museum	\$12,260

Trustee Ahuna seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

V.I. – MOTION 1. B. (BIFURCATED)							MOTION: 2:56 p.m. VOTE: 2:56 p.m.
TRUSTEE (BAE)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA						RECUSED
TOTAL VOTE COUNT				8	0	0	1

BAE VOTE: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

V.I. – MOTION 1. B. (BIFURCATED)							MOTION: 2:56 p.m. VOTE: 2:56 p.m.
TRUSTEE (RM)		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
BAE CHAIR KALEIHIKINA	AKAKA						RECUSED
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				8	0	0	1

RM VOTE: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

VI. ANNOUNCEMENTS

None

VII. ADJOURNMENT

Trustee Hulu Lindsey moves to adjourn the JOINT BAE-RM meeting.

BAE Chair Akaka seconds the motion.

RM Chair Waihe'e asks if there is any discussion. *There is none.*

RM Chair Waihe'e calls for a **ROLL CALL VOTE** for the BAE and RM Committees concurrently.

BAE COMMITTEE							2:57 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
TOTAL VOTE COUNT				9	0	0	0

BAE VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

CONCURRENT VOTE

RM COMMITTEE							2:57 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
BAE CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
RM VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'AINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
BAE VICE-CHAIR KEOLA	LINDSEY			X			
RM CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

RM VOTE: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

RM Chair Waihe'e adjourns the Joint Meeting of the Committee on Beneficiary Advocacy and Empowerment and the Committee on Resource Management at 2:57 p.m.

Respectfully submitted,

Melissa Wennihan
Trustee Aide
Committee on Resource Management

As approved by the Joint Meeting of the Committee on Beneficiary Advocacy and Empowerment (BAE) and the Committee on Resource Management (RM) on July 12, 2022.

Trustee Kaleihikina Akaka, Chair
Committee on Beneficiary Advocacy and
Empowerment

Trustee John Waihe'e, IV, Chair
Committee on Resource Management

ATTACHMENT(s):

- NONE

Committee on Beneficiary Advocacy and Empowerment

Trustee Kaleihikina Akaka, O'ahu, *Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Keli'i Akina, At-Large

Trustee Luana Alapa, Moloka'i / Lāna'i

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Carmen Hulu Lindsey, Maui

Trustee Mililani Trask, Hawai'i Island

Trustee John Waihe'e IV, At-Large



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

Committee on Resource Management

Trustee John Waihe'e IV, At-Large, *Chair*Trustee Luana Alapa, Moloka'i / Lāna'i, *Vice Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Kaleihikina Akaka, O'ahu

Trustee Keli'i Akina, At-Large

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Carmen Hulu Lindsey, Maui

Trustee Mililani Trask, Hawai'i Island

**JOINT MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT AND THE
COMMITTEE ON RESOURCE MANAGEMENT**

DATE: Tuesday, July 12, 2022**TIME:** 9:00 a.m.**PLACE:** Virtual MeetingViewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 856 5447 7246

Due to COVID-19, the OHA Board of Trustees and its standing committees will hold virtual meetings until further notice. This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 856 5447 7246. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

I. Call to Order

II. Approval of Minutes

A. JOINT BAE-RM Meeting Minutes of June 23, 2021*

III. New Business

A. Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust*

B. Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000*

IV. Announcements

V. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Everett Ohta at telephone number (808) 594-1988 or by email at: everetto@oha.org no later than three (3) business days prior to the date of the meeting. Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.

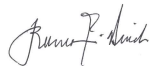


OFFICE OF HAWAIIAN AFFAIRS
Action Item


**Joint Committee on Resource Management
and Beneficiary Advocacy and Empowerment
July 12, 2022**

BAE-RM #22-01

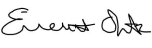
Action Item Issue: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

Co-Prepared by:  Jul 7, 2022


Ramona G. Hinck Date
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Co-Prepared by:  Jul 7, 2022

Casey K. Brown Date
Ka Pou Nui, Chief Operating Officer

Reviewed by:  Jul 7, 2022

Everett Ohta Date
Paepae Puka Kūikawā, Interim General Counsel

Reviewed by:  Jul 7, 2022

Sylvia M. Hussey, Ed.D. Date
Ka Pouhana, Chief Executive Officer



OFFICE OF HAWAIIAN AFFAIRS
Action Item

**Joint Committee on Resource Management
and Beneficiary Advocacy and Empowerment
July 12, 2022**

BAE-RM #22-01

Reviewed by:

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

Jul 7, 2022

Kaleihikina Akaka
Luna Ho‘omalua o ke Kōmike BAE
Committee on Beneficiary, Advocacy & Empowerment, Chair

Date

Reviewed by:

A handwritten signature in black ink, appearing to read 'John D. Waihee IV'.

Jul 7, 2022

John D. Waihee IV
Luna Ho‘omalua o ke Kōmike RM
Committee on Resource Management, Chair

Date

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

I. Proposed Actions

Implement the elements of Act 226 (2022), Attachment A, relating to increasing the payment amount for the Office of Hawaiian Affairs' pro rata share of the public land trust:

A. Motion #1 re: \$21,500,000 Annual Share of the Income and Proceeds of the Public Land Trust

Approve the inclusion of the interim annual share of the income and proceeds of the public land trust amount of \$21,500,000 in the biennium budgeting process in accordance with the Budget Management Policy beginning in fiscal year 2022-2023.

B. Motion #2 re: \$64,000,000 General Revenues Appropriation

Invest the \$64,000,000 general revenues appropriation, for a portion of the income and proceeds from the public land trust, into the Native Hawaiian Trust Fund, consistent with the Investment Policy and related asset allocation.

C. Motion #3: Working Group

Activate planning and other activities in preparation for implementation of the working group further described in Section 3 of Act 226 (2022) in calendar year 2023.

III. Issues

Whether or not the joint Committee on Beneficiary Advocacy & Empowerment (BAE) and Committee on Resource Management (RM) will approve the actions recommended in implementing the three elements (i.e., annual interim public land trust amount, \$64M appropriation, and working group) in Act 226 (2022), SB2021 SD1 HD2 CD1 RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST, signed by the Governor on Monday, June 27, 2022 (Attachment A).

IV. Background & Context

- A. **Overview.** At the December 27, 2021, Committee on Beneficiary Advocacy & Empowerment ("BAE Committee") meeting, the BAE Committee approved the public lands trust (PLT) drafted bill as OHA-1 for the 2022 Hawai'i state legislative session (Attachment B), and the action was subsequently ratified at the Board meeting on December 29, 2021. The bills were subsequently numbered as SB2122 (Attachment C) and the related House companion bill was numbered HB1474 (Attachment D). However it was SB2021 (Attachment E) that advanced through the Legislature as the vehicle to address PLT issues in 2022.

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

- B. **Progress of SB21221.** Introduced as part of OHA's package, the following summarizes the progress of the bill, including an initial hearing and ending with a deferral action by the Senate Ways and Means (WAM) Committee in February 2022, early in the session.

SB2122 SD1	
Measure Title:	RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.
Report Title:	Office of Hawaiian Affairs Package; Public Land Trust; Pro Rata Share (\$)
Description:	Establishes the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust. Transfers moneys to the Office of Hawaiian Affairs for income and proceeds due from the use of the public land trust lands between July 1, 2012, and June 30, 2022, that was misallocated, underreported, or underpaid to the Office of Hawaiian Affairs. (SD1)
Companion:	HB1474
Package:	Office of Hawaiian Affairs
Current Referral:	HWN, WAM
Introducer(s):	KOUCHI (Introduced by request of another party)
Sort by Date	Status Text
1/18/2022	S Pending Introduction.
1/19/2022	S Introduced and passed First Reading.
1/21/2022	S Referred to HWN, WAM.
1/24/2022	S The committee(s) on HWN has scheduled a public hearing on 01-27-22 1:01PM; CR 016 & Video Conference .
1/27/2022	S The committee(s) on HWN recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HWN were as follows: 5 Aye(s): Senator(s) Shimabukuro, Keohokalole, Acasio, Ihara, Fevella; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/3/2022	S Reported from HWN (Stand. Com. Rep. No. 2045) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/3/2022	S Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/11/2022	S The committee(s) on WAM will hold a public decision making on 02-18-22 10:00AM; Conference Room 211 & Videoconference.
2/18/2022	S The committee(s) on WAM deferred the measure until 02-22-22 10:15AM; Conference Room 211 & Videoconference.
2/22/2022	S The committee on WAM deferred the measure.

Figure 1: SB2122 Status from 2022 Legislative Website



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¹ https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=2122&year=2022, retrieved 7/3/2022

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

- C. **Progress of HB1474².** Unfortunately, companion bill HB1474 did not get a hearing in the House subject matter committees after introduction.

HB1474

(2)

Submit Testimony

Measure Title: RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

Report Title: Office of Hawaiian Affairs Package; Public Land Trust; Pro Rata Share (\$)

Description: Establishes the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust. Transfers moneys to the Office of Hawaiian Affairs for income and proceeds due from the use of the public land trust lands between July 1, 2012, and June 30, 2022, that was misallocated, underreported, or underpaid to the Office of Hawaiian Affairs.

Companion: [SB2122](#)

Package: Office of Hawaiian Affairs

Current Referral: JHA, FIN

Introducer(s): SAIKI (Introduced by request of another party)

Sort by Date		Status Text
1/18/2022	H	Prefiled.
1/19/2022	H	Introduced and Pass First Reading.
1/26/2022	H	Referred to JHA, FIN, referral sheet 1

Figure 2: HB1474 Status from 2022 Legislative Website

- D. **Introduction of SB2021.** SB2021 entitled RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST was introduced by Senator Jarrett Keohokalole at the beginning of the 2022 session and contained several similar elements as OHA-1 SB2122. After the deferral of SB2122 by the WAM Committee in February 2022, and HB1474 had not received a hearing, SB2021 became the legislative vehicle to pursue toward realization.

² https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=1474&year=2022, retrieved 7/3/2022


Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

Hearing Notices		
Comm	Date/Time/Room	Notice
HWN	<u>1/25/22 1:00P</u> Via Videoconference	View 
WAM	<u>2/22/22 10:00A</u> CR 211 & Videoconference	View 
WAM	<u>2/23/22 10:10A</u> CR 211 & Videoconference	View 
JHA	<u>3/22/22 2:00P</u> 325 Via Videoconference	View 
FIN	<u>4/04/22 2:30P</u> 308 Via Videoconference	View 
CONF	<u>4/25/22 1:31P</u> CR 325	View 
CONF	<u>4/26/22 1:31P</u> CR 325	View 
CONF	<u>4/27/22 1:31P</u> CR 325	View 
CONF	<u>4/29/22 1:31P</u> CR 325	View 

Figure 3: SB2021 Hearing Notices

OHA's advocacy re: SB2021 responded through all of its hearings³, noting the testimony, committee reports and all versions of the measure (see Figures 3 and 4)

All Versions of this Measure

- [SB2021 SD1](#) 
- [SB2021 HD2 HFA1](#) 
- [SB2021 HD2](#) 
- [SB2021 HD1](#) 
- [SB2021 CD1](#) 
- [SB2021](#) 

Committee Reports

- [SB2021 SSCR2046](#) 
- [SB2021 SD1 SSCR3014](#) 
- [SB2021 HD1 HSCR1339-22](#) 
- [SB2021 HD2 HSCR2014-22](#) 
- [SB2021 CD1 CCR250-22](#) 

Testimony

Filename

- [SB2021 TESTIMONY HWN 01-25-22](#)
- [SB2021 TESTIMONY WAM 02-22-22](#)
- [SB2021 SD1 TESTIMONY JHA 03-22-22](#)
- [SB2021 HD1 TESTIMONY FIN 04-04-22](#)

Figure 4: SB2021 All Versions, Committee Reports, Testimony

- E. **SB2021 SD1 HD2 CD1.** As a result of the above hearings, testimonies, committee reports, including beneficiary and community support, OHA advocacy, discussion and work with House Finance and Senate WAM Committee Chairs,

³ https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=2021&year=2022, retrieved 7/3/2022

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

Representative Sylvia Luke and Senator Donavan Dela Cruz, respectively (and their staff), and countless advocacy hours of the Chairs of the Board and BAE Committee and Administration (Chief Executive Officer, Chief Operating Officer, General Counsel and Chief Advocate), including external counsel, SB2021 SD1 HD2 CD1 (Attachment E) emerged as the final measure preserving key statements, concepts and measures in each section highlighted below.

1. **Section 1.** Legislature acknowledges it must set right and fulfill its trust responsibilities to native Hawaiians, consistent with governmental action across America to address injustices against Indigenous Peoples. Incumbent upon the legislature to enact legislation that upholds its trust responsibilities and duty of care to native Hawaiians to: account for all ceded lands in the public lands trust inventory; account for all income and proceeds derived from the public land trust ("PLT"); and transfer the full twenty per cent pro rata share of income and proceeds from the PLT annually to OHA for the betterment of the conditions of native Hawaiians.

Section 1 further details the genesis and source of the PLT responsibility to native Hawaiians, including the illegal overthrow of the Kingdom of Hawai'i, the transfer of approximately 1,800,000 acres of crown, government and public lands to the United States at the point of annexation in 1898, and the admission of Hawai'i as a state of the Union in 1959, with the explicit trust

responsibility and requirement in section 5(f) of the 1959 Admission Act that one of the five purposes of the PLT is that the income and proceeds from the PLT is that it is to be used "for the betterment of the conditions of native Hawaiians".

The purpose of the final measure is summarized in Figure 5 at left.

1	(1) Establish \$21,500,000 as the office of Hawaiian
2	affairs' interim annual share of the income and
3	proceeds of the public land trust beginning in fiscal
4	year 2022-2023;
5	(2) Appropriate \$64,000,000 to the office of Hawaiian
6	affairs; and
7	(3) Establish a working group to determine the pro rata
8	share of income and proceeds from the public land
9	trust due annually to the office of Hawaiian affairs.

Figure 5: Excerpt from SB2021 SD1 HD2 CD1

2. **Section 2.** Amends Act 178 (SLH 2006), sections 2 and 3 to replace the \$15,100,000 interim annual amount with \$21,500,000 interim annual amount beginning with fiscal year 2022-2023.
3. **Section 3.** Amends Executive Order language from 03-03 to 06-06 beginning 2022-2023 fiscal year, named departments to transfer portion of the receipts to ensure the quarterly amount is no less than \$5,375,000 (\$21,500,000 divided

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

by four), noting that the prior quarterly amount was \$3,775,000 (\$15,100,000 divided by four).

4. **Section 3 (to be renumbered Section 4)**⁴. Establishment of a working group to: account for all ceded lands in the public land trust inventory; account for all income and proceeds from the PLT; and subsequently determine the 20% pro rata share due annually to OHA. The composition of the working group is comprised of six members—three appointed by the governor and three appointed by the OHA Board of Trustees (“BOT”). The working group with the cooperation of any department or agency that uses, manages, or receives income, proceeds or any other funds derived from the PLT shall prepare and submit a report of its findings and recommendations, including proposed legislation and the annual amount it determines for the 20% and that OHA will provide the necessary administrative support for the preparation of the report.
5. **Section 4**. A general revenues appropriation amount of \$64,000,000 for fiscal year 2021-2022 to pay to OHA for a portion of the income and proceeds from the PLT.
6. **Section 5**. General revenue appropriated by the Act shall be deemed income and proceeds from the PLT as if the sum had been paid out of income and proceeds from the PLT.
7. **Section 6**. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
8. **Section 7**. The Act takes effect upon its approval (June 27, 2022).

V. Reference Documents

The following reference documents provide support for the action item:

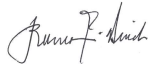
- A. Action Item BAE #21-06: 2022 OHA Legislative Package, December 8, 2021
- B. Action Item BAE #21-07: Public Land Trust Bill, 2022, December 27, 2021
- C. Investment Policy Statement, August 12, 2021
- D. Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000, July 12, 2022

⁴Note: Per Legislature staff, duplicative Section 3 will be corrected and renumbered to Section 4 and all subsequent sections renumbered as well upon finalizing Act 226.

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

VI. Certification

The following is the certification by the Chief Financial Officer that the \$64,000,000 general revenues appropriation is available for the action below.



Ramona G. Hinck
Chief Financial Officer

Date: Jul 7, 2022

VII. Recommended Actions

Implement the elements of Act 226 (2022), Attachment A, relating to increasing the payment amount for the Office of Hawaiian Affairs' pro rata share of the public land trust:

A. Motion #1 re: \$21,500,000 Annual Share of the Income and Proceeds of the Public Land Trust

Approve the inclusion of the interim annual share of the income and proceeds of the public land trust amount of \$21,500,000 in the biennium budgeting process in accordance with the Budget Management Policy beginning in fiscal year 2022-2023.

B. Motion #2 re: \$64,000,000 General Revenues Appropriation

Invest the \$64,000,000 general revenues appropriation, for a portion of the income and proceeds from the public land trust, into the Native Hawaiian Trust Fund, consistent with the Investment Policy and related asset allocation.

C. Motion #3: Working Group

Activate planning and other activities in preparation for implementation of the working group further described in Section 3 of Act 226 (2022) in calendar year 2023.

VIII. Alternatives to Recommended Actions

- A. Do not accept recommendations;
- B. Bifurcate actions (e.g., expend \$, place \$ into the Native Hawaiian Trust Fund);
- C. Propose alternate actions;
- D. Direct further analysis and study;
- E. Apply additional policies; and/or
- F. Propose and take other actions.

Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust

IX. Implementation Timeframe

Implementation of the action items are recommended immediately upon Board ratification.

X. Attachments

A – Act 226 (2022), GM 1327, SB2021 SD1 HD2 CD1 RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST, June 27, 2022

B – Minutes from the Committee on Beneficiary Advocacy & Empowerment Committee, December 27, 2021

C – OHA-1, SB 2122 RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST (companion bills)

D – OHA-1, HB1474 RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST (companion bills)

E – SB2021 SB1 HD2 CD1 – RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST



GOV. MSG. NO. 1327

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 27, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 27, 2022, the following bill was signed into law:

SB2021 SD1 HD2 CD1

RELATING TO INCREASING THE PAYMENT
AMOUNT FOR THE OFFICE OF HAWAIIAN
AFFAIRS' PRO RATA SHARE OF THE PUBLIC
LAND TRUST.

ACT 226

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF
HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

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

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

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

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

11 (3) Transfer the full twenty per cent pro rata share of
12 income and proceeds from the public land trust
13 annually to the office of Hawaiian affairs (OHA) for
14 the betterment of the conditions of native Hawaiians.

15 The genesis and source of the State's public land trust
16 responsibility to native Hawaiians are the historical events
17 that led to the illegal overthrow of the Kingdom of Hawaii; the



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 transfer of approximately 1,800,000 acres of crown, government,
2 and public lands to the United States under the 1898 Joint
3 Resolution of Annexation without the consent of and without
4 compensation to the native Hawaiian people or their sovereign
5 government; the admission of Hawaii as a state of the Union in
6 1959, with the explicit trust responsibility and requirement in
7 section 5(f) of the 1959 Admission Act that one of the five
8 purposes of the public land trust is that the income and
9 proceeds from the public land trust are to be used "for the
10 betterment of the conditions of native Hawaiians"; and the 1978
11 Constitutional Convention's recognition that native Hawaiians
12 are one of the beneficiaries of the public land trust and the
13 creation of OHA to manage and administer the specific allocation
14 of "all income and proceeds from that pro rata portion of the
15 [public land] trust . . . for native Hawaiians" (Article XII,
16 section 6, of the Hawaii State Constitution). The United States
17 and the courts have consistently affirmed the trust nature of
18 the government and crown lands, including large tracts of ceded
19 lands used for military or other purposes under federal control.

20 In 1959, as a condition of its admission into the Union,
21 the State of Hawaii agreed to hold certain lands granted to the



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 State by the United States in a public trust for five purposes
2 delineated in section 5(f) of the Admission Act, which provides
3 in relevant part:

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



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 use for any other object shall constitute a breach of trust
2 for which suit may be brought by the United States.

3 (*Emphasis added.*)

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

15 In September 1981, an initial land inventory by the
16 department of land and natural resources listed approximately
17 1,271,652 acres, falling woefully short of its duty to provide a
18 complete inventory of the public land trust lands.
19 Additionally, the state land information management system does
20 not include all lands held by all state entities.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 Act 273, Session Laws of Hawaii 1980, enacted section
2 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata
3 share and required that OHA receive "[t]wenty per cent of all
4 funds derived from the public land trust[.]" This legislative
5 directive addressing the constitutional mandate has led to a
6 series of lawsuits and legislative enactments concerning OHA's
7 constitutional pro rata share of the public land trust. The
8 State and OHA have labored to resolve the political question of
9 the statutory pro rata share of income and proceeds derived from
10 the public land trust, and payment to OHA.

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

20 Act 15, Session Laws of Hawaii 2012, (Act 15) was enacted
21 to address past-due amounts, which accumulated during the period



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 between November 7, 1978, up to and including June 30, 2012, of
2 income and proceeds from the public land trust owed to OHA by
3 implementing an agreement between the State and OHA for the
4 State to convey certain lands in Kakaako, Oahu, to OHA valued at
5 approximately \$200,000,000. Act 15 did not, however, address
6 the State's constitutional obligations relating to OHA's twenty
7 per cent pro rata share of the income and proceeds from the
8 public land trust generated after June 30, 2012. Notably, a
9 2015-2016 financial review initiated by OHA found that the
10 minimum amount of total gross receipts from sources that OHA has
11 historically claimed was approximately \$394,322,163 in the
12 fiscal year 2015-2016. Twenty per cent of this gross amount is
13 approximately \$78,900,000.

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

20 The purpose of this Act is to:



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 (1) Establish \$21,500,000 as the office of Hawaiian
2 affairs' interim annual share of the income and
3 proceeds of the public land trust beginning in fiscal
4 year 2022-2023;

5 (2) Appropriate \$64,000,000 to the office of Hawaiian
6 affairs; and

7 (3) Establish a working group to determine the pro rata
8 share of income and proceeds from the public land
9 trust due annually to the office of Hawaiian affairs.

10 SECTION 2. Act 178, Session Laws of Hawaii 2006, is
11 amended by amending sections 2 and 3 to read:

12 "SECTION 2. Notwithstanding the provisions of chapter 10,
13 Hawaii Revised Statutes, including section 10-13.5, Hawaii
14 Revised Statutes, and until further action is taken by the
15 legislature for this purpose, the income and proceeds from the
16 pro rata portion of the public land trust under article XII,
17 section 6, of the state constitution for expenditure by the
18 office of Hawaiian affairs for the betterment of the conditions
19 of native Hawaiians for each fiscal year beginning with fiscal
20 year [~~2005-2006~~] 2022-2023 shall be [~~\$15,100,000.~~] \$21,500,000.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 SECTION 3. Notwithstanding the provisions of chapter 10,
2 Hawaii Revised Statutes, or the requirements of Executive Order
3 No. [~~03-03,~~] 06-06, beginning in fiscal year [~~2005-2006,~~] 2022-
4 2023, the departments of agriculture, accounting and general
5 services, business, economic development, and tourism,
6 education, land and natural resources, and transportation (for
7 its harbors division), and any other department or agency that
8 collects receipts from the lands within the public land trust,
9 shall determine and transfer to the office of Hawaiian affairs
10 that portion of their receipts from the use of lands within the
11 public land trust collected during each fiscal quarter,
12 necessary to ensure that a total of [~~\$3,775,000~~] \$5,375,000 of
13 revenues generated by the public land trust is transferred to
14 the office of Hawaiian affairs, within thirty days of the close
15 of each fiscal quarter; provided that for fiscal year [~~2005-~~
16 ~~2006,~~] 2022-2023, the departments shall have until thirty days
17 after the close of the fiscal year to transfer a total of
18 [~~\$15,100,000~~] \$21,500,000 from their receipts from the use of
19 lands within the public land trust collected during fiscal year
20 [~~2005-2006,~~] 2022-2023, to the office of Hawaiian affairs



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 whether by the procedures set out in Executive Order No. [~~03-03~~]
2 06-06 or this Act.

3 The governor is expressly authorized to fix the amounts
4 each agency shall transfer to the office of Hawaiian affairs in
5 each quarter by executive order to implement the provisions of
6 this section[-]; provided that a total of not less than
7 \$5,375,000 each quarter shall be transferred to the office of
8 Hawaiian affairs, as provided in this section."

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

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

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

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

19 (b) The working group shall be comprised of six members,
20 three of whom three shall be appointed by the governor and three



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 of whom shall be appointed by the office of Hawaiian affairs
2 board of trustees.

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

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

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$64,000,000 or so
16 much as may be necessary for fiscal year 2021-2022 to pay to the
17 office of Hawaiian affairs for a portion of the income and
18 proceeds from the public land trust. The sum appropriated shall
19 be deposited into the native Hawaiian trust fund and expended by
20 the office of Hawaiian affairs.



1 SECTION 5. The general revenue appropriated by this Act
2 shall be deemed income and proceeds from the public land trust
3 as if the sum had been paid out of income and proceeds from the
4 public land trust pursuant to article XII, section 6, of the
5 Hawaii State Constitution.

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

8 SECTION 7. This Act shall take effect upon its approval.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

APPROVED this 27th day of June , 2022

A handwritten signature in black ink, appearing to read "David I. Byrne". The signature is fluid and cursive, with a long horizontal stroke at the end.

GOVERNOR OF THE STATE OF HAWAII


S.B. No. 2021, S.D. 1, H.D. 2, C.D. 1

THE SENATE OF THE STATE OF HAWAI‘I

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2022.


President of the Senate


Clerk of the Senate

SB No. 2021, SD 1, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

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

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES

December 27, 2021 10:00 a.m.

ATTENDANCE:

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

BAE STAFF:

Brandon Mitsuda
 Mark Watanabe

ADMINISTRATION STAFF:

Hussey, Sylvia, Ka Pouhana / CEO
 Brown, Casey / COO
 Hinck, Ramona / CFO
 Kamali'i, Na'u / Chief Advocate
 Ki, Nina / Public Policy Advocate
 Ohta, Everett, Interim General Counsel
 Aguinaldo, Arlene, IT
 Koholua, Michelle, IT
 Santos, Dan, IT

EXCUSED:

Trustee Leina'ala Ahu Isa

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Monday, December 27, 2021 to order at **10:01 a.m.**

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

MEMBERS			AT CALL TO ORDER (10:02 p.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
VICE-CHAIR	KEOLA	LINDSEY	EXCUSED	10:12 a.m.
TRUSTEE	LEINA'ALA	AHU ISA	EXCUSED	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	EXCUSED	10:08 a.m.
TRUSTEE	JOHN	WAIHE'E, IV	EXCUSED	10:03 a.m.

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

II. PUBLIC TESTIMONY on Items Listed on the Agenda*

NONE

III. NEW BUSINESS**A. Action Item BAE #21-07: Public Land Trust Bill, 2022 Legislature**

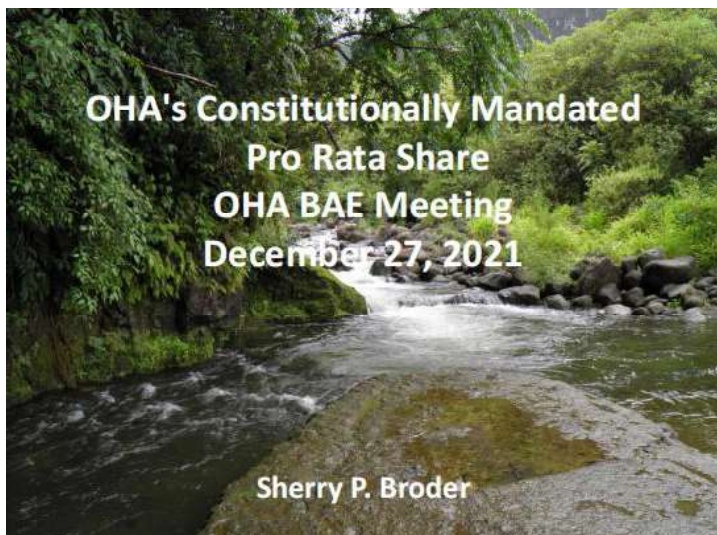
Chair Akaka: I wanted to make note that members the Committee folder was distributed within the 72 hour deadline for Board materials, thereby requiring a waiver of the 72 hour deadline for Board materials.

Chair Akaka yields the floor to Ka Pouhana Hussey.

Ka Pouhana Hussey: Good morning again Trustees, what Administration would like to do is help provide some context for the bill, and we're going to have two presentations for you beginning this morning. We've asked Sherry Broder to provide a contextual basis for the bill as well as then we will ask interim General Counsel Everett Ohta to provide us the numbers portion of the bill. We will then follow with a presentation with Chief Advocate Na'u, walking through the actual bill itself so that Trustees you can see the foundational pieces, the numeric expression and computations, and then how it is reflected in the bill and at that time once all those presentation and pieces are there then Administration asks then if you will then hold your questions, write them down, note them down, and then at the end I'll be able to have that discussion or have the discussion with Council as you would see fit. So if we can start with that Trustees, we'll go ahead and ask Sherry to share her screen and begin walking through some of the foundational pieces of the draft bill that we have before you, and that's in your packet.

Board Chair Hulu Lindsey: Trustee Akaka, I just want to let you know that I do not have visual. I only have audio. So I cannot see the screen.

Chair Akaka: Yes, I did notice the change there, thank you.

**Overview**

1. What are Ceded Lands? The Public Land Trust?
2. Litigation & Legislation re OHA's Pro Rata Share
3. Act 178, SLH 2006 - set current \$15.1 million cap on PLT revenues to OHA as "interim" funding



2

Sherry Broder: I'm going to be talking about OHA's constitutionally mandated pro rata share and basically I'm laying the groundwork for Everett's presentation, and he's going to be talking about the numbers, so I'm going to review the history and the legal and constitutional principles behind OHA's entitlement to its pro rata share. And ever since the creation of OHA, the amount of the pro rata share has been a subject for dispute between the state and OHA, so you'll get to see many different cases and many different things that happened over the years. And so I'm going to talk about what are the ceded lands, how does the ceded lands differ from the Public Land Trust and that's important because the pro rata share is computed on the Public Land Trust. I'm going to review the legislation, litigation legislation over OHA's pro rata share, and then I'm just going to remind you that ACT 178 session was Hawai'i 2006 set the current 15.1 million cap on PLT revenues and at that time it was specifically labeled as interim funding. But now here we are now I guess 16 years later, but a lot of years later.

1898
Republic of Hawai'i "ceded"
~1.8 million acres to the U.S.



Hawai'i Attorney General Opinion
03-03 (2003)

“‘Ceded lands’ are all of the lands ceded to the United States by the Republic of Hawaii under the Joint Resolution of Annexation, not otherwise disposed of by the United States prior to the lands' transfer to the State of Hawaii pursuant to section 5(b) of the Admission Act, including the water, minerals, plants, and other things connected with the lands, and 'every species of title inchoate or complete.'” *State v. Zimring*, 58 Haw. 106, 122-3, 566 P.2d 725, 735-6 (1977).

So in 1898, as we all know, the Republic of Hawai'i ceded 1.8 million acres to the United States of America. Then in 03-03 this is another portion of the definition of what are the ceded lands and since the PLT is a subset of the ceded lands, this same principle applies to it. So it's not just all the lands that were ceded to the United States by the Republic of Hawai'i under the joint resolution of annexation, but it also includes the water, minerals, plants, and other things connected with the lands and every species of title in quite and complete. And of course the submerged lands are also included in the ceded lands.

Admission Act Section 5(f)
Public Land Trust created

5(a) → title and control held by Territory,
transferred to State – see eg. Sand Island

5(b) → title held by U.S. but under control
of Territory, transferred from U.S. to State

5(e) → title and control held by U.S.,
transferred from U.S. to State if land no
longer needed by U.S.



Admission Act Section 5(f)
Public Land Trust

The public land trust land together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by the State as a public trust for five purposes:

- (1) Public education
- (2) **The betterment of the conditions of native Hawaiians**
- (3) The development of farm and home ownership
- (4) Public improvements, and
- (5) For public use



So the Admissions Act section 5(f) created the Public Land Trust. So when Hawai'i was admitted as a state, the 5(a) lands, those were lands held by the territory, and those were transferred directly to the state. So for instance, Sand Island, the reason OHA doesn't get any pro rata share from Sand Island is because those lands were transferred to the state at the time of statehood. 5(b) lands were titled held by the United States, but under control of the territory. Those were transferred from the United States to the state. 5(e) lands are lands titled and controlled held by the United States like Schofield Barracks or other places here in Hawai'i, the National Parks. Those will be transferred from the United States to the state if land is no longer needed by the United States.

So from the time of statehood until the 1978 Constitutional Convention, although the 5(f) lands had five different purposes, including as you can see listed on this slide, public education, betterment of conditions of Native Hawaiians, development of farm and home ownership, public improvements and public use, which is a very general broad category. All the proceeds and revenues were utilized for the purpose of public education.

1978 Hawaii Constitution
Article XII, section 4
Public Trust

The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

[Add Const Con 1978 and election Nov 7, 1978]

1978 Hawai'i Constitution, Article XII
Sections 4, 5 & 6



Created OHA "to manage all income and proceeds from that pro rata portion of the public land trust for native Hawaiians."

Clarified Admission "Act 5(b) lands shall be held by the State as a public trust for native Hawaiians and the general public."

10

11

In 1978 the ConCon established Section 4 of Article 12, the Hawai'i State Constitution, and the reasoning behind this is because the funds were all going to public education from the Public Land Trust and so OHA wanted to clarify. I mean the Constitutional Convention wanted to clarify that those lands actually are to be held as a public trust for Native Hawaiians and the general public. So to make sure that those lands were used not only for public education, but also for the benefit of the conditions of Native Hawaiians. This section was added to the Constitution.

This is a picture of the first inauguration of OHA Trustees in 1980. So sections 4-5 and 6 were all added to the Hawai'i State Constitution and you know sections 5 and 6 really created the Office of Hawaiian Affairs created OHA quote to manage all incoming proceeds from that pro rata portion of the public interest for Native Hawaiians and also clarified as we saw earlier in Section 4 that 5(b) lands shall be held by the state as a public trust for Native Hawaiians in the general public.



Act 273, Session Laws Hawaii 1980
Hawai'i Revised Statutes § 10-13.5

Twenty percent of all funds derived from the public land trust, described in section 10-3, shall be expended by this office, as defined in section 10-2, for the purposes of this chapter.

12

In 1980, the Legislature was instructed to provide legislation to implement the formation and setup of OHA and so among many bills, among many things that were done including setting up the election system and other things. The Legislature passed 10-13-5 which specifically says 20% of all funds derived from the Public Land Trust described in section 10-3 shall be expended by this office, which is the Office of Hawaiian Affairs.

Examples of Public Land Trust Airports

- Dillingham Airfield
- Hana
- Hilo
- Honolulu
- Kalaupapa
- Molokai
- Port Allen
- Upolu
- Waimea-Kohala



Honolulu International Airport

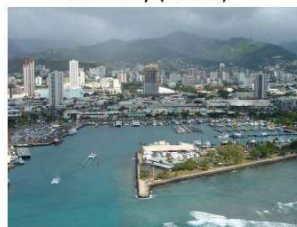


Hilo International Airport

13

Examples of Public Land Trust Harbors and Housing

- DOT-Harbors
- DLNR-DOBOR
- Hawai'i Community Development Authority (HCDA)



Kewalo Basin



Honolulu Harbor

KA'ULU RESIDENTIAL
COMMUNITY

14

So these are just some examples of Public Land Trust, so here are the airports, reef runway which is built on submerged land it's also part of the Public Land Trust, Hilo International Airport. Harbors and housing, also part of the Public Land Trust. These are all the big revenue generators. Hawai'i Community Development Corporation, the boating harbors because of the submerged lands.

Examples of Public Land Trust Agricultural Land and Irrigation Systems

- Department of Agriculture
- Agribusiness Development Corp.
- DLNR



Kalepa Lands



15

Apology Resolution, Public Law 103-150 (1993)

Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government, and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government;



16

Here are some examples of the Public Land Trust agricultural land and irrigation systems, and of course as we know, DLNR is one of the main stewards of the Public Land Trust.

Another very important event besides the 1978 Constitutional Convention was the passage of the apology resolution by both Houses of Congress in 1993, and in that resolution the Congress finds and admits that the Republic of Hawai'i also ceded 1800 acres of crown, government and public lands of the Kingdom of Hawai'i without the consent of or compensation to the Native Hawaiian people of Hawai'i or their sovereign government.

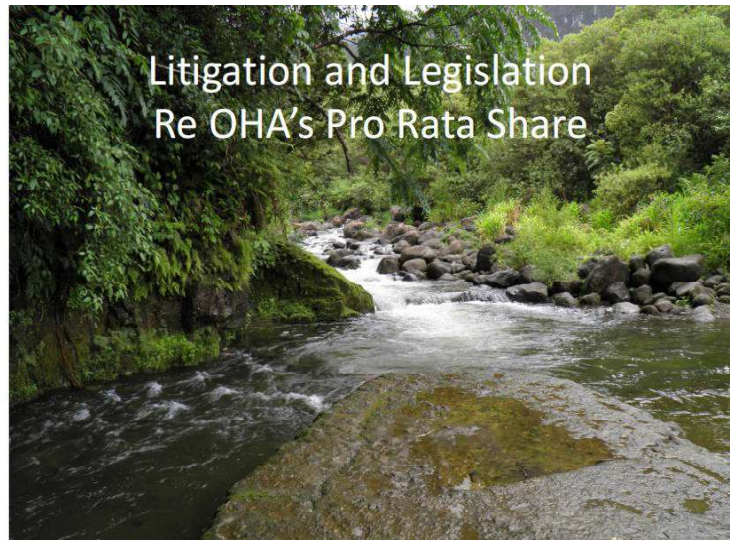
Apology Resolution, Public Law 103-150 (1993)

Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;



17

Litigation and Legislation Re OHA's Pro Rata Share



The apology resolution also finds that the indigenous people, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as the people over their national lands to the United States either through their monarchy or through a plebiscite or a referendum.

So now we're going to take a look at the litigation and legislation relating to OHA's pro rata share.

Pro rata portion of public land trust for the betterment of the conditions Native Hawaiians



Yamasaki 1987: Hawai'i Supreme Court: issues are non-justiciable and legislature must make initial policy decisions about OHA's pro rata share.

1990: OHA and State through Gov. Waihee entered into a settlement. Act 304 defined "revenue," set process to determine past due revenue, and segregated revenue from the "actual use" or disposition of trust lands into two categories - sovereign and proprietary.

OHA would not receive **sovereign revenue** - such as taxes, fines, and federal grants or subsidies - generated from the exercise of State sovereign powers.

Proprietary revenue, such as rents, leases, and licenses, would be subject to OHA's pro rata share.

19

Act 304, SLH 1990 State Continues to Use to Today

OHA's pro rata share to be calculated on **proprietary revenue**, or "proceeds, fees, charges, rents, or other income, or any portion thereof, derived from any sale, lease, license, permit, or other similar proprietary disposition, permitted use, or activity, that is situated upon and results from the actual use of lands comprising the public land trust, and including any penalties or levies exacted as a result of a violation of the terms of any propriety disposition"

Sovereign revenue was expressly excluded from OHA's pro rata share, including:

1. Taxes;
2. Regulatory or licensing fees;
3. Fines, penalties, or levies;
4. Registration fees;
5. Moneys received by any public educational institutions, including the University of Hawai'i, and the community college system, from educational its programs and ancillary services, such as tuition, registration fees, meals, books, grants, or scholarships;
6. Interagency and intra- agency administrative fees or assessments;
7. Moneys derived from or in support of penal institutions and programs;
8. Grants, carry-overs, and pass-throughs;
9. Federal moneys, including federal-aid, grants, subsidies, and contracts;
10. Moneys collected from the sale or dissemination of government publications; and
11. Department of defense proceeds on state-improved land.

20

So one of the first things that the Office of Hawaiian Affairs did was when it was formed in 1980 and came into being was to sue over the pro rata share, and this had to do with the removal of sand on Moloka'i and whether or not OHA was entitled to 20%. The Hawai'i Supreme Court ruled that the issues are non justiciable. So what it meant by that was that it's not a matter for court to decide because it doesn't have sufficient standards to make the decision, and the Legislature must make the initial policy decisions about OHA's pro rata share. So as a result of that decision, when Governor Waihe'e was elected, he set up a process to consider how to make fair the pro rata share to OHA, and so in 1990 Act 304 was passed and this was part of the settlement. It defined revenue which is an important aspect of that settlement, and you'll see in the next slide, and I'll explain why. It set the process to determine past due revenues. It segregated revenue from the actual use or disposition of trust lands into two categories, sovereign and proprietary. OHA would not receive sovereign revenues such as taxes, fines, federal grants and OHA would receive proprietary revenues such as leases, rents, licenses and those would be subject to OHA's pro rata share.

So just for your information, I thought that it would be good to include this slide, which is a little more detailed, but it gives you the list of everything that OHA agreed it would not receive revenues from. So this is part of the settlement that was arranged with Governor Waihe'e and passed by the Legislature and then even though eventually Act 304 was struck down by the Hawai'i Supreme Court because of the the federal position on the airport revenues. Nonetheless, even today the state continues to use these two definitions and there's other aspects to Act 304 that the state does continue to use. But of course, the ones that it doesn't like it doesn't use.

No Historical Agreement - Disputed Sources - Judge Heely (1996)

- ▶ 1993: State and OHA agree to revenue streams included in OHA's pro rata share, and \$135 million past due for 1980 to 1991 for certain issues. **DISPUTED SOURCES REMAIN.**
- ▶ 1996: Trial Judge Daniel Heeley rules in OHA's favor.
- ▶ **Hospital revenue**
 - ▶ Patient services fees, cafeteria sales, and lease rent at Hilo Hospital "is clearly a proprietary rather than sovereign exercise of power which does not shield the Hilo Hospital Income from Act 304's definition of 'revenues'". Oct. 23, 1996 Heely Decision at 14.
- ▶ **Public housing developments and rent**
 - ▶ The state's activities of providing affordable housing "which are carried out by private individuals also," are proprietary in nature. Oct. 23, 1996 Heely Decision at 9.
- ▶ **Interest on investment of withheld revenue from public trust land**
 - ▶ "[T]he State is required to pay [OHA] its pro rata share of the interest income earned by the State from ceded land revenues derived from the Public Land Trust." Oct. 23, 1996 Heely Decision at 16.
- ▶ **DOT-Airports Waikiki Duty Free**
 - ▶ Subsequent to OHA I, DOT moved all Duty Free Shops operations off public trust land at HNL.

FAA and Use of Airport Revenues



The FAA viewed such use of airport revenues as contrary to the policies and conditions of grants provided under the Airport Improvement Program 1982, to prevent an airport owner or operator who receives Federal assistance from using airport revenues for expenditures unrelated to the airport.

In a 1996 report, the USDOT Inspector General [IG Report] concluded that the State's payments to OHA between 1992 and 1995 in the amount of \$28.2 million "were a diversion of airport revenue in violation of [the FAA Authorization Act of 1994]" because OHA provided no services for the \$28.2 million and rejected the argument that the payments were for rent/use of the ceded lands.

22

B - 7

So OHA had filed the suit over the issues that remained from the negotiations with Governor Waihe'e. In other words, these were four items that the state did not agree with OHA on, and OHA did make claim for these four items. Judge Heely ruled that OHA was entitled to these four items in 1996. So hospital revenue, so patient service fees and you can see here what Judge Heely ruled. I quoted a sentence or two from him. So it was hospital revenue, public housing developments and rent, interests on investment of withheld revenue from Public Land Trusts and the airports, Waikiki duty free. The state had agreed that OHA would get the airport landing fee revenues, the 20% on that, but hadn't agreed on airports Waikiki duty free, but Judge Heely ruled that OHA was entitled to all these four items that had been disputed, given the language of Act 304.

Well the airline industry didn't like this Act 304 and they complained to the FAA and the Department of Transportation and so the FAA then reviewed this use of airport revenues to pay up the pro rata share and found that it was contrary to the policies and conditions of grants provided under the Airport Improvement Act 1982. To prevent an airport owner or operator who receives federal assistance from using airport revenues for expenditures unrelated to the airport. In a 1996 report, the USDOT Inspector General, the IG report concluded that the state's payments to OHA between 1992 and 1995 in the amount of 28.2 million were a diversion of airport revenue and violation of the different FAA authorization acts because OHA provided no services for the 28.2 million. Well OHA had tried very hard to argue against these different findings of the federal agencies and argued that the revenue was for the rent, use of the ceded lands, but both the FAA and the IG rejected those arguments.

Reef Runway Daniel K. Inouye International Airport



23

Pro rata portion of public land trust for the betterment of the conditions of Native Hawaiians

- 1997: Act 329 set "interim revenue" at **\$15.1 million/yr**, established committee to address Public Land Trust issues and required inventory



24

This is just the beautiful reef runway which is on submerged lands.

So in 1997, Act 329 sent an interim revenue in response to this finding by the FAA and the USDT at \$15.1 million a year.

DOT-Airports Revenue Under Cayetano Administration (1994-2002)



- ▶ 1996 - Judge Heely finds "the State is required to pay OHA its pro rata portion of all rents or fees collected by the State for the Duty Free concessions at the State's airports, including rents based upon gross sales generated from the Waikiki duty Free shop."
- ▶ Following USDOT opinion that transfer of Airport revenue violated federal law, State halted transfers from Airport special fund to OHA in 3rd Q 1996
- ▶ 1997 - Federal Forgiveness Act, OHA retained \$28.2 million transferred from Airport special fund
- ▶ Act 329, SLH 1997 - equivalent payment included amount for landing fees, concession, terminal and ground rent in calculation of past due revenue withheld after 3rd Q 1996

Senator Daniel K. Inouye July 29, 1997, 105th Congress Airport Forgiveness Act



However, I would like to make clear that . . . the removal of the Airport Revenue Fund for use by the State of Hawaii as a source of compensating the Office of Hawaiian Affairs for use of ceded lands upon which the airports sit, should not equate to a like reduction in the State's obligation to OHA under State law. This forgiveness provision should not be construed as a forgiveness of the State's obligation to OHA.

The airports continue to sit on ceded lands. The State's obligation to compensate OHA for the use of the land upon which the airports sit should also continue. The only difference would now be the source the State will draw upon to satisfy its obligation.

See Forgiveness Act, § 340(d), 111 Stat. at 1448. CLARIFICATION - Nothing in this Act shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that defined the obligations of such States to Native Americans, Native Hawaiians or Alaska natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.

So when Governor Cayetano handled this matter, as soon as he got that USDOT opinion he halted transfers from the Airport Special Fund to OHA in the third quarter of 1996. So Judge Heely had decided just prior to the USDOT opinion and just prior to Cayetano halting all payments. Then in 1997, Congress passed the Federal Forgiveness Act. This is really actually an airport revenue act, but it's called the Federal Forgiveness Act because OHA was able to retain the \$28.2 million transferred from the airport special fund. So of course we had our US Senators at the time, Senators Inouye and Akaka to thank for making sure that OHA at least got the 28.2 million to keep. Then Act 329 session laws 1997. That was the equivalent payment which I showed you up above and that was for the 15.1 million.

Senator Inouye made a speech on the floor of the US Senate when the bill was passed and he was very clear that this was not supposed to extinguish OHA's claim to the airport revenues So Senator Inouye said however, I would like to make clear that the removal of the airport revenue fund for use by the State of Hawai'i as the source of compensating the Office of Hawaiian Affairs for use of the ceded lands upon which the airports sit should not equate to a like reduction in the state's obligation to OHA under state law. This forgiveness provision should not be construed as a forgiveness of the state's obligation to OHA. Airports continue to sit on ceded land. The state's obligations to compensate OHA for the use of the land upon which the airports sit should also continue. The only difference would now be the source the state can draw upon to satisfy its obligation. Then if you take a look at the Forgiveness Act itself, Section 340, subsection D, there's a clarification. This is directly from the Act. Nothing in this Act shall be construed to affect any existing federal statutes, trust obligations created there under or any statute of the several states that define the obligations of such states to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.

DOT-Airports Revenue Under Lingle Administration (2002-2010)

- ▶ Act 34, SLH 2003 - appropriated back payment for pro rata share transfers halted from 2001-2003
- ▶ 2003 - EO 03-03 - resumed pro rata share payments, but no equivalent Airport revenue transferred
- ▶ Act 178, SLH 2006 - pro rata share temporarily set at \$15.1 M; calculation included equivalent payments for "ancillary receipts" from DOT-Airports
- ▶ Act 178 - appropriated \$17.5M for underpayments under EO 03-03



Act 15, SLH 2012

- Settlement addressed ***past due*** revenue, through June 30, 2012 including unresolved issues from Act 304 settlement in 1993



OHA received 10 parcels in Kakaako Makai

28

So when Governor Lingle got elected Governor she immediately pursued restoring some version of the pro rata share to OHA, so she issued her own Executive Order 03-03, which resumed pro rata payments. Because remember, Cayetano had stopped all prorated payments and then Act 334 was also passed and that appropriated back payments for the pro rata share transfers halted from 2001, 2003. Act 178 was passed in her administration, and that's the current law and the one which OHA is looking to update to be more current with, and also to include the Heely decision sources of revenue. And then ACT 178 also appropriates 17.5 million for under payments under Executive Order 03-03.

I just put this slide up to remind you that it doesn't have to be cash that OHA needs to receive for the purposes of a settlement. So this was the land settlement. Whether or not it was the perfect settlement or a good settlement or anything I don't comment on that, but I just show you this to suggest that there are other ways of satisfying OHA's obligation besides cash.

Mahalo nui loa for this opportunity to present the PowerPoint and let me know if anybody has any questions.

Ka Pouhana Hussey: Chair Akaka, if it's alright we'll go ahead and have Everett begin his section.

Chair Akaka: That sounds great, thank you.

2022 OHA Public Land Trust bill

Everett Ohta
December 27, 2021
Committee on Beneficiary Advocacy and Empowerment

2022 PLT bill - An overview

- I. Annual Payments Due (Section 2) - Increase the amount of the state's annual transfer of PLT revenue to OHA to \$78.9 million, from its current amount of \$15.1 million.
 - Processes to transfer PLT receipts (Sections 3 and 4).
- II. Obligation re Past-Due Monies to OHA (Section 5) - A \$638 million payment for back due amounts of underpaid PLT revenue that have accrued from July 1, 2012 to June 30, 2022 (ten fiscal years).

Interim General Counsel Ohta: Good morning Trustees. I'll be presenting now on the basis for the numbers provided for in the bill that is being proposed as OHA's Public Land Trust measure to be introduced for the

B - 10

2022 Legislative Session. This presentation will be again based off of the information that Sherry Broder has shared with you, which you know summarized a lot of the long history of Public Land Trust issues between OHA and the state. The numbers provided for in this bill draw upon that long history and seek to build on that by updating the amount that the state would transfer to OHA in satisfaction of its constitutional obligations to provide for a pro rata share of revenues from the Public Land Trust to benefit Native Hawaiians.

In summary, the bill is comprised of two major components, the first being an updating of the annual payment amount that OHA receives for the public Land Trust to the amount of \$78.9 million. Of course, this is a significant increase in what is currently provided for under Act 178 from 2006 and it's also a substantial increase from the numbers that recent OHA bills have sought to increase in terms of PLT share. So I'll be going into a little bit of detail of how we arrived at that figure. The bill also provides for, of course, the mechanisms that amount would be transferred to OHA. The other major component is a lump sum payment for the states past due obligations that really is the difference between what OHA is identified as a truer accounting of the Public Land Trust share versus what we've been receiving since the last settlement between OHA and the state in 2012 relating to the Kaka'ako Makai settlement.

Act 178 (2006) was to:

“(1) Provide interim measures to ensure that an adequate amount of income and proceeds is made available to the office of Hawaiian Affairs from the pro rata portion of the public land trust, for the betterment of the conditions of native Hawaiians; and . . .”

Act 178 (2006) – accounting of receipts

- “A single accounting will provide the Legislature, OHA, the general public, and even the state administration with a clearer financial picture of the public land trust”
- SECTION 5 - DLNR, “with the cooperation of any other agency that uses or manages public lands”, shall provide “an accounting of all receipts” from lands described in Admission Act section 5(f)

As Sherry mentioned, the basis for this update that we're seeking in this measure is really that ACT 178 passed by the Legislature in 2006 was always meant to be an interim measure. That measure was to be updated over time and really we're looking now at 15 years since its passage, over 15 years actually since its passage and of course we feel that it's long overdue for revisiting and updating of that annual amount.

The way that we are going about it is really a process by which OHA and the Legislature had originally envisioned through the ACT 178 process, which was to first reestablish that amount for an annual transfer of PLT monies but then also provide for an annual accounting of receipts from what was actually generated on PLT lands. So this accounting comes to OHA through the Department of Land and Natural Resources, which assembles the reported receipts from each of the agencies and combines it into a report. That report is to provide for an accounting of all receipts from lands described under the 5(f) Public Land Trust.

OHA Financial Reviews

- Tested FY2012 and FY2016 Act 178(2006) reports for accuracy and completeness
- Investigate and identify gaps in reported receipts
- Explain methods used by agencies to determine and report gross receipts



FY16 Financial Review - Overview

- Beginning January 2017, N&K CPAs contacted agencies and provided each with an agency-specific PLT Inventory Report that lists the PLT parcels for that agency
- N&K reviewed audited financial statements and revenue schedules for revenue sources on the agency's PLT Inventory Report
- N&K reconciled audited financial statements and revenue schedules with Act 178 (2006) report info

What OHA has determined over the years is that the numbers that have been reported on by DLNR from the various agencies are not accurate and complete, and we looked at that through two financial reviews conducted by outside accounting and consulting firms that OHA has contracted to take a closer look at what the actual financials were from these agencies related to PLT lands. It was to look at the accounting gaps that were provided for under these reports and to determine how accurate and complete these various reports were.

Most recently, N&K CPAs conducted a financial review for us of the fiscal year 16 reporting from the state and found that there were significant reporting gaps both in terms of what lands were reported on from the PLT receipts as well as the completeness of those receipts that were reported by the agencies, meaning that they weren't reporting all of the receipts that were actually generated from the Public Land Trust. With this information in hand, combined with the information received from the annual DLNR reports, OHA identified those sources of revenues that were generated from Public Land Trust lands or resources and which have been historically claimed by OHA, whether through agreement with the state or through things like past litigation, which Sherry touched on in her presentation. So in looking at those numbers, we reviewed them and identify those sources, summed them up, and came up with an amount that we feel is much, much closer to a true 20% share that OHA should be receiving to benefit Native Hawaiians.

I. Annual Payments Due - \$78.9 million/yr. Section 2 (p.6)



Public Land Trust Revenue Sources

PLT Revenue Sources with:	FY2016 Act 178 gross receipts	20% of gross receipts	Cumulative Share of receipts
1. Historical Agreement			
A. Receipts that State currently transfers to OHA, per Act 178 (2006)	\$173,874,929	\$34,774,986	\$34,774,986
B. State accounting errors			
C. Inconsistent transfers (some/same agencies transfer similar revenue sources, some do not)			
D. Past Precedent (agency transferred from exact revenue sources in the past)			
2. No Historical Agreement -- "Newly" Identified Sources	\$941,291	\$188,258	\$34,963,244
3. Heeley revenue sources (hospital patient service fees, public housing revenue, interest)	\$219,505,943	\$43,901,189	\$78,864,432

That figure as provided for in this year's Public Land Trust Bill, is an amount of \$78.9 million per year. That's provided for under section two of the bill.

This amount comes from again those sources of revenue that OHA and the state have either previously agreed to, or sources of revenue, Public Land Trust revenue that OHA has previously claimed in the past. They generally can be categorized into these areas either you know those areas with historical agreements between OHA and the state as provided for or summarized in this slide or those sources that OHA has previously claimed on what we're identifying as the Heeley revenue sources, a name that comes from that 1996 decision

from the Circuit Court Judge Heely identifying certain revenue sources that OHA claimed and he ruled on were being subject to OHA's pro rata share for Native Hawaiians. The amount that we're looking at is in the bottom right corner. It's accumulative total that comes from those various sources of receipts, and it's the inclusion of those Heely revenue sources is where we see the difference into what we're looking at this year in this PLT bill, versus what we've claimed in the past where our prior bills have come out at that \$35 million amount. So again, this 78 rounded to \$78.9 million is what we're including in this year's bill.

PLT revenue comprising \$78.9 million/yr.

1. Historical Agreement revenue sources (20% = \$34,774,986)

- A. Revenue sources that State currently transfers to OHA, per Act 178 (2006) (\$18,147,098/yr)
 - E.g., Lease rents, parking meters, public school use fees.
 - Per Act 178 (2006), OHA retains only \$15,100,000 each year.

B. State accounting errors (\$50,558)

- E.g., HCDA inadvertently did not report/transfer Kaka'ako Makai rent from Parcel C

C. Inconsistent transfers (\$1,594,958)

- Some agencies transfer a revenue source, but not other, similar revenue sources (e.g., DAGS parking lots F, B, C, O, Z-2);
- Some agencies transfer a revenue source, but another agency does not transfer a similar revenue source (e.g., HHFDC transfers laundry concession receipts, HPHA does not transfer laundry receipts);
- Difference between an agency's pro rata share of reported receipts vs. actual transfers to OHA (unknown basis for not transferring all reported receipts).

PLT revenue comprising \$78.9 million/yr.

1. Historical Agreement revenue sources (continued):

D. Past Precedent (agency transferred from exact revenue sources in the past) (\$14,982,342)

1. Airports (landing fees, concessions, terminal and ground rent)
2. Non-patient hospital revenue (e.g., food sales, laundry services, employee housing rentals, clinical rent revenue)

Revenue Source	FY2016 Act 178 gross receipts	20% of gross receipts
Airports	\$73,102,955	\$14,620,591
Non-Patient Hospital Revenue	\$1,683,181	\$361,751

Just a little bit more, by way of explanation of you know the types of revenue sources that we're talking about. The first categories that we're discussing are those that have been historically agreed to by OHA and the state. Those revenue sources include things like Public Land Trust land leases, and other user charges related to PLT lands. These sources are currently transferred to OHA by the agencies and we're capped by ACT 178 in terms of the amount that we can retain under Act 178. Other areas that were identified through the financial reviews are errors by the state in terms of what should have been reported and transferred to OHA, but were not for various reasons, but they were identified during these financial reviews as being subject and should have been transferred to OHA. Another area is those revenue sources that have been inconsistently transferred by the state agencies, where one agency will transfer certain receipts to OHA but another agency will not transfer receipts that are almost, that are nearly identical onto those transferred by a sister agency, so we identified those as areas that should be transferred and would in all likelihood should be transferred if the state was just acting consistently across its agencies.

The final area where there has been a historical agreement between OHA and the state in terms of receipts really come from the airports where the state has historically transferred receipts to OHA generated from the airport lands which sit on Public Land Trust lands, and those airport receipts include receipts transferred or factored into the amount that OHA receives after the Forgiveness Act. So even after the decision that said that OHA was not able to receive monies generated directly from the airports. The state still factored into its transfers to OHA the amounts generated from the airports consistent with the language I think that Sherry referenced in her presentation or regarding the continuing obligation of the state to account for those revenues and transfer the revenues from other sources to make up for that amount that can't be directly transferred from the airports. Also included in here are non-patient hospital revenues related to more commercial activities that can be characterized as related to more commercial activities within the hospitals.

PLT revenue comprising \$78.9 million/yr.

2. No Historical Agreement - "Newly" Identified Sources (20% = \$188,258*)

► Examples:

- Made in Hawai'i trademark (NELHA);
- Library fees for advanced services (DOE);
- Offshore property management fees (DLNR-DOBOR);
- Hunting receipts (DLNR-DOFAW).

**Does not include unknown additional receipts from Dept. of Health and UH*

PLT revenue comprising \$78.9 million/yr.

3. Heeley Sources - Hospitals, Public Housing, Interest (20% = \$43,901,189)

- a. Interest on investment of public land trust revenue
- b. Hospital patient revenue
- c. Non-commercial public housing revenue

Revenue Source	FY2016 Act 178 gross receipts	20% of gross receipts
Hospital patient revenue	\$209,894,684	\$41,978,937
Non-commercial public housing revenue (HHFDC & HPHA)	\$9,468,706	\$1,893,741
Interest on investments	\$142,550	\$28,510

Through the financial review, we also identified other sources that hadn't been the subject of past agreement between OHA and the state, but we believe them to be clearly analogous to receipts otherwise transferred to OHA, and those newly identified sources through the financial reviews were also included in the calculations to arrive at what OHA is claiming under its new updated amount.

And then the final areas of revenues that OHA has identified for this year's measure are the Heely sources, those revenues that have been generated from Public Land Trust lands related to patient services at the state hospitals that sit on Public Land Trust lands as well as public housing projects that sit on Public Land Trust lands and the interests derived from the investing of Public Land Trust revenues in various accounts. All of these categories were previously identified by OHA, and were the subject of litigation dating back from the mid 90s and these were the categories of revenues that Judge Heely determined were subject to OHA's pro rata share back in 1996. So we're now including them, and that these three sources, in particular the hospital revenues, make up the majority of what that increased amount we're looking at for this year's measure, as opposed to more recent measures that OHA has either put forward, put forth, or supported.

Public Land Trust Revenue

Historical Agreement revenue sources	
Currently transferred revenue	\$18,147,098
+ 20% of State accounting errors	\$50,588
+ 20% of inconsistent transfers	\$1,594,958
+ 20% of "Past Precedent" sources	\$14,982,342
No Historical Agreement sources	
+ 20% "Newly" identified sources	\$188,258
Heeley Revenue Sources	
+ Hospital patient revenue	\$41,978,937
+ Non-commercial public housing revenue	\$1,893,741
+ Interest on accounts	\$28,510
TOTAL	\$78,864,432*
ROUNDED TO	\$78,900,000

*Based on FY2016 Act 178 reported receipts, plus receipts from FY2016 identified in N&K Financial Review; because significant reporting gaps still exist, these figures represent OHA's minimum pro rata share

Where will the State get the funds?

- New annual amount (\$78.9 million) would mean increasing currently transferred PLT receipts by approximately \$63.8 million annually
 - Federal law prohibits transfers of airport revenues directly from airport special fund, but does not change underlying obligation of the State
 - State needs to find other sources to replace amounts attributed to pro rata share of airport revenues (20% = \$14,620,591 as of FY16)
- OHA PLT bill provides flexibility to the State to identify alternatives to direct airport payments
 - Same approach as Act 178 (2006)

This is how the figures generally breakdown in terms of their contributions to the \$78.9 million amount. You can see that it's broken down according to those categories that I previously described, but they can kind of be viewed here as in their individual or categorical contributions to that amount.

Often given the amount that we're talking about here, we do recognize that there's going to have to be a significant increase of revenue or PLT monies transferred to OHA under this measure. So there is a mechanism for the Governor to set that amount that would be necessary to identify, I mean to account for the receipts generated, particularly in the airports, but also if necessary for the Governor to set the amounts that each agency transfers to OHA and that transfer amount can be set via Executive Order, which is currently the process under Act 178.

Sections 3 and 4

Procedures for quarterly transfers of PLT receipts and how to adjust amounts transferred to OHA

II. Back Due Lump Sum - \$638 Million

Section 5 (p. 9)



The next sections of the bills, Section 3 and 4 provide for the transfer procedures about how those receipts would be transferred to OHA under this new amount. It largely follows the procedures set forth in Act 178 from 2006, as well as the Executive Order 06-06 which operationalizes those transfers from the State Executive Branch to OHA.

And then moving on, the next major component of the 2022 PLT bill as proposed would be to provide for a lump sum payment to OHA in the amount of \$638 million.

Back Due Lump Sum - \$638 Million

Back due PLT amounts = New annual amount minus \$15.1M, multiplied by years since FY13 (i.e., 10 years)

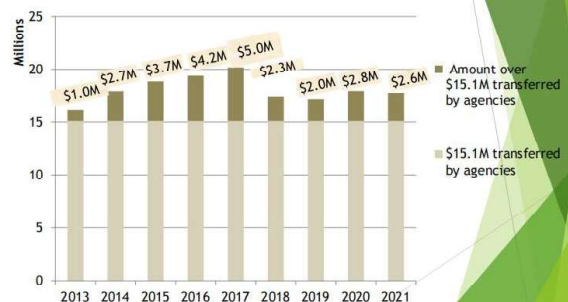
Back due calculations based on FY16 sources:

$$\$78,900,000 - \$15,100,000 = \$63,800,000 \times 10 =$$

\$ 638MM

Includes transfer of funds in the PLT Trust Holding Account - \$29,060,008 as of first quarter, FY22

OHA returned funds to trust holding account in Fiscal Years 2013 - 2021



This amount is calculated from the difference between the \$78.9 million amount against what OHA has been receiving as \$15.1 million each year, the difference being \$63.8 million multiplied by the number of fiscal years since the last OHA and state settlement related to Kaka'ako Makai. That is 10 years or 10 fiscal years since that settlement, resulting in a \$638 million amount for a back due payment. As Sherry noted in her presentation, past bills or past Legislative Acts that have updated the amount that OHA has received as a PLT share have almost always included a lump sum payment to account for these differences in what OHA has been receiving and what the new annual amount is so we are also including a similar measure here to account for what OHA should have been paid in this interim period. The last thing to note is that amount would include the amount, the monies held in that carry forward trust holding account amounting to approximately \$29 million that's held as a result of this, transfer procedures set up by executive order 06-06.

Those amounts have accumulated in the carryforward trust holding account since approximately fiscal year 2013, when we have consistently seen the transfers to OHA from the various agencies exceeding that set forth in Act 178. So we're looking to receive those monies as a clear source of PLT funds that the state has recognized or subject to OHA's pro rata share. But for Act 178, procedures were limited in how much of that money we can actually retain. So this overage has gone into the carryforward trust holding account and sits there unutilized when it is otherwise PLT monies.

Reporting of PLT receipts - Continuing obligation under Act 178 (2006)

- Continues requirement that all agencies that collect receipts from lands in the public land trust report all such receipts by January 1 of each year.

Mahalo Nui Loa



The final thing that we'd note for this bill is that the reporting obligations of the agencies would continue under Act 178 from 2006 where these reporting requirements are not expressly changed under this measure, we were only looking to update the amounts that OHA receives annually, as well as providing for an additional lump sum payment as previously described.

That concludes my presentation, but I will along with Sherry and the other members of Administration be available for for the discussion and questions, thank you.

Ka Pouhana Hussey: Chair Akaka, we now like Chief Advocate Na'u Kamali'i and Nina to walk Trustees through the actual bill based on these contextual pieces that have been shared.

Chief Advocate Kamali'i: Thank you very much Chair Akaka, Chair Lindsey, Members of the Board of Trustees, present on the Committee and as well as my fellow Administrative cohorts. Thank you for the opportunity to present this bill and also just thank you very much to the Administration and the amount of work that we have put into simplifying the ask that is reflected in the bill. There's a great effort to work on clarification and also to work on simplification of the ask. So as I go through the bill, this came out of the prior BAE meeting of December 8th. We had presented generally requesting that the Board and the BAE Committee grant Administration more time to put this bill together and so here we are the bill itself is before the Committee for review. As I go through the bill, it will make for easy for others to follow along, make reference to pages and along the left hand side there are numbers and those are line numbers so that you can easily go to the various sections that I speak to. So this is related to the increasing of the payment of the Office of Hawaiian Affairs in the pro rata share. Sherry Broder has made just an amazing history to how we come to this point as well as Everett providing the figures which will be referenced in the bill.

So the question that one of the Trustees had asked is you know why now? Well, it's always appropriate to address constitutional obligations for the betterment of the conditions of Native Hawaiians and those words, they come from the law itself, and the obligation that I'm speaking of is the state's obligation, as captured in Admissions Act and the creation of OHA through the Constitution, its obligations to manage these funds for the betterment of our Native Hawaiian people. So this is really what we're talking about today. There has been history with regard to OHA's efforts to work with the state, taking us to court, taking us back again, executive orders being issued as well as acts being issued both in the state and in the congressional arena.

So we look at the very first sentence. This is about setting things right. Setting things right by the Legislature, being that if it is time to set right and fulfill the trust responsibilities to the indigenous people of Hawai'i consistent with governmental action across America to address the injustices against indigenous people. There are settings of rights that are occurring across the continent with tribes, Alaska Natives and so this is an effort to do that. Which has its origins as you read the bill from the illegal overthrow of the Kingdom of Hawai'i, and I'm not making that up, I mean it already is in Congressional Act, it's embodied in the apology bill. So

B - 16

what we're seeing here is that it's incumbent upon the Legislature to enact legislation that upholds its trust responsibilities, and duty of care to Native Hawaiians. This bill is not about OHA. Yes, we are the managers. This bill is about a duty of care and responsibility to Native Hawaiians to account for all ceded lands in the Public Lands Trust inventory to account for all income and proceeds derived from the Public Land Trust and to transfer the full 20% pro rata share of income and proceeds from the Public Land Trust annually to the office of Hawaiian Affairs. And that's so that OHA can do its job to manage and to develop programs to lift Native Hawaiians up and out of poverty, out of cars, programs for education for the betterment of the condition of our Native Hawaiian people.

Section 1 includes the genesis and the source of the state Public Land Trust. Sherry has done an amazing excellent job of putting that together for you and a PowerPoint presentation as she remarks to us she could spend days talking about the history with regard to the ceded lands and a ceded lands trust obligation. But we don't have time for that and the task of the bill which is just to put all of that together as simply as we could to capture our unique historical, legal and political context as a basis for the ask. For the monies that are due to the Native Hawaiian people. The conditions, the lands that they are, how they were granted under the 5(f) provision, Sherry has laid out more simply and more clearly the other provisions of the Admissions Act, which addressed stresses the character of lands, the ceded lands where they went, and how title is held. But these 5(f) provisions for the betterment of the condition of Native Hawaiians as defined in the Native Hawaiian Homes Commission Act of 1920 and is further addressed by state law is what we're talking about here. We're talking about the income and the proceeds generated from those lands.

And in her presentation, Sherry has distinguished those other types of income and proceeds within the sovereign rights, they're sovereign character to the state of Hawai'i. Those are distinct and distinguished from the income and the proceeds that we're talking about. So here in 78, establishment of OHA, going very quickly through the history, which Sherry has already gone through. Not to belabor that, but as you read the bill, it goes through that history very quickly to provide the legal, political and historical context for what we're talking about in this bill.

So I'll move you to page 6 very quickly, line 9. The Legislature, in upholding its constitutional trust obligation and duty to the indigenous people of Hawai'i. We get to what is the purpose of the Act is to establish 78.9 million as the Office of Hawaiian Affairs annual share of the income and proceeds of the Public Land Trust beginning in fiscal year 2022 and 23. In Everett's presentation he laid out for the committee how we get there, and certainly we can revisit that in questions that follow the explanation of the bill.

The second is to transfer the past due amount, the sum of \$638 million for income and proceeds due from the use of the Public Land Trust between July 1, 2012. Now that is the marker of the last settlement. Which in kind brought us Kaka'ako Makai. From that time of 2012 to 2022, we are again looking at money, income and proceeds that are miss allocated or underreported, certainly underpaid to the Office Hawaiian Affairs. Now this doesn't alter what the responsibility or the obligation of the state to require continued annual accounting of all receipts from lands described in section 5(f) of the Admissions Act. Now, the way we address it very simply is to make reference to Act 178, but I'll get get to that as well.

So Section 2, the annual payment due, page 6, line 20. You'll note that there is a bracket there and that is to just to help guide you along that will be removed when the bill is actually submitted. So notwithstanding, the provisions of Act 178, session laws, State of Hawai'i 2006, except for Section 5 of Act 178, which this actually states without substantive change. Now that's a lot of cross reference and mentions of acts and sections in 178, but that was done intentionally so that it doesn't confuse the act that are the bill that we're trying to introduce, and it also doesn't change what we already know. That we are operating under in Act 178, it makes reference to it so that it's easier to read the legislation, and so the ask in Section 1 at the end of the page 7, line 7, is as we have stated, consistently is now an increase from 15.1 million to 78.9 million annually. And that is because reiterating, the obligation of the State of Hawai'i, as managed by the Office of Hawaiian Affairs to the Native Hawaiian people is not extinguished, it still exists and it's for us too to have the courage

and the constitutional affirmation of what is due even if there are or maybe other discussions that result from this bill. Regarding disputed sums, we must ask for what is due and that's what that figure represents, what is due. Based on our work, as Everett reminded us. Our work produced a report and that's what we're relying on. It's not a figure pulled out of the sky. It was a concerted effort by the Office of Hawaiian Affairs in 2015-16 to actually figure out what is due and that's what it's based on, so I would shift the burden back to the state and say, well if we got it wrong, show us what's right. That doesn't change the obligation. That rests in the first transfer from the, first transfer of title to lands from the United States of America to the State of Hawai'i. This is, we're talking about income. We're talking about income and proceeds. The obligation is well seated and settled in our law.

Alright, that having been said, how is it being paid? We have worked with the Administration to receive quarterly payments and of the 15.1 million. But the methodology, we don't dispute the methodology. The quarterly payments due. That would increase to a total of 19.725 million. So our quarterly payments would increase because our annual payment due has increased, makes sense.

Then we'll go to page 8, Section 4, line 6, the quarterly payments holding account. We're familiar with this. It would try to resolve the circumstances that administration i.e. the State of Hawai'i might face if there were not enough money to pay for the quarterly amount i.e. subsection one, and in the case if there's more than enough money, i.e. subsection 2, and what we have experienced since the onset is that there have been more than enough money. Even in the instance where they may have been misallocation, underreporting, and sums not paid and that has brought us to the CFTHA account and the CFTHA account is addressed in the obligation regarding past due monies to OHA.

Section 4 simply speaks to this CFTHA account and how that is arrived at, and then finally Section 5. The obligation regarding past due monies to OHA, page 9, line 11. When we add all of that up for 10 years of underpayments, based upon our reports, not even saying that that's the total amount, it probably is quite a bit more. But that sum is in the amount of 638 million and it does include the Trust Funds transferred to the Carry Forward Trust Account and I spoke of earlier of about \$29 million.

So again, that is the past due amount. So the bill speaks simply to the annual sum. How it's going to be paid and how much quarterly and the obligation of past due monies to OHA and we tried to write it as simply as possible. Making cross references to the law that already exists regarding our working with the state and DLRN regarding receipts etc.

And Section 6 that's on page 10. Any funds transferred pursuant to the Act shall be deemed income and proceeds from the Public Land Trust, just as if the funds have been paid out of the incoming proceeds from the Public Land Trust pursuant to Article 7, Section 6 of the State Constitution. So we start with the genesis of the obligation and we end with the obligation under the Constitution. So simply to the Committee, this is the bill. And you know, again, I want to thank everybody that had worked so hard and everybody did. I think we've all come to know each other a little bit better because of this and I want to thank our CEO and our CEO for their patience in bringing us to something that I think is something that our people can support. That our people can rise up for and some of those are monies that are part of the 43 million. You know one of the other questions that arises is with regard to the hospitals and monies, we'd be taking money from the hospital. We'd be taking money from other programs that Native Hawaiians benefit from. Well, those monies can be paid for and covered by the general fund and those are obligations of the State of Hawai'i to its citizens. If our monies were used to cover those obligations which are already obligations by the by the State of Hawai'i, then we would be allowing a misallocation and that's not the obligation. It doesn't reflect the obligation. If it did, it would expressly say i.e. written that it would be okay to misallocate or to reallocate funds for other purposes. But it doesn't say that. It doesn't say that, it says these monies are to be used for the betterment of the Native Hawaiians and that's why it should continue to be allocated appropriately to support programs that lift our Native Hawaiian people out of poverty. That allow our businesses which are struggling to get a lift up so that they thrive so that our people are not continuing to cycle and these programs that are the state's responsibility

programs that you might refer to as safety net programs. It is not OHA's responsibility to support safety net programs. It is the state's responsibility to do that.

So with that I want to end the discussion with regard to the bill and I will return it back to our CEO. My understanding is that if there are any questions which require our attorneys to weigh in if those may be done in Executive Session, thank you.

Ka Pouhana Hussey: Thank you, Na'u. Chair Akaka, that ends Administration's presentation one of the constitutional foundation that Sherry provided to the numerical computations of the basis for the numbers based on studies done by OHA and the agreements and calculations and then reflected in the actual bill itself, which Na'u just walked the Trustees through. So Administration opens it up Chair Akaka to Trustees' questions and or comments.

Chair Akaka: Yes, members is there any discussion? I also saw that.

Chair Akaka recognizes Trustee Lee.

Trustee Lee: Thank you, Trustee Akaka. I just have two questions. I tried to raise my hand when Na'u was on this part on page 7, line 7 where it talks about the amount that we're seeking now, the 78.9 million or present real value. If Na'u could speak to what that means.

Chief Advocate Kamali'i: 78.9 million or present real value. What that means?

Trustee Lee: Well we're giving the legislation an either or. Right, it says shall be 78.9 million or present real value. So we're saying that value might be different than 78.9 million or are we asking for something else in lieu of 78.9?

Chief Advocate Kamali'i: Yes, present real value. Certainly our figures are lower based on a 2015, 2016 audit, present real value that would shift it to them to actually provide reliable, credible information or receipts.

Trustee Lee: Got it

Chief Advocate Kamali'i: Which certainly might be much higher.

Trustee Lee: Got it, that answers that question. Thank you, Na'u and then Chair one more question and I'm not sure if this is for Everett since this came from when he was presenting or anybody on Na'u's team who was working on this I guess could answer this. So we're asking for a lump sum settlement of \$630 million based on the 17.9 million over the last 10 fiscal years. Not if, but when the somebody in committee asked this question are we prepared to answer it when they say. Can you show that it was 78.9 million over those 10 fiscal years? Do we have that breakdown that says that during each one of those fiscal years, it was in fact 78.9? Because I find that hard to believe that every year was the same amount, that it wasn't lower 10 years ago and is higher now. I just want to make sure that when we go in to testify in committee in both the Senate and the House that we're prepared to answer that question that when, not if, when a Senator or Representative asks this question, we don't go I don't know, let's go back in, we gotta go check. I want to know that we are prepared to answer that question.

Chief Advocate Kamali'i: Trustee Lee, I had submitted, a calculation has been provided. That's how we got there.

Trustee Lee: That it was 70. I understand how we got to 78.9 for today, but we're asking for a lump sum based on that figure over the last 10 fiscal years. So we have have that computation that shows that every single one

of those fiscal years that computation came out to 78.9 million? That's all I'm asking because it's going to be asked in committee, you know it is.

Chief Advocate Kamali'i: Well, I would submit that the misallocation, underreporting and underpayment is reflected in the disputed sum. Shifting the burden to the state to show that we're wrong.

Trustee Lee: I'm not sure it answers my question, because to be clear I'm not disputing that we're wrong. That's not my intention, I just want to know that when those that are sitting at that table, because I'm not going to get to sit at that table. Those that are sitting at that table in front of the Legislators will be able to answer that question, and if that's going to be our answer, well then prove us wrong.

COO Brown: May I add something, it might not help the conversation, but Chair Akaka? The 78 million was based off a 20% calculation from the total receipts that was looked at in 2016, so Trustee Lee does have a point because we picked a point in time or N&K study picked a point in time to conduct their math, that point in time was 2016, which the 78 million is a result of. Based on if we were to do that calculation every year, the gross receipts by the state would probably fluctuate, but we're choosing a number that probably represents, you know, some kind of baseline because it likely goes up right, even though the years fluctuate, over time those amounts like they go up due to inflation.

Trustee Lee: Perfect, perfect Casey. That's the answer I'm looking for. That although we cannot represent that 78.9 million represents an accurate accounting over the last 10 fiscal years, it also does not take into account that it's probably more than 78.9 million where we sit today. So we took a point in time and we're using that as an average over the last 10 fiscal years. Now if the Legislature wants to have DAGS go and figure that out you probably might come up with a higher number. You might come up with a lower number, but for OHA's purposes where we're sitting here today, we took the snapshot in time of 2016 knowing that today it's probably higher, Representative or Senator. So I just wanted to know that we're prepared. In my mind answering to a Senator or Representative that we'll prove us wrong, I don't see that helping our case. But that answer I think helps our case, that we took a snapshot of time in 2016 and I didn't know what it was that's why I'm asking, we took a snapshot in time in 2016. This is the figure that OHA came up with based on the facts and figures that we presented to you. If the Legislator, if this committee, whether it's in the House or the Senate would like a more accurate accounting than the state is welcome to go and do that. It'll probably be higher than that now because we did not take into account inflation and everything else of where we sit here in 2022. So thank you, it did help. Thank you, Casey.

Chief Advocate Kamali'i: I apologize Trustee Lee. The calculation was presented in Everett's presentation. Back due calculations based on fiscal year 16 sources 78.9 million less, 15.1 million is 63.8 million times the number of years of 10 gets you 63.8 million, so I apologize my misunderstanding.

Trustee Lee: No it's okay, that's how I came up with the question because it was taking that one figure and then multiplying it out by 10 when I know that number isn't the same for all 10 years. So I just wanted to know that we were prepared to answer that question because it's going to come up in both the House and Senate. I promise you someone is going to ask that question because I would. So thank you, Casey. I hope someone took note of that of who's going to be giving testimony that you guys are prepared to answer that question. Thank you, Madam Chair.

Chair Akaka: Members are there any other questions or concerns? Any mana'o to be shared? Ka Pouhana is there anything else that the team would like to share?

Ka Pouhana Hussey: No Trustee, the team is ready with any questions, but if the Trustees have no further questions then we turn that back over to you.

Chair Akaka: Mahalo, alright Trustees I wanted to check if you folks are interested in going into Executive Session if there are any other questions to be asked there otherwise we'll move ahead with the motion. Alright, seeing none may I please have a motion to approve Action Item BAE #21-07 Public Land Trust Bill 2022 Legislature.

Trustee Waihe'e: Madam Chair, I'd like to move to **Approve the submission of the Public Land Trust Bill (PLT) to the 2022 Legislature as OHA-1, that addresses the: 1) Federal Trust responsibilities to Indigenous People; 2) 1959 Admissions Act and the conditions of the new State of Hawai'i to hold lands in public trust; 3) Purposes of such public land trust, including the betterment of the conditions of native Hawaiians; 4) Roles and responsibilities of the Office of Hawaiian Affairs (OHA); 5) Current interim amount of \$15.1MM; 6) Existing amount of approximately \$29MM in the carry-forward trust holding account; 7) Projected accumulation (since 2012) of the difference between the interim PLT amount of \$15.1MM and the OHA's 20% pro-rata share of ceded land revenues; and 8) Accountability and reporting processes, at Attachment A.**

Vice Chair Lindsey: Second, Madam Chair.

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

Chair Akaka recognizes Trustee Lee.

Trustee Lee: Thank you, Madam Chair. I just need a little clarification since someone decided to make this motion so detailed. I'm trying to look forward to it, but I don't see anywhere in here it addressing the lump sum that we're seeking. I will take that number 5, the current interim amount addressing that 15.1. I'll take that as a general way of saying that we're addressing it because we want more. We do address the carryforward trust account. I see it, I got that clarification. Thank you Madam Chair.

Chair Akaka: Any other discussion members? Seeing none, can I please have **roll call vote** Brandon.

							11:21 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY			X			
VICE CHAIR KEOLA	LINDSEY		2	X			
JOHN	WAIHE'E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	1

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

V. EXECUTIVE SESSION†

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

NONE

V. ANNOUNCEMENTS

Board Chair Hulu Lindsey: There is a Board of Trustee Meeting on Wednesday at 10 a.m.

VI. ADJOURNMENT

Chair Akaka: I will have a roll call to adjourn if there is a motion.

Trustee Waihe'e: So moved, Madam Chair

Board Chair Hulu Lindsey: Second

Chair Akaka: Mahalo, Trustee Waihe'e and it's been seconded by our Board Chair Hulu Lindsey. Can I please have a **roll call vote**.

							11:23 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA			X			
KELI'I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY		2	X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE'E, IV	1		X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				8	0	0	1

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

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

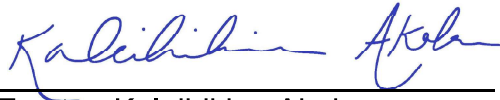
Chair Akaka adjourns the BAE meeting at **11:24 a.m.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brandon R. Mitsuda", written over a horizontal line.

Brandon Mitsuda Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on 1/25/22.

A handwritten signature in blue ink, appearing to read "Kaleihikina Akaka", written over a horizontal line.

Trustee Kaleihikina Akaka
Chair
Committee on Beneficiary Advocacy and Empowerment

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2122

JAN 19 2022

A BILL FOR AN ACT

RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA
SHARE OF THE PUBLIC LAND TRUST.

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

1 SECTION 1. The legislature finds that it must set right
2 and fulfill its trust responsibilities to the Indigenous People
3 of Hawai'i, consistent with governmental action across America
4 to address injustices against Indigenous Peoples. It is
5 incumbent upon the legislature to enact legislation that upholds
6 its trust responsibilities and duty of care to native Hawaiians
7 to (1) account for all ceded lands in the public lands trust
8 inventory, (2) account for all income and proceeds derived from
9 the public land trust, and (3) transfer the full twenty per cent
10 pro rata share of income and proceeds from the public land trust
11 annually to the office of Hawaiian affairs ("OHA") for the
12 betterment of the conditions of native Hawaiians.

13 The genesis and source of the State's public land trust
14 responsibility to native Hawaiians are the historical events
15 that led to the illegal overthrow of the Kingdom of Hawai'i; the
16 transfer of approximately 1,800,000 acres of crown, government,



1 and public lands to the United States under the 1898 Joint
2 Resolution of Annexation without the consent of and without
3 compensation to the Native Hawaiian people or their sovereign
4 government; the admission of Hawai'i as a state of the Union in
5 1959, with the explicit trust responsibility and requirement in
6 section 5(f) of the 1959 Admission Act that one of the five
7 purposes of the public land trust is that the income and
8 proceeds from the public land trust are supposed to be used "for
9 the betterment of the conditions of native Hawaiians"; and the
10 1978 Constitutional Convention's recognition that native
11 Hawaiians are one of the beneficiaries of the public land trust
12 and the creation of OHA to manage and administer the specific
13 allocation of "all income and proceeds from that pro rata
14 portion of the [public land] trust for native Hawaiians"
15 (Article XII, section 6, Hawai'i State Constitution). The
16 United States and the courts have consistently affirmed the
17 trust nature of the government and crown lands, including large
18 tracts of ceded lands used for military or other purposes under
19 federal control.

20 In 1959, as a condition of its admission into the Union,
21 the State of Hawai'i agreed to hold certain lands granted to the



1 State by the United States in a public trust, the public lands
2 trust, for five purposes delineated in section 5(f) of the
3 Admission Act, which provides in relevant part:

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



1 object shall constitute a breach of trust for which suit
2 may be brought by the United States.

3 (Emphasis added.)

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

15 In September 1981, an initial land inventory by the
16 department of land and natural resources listed approximately
17 1,271,652 acres, falling woefully short of its duty to provide a
18 complete inventory of the public land trust lands.
19 Additionally, the state land information management system does
20 not include all lands held by all state entities.



1 Act 273, Session Laws of Hawaii 1980, enacted section
2 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata
3 share and required that OHA receive "[t]wenty per cent of all
4 funds derived from the public land trust[.]" This legislative
5 directive addressing the constitutional mandate has led to a
6 series of lawsuits and legislative enactments concerning OHA's
7 constitutional pro rata share of the public land trust. The
8 State and OHA have labored to resolve the political question of
9 the statutory pro rata share of income and proceeds derived from
10 the public land trust, and payment to OHA.

11 Act 178, Session Laws of Hawai'i 2006, affirmed the State's
12 trust obligation under Article XII, section 6, of the Hawaii
13 State Constitution to native Hawaiians by requiring that the
14 department of land and natural resources provide an annual
15 accounting of revenue-generating public trust lands and the
16 amounts derived from those lands to the legislature. The
17 interim measure also set a fixed amount of \$15,100,000 from the
18 pro rata share of the public land trust income and proceeds due
19 to OHA for the betterment of the conditions of native Hawaiians
20 until further action is taken by the legislature for this
21 purpose.



1 Act 15, Session Laws of Hawai'i 2012, was enacted to
2 address past-due amounts, which accumulated during the period
3 between November 7, 1978, up to and including June 30, 2012, of
4 income and proceeds from the public land trust owed to OHA by
5 implementing an agreement between the State and OHA for the
6 State to convey certain lands in Kaka'ako, O'ahu, to OHA valued
7 at approximately \$200,000,000. Act 15 did not, however, address
8 the State's constitutional obligations relating to OHA's twenty
9 per cent pro rata share of the income and proceeds from the
10 public land trust generated after June 30, 2012. Notably, a
11 2015-2016 financial review initiated by OHA found that the
12 minimum amount of total gross receipts from sources that OHA has
13 historically claimed was approximately \$394,322,163 in the
14 fiscal year 2015-2016. Twenty per cent of this amount is
15 approximately \$78,900,000.

16 The legislature finds that to uphold its constitutional
17 trust obligation and duty to the Indigenous People of Hawai'i,
18 it must enact another legislative measure in light of the
19 information, data, and facts provided to the legislature by
20 state agencies since the enactment of Act 178, Session Laws of
21 Hawai'i 2006, more than a decade ago.



1 The purpose of this Act is to:

2 (1) Establish \$78,900,000 as the office of Hawaiian
3 affairs' annual share of the income and proceeds of
4 the public land trust beginning in fiscal year
5 2022-2023;

6 (2) Transfer to the office of Hawaiian affairs the sum of
7 \$638,000,000 for income and proceeds due from the use
8 of the public land trust lands between July 1, 2012,
9 and June 30, 2022, that was misallocated,
10 underreported, or underpaid to the office of Hawaiian
11 affairs; and

12 (3) Require the continued annual accounting of all
13 receipts from lands described in section 5(f) of the
14 Admission Act.

15 SECTION 2. Notwithstanding the provisions of Act 178,
16 Session Laws of Hawaii 2006, except for section 5 of Act 178,
17 which this Act restates, without substantive change, and until
18 further action is taken by the legislature for this purpose, the
19 income and proceeds from the pro rata portion of the public land
20 trust under article XII, section 6, of the Constitution of the
21 State of Hawaii for expenditure by the office of Hawaiian



1 affairs for the betterment of the conditions of native Hawaiians
2 for each fiscal year, beginning with fiscal year 2022-2023,
3 shall be \$78,900,000.

4 SECTION 3. Notwithstanding the provisions of Act 178,
5 Session Laws of Hawai'i 2006, except for section 5 of Act 178,
6 which this Act restates, without substantive change, beginning
7 in fiscal year 2022-2023, departments, agencies, or entities
8 that collect receipts from public land trust lands, including
9 but not limited to the university of Hawai'i, shall determine
10 and transfer to the office of Hawaiian affairs that portion of
11 their receipts from the use, sale, lease, or other disposition
12 of lands within the public land trust collected during each
13 fiscal quarter, necessary to ensure that a total of \$19,725,000
14 of receipts generated by the public land trust is transferred to
15 the office of Hawaiian affairs within thirty days of the close
16 of each fiscal quarter; provided that for fiscal year 2022-2023,
17 the departments shall have until thirty days after the close of
18 the fiscal year to transfer a total of \$19,725,000 from their
19 receipts from the use, sale, or exchange of lands within the
20 public land trust collected during fiscal year 2022-2023, to the



1 office of Hawaiian affairs by the procedures set forth in this
2 Act.

3 The governor is expressly authorized to fix the amounts
4 each agency shall transfer to the office of Hawaiian affairs in
5 each quarter by executive order to implement the provisions of
6 this section.

7 SECTION 4. No later than twelve days after the close of
8 each fiscal quarter, the director of finance or the director's
9 designee shall determine the total amount of receipts
10 transferred by any department or agency that collects receipts
11 from the lands within the public land trust to the office of
12 Hawaiian affairs during the immediately prior fiscal quarter.

13 If the total amount of receipts transferred to the office
14 of Hawaiian affairs is less than \$19,725,000 in the immediately
15 prior fiscal quarter, the director of finance or the director's
16 designee shall:

17 (1) Make up the difference between \$19,725,000 and the
18 amount of receipts transferred in the immediately
19 prior fiscal quarter by transferring up to the entire
20 amount on deposit in the carry-forward trust holding



1 account established by the director of finance,
2 pursuant to executive order 06-06 or this Act; or

3 (2) Make up the difference between \$19,725,000 and the
4 amount of receipts transferred in the immediately
5 prior fiscal quarter by establishing the additional
6 amount of receipts that each agency must transfer to
7 the office of Hawaiian affairs pursuant to section 3
8 of this Act.

9 If the total amount of receipts transferred to the office
10 of Hawaiian affairs is more than \$19,725,000 in the immediately
11 prior fiscal quarter, the director of finance shall notify the
12 office of Hawaiian affairs and request that the office of
13 Hawaiian affairs transfer the amount in excess of \$19,725,000
14 into the carry-forward trust holding account established by the
15 director of finance, pursuant to executive order 06-06 or this
16 Act. This section shall not apply to a transfer of receipts at
17 the close of fiscal year 2022-2023.

18 SECTION 5. There is appropriated out of the general
19 revenues of the State of Hawai'i the sum of \$638,000,000 or so
20 much thereof as may be necessary for fiscal year 2022-2023,
21 which includes trust funds transferred into the carry-forward



1 trust holding account, totaling approximately \$29,060,007.97 at
2 the end of fiscal year 2021, established by the director of
3 finance, pursuant to executive order 06-06, to pay to the office
4 of Hawaiian affairs amounts received from the use of lands in
5 the public land trust that the legislature has determined were
6 misallocated, underreported, or underpaid income and proceeds of
7 the public land trust between July 1, 2012, through June 30,
8 2022.

9 The sum appropriated shall be expended by the department of
10 budget and finance.

11 The director of finance shall transfer the funds in the
12 carry-forward trust holding account established by the director
13 of finance to the office of Hawaiian affairs.

14 SECTION 6. Any funds transferred pursuant to this Act
15 shall be deemed income and proceeds from the public land trust,
16 just as if the funds had been paid out of the income and
17 proceeds from the public land trust pursuant to article XII,
18 section 6, of the Hawaii State Constitution.

19 SECTION 7. Nothing in this Act shall resolve or settle, or
20 be deemed to acknowledge the existence of, the claims of native
21 Hawaiians to the income and proceeds of a pro rata portion of



1 the public land trust under article XII, section 6, of the
2 Hawaii State Constitution.

3 SECTION 8. This Act shall take effect on July 1, 2022.

4

INTRODUCED BY: 
By Request



S.B. NO. 2122

Report Title:

Office of Hawaiian Affairs Package; Public Land Trust; Pro Rata Share

Description:

Establishes the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust. Transfers moneys to the Office of Hawaiian Affairs for income and proceeds due from the use of the public land trust lands between July 1, 2012, and June 30, 2022, that was misallocated, underreported, or underpaid to the Office of Hawaiian Affairs.

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



HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO. 1474

A BILL FOR AN ACT

RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA
SHARE OF THE PUBLIC LAND TRUST.

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

1 SECTION 1. The legislature finds that it must set right
2 and fulfill its trust responsibilities to the Indigenous People
3 of Hawai'i, consistent with governmental action across America
4 to address injustices against Indigenous Peoples. It is
5 incumbent upon the legislature to enact legislation that upholds
6 its trust responsibilities and duty of care to native Hawaiians
7 to (1) account for all ceded lands in the public lands trust
8 inventory, (2) account for all income and proceeds derived from
9 the public land trust, and (3) transfer the full twenty per cent
10 pro rata share of income and proceeds from the public land trust
11 annually to the office of Hawaiian affairs ("OHA") for the
12 betterment of the conditions of native Hawaiians.

13 The genesis and source of the State's public land trust
14 responsibility to native Hawaiians are the historical events
15 that led to the illegal overthrow of the Kingdom of Hawai'i; the
16 transfer of approximately 1,800,000 acres of crown, government,



1 and public lands to the United States under the 1898 Joint
2 Resolution of Annexation without the consent of and without
3 compensation to the Native Hawaiian people or their sovereign
4 government; the admission of Hawai'i as a state of the Union in
5 1959, with the explicit trust responsibility and requirement in
6 section 5(f) of the 1959 Admission Act that one of the five
7 purposes of the public land trust is that the income and
8 proceeds from the public land trust are supposed to be used "for
9 the betterment of the conditions of native Hawaiians"; and the
10 1978 Constitutional Convention's recognition that native
11 Hawaiians are one of the beneficiaries of the public land trust
12 and the creation of OHA to manage and administer the specific
13 allocation of "all income and proceeds from that pro rata
14 portion of the [public land] trust for native Hawaiians"
15 (Article XII, section 6, Hawai'i State Constitution). The
16 United States and the courts have consistently affirmed the
17 trust nature of the government and crown lands, including large
18 tracts of ceded lands used for military or other purposes under
19 federal control.

20 In 1959, as a condition of its admission into the Union,
21 the State of Hawai'i agreed to hold certain lands granted to the



1 State by the United States in a public trust, the public lands
2 trust, for five purposes delineated in section 5(f) of the
3 Admission Act, which provides in relevant part:

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



1 object shall constitute a breach of trust for which suit
2 may be brought by the United States.

3 (Emphasis added.)

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

15 In September 1981, an initial land inventory by the
16 department of land and natural resources listed approximately
17 1,271,652 acres, falling woefully short of its duty to provide a
18 complete inventory of the public land trust lands.
19 Additionally, the state land information management system does
20 not include all lands held by all state entities.



1 Act 273, Session Laws of Hawaii 1980, enacted section
2 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata
3 share and required that OHA receive "[t]wenty per cent of all
4 funds derived from the public land trust[.]" This legislative
5 directive addressing the constitutional mandate has led to a
6 series of lawsuits and legislative enactments concerning OHA's
7 constitutional pro rata share of the public land trust. The
8 State and OHA have labored to resolve the political question of
9 the statutory pro rata share of income and proceeds derived from
10 the public land trust, and payment to OHA.

11 Act 178, Session Laws of Hawai'i 2006, affirmed the State's
12 trust obligation under Article XII, section 6, of the Hawaii
13 State Constitution to native Hawaiians by requiring that the
14 department of land and natural resources provide an annual
15 accounting of revenue-generating public trust lands and the
16 amounts derived from those lands to the legislature. The
17 interim measure also set a fixed amount of \$15,100,000 from the
18 pro rata share of the public land trust income and proceeds due
19 to OHA for the betterment of the conditions of native Hawaiians
20 until further action is taken by the legislature for this
21 purpose.



1 Act 15, Session Laws of Hawai'i 2012, was enacted to
2 address past-due amounts, which accumulated during the period
3 between November 7, 1978, up to and including June 30, 2012, of
4 income and proceeds from the public land trust owed to OHA by
5 implementing an agreement between the State and OHA for the
6 State to convey certain lands in Kaka'ako, O'ahu, to OHA valued
7 at approximately \$200,000,000. Act 15 did not, however, address
8 the State's constitutional obligations relating to OHA's twenty
9 per cent pro rata share of the income and proceeds from the
10 public land trust generated after June 30, 2012. Notably, a
11 2015-2016 financial review initiated by OHA found that the
12 minimum amount of total gross receipts from sources that OHA has
13 historically claimed was approximately \$394,322,163 in the
14 fiscal year 2015-2016. Twenty per cent of this amount is
15 approximately \$78,900,000.

16 The legislature finds that to uphold its constitutional
17 trust obligation and duty to the Indigenous People of Hawai'i,
18 it must enact another legislative measure in light of the
19 information, data, and facts provided to the legislature by
20 state agencies since the enactment of Act 178, Session Laws of
21 Hawai'i 2006, more than a decade ago.



H.B. NO. 1474

1 The purpose of this Act is to:

- 2 (1) Establish \$78,900,000 as the office of Hawaiian
3 affairs' annual share of the income and proceeds of
4 the public land trust beginning in fiscal year
5 2022-2023;
- 6 (2) Transfer to the office of Hawaiian affairs the sum of
7 \$638,000,000 for income and proceeds due from the use
8 of the public land trust lands between July 1, 2012,
9 and June 30, 2022, that was misallocated,
10 underreported, or underpaid to the office of Hawaiian
11 affairs; and
- 12 (3) Require the continued annual accounting of all
13 receipts from lands described in section 5(f) of the
14 Admission Act.

15 SECTION 2. Notwithstanding the provisions of Act 178,
16 Session Laws of Hawaii 2006, except for section 5 of Act 178,
17 which this Act restates, without substantive change, and until
18 further action is taken by the legislature for this purpose, the
19 income and proceeds from the pro rata portion of the public land
20 trust under article XII, section 6, of the Constitution of the
21 State of Hawaii for expenditure by the office of Hawaiian



H.B. NO. 1474

1 affairs for the betterment of the conditions of native Hawaiians
2 for each fiscal year, beginning with fiscal year 2022-2023,
3 shall be \$78,900,000.

4 SECTION 3. Notwithstanding the provisions of Act 178,
5 Session Laws of Hawai'i 2006, except for section 5 of Act 178,
6 which this Act restates, without substantive change, beginning
7 in fiscal year 2022-2023, departments, agencies, or entities
8 that collect receipts from public land trust lands, including
9 but not limited to the university of Hawai'i, shall determine
10 and transfer to the office of Hawaiian affairs that portion of
11 their receipts from the use, sale, lease, or other disposition
12 of lands within the public land trust collected during each
13 fiscal quarter, necessary to ensure that a total of \$19,725,000
14 of receipts generated by the public land trust is transferred to
15 the office of Hawaiian affairs within thirty days of the close
16 of each fiscal quarter; provided that for fiscal year 2022-2023,
17 the departments shall have until thirty days after the close of
18 the fiscal year to transfer a total of \$19,725,000 from their
19 receipts from the use, sale, or exchange of lands within the
20 public land trust collected during fiscal year 2022-2023, to the



1 office of Hawaiian affairs by the procedures set forth in this
2 Act.

3 The governor is expressly authorized to fix the amounts
4 each agency shall transfer to the office of Hawaiian affairs in
5 each quarter by executive order to implement the provisions of
6 this section.

7 SECTION 4. No later than twelve days after the close of
8 each fiscal quarter, the director of finance or the director's
9 designee shall determine the total amount of receipts
10 transferred by any department or agency that collects receipts
11 from the lands within the public land trust to the office of
12 Hawaiian affairs during the immediately prior fiscal quarter.

13 If the total amount of receipts transferred to the office
14 of Hawaiian affairs is less than \$19,725,000 in the immediately
15 prior fiscal quarter, the director of finance or the director's
16 designee shall:

17 (1) Make up the difference between \$19,725,000 and the
18 amount of receipts transferred in the immediately
19 prior fiscal quarter by transferring up to the entire
20 amount on deposit in the carry-forward trust holding



1 account established by the director of finance,
2 pursuant to executive order 06-06 or this Act; or
3 (2) Make up the difference between \$19,725,000 and the
4 amount of receipts transferred in the immediately
5 prior fiscal quarter by establishing the additional
6 amount of receipts that each agency must transfer to
7 the office of Hawaiian affairs pursuant to section 3
8 of this Act.

9 If the total amount of receipts transferred to the office
10 of Hawaiian affairs is more than \$19,725,000 in the immediately
11 prior fiscal quarter, the director of finance shall notify the
12 office of Hawaiian affairs and request that the office of
13 Hawaiian affairs transfer the amount in excess of \$19,725,000
14 into the carry-forward trust holding account established by the
15 director of finance, pursuant to executive order 06-06 or this
16 Act. This section shall not apply to a transfer of receipts at
17 the close of fiscal year 2022-2023.

18 SECTION 5. There is appropriated out of the general
19 revenues of the State of Hawai'i the sum of \$638,000,000 or so
20 much thereof as may be necessary for fiscal year 2022-2023,
21 which includes trust funds transferred into the carry-forward



1 trust holding account, totaling approximately \$29,060,007.97 at
2 the end of fiscal year 2021, established by the director of
3 finance, pursuant to executive order 06-06, to pay to the office
4 of Hawaiian affairs amounts received from the use of lands in
5 the public land trust that the legislature has determined were
6 misallocated, underreported, or underpaid income and proceeds of
7 the public land trust between July 1, 2012, through June 30,
8 2022.

9 The sum appropriated shall be expended by the department of
10 budget and finance.

11 The director of finance shall transfer the funds in the
12 carry-forward trust holding account established by the director
13 of finance to the office of Hawaiian affairs.

14 SECTION 6. Any funds transferred pursuant to this Act
15 shall be deemed income and proceeds from the public land trust,
16 just as if the funds had been paid out of the income and
17 proceeds from the public land trust pursuant to article XII,
18 section 6, of the Hawaii State Constitution.

19 SECTION 7. Nothing in this Act shall resolve or settle, or
20 be deemed to acknowledge the existence of, the claims of native
21 Hawaiians to the income and proceeds of a pro rata portion of



1 the public land trust under article XII, section 6, of the
2 Hawaii State Constitution.

3 SECTION 8. This Act shall take effect on July 1, 2022.

4

INTRODUCED BY:



By Request

JAN 18 2022



H.B. NO. 1474

Report Title:

Office of Hawaiian Affairs Package; Public Land Trust; Pro Rata Share

Description:

Establishes the Office of Hawaiian Affairs' pro rata share of the moneys derived from the public land trust. Transfers moneys to the Office of Hawaiian Affairs for income and proceeds due from the use of the public land trust lands between July 1, 2012, and June 30, 2022, that was misallocated, underreported, or underpaid to the Office of Hawaiian Affairs.

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



THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF
HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

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

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

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

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

11 (3) Transfer the full twenty per cent pro rata share of
12 income and proceeds from the public land trust
13 annually to the office of Hawaiian affairs (OHA) for
14 the betterment of the conditions of native Hawaiians.

15 The genesis and source of the State's public land trust
16 responsibility to native Hawaiians are the historical events
17 that led to the illegal overthrow of the Kingdom of Hawaii; the



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 transfer of approximately 1,800,000 acres of crown, government,
2 and public lands to the United States under the 1898 Joint
3 Resolution of Annexation without the consent of and without
4 compensation to the native Hawaiian people or their sovereign
5 government; the admission of Hawaii as a state of the Union in
6 1959, with the explicit trust responsibility and requirement in
7 section 5(f) of the 1959 Admission Act that one of the five
8 purposes of the public land trust is that the income and
9 proceeds from the public land trust are to be used "for the
10 betterment of the conditions of native Hawaiians"; and the 1978
11 Constitutional Convention's recognition that native Hawaiians
12 are one of the beneficiaries of the public land trust and the
13 creation of OHA to manage and administer the specific allocation
14 of "all income and proceeds from that pro rata portion of the
15 [public land] trust . . . for native Hawaiians" (Article XII,
16 section 6, of the Hawaii State Constitution). The United States
17 and the courts have consistently affirmed the trust nature of
18 the government and crown lands, including large tracts of ceded
19 lands used for military or other purposes under federal control.

20 In 1959, as a condition of its admission into the Union,
21 the State of Hawaii agreed to hold certain lands granted to the



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 State by the United States in a public trust for five purposes
2 delineated in section 5(f) of the Admission Act, which provides
3 in relevant part:

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



1 use for any other object shall constitute a breach of trust
2 for which suit may be brought by the United States.

3 (*Emphasis added.*)

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

15 In September 1981, an initial land inventory by the
16 department of land and natural resources listed approximately
17 1,271,652 acres, falling woefully short of its duty to provide a
18 complete inventory of the public land trust lands.
19 Additionally, the state land information management system does
20 not include all lands held by all state entities.



1 Act 273, Session Laws of Hawaii 1980, enacted section
2 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata
3 share and required that OHA receive "[t]wenty per cent of all
4 funds derived from the public land trust[.]" This legislative
5 directive addressing the constitutional mandate has led to a
6 series of lawsuits and legislative enactments concerning OHA's
7 constitutional pro rata share of the public land trust. The
8 State and OHA have labored to resolve the political question of
9 the statutory pro rata share of income and proceeds derived from
10 the public land trust, and payment to OHA.

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

20 Act 15, Session Laws of Hawaii 2012, (Act 15) was enacted
21 to address past-due amounts, which accumulated during the period



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 between November 7, 1978, up to and including June 30, 2012, of
2 income and proceeds from the public land trust owed to OHA by
3 implementing an agreement between the State and OHA for the
4 State to convey certain lands in Kakaako, Oahu, to OHA valued at
5 approximately \$200,000,000. Act 15 did not, however, address
6 the State's constitutional obligations relating to OHA's twenty
7 per cent pro rata share of the income and proceeds from the
8 public land trust generated after June 30, 2012. Notably, a
9 2015-2016 financial review initiated by OHA found that the
10 minimum amount of total gross receipts from sources that OHA has
11 historically claimed was approximately \$394,322,163 in the
12 fiscal year 2015-2016. Twenty per cent of this gross amount is
13 approximately \$78,900,000.

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

20 The purpose of this Act is to:



1 (1) Establish \$21,500,000 as the office of Hawaiian
2 affairs' interim annual share of the income and
3 proceeds of the public land trust beginning in fiscal
4 year 2022-2023;

5 (2) Appropriate \$64,000,000 to the office of Hawaiian
6 affairs; and

7 (3) Establish a working group to determine the pro rata
8 share of income and proceeds from the public land
9 trust due annually to the office of Hawaiian affairs.

10 SECTION 2. Act 178, Session Laws of Hawaii 2006, is
11 amended by amending sections 2 and 3 to read:

12 "SECTION 2. Notwithstanding the provisions of chapter 10,
13 Hawaii Revised Statutes, including section 10-13.5, Hawaii
14 Revised Statutes, and until further action is taken by the
15 legislature for this purpose, the income and proceeds from the
16 pro rata portion of the public land trust under article XII,
17 section 6, of the state constitution for expenditure by the
18 office of Hawaiian affairs for the betterment of the conditions
19 of native Hawaiians for each fiscal year beginning with fiscal
20 year [~~2005-2006~~] 2022-2023 shall be [~~\$15,100,000.~~] \$21,500,000.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 SECTION 3. Notwithstanding the provisions of chapter 10,
2 Hawaii Revised Statutes, or the requirements of Executive Order
3 No. [~~03-03,7~~] 06-06, beginning in fiscal year [~~2005-2006,7~~] 2022-
4 2023, the departments of agriculture, accounting and general
5 services, business, economic development, and tourism,
6 education, land and natural resources, and transportation (for
7 its harbors division), and any other department or agency that
8 collects receipts from the lands within the public land trust,
9 shall determine and transfer to the office of Hawaiian affairs
10 that portion of their receipts from the use of lands within the
11 public land trust collected during each fiscal quarter,
12 necessary to ensure that a total of [~~\$3,775,000~~] \$5,375,000 of
13 revenues generated by the public land trust is transferred to
14 the office of Hawaiian affairs, within thirty days of the close
15 of each fiscal quarter; provided that for fiscal year [~~2005-~~
16 ~~2006,7~~] 2022-2023, the departments shall have until thirty days
17 after the close of the fiscal year to transfer a total of
18 [~~\$15,100,000~~] \$21,500,000 from their receipts from the use of
19 lands within the public land trust collected during fiscal year
20 [~~2005-2006,7~~] 2022-2023, to the office of Hawaiian affairs



1 whether by the procedures set out in Executive Order No. [~~03-03~~]
2 06-06 or this Act.

3 The governor is expressly authorized to fix the amounts
4 each agency shall transfer to the office of Hawaiian affairs in
5 each quarter by executive order to implement the provisions of
6 this section[-]; provided that a total of not less than
7 \$5,375,000 each quarter shall be transferred to the office of
8 Hawaiian affairs, as provided in this section."

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

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

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

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

19 (b) The working group shall be comprised of six members,
20 three of whom three shall be appointed by the governor and three



1 of whom shall be appointed by the office of Hawaiian affairs
2 board of trustees.

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

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

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$64,000,000 or so
16 much as may be necessary for fiscal year 2021-2022 to pay to the
17 office of Hawaiian affairs for a portion of the income and
18 proceeds from the public land trust. The sum appropriated shall
19 be deposited into the native Hawaiian trust fund and expended by
20 the office of Hawaiian affairs.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 SECTION 5. The general revenue appropriated by this Act
2 shall be deemed income and proceeds from the public land trust
3 as if the sum had been paid out of income and proceeds from the
4 public land trust pursuant to article XII, section 6, of the
5 Hawaii State Constitution.

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

8 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Office of Hawaiian Affairs; Public Land Trust; Working Group;
Appropriation

Description:

Establishes the annual share of income and proceeds from the public land trust for fiscal year 2022-2023 due to the Office of Hawaiian Affairs. Establishes and appropriates amounts to the Office of Hawaiian Affairs. Establishes a working group to determine pro rata share of income and proceeds from the public land trust due annually to Office of Hawaiian Affairs. (CD1)

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



Committee on Beneficiary Advocacy and Empowerment

Trustee Kaleihikina Akaka, O'ahu, *Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Keli'i Akina, At-Large

Trustee Luana Alapa, Moloka'i / Lāna'i

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Carmen Hulu Lindsey, Maui

Trustee Mililani Trask, Hawai'i Island

Trustee John Waihe'e IV, At-Large



**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS**

Committee on Resource Management

Trustee John Waihe'e IV, At-Large, *Chair*Trustee Luana Alapa, Moloka'i / Lāna'i, *Vice Chair**Members*

Trustee Leina'ala Ahu Isa, At-Large

Trustee Dan Ahuna, Kaua'i / Ni'ihau

Trustee Kaleihikina Akaka, O'ahu

Trustee Keli'i Akina, At-Large

Trustee Brendon Kalei'aina Lee, At-Large

Trustee Carmen Hulu Lindsey, Maui

Trustee Mililani Trask, Hawai'i Island

**JOINT MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT AND THE
COMMITTEE ON RESOURCE MANAGEMENT**

DATE: Tuesday, July 12, 2022**TIME:** 9:00 a.m.**PLACE:** Virtual MeetingViewable at www.oha.org/livestream OR

Listen by phone: (213) 338-8477,

Webinar ID: 856 5447 7246

Due to COVID-19, the OHA Board of Trustees and its standing committees will hold virtual meetings until further notice. This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477, Webinar ID: 856 5447 7246. A physical meeting location open to the general public will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu HI 96817. All members of the public that wish to access the physical meeting location must pass a wellness check and provide proof of full vaccination or a negative COVID-19 test taken within 72 hours of entry.

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. JOINT BAE-RM Meeting Minutes of June 23, 2021*

III. New Business

- A. **Action Item BAE-RM #22-01:** Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust*
- B. **Action Item BAE-RM #22-02:** Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000*

- IV. Announcements
- V. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Everett Ohta at telephone number (808) 594-1988 or by email at: everetto@oha.org no later than three (3) business days prior to the date of the meeting. Meeting materials for this meeting will be available for the public to view 48 hours prior to this meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's neighbor island offices and will be posted to OHA's website at: www.oha.org/rm.



OFFICE OF HAWAIIAN AFFAIRS
Action Item

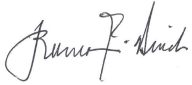
**Joint Committee on Resource Management
and Beneficiary Advocacy and Empowerment
July 12, 2022**

BAE-RM #22-02


Action Item Issue: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

Co-Prepared by:  **Jul 8, 2022**

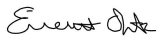
Ryan H. Lee Date
Pou Kāko‘o Mahele Kumupa‘a Kūikawā
Interim Investment Manager

Co-Prepared by:  **Jul 8, 2022**

Ramona G. Hinck Date
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by:  **Jul 8, 2022**

Casey K. Brown Date
Ka Pou Nui, Chief Operating Officer

Reviewed by:  **Jul 8, 2022**


Everett Ohta Date
Paepae Puka Kūikawā, Interim General Counsel




OFFICE OF HAWAIIAN AFFAIRS
Action Item

**Joint Committee on Resource Management
and Beneficiary Advocacy and Empowerment
July 12, 2022**


BAE-RM #22-02

Reviewed by:  **Jul 8, 2022**

Sylvia M. Hussey, Ed.D. Date
Ka Pouhana, Chief Executive Officer

Reviewed by:  **Jul 8, 2022**

Kaleihikina Akaka Date
Luna Ho‘omalua o ke Kōmike BAE
Committee on Beneficiary, Advocacy & Empowerment, Chair

Reviewed by:  **Jul 8, 2022**

John D. Waihee IV Date
Luna Ho‘omalua o ke Kōmike RM
Committee on Resource Management, Chair

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

I. Proposed Action

Approve the Native Hawaiian Trust Fund net investment allocation as a result of the Act 226 (2022) general revenues appropriation of \$64,000,000, for a portion of the pro rata share of the income and proceeds of the public land trust, in alignment with the current Investment Policy statement and asset allocation at Attachment A and summarized below:

Financial Assets	Current Market Value	Current Allocation	Rebalance Amount	Ending Market Value	Ending Allocation	Policy Allocation	Overweight/Underweight	Min/Max Range
Global Equities	177,746,734	41.5%	30,000,000	207,746,734	42.2%	42.0%	0.2%	22% to 55%
Global Fixed Income	70,258,152	16.4%	7,000,000	77,258,152	15.7%	18.0%	-2.3%	11% to 22%
Enhanced Liquidity Account	762,112	0.2%	10,000,000	10,762,112	2.2%	3.0%	-0.8%	0% to 10%
Real Assets	25,592,657	6.0%	-	25,592,657	5.2%	5.0%	0.2%	0% to 11%
Traditional Assets	274,359,655	64.0%	47,000,000	321,359,655	65.3%	68.0%	-2.7%	33% to 88%
Hedge Funds	56,877,724	13.3%	7,000,000	63,877,724	13.0%	13.0%	0.0%	
Hedge Funds	56,877,724	13.3%	7,000,000	63,877,724	13.0%	13.0%	0.0%	6.4 to 19.2%
Private Equity	70,321,169	16.4%		70,321,169	14.3%			
Private Credit	3,962,619	0.9%		3,962,619	0.8%			
Private Real Assets	16,827,968	3.9%		16,827,968	3.4%			
Private Investments*	91,111,756	21.3%	-	91,111,756	18.5%	19.0%	-0.5%	0% to 25.6%
Cash	6,027,173	1.4%	10,000,000	16,027,173	3.3%	0.0%	3.3%	
Organization Withdrawal	-							
Total Financial Assets	428,376,308	100.0%	64,000,000	492,376,308	100.0%	100.0%	0.0%	

Figure 1: Excerpt from Attachment A

II. Issues

Whether or not the joint Committee on Beneficiary Advocacy & Empowerment (BAE) and Committee on Resource Management (RM) will approve the recommended Native Hawaiian Trust Fund (“NHTF”) net investment allocation, as detailed in Attachment A, in alignment with the current Investment Policy statement and related asset allocation, at Attachment B, for the net impact of the \$64,000,000 general revenues appropriation of Act 226 (2022) at Attachment C.

III. Background & Context

A. **Act 226 (2022).** On June 27, 2022, SB2021 SD1 HD2 CD1 (Attachment C) was signed into law by Governor David Ige as Act 226 which emerged as the final measure preserving key statements, concepts, and measures in each section highlighted below.

- Section 1.** Legislature acknowledges it must set right and fulfill its trust responsibilities to native Hawaiians, consistent with governmental action across America to address injustices against Indigenous Peoples. Incumbent upon the legislature to enact legislation that upholds its trust responsibilities

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

and duty of care to native Hawaiians to: account for all ceded lands in the public lands trust inventory; account for all income and proceeds derived from the public land trust (“PLT”); and transfer the full twenty percent pro-rata share of income and proceeds from the PLT annually to OHA for the betterment of the conditions of native Hawaiians.

Section 1 further details the genesis and source of the PLT responsibility to native Hawaiians, including the illegal overthrow of the Kingdom of Hawaii, the transfer of approximately 1,800,000 acres of crown, government and public lands to the United States at the point of annexation in 1898, and the admission of Hawai‘i as a state of the Union in 1959, with the explicit trust

responsibility and requirement in section 5(f) of the 1959 Admission Act that one of the five purposes of the PLT is that the income and proceeds from the PLT is that it is to be used “for the betterment of the conditions of native Hawaiians”.

The purpose of the final measure is summarized in Figure 2 at left.

1	(1)	Establish \$21,500,000 as the office of Hawaiian
2		affairs' interim annual share of the income and
3		proceeds of the public land trust beginning in fiscal
4		year 2022-2023;
5	(2)	Appropriate \$64,000,000 to the office of Hawaiian
6		affairs; and
7	(3)	Establish a working group to determine the pro rata
8		share of income and proceeds from the public land
9		trust due annually to the office of Hawaiian affairs.

Figure 2: Excerpt from SB2021 SD1 HD2 CD1, now Act 226

2. **Section 2.** Amends Act 178 (SLH 2006), sections 2 and 3 to replace the \$15,100,000 interim annual amount with \$21,500,000 interim annual amount beginning with fiscal year 2022-2023.
3. **Section 3.** Amends Executive Order language from 03-03 to 06-06 beginning 2022-2023 fiscal year, named departments to transfer portion of the receipts to ensure the quarterly amount is no less than \$5,375,000 (\$21,500,000 divided by four), noting that the prior quarterly amount was \$3,775,000 (\$15,100,000 divided by four).
4. **Section 3 (to be renumbered Section 4)¹.** Establishment of a working group to: account for all ceded lands in the public land trust inventory; account for all income and proceeds from the PLT; and subsequently determine the 20% pro rata share due annually to OHA. The composition of the working group is

¹ Note: Per Legislature staff, duplicative Section 3 will be corrected and renumbered to Section 4 and all subsequent sections renumbered as well upon finalizing Act 226.

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

comprised of six members—three appointed by the governor and three appointed by the OHA Board of Trustees (“BOT”). The working group with the cooperation of any department or agency that uses, manages, or receives income, proceeds or any other funds derived from the PLT shall prepare and submit a report of its findings and recommendations, including proposed legislation and the annual amount it determines for the 20% and that OHA will provide the necessary administrative support for the preparation of the report.

5. **Section 4.** A general revenues appropriation amount of \$64,000,000 for fiscal year 2021-2022 to pay to OHA for a portion of the income and proceeds from the PLT.
6. **Section 5.** General revenue appropriated by the Act shall be deemed income and proceeds from the PLT as if the sum had been paid out of income and proceeds from the PLT.

7. **Section 6.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

8. **Section 7.** The Act takes effect upon its approval (June 27, 2022).

B. Investment Policy, Asset Allocation. Figure 3 at left and Figure 4 on the next page detail the asset allocation maximum, minimum and target % in accordance with the Investment Policy (“IP”) at Attachment B.

5.1 Asset Allocation

Asset Class Portfolios	Maximum	Minimum	Strategic Target	Benchmark Index	Primary Objective
Traditional Asset Classes					
Traditional Global Equities	55%	22%	42%	MSCI ACWI	Growth
Traditional Global Fixed Income	22%	11%	18%	Bloomberg US Aggregate	Income
Traditional Global Real Assets	11%	0%	5%	US TIPS +3%	Inflation Hedge
Total Traditional Assets	88%	33%	65%		
Alternative Asset Classes					
Hedge Funds	19.2%	6.4%	13%	3-Month T-Bills +4%	Volatility Management
Private Markets*	25.6%	0%	19%	MSCI ACWI +3%	Growth
Total Alternative Assets	44.8%	6.4%	32%		
Enhanced Liquidity Account					
Enhanced Liquidity	10%	0%	3%	1-3 Year Treasury	Liquidity
Total Financial Assets			100%		
Hawai'i Direct Investments					
Hawai'i Direct Investments	No Target		CPI +5%		Total Return
*The Private Market allocation will consist of the previous Non-Marketable Equity, Credit, and Real Assets & Opportunistic portfolios					

Figure 3: Section 5.1 Asset Allocation, by Asset Classes, Investment Policy Statement

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

Asset Class Portfolios	Maximum	Minimum	Strategic Target
Growth			
Traditional Global Equities	55%	22%	42%
Private Markets	25.6%	0%	19%
Total Growth	80.6%	22%	61%
Income			
Traditional Global Fixed Income	22%	11%	18%
Total Income	22%	11%	18%
Volatility Management			
Hedge Funds	19.2%	6.4%	13%
Inflation Hedge			
Traditional Global Real Assets	11%	0%	5%
Total Inflation Hedge	11%	0%	5%
Liquidity			
Enhanced Liquidity	10%	0%	3%
Hawai'i Direct Investments			
Hawai'i Direct Investments	No Target		

Figure 4: Asset Allocation by Asset Class Portfolios, Investment Policy Statement

C. Administration Analysis. The current and projected asset allocation of the Financial Assets as of June 30, 2022, is summarized in Attachment A. Depending on the final amount, the goal is to rebalance the additional capital towards the NHTF strategic targets including the following analysis objectives:

1. Global Equities – add, move towards policy target.
2. Global Fixed Income - add, remain underweight. Underweight is offset by overweight to cash holdings due to expected higher interest rates.
3. Hedge Funds - add, move towards to policy target subject to identifying new managers.
4. Private Markets - target additional new commitments, \$12 million commitments made in 2022, . Unfunded commitments are approximately \$26 million.
5. Real Assets – no changes, close to the target.

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

As financial market conditions have remained volatile due to inflation pressures from supply chain disruptions, economic recovery from COVID, and the Russian-Ukraine invasion/war, Administration recommends a dollar-cost-average approach to investing the funds over the next 3 months, subject to market conditions. The proposed funding schedule is shown below.

Proposed Funding Schedule				
Financial Assets	Month 1	Month 2	Month 3	Total
Global Equities	10,000,000	10,000,000	10,000,000	30,000,000
Global Fixed Income	2,333,333	2,333,333	2,333,333	7,000,000
Enhanced Liquidity Account	10,000,000			10,000,000
Real Assets				
Traditional Assets	22,333,333	12,333,333	12,333,333	47,000,000
Hedge Funds			7,000,000	7,000,000
Hedge Funds			7,000,000	7,000,000
Private Equity				
Private Credit				
Private Real Assets				
Private Investments*				
Cash	41,666,667	-12,333,333	-19,333,333	10,000,000
Organization Withdrawal				
Total Financial Assets				64,000,000

Figure 5: Proposed Funding Schedule

IV. Reference Documents

The following reference documents provide support for the action item:

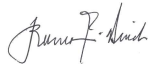
- A. Action Item BAE #21-06: 2022 OHA Legislative Package, December 8, 2021
- B. Action Item BAE #21-07: Public Land Trust Bill, 2022, December 27, 2021
- C. Action Item BAE-RM #22-01: Implementation of Act 226 (2022), Relating to Increasing the Payment Amount for the Office of Hawaiian Affairs' Pro Rata Share of the Public Land Trust, July 12, 2022

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Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

V. Certification

The following is the certification by the Chief Financial Officer that the \$64,000,000 general revenues appropriation is available for the action below.



Ramona G. Hinck
Chief Financial Officer

Date: Jul 8, 2022

VI. Recommended Action

Approve the Native Hawaiian Trust Fund net investment allocation as a result of the Act 226 (2022) general revenues appropriation of \$64,000,000, for a portion of the pro rata share of the income and proceeds of the public land trust, in alignment with the current Investment Policy statement and asset allocation at Attachment A and summarized below:

Financial Assets	Current Market Value	Current Allocation	Rebalance Amount	Ending Market Value	Ending Allocation	Policy Allocation	Overweight/Underweight	Min/Max Range
Global Equities	177,746,734	41.5%	30,000,000	207,746,734	42.2%	42.0%	0.2%	22% to 55%
Global Fixed Income	70,258,152	16.4%	7,000,000	77,258,152	15.7%	18.0%	-2.3%	11% to 22%
Enhanced Liquidity Account	762,112	0.2%	10,000,000	10,762,112	2.2%	3.0%	-0.8%	0% to 10%
Real Assets	25,592,657	6.0%	-	25,592,657	5.2%	5.0%	0.2%	0% to 11%
Traditional Assets	274,359,655	64.0%	47,000,000	321,359,655	65.3%	68.0%	-2.7%	33% to 88%
Hedge Funds	56,877,724	13.3%	7,000,000	63,877,724	13.0%	13.0%	0.0%	
Hedge Funds	56,877,724	13.3%	7,000,000	63,877,724	13.0%	13.0%	0.0%	6.4 to 19.2%
Private Equity	70,321,169	16.4%		70,321,169	14.3%			
Private Credit	3,962,619	0.9%		3,962,619	0.8%			
Private Real Assets	16,827,968	3.9%		16,827,968	3.4%			
Private Investments*	91,111,756	21.3%	-	91,111,756	18.5%	19.0%	-0.5%	0% to 25.6%
Cash	6,027,173	1.4%	10,000,000	16,027,173	3.3%	0.0%	3.3%	
Organization Withdrawal	-							
Total Financial Assets	428,376,308	100.0%	64,000,000	492,376,308	100.0%	100.0%	0.0%	

Figure 6: Excerpt from Attachment A

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

Proposed Funding Schedule				
Financial Assets	Month 1	Month 2	Month 3	Total
Global Equities	10,000,000	10,000,000	10,000,000	30,000,000
Global Fixed Income	2,333,333	2,333,333	2,333,333	7,000,000
Enhanced Liquidity Account	10,000,000			10,000,000
Real Assets				
Traditional Assets	22,333,333	12,333,333	12,333,333	47,000,000
Hedge Funds			7,000,000	7,000,000
Hedge Funds			7,000,000	7,000,000
Private Equity				
Private Credit				
Private Real Assets				
Private Investments*				
Cash	41,666,667	-12,333,333	-19,333,333	10,000,000
Organization Withdrawal				
Total Financial Assets				64,000,000

Figure 7: Proposed Funding Schedule

VII. Alternatives to Recommended Actions

- A. Propose alternate allocation of assets;
- B. Propose increased or decreased amount of investment;
- C. Propose and take other investment actions.

VIII. Implementation Timeframe

Implementation of the action item is recommended immediately upon Board ratification.

IX. Attachments

A – Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

B - Investment Policy Statement, August 12, 2021

C - Act 226 (2022), GM 1327, SB2021 SD1 HD2 CD1 RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST, June 27, 2022

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

Current and Projected Portfolio Positioning

The estimated market values are based on the State Street Bank custody report as of June 30, 2022.

Table 1: NHTF Portfolio Investment Allocation by Asset Class

Financial Assets	Current Market Value	Current Allocation	Rebalance Amount	Ending Market Value	Ending Allocation	Policy Allocation	Overweight/Underweight	Min/Max Range
Global Equities	177,746,734	41.5%	30,000,000	207,746,734	42.2%	42.0%	0.2%	22% to 55%
Global Fixed Income	70,258,152	16.4%	7,000,000	77,258,152	15.7%	18.0%	-2.3%	11% to 22%
Enhanced Liquidity Account	762,112	0.2%	10,000,000	10,762,112	2.2%	3.0%	-0.8%	0% to 10%
Real Assets	25,592,657	6.0%	-	25,592,657	5.2%	5.0%	0.2%	0% to 11%
Traditional Assets	274,359,655	64.0%	47,000,000	321,359,655	65.3%	68.0%	-2.7%	33% to 88%
Hedge Funds	56,877,724	13.3%	7,000,000	63,877,724	13.0%	13.0%	0.0%	
Hedge Funds	56,877,724	13.3%	7,000,000	63,877,724	13.0%	13.0%	0.0%	6.4 to 19.2%
Private Equity	70,321,169	16.4%		70,321,169	14.3%			
Private Credit	3,962,619	0.9%		3,962,619	0.8%			
Private Real Assets	16,827,968	3.9%		16,827,968	3.4%			
Private Investments*	91,111,756	21.3%	-	91,111,756	18.5%	19.0%	-0.5%	0% to 25.6%
Cash	6,027,173	1.4%	10,000,000	16,027,173	3.3%	0.0%	3.3%	
Organization Withdrawal	-							
Total Financial Assets	428,376,308	100.0%	64,000,000	492,376,308	100.0%	100.0%	0.0%	

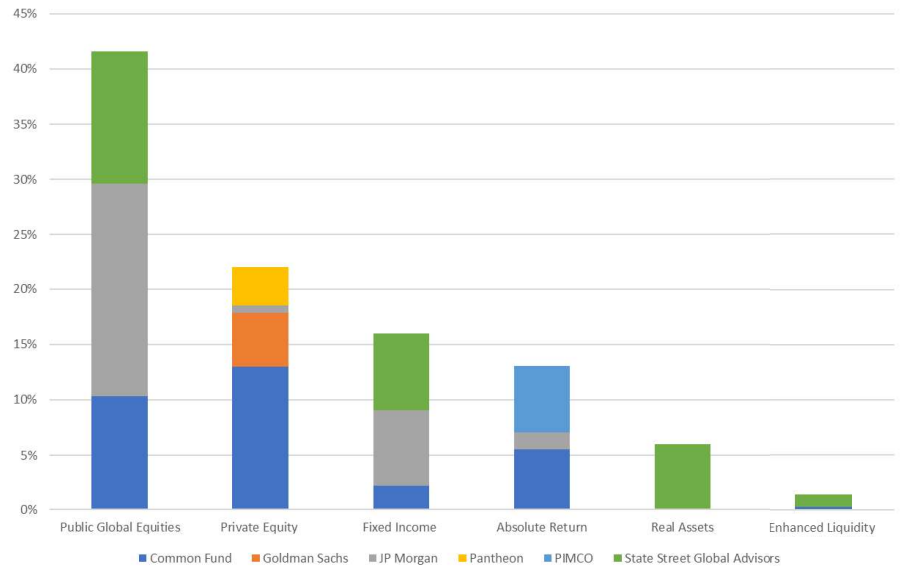
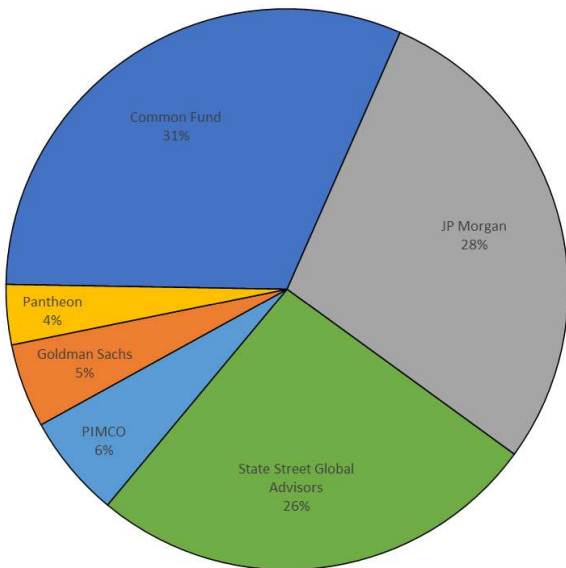
* Note: Private investments market values are typically lagged by a quarter.

Projected Risk Allocation	Ending Market Value	Weight	Target	Difference
Total Equity	294,895,871	59.9%	61%	-1.1%
Total Real Asset	25,592,657	5.2%	5%	0.2%
Total Hedge Funds	63,877,724	13.0%	13%	0.0%
Total Fixed Income	108,010,056	21.9%	21%	0.9%
Total Portfolio	492,376,308	100.0%	100%	0.0%

Action Item BAE-RM #22-02: Native Hawaiian Trust Fund Net Investment Allocation of a Portion of the Pro Rata Share of the Income and Proceeds of the Public Land Trust in the amount of \$64,000,000

Manager Allocation by Asset Class
(before \$64MM allocation)

Manager Allocation as of June 2022



NATIVE HAWAIIAN TRUST FUND
INVESTMENT POLICY STATEMENT

The following Investment Policy Statement (IPS) has been duly adopted, by the Office of Hawaiian Affairs, Board of Trustees at its meeting held on August 12, 2021 and is in full force and effect on August 12, 2021.

Carmen Hulu Lindsey, Chairperson
Board of Trustees

Date

First Reading: August 5, 2021
Second Reading: August 12, 2021

Table of Contents

Section 1. Introduction and Scope	4
Section 2. General Objectives	5
Section 3. Standards of Care	6
Section 4. Delegation of Authority	6
Section 5. Asset Allocation Guidelines and Long Term Targets	9
Section 6. Cash Holdings	12
Section 7. Pooled/Commingled Investments/Mutual Funds	12
Section 8. Permissible Investments	13
Section 9. Prohibited Investments	16
Section 10. Derivatives Policy	16
Section 11. Voting of Proxies	16
Section 12. Trades, Exchanges & Valuation	16
Section 13. Procedures for Selecting and Reviewing Investment Advisors	17
Section 14. Liquidity Policy	18
Section 15. Errors & Omissions	19
Section 16. Adding New Asset Classes	19
Section 17. Interpretation	19
Section 18. Hawai‘i Direct Investment Policy (HDIP)	19
Section 19. Enhanced Liquidity Account Investments	20
Section 20. Investment Risk Management Policy	21

Distribution:

- 9- Each OHA Trustee via Asset & Resource Management Committee
- 1- OHA BOT Secretary
- 1- OHA Chief Executive Officer
- 1- OHA Chief Operating Officer
- 1- OHA Chief Financial Officer
- 1- OHA Controller
- 1- OHA Chief Investment Officer
- 1- OHA Investment Consultant
- 5- Each Investment Advisor / Non-Marketable Alternatives Provider
- 1- Custodian

THE OFFICE OF HAWAIIAN AFFAIRS NATIVE HAWAIIAN TRUST FUND INVESTMENT POLICY STATEMENT

OBJECTIVES AND POLICY GUIDELINES

Section 1. Introduction and Scope

1.1 Introduction. This statement governs the investment of assets held in the Office of Hawaiian Affairs Native Hawaiian Trust Fund (the “Fund”).

This Policy Statement is set forth so that the Board of Trustees (“BOT”) of the Office of Hawaiian Affairs (“OHA”), OHA Staff, Investment Consultant, Investment Advisors and Investment Managers (where appropriate), and beneficiaries may be made aware of the investment policy with regard to the investment of the Fund's assets, the investment objectives, and the expectations and requirements with respect to the ongoing management of the Fund's assets.

1.2 The Trust. OHA’s mission is to mālama (protect) Hawai'i's people and environmental resources and the Trust Fund's assets, toward ensuring the perpetuation of the culture, the enhancement of lifestyle and the protection of entitlements of Native Hawaiians, while enabling the building of a strong and healthy Hawaiian people and nation, recognized nationally and internationally. The overall goal of the Fund is to provide superior investment returns to sustain the beneficiaries in perpetuity and to uphold OHA’s mission.

1.3 Purpose of the Investment Policy Statement. In keeping with the fiduciary requirements and obligations of all parties involved in managing the Fund under existing Federal and State laws, the purposes of this Policy Statement (the “Statement”) are to provide the:

- a) BOT, OHA staff, Consultant and Advisors with a clear and mutual understanding of the Fund’s philosophy, investment objectives and policies;
- b) Advisors with guidance, objectives and limitations in investing the Fund’s assets; and
- c) BOT with a meaningful basis to evaluate the Advisors’ performance in order to meet the BOT’s fiduciary responsibility to monitor prudently the Fund’s investments.

This Statement represents the BOT's philosophy regarding the investment of the Fund’s assets. The BOT will review and revise the Statement as needed to ensure that it continues to reflect the BOT’s expectations and objectives. All of the BOT’s modifications or amendments to the Statement shall be made in writing and will be provided to all Investment Advisors and Consultants.

It is also intended that the investment policies be sufficiently specific to be meaningful, but adequately flexible to be practicable. It is further understood that all performance standards and return objectives in this Statement are intended as evaluation tools for determining whether to continue to retain the Advisors. The parties understand that the Advisors cannot give assurance of actual investment results and that the Advisors understand that the BOT will terminate its relationship with an Advisor based on a determination that the Advisor is not achieving the performance standards.

1.4 Manager-of-Managers Approach. The BOT has elected to employ Advisors in an outsourced manager-of-managers investment approach, without necessarily bundling custodial services. There is a preference for a full discretionary approach to invest across multiple asset classes. When necessary to achieve the Fund’s objectives, the BOT may hire an Advisor with a non-Manager-of-Managers approach or to manage assets with a specific asset class mandate. Under the outsourcing agreement, the Advisors will assume certain BOT fiduciary responsibilities as set forth in the applicable agreement(s) between the Advisors and the BOT. The Advisors are accountable for the prudent management of all assets subject to their oversight and, where applicable, will make all key investment decisions, such as tactical asset allocation and manager selection, within the context set by this Statement and in adherence to the duties and powers set forth in the applicable management, advisory, or trust agreements. The BOT

still maintains responsibility for imposing guidelines, targets and asset allocation constraints as set forth in this Statement, and for monitoring the Advisors to ensure they act prudently and adhere to all aspects of the Statement.

1.5 Spending Policy. The annual amount withdrawn from the Fund shall constitute no more than five percent (5%) annually of the Fund's market value, excluding any Fiscal Reserve spending, using the methodology specified in the OHA Native Hawaiian Trust Fund Spending Policy. The calculation of the maximum withdrawal amounts are set forth in the Native Hawaiian Trust Fund Spending Policy and Fiscal Reserve Withdrawal Guidelines.

Section 2. General Objectives

2.1 Prioritized Investment Objectives. The overall objectives of the Fund are in the following order of priority:

- a) To grow the Fund's assets consistently by at least inflation plus five percent annually (Consistent Capital Growth);
- b) To invest in a manner that seeks to ensure the continuous preservation of purchasing power of the overall portfolio (Capital Preservation);
- c) To achieve a portfolio return that meets or exceeds the return of the Fund's Policy Portfolio Benchmark on a net of fee basis over a long time horizon (Benchmark Outperformance); and
- d) To diversify the portfolio by asset type, security (issuer) and Investment Manager to reduce the volatility of returns (Adequate Diversification).

2.2 Long-Term Objective. Consistent capital growth is the primary objective of the Fund. The investment portfolio shall be designed with the objective of protecting principal while earning a rate of return that is targeted to meet or exceed the real spending rate and the strategic benchmark index of the Fund over the long term in order to preserve the Fund's assets and ensure that sufficient liquidity will be available to cover future cash requirements. Consistent capital growth is achieved by investing prudently in a wide range of asset classes to achieve proper diversification, thereby reducing volatility. Since the Advisors will focus on long-term capital appreciation, the Fund may experience a drawdown of principal, although over a full market cycle, the Advisors in aggregate are expected to produce a total annual return that will exceed inflation as measured by the Consumer Price Index (CPI) by five percent. It is anticipated that the Fund will experience an annualized average volatility of approximately 13% annually with a maximum rolling 12-month annualized volatility of roughly 20% over a market cycle.

All parties named in this Statement shall carry out their business in compliance to all existing and future applicable state and federal regulations (Regulatory Compliance Requirement) and for assets subject to their discretion maintain adequate liquidity to meet all anticipated expenditures after sufficient notice (Adequate Liquidity Requirement).

2.3 Definition of Market Cycle. Throughout this Statement the term "market cycle" is used. Market cycles include both a rising and a declining market. Generally, a rising market will be defined as a period of at least two consecutive quarters of rising stock prices and a declining market will be defined as a period of at least two consecutive quarters of declining stock prices. Therefore, a Market Cycle (the minimum period of evaluation) shall be at least one year and more typically three to six years.

2.4 Definition of Investment Consultant, Investment Advisor and Investment Manager. Throughout this Statement the terms Investment "Consultant", Investment "Advisor" and Investment "Manager" are used. Consultant shall refer to the entity hired by the OHA Chief Executive Officer ("CEO") to assist OHA staff and BOT in overseeing the Fund and to monitor and evaluate the Advisors; "Advisor" shall refer to each Fiduciary (typically utilizing the "manager-of-managers" approach) hired by the BOT to exercise investment discretion over a portion of the Fund's assets within the parameters set forth in the Statement; and "Manager" shall refer to any portfolio manager selected by the Advisors to invest the Fund's assets.

Section 3. Standards of Care

3.1 Board of Trustees and OHA Staff. The standard of care applied to the BOT and OHA internal staff assigned to the Fund shall be the "prudent person" standard, defined as follows: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The BOT may rely upon the expert advice and counsel of its external providers to satisfy the "prudent person" standard provided the BOT has established adequate controls and fulfills its oversight responsibilities regarding the external providers as outlined in this Statement.

3.2 External Providers. The standard of care applied to all external providers (i.e., Consultant, Advisors (indirectly Investment Managers hired by the Advisors), and Custodian) shall be as set forth in the agreement between the BOT or CEO, as appropriate, and each external provider. The BOT will negotiate a standard for the Investment Advisors that is similar in effect to the "prudent expert" standard, defined as: "Investments shall be managed with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims".

3.3 Code of Ethics. OHA Trustees, OHA officers, and OHA employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of their investment program, or that could impair their ability to make impartial decisions. OHA Trustees and employees involved in the investment process shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. OHA employees and officers shall refrain from undertaking personal investment transactions with entities that conduct business with the Fund. Should any Trustees have personal involvement with any direct investment transaction or any perceived conflicts of interest, the Trustee should disclose the involvement immediately and be recused from discussions and votes on said investment. OHA Trustees, officers, and employees shall abide by the Standard of Conducts established under Chapter 84 of the Hawai'i Revised Statutes and the code of ethics stated in the OHA Bylaws and, where appropriate, the OHA Employee Handbook and the BOT Executive Policy Manual.

Section 4. Delegation of Authority

The Office of Hawaiian Affairs Native Hawaiian Trust Fund maintains a structured and organized process in implementing its investment program. To accomplish the mission, objectives and desired investment returns of the Fund, the Board of Trustees has delegated authority to various individuals and organizations.

4.1 BOT Composition. The BOT currently consists of representatives from:

- a) O'ahu
- b) Kaua'i and Ni'ihau
- c) Moloka'i and Lana'i
- d) Hawai'i
- e) Maui
- f) At large (4)

4.2 BOT Responsibilities. The BOT recognizes that it may not possess sufficient expertise to manage directly the assets of the Fund. The BOT, therefore, employs the services of various external experts to act as Fiduciaries--Consultants, Advisors and/or Custodians and seeks advice from independent parties. The BOT does rely on this expertise in carrying out its responsibility to oversee the overall management of the Fund's assets, and will meet quarterly to review the performance of the Fund and the activities of the external providers for reasonable consistency with the objectives of the Fund as set forth in this Statement. When necessary, the BOT will provide

guidance to the investment process. BOT may delegate certain of its responsibilities to the CEO to assist with the implementation of this Statement. BOT responsibilities include, but are not limited to:

- a) Approve the Investment Policy Statement and all modifications to the Statement;
- b) Approve Advisors and Non-Marketable Alternatives Providers. The BOT delegates authority to the CEO to select the Custodian, Consultant and Investment Advisory Committee (IAC) members;
- c) Monitor results of all Fund assets as a whole and those assigned to each Advisor. The BOT shall include in its quarterly assessment such topics as: economic outlook, portfolio diversification, asset allocation and structure, Advisors' strategies, potential risks, and the performance of the overall portfolio as well as each of the Fund's asset classes versus its benchmark rate of return and peer institutions;
- d) Review quarterly reports regarding the activities of Advisors, Consultant, Investment Advisory Committee and OHA staff overseeing the Fund;
- e) Review quarterly reports from the Custodian and Advisors regarding the composition of each Advisor's assets under management versus the Fund's strategic target and the asset class strategies of each Advisor;
- f) Review the quarterly report of the Consultant regarding the performance of the Fund and the Advisors;
- g) As necessary, review the Fund's strategic direction or significant issues impacting the Fund or Fiduciaries, and take action as appropriate;
- h) Attend a minimum of two investment educational events held in Hawai'i per year; and
- i) Attend out-of-State training, educational or due diligence events that are recommended by the CEO and approved by the Chairperson of the BOT.

4.3 Duties of the Consultant, Investment Advisory Committee, CEO and OHA Staff. The duties of the Consultant will be as set forth in the agreement entered into between the CEO and the Consultant. The duties of the Investment Advisory Committee are as outlined in the Committee's Charter. This Committee has no authority to make decisions, but only serves to provide independent comments to the Consultant, the CEO and staff, and BOT representatives regarding the economic outlook and the Fund's assets, strategies, performance, risks and Fiduciaries. The duties of the CEO, OHA staff, Investment Advisory Committee and Consultant will be set forth in the OHA Native Hawaiian Trust Fund Operational Procedures. The CEO is responsible for approving these Operational Procedures and for reviewing and approving all investment decisions not made by an Advisor, except those reserved for the BOT. The Consultant and OHA staff are responsible for assisting the CEO and the BOT in the execution of their responsibilities. Duties of the Consultant and OHA staff jointly include, but are not limited to:

- a) Monitor the performance of each Advisor's portfolio as frequently as market conditions dictate, including review of the Advisor's monthly reports;
- b) Aggregate as necessary and monitor the performance of the Fund's investment portfolios monthly and prepare quarterly performance and Advisor activity reports for review by the CEO and BOT;
- c) Monitor the monthly reconciliation of the portfolio positions and valuations among the Custodian and Advisors (OHA staff only);
- d) Seek to ensure that assets are invested in accordance with the requirements specified in this Statement;
- e) Recommend to the CEO and implement operational procedures that will enhance the investment program of the Fund and ensure that proper internal controls are implemented to safeguard the assets of the Fund, including preparing Investment Guideline Summaries for each of the Advisors;
- f) Recommend benchmarks for approval to the CEO;
- g) Prepare periodic market-cycle and annual reviews of the Fund's investments and the Advisors' performance, including findings from annual due diligence visits for presentation to the BOT;
- h) Conduct onsite annual due diligence of the Advisors and Custodian;
- i) Coordinate and vet changes to the Investment Policy Statement and serve as chair (Consultant) and secretary (OHA staff) to the Investment Advisory Committee;
- j) Evaluate the reasonableness of recommendations of Advisors and Non-Marketable Alternatives Providers regarding investment decisions and policies requiring the approval of the CEO.
- k) Evaluate and recommend Direct Investments in Hawaii for the approval of the CEO and BOT, as appropriate;
- l) Manage the Fund's Enhanced Liquidity Account assets awaiting disbursement to OHA consistent with the

Operational Procedures reviewed by the CFO and approved by the CEO; and

- m) Evaluate and recommend (OHA staff and Consultant) new Advisors for the approval by the CEO and BOT;
- n) Maintain knowledge of current trends and conditions with respect to investment management through continuing education.

4.4 Duties of the Advisors. The duties of the Advisors shall be as set forth in the agreements entered into between the BOT and the Advisors, and will explicitly include this Statement as an addendum. The Advisors act as Fiduciaries of the Fund for the assets they have under management. Duties of the Advisors include, but are not limited to:

- a) Invest the assets of the Fund within the constraints of the Statement while adhering to the investment management style, concepts and principles for which they were retained by the BOT. Advisors are responsible for tactical asset allocation and manager selection unless otherwise stated in the management and/or trust agreement with OHA;
- b) Where applicable per the Advisor management agreement, for all investment decisions requiring the CEO's approval, recommend specific investments and provide strategic and/or tactical investment advice to the BOT, CEO, OHA staff, and Consultant as appropriate to render a decision that will achieve the Fund's investment objectives;
- c) Seek to achieve best execution and price for all transactions effected on behalf of the Fund with brokers and dealers qualified to execute institutional orders on an ongoing basis and if appropriate, facilitate the recapture of commissions on behalf of the Fund;
- d) Reconcile within tolerance limits monthly accounting, transaction, valuation and asset summary data with the Custodian's transactions, valuations and holdings, including resolving any discrepancies with the Custodian;
- e) For investments where a market value is not available, assist the Custodian as necessary in finding appropriate pricing sources or establishing fair value procedures.
- f) Report to the BOT on all significant matters pertaining to their firm's ownership, investment style and philosophy, changes in personnel and performance relevant to the management of the Fund. Items relevant to the Fund include those that would have a direct or indirect impact on the ability of the Advisor to continue to provide a high level of service;
- g) Vote the proxies of invested companies (or delegate the vote to Managers), as they deem appropriate, although the BOT reserves the right to vote proxies in separately managed accounts if it so chooses;
- h) Periodically conduct capital market studies and make recommendations to the BOT regarding changes to the Statement and strategic asset allocation targets and ranges based on the risk/return objectives of the Fund and the economic and market outlook. The timing of these analyses, and either reaffirmation or recommendation of modifications to this Statement, shall be as agreed upon with the BOT, but normally every two to five years, but no less frequently than every six years;
- i) Select qualified Investment Managers, and monitor existing Managers' style consistency and performance at least monthly, including due diligence of those Managers regarding personnel, ownership, risk management and the investment process;
- j) Negotiate fee arrangements and other contract terms with the investment Managers on behalf of the Fund;
- k) Communicate with the Consultant and/or OHA staff on at least a monthly basis regarding actions taken, or any material changes, issues or circumstances warranting attention including performance of the Fund, market conditions and outlook, manager-turnover, Managers' or Advisor's staff turnover, etc;
- l) Prepare and present a quarterly executive summary report to the BOT as requested by the Consultant or OHA staff including performance versus benchmarks, asset allocation, economic outlook, fees, Manager summary, and any other significant issues impacting the Fund;
- m) Assist the Consultant and OHA staff in preparing Investment Guideline Summaries for the approval of the CEO covering the assets under their management and annually prepare a compliance and derivatives usage report (Each Advisor's Investment Guideline Summary will govern the assets under their management in conjunction with the Investment Policy Statement and the Investment Management Agreement between the

- Advisor and OHA);
- n) Host an annual onsite comprehensive and/or topical due diligence for the Consultant and OHA staff and officials and as requested provide portfolio analytics and style consistency adherence at the manager-level for the Advisor's commingled vehicles;
- o) Negotiate and arrange for brokerage and any applicable recordkeeping services;
- p) Render special projects at the request of the BOT, the Consultant or OHA staff; and
- q) Provide certain other services, as described elsewhere in this Statement, such as investment training, market research, educational programs, analytical tools, etc.

4.5 Duties of the Custodian. The duties of the Custodian shall be as set forth in the agreement between the BOT and the Custodian. In addition to other responsibilities contained in that agreement the Custodian will:

- a) Provide complete custody and depository services for the Fund's assets including obtaining market values or fair values for all assets on at least a monthly basis;
- b) Provide a monthly report of transactions by the Advisors and, where applicable, by OHA (Enhanced Liquidity Account) as set forth in the Custody agreement;
- c) Provide audited monthly and annual accounting statements for all the Fund's assets and transactions;
- d) Collect all interest income, dividends and principal realization and properly report them in all accounting statements;
- e) Disperse funds to cover expenses, accept funds from OHA or the Advisors, and disperse funds to OHA or the Advisors as properly instructed by CEO or OHA staff, and properly report these transactions in all accounting statements; and
- f) Reconcile monthly accounting, transaction and asset summary data and communicate and resolve any discrepancies with the Advisors.

Section 5. Asset Allocation Guidelines and Long Term Targets

The BOT prefers Advisors who can construct and manage a portfolio encompassing multiple strategic asset classes using a Manager-of-Manager approach and utilize the Fund's strategic target index as their primary benchmark (strategic target weight times strategic benchmark index return for each strategic asset class). The purpose of the strategic target asset allocation is to provide an optimal mix of investments that has the potential to produce the desired returns with the least amount of fluctuation in the overall value of the investment portfolio. The minimum and maximum levels listed below are targeting guidelines as opposed to absolute barriers; Advisors should bring asset allocations which are outside of their approved targeting range back to the range per their rebalancing policy unless granted a written exception by the CEO. The Traditional and Alternative Assets Advisors are not responsible for Hawai'i Direct Investments and the Enhanced Liquidity Account. The Alternatives Advisor may hedge the under or over exposure to asset classes with barriers to entry and exit (Non-Marketable Alternatives) with similar liquid (marketable) asset classes (e.g. hedge underexposure to targeted private equity using traditional equity or marketable equity alternatives).

There is no specific asset allocation target to Hawai'i Direct Investments, however, asset allocation concerns will weigh into consideration when evaluating any other capital investments. It is expected that Hawai'i commercial real estate will remain a substantial portion of the Fund given OHA's legacy and identity as a Native Hawaiian organization.

5.1 Asset Allocation.

Asset Class Portfolios	Maximum	Minimum	Strategic Target	Benchmark Index	Primary Objective
Traditional Asset Classes					
Traditional Global Equities	55%	22%	42%	MSCI ACWI	Growth
Traditional Global Fixed Income	22%	11%	18%	Bloomberg US Aggregate	Income
Traditional Global Real Assets	11%	0%	5%	US TIPS +3%	Inflation Hedge
Total Traditional Assets	88%	33%	65%		
Alternative Asset Classes					
Hedge Funds	19.2%	6.4%	13%	3-Month T-Bills +4%	Volatility Management
Private Markets*	25.6%	0%	19%	MSCI ACWI +3%	Growth
Total Alternative Assets	44.8%	6.4%	32%		
Enhanced Liquidity Account					
Enhanced Liquidity	10%	0%	3%	1-3 Year Treasury	Liquidity
Total Financial Assets			100%		
Hawai'i Direct Investments					
Hawai'i Direct Investments	No Target			CPI +5%	Total Return
*The Private Market allocation will consist of the previous Non-Marketable Equity, Credit, and Real Assets & Opportunistic portfolios					

The Strategic Targets for the Asset Classes listed in the table above multiplied by the benchmarks recommended by the Consultant and approved by the CEO constitute the Policy Portfolio. The table below regroups the Asset Classes by their primary objective.

Asset Class Portfolios	Maximum	Minimum	Strategic Target
Growth			
Traditional Global Equities	55%	22%	42%
Private Markets	25.6%	0%	19%
Total Growth	80.6%	22%	61%
Income			
Traditional Global Fixed Income	22%	11%	18%
Total Income	22%	11%	18%
Volatility Management			
Hedge Funds	19.2%	6.4%	13%
Inflation Hedge			
Traditional Global Real Assets	11%	0%	5%
Total Inflation Hedge	11%	0%	5%
Liquidity			
Enhanced Liquidity	10%	0%	3%
Hawai'i Direct Investments			
Hawai'i Direct Investments	No Target		

All Hawai'i-based Direct Investments are excluded from the discretionary Manager-of-Managers framework. The OHA staff with the assistance of the Consultant will be responsible for the due diligence, performance monitoring and reporting of such investments. For Hawai'i commercial real estate, OHA chooses to utilize internal management of the assets. Management shall formulate and implement an overall strategy incorporating both economic and cultural focus. Internal management will also leverage the expertise of OHA's Real Estate Advisory Committee and external real estate consultant.

Private Market investments are accomplished outside of the discretionary Advisor framework as the Advisors do not have investment discretion over these assets. Approved Non-Marketable Alternatives Providers will provide OHA staff and the Consultant with sufficient information and analyses to evaluate their investment recommendations. The information may include Manager due diligence reports and portfolio analytics so that the CEO can make an informed decision relating to the investment. It is recognized that there may be underinvestment or overinvestment in these illiquid asset classes due to the timing of capital calls and distributions.

5.2 Benchmarks. Each Advisor will use the primary strategic benchmark index listed in their Investment Guideline Summary as a guide in managing assets under their control. The strategic asset allocation targets and ranges, performance benchmarks, and additional investment guidelines are also set forth in each Advisor's Investment Guideline Summary or Investment Management Agreement. As necessary, the Consultant will recommend changes to the strategic targets, ranges, performance benchmarks, and any additional guidelines and the CEO must approve those changes before they become effective. The CEO will notify the BOT of Investment Guideline changes in writing.

Every new product of an Advisor must be assigned to one of the above asset classes as agreed upon between the Advisor and OHA Staff and/or the Consultant, with notification of the CEO. In addition, each investment may have a custom benchmark different from that of the asset class as agreed upon with the Consultant. The secondary benchmark is the Consumer Price Index (CPI) plus 5.0% annually for the Fund as a whole. The Consultant will also recommend, in consultation with each Advisor, peer manager and peer institution benchmarks and these will be approved by the CEO. Besides reporting portfolio performance versus these portfolio benchmarks, the Advisors shall report investment results on individual funds or portfolios versus their custom benchmarks.

The BOT recognizes that the actual asset allocation of the Fund may vary between or even outside of the minimum and maximum in the short term depending on market conditions and/or tactical asset allocation shifts. Asset classes not contemplated above or elsewhere in this Policy may be added to the Fund upon approval in writing by the BOT. The Advisors will only be responsible for meeting the investment objectives applicable to the portion of the Fund entrusted to such Advisors.

Rebalancing Policy. The primary purposes of rebalancing are to (1) ensure that the Fund's actual asset allocation does not drift too far from the strategic asset allocation; and (2) improve the performance of the Fund. The CEO will ensure that any agreement entered into with an Investment Advisor sets forth a rebalancing policy satisfactory to the BOT. There is no specific asset allocation target to Hawai'i Direct Investments, however, asset allocation concerns will weigh into consideration when evaluating any capital investment.

Section 6. Cash Holdings

It is the policy of the Fund that the Advisors fully invest the assets of the Fund under their control except to accommodate large cash flows. Unhedged cash and equivalents may be held in the Fund for defensive purposes at the Advisor's discretion during abnormal market conditions. The equity portion of the Advisor's portfolio should strive to maintain less than 5% of the portfolio in cash equivalents, unless the cash is hedged to achieve the appropriate asset class exposure. The fixed income portion of the Advisor's portfolio may maintain higher cash balances (e.g., as barbell strategies necessitate this exposure to cash).

Cash equivalents maximize liquidity and safety of principal. Maturities should be short enough that cash equivalents can be liquidated with a limited loss of principal. The following types of cash equivalents are eligible for investment:

- a) Money market mutual funds (2a7) which invest solely in U.S. Treasury and government agency securities;
- b) Deposits which are 100% federally insured or collateralized with U.S. government or agency securities with a market value of at least 100% of the face amount of the certificate;
- c) U.S. Treasury bills and short-term U.S. government agency securities;
- d) Overnight repurchase agreements collateralized with U.S. government or agency securities with a market value of at least 102% of the face amount; and
- e) Commercial paper of the highest two grades as rated by a nationally recognized rating agency.

Section 7. Pooled/Commingled Investments/Mutual Funds

Commingled investment vehicles where there is a pooling of securities owned by multiple clients for diversification, risk reduction, or cost benefits, include mutual funds, trust funds, private placements, and limited

partnerships, and are explicitly permissible. Although private placements and limited partnerships are exempt from both federal and state securities registration, they are considered appropriate vehicles for the Fund.

Section 8. Permissible Investments

8.1 Asset Class Definitions, Objectives, Permissible Instruments, Strategies, & Requirements. Investments in each asset class listed in Section 5, except for those investments excluded from the Advisors' responsibility, must be well diversified as defined below and in the Investment Guideline Summary or Investment Management Agreement of each Advisor. Advisors, as Fiduciaries, must exercise prudence in all matters and invest solely for the benefit of the Fund. For each asset class, the Advisors will retain Managers who invest in separate accounts or in commingled vehicles. An Advisor may select itself, an affiliated Manager, or an external Manager. Advisors may also retain Managers to provide "active overlay" strategies that use securities, currencies and derivative instruments, including but not limited to forwards, options, futures contracts, options, currency forwards, futures contracts and swaps (e.g. interest rate, credit default and total return) to replicate an index or combination of indexes. These overlay strategies will seek to (a) manage Fund exposure to various asset classes, (b) manage overall Fund risk, and (c) under certain conditions, enhance total return with tightly controlled leverage constraints.

Each Advisor must demonstrate that it has the capability to manage the risks involved in each asset class. Key to controlling risks is the ability to conduct robust ongoing due diligence on the Managers it selects and the ability to measure, manage and report portfolio risks, including issuer concentration, market, credit, duration, liquidity, leverage, currency and other major risks. The Consultant, with the assistance of OHA staff and the Advisors, must document the investment restrictions and risk controls for the portfolio of each Advisor in the Investment Guideline Summaries. The Advisors are not allowed to leverage the Fund's assets at the portfolio level without prior written approval of the BOT, although individual managers or commingled vehicles in certain asset classes and strategies may employ leverage under controlled conditions. Risk hedging in each asset class is explicitly permitted, including currency risks relative to the benchmark index and temporarily hedging the exposure in an illiquid asset class with a similar liquid asset class.

a) Traditional Global Equity - Common & Preferred Stocks and Un-levered Equity Derivatives. The primary role of traditional global equity is to seek to provide total return in excess of inflation, consistent with the appropriate benchmark index. Traditional equity may be actively managed in diversified portfolios of long only positions and/or long and short positions netting to approximately 100% long, be passively managed, utilize active overlay strategies, or be managed in any combination of active, passive and overlay strategies. The goal of an actively managed stock portfolio will be to achieve a net return after fees in excess of its benchmark index with comparable risk. Securities should be publicly owned and traded actively enough to insure liquidity without significantly adverse effects on price due to rapid sale. The Advisor should diversify the portfolio by geography—domestic and international, both developed and emerging markets, by investment style—value and growth, by manager, by approach—quantitative versus fundamental, by sector and industry, and capitalization—small, mid and large. An Advisor may select itself or an affiliated Manager in this asset class.

b) Traditional Global Fixed Income – Cash Equivalents, Bonds, Loans and Un-levered Fixed Income Derivatives. The primary role of Global Fixed Income is to seek to: 1) generate income while diversifying the investment assets, 2) provide a safe, stable return, and 3) provide a deflationary hedge. The fixed income asset class may include, but is not limited to the following components:

- a) Cash equivalents;
- b) US core credit including investment grade corporate, asset-backed, municipals and mortgage securities;
- c) High-yield securities and liquid loans; and
- d) Foreign government securities, investment grade foreign corporate debt denominated in US dollars or foreign currencies from both emerging markets and developed countries.

Advisors should ensure that managers are carefully managing portfolio duration, convexity, yield curve structure, sector exposure, issuer concentration, credit quality, non-U.S. securities, and currency risk to achieve a balanced and

reasonable risk budget relative to the benchmark index for the fixed income portfolio. An Advisor may select itself or an affiliated Manager in this asset class.

c) Global Real Assets – Real Estate Investment Trusts (REITs) and Treasury Inflation Protected Securities (TIPS). The primary role of global real estate is to seek to provide total return in excess of inflation, consistent with an appropriate real estate benchmark index. The Managers selected by the Advisors must have demonstrated a favorable record in managing real estate portfolios. The public real estate asset portfolio of the Fund may be comprised of commingled pools and/or a portfolio of real estate investment trusts (REITs), which are well diversified by property type and geographic location. Advisors shall invest in instruments which comprise a portfolio well diversified by the four main property types, including office, retail, industrial, and multifamily residential, as well as by geographic region, and tenancy/leasing structure. If a real estate investment is made via a commingled vehicle, the prospectus or operating guidelines of that vehicle will serve as the operative policy. The Advisors are responsible for ensuring that the selected vehicle or portfolio has adequate risk controls in place and that the Manager is investing according to the operative policy. The Advisors may also invest in TIPS as a diversifier, or if they believe that they provide a better value than REITs, as an inflation hedge. An Advisor may select itself or an affiliated Manager in this asset class.

d) Low Volatility Marketable Alternatives – Funds of Hedge Funds, Individual Hedge Funds, Commodity Funds, and Mutual and Exchange Traded Funds employing alternative strategies. The primary role of this asset class is to seek to provide a consistently positive return source above the risk free rate that has low volatility and low correlation to the other asset classes, and the secondary role is to provide an inflation hedge through a commodity allocation. This asset class consists of a diversified portfolio of hedge fund strategies deemed appropriate by the Advisor for this role, including but not limited to macro, commodity trading advisors, relative value, opportunistic, global tactical asset allocation, distressed, and opportunistic. The Alternatives Advisor may utilize funds of hedge funds, a portfolio of individual hedge funds, mutual funds or market neutral overlay strategies designed to achieve a consistently positive return above the risk free rate. The Alternatives Advisor may select itself or an affiliate as the fund-of-funds Manager or as one or more of the hedge fund Managers. The Alternatives Advisor is responsible for ensuring that the selected vehicle has adequate risk controls in place. The Alternatives Advisor will seek to ensure that Managers invest according to the offering memorandum or partnership agreement. The Alternatives Advisor may select Managers that utilize reasonable amounts of leverage at the fund-of-funds level and Managers that utilize reasonable leverage within their individual hedge funds. The liquidity requirements for individual hedge funds or hedge fund-of-funds will be defined in the Advisor's Investment Guideline Summary. Advisors should seek to avoid direct or indirect investments in funds with redemption gates or side pockets, as well as funds which lack reasonable transparency consistent with the investment strategy. Advisors should also avoid any funds with excessive fees in relation to market practice and/or expected returns, or terms which do not align the interests of the Manager with the client, as well as those that have the majority of assets in illiquid investments.

The primary role of the commodities allocation is to seek to provide a consistently positive return above inflation with a low or negative correlation to the other asset classes. Commodities provide an inflation hedge and should consist of a diversified portfolio of energy, metal, agricultural and other commodities, including but not limited to oil, natural gas, grains, metals, and livestock. The Alternatives Advisor may utilize separate accounts or commingled funds using a single Manager or a multi-manager approach. The Alternatives Advisor should utilize strategies that have at least monthly liquidity under normal conditions and further liquidity guidelines will be specified in the Advisor's Investment Guideline Summary. The Alternatives Advisor may select an affiliate as the Manager-of-Managers or as one of the Managers. The Alternatives Advisor is responsible for ensuring that the selected Managers have adequate risk controls in place, especially for separately managed accounts. The Alternatives Advisor will seek to ensure that Managers utilizing funds invest according to the offering memorandum or partnership agreement.

e) Non-Marketable Equity Alternatives – Private Equity Funds, Funds of Private Equity Funds, Equity Hedge Funds, and Cash Equivalents & Overlay Strategies. The primary role of Non-Marketable Equity Alternatives is to seek to provide enhanced total return to traditional equity through vehicles which may have limited liquidity and/or utilize leverage and derivatives, but employ strategies which go beyond the long only equity portfolio. Equity Alternatives include, but are not limited to, investments in private equity, venture capital, portable alpha, and long- biased equity hedge funds. The Alternatives Advisor may utilize hedge funds that correlate to the equity markets or

overlay strategies such as portable alpha to hedge an underexposure to the targeted level of Non-Marketable Equity Alternatives, and hold cash temporarily to meet capital calls. The Alternatives Advisor may select itself or an affiliated Manager to hedge an underexposure in this asset class. The CEO may approve funds of private equity funds, which consist of funds making primary and/or secondary investments in underlying private equity funds as well as some direct investments. These funds are managed for returns with low correlation to returns in the traditional equity markets, and with very little liquidity. Assets invested in these private funds are generally illiquid for five to ten or more years. The CEO needs to invest the Fund's assets in a consistent long-term approach so as to limit the vintage year risk where there is a wide range of performance depending on the year the fund is launched. The Non-Marketable Alternatives Providers will seek to ensure that general partners invest according to the offering memorandum or partnership agreement. The Providers are responsible for ensuring that the selected vehicle has adequate risk controls in place and invests within the stated style and the scope of its offering memorandum or partnership agreement. Due to the long-term nature of a private equity investment, the measurement period for complete evaluation will be over a ten-year period. A ten-year return is intended to cover at least one complete market cycle, and is consistent with the average term of private equity fund-of-funds investments. The OHA staff and Consultant will evaluate and the CEO must approve all investments in Non-Marketable funds within this asset class.

f) Non-Marketable Credit Alternatives — Mezzanine Debt Funds, Specialty Loan Funds, Distressed Debt Funds, and Credit Hedge Funds. The primary role of Non-Marketable Credit Alternatives is to seek to provide enhanced total return to traditional credit through vehicles which may have limited liquidity and/or utilize leverage and derivatives, but provide access to fixed income strategies with higher return potential. Credit alternatives include, but are not limited to mezzanine debt, bank loans, distressed debt, special situations, portable alpha, and hedge funds utilizing credit strategies. These strategies should have returns with moderate correlation to traditional fixed income returns and low correlation to the other asset classes. The Non-Marketable Alternatives Providers are responsible for ensuring that their selected vehicles have adequate risk controls in place and that their selected vehicles conform to the offering memorandum or partnership agreement. The Alternatives Advisor may select itself or an affiliated Manager to hedge an underexposure in this asset class using credit hedge funds, overlay strategies, or traditional credit strategies. The OHA staff and Consultant will evaluate and the CEO must approve all investments in Non-Marketable funds within this asset class.

g) Non-Marketable Real Assets & Opportunistic Alternatives — Natural Resource Funds, Infrastructure Funds, Commodity Funds, Master Limited Partnerships (MLP's) and unique investments that do not fit into another Asset Class. The primary role of Non-Marketable Real Assets & Opportunistic Alternative investments is to seek to provide an inflation hedge, and the secondary role is to provide enhanced total return above Traditional Real Assets by committing capital for ten years or more to private market real asset strategies. Real assets include, but are not limited to real estate, TIPS, commodities, and natural resources. The OHA Staff and Consultant will evaluate and the CEO must approve all investments in Non-Marketable funds within this asset class. The Alternatives Advisor may hedge target exposure using such marketable assets as MLP's, CTA's, REITs, TIPS, overlay strategies, or mutual and exchange-traded funds utilizing real asset strategies. The Alternatives Advisor may select itself or an affiliated Manager to hedge underexposure in this asset class.

h) Hawai'i Direct Investments. The primary role of Hawai'i Direct Investments is to seek a total return of five percent in excess of inflation from Hawai'i commercial real estate. This asset class also includes the OHA corporate headquarters and private equity and debt investments with significant operations in Hawai'i. All direct real estate investments must be made within the context of the Direct Investment Policy Statement.

Section 9. Prohibited Investments

The following investments are prohibited. Should a prohibited transaction occur, the Advisor must report it immediately after discovery to the Consultant and OHA staff, who will report it at the next BOT meeting.

9.1 Self-Dealing Transactions. Managers cannot purchase or hold any security of the Advisor who selected them, unless permitted by law.

9.2 Financial Institution Deposits including CDs. Direct deposits may not exceed the Federal Deposit Insurance Corporation insurance limit unless they are 100% collateralized by eligible U.S. government securities or fully covered by a surety bond.

9.3 Letter Stock. Letter stock and other unregistered equity securities are prohibited except in the alternative asset classes.

Section 10. Derivatives Policy

This Derivatives Policy applies to all investments with the exception of those permitted in funds in the alternative asset classes. Investments in derivatives shall not create a leverage effect on portfolio returns and must be consistent with the asset class they are in. Structured securities, futures, forwards, total return swaps, interest rate swaps, credit default swaps, options and other derivatives are permitted only if they are used in a defensive hedging manner (e.g. to hedge a currency, equitize cash, or to create an overlay strategy or structured fixed income portfolio). Advisors will be required to report on a periodic basis (at least annually) to the BOT on their use of derivatives for any purpose and to assure compliance with this Policy.

Section 11. Voting of Proxies

The BOT has delegated the authority to Advisors and Managers to vote proxies. For separately managed accounts (not pooled vehicles), the BOT reserves its right to exercise its proxy rights when it so chooses and to vote the proxies of invested companies as it deems appropriate. The proxy voting review process and guidelines are set forth in the OHA Native Hawaiian Trust Fund Operational Procedures.

Section 12. Trades, Exchanges & Valuation

12.1 Selling or Exchanging Securities. Investment Managers may sell or exchange securities in the course of daily management of specific funds. The goal of all such trades is to maximize portfolio performance while maintaining an appropriate risk profile.

12.2 Marking to Market. To account for market fluctuations and volatility, the Custodian or its agent (independent pricing agent) will mark to market all securities at least monthly. When market values are not available, the Custodian will follow the prevailing best practices regarding fair valuation. If a significant market event takes place during the month that impacts the value of the portfolio, the Custodian or its agent will determine the impact on the portfolio.

Section 13. Procedures for Selecting and Reviewing Investment Advisors

13.1 Review Process. Fund investments will be managed by professional Advisors and Managers except to the extent the BOT specifically delegates investment authority for other strategies for which the Fund's Advisors do not have specific expertise under the Manager-of-Managers' approach or for OHA's Enhanced Liquidity Account. When the BOT elects to retain a new Investment Advisor(s), it will instruct OHA staff and the Consultant to conduct a search for the Advisor and issue a public notice on OHA's website. HRS §103D-102(b)(2)(F) specifically exempts investment from the State procurement process. The selection process will include, but not be limited to, the following:

- a) The Consultant will perform a review of the universe of available candidates for the specific assignment and provide a list of best-in-class Advisors to OHA staff from a formal screening process of qualified candidates.
- b) The initial list will consist of either eight to ten Advisors, but may be fewer depending on the investment approach.
- c) OHA procurement will review the list of candidates ensuring that they meet OHA's compliance standards.
- d) The Consultant will provide OHA staff performance and risk statistics as available and applicable as well as a summary of each Advisor.
- e) OHA staff and the Consultant will evaluate the Advisors and shorten the list to four candidates.
- f) The Consultant will request each qualifying candidate to provide information which will include but is not limited to three-year, five-year, and ten-year performance record, as available, and the associated risks taken to achieve the returns, the quality and stability of the investment personnel and process of each company, adherence to philosophy/style and the fees charged by each company.
- g) OHA staff and the Consultant will provide a summary of the responses received, which will include a list of evaluation criteria to be approved by the CEO for the BOT. At least two finalists will be selected to make an oral presentation to the BOT.
- h) Final selection will be approved by the BOT.
- i) Timing of funds to Advisors will be based on the asset allocation, availability of funds, and structure of the investment.
- j) OHA staff will be responsible for coordinating the contract execution with any external Advisor or Manager approved by the BOT.

13.2 Selection Criteria for Advisors. Criteria will be established for each Advisor search undertaken by the BOT and will be tailored to the BOT's needs. These criteria are applicable to discretionary Manager-of-Managers and may not necessarily be applicable for the Enhanced Liquidity Account Manager. In general, eligible Advisors will possess attributes including, but not limited to, the following:

- a) For Manager-of- Manager searches, the firm must exhibit capabilities to offer Manager-of-Manager programs across a variety of asset classes and are capable of utilizing qualified Hawai'i-based Managers;
- b) For specific asset class searches, the firm must be experienced in managing money for institutional clients in the asset class/product category/investment style specified by the BOT;
- c) The firm must have a minimum five-year history with managing institutional assets, demonstrate continuity of key personnel,; shorter-term histories will be considered for entire portfolio management teams that have portable track records from predecessor firms;
- d) The firm must display a record of stability in retaining and attracting qualified investment professionals, as well as a record of managing asset growth effectively, both in gaining and retaining clients;
- e) The firm must have an asset base sufficient to accommodate the Fund's portfolio: Manager of Managers should have at least \$20 billion of discretionary institutional assets under management; the Fund's portfolio should represent no more than 5% of the firm's total asset base for any Advisor;
- f) The firm must demonstrate adherence to the investment style sought by the BOT, and adherence to the firm's stated investment discipline;
- g) The firm should promote good governance in its proxy voting policy and adhere to best practice standards regarding transparency, manager fee structure, leverage, and liquidity in the alternative asset classes;

- h) The firm's fees should be competitive with industry standards for each product category and overall;
- i) The firm must comply with the "Duties of the Investment Advisors" outlined in this Statement and should conform to GIPS (Global Investment Performance Standards) for performance reporting;
- j) The firm must be able to offer investment education programs to the BOT and OHA staff at least once a year; and
- k) The firm must be able to provide analytics tools and/or reports necessary for OHA staff and Consultant to monitor and analyze asset allocation, risk, and manager performance.

13.3 Criteria for Advisor Review and Monitoring. The BOT reserves the right to terminate an Investment Advisor at any time with reasonable notice as defined in the contract between the BOT and the Investment Advisor. Grounds for termination may include, but are not limited to:

- a) Failure to comply with the guidelines agreed upon for the management of the Fund's assets; including holding restricted securities and conducting prohibited transactions;
- b) Failure to achieve performance objectives specified in this Statement or the Advisor's contractual guidelines;
- c) Significant deviation from the Advisor's stated investment philosophy/style and/or process.
- d) Loss of key personnel or significant ownership changes that create instability in the organization;
- e) Evidence of illegal or unethical behavior by the Investment Advisor;
- f) Lack of willingness to cooperate with reasonable requests by the BOT, Investment Consultant or OHA staff for information, meetings or other material;
- g) Loss of confidence by the BOT; and
- h) A change in the Fund's asset allocation program which necessitates a shift of assets to another process or style.

The presence of any one, or a combination of these, factors will be carefully reviewed by the BOT, but will not necessarily result in an automatic termination.

13.4 Performance Monitoring. The OHA staff and Consultant shall monitor monthly statements and receive quarterly performance reports from the Advisors. The Advisors shall monitor, at least monthly, the investment results of each Manager under contract to determine whether or not that Manager is performing up to the standard required by the benchmark of performance specified in the Manager's contract.

13.5 Advisors Total Return Comparison. The BOT expects that each Advisor's total portfolio performance over a market cycle will meet or exceed the benchmark index established for that Advisor.

13.6 Total Portfolio Returns. The BOT expects that the Fund's combined investment results over a market cycle will be in the top 50% of a nationally recognized universe of foundations and endowments with similar sized portfolios.

13.7 Asset Class Returns. Specific asset class investment results shall be measured against benchmarks as detailed in the Advisor's Investment Guideline Summary.

13.8 Advisor Alerts. Advisors are expected to keep the BOT, OHA staff and Consultant informed of any material changes in their respective firms (i.e. change in personnel, ownership, policy, etc.).

13.9 Termination. If at any time the standard required is not being met by an Advisor, the BOT will determine what action will be taken toward the Investment Advisor. The decision to terminate an Investment Advisor shall be by majority vote of the BOT present at the meeting subject to the contractual agreement.

Section 14. Liquidity Policy

The Redemption liquidity of the total Trust Fund will be maintained with a minimum 65% of the Fund's assets able to be liquidated at market value under normal conditions on at least a quarterly basis (advance notification and some

restrictions may apply). Investments with liquidity less than quarterly require the approval of the CEO. At least 50% of the total Trust Fund's assets must be liquid on at least a monthly basis at market value without restriction or advance notice longer than five business days under normal conditions. The Liquidity requirements for each Advisor and the assets under their management will be specified in their Investment Guideline Summaries and/or Investment Management Agreements.

Section 15. Errors & Omissions

The Advisor is to correct any material violation of the provisions of this Statement within a reasonable time period upon discovery. The Advisor will reimburse the Fund for a realized loss resulting from a material violation as agreed in the contract between the BOT and the Advisor.

Section 16. Adding New Asset Classes

The Investment Consultant with the assistance of OHA staff will work with the Advisors to assign each investment (e.g. fund) to an asset class portfolio, a custom benchmark index, and a peer manager universe. If the Advisor proposes an investment that does not fit into one of the approved asset classes listed in Section 5, the Advisor will prepare a written recommendation to the OHA staff / Consultant justifying the investment. The recommendation must include a description, of the new asset class, rationale for including the new investment, historical returns and risk statistics, liquidity, analysis of impact on the risk/return of the Fund, the benchmark index and manager peer universe. OHA staff and the consultant will provide a recommendation to the BOT. Adding a new asset class will require the approval of the CEO and the BOT.

Section 17. Interpretation

This Statement will be incorporated as an addendum in the agreements between the OHA BOT and each Advisor. In the event of any conflict or inconsistency between the terms of the agreement and this Statement, other than the Section 4.4 Duties of the Investment Advisors and anything designated as a Fundamental Investment Policy, the terms of the agreement with the Advisor shall govern.

Section 18. Hawai'i Direct Investment Policy (HDIP)

The primary role of the HDI asset class is to create financially viable Hawai'i commercial real estate holdings while also protecting and preserving Hawai'i lands and their cultural significance. OHA's Hawai'i commercial real estate portfolio will seek to generate a total return (Income and Capital Appreciation) to meet OHA's spending requirements while also preserving purchasing power for future generations. OHA will make capital investments to enhance, maintain, and protect existing improvements on its Hawai'i commercial real estate holdings and consider real estate acquisitions and monetization where compelling and for strategic reasons.

A secondary objective targets equity and/or debt positions in private companies based in Hawai'i as further guided by the OHA Economic Development Policy and BOT-approved lending programs for Native Hawaiians. Investments other than corporate real estate and BOT-approved lending programs must be approved by a supermajority vote of the BOT.

All direct investments should demonstrate the ability to generate current income and capital gains consistent with the asset class benchmark index and Fund's long-term objective.

18.2 Delegation of Authority. All final acquisition, development, and/or disposition decisions of Hawai'i direct investments must be approved by the BOT. The BOT delegates to the CEO the authority to:

- a) Administer the HDIP and approve and implement procedures to carry it out;
- b) Delegate duties to OHA staff as necessary to fulfill and implement this policy;
- c) Deny opportunities that do not satisfy current policy, guidelines, and/or criteria approved by the BOT;
- d) Execute contract and agreements;
- e) Conduct investment due diligence, negotiations, and on-going performance monitoring;
- f) Structure real estate financing terms for approval by the BOT;
- g) As necessary, oversee and manage the operational functions associated with each investment, including selecting and terminating service providers, negotiating leases and setting fee schedules (including market-based lease terms for OHA occupied space), obtaining and approving permits, licensing, and leasing, approving tenant improvements, sub-leases, evictions, use and service agreements, and making all other operational decisions associated with the investment; and
- h) Determine when to segregate assets to fund acquisitions and to place those assets with OHA staff to invest in the Enhanced Liquidity Account (ELA) until acquisitions are closed. These funds do not count toward the spending limit on annual transfers to the ELA

The BOT reserves the right to approve all other decisions not listed above.

18.3 Permissible Investments

Hawai'i Real Estate

- a) Hawai'i commercial real estate strategies seek to create financially viable properties owned by OHA focusing on total return to meet current spending requirements.
- b) The objective for Hawai'i commercial real estate strategies is to outperform, net of commissions and fees, a blend of real estate indices that reflect the holdings of the Fund. The performance will be monitored regularly and evaluated over rolling five and ten-year periods.
- c) Only real property that is Hawai'i commercial real estate property is included in the Fund.
- d) OHA may finance real estate acquisition or capital improvements with a mortgage. The property may be pledged as collateral under a non-recourse structure to OHA. Any amount of recourse back to OHA, including an OHA guarantee, will be considered a use of capital and therefore be subjected to the OHA's Debt Management Policy.
- e) The market valuation of Hawai'i commercial real estate is determined by biennium appraisals conducted by a reputable independent appraisal firm and that value will be utilized until the next appraisal. Before the first appraisal, the market value of the asset is assumed to equal its acquisition cost.

Other Investments

- a) Includes income and growth-oriented strategies with significant operations in Hawai'i which are managed in an integrated manner to meet the long-term spending objectives of OHA.
- b) BOT-approved lending programs for Native Hawaiians.

Section 19. Enhanced Liquidity Account Investments

The BOT has authorized the use of an Enhanced Liquidity Account (ELA) utilizing primarily short-term and intermediate-term U.S. government and agency securities, TIPS, MLP's, liquid alternative risk premia strategies, and passive beta strategies to manage OHA's short-term (less than 18 months) cash flow. The ELA may be managed internally by OHA staff or externally by a registered investment advisor. The primary objectives of the ELA are to expedite the ability to meet fiscal obligations and efficiently manage short-term cash needs; a secondary objective is to provide a highly liquid, low volatility, low or anti-correlating asset to the Fund. As such, OHA may hold up to 10% of the net assets of the Fund in the ELA. The custody of short-term investment assets shall remain with OHA's Fund Custodian.

19.1 Permissible Investments. Assets held within the ELA must have no less than monthly liquidity under normal

conditions. Passive index mutual funds, passive exchange-traded funds, passive institutional commingled funds, liquid alternative risk premia strategies, short-term U.S. government and agency securities, cash, and cash equivalents are permitted. A list of allowable investment vehicles for each asset class must be reviewed by the CFO and Consultant, approved by the CEO, and presented to the BOT for review. OHA staff or its external Manager may only select from this Approved List of investments vehicles in the ELA.

19.2 Asset Allocation and Rebalancing. The investments should be highly liquid with low volatility. Under normal conditions, the ELA's assets should be targeted no more than 2.0 percentage points (absolute) away from the strategic target allocation set forth in the ELA Manager's Investment Guideline Summary or Investment Management Agreement. OHA staff and the Consultant will devise a targeting and rebalancing process with a maximum tolerance approved by the CEO. If managed internally, OHA staff will execute the process; otherwise the external Manager will execute the process. Decisions to target the asset allocation outside of the maximum 2.0% tolerance shall be reviewed by the Investment Advisory Committee and/or CFO, approved by the CEO, and reported to the BOT prior to implementation.

19.3 Internal Controls. Internal operational controls and procedures relating to short-term investments shall be outlined in the OHA Native Hawaiian Trust Fund Operational Procedures.

19.4 Advisor and Manager Selection. The BOT will approve OHA staff under the supervision of the CFO and CEO as the Advisor and an external Manager to manage the ELA. The external Manager may not have full investment discretion; therefore, provisions relating to discretionary Advisors in this Statement may not necessarily apply to the ELA Manager. The duties of the ELA Manager shall be established based on the Investment Management Agreement between the Manager and the BOT. BOT presentations by four finalists are not necessary for ELA Manager selection.

19.5 ELA Policy Benchmark & Investment Guidelines. The Policy performance benchmark for the ELA shall be the combination of market indexes and the risk free rate as set forth in the Manager's Investment Guideline Summary or Investment Management Agreement, which will also establish investment guidelines for managing the account.

Section 20. Investment Risk Management Policy

The Native Hawaiian Trust Fund Investment Risk Management Policy is designed to ensure that there are risk control measures in place to identify, monitor, and manage the level of risks and to balance the long-term expected risk and return objectives of the Fund investment portfolio. The OHA Board of Trustees ("BOT") recognizes that the undertaking of risks is generally unavoidable in investment management. The purpose of this policy is not to eliminate risks, but to understand the risks through the implementation of disciplined processes and procedures. Risk control measures include continuous monitoring and timely reporting by OHA staff to ensure the effectiveness of OHA's investment risk management system. This Policy is not intended to provide an exhaustive list of risks or provide a comprehensive list of process and procedures to identify and mitigate risks. Rather, this policy provides generally accepted approaches to risk management that can be implemented through investment guidelines and operational policies and procedures.

Risk Management

Key risk factors may stem from internal or external sources. The assessment of risk may be both qualitative and quantitative. The OHA staff and Consultant shall conduct an annual qualitative risk assessment identifying key risk factors, sources of risk, risk mitigants, and remediation plan, if necessary, to manage these risks. OHA staff shall also provide quantitative risk reporting to the BOT using commonly accepted quantitative risk reporting measures on a quarterly basis. Risk management measures may include the following:

- 1) Establish internal policies and procedures to minimize operational and legal risks;
- 2) Establish investment guidelines for eligible investments, diversification, rebalancing, liquidity, leverage, and use of derivatives;
- 3) Annual reporting of portfolio volatility (measured using standard deviation of returns) and expected volatility

- and return provided by the Investment Advisors;
- 4) Annual reporting of tracking error for OHA's liquid assets;
 - 5) Annual reporting of leverage, currency risk, concentration risk, and liquidity risk;
 - 6) Annual external financial audit by a reputable independent audit firm; and

- 7) Periodic review of the Investment Policy Statement and Risk Management Policy as necessary to assess the relevance and effectiveness of these policies.

Implementation

It is the responsibility of OHA's Chief Executive Officer to ensure that risk management policies and procedures are in place to identify, monitor, and manage investment risk. It is the OHA staff's responsibility to implement internal procedures and continuously monitor the investment portfolio and Advisor activities to ensure policy and guideline compliance. OHA staff shall rely on most recent data available provided by the Custodian and Advisors to analyze risk statistics and provide risk reporting. A risk management review shall be provided to the BOT by the Investment Consultant on an annual basis, or more frequently as needed.

Adopted 5/29/03 (ARM 03-05); amended 10/24/08 (ARM 08-04); amended 8/3/09 (ARM 09-07); amended 4/15/10 (ARM 10-02); amended 9/27/12 (ARM 12-08); amended 6/19/14 (ARM 14-03); amended 8/24/17 (RM 17-08); amended 9/19/19 (RM 19-13); amended 08/12/21 (RM 21-10).



GOV. MSG. NO. 1327

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 27, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 27, 2022, the following bill was signed into law:

SB2021 SD1 HD2 CD1

RELATING TO INCREASING THE PAYMENT
AMOUNT FOR THE OFFICE OF HAWAIIAN
AFFAIRS' PRO RATA SHARE OF THE PUBLIC
LAND TRUST.

ACT 226

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO INCREASING THE PAYMENT AMOUNT FOR THE OFFICE OF
HAWAIIAN AFFAIRS' PRO RATA SHARE OF THE PUBLIC LAND TRUST.

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

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

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

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

11 (3) Transfer the full twenty per cent pro rata share of
12 income and proceeds from the public land trust
13 annually to the office of Hawaiian affairs (OHA) for
14 the betterment of the conditions of native Hawaiians.

15 The genesis and source of the State's public land trust
16 responsibility to native Hawaiians are the historical events
17 that led to the illegal overthrow of the Kingdom of Hawaii; the



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 transfer of approximately 1,800,000 acres of crown, government,
2 and public lands to the United States under the 1898 Joint
3 Resolution of Annexation without the consent of and without
4 compensation to the native Hawaiian people or their sovereign
5 government; the admission of Hawaii as a state of the Union in
6 1959, with the explicit trust responsibility and requirement in
7 section 5(f) of the 1959 Admission Act that one of the five
8 purposes of the public land trust is that the income and
9 proceeds from the public land trust are to be used "for the
10 betterment of the conditions of native Hawaiians"; and the 1978
11 Constitutional Convention's recognition that native Hawaiians
12 are one of the beneficiaries of the public land trust and the
13 creation of OHA to manage and administer the specific allocation
14 of "all income and proceeds from that pro rata portion of the
15 [public land] trust . . . for native Hawaiians" (Article XII,
16 section 6, of the Hawaii State Constitution). The United States
17 and the courts have consistently affirmed the trust nature of
18 the government and crown lands, including large tracts of ceded
19 lands used for military or other purposes under federal control.

20 In 1959, as a condition of its admission into the Union,
21 the State of Hawaii agreed to hold certain lands granted to the



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 State by the United States in a public trust for five purposes
2 delineated in section 5(f) of the Admission Act, which provides
3 in relevant part:

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



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 use for any other object shall constitute a breach of trust
2 for which suit may be brought by the United States.

3 (*Emphasis added.*)

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

15 In September 1981, an initial land inventory by the
16 department of land and natural resources listed approximately
17 1,271,652 acres, falling woefully short of its duty to provide a
18 complete inventory of the public land trust lands.
19 Additionally, the state land information management system does
20 not include all lands held by all state entities.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 Act 273, Session Laws of Hawaii 1980, enacted section
2 10-13.5, Hawaii Revised Statutes, to implement OHA's pro rata
3 share and required that OHA receive "[t]wenty per cent of all
4 funds derived from the public land trust[.]" This legislative
5 directive addressing the constitutional mandate has led to a
6 series of lawsuits and legislative enactments concerning OHA's
7 constitutional pro rata share of the public land trust. The
8 State and OHA have labored to resolve the political question of
9 the statutory pro rata share of income and proceeds derived from
10 the public land trust, and payment to OHA.

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

20 Act 15, Session Laws of Hawaii 2012, (Act 15) was enacted
21 to address past-due amounts, which accumulated during the period



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 between November 7, 1978, up to and including June 30, 2012, of
2 income and proceeds from the public land trust owed to OHA by
3 implementing an agreement between the State and OHA for the
4 State to convey certain lands in Kakaako, Oahu, to OHA valued at
5 approximately \$200,000,000. Act 15 did not, however, address
6 the State's constitutional obligations relating to OHA's twenty
7 per cent pro rata share of the income and proceeds from the
8 public land trust generated after June 30, 2012. Notably, a
9 2015-2016 financial review initiated by OHA found that the
10 minimum amount of total gross receipts from sources that OHA has
11 historically claimed was approximately \$394,322,163 in the
12 fiscal year 2015-2016. Twenty per cent of this gross amount is
13 approximately \$78,900,000.

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

20 The purpose of this Act is to:



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 (1) Establish \$21,500,000 as the office of Hawaiian
2 affairs' interim annual share of the income and
3 proceeds of the public land trust beginning in fiscal
4 year 2022-2023;

5 (2) Appropriate \$64,000,000 to the office of Hawaiian
6 affairs; and

7 (3) Establish a working group to determine the pro rata
8 share of income and proceeds from the public land
9 trust due annually to the office of Hawaiian affairs.

10 SECTION 2. Act 178, Session Laws of Hawaii 2006, is
11 amended by amending sections 2 and 3 to read:

12 "SECTION 2. Notwithstanding the provisions of chapter 10,
13 Hawaii Revised Statutes, including section 10-13.5, Hawaii
14 Revised Statutes, and until further action is taken by the
15 legislature for this purpose, the income and proceeds from the
16 pro rata portion of the public land trust under article XII,
17 section 6, of the state constitution for expenditure by the
18 office of Hawaiian affairs for the betterment of the conditions
19 of native Hawaiians for each fiscal year beginning with fiscal
20 year [~~2005-2006~~] 2022-2023 shall be [~~\$15,100,000.~~] \$21,500,000.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 SECTION 3. Notwithstanding the provisions of chapter 10,
2 Hawaii Revised Statutes, or the requirements of Executive Order
3 No. [~~03-03,~~] 06-06, beginning in fiscal year [~~2005-2006,~~] 2022-
4 2023, the departments of agriculture, accounting and general
5 services, business, economic development, and tourism,
6 education, land and natural resources, and transportation (for
7 its harbors division), and any other department or agency that
8 collects receipts from the lands within the public land trust,
9 shall determine and transfer to the office of Hawaiian affairs
10 that portion of their receipts from the use of lands within the
11 public land trust collected during each fiscal quarter,
12 necessary to ensure that a total of [~~\$3,775,000~~] \$5,375,000 of
13 revenues generated by the public land trust is transferred to
14 the office of Hawaiian affairs, within thirty days of the close
15 of each fiscal quarter; provided that for fiscal year [~~2005-~~
16 ~~2006,~~] 2022-2023, the departments shall have until thirty days
17 after the close of the fiscal year to transfer a total of
18 [~~\$15,100,000~~] \$21,500,000 from their receipts from the use of
19 lands within the public land trust collected during fiscal year
20 [~~2005-2006,~~] 2022-2023, to the office of Hawaiian affairs



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 whether by the procedures set out in Executive Order No. [~~03-03~~]
2 06-06 or this Act.

3 The governor is expressly authorized to fix the amounts
4 each agency shall transfer to the office of Hawaiian affairs in
5 each quarter by executive order to implement the provisions of
6 this section[-]; provided that a total of not less than
7 \$5,375,000 each quarter shall be transferred to the office of
8 Hawaiian affairs, as provided in this section."

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

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

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

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

19 (b) The working group shall be comprised of six members,
20 three of whom three shall be appointed by the governor and three



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

1 of whom shall be appointed by the office of Hawaiian affairs
2 board of trustees.

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

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

14 SECTION 4. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$64,000,000 or so
16 much as may be necessary for fiscal year 2021-2022 to pay to the
17 office of Hawaiian affairs for a portion of the income and
18 proceeds from the public land trust. The sum appropriated shall
19 be deposited into the native Hawaiian trust fund and expended by
20 the office of Hawaiian affairs.



1 SECTION 5. The general revenue appropriated by this Act
2 shall be deemed income and proceeds from the public land trust
3 as if the sum had been paid out of income and proceeds from the
4 public land trust pursuant to article XII, section 6, of the
5 Hawaii State Constitution.

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

8 SECTION 7. This Act shall take effect upon its approval.



S.B. NO. 2021
S.D. 1
H.D. 2
C.D. 1

APPROVED this 27th day of June , 2022

A handwritten signature in black ink, appearing to read "David I. Byrne". The signature is fluid and cursive, with a long horizontal stroke at the end.


GOVERNOR OF THE STATE OF HAWAII


S.B. No. 2021, S.D. 1, H.D. 2, C.D. 1

THE SENATE OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.


President of the Senate


Clerk of the Senate

SB No. 2021, SD 1, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives