

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT  
MINUTES**

**September 23, 2020 10:00 a.m.**

**ATTENDANCE:**

Chairperson John Waihe'e, IV  
Vice-Chairperson Kaleihikina Akaka  
Trustee Leina'ala Ahu Isa  
Trustee Dan Ahuna  
Trustee Keli'i Akina  
Trustee Brendon Kalei'aina Lee  
Trustee C. Hulu Lindsey  
Trustee Robert Lindsey  
Trustee Colette Machado

**BOT STAFF:**

Crayn Akina  
Dayna Pa  
Melissa Wennihan

**ADMINISTRATION STAFF:**

Sylvia Hussey, Ka Pouhana / CEO  
Sterling Wong, Ka Pou Nui Kūikawā / Interim COO  
Everett Ohta, Corporation Counsel  
Keola Lindsey, Advocacy  
Keone Nakoa, Washington D.C. Bureau  
Kevin Chak, IT  
Marc Bantolina, IT  
Raina Gushiken, Corporation Counsel  
Wayne Tanaka, Public Policy

**I. CALL TO ORDER**

**Chair Waihe'e** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, September 23, 2020 to order at **10:01 a.m.**

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

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

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

**II. PUBLIC TESTIMONY on Items Listed on the Agenda\***

None

### III. APPROVAL OF MINUTES

- A. February 19, 2020
- B. February 26, 2020
- C. March 4, 2020

Trustee Machado moves to approve the minutes of February 19, February 26, and March 4, 2020.

Trustee Lee seconds the motion.

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

Chair Waihe'e calls for a **ROLL CALL VOTE**.

							10:04 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
VICE-CHAIR KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE		2	X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO	1		X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

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

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.

### IV. UNFINISHED BUSINESS

None

### V. NEW BUSINESS

- A. OHA Federal Legislative Positioning Matrix<sup>\*\*†</sup> - Advocacy (Washington, D.C. Bureau)

Chair Waihe'e turns it over to Ka Pouhana Sylvia Hussey.

Pouhana Hussey calls on Chief Advocate Keola Lindsey.

**Chief Advocate Lindsey:** Aloha Trustee. We will begin with our Federal Matrix; I will turn it over to our Washington D.C. Bureau Chief Keone Nakoa.

**Washington D.C. Bureau Chief Nakoa:** Aloha, Good morning everyone. Good afternoon from D.C. We've distributed the Federal Matrix. Most of the bills listed have recommended positions that have been available on our matrix for the past few months because of the difficulty in getting BAE meetings and getting us in front of the BAE for positions, during COVID-19. We haven't been able to get formal positions from the Board on the recommendations that Administration has made. Most of these bills should be straightforward and they've been on the matrix for a few months at least, with one exception of this one, that I want to point out and talk a little bit about; FED23 is S4571 and it is a 2020 Census Deadline Extensions Act.

This bill was proposed by Senator Schatz; it has some bipartisan support in the Senate. Basically, what it would do is extend the census deadlines because there have been some reports of issues in being able to get everyone to take the census. Not just in the Native Hawaiian Community, but also across the country and particularly in Native American country, where COVID-19 has been particularly impactful in the community. It would extend the reporting deadline for the United States Census to Congress until April 2021, and that would give time for Congress to finish up their field operations as they had originally intended. Otherwise, they had curtailed some of those efforts to the end of this month, in order to meet the December 31, 2020 deadline. That's the only new bill that we put in to the matrix; I am happy to answer your questions on anything else.

**Chair Waihe'e:** Thank you. Members; *are any questions on the OHA Federal Legislative Matrix?*

*There are none.*

**Trustee Hulu Lindsey moves to approve Administration's recommendations on:**

- **OHA FED 9 through OHA FED 23 all as SUPPORT;**  
**where OHA FED 9 is SUPPORT of S. 524 only, as the House Bill version, as amended,**  
**is not yet available; and**  
**OHA FED 21 is SUPPORT of both, S. 3650, as amended and H.R. 6535**

**on the OHA Federal Priorities for the 116<sup>th</sup> Congress – Federal Legislative Matrix dated 09/23/20.**

ITEM NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	POSITION
FED 9	<a href="#">S. 524</a>	Department of Veterans Affairs Tribal Advisory Committee Act of 2019	Establishes the Department of Veterans Affairs Advisory Committee on Tribal and Indian Affairs to advise the Secretary of Veterans Affairs on matters relating to Indian tribes, tribal organizations, and Native American veterans, including Native Hawaiian veterans.	<b>WDCB Recommends: SUPPORT S. 524</b>  <i>NOTE: The House bill as amended is not yet available</i>
	<a href="#">H.R. 2791</a>			
FED 10	<a href="#">S. 1746</a>	Explore America Act of 2019	Authorizes the provision of technical assistance under the Preserve America Program and directs the Secretary of the Interior to enter into partnerships with communities adjacent to units of the National Park System to leverage local cultural heritage tourism assets.	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 5839</a>			

ITEM NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	POSITION
FED 11	<a href="#">S. 2384</a>	Botanical Sciences and Native Plant Materials Research, Restoration, and Promotion Act	Promotes botanical research and botanical sciences capacity by proactively encouraging the use of native plants in projects on federal land when feasible, encouraging federal land management agencies to hire botanists, and establishing a collaborative grant program to support efforts to keep rare plant species from becoming endangered and help endangered plant species recover.	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 1572</a>			
FED 12	<a href="#">S. 2741</a>	Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2019	Promotes higher quality of medical care, increased access to care, and reduced spending in Medicare through the expansion of telehealth services. Specifically, this bill would remove geographic and originating site restrictions for mental and emergency services, remove restrictions on Federally Qualified, Rural, and Native Hawaiian Health Centers for telehealth services, and require a study for more ways to expand access to telehealth services.	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 4932</a>			
FED 13	<a href="#">S. 3181</a>	Inspiring Nationally Vibrant Economies Sustaining Tribes (INVEST) Act of 2020	Expands the definition of low-income community for purposes of the new markets tax credit to include lands held in trust for Native Americans, lands that enclose all or part of an Indian tribal land, including Hawaiian Home Lands; prioritizes the allocation of credit amounts for investment in American Indian, Alaska Native, and Native Hawaiian communities and requires an allocation of at least 10% of credit amounts to certain Indian community development entities for investments that primarily serve low-income communities.	<b>WDCB Recommends: SUPPORT</b>
FED 14	<a href="#">S. 3232</a>	Promoting Local Arts and Creative Economy Workforce (PLACE) Act of 2020	Promotes and supports the local arts and creative economy in the United States through new small business and creative workforce development grants, technical assistance for creative businesses, and new tax incentives to support the arts and creative economy. This bill also includes Native American expressions of their culture and heritage as activities eligible for these grants, assistance, and programs.	<b>WDCB Recommends: SUPPORT</b>
FED 15	<a href="#">S. 3328</a>	Biliteracy Education Seal and Teaching (BEST) Act	Awards grants to States to establish or improve, and carry out, Seal of Biliteracy programs to recognize high-level student proficiency in speaking, reading, and writing in both English and a second language. The act broadens the definition of “second language” to include Native American languages, and Classical Languages. Hawaii has established a Seal of Biliteracy program for graduating high school students meeting certain criteria.	<b>WDCB Recommends: SUPPORT</b>
FED 16		Native American Language Vitalization Act	Establishes a Native American Language Vitalization and Training program within the U.S. Department of Education to award competitive grants to promote the preservation, revitalization, relevancy, and use of Native American languages, including ‘Ōlelo Hawai‘i.	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 4188</a>			

**Note: There is no “FED 17”**

ITEM NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	POSITION
FED 18		Native American Housing Assistance and Self-Determination Reauthorization Act of 2019 (NAHASDA Reauthorization Act)	Reauthorizes the Native American Housing Assistance and Self-Determination Act of 1996, including authorization for the Native Hawaiian Housing Block Grant at \$13 Million, with annual incremental increases through Fiscal Year 2024	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 5319</a>			
FED 19		Tribal Elder Care Improvement Act of 2019	Amends the Older Americans Act of 1965 to expand supportive services for Native American aging programs, including programs for Native Hawaiians	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 5323</a>			
FED 20	<a href="#">S. 3666</a>	COVID-19 Designation of Immediate Special Authority of Spectrum for Tribes' Emergency Response (DISASTER) in Indian Country Act	Funds grants for the immediate deployment of wireless broadband on tribal lands and Hawaiian Home Lands and allows tribes, tribal entities, and the Director of the Department of Hawaiian Home Lands to apply for special temporary authority to use electromagnetic spectrum not currently in use.	<b>WDCB Recommends: SUPPORT</b>  <i>NOTE: Admin provided a quote for Rep. Haaland's press release issued May 8, 2020</i>
	<a href="#">H.R. 6819</a>			
FED 21	<a href="#">S.3650</a>	Coverage for Urban Indian Health Providers Act	Extends federal torts claim coverage for certain personal injury claims (i.e., medical malpractice liability protection) to urban Indian organizations and their employees by deeming them as part of the Public Health Service. Currently, such coverage is provided to Indian tribes, tribal organizations, Indian contractors, and their employees.	<b>WDCB Recommends: Support Senate version, S. 3650, as amended</b>
	<a href="#">H.R. 6535</a>			
FED 22	<a href="#">S. 4331</a>	Deploying the Internet by Guaranteeing Indian Tribes Autonomy over Licensing on (DIGITAL) Reservations Act	Preserves Indian Tribes' and Native Hawaiians' autonomy of access to spectrum over Tribal lands and expedites immediate deployment of telecommunications services for critical government services, including national emergencies, natural disasters, public health and biohazard threats, safety, education, opportunity to participate in the broadband economy, self-governance, access to Federal, State, and Tribal voting and elections, and the Federal census count, for the protection of life and property in furtherance of the Federal trust responsibility, among other things	<b>WDCB Recommends: SUPPORT</b>  <i>NOTE: Admin provided a quote for Rep. Haaland's press release issued July 27, 2020</i>
	<a href="#">H.R. 7774</a>			

ITEM NO.	BILL NO.	MEASURE TITLE	DESCRIPTION	POSITION
FED 23	<a href="#">S. 4571</a>	2020 Census Deadline Extensions Act	Extends two key statutory deadlines by four months to give the agency enough time to compile accurate data sets. The deadline for the delivery of apportionment data to the U.S. House of Representatives is changed to April 30, 2021 from December 31, 2020; and the deadline for the delivery of redistricting data to the states is changed to July 31, 2021 from March 31, 2021. The bill would also require the Census Bureau to continue field operations through the original end date of 2020 Census field operations (October 31, 2020) to give the agency enough time to ensure a full and accurate count in hard-to-count communities like Native Hawaiians.	<b>WDCB Recommends: SUPPORT</b>
	<a href="#">H.R. 558</a>			
	<a href="#">H.R. 3846</a>			

**Vice-Chair Akaka seconds the motion.**

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

**Chair Waihe'e** calls for a **ROLL CALL VOTE**.

							10:11 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
VICE-CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

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

## **V. NEW BUSINESS**

### **B. OHA D.C. Bureau Updates – Advocacy (Washington, D.C. Bureau)**

**Chair Waihe'e** turns it back over to Ka Pouhana Sylvia Hussey.

**Pouhana Hussey** calls on Washington D.C. Bureau Chief Keone Nakoa.

**Washington D.C. Bureau Chief Nakoa:** There are three things that I wanted to discuss quickly with the Committee; the first being the potential for a fourth COVID Relief package from the federal government.

As you may have heard the House Democrats and the White House are pretty, far apart on any kind of a deal. What we're hearing is that there is not likely to be any kind of federal relief package coming forward before the election. A price tag of any bill that would come forward is highly unknown at this time. There are still a lot of negotiations that would have to go into that process. There is still a (CR) Continuing Resolution that has been proposed by the House and will be taken up in the Senate. It passed the House, I believe yesterday.

The Senate will be considering that bill soon and the deadline to pass that is September 30th when the funding for the Federal Government would otherwise lapse. So, what we're hearing is that it is expected to pass in some shape or form, or some agreement to get done before the deadline; or right at the deadline.

The other complicating factor for the timelines for a lot of the federal actions is the recent vacancy of the Supreme Court. As you know, Justice Ruth Ginsburg passed away last week, so the timeline has been grounds for a pretty strong fight in the Senate. There could be significant repercussions from the actions that are going to be taken. We're waiting to see how that's going to go. From all indications, President Trump has said that he's going to announce his nomination to replace Justice Ginsburg sometime this weekend. As soon as we find that out, we will start vetting the replacement Justice's qualifications and specifically, if they've had any opinions with regards to Native Hawaiians. We have also recently found out that the Senate is planning to move forward with that nomination as soon as possible, and they've marked the week of October 12th to begin Committee proceedings on that nominee. Those are all the updates I had. I'm happy to take any questions.

**Chair Waihe'e:** *Members are there any questions on the D.C. Bureau updates?*

*There are none.*

**Chair Waihe'e:** Hearing none. We shall move on to the OHA Legislative Session Report by Public Policy.

## V. NEW BUSINESS

### C. 2020 Legislative Session Report\*\*\* and 2021 Legislative Session Preparation – Advocacy (Public Policy)

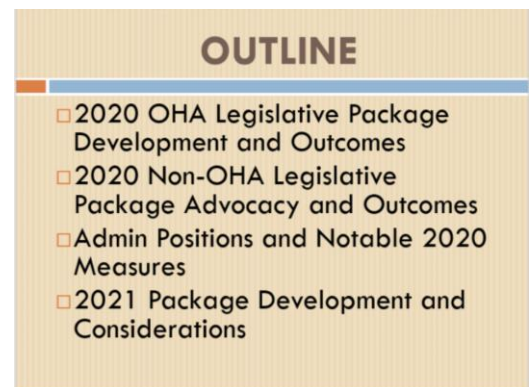
**Chair Waihe'e** turns it over to Ka Pouhana Sylvia Hussey.

**Pouhana Hussey** calls on Chief Advocate Keola Lindsey and Public Policy Manager Wayne Tanaka.

**Public Policy Manager Tanaka:** Thank you. Good Morning Trustees. It's so good to see everyone again; it's been awhile. Thank you - Ka Pouhana, Dr. Hussey, for helping with this presentation, with the screen sharing. I'm going to turn my video off, just to make sure there's no bandwidth issues, but it's great to see everyone and thanks again for meeting today on this Legislative Recap.

So, this is something that you have all seen before and after every Legislative Session, we like to look back with the BAE Committee to kind of give a report on, what transpired in the past few months. If you have any questions at any time, feel free to let me know.

This is an outline of what I will talk about today. First, I'll go through our 2020 OHA Legislative Package and I'll talk about where it came from and how it went. Then I will touch on the other advocacy we do on these hundreds and hundreds of other non-OHA Legislative measures that we advocate on. I'll also touch on a few Administrative Positions that we had to advocate on after the COVID-19 shutdown, as well as some notable 2020 measures that we saw this session. Then at the end, I'll give a brief overview of where we are in the process of developing our package for the 2021 Legislature.



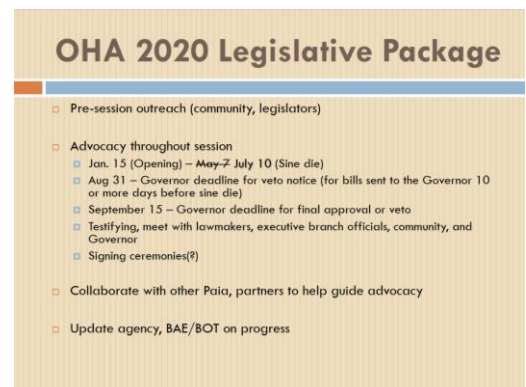
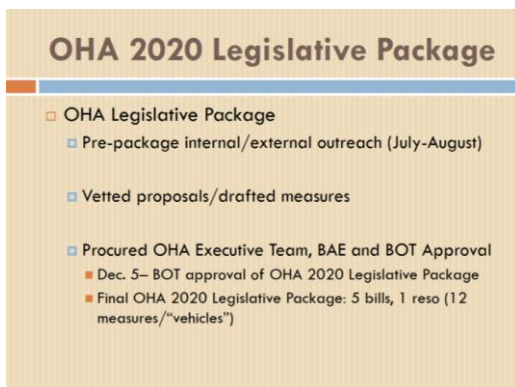
As you know this was last year's process for developing our Legislative package. Throughout the summer we did outreach internally with our staff, as well as externally with stakeholders, experts and partners that are engaged in Legislative Advocacy, to gather ideas. We vetted the many proposals that we received and decided based on various considerations, which I'll go over later which measures to include in our recommended package.

From there we procured approval from both the Administration as well as the BAE and BOT on our OHA Legislative Package for 2020. Last year, we got our final approval from the BOT on December 5th. This year is an election year, so we will try to get final approval before the General Election so it will be a little bit earlier this year. Ultimately, we ended up with five Bills and one Resolution in our package for 2020.



Once the package was approved, we did Pre-Session Outreach. We met with key Legislators and Community Members just to let them know about what our priorities are and to get an idea of what their priorities would be during session. Session started on January 15<sup>th</sup> of this year, it was supposed to end on May 7<sup>th</sup>, but because of the shutdown and the two-month recess that the Legislature had - Sine die didn't occur until July 10<sup>th</sup>. As a result, the Governor's timeline for issuing vetoes was also pushed back.

On August 31<sup>st</sup>, if you recall, the Governor announced six measures that he was considering for veto. Ultimately, on September 15<sup>th</sup>, he vetoed five of them. Throughout this whole duration, we are testifying on our bills, orally and in-writing. We are also meeting with: Lawmakers, folks in the Executive Branch, and with other Community groups according to certain advocacy, when possible. Generally, what happens after a Legislative Session is complete, the Governor chooses what bills to sign and he has signing ceremonies for some. We didn't see too much of that this year. I think there was at least one that was done via ZOOM, but because of the whole pandemic and it wasn't truly conducive. Through this time, we're also collaborating with other paia in our agency as well as with other partners to help us with advocacy. As you know, every week or every-other-week when the BAE was meeting, we would be updating the BAE on the progress of our package.



I'll just quickly recap what was included in our legislative package for this past session.

**OHA-1;** sought to give a little-more-teeth and encourage some greater compliance with the Native Hawaiian Law and Public Trust Training course that is required of certain Boards and Commissions. It would have also ensured that at least four members of the Board of Land and Natural Resources and four members of the Land Use Commission are selected from lists submitted by the Office of Hawaiian Affairs to the Governor. That way we ensure that there is a more significant Hawaiian perspective and voice in decisions that are critical to the disposition of Lands and Resources.

**OHA-2;** that was our Pa'ahao Bill. It sought to mitigate the stigma and the challenges that people with conviction records have when seeking employment. Previously because this bill passed, employers could look back and use conviction records up to 10 years old for any kind of conviction to make employment decisions. We knew from national studies that even very old and minor convictions can have a significant impact on employer decisions. So, we wanted to reduce the role of the very old convictions in preventing former pa'ahao with those conviction records from obtaining legitimate gainful employment.

We sought to reduce that 10-year lookback period to five years for felony convictions and three years for misdemeanors. As I mentioned, this bill passed. It was amended so the lookback periods instead of going to five and three were amended to be a maximum of seven years for felony convictions and five years for misdemeanor convictions. We were very excited for it to pass, despite the COVID pandemic.

**OHA-3;** sought to address an issue that first came up in a Moloka'i Community Board of Trustees meeting. After discussion with staff and others in the field, we saw that this was a much more widespread issue than previously thought. Basically, what's going on is that developers often escape consequences for impacting historic properties and iwi kupuna, when they do work without a permit because their unpermitted work ends up destroying any evidence of the historic properties that they would be affecting. So, this bill sought to make it a standalone violation to do unpermitted work that would have required historic preservation review under Chapter 6e. So, giving State Historic Preservation Division (SHPD) more enforcement authority in that respect. It would have also increased penalties for Chapter 6e violations and given the SHPD more enforcement tools. It would have also required establishment of a Citizen Complaint Intake Process and educational materials around that process to facilitate greater enforcement and compliance with our Historic Preservation laws.

**OHA-4;** was a resolution that sought to ensure that upcoming Historic Preservation Administrative Rules meaningfully addressed issues of longstanding concern. The Administrative Rules have not been amended for decades. Knowing that SHPD is finally looking at updating their rules - we wanted to try and get a statement from the Legislature that those new, upcoming rules should address these longstanding issues.

**OHA-5;** sought to reinforce the Constitutional Rights of Native Hawaiian Traditional and Customary practitioners who are often prevented from practicing their traditional and customary rights, despite their rights to engage in reasonable practices, even on private lands. Both private and government land owners have significant liability concerns and so this bill sought to address those concerns by providing a liability protection for both government agencies and for private landowners who expressly allow practitioners access to their land to engage in traditional and customary practices.

**OHA-6;** that was our CIP request for our Wahiawā Lands around Kūkaniloko that would have supported the development of water storage and distribution infrastructure to support our agricultural lands there.

**Trustee Hulu Lindsey:** *So, when did all these bills get passed?*

**Public Policy Manager Tanaka:** No Trustee; only OHA-2 the Employment Discrimination Bill passed. Due to the unusual circumstances this year, there were extremely, few measures that made it through the process this session. This was mainly due to the shutdown and the legislators' very, narrow focus after the shutdown dealing with only matters related to Coronavirus relief or Capital Improvement Projects that are shovel-ready to keep the economy going. Also, Governor nominations helped to ensure that government operations continued.

**Trustee Hulu Lindsey:** Thank you.

**Public Policy Manager Tanaka:** Thank you. The next slide is a table that you've seen before. This is just a comparison of how successful our packages have been over the years with 2020 on the top. One of our six measures was enacted, which is a little lower than what we've seen before, but considering how few bills passed, I think it is a pretty significant accomplishment.

If you look further down on this table there are some numbers in parentheses; those are what Sterling calls 'shadow bills.' They're not actually formally part of our package, but we provide a commensurate level of advocacy as if they were; meeting with legislators and helping with outreach.

OHA 2020 Legislative Package				
<ul style="list-style-type: none"> <li>Native Hawaiian Resource Management</li> <li>Employment Discrimination</li> <li>Prevention of Historic Preservation Review Evasion</li> <li>Resolution - SHPD Admin Rules</li> <li>Practitioner Access Onto Private Lands</li> <li>Budget Request for Kūkaniloko</li> </ul>				
FML: see oha.org/legislation				

2020 OHA Legislative Package vs. Past OHA Legislative Packages				
Year	Package Measures	Enacted	Percent Enacted	Description/Notes
2020*	6	1	17%	SB2193 Employment Discrimination
2019	5	2	40%	HB172 OHA Budget SB192 Unsecured Bail
2018	4	0	0%	N/A
2017	3	1	33%	HB335 OHA Budget
2016	5	1	20%	HCR 188 Urging The Convening of a Public Land Trust Revenues Negotiating Committee
2015	7	4 (+1)	57% (71%)	HB209 OHA Budget HB207 Native Hawaiian Law Training Course SB434 Traditional Hawaiian Farming HB206 Hawaiian Plants in Landscaping (SB913 Incarcerated Parent Data)

**Public Policy Manager Tanaka:** The next couple of slides go further back in time in terms of our packages.

2020 OHA Legislative Package vs. Past OHA Legislative Packages				
Year	Package Measures	Enacted	Percent Enacted	Description/Notes
2014	7 (+1)	2	28% (25%)	HB1614 Social Determinates of Health HB1618 Board of Land and Natural Resources
2013	11 (+2)	6 (+2)	54% (61%)	SB403 OHA Bond Authority SB407 Island Burial Council SB409 'Ōlelo Hawai'i Month HB218 Native Hawaiian Justice Task Force HB222 OHA Budget HCR 20 <sup>th</sup> Anniversary of Apology Resolution (HB668 TANF Asset Limits) (HB1133 PDOC Report)
2012	12 (+1)	0 (+1)	0% (8%)	(SB2783 \$200 Million Kūka'ōko Settlement)
2011	10	3	30%	SB400 OHA Budget HB397 Act176 Amendments SB986 Criminal Justice Task Force
2010	14	0	0%	N/A
2009	19	4	21%	HB899 Bond Authority HB900 OHA Budget HB1005 Publicity Rights HCR27 Criminal Justice Study

2020 OHA Legislative Package vs. Past OHA Legislative Packages				
Year	Package Measures	Enacted	Percent Enacted	Description/Notes
2008	29	1	3%	SB2739 Child Placement Preference
2007	28	1	4%	HB1200 OHA Budget
2006	33	1	3%	SB2424 OHA Strategic Plan
2005	21	2	10%	HB450 OHA Budget HB447 Authority over disbursements
2004	6	0	0%	N/A
2003	10	6	60%	HB1300 OHA Budget HB1302 Monetary Grants HB1303 EUTF HB1307 Transfer Funds to Public Lands Trust SB1154 Hui Ima Advisory Council SB1156 Hawaiian Registry

**Public Policy Manager Tanaka:** Next is another table that we like to provide to the BAE every year. This is a comparison of the various packages that were submitted by other entities. As a note, only eight packages had any bills or measures pass this year. Even the Governor only had about nine of his 105 bills pass, which is less than 10% of his package.

**Ka Pouhana Hussey:** Just for reference, this slide is Attachment C on page 94 of 200, of the folder; if you are following along in your electronic packet.

**Trustee Akina:** I'm looking at the OHA package versus the others; item number 3; Senate Native Hawaiian Caucus. *Can you tell me what the legislation was that was passed there?*

**Public Policy Manager Tanaka:** I believe that was SB2386, the Landfill Bill. I'll talk a little bit more about it further in the presentation, but the bill essentially prohibited landfills in the Conservation District and, also required a buffer zone around any new or expanded landfill or waste disposal facility.

**Trustee Akina:** Thank you.

**Trustee Ahu Isa:** I just wanted to commend Wayne and whoever did this because this is really, interesting. First time I've seen it like this - Filipino Caucus, Senate Native Hawaiian Caucus. We have so many different caucuses in the Legislature. So, to see it like this took a lot of work. Mahalo.

**Public Policy Manager Tanaka:** Thank you, I must give a shout-out to Annie Kauhane who had to go in manually and look through all the bills that were introduced as part of each package and then figure out which ones are passed. She did a lot of work to put this together; so, thank you Annie.

# OHA Package vs. Others

Rank	Package	Bills			Resolutions			Total Measures (Bills + Resolutions)		
		# Bills	Percent Passed	Percent Adopted	# Resolutions	Percent Adopted	Measures	Percent Passed	Percent Adopted	
1	County of Hawaii	2	1	50%	0	0	0%	2	1	50%
2	Eligible Caucus	3	1	33%	0	0	0%	3	1	33%
3	Senate Native Hawaiian Caucus	5	1	20%	0	0	0%	5	1	20%
4	Office of Hawaiian Affairs	5	1	20%	1	0	0%	6	1	17%
5	State Fire Council	9	1	11%	0	0	0%	9	1	11%
6	Honolulu Prosecuting Attorney	12	1	9%	0	0	0%	12	1	9%
7	Governor	105	9	8.6%	13	1	7.7%	118	10	8.5%
8	Rail Caucus	10	1	10%	5	0	0%	15	1	7%
-	State Ethics Commission	6	0	0%	0	0	0%	6	0	0%
-	Rapana Caucus	11	0	0%	0	0	0%	11	0	0%
-	Dead and Blind Task Force	6	0	0%	2	0	0%	8	0	0%
-	Judiciary	5	0	0%	0	0	0%	5	0	0%
-	Campaign Spending Commission	7	0	0%	0	0	0%	7	0	0%
-	Women's Legislative Caucus	7	0	0%	0	0	0%	7	0	0%
-	Legislative Native Hawaiian Affairs	10	0	0%	2	0	0%	12	0	0%
-	Caucus	3	0	0%	0	0	0%	3	0	0%
-	Office of Elections	8	0	0%	0	0	0%	8	0	0%
-	Hawaii State Assoc. of Counties	6	0	0%	0	0	0%	6	0	0%
-	Auditor	2	0	0%	0	0	0%	2	0	0%
-	County of Maui	2	0	0%	0	0	0%	2	0	0%
-	HC Council of Mayors	8	0	0%	1	0	0%	9	0	0%
-	CRC of Honolulu	2	0	0%	0	0	0%	2	0	0%

# OHA Package vs. Others

Rank	Package	Bills			Resolutions			Total Measures (Bills + Resolutions)		
		# Bills	Percent Passed	Percent Adopted	# Resolutions	Percent Adopted	Measures	Percent Passed	Percent Adopted	
-	Maui County Council	14	0	0%	0	0	0%	4	0	0%
-	County of Kauai	3	0	0%	0	0	0%	3	0	0%
-	Senate Majority Package	0	0	0%	0	0	0%	0	0	0%
-	House Minority Caucus	10	0	0%	0	0	0%	10	0	0%
-	Future Caucus	0	0	0%	0	0	0%	0	0	0%
-	Honolulu Police Dept.	7	0	0%	0	0	0%	7	0	0%
-	Honolulu Rapid Transit Division	0	0	0%	0	0	0%	0	0	0%
-	House Majority Package	0	0	0%	0	0	0%	0	0	0%
-	House Small Business Caucus	7	0	0%	0	0	0%	7	0	0%
-	Housing and Homeless Legislative Package	0	0	0%	0	0	0%	0	0	0%
-	Kauai County Council	3	0	0%	0	0	0%	3	0	0%
-	LBB	0	0	0%	0	0	0%	0	0	0%
-	Mental Health Legislative Package	0	0	0%	0	0	0%	0	0	0%
-	Senate Minority Caucus	0	0	0%	0	0	0%	0	0	0%
-	Small Business Work Group	0	0	0%	0	0	0%	0	0	0%
-	Office of the Ombudsman	1	0	0%	0	0	0%	1	0	0%
<b>Total</b>		<b>271</b>	<b>16</b>	<b>4%</b>	<b>24</b>	<b>1</b>	<b>4.2%</b>	<b>295</b>	<b>17</b>	<b>6%</b>

**Public Policy Manager Tanaka:** Next we'll go through all the other non-package measures. This year there were about 2,500 bills and a little over 1,000 Resolutions and Governor's Messages/nominations (GMs) that were either introduced or that were resurrected from last year; since this is a second year of the biennium. Those figures don't include bills that were introduced last year and didn't pass and didn't have any movement this year. So, those are only bills, 'resos' and GMs that had any type of action this year. We always try to monitor any measures that directly impact our beneficiaries, mission or measures that name OHA or anything regarding PLT revenues or Ceded Lands. We've also been doing a lot of advocacy in recent years regarding Pa'ahao and Criminal Justice reform.

Affordable housing has become a big issue that legislators are discussing. So, we've been doing a lot of work to try and ensure that our beneficiaries benefit from these kinds of measures and our beneficiaries are not negatively impacted by them. The big thing is that we always want to try to stop bad bills, so those are going to have significant negative impacts on our mission or on our beneficiaries. We do our best to try and keep them from becoming law. So, we always show up to testify, meet with legislators, also meet with community groups and, so forth. Particularly in the beginning of session, when the bills are introduced; we're pretty, slammed. We look at all these bills, divide them up amongst ourselves, and decide what kind of recommendations to make on positions. We track them and get BAE-approval on recommended positions and submit testimony, accordingly.

As you know, we would typically meet every week during session in this committee. Then you would receive a big matrix of the recommended positions that we, Public Policy recommends this committee to take on the included bills or amended positions, if bills are amended and require a change in OHA's position.

We advocate orally, in-writing and meeting with community groups and other agencies. I also wanted to note that even on bills that we oppose (if possible and when appropriate) we always try to come up with suggestions or recommendations that could address our concerns. It's very rare that we come across a bill and have straight opposition with no constructive alternatives to put forward.

We love when we can compromise or find win-win solutions and we can work with other agencies or proponents of these measures.

## Non-OHA measures

- Pre-session coordinate with subject matter staff
- Pre-session outreach with community stakeholders, agencies, subject matter experts
  - Pre-session bill review, comments
- Review all measures introduced
  - 2020: 2,590 bills, 834 resolutions, 360 GMs introduced
  - Key Priorities: Programs and policies directly benefitting OHA beneficiaries; PLT revenues; culturally-grounded policies, services, and treatment for Native Hawaiians including for former pa'ahao and those with former convictions; affordable housing measures to benefit OHA beneficiaries; STOP bad bills
  - Slammed from January – early March

## Non-OHA measures

- Procure BAE, BOT approval of recommended positions
  - Matrices
- Update BAE weekly
  - Change positions as necessary
- Advocate (oral/written testimony; meetings with lawmakers, community, agencies)

This is a breakdown of the measures that we tracked this year. There were almost 4000 measures, bills, GMs and resolutions that moved this year or had some action. If you look on the bottom column only about 76 bills passed; which is very low. We would normally see around 300 or more bills pass; but this year only 76 passed the process and five of those were vetoed. Just 71 bills became law this year. Again, that was largely due to the pandemic and the shutdown. Of the measures we supported; only two bills passed and one of which was our package bill. We did have a higher success rate with GMs. I think all the GMs that we supported were confirmed.

On the right-most column, I just wanted to note, of the 43 bills that we opposed, none of them were enacted. Either they died or they were amended to where we no longer opposed them.

I wanted to share a little about what we did after the shutdown. As you know, the BAE along with other government functions couldn't really meet after mid-March. The Legislature did re-convene and we had to maintain our service and role. We established administratively, a process to get administrative approval on bills and resolutions and GMs that didn't have a BAE/BOT position or that required a change in position because of amendments made to bills. So, for those bills and resos that did have a previous BAE/BOT position; we submitted testimony consistent with those positions. For those that didn't previously have a BAE/BOT position that came out after the shutdown, we recommended changes administratively to our positions on those bills.

So that's how we handled the COVID circumstances. We did meet weekly with BAE leaders, so the Chair and Vice-Chair were active in communicating with Administration about what was going on. We tried to keep them updated every week when the legislature was reconvened.

## Measure Breakdown

Measures in play 2020 Legislative Session	Tracked by OHA	Supported by OHA	Supported with Amendments by OHA	Monitored by OHA	Comments by OHA	Opposed by OHA* <small>*Noted Form</small>
3,818 (2,590 bills, 834 resos, 360 GMs)	613 (458 bills, 112 resos, 40 GMs)	135 (50 bills, 32 resos, 8 GMs)	10 (8 bills, 2 resos)	408 (314 bills, 65 resos, 29 GMs)	61 (42 bills/16 resos/3 GMs)	43 (bills)
456 (76 bills passed - 5 vetoed), 50 resos adopted, 325 GMs confirmed)	42 passed*/ adopted/ confirmed (12 bills/ 7 resos/ 23 GMs)	11 passed*/ adopted/ confirmed (2 bills, 1 reso, 8 GMs)	0 Passed/ adopted	28 passed/ adopted/ confirmed (8 bills – 3 vetoed, 6 resos, 14 GMs)	3 passed/ confirmed (2 bills/ 1 GM)	0 enacted

## Admin Positions (Post-March)

- Established COVID-19 Legislative Advocacy Plan for Reconvening of 2020 Legislature
  - Reviewed and assigned new GMs; staff tracked GMs, bills, and resos
  - Measures with BAE/BOT positions: submit testimony unless amendments counsel position change
  - Measures without BAE/BOT positions or if position change recommended: procure administrative approval (PPM, CA, COO, CEO)
  - Submit testimonies accordingly
- Met weekly with BAE leadership



**Trustee Ahu Isa:** *Wayne what's happening with the Budget Bill? Are we going to get the money?*

**Public Policy Manager Tanaka:** My understanding is that the release of the funds is still contingent on the audit being done. We did get vindication from the Circuit Court about some parts of the meeting minutes being protected under Attorney-Client Privilege. I think the auditor had a rebuttal to the decision that was made, suggesting that he still wasn't going to complete the audit and I think the letter is a response to that.

**Trustee Ahu Isa:** Mahalo.

**Public Policy Manager Tanaka:** The next couple of slides are positions that we took administratively that we submitted testimony or otherwise advocated on. So, these are all the Governor's Messages/nominations (GMs) that came in after the shutdown and that we submitted testimony for. All of them were confirmed, except for GM758 and GM759, in relation to the Aha Moku Advisory Committee (AMAC). There were questions this year again, like a couple of years ago, about the nominating process for all AMAC nominees.

We had specific concerns coming from community folks on Moloka'i about the process not being followed for their nominee. We offered comments; not about the merits of the nominee, but to suggest that the Committee Chair check to make sure the statutory process was followed, so that there are no challenges later. In addition to testifying, we sent emails to the Boards and Commissions Office and to the AMAC to try to figure out if the process really was followed and we were not able to get any clarity through those activities. Ultimately, I think our concerns were validated and all the AMAC nominees were withdrawn.

Congratulations to Trustee Hulu Lindsey for a successful re-nomination to the Kaho'olawe Island Reserve Commission (KIRC). Thank you for serving again.

**Trustee Hulu Lindsey:** Thank you Wayne. I'm also happy to report that I was elected Vice Chair of the Commission this week.

**Public Policy Manager Tanaka:** That's awesome Trustee Hulu. Congratulations.

**Public Policy Manager Tanaka:** I just wanted to note on the next slide; we don't usually weigh in on Governors nominations, generally. We do weigh-in, when it's for a Board or Commission that we testify before regularly or if the subject matter directly-impacts our beneficiaries, interests and concerns. Additionally, we do weigh-in, if it's a seat that is reserved for a Native Hawaiian Expert or OHA representative. We also weigh-in if the nominee has relevant expertise or has demonstrated a history or a background in advocating for Native Hawaiian interests in the subject matter area.

### New Admin Positions

- GM583 – Chris Yuen to the BLNR – COMMENT
- GM586 – Michael Buck to CWRM – SUPPORT
- GM670 – Jonathan Scheuer to LUC – SUPPORT
- GM706 – Kili Namau'u to BOE – SUPPORT
- GM758 and GM759 – Godfrey Akaka to AMAC – COMMENT (withdrawn)
- GM768 – Neil Hannahs to CWRM – SUPPORT
- GM769 – Kawika Winter to ESRC – SUPPORT
- GM773 – Carmen Lindsey to KIRC – SUPPORT
- GM780 – Hi'ilei Kawelo to NARS Commission – SUPPORT
- GM812 – Kau'i Burgess to Stadium Authority – SUPPORT
- Monitored numerous others

### Note on GMs

- Weigh in if:
  - We testify regularly before the board or commission, if board or commission subject matter directly impacts NH interests or concerns, and/or seat is reserved for NH cultural expert or an OHA representative; and
  - Nominee has particularly relevant expertise, and/or has a demonstrated history and ability to advocate for NH interests in the relevant subject matter area (and is likely to do so if confirmed).

**Public Policy Manager Tanaka:** HB1901 is one of our Administrative positions that we took. It was an amended position; it was originally a Support measure where it would clarify the Oversight Commission's responsibilities. This is the Hawai'i Correctional Systems Oversight Commission that was established last year and there is a little bit of ambiguity on what their authority was particularly in the parole context. The bill originally would have clarified this; it was amended after session reconvened, like a gut-and-replace to focus on the Law Enforcement Standards Board. I don't think the idea itself was terrible, but we didn't necessarily want to support a gut-and-replace bill that we were supporting previously. We offered comments knowing that some of the transparency and accountability mechanisms in the new bill could have a role in increasing community trust, which may be important to mitigating impacts of criminal justice system for our beneficiaries.

SB3103 – there have been a lot of news articles on this bill throughout session; it passed. It was originally an Opposed Bill; it would have set up a School Facilities Agency to oversee development projects that benefit Public Schools. When it was originally submitted, this bill had a lot of exemptions; Procurement, Civil Service Laws and we were concerned because it would exempt the Facilities Agency from Historic Preservation Laws and Environmental Review Laws under Chapter 6e and Chapter 343. The BAE and Board originally took a position of Oppose and we testified and advocated accordingly. Thankfully, when the bill came back after the Legislature reconvened, they took out all the exemptions that we we're concerned about. We recommended taking an amended Administrative position of COMMENT instead of Oppose and it was signed into law on September 15<sup>th</sup>.

### Amended Positions

- HB1901 SD1, Relating to Public Safety (DIED)**
  - Support > Comment
  - Originally clarified that the Oversight Commission's responsibilities include ensuring that PSD prepares inmates to meet parole requirements at the earliest time they may be eligible for parole, consistent with HCR85 Task Force goals
  - SD1 was a "gut and replace" to expand Law Enforcement Standards Board jurisdiction to review and recommend policies on use of force, investigate complaints, suspend officers – OHA offered comments on proposed draft re: transparency, recordkeeping, accountability mechanisms to increase trust

### Amended Positions

- SB3103, Relating to a School Facilities Agency**
  - Oppose > Comment
  - Bill would have exempted a new school facilities agency from HRS Chapters 6E, 343, etc.
  - Opposition was based on exemptions to historic preservation and environmental review laws
  - Exemptions were removed so primary concerns were addressed
  - Became law on 9/15 (Act No. pending)

SB2940 – You may have also seen this in the news. Originally, it would have transferred Existing Development Authority for the Stadium Development District from the Hawai'i Community Development Authority (HCDA) to the Stadium Authority. Because it was only a transfer of jurisdiction and did not cut out any important transparency or put mechanisms or protective requirements for natural resources, we just monitored this bill. However, in its last standing committee hearing, DAGS (Department of Accounting and General Services) provided a bunch of amendments like housekeeping amendments in its testimony to FIN. Those amendments included an inadvertent expansion of the HCDA's authority to issue a 99-year lease for any lands in its jurisdiction. That would include ceded lands in Kaka'ako and in Aiea.

As you know, we have significant concerns with any kind of proposal that would allow for such long-term, multi-generational leases of ceded lands because it forecloses Native Hawaiians claims to the ceded lands for a century, and oftentimes creates a lot of pressure to ultimately alienate those lands from the ceded lands corpus. We raised this issue as soon as we saw it with the House Finance Chair and the HCDA Interim Director Garrett Kamemoto and unfortunately, they did not respond. They didn't fix the amendment on the floor of the House. It crossed back over to the Senate, so we are recommended Administration send a letter to Senate leadership to apprise them of our concerns regarding the 99-year lease issue. We also noted that the amendments made by DAGS with regards to these long-term leases possibly rendered the bill unconstitutional because its title was Relating to Stadium Development District and the amendments would have expanded HCDA's jurisdiction in all development districts, except for the Stadium Development District.

Ultimately, the Senate decided not to agree to the House amendments and the bill died. There is a lot of disappointment in the legislature about that. The DAGS Comptroller took responsibility for the error and emailed us personally to say it was a huge mistake and that he had no intention to compromise Native Hawaiian claims. We had a good, follow-up conversation with him, to talk about the Ceded Lands and the kinds of issues we look out for and we got a commitment from them to work more closely together to make sure that this kind of thing doesn't happen in the future. So, there's a silver-lining with some of the conflict that came with this bill.

**Trustee Lee:** I just wanted to commend Wayne on this bill. Not a lot of people know this, but Wayne is the one who caught this monumental error, and if not for him catching it in the 11th hour, this might have slipped through the Senate. This wasn't even on Senator Kahele's radar. No one else knew about it and it would have passed had Wayne not brought it to our attention. So, Mahalo Wayne for saving our land.

**Public Policy Manager Tanaka:** Thank you Trustee, I also have to give a shout to Leimomi Fisher. This bill was in the tracker and she saw the DAGS testimony and flagged it. So, when the bill came out of FIN, that made us take a closer look and we did see that a troublesome amendment was made. That's it for the amended positions. I'll just touch base on a couple other bills that were notable.

SB2193 - This is our package bill; our Employment Discrimination measure. It was signed into law as Act 51 on September 15<sup>th</sup>. It will reduce the lookback period that employers can use in evaluating their prospective or current employees for employment decisions. For conviction records, that used to be 10 years - now at seven years for felonies and five years for misdemeanor convictions. This only affects those employers that are not already given their own exceptions to that 10-year lookback rule. So, it doesn't impact employers such as: schools, care homes, or County agencies that have their own lookback requirements, restrictions and authorities.

### Amended Positions

- SB2940 SD2 HD2, Relating to the Stadium Development District (DIED)
  - Monitor > Oppose
  - OHA didn't oppose at first; only commented – bill only focused on Stadium Development District & policies for Stadium Authority to take over from HCDA
  - House FIN passed DAGS amendments including one that would have given HCDA 99-yr (from 65) leasing authority in any development district, except the Stadium Development District that would have been transferred to the Stadium Authority
    - Not only potentially unconstitutional (single subject rule), but also threat to Native Hawaiian claims to "ceded" lands
  - DAGS Comptroller Otaguro issued public apology saying amendment was "monumental error"

### Other Notable

**SB2193 HD2; Relating to Employment Discrimination, Limiting "Lookback" Periods (PASSED)**

- Part of OHA 2020 Package:
  - Limits conviction "lookback" period records used in employment decisions (Previously allowed in HRS § 378-2.5 was 10 years)
  - Shortens "lookback" period to 7 years for felony convictions & the most recent 5 years for misdemeanors
  - Discourages discriminatory employment decisions based on past convictions; reduces stigma of former offenders; supports rehabilitation, reentry, & recidivism prevention
- Transmitted to Governor

**Public Policy Manager Tanaka:** SB2386 - this is the Senate Native Hawaiian Caucus Bill. I think it was signed as Act 73; it prohibits waste disposal or disposal facilities in the conservation district. It also requires a buffer zone. So, before you can build a new landfill or modify one, or expand it, you must ensure that there is a buffer zone of 1/2 mile between the facility and any school, residence or hospital property line. We did support it knowing that the Conservation District is the most protective of our land use districts. The Conservation Lands contain important natural resources and is also important for watershed protection and security. They are also the kinds of lands that are very important for the continuation of Native Hawaiian Tradition and Customary Practices. Given that landfills have toxic waste and can have significant environmental impact on surrounding areas, we agreed that having landfills in the conservation districts is not the best and most appropriate use of those kinds of lands.

If there is a situation where there absolutely must be a landfill in lands currently designated as conservation; there is a land use district boundary amendment process that could be followed. That process itself contains mechanisms to protect and mitigate impacts in the Traditional Rights and Customary Practices, as well as other Public Trust purposes. This bill was transmitted to the Governor and he signed it into law.



SB75 – This is regarding the CARES Coronavirus Relief. The CARES Act was a U.S. Federal Law that was passed in response to the pandemic. It set aside 1.25 billion dollars for Hawai'i. Of that, about 387 million dollars was received by Honolulu directly; because it's such a big municipality.

The other counties are smaller, so the State Legislature had to go and figure out how to divvy up the rest of the CARES funds. So, they provided about 80 million to Hawai'i County, about 66 million to Maui County and about 29 million to Kaua'i County. The Legislature also authorized about 2 billion dollars in debt instruments to allow the neighbor island counties access to what's called a Municipal Liquidity Facility Program, which is like a loan program to help local governments deal with the revenue impacts of the pandemic.

Again, Honolulu is large enough, so it was able to get access to its own funds. 40 million was for the State Department of Defense. They set aside 1.36 million for the Pandemic Unemployment Assistance (PUA) Program. About 10 million for IT services to help with Contact Tracing assistance and Unemployment Application Processing. What received a lot of attention is that about 636 million of this, of the CARES funding, was put into the State Emergency and Budget Reserve Fund, and a lot of people were concerned because they noted that the Economic Impacts are immediate and real from the pandemic.

They were wondering why the Legislature was stashing so much money away in a reserve fund. They did respond and said that they were planning to reconvene after they had more time to think about where to put those funds. So that's what they did, and I'll talk about that in the next slide.

Also, as part of this bill, SB75, there is about 50 million in federal funding from another Act. The Legislature assigned it to the DOT for things like thermal screenings and to help with contact tracing and outbreak control. The Governor didn't sign it, but it became law on July 15th. It passed relatively early in session. So, his veto deadline was a lot shorter. He didn't sign it, but it became law as a result.

### Notable

**SB2386 SD2 HD2; Relating to Waste Management (PASSED)**

- Prohibits waste or disposal facilities in the conservation district except in "emergency situations" i.e. actual or imminent event likely to result in substantial injury/harm (3 years max)
- Requires "buffer zone" within 1/2 mile of any new, modified, or expanded waste or disposal facility (for residences, schools, or hospitals)
- OHA supported:
  - "Containing 'important natural resources essential to the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply,' the conservation district is also host to cultural sites and resources essential to the perpetuation of constitutionally protected Native Hawaiian traditional and customary practices. Waste and disposal facilities, in which hazardous and toxic materials may accumulate and be stored indefinitely, can significantly compromise the environmental and cultural integrity of conservation district lands and resources..."
- Transmitted to Governor

### Notable

**SB75 SD1 HD1 CD1; Relating Appropriations (PASSED)**

- Appropriates CARES Coronavirus Relief Funding:
  - \$1.25B CARES funding set aside for Hawai'i to address the economic fallout of the pandemic
    - ~\$387M received by Honolulu directly
    - \$80M to Hawai'i County; ~\$66M to Maui; ~\$29M to Kaua'i
  - Authorizes \$2.18 in debt instruments to allow neighbor island counties to access Municipal Liquidity Facility program loans (HNL received access to \$550.3M)
  - \$40M for DoD COVID-19 response
  - \$1.36M for unemployment relief (PUA)
  - ~\$8M for DHR IT services
  - \$2M for DHS IT services
  - ~\$636M in emergency and budget reserve fund (see SB126)
- PPP and Health Care Enhancement Act Funding - ~\$50M to HI
  - \$36M for DOT thermal screening programs
  - \$14M for contact tracing and outbreak control
- Transmitted to Governor, became law on July 15

SB126 - This is what happened with the 636 million that I mentioned earlier, the Legislature recessed and then came back. More was addressed from Renters and Homeowners assistance to workforce retraining and food assistance. The Governor has line item veto authority over Budget Bills. So, he went through the bill that the Legislature passed and then vetoed out sums from various line items and provisos.

Of the 100 million that was set aside for Renter and Homeowner relief; Governor Ige reduced it to 50 million. He said that the DOT stated that they didn't need 90 million and that 70 million was enough, so he took out 20 million from their Corporation. The big thing was the 230 million that the Legislature appropriated for Weekly Unemployment Benefits, he completely vetoed that out. At the time, he was saying he wanted to see what happens with the U.S. Congress; to see if they would extend Federal Relief before he committed those CARES funds to those purposes. It doesn't seem like they're close to extending any more relief, so now he'll have to go and figure out how much he wants to use to extend unemployment benefits. After his line vetoes, he signed it and it became law at the end of July.

SB2946 - This is one of several measures that were seeking to authorize 99-year leases, and to spread development for Affordable Housing. We had a discussion in our last BAE meeting in March about these 99-year leases and proposals to allow such long-term use of public and likely ceded lands without necessarily accounting for Native Hawaiians unresolved claims to these lands. In previous years, and even this year we were able to get some provisions about rules that would transfer units that were built in terms of Affordable Housing to either OHA or DHHL. Towards the end of this session, even the Legislators that were helping to incorporate some of our recommended language are now pulling back from that because of the continuous Fair Housing Act issues that were being raised.

I'm still not clear whether you know those issues were really issues, but it was too much opposition for them to continue pushing for the kind of provisions that we were advocating for. So, we're back to the drawing board, and talking internally and identifying ways that we can ensure that Native Hawaiian claims are appropriately reflected in any kind of proposal that seeks to continually use Hawaiian lands for such a long time.

## Notable

**SB126 SD1 HD1 CD1; Relating to the State Budget (PASSED w/ line item vetoes)**

- Appropriates CARES Coronavirus Relief Funding to:
  - provide assistance to renters and homeowners (\$100M->\$50M per line item veto);
  - purchase and distribute personal protective equipment to hospitals, childcare facilities, elderly care facilities, businesses, non-profits, and schools (\$100M -> \$61M per line item veto);
  - improve airport screening and health assurance security initiatives (\$90M->\$70M per line item veto);
  - support retraining and workforce development programs (\$36M->\$10M per line item veto);
  - provide grants to support the development of a supply chain for cleaning supplies and personal protective equipment (\$15M->\$10M);
  - provide food assistance to families in need;
  - support the commercial fishing industry;
  - support public high school seniors who were adversely affected by school closures (\$2M->\$1M);
  - provide additional weekly unemployment benefits to eligible recipients (\$230M -> \$0);
  - other eligible programs as determined by the Governor.
- Provides the Governor the option of using funds available in the Hawaii hurricane relief fund
- Line-item veto, signed on Act 9 (July 31)

## Notable

**SB2946 SD2 (DIED in House HSG/TRN/WLH, JUD, FIN); see also HB2297 HD1 (DIED)**

- Sought to spur housing development along the rail transit corridor through mixed-use developments on state and county lands; lands exempted from HRS Chapter 171 and 99-year leases explicitly authorized
- OHA raised concerns regarding exemptions from public auction, appraisal, other accountability mechanisms in 171; effective alienation of "ceded" lands leased for 99 years; diversion of PLT revenues
- Subsequent drafts (also from 2019 SB1 SD2) would have transferred unspecified ALOHA homes units to OHA and DHHL – met with opposition noting Fair Housing Act issues
- OHA working on identifying avenues for other equitable assurances to ensure Native Hawaiians obtain affordable housing or otherwise benefit through the development of "ceded" lands

There were numerous bills that would force the transfer of about 100,000 acres from DLNR to the Department of Agriculture (DOA). These are pasturelands and they are occupied by ranches, for livestock grazing purposes, but even though they're called pasturelands, what they really are, are remnant Native Forests that haven't been impacted by industrial agriculture. All of them are adjacent to important watershed areas that are hosts to native ecosystems and that are important for water security. Of course, a number of these features also include important cultural sites, resources, or trails for Hunters and for Traditional and Customary Practitioners. Because of all these high resource values, the DLNR didn't want to transfer these lands to the Department of Agriculture. The DLNR does have a mission, and it has divisions, staff, institutional memory and knowledge and expertise to look out for all these different things other than livestock grazing in the administration of these lands. Whereas, DOA doesn't really have much expertise, nor staff to account for the Public Trust values of these lands.

DLNR Opposed and apprised us of the situation, and we agreed and then also took a position of OPPOSE. One version of this bill did come back for discussion during the reconvened session. HB2035 was amended to address our concerns. They reduce the acreage that would be transferred from 100,000 plus acres to 45,000 acres. They also impose watershed requirements, partnership plan requirements as well as a requirement that at least half of the livestock raised on public lands are sold to the local market.

This was in response to the advocates for this bill, saying that it was important for food security and meat security. Others also pointed out that in recent years that over 80 plus percent of the livestock they've raised on public lands, get sold to the Continent. So, it wasn't meeting local food demands. The Senate imposed those amendments and it crossed back over to the House. The House didn't like the amendments, so the bill died.

That's it for the notable bills. I just wanted to highlight that we had a very successful defensive year; in terms of defending all OHA's OPPOSED positions. The COVID shutdown probably helped a little in that regard.

## Notable

- **HB2035/SB2415; SB2735; SB2812/HB2577; Seeking Transfer from DLNR to DOA of Pasture Lands on Hawai'i Island (OPPOSE)**
- **(All DIED; HB2035 HD1 SD2 died in House after 3<sup>rd</sup> Reading)**
  - Ranchers from Hawai'i Island pushed to ensure transfer of public land pasture parcels (100,000 acres) from DLNR to DOA – citing Act 90 (2003) & that DLNR did not comply
  - DLNR asked OHA to help oppose; DLNR said it complied with Act 90 (transferred 18,000+ acres), but certain parcels excluded for high natural & cultural resource value
  - Ranchers argued that transfer would help them secure loans to improve & maintain properties & aid in food security
  - Senate WAM amended HB2035 HD1 SD2 to ensure transferees dedicated at least 50% of livestock to local markets & required watershed partnership plans – but Ranchers opposed
  - DIED when House disagreed with Senate final amendments

## Successful Opposition

**All OHA-opposed bills DIED this session**  
(although COVID-19 pandemic likely contributed)

So even after Session ends, oftentimes End of Session is the beginning of the work. To implement the bills and make sure that they have an impact on the ground. That could consist of setting up working groups or task forces, or propagating initiative rules, implementing new laws, or even just coming up with training and guidance for agencies to comply with the new laws. There's a lot of work that goes into that.

A lot of our effort this past year since last session has been to help set up the Correctional Systems Oversight Commission that was established in the 2019 session. This Commission is supposed to help provide some oversight accountability over our correctional facilities and help transition them from a punitive model to a more rehabilitative model. Our Chair appointed Kawika Patterson to represent OHA on the Commission and he was voted in as Chair of the Commission. Unfortunately, even though the Legislature gave them appropriated funds, they were never released. The Commission went through a hiring process, and recommended names to the Governor to serve as staff and they were getting no response from him and no response from the AG's office.

Ultimately, they found out that the Governor cut their funds through Civil Beat or some other source. Without the Administrative support and funding, it's been very difficult for them to do the work - so our staff has been doing what they can to help them. Shout-out to Kamaile Maldonado and Jen Jenkins for helping to set up meetings, accessing information and drafting letters.

I want to give you a quick update of where we are in terms of our next Legislative Session Package. Right now, we're doing Internal and External Outreach. We're hoping to come back to the Committee on October 7, 2020 to provide you with our Concepts and then we're shooting for Final Approval of our OHA Legislative Package on October 21<sup>st</sup> with this BAE Committee and then the BOT to follow. Opening Day of the 2021 Legislative Session will be on January 20, 2021.

## Post Session Follow Up

- Approved legislation often requires off session work and follow up, i.e.:
  - Legislation creates working groups/task forces (e.g. HCR85 effective incarceration, 2016; HCR134 pre-trial, 2017; HCR198 Ho'oponopono, 2017; HB1552 Corrections System Oversight Commission)
  - Legislation requires creation of administrative rules or some other agency action (reports or proposed legislation)
  - Implementation requires training/guidance for implementation

## 2021 Legislative Schedule

- **July-Sept.** – Internal/External Outreach
- **Sept. 23** – 2020 Legislative Overview with BAE
- **Sept. 28** – Last day to send leg ideas to PP
- **Oct. 7** – Legislative Package Concepts Workshop with BAE
- **Oct. 21** – Legislative Package Final Language Approval with BAE
- **Oct./Nov.** – Legislative Package Final Language Approval with BOT
- **Jan. 10** – Deadline to submit OHA Annual Report
- **Jan. \*** – Deadline to submit OHA Legislative Package
- **Jan. 20** – Opening of 2021 Legislative Session

We've met with all Paia at this point to go through our Package Development Process and discussed the steps on the next two slides. If you recognize any issues, you can also email us at [publicpolicy@oha.org](mailto:publicpolicy@oha.org).

## Internal Outreach

- Internal Outreach
- July 22 – September 28
- Please use forms
- Send emails to [publicpolicy@ohq.org](mailto:publicpolicy@ohq.org)
- Public Policy staff meeting with LOBs and programs

## Internal Outreach

- All ideas are welcome
  - Mai hilahila – don't be scared to share
  - Every idea gets recorded
- Looking for issues you're dealing with
  - You don't have to know exactly how to change the law
  - Not every issue can be addressed through legislation
    - Funding
    - Compliance
    - Addressed administratively, through rules, change in interpretation of the law, meetings with officials

We apply various criteria when we consider whether to recommend something to you folks for inclusion in the package. We consider whether a change in law is in-fact necessary to address the issue. Oftentimes, the law is good and there are great programs, but there is no funding for them or difficulty in getting people to comply.

**Trustee Lee:** Wayne, I'm not sure if this is on your radar yet. Senator Wakai has made it clear that he's going to introduce a bill that would make JUNETEENTH (Recognized as the day slavery in the United States became illegal) a State Holiday. The reason I think that's important for OHA is Lā Ku'oko'a year-after-year gets denied being a State of Hawai'i Holiday and that's something that is relevant to Hawai'i so I just wanted to make sure you guys were aware.

**Public Policy Manager Tanaka:** I was not aware of that. Thank you, Trustee Lee. We will now put that on our radar.

Some additional criteria that we consider is that having too many bills makes it unmanageable at times. Next year, we will have a Budget Bill that we will be advocating for; so that will occupy our resources. Therefore, we may have a smaller amount of bills included in our package.

We consider the feasibility; the likelihood of a bill passing. It's not a deal-breaker. Sometimes it's important that there be greater discussion about issues that aren't getting enough attention. It could be helpful to introduce something; even knowing that it might not pass, but it could still have an impact. We've seen that before; we've introduced resolutions to encourage Working Groups to meet that haven't met for years and because of the issue being raised then they meet all-of-a-sudden. The resolution doesn't always pass necessarily, but sometimes we get the result that we were aiming for.

**Trustee Hulu Lindsey:** *Wayne, where did you get the discussion of iwi to Kaho'olawe?*

**Public Policy Manager Tanaka:** I think that was before my time. I'm not sure if Sterling remembers that proposal.

**Trustee Hulu Lindsey:** I think it was introduced by Senator Galuteria about five or six years ago. The public was very negative about it, especially our Hawaiian people.

**Public Policy Manager Tanaka:** I do recall that. *Did it originate with him?* I feel like he was re-raising an idea.

**Chief Advocate Lindsey:** If I could just add; it was also related to doing away with individual Island Burial Councils and creating one Statewide Burial Council.

**Public Policy Manager Tanaka:** Thanks, Keola.



## Criteria

- Aim for small package
- Funding implications (OHA, state)
- How big of an issue?
  - Does it impact the broader Hawaiian community (broader public)
  - Is it statewide or county specific?
- Will there be community support at the leg to advance proposal?
  - Will organizations commit to submitting written and verbal testimony at leg hearings?
- Is it aligned with our Strat Plan 2020+ strategic foundation and directions?

## Criteria

- Feasibility
  - Likelihood of passing
  - Some measures not introduced to be enacted
    - Make statement (sugar sweetened beverage fee)
    - Start discussion (iwi to KIRC, PLT revenue)
    - For public awareness (first year for HUIP assessment)

**Public Policy Manager Tanaka:** We also think about OHA as an agency and whether we are an appropriate lead on the issue. If it's an idea that State agencies are already working on, we typically let them take the lead. Sometimes it is best to let Community Organizations and Groups take the lead on some issues as well.

The next slide is just a reminder of our Strategic Foundations and Directions that we try to follow when considering issues.

## Criteria

- Solvability
  - Can it be solved through legislation?
  - Does the best legislation actually solve problem?
  - Does everyone agree on solution?
- Is OHA the appropriate lead
  - Does it address our Strategic Plan?
  - State lead – better chances, especially if impacts broader public
  - Community lead – Too controversial, too radical

## Criteria

- SP2020+: <https://www.oha.org/priorities>



**Public Policy Manager Tanaka:** Thank you so much. I'm happy to answer any questions you folks might have.

Pau

**Chair Waihe'e:** Members are there any questions on the 2020 Legislative Session and 2021 Preparation reports?

**Trustee Machado:** I wanted to acknowledge that although this was a good briefing, it was an omnibus kind of approach. I would like to recommend intermittent meetings rather than one meeting where we go over everything from last year and the upcoming year. So, I suggest meeting with appropriate staff and figuring out when to meet over the next couple of months because time is very short. Wayne you did a thorough job, but I just wanted to suggest that.

**Chair Waihe'e:** Ok - so noted. *Are there any other feelings that anyone wants to express at this specific time?*

*No further feelings are expressed.*

**Chair Waihe'e:** I'd like to thank Ka Pouhana, Sylvia Hussey on an amazing job along with our Chief Advocate Keola Lindsey. Mahalo and best wishes to you as well, Wayne and Keone.

**Chief Advocate Lindsey:** Thank you Chair. Just to reconfirm we will be coming back with the Conceptual Package presentation on October 7<sup>th</sup> and then the timeline does get pretty, condensed after that with the actual Action Item being presented on October 21<sup>st</sup>. It is a tight timeframe that we're looking towards; just about 1 month before the election. Mahalo.

## **VI. ANNOUNCEMENTS**

None

## **VII. ADJOURNMENT**

**Trustee Hulu Lindsey moves to adjourn the BAE meeting.**

**Vice-Chair Akaka seconds the motion.**

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

**Chair Waihe'e** asks if any members vote NO or ABSTAIN. There are no dissenting votes.

							11:24 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			X			
VICE-CHAIR KALEIHIKINA	AKAKA		2	X			
KELI'I	AKINA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				9	0	0	0

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

**Chair Waihe'e** adjourns the BAE meeting at 11:24 a.m.

Respectfully submitted,



Melissa Wennihan

Trustee Aide

Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on October 21, 2020.



Trustee John Waihe'e, IV

Chair

Committee on Beneficiary Advocacy and Empowerment