

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

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
MINUTES**

August 24, 2016 1:30 p.m.

ATTENDANCE:

Chairperson John Waihe'e, IV
Vice-Chairperson Peter Apo
Trustee Dan Ahuna
Trustee Haunani Apoliona
Trustee Carmen Hulu Lindsey
Trustee Robert Lindsey
Trustee Colette Machado

EXCUSED:

Trustee Lei Ahu Isa
Trustee Rowena Akana

BOT STAFF:

A. U'ilani Tanigawa
Claudine Calpito
Crayn Akina
Harold Nedd
Kama Hopkins
Lady Elizabeth Garrett
Lehua Itokazu
Liana Pang
Louise Yee Hoy
Makana Chai
Melissa Wennihan
Reynold Freitas

ADMINISTRATION STAFF:

Kamana'opono Crabbe, Ph.D., Pouhana / CEO
Lisa Victor, Pou Nui / COO
Anuhea Patoc, PUBL
Coti Haia, DC (via Phone)
Derek Kauano, ADV-GOV
Ernest Kimoto, CC
Jessica Freedman, PUBL
Jim McMahon, ADV
Jocelyn Doane, PUBL
Jonathan L. Ching, PUBL
Kawika Riley, ADV
Keala Carter, DC
Keala Nichols, ADV
Kuulei Stockman, DC
Leona Kalima, CULTU
Mehana Hind, CMTY ENGMT
Momilani Lazo, CEO
Monica Morris, ADV
Raina Gushiken, CC
Sterling Wong, PUBL

GUESTS:

Neal Yokota
Keali'i Makekau
Joseph Iokepa

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Beneficiary Advocacy and Empowerment meeting for Wednesday, August 24, 2016 to order at **1:30 p.m.**

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

MEMBERS			AT CALL TO ORDER (1:30 p.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	PETER	APO	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	HAUNANI	APOLIONA	PRESENT	
TRUSTEE	CARMEN "HULU"	LINDSEY	PRESENT	
TRUSTEE	COLETTE	MACHADO	PRESENT	
TRUSTEE	ROBERT	LINDSEY	PRESENT	Arrived at 1:34pm

At the Call to Order, **SIX (6) Trustees** are **PRESENT**, thereby constituting a quorum.

EXCUSED from the BAE Meeting are:

MEMBERS			COMMENT
TRUSTEE	LEI	AHU ISA	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	ROWENA	AKANA	MEMO – REQUESTING TO BE EXCUSED

II. APPROVAL OF MINUTES

A. July 27, 2016

Trustee Ahuna moves to approve the minutes of July 27, 2016.

Trustee Apoliona seconds the motion.

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

Chair Waihe'e asks if anyone votes NO or ABSTAINS. There are no replies.

							1:30 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						EXCUSED
DAN	AHUNA	1		X			
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO			X			
HAUNANI	APOLIONA		2	X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY						Arrived at 1:34pm
COLETTE	MACHADO			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				6	0	0	3

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

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

III. COMMUNITY CONCERNS*

None

IV. NEW BUSINESS

A. BAE 16-02: To approve an OHA Board of Trustees Executive Communications Policy Plan called One Voice, One Message

Chair Waihe'e turns it over to Ka Pouhana Kamana'o pono Crabbe.

Pouhana Crabbe: Thank you Chair Waihe'e and Good Afternoon Trustees. Before you is the Action Item to approve the Board of Trustees Executive Communications Policy plan called **"One Voice, One Message"** – We propose that a policy would help to provide (a). A greater level of consistency and continuity of messages and communication that would alleviate some of the confusion and misperceptions of our organization, (b) be an opportunity for a focused effort to raise awareness of all OHA programs for the benefit of the community; and (c) create a proactive, unified approach that evaluates using appropriate media channels to improve strategic positions while balancing the image of the Office of Hawaiian Affairs. I will call on Neal Yokota from Stryker, Weiner & Yokota Public Relations, Inc. to help provide some background information.

Trustee Machado: Before you introduce Mr. Yokota can you please provide us a little history of how this was established.

Pouhana Crabbe: Yes, for several years and especially after the Nation Building effort a number of media requests have gone out both at the Board level and at the Administrative level – we wanted to look at how we handle our image of what is communicated as OHA's message to the broader public, as well as how we handle messaging internally. We have a communication's plan in place, but the greater issue really was how we unite Board and Administration on consistent messaging. So we hired Stryker, Weiner & Yokota to assist us.

Neal Yokota: Good Afternoon Trustees, this was a process where we took a look at some of the issues that OHA has faced in terms of communication, we worked closely with the OHA Communications staff to come up with a policy, which really is a structure to allow for consistency in messaging. It allows for a clear structure in terms of getting messaging reviewed through the Board and Administration; we also identified that one of the areas of difficulty in terms of maintaining that consistency was internally making sure that prior positions and communications that have been put out are recorded, researched and followed.

Trustee Hulu Lindsey: What is the jurisdiction of this policy; who does it affect?

Pouhana Crabbe: It affects the entire organization.

Trustee Hulu Lindsey: Including the Trustees?

Pouhana Crabbe: Yes.

Trustee Hulu Lindsey: I disagree with this. I think there should be two levels, one for the administration and one for the elected officials. Mainly I don't think that we can be told not to speak our minds as elected officials, this is what makes this Board different from all the other Hawaiian

Organizations, the others are all appointed. Nobody tells the legislators that they cannot speak and say what's on their minds.

Pouhana Crabbe: This was to provide guidelines trustee; we are not saying you cannot speak as an individual, what we're saying is as long as it's within the guidelines consistent with the Board position.

Trustee Hulu Lindsey: I have an example, let's say Peter disagreed with us on Papahānaumokuākea, he has a right to disagree with us. I disagreed with the Board on TMT; I have that right, but I respected the Board's decision. You cannot tell me that I cannot speak my feelings outside, I'm an elected official and I need to address the people that voted for me. I don't think our hands can be tied as elected officials, I know that I as a trustee have respected it, any communication that I've done like expressing my feelings about the water issue on Maui, I've made sure to check with Administration to be sure that I'm consistent with how the Board is moving, but I need to Support my people personally.

Pouhana Crabbe: I agree with you that trustees have an obligation to your stakeholders, constituents and beneficiaries; I think what this policy strives to do is to improve the image and a more consistent message going out in to the Community. You have right here the opportunity to express your personal feelings, before you go to an official vote. When the vote is taken that is the Board's position.

Trustee Apoliona: Being a previous Chairperson of the Board, I know how important it is to have a consistent message and I would agree that Trustees should debate the issues vigorously when it's time to debate, but I think it's a little different as a Board of Trustees that once a position is made by the Board not just by one person or by the Chair, it should stand as a majority position of the Board. We can still have how we feel as individual trustees, but to go out and fan it and create more dissention or confusion is something to pay attention to. That's not saying that points of view should not be heard, they should be; but there's a time and place and the policy by virtue of decision and vote by the Board is executed. I've gone back to the original by-laws, and if you looked at the by-laws while it may not be as distinctive and strong as what is being proposed, it's focused and there are a few points in it that we all should have because it is the founding document.

Trustee Ahuna: I can agree with that, when a Board decision is made anything that you say against it is a "code of conduct". Whether I think this is good or bad, I just want us to try to create an operational framework for consistency for all of us.

Trustee Apo: I have amendments that I would like to suggest if we get that far in the discussion. The policy that we're thinking of is Unconstitutional; it's a violation of The First Amendment, every way you look at it. *Rice v. Cayetano* ruled that OHA is a State agency, so we're bound by all the rules that govern elected officials, we are not a Trust. In *Bond v. Floyd*, *legislators have an obligation to take positions on controversial political questions so that their constituents can be fully informed by them and be better able to assess their qualifications for office, also so they may be represented in governmental debates by the person they have elected to represent them*; That is so fundamental to an elected body. In another Federal Court ruling, *Jenevein v. Willing*; *the public is obliged to inform itself about an elected official and as a practical matter this is fundamental about who we are responsible to, the Public itself is the employer with power to hire and fire, so an elected official is not beholding to the institution or to its leaders, we're beholding to those people who elect us.*

Trustee Robert Lindsey: I would like to speak in Support of the Action Item and like Trustee Apoliona; I come at this with the principle of Majority Rules, the time to debate and discourse any issue is at this table. We cannot have a situation where the majority is subject to tyranny by the minority, which makes us look ridiculous in the eyes of our stakeholders and beneficiaries. I think we definitely need this policy to keep us on a straight and narrow, and this policy should apply to the staff and leaders in the organization. I remember when I was a student at the University of Hawaii – Mānoa, there was an arch and on that arch it said “Above the individual is the Nation” and I think that so appropriately applies here.

Trustee Hulu Lindsey: I would like to say that I agree with Trustee Apo, I believe that we are elected officials and that we owe our decisions to the people that elected us. Another thing that bothers me about this One Voice, One Message Action Item is that we have been putting out two messages a lot, one from the Administration and the other from the Office of Hawaiian Affairs; this was very clear just last week with the Water Commission. The testimony made by OHA said at the very beginning “The Administration’s position is...”, so we need a process where the Administration can get a sensor for the Board of Trustees so that they can go out to an important commission like that and say “The Office of Hawaiian Affairs’ position is...” because I’m sure that the Board would’ve been fine with the statement made, it was excellent. It shouldn’t be “The Administration” or “The Board of Trustees” it should be “The Office of Hawaiian Affairs”; One Voice, One Message.

Trustee Apoliona: That’s correct.

Pouhana Crabbe: Yes, the reason why is it’s usually consistent with what we have already researched. Because that issue that you’re talking about Trustee Lindsey has not had a Board position, usually Administration on behalf of OHA is stating it. For official Board position we need to come to the Board for Approval.

Trustee Hulu Lindsey: I know that’s why you do it that way, but there should be a way that we can get a consensus.

Chair Waihe’e: that does bring up an interesting question; Ka Pouhana how would this affect a trustee trying to do something similar? In other words, if Trustee Lindsey had given that same message and the Board hadn’t taken a position, would she be violating the policy?

Pouhana Crabbe: We’re trying to propose a much more structured process so expectations on the Board as well as Administration we have a better understanding of what the process is moving forward, especially in testimony. In the action item it sets up what you can do, if the position is consistent with the Board position and goes through the process of seeing the Board Chair. Right now we’ve allowed some flexibility for the Chairperson to make a determination.

Trustee Apoliona: The Chair ultimately is responsible for approving all press releases and public announcements which state the official position of the Board.

Trustee Machado: I’m curious why that document (the old by-laws) wasn’t incorporated in this Action Item as background information? I’m always asking for background information.

Trustee Apo: The number one governing document in the United States of America is the U.S. Constitution. This violates the United States Constitution period. If you were to take this proposal to

the State Legislature or to City Councils, or the Board of Education, what do you think the response would be? This Board gets more votes than any other elected official except the Governor and Lt. Governor, that's a huge standard to meet.

Trustee Ahuna: For me it's not about what we want to say or what they want to say, it's just we want to tighten up the Board and how we communicate things and improve on us and make OHA a better place, how are we going to do that if we don't even want to try.

Trustee Robert Lindsey: Kamana'o, what is driving from the administration stand point the need for this policy? Can you site examples?

Pouhana Crabbe: Let me start by saying that this policy is not directed at any certain trustee. There are multiple situations where trustees have had their own opinions and have gone out and sent a different message out from what the OHA Board voted on, through media, Facebook, social media, etc. and it's not meant to gag you, this was meant to unify us. One of the purpose behind this was to unify us as an organization on how we communicate not just Board positions, but also how we communicate what's going on, for example there have been multiple situations that individual trustees have posted on Facebook that have triggered responses from our Community that we get tasked trying to deal with, and that puts pressure on Administration regarding what individual trustees are saying even when there is not a Board position. Mauna Kea was a neutral position, but different Trustees going out and saying different things puts pressure on Administration as well, so that's an example that we're looking at; if the Board's position is neutral we should have different talking points both for administration and trustees so that we don't confuse our beneficiaries or stakeholders. Another example would be when there is a majority position taken, but some trustees are speaking to the minority decision, it then creates problems for our Public Policy staff to discuss, negotiate and clarify with legislators; it's a mixed message going out to legislators and other key holders that may influence initiatives and we are involved in. We believe a policy like this would really help align our organization to achieve greater integrity and credibility.

Chair Waihe'e: I wanted to clarify a couple of things, I can say assuredly with the utmost confidence that this policy proposal was not at all directed at Trustee Apo, it was a long time in the making and up until very recently it wouldn't even have been on the radar. Secondly, we are a State agency, however we are not legislators because that has to do with passing laws and we don't have that power, we're trustees and under trust law we have some similar but also a lot of different obligations to beneficiaries than a legislator would have to his constituency; and first and foremost it's protecting the Native Hawaiian Trust and our beneficiaries proprietary interest in that Trust.

Trustee Apo: I would say this, not only are we not legislators or councilman but I think we have a higher responsibility.

Chair Waihe'e: I agree.

Trustee Apo: Hawaii will not be one people until Hawaiians can restore our dignity and nation. So our responsibility and the standard to which we should rise, is even higher than legislators and council persons. If one of the things we do is cut the leg of the number one rule of the Constitution, Freedom of Speech then that takes us below legislators, that is a step backwards.

Trustee Machado: I think they should withdraw their proposal and come back another day with more details and try to incorporate what was discussed here.

Pouhana Crabbe: I think the discussion has raised a legal issue regarding the Constitutionality which we did not look at, and we will get a legal perspective on it and look to revising this.

Trustee Machado: I would advise that you also speak with our Board attorney in addition to in house.

Pouhana Crabbe: We will do that. What I'm hearing is that there are many issues that have been discussed, so perhaps administration should reconvene and conduct greater due diligence and discuss with Corporation and Board Counsel. Then we will bring this back to the BAE for consideration.

Trustee Machado: I would greatly appreciate that.

Chair Waihe'e: That's correct Ka Pouhana.

Trustee Apoliona: Sooner than later, so that we have the One Voice moving in One Direction.

Chair Waihe'e: Thank you.

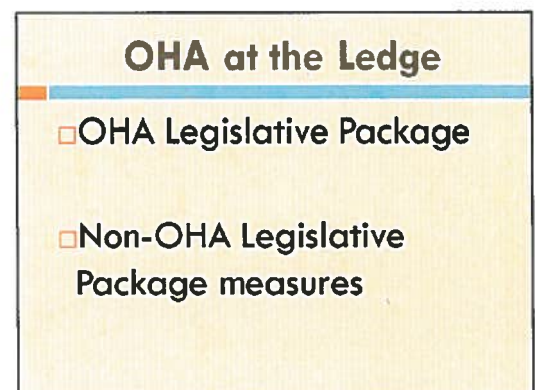
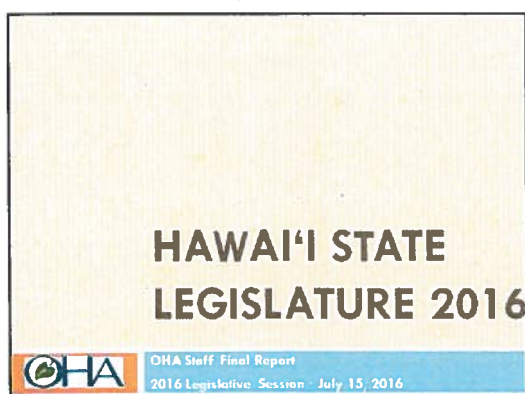
IV. NEW BUSINESS

B. 2016 Legislation Session Review

Chair Waihe'e once again turns it over to Ka Pouhana Kamana'opono Crabbe.

Pouhana Crabbe: Thank you Chair Waihe'e, I'd like to call upon our Public Policy Manager Sterling Wong and Senior Public Policy Advocate Jocelyn Doane to present the legislative review.

Public Policy Manager Wong: Aloha Chair, Vice-Chair and members of the BAE Committee, we're just going to give you a quick overview of the 2016 Legislative Session and also begin discussion regarding the upcoming 2017 Session with slides at the end of our Power Point Presentation.



Public Policy Manager Wong: As you know we have two primary responsibilities at the Legislature, Advocacy on our legislative package and secondly non-OHA legislative package measures. Jocelyn will be going over the Non-OHA measures with you.

OHA 2016 Legislative Package

- OHA Legislative Package
 - Pre-package internal/external outreach (July-August)
 - Vetted proposals/drafted measures
- Procured OHA Executive Team, BAE and BOT Approval
 - Dec. 3— BOT approval of OHA 2016 Legislative Package
 - Final OHA 2016 Legislative Package: 4 bills, 1 subsequent resolution

OHA 2016 Legislative Package

- Pre-session outreach (community, legislators)
- Advocacy throughout session
 - Jan. 20 (Opening) — May 5 (Sine die)
 - June 27 — Governor deadline for veto notice
 - July 12 — Governor deadline for veto
 - Testifying, meet with lawmakers, community, and Governor
 - Signing ceremonies
- Collaborate with other Paia to help guide advocacy
- Updated agency on progress

Public Policy Manager Wong: Every year we do internal and external outreach to get conceptual ideas during July and August, our staff during this period vets all the measures and draft proposals, we presented to the OHA Executive Team, BAE and BOT and received approval for the package on December 3, 2015. Our package included 4 bills, this was the second year of a biennium and ultimately a subsequent resolution was included after that initial approval in December.

We did a lot of Community Outreach this past session because our Public Land Trust Revenue bill was in our package, so we did a lot of outreach for that. This bill had a lot of Support from both Senate and House leadership, but for various reasons legislators decided not to move our PLT bill and instead went with a Resolution (HCR 188) that urged the Administration to convene a Negotiating Committee to discuss our Public Land Trust issues. This resolution was ultimately adopted by the legislature; we've had some meetings with Senate Leadership and are trying to meet with House Leadership, Ka Pouhana has been in discussion with the Governor's office and we've also had some meetings with the AG's office and Budget and Finance because we are trying to work on a new financial review to update the old one, we have a review from the FY12 PLT. However as we get into more formal negotiations with the State on our PLT we wanted to have the most up to date data, so we've been working with B&F and the AG's office to get us another round of meetings and do a financial review with the rest of the State agencies. So at this point our main priority is to get the Negotiating Committee to meet.

OHA 2016 Enacted Measures

- HCR 188 (OHA-12)
 - Alternative to OHA-11
 - Urges the convening of a Public Land Trust Revenues Negotiating Committee to discuss the State's constitutional obligations relating to OHA's annual pro rata share of the public land trust.
 - A key next step in re-engaging with the State regarding Native Hawaiians' pro rata share of public land trust revenues; the current "interim" share amount has been set at \$15.1 million since 2006, and may be significantly less than the twenty percent of revenues to which Native Hawaiians are entitled.

2016 OHA Legislative Package vs. Past OHA Legislative Packages

Year	Package Number	Measures	Percent Enacted	Description/Notes
2008	1	1	100%	HCR 188 Urging the Legislature to convene a Negotiating Committee to discuss the State's constitutional obligations relating to OHA's annual pro rata share of the public land trust.
2010	1	4 (H)	100%	HCR 188 Urging the Legislature to convene a Negotiating Committee to discuss the State's constitutional obligations relating to OHA's annual pro rata share of the public land trust.
2012	1 (H)	2	100%	HCR 188 Urging the Legislature to convene a Negotiating Committee to discuss the State's constitutional obligations relating to OHA's annual pro rata share of the public land trust.
2014	1 (H)	6 (H)	100%	HCR 188 Urging the Legislature to convene a Negotiating Committee to discuss the State's constitutional obligations relating to OHA's annual pro rata share of the public land trust.
2016	1 (H)	4 (H)	100%	HCR 188 Urging the Legislature to convene a Negotiating Committee to discuss the State's constitutional obligations relating to OHA's annual pro rata share of the public land trust.

Public Policy Manager Wong: As we do every year we compare our package to our past packages and other packages, so you can see how we did. This year we would one resolution of five measures pass, it was a rough year but still successful particularly when you compare it to other packages.

OHA Package vs. Others

Rank	Subject	#	OHA		Package		Resolution		Total Measures (All)		
			Measures	%	Measures	%	Measures	%	Measures	%	Measures
1	Household Planning Attorney	12	4	33.00%	0	0	0	0.00%	12	4	33.00%
2	Commerce	235	62	26.30%	9	3	33.33%	244	67	27.40%	
3	Office of Hawaiian Affairs	4	0	0.00%	1	1	100.00%	5	1	20.00%	
4	Uniform Legislative Codes	10	4	21.00%	11	1	9.09%	20	0	0.00%	
5	Office of Education	8	1	12.50%	0	0	0.00%	8	1	12.50%	
6	House of Representatives	11	1	9.09%	1	0	0.00%	12	1	8.33%	
7	Legislative Council	26	2	7.69%	3	0	0.00%	29	2	6.89%	
8	State Courts	17	1	5.88%	4	0	0.00%	21	1	4.76%	
9	Auditor	1	0	0.00%	0	0	0.00%	1	0	0.00%	
10	Campaign Spending	8	0	0.00%	0	0	0.00%	8	0	0.00%	
11	City and County of Honolulu	7	0	0.00%	0	0	0.00%	7	0	0.00%	
12	County of Kauai	7	0	0.00%	0	0	0.00%	7	0	0.00%	
13	County of Maui	3	0	0.00%	0	0	0.00%	3	0	0.00%	

OHA Package vs. Others

Rank	Subject	#	OHA		Resolution		Total Measures (All)			
			Measures	%	Measures	%	Measures	%	Measures	%
14	Small and Blind Test Pass	2	0	0.00%	0	0	0.00%	2	0	0.00%
15	House of Representatives	11	0	0.00%	0	0	0.00%	11	0	0.00%
16	House of Representatives	2	0	0.00%	0	0	0.00%	2	0	0.00%
17	House of Representatives	63	0	0.00%	0	0	0.00%	63	0	0.00%
18	House of Representatives	6	0	0.00%	0	0	0.00%	6	0	0.00%
19	House of Representatives	26	0	0.00%	1	0	0.00%	27	0	0.00%
20	Industry	9	0	0.00%	0	0	0.00%	9	0	0.00%
21	Kauai County Council	1	0	0.00%	0	0	0.00%	1	0	0.00%
22	Local Food Council	7	0	0.00%	0	0	0.00%	7	0	0.00%
23	Local Food Council	6	0	0.00%	0	0	0.00%	6	0	0.00%
24	Small Business Development	10	0	0.00%	0	0	0.00%	10	0	0.00%
25	Small Business Development	8	0	0.00%	0	0	0.00%	8	0	0.00%
26	Small Business Development	9	0	0.00%	0	0	0.00%	9	0	0.00%
27	Small Business Development	9	0	0.00%	1	0	0.00%	10	0	0.00%
Total		817	78	4.21%	10	7	6.87%	848	77	4.91%

Public Policy Manager Wong: I'll turn it over to Jocelyn.

Non-OHA measures

- Pre-session coordinate with subject matter staff
- Pre-session outreach with community, agencies
 - Pre-session bill review, comments
- Review all measures introduced
 - 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 testifying, meet with lawmakers, community, agencies)

Senior Public Policy Advocate Doane: Aloha Trustee, as you know during session we monitor over a thousand different measures that affect Native Hawaiians in different areas from Health, Housing and Income. We coordinate with our subject matter expert staff in our division as well as other divisions before session starts to get a sense of what we think is coming down the pipeline.

Non-OHA measures

Measures Introduced in the 2016 Legislative Session	Tracked by OHA	Supported by OHA	Supported with Amendments by OHA	Monitored by OHA	Comments by OHA	Opposed by OHA
2387	1242	175	16	898	100	31
263 enacted	137 enacted	33 enacted	1 enacted	94 enacted	3 enacted	1 enacted

Unsuccessful

- HB2501 (Act 126); PASSED
 - Relating to Water Rights: overturns a court decision that invalidated the BLNR's long-standing practice of allowing A & B to divert and dewater over 100 East Maui streams, without any assessment of environmental and cultural impacts for an additional 3 years.
 - The court ruling came thirteen years after a court ordered that an EA was required for diversion of East Maui's streams; with no EA started, the court decision found the continuous and uninterrupted diversion of water to be contrary to law.

Senior Public Policy Advocate Doane: In 2016 there were 2,387 measures introduced and 263 of them were enacted. We tracked about half of the measures 1,242 and of those 137 were enacted. We Supported about 190 combined with Amendments and 34 of those were enacted. The bulk of the measures we monitored, we commented on about 100 and Opposed 31 Bills of which unfortunately one passed.

HB2501- the Water bill (Act 126) is the bill that we opposed but was enacted, ultimately the version that passed was better than what was originally introduced, essentially after the Court determined that BLNR couldn't just continue to issue revocable permits for the 33,000 watershed acres in East Maui to A&B anymore without voting and considering the impacts of those permits. After a lot of back and forth with OHA and other advocates what ended up coming out was what the legislators considered to be a compromise; the law was changed so that the BLNR can continue to issue these holdover revocable permits for up to three years, one of the things they're required to do is to come up with a different process.

Noteable

- **HB1700 (Act 124)**
 - **Relating to the State Budget:** The State Supplemental Biennium Budget sets aside \$17.1 million for the Department of Hawaiian Home Lands' (DHHL's) administration and operating expenses for fiscal year 2016 and \$23.9 million for fiscal year 2017, more than double the annual \$9.6 million in general funds allocated to DHHL in the past.

Successful

- **SB2453 (Act 67); Support with Amendments**
 - **Relating to Aquatic Resources Penalties:** Provides judges with discretion to require educational- and service-based penalties in lieu of or in addition to monetary fines, for convictions of certain aquatic resource laws. These penalties, particularly as they relate to natural or cultural resources, have the potential benefit of transforming or rehabilitating alleged violators' perspectives regarding the importance of our resource laws, increasing the chances that they will comply with the law in the future. Moreover, these penalties may more directly benefit or restore aquatic resources impacted by a violator's actions.

Senior Public Policy Advocate Doane: HB1700 (Act 124) is a notable victory for the Department of Hawaiian Home Lands; they went from 9 million the last couple of years to 17 million for FY16 and 23 million for FY17.

SB2453 (Act 67) is related to Aquatic Resource Penalties, basically all fishing infractions either go to BLNR for civil penalty or the Courts for criminal penalty; but our judges don't take these cases very seriously, so this would allow the judges to issue more education and service based penalties instead of dollar figures, which will have direct benefits on the resources.

Successful

- **SB2630 (Act 227) / HB2391 (Act 217)**
 - **Criminal Justice Bills:** Several measures which OHA supported were enacted by the Legislature. Including, SB2630, which authorizes Hawai'i Correctional Industries (HCI), an inmate job training program within the Department of Public Safety, to sell goods and services to the general public. This bill provides pa'ahao with important real life work skills that may be key to their rehabilitation and successful reentry into society. Also, HB2391 will allow the Director of Public Safety to release certain low-level misdemeanants to alleviate overcrowding of jails when they have reached capacity.

Successful Defense

- **1 measure OHA opposed was passed by the Legislature in 2016**
 - Last year 0 measures OHA opposed were passed by the Legislature

Senior Public Policy Advocate Doane: SB2630 (Act 227) and HB2391 (Act 217) were a couple of Criminal Justice Bills that passed, SB2630 would allow the Hawaii Correctional Industries to create a job training program to help build skills for pa'ahao with the intent of having more job opportunities after being released. HB2391 would allow the Director of Public safety to release low level misdemeanants to alleviate overcrowding of our jails.

OHA 2016 Successful Opposition

HB2200 (DIED)

- Would have authorized the BLNR chair to transfer up to \$3 million from DLNR's public land trust account that is set aside for OHA, instead, to the Kaho'olawe Rehabilitation Trust Fund.
- Amends section 10-13.5, HRS, to require OHA to spend OHA's 20 percent share of Public Land Trust funds not only for the purposes of Chapter 10, but for Kaho'olawe specifically, which may elevate the needs of Kaho'olawe to a higher status than the plethora of other Hawaiian needs that compete for OHA's Public Land Trust resources.
- Would have impacted both OHA's autonomy and the BOT's fiduciary trust obligations.

OHA 2016 Successful Opposition

HB2273/SB2802 (DIED)

- Would have required hunters on private lands to first obtain written permission to hunt from the landowner.
- Could have created substantial burdens for Native Hawaiian practitioners who wish to both engage in cultural hunting practices, while also avoiding the risk of arrest.
- Particularly significant for Native Hawaiians in rural areas, who exercise traditional subsistence hunting practices to help to supplement their families' livelihood.

Senior Public Policy Advocate Doane: We were successful in killing a few bills as listed on the Power Point slides.

Successful Defense

HB1635/HB2173 (DIED)

- **Relating to Commercial Property/Relating to Real Property:** Known as the "leasehold conversion bills," would have forced landowners – including the State and counties, as well as private entities – to sell currently-leased lands to their tenants. Such forced sales would privatize and thereby diminish the ceded lands corpus, to which Native Hawaiians have never relinquished their claims; in addition, forced sales would also significantly impact the ali'i trusts, such as Kamehameha Schools, Queen Emma Land Company, and the Queen Liliuokalani Trust, which rely on lease revenues to serve their Native Hawaiian beneficiaries.

Successful Defense

HB665/SB782 (DIED)

- **Relating to Collective Bargaining:** These measures would have subjected OHA to collective bargaining laws applicable to public employers. Accordingly, they would have impacted both OHA's autonomy and on the BOT's fiduciary trust obligations.

Session Follow Up

- Approved legislation often require off session work and follow up
 - Legislation often creates working groups/task forces
 - Legislation requires creation of administrative rules or some other agency action (reports or proposed legislation)

2017 Legislative Schedule

- July – Internal/External Outreach
- Aug. 24 – 2016 Legislative Overview with BAE*
- Sept. 14 – Legislative Package Concepts Workshop with BAE*
- Oct. 12 – Legislative Package Final Language Approval with BAE*
- Oct. 13 – Legislative Package Final Language Approval with BOT*
- Dec. 29 – Deadline to submit OHA Annual Report
- Jan. 6* – Deadline to submit OHA Legislative Package*
- Jan. 18 – Opening of 2017 Legislative Session*

* Pending confirmation and approval

Senior Public Policy Advocate Doane: While there's a lot of work during session, it also provides for work after with following up and preparing to be responsive the following year, some that come to mind are the Negotiating Committee for the Public Land Trust and the Galbraith Estate Resolution.

Public Policy Manager Wong: Just to wrap things up, we have some dates of what we're looking at for our schedule; we'll be bringing a conceptual package to the BAE in September, and get input then come back in Mid-October to get final approval from both BAE and BOT. It's an election year so everything is expedited, and we may come in after election for additional clean up.

Internal Outreach

- Internal Outreach
- July 1 - August 14
- Please use forms
- Send emails to publicpolicy@oha.org
- Public Policy staff meeting with LOBs and programs

Internal Outreach

- All ideas are welcome
 - Mai hihahila – 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

Criteria

- Aim for small package (Budget Bill Year)
- Funding implications (OHA, state)
- How big of an issue?
 - Does it impact the broader Hawaiian community (broader public)
 - Is it statewide or county specific?

Criteria

- Feasibility
 - Likelihood of passing
 - Some measures not introduced to be enacted
 - Make statement (sugar sweetened beverage fee)
 - Start discussion (Iwi to KIRC, PIT revenue)
 - For publicity (first year for HUP assessment)

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

Pau

Trustee Hulu Lindsey: I really want to thank Sterling and Jocelyn and the rest of the advocacy staff for all of their work at the Legislature. They work very hard and are respected there.

The BAE Committee concurs.

Public Policy Manager Wong: Thank you, we'll be back on September 21st (date on slide is inaccurate) to bring the conceptual package to you and have a discussion about it.

IV. NEW BUSINESS

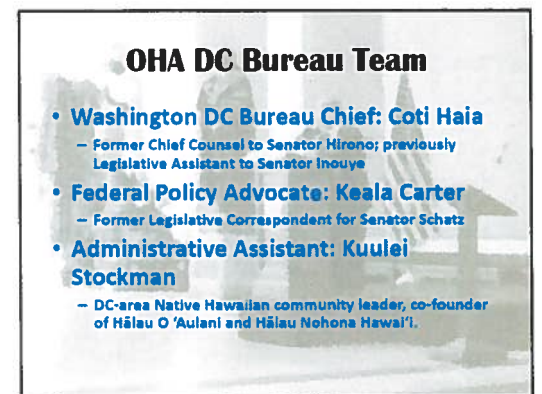
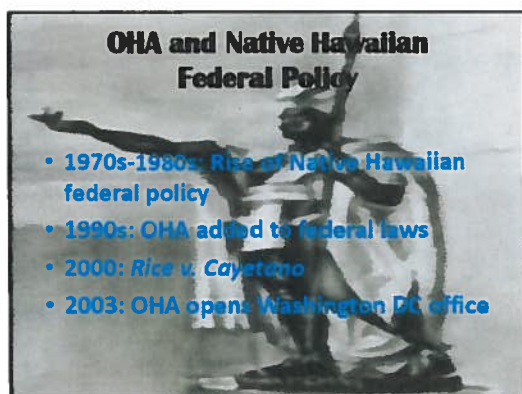
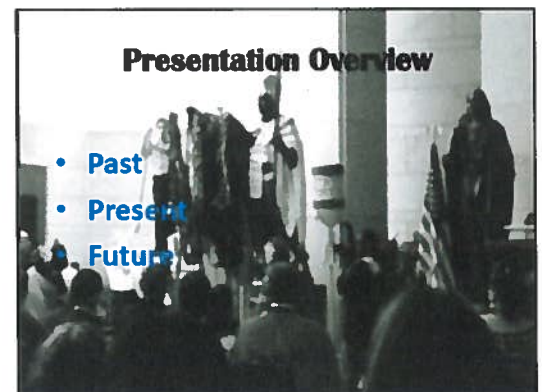
C. Briefing: Updates on OHA's Washington D.C. Bureau

Chair Waihe'e: We have one last briefing, an update from our Washington D.C. Bureau.

Pouhana Crabbe: Yes, I'd like to call upon Chief Advocate Kawika Riley to present this update, and we'll have our Washington D.C. Bureau Chief Coti Haia with us via telephone.

Chief Advocate Riley: Aloha mai kakou, thank you everyone for this opportunity to provide an update, we appreciate your time. We do have Coti Haia who started as our Washington D.C. Bureau Chief in January with us via phone – she's on vacation so we do appreciate her joining us remotely. Also here with us today are Keala Carter, Federal Policy Advocate and Ku'ulei Stockman, Administrative Assistant who are in town for training.

Some of you may recognize the picture in our first slide of our presentation; it's an image of King Kalākaua shaking hands and meeting President Ulysses S. Grant at The White House, and I like to start with this because, I like to talk about the way that some of us who have the privilege of working for OHA and doing Federal Advocacy, the way we sort of contextualize what we're trying to do for our people. We understand that in fact Native Hawaiian History is a rich part of American History; our King, David Kalākaua was the first foreign Head of State to address a Joint session of Congress, he engaged in a Government to Government relationship with The President of the United States. The advocacy and understanding the importance of representing our people and engaging with Washington D.C. goes back to our kingdom and continues through our more recent history, From Wilcox to Kūhio and into the present. We understand that we have a burden and follow footsteps of Giants, and we're grateful for that privilege.



Changes in DC Environment for Native Hawaiians

- Loss in Hawaii Delegation Seniority:
 - 2010: 140 Collective years
 - 2016: 17 Collective years

Changes in DC Environment for Native Hawaiians (cont.)

- Loss of Earmarks
- Reduction of expertise in Native Hawaiian issues
- GOP-controlled Congress
- Low Congressional productivity

DC as a Training Ground for Native Hawaiians

- OHA Internships and Fellowships
- OHA partnerships with DC-based internship programs

DC as a Policy Arena for Native Hawaiians

- Policy Tracking & Analysis
- Advocacy
- Elevating Native Hawaiian culture
- Resource for Native Hawaiians
- Native Hawaiian Public Service Pipeline

Chief Advocate Riley: One way to look at D.C. is as a training ground for Native Hawaiians, one of the things that we've tried to do through the Bureau is have a steady flow of internships and fellowships, we're a small office so we can only provide a small number of these, but we're very proud of the interns and fellows who have come through our doors; the Executive Director of the U.S. Congressional Asian Pacific American Caucus Krystal Ka'ai was one of our interns and then later a fellow, as well as Representative Kaniela Ing also benefited from an internship provided by OHA at the Federal level. It's a small program but we try to be there to help and promote Public Service.

We also partner with D.C. based internship programs; George Washington University and American University's programs, a number of years ago our focus was just getting Hawaiians in the door, getting them to let Native Hawaiians apply, now we have partnerships with them where we help spread the word and we can get Hawaiians to go out and take advantage of these scholarships.

D.C. of course is also a Policy Arena and our bureau focuses significantly on Policy tracking and analysis, they on a weekly basis track pending legislation in Congress, they also have more recently began tracking pending Federal regulations, and more recently per Ka Pouhana's direction started to track Federal grants which is new for us but we're trying to build our expertise there. When the Board/Leadership takes positions we do conduct Federal Advocacy, we also see ourselves as a resource for Native Hawaiians when they conduct Advocacy.

DC as a national & international platform for Native Hawaiians

- Indigenous Embassies
- Partnership with Pacific Island Embassies
- Active Native Hawaiian community
- Rich history of Native Hawaiian DC presence

OHA DC: Recent Activities

- Native Hawaiian Public Service Pipeline
 - Partnering with Kamehameha Schools to launch Native Hawaiian Congressional Fellowship program
 - Native Hawaiian Public Service Pipeline blog

Chief Advocate Riley: D.C. is also a National and International platform for us and for other peoples; we try to operate at an Indigenous Embassy level. We also work with foreign embassies in the Pacific Island region, and OHA is the only non-foreign embassy to participate at a leadership and management level in activities such as the Pacific Day Symposium or the Pacific Night Celebration of Pacific Culture, it's a really nice way to promote our people and culture. I also want to emphasize that there's an active Native Hawaiian Community in D.C.

We have internships at the undergraduate and graduate levels, and the next step that we wanted to branch out into was to work with the Congressional delegation and come up with a competitive process where we get highly qualified Native Hawaiians and place them in each of the Hawaii delegation congressional offices for a 9 month experience, not a short term summer internship. We struggled a little because we are in a belt tightening stage as an agency, so we reached out to Kamehameha Schools and proposed a leveraging opportunity where we asked them to match \$4 for every \$1 we would spend on this fellowship, and that our value added was that though we can't pay for the bulk of it, we have a bureau in D.C. and have expertise in relationships with these offices; so we submitted a proposal to KS and they accepted it. We went through the application process and got a large number of wonderful candidates and we've selected the awardees and are working with the Congressional offices to match them. I think that's a great example of OHA trying to do more with the limited resources that we have.

OHA DC: Recent Activities

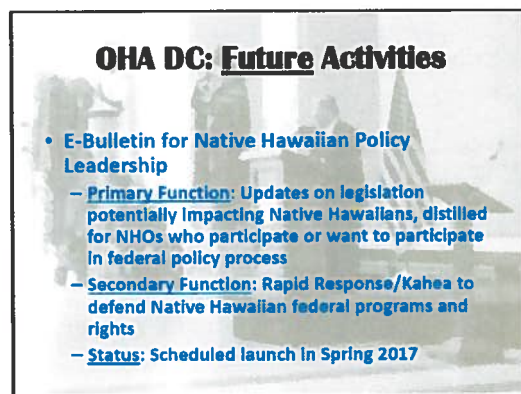
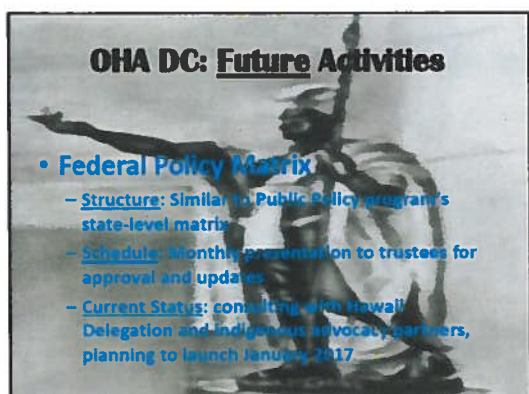
- Securing Federal Funding for Native Hawaiian Programs
 - 2012: Partnership with National Congress of American Indians, Congressional Asian Pacific American Caucus & Hawaii Congressional Delegation
 - 2016: Expanding advocacy via Appropriations Letters, Pass-backs

OHA DC: Recent Activities

- King Kamehameha Lei Draping
 - 2014: Eliminated Vendor Cost via support from Congressional Delegation
 - 2016: Reduced Cost via partnership with Hawaiian Airlines

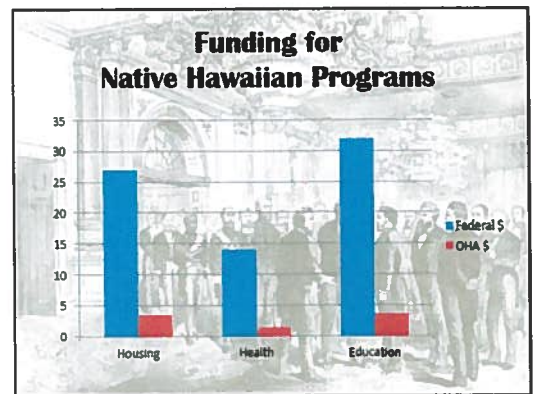
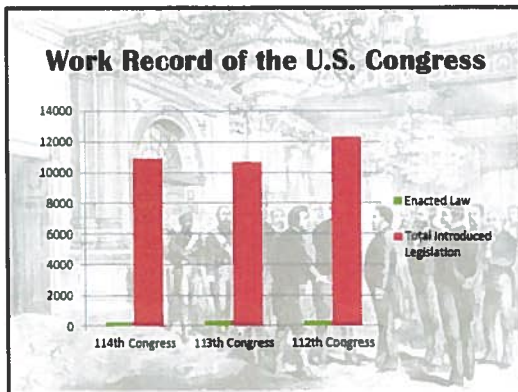
Chief Advocate Riley: We've been working on Securing Federal Funding for Native Hawaiian Programs, since 2012 we've partnered with National Congress of American Indians and a number of other groups to try to make our Federal Trust Funding also their priority and to work with them, in 2016 with Coti Haia coming on board and her expertise in the Appropriations process we're actually strengthening the work that we're doing and becoming somewhat of a resource for the Hawaii Congressional Delegation on how to navigate the appropriations process.

The Lei draping is another example of recent activities, it's one of the most significant demonstrations of Native Hawaiian culture outside of the Hawaiian Archipelago, it happens every year in Washington D.C., it is also one of the most expensive items in the bureau budget, so we've been looking for ways to try to be just as effective, without as much funding. In 2014 we actually cut the cost by almost 50% by eliminating the venue cost, we were able to work with Congressional Delegation and they sponsored us to use the U.S. Botanical Gardens. This year we partnered with Hawaiian Airlines which recently established a D.C. office as well which allowed us to cut costs again by about 1/3.



Chief Advocate Riley: We've mentioned earlier that we want to bring forth a Federal Policy Matrix, similar to what the Trustees are accustomed to from the Public Policy team during the legislative session. We propose monthly presentations and we are planning to start this is January 2017. Congress works in two year cycles and right now they're campaigning, so there's not a lot of activity and we want to hit the ground running and launch when the new congress starts in January. Right now we're consulting with the Hawaii Delegation to get a strong sense of where they're going and what their priorities are and we're talking with other indigenous groups. We're also working on an E-bulletin as outlined in the power point.





Chief Advocate Riley: Thank you for this time to present we really appreciate it.

Chair Waihe'e: Thank you Kawika, are there any questions?

Trustee Apoliona: Can we hear a little from Coti?

Washington D.C. Bureau Chief Haia (via phone) reiterated some of what Chief Advocate Riley shared and expressed that she is excited about the fellowship program and many of the relationships that she is assisting with in D.C.

Chair Waihe'e: Thank you Coti.

V. UNFINISHED BUSINESS

None

VI. BENEFICIARY COMMENTS*

None

VII. ANNOUNCEMENTS

None

VIII. ADJOURNMENT

Trustee Apoliona moves to adjourn the BAE meeting.

Vice-Chair Apo 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.

							3:21 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA						EXCUSED
DAN	AHUNA						Departed at 2:24 p.m.
ROWENA	AKANA						EXCUSED
VICE-CHAIR PETER	APO		2	X			
HAUNANI	APOLIONA	1		X			
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY			X			
COLETTE	MACHADO						Departed at 3:10 p.m.
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				5	0	0	4

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

Chair Waihe'e adjourns the BAE meeting at 3:21 p.m.

Respectfully submitted,



Melissa Wennihan
Trustee Aide
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on September 21, 2016.



Trustee John Waihe'e, IV
Chair
Committee on Beneficiary Advocacy and Empowerment

ATTACHMENT(s):

- Notice of Excused Absence (2)